

The Legal Rights of Women in Vermont

Public Accommodations

Chapter 10

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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

While the phrase “public accommodation” is not very familiar to people, it actually covers many places that you might frequently visit. You have the right not to be discriminated against in any place of public accommodation.

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 that 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, physical or mental disability or because you are a nursing mother. 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 of public accommodation and you think it is related to 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." 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. 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.

Breastfeeding

A mother may breastfeed 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 under Vermont's law regarding public accommodations (see below for "addressing discrimination.")

Vermont Labor law requires an employer to allow a woman to express breast milk at work for up to three years after the birth of the child and to provide a private space to do so that is not a bathroom stall. The employer does not have to pay the employee for time spent expressing milk but can do so. See the [Employment Rights chapter in *The Legal Rights of Women in Vermont*](#) for more information.

You cannot be arrested for indecent exposure for breastfeeding in public. In a Vermont court case, a woman was ejected from an airplane on the ground because she was breastfeeding her baby. The Human Rights Commission found that an airplane on the ground in Vermont was a place of public accommodation and subject to the public accommodation laws of Vermont.

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.

The federal ADA 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. A violation of the guidelines and accessibility standards is a violation of the public accommodations law.

In Vermont, the definition of **a person with a disability is someone who has an impairment that limits one or more major life activities, who has a history or record of such impairment, or is regarded as having an impairment.** This includes both physical and mental impairments. The following are only some examples of these rights for people with disabilities:

- 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 architectural or communications barriers 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 and cause an undue financial burden;
- 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 and licensing entities must provide reasonable modifications to their policies or procedures such as giving additional time, allowing computer use, etc.;
- 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.”

There are some exceptions to these general rules:

- a service dog can be excluded from a place of public accommodation if it is out of control and reasonable steps are not taken to control it, or if it is not housebroken;
- places are not required to provide personal devices such as wheelchairs, hearing aids, or personal services related to feeding, toileting or dressing;
- a public accommodation may exclude someone with a disability who based on an individualized assessment, that is based on reasonable judgment that relies on current medical knowledge and objective evidence, presents a direct threat to the health or safety of others.

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; or

- Contact an advocacy group related to the subject of discrimination.

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

[Legal section](#)

[Disability and Accessibility Issues section](#)

[Aging and Elder Issues section](#)

[Lesbian/Gay/Bisexual/Transgender/Questioning 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, 9 V.S.A Chapter 174. 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 II & 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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