



The Legal Rights of Women in Vermont
Public Accommodations



Many women are unaware of their legal right to not be discriminated against in places of public accommodation, such as restaurants, stores, hotels, hospitals, professional offices and schools.

This chapter will explain those rights, as well as those for women in other “protected categories,” and will explain what is meant by a “place of public accommodation.”

Public Accommodations – Defined

You have the right not to be discriminated against in any place of public accommodation. While the phrase “public accommodation” is not very familiar to people, it actually covers many places which you might frequently visit. The public accommodations provisions of Vermont’s Fair Housing and Public Accommodations Act define a “place of public accommodation” as **“any school, restaurant, store, establishment or other facility at which services, facilities, goods, privileges, advantages, benefits or accommodations are offered to the general public.** This also includes most **hospitals, professional offices** (such as doctors, dentists, lawyers and accountants), **retail stores, inns, hotels and schools.** In addition to privately owned places of public accommodation, **a governmental entity**, like a municipality or the State of Vermont, is considered a “public accommodation” **if it owns, leases or operates a place which offers any goods, services, benefits, etc. to the general public, including jails and prisons.** See the [Education chapter in *The Legal Rights of Women in Vermont*](#) for a more complete discussion of discrimination in schools.

Any item or service that is offered by a place of public accommodation cannot be refused, denied or withheld from you on the basis of your **sex, race, color, creed, religion, national origin, marital status, sexual orientation, gender identity, or physical or mental disability.** **These are considered “protected categories.”**

No place of public accommodation can refuse to provide its goods or services to you, or treat you differently, just because you are a woman, a lesbian, a person of color, or a member of any of the other categories listed above. This also means that if you are **harassed** in a place considered a place of public accommodation and you think it is related to your being a member of one of the “protected categories, you can file a complaint under Vermont’s law regarding public accommodations.

The only **exception** included in the public accommodations provisions of Vermont’s Fair Housing and Public Accommodations Act, is that an **inn, hotel, motel or other place of temporary lodging can discriminate on the basis of sex or marital status if it has five or fewer rooms for rent or hire.**

Sex Discrimination

Some private, **male-exclusive clubs** have been challenged under the public accommodations laws and have been determined to be more “public” than “private.” For example, if the establishment has a bar or restaurant that is open to the general public, and not just restricted to the club’s members, or if the purpose of the club is less social and **more likely to be a place where business is transacted, it might no longer be considered a “private club.”** Since these challenges, a number of previously male-only clubs and associations have become open to women. Some of the factors that distinguish a private club from a place of public accommodation include the numbers of members as well as the selectivity used by the organization in admitting new members.

Breastfeeding

A mother may breast feed her child in any place of public accommodation where she and her child otherwise have a legal right to be. For example, if you are dining in a restaurant and breastfeed your child, restaurant staff **may not tell you to stop breastfeeding or to leave.** If they do, that is discrimination, and you can file a complaint (see below for “addressing discrimination.”) You may fear that you can be arrested for indecent exposure for breastfeeding in public, but according to state law, you cannot. In a recent court case, a woman was ejected from an airplane on the ground because she was breastfeeding her baby. The court ruled that an airplane on the ground in Vermont was a place of public accommodation and subject to the public accommodation law of Vermont.

Vermont Labor law allows a woman to express breast milk at work without fear of retaliation or having to express her breast milk in a bathroom. See the [Employment Rights chapter in *The Legal Rights of Women in Vermont*](#) for more information.

Sexual Orientation Discrimination

Places of public accommodation in Vermont **cannot offer goods or services to married opposite- sex couples at a different rate than for same-sex couples.** If a place provides a discount for a married opposite-sex couple but does not extend the same discount to a married same-sex couple or an unmarried same-sex or opposite-sex couple, discrimination may be occurring. Examples could include discounts for combined house/auto insurance policies, “family” ski-lift tickets, etc.

Marital Status Discrimination

It is against the public accommodations law in Vermont to discriminate against anyone on the basis of their marital status. This means that you have the right not to be discriminated against because you are single, married, joined in a civil union, divorced, etc. **However, religious organizations do not have to provide services related to a same-sex marriage ceremony.** This means that a church can deny the use of facilities for a same-sex marriage, or a clergy member can refuse to perform a ceremony.

Disability Discrimination

Special provisions of the **Vermont Fair Housing and Public Accommodations Act** and the federal **Americans With Disabilities Act (ADA)** govern the rights of people with disabilities in places of public accommodation. In Vermont, the definition of **a person with a disability is**

someone who had an impairment that limits a major life activity. This includes both physical and mental impairments. The following are only some examples of these rights:

- a person who uses a service animal cannot be prevented from entering any place of public accommodation that might otherwise have a “no animals” policy (for example, establishments that offer food or lodging);
- existing establishments that have some architectural or communications barrier for people with disabilities are required to remove the barrier, if it can be done without much difficulty or expense;
- if it is necessary for a person with a disability to have some reasonable accommodation made to the policies, practices or procedures of a place of public accommodation in order to be able to use it, those accommodations must be made unless they would fundamentally alter the nature of the place;
- places of public accommodation also have to provide auxiliary services such as sign language interpreters, notetakers, assistive listening devices, telephone amplifiers, Braille and large-print materials and audio recordings (to name a few) if they are needed unless providing them would either fundamentally alter the nature of the place or would result in an “undue hardship,” i.e., would be unduly difficult or expensive to provide;
- any examinations or courses related to applications, licensing, certification or credentialing for professional or trade purposes or for secondary or post-secondary education by a place of public accommodation must be offered in a place and manner that is accessible to people with disabilities;
- a place of public accommodation may not discriminate based on alcoholism, so long as the current alcohol use does not pose a threat of harm or create a disruption. A place of public accommodation may not discriminate against a person based on that person’s past use of illegal drugs or alcohol;
- places of public accommodation that provide parking for employees or customers must **provide one handicap space for every 25 spaces** and may need to provide an accessible spot even in smaller parking lots if to do so is “readily achievable.”

The federal **Americans With Disabilities Act** also requires all newly built places of public accommodation and commercial facilities which were first occupied after January 26, 1993 (and whose permit process was completed after January 26, 1992) to be accessible to individuals with disabilities. **Any alterations that are made to existing places of public accommodation and commercial facilities must be accessible to the maximum extent feasible.** The requirements for accessible construction are set forth in the Americans with Disabilities Act Accessibility Guidelines (ADAAG). These same guidelines are referred to in Vermont’s Accessibility Standards for Public Buildings and Parking Act.

Addressing Discrimination

If you believe you have been discriminated against in a place of public accommodation you can:

- File a complaint with the Vermont Human Rights Commission;
- File a complaint with the Vermont Department of Public Safety, Division of Fire Safety (for accessibility violations);
- File a complaint with the Office on the Americans with Disabilities Act, U.S. Department of Justice (for accessibility violations);
- Consult with a private attorney;
- Contact an advocacy group or program related to specific disabilities;
- Contact an advocacy group related to the subject of discrimination.

For help with a possible violation of Vermont’s public accommodations laws—go to Vermont Commission on Women’s Resource Directory:

[Legal section](#)

[Disability and Accessibility Issues section](#)

[Aging and Elder Issues section](#)

[Lesbian/Gay/Bisexual/Transgender section](#)

[Racial and Ethnic Minority section](#)

Relevant Laws

Vermont:

Fair Housing and Public Accommodations Act, 9 V.S.A. §4500, et seq.

Accessibility Standards for Public Buildings and Parking, 20 V.S.A §2900, et seq.

Nursing Mothers in the Workplace, 21 V.S.A. §305

Federal:

Title II of the Civil Rights Act of 1964, 42 U.S.C.A. §2000a

Title III of the Americans with Disabilities Act of 1990, 42 U.S.C.A. §12181

Americans with Disabilities Act Accessibility Guidelines (ADAAG), 28 C.F.R. §§35, 36

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