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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1015 Session of  
2023

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INTRODUCED BY PENNYCUICK, DUSH, CAPPELLETTI AND CULVER,  
DECEMBER 18, 2023

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REFERRED TO COMMUNICATIONS AND TECHNOLOGY, DECEMBER 18, 2023

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AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222), entitled  
2 "An act prohibiting certain practices of discrimination  
3 because of race, color, religious creed, ancestry, age or  
4 national origin by employers, employment agencies, labor  
5 organizations and others as herein defined; creating the  
6 Pennsylvania Human Relations Commission in the Governor's  
7 Office; defining its functions, powers and duties; providing  
8 for procedure and enforcement; providing for formulation of  
9 an educational program to prevent prejudice; providing for  
10 judicial review and enforcement and imposing penalties,"  
11 providing for notice of website accessibility barrier.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of October 27, 1955 (P.L.744, No.222),  
15 known as the Pennsylvania Human Relations Act, is amended by  
16 adding a section to read:

17 Section 5.4. Notice of Website Accessibility Barrier.--(a)  
18 Prior to initiating a civil action under this act, a person who  
19 is an attorney or is represented by an attorney and who alleges  
20 that an entity has violated accessibility requirements under  
21 this act must provide a notice of website accessibility barrier  
22 to the owner, administrator or webmaster of the website. The

1 notice of website accessibility barrier must be dated and must:

2 (1) cite the law alleged to be violated;

3 (2) identify each website accessibility barrier that is the  
4 subject of an alleged violation and specify the location of the  
5 accessibility barrier on the website; and

6 (3) provide a reasonable time for a response, which may not  
7 be less than sixty days.

8 (b) The notice described under subsection (a) may not  
9 include a request or demand for money or an offer or agreement  
10 to accept money, but may offer to engage in settlement  
11 negotiations prior to litigation.

12 (c) A civil action may not be brought prior to expiration of  
13 the period to respond provided in the notice under subsection  
14 (a) (3).

15 (d) If a person who is not represented by an attorney  
16 retains an attorney within sixty days after a civil action is  
17 brought, the attorney must provide a dated notice to the  
18 defendant that includes the items required under subsection (a)  
19 (1) and (2). The notice must include additional time for the  
20 defendant to serve an answer to the complaint or amend a  
21 previous answer to the complaint, which must be at least sixty  
22 days after the date of the notice or service of the complaint,  
23 whichever is later. If the civil action has not been filed with  
24 the court, the action must not be filed until expiration of the  
25 time provided for in the notice. The time period for serving an  
26 answer to the complaint under the Pennsylvania Rules of Civil  
27 Procedure and proceedings under the complaint are stayed for the  
28 period of time specified in the notice.

29 (e) In a civil action brought against an entity for  
30 violation of website accessibility requirements, the defendant

1 has an affirmative defense to the action if the defendant  
2 demonstrates that:

3 (1) the website accessibility barrier has been removed in a  
4 manner that complies with accessibility requirements under law;

5 (2) compliance with the accessibility requirements under law  
6 is not readily achievable or cannot be accomplished by  
7 alternative means; or

8 (3) the alleged website accessibility barrier does not  
9 violate accessibility requirements under law.

10 (f) In a civil action brought against an entity for  
11 violation of accessibility requirements under law, a plaintiff  
12 challenging a finding in an audit, performed by a certified  
13 professional, that an alleged website accessibility barrier  
14 complies with accessibility requirements under law, or that  
15 compliance is not readily achievable or alternative means cannot  
16 be employed, has the burden to show that the website  
17 accessibility barrier does not comply with those accessibility  
18 requirements or that compliance is readily achievable or can be  
19 accomplished by alternative means.

20 (g) Subsection (a) does not apply to:

21 (1) a person who is not an attorney and is not represented  
22 by an attorney;

23 (2) an attorney representing the Commonwealth or a political  
24 subdivision of the Commonwealth; or

25 (3) a person who is challenging a finding contained in an  
26 audit prepared by a certified professional.

27 (h) Nothing in this section shall be construed to affect the  
28 right of a person to file a charge with the Commission or the  
29 right of a person who has filed a charge to bring a civil action  
30 authorized under this act.

1 (i) An action under this section may not be brought against  
2 an entity if that entity sufficiently cures the website  
3 accessibility barriers under subsection (a)(3). An entity may  
4 recover attorney fees and costs from the plaintiff if the entity  
5 shows that the plaintiff knew the website accessibility barriers  
6 had been cured under subsection (a)(3) prior to initiation of a  
7 civil action under this section.

8 (j) As used in this section, the following words and phrases  
9 shall have the meanings given to them in this subsection unless  
10 the context clearly indicates otherwise:

11 "Accessibility requirements under law" shall mean  
12 requirements governing removal of electronic barriers that limit  
13 access to public websites by persons with disabilities under the  
14 following laws or rules:

15 (1) this act;

16 (2) 42 U.S.C. § 12182(b)(2)(A)(iv) or (v) (relating to  
17 prohibition of discrimination by public accommodations); or

18 (3) 28 CFR 36.304 (relating to removal of barriers) or  
19 36.305 (relating to alternatives to barrier removal).

20 "Certified professional" shall mean a licensed, registered or  
21 otherwise certified professional with demonstrated knowledge of  
22 accessibility requirements under law.

23 "Entity" shall mean a business establishment or place of  
24 public accommodation in this Commonwealth.

25 Section 2. This act shall take effect in 60 days.