# 2023 Review of State Human and Civil Rights Laws:

# Compensatory Damages (Emotional Distress) as of August 28, 2023

This document is a supplement to NCD’s brief, *Cummings v. Premier Rehab Keller PLLC: Implications and Avenues for Reform,* provides citations to state human and civil rights statutes on the availability of compensatory damages for emotional distress to prevailing plaintiffs in disability discrimination complaints against a public accommodation, in an administrative or judicial venue.

State human and civil rights laws were reviewed to determine if they had (1) a public accommodation section, and, if so, (2) whether disability was a protected class, and (3) if so, whether actual or compensatory damages are a remedy available to prevailing complainants in administrative hearings and plaintiffs in civil actions. For laws that allow for damages without describing the type, case law and state human rights commissions’ decisions describing damages awarded are referenced when found.

Note that state laws and regulations vary in the terms they use for describing damages; some use the term “Actual”, and others use “Compensatory.” Actual damages are synonymous with compensatory damages and damages for emotional distress are a type of compensatory damages.

Please note that this document is current as of August 18, 2023. If a change is needed, please contact [atorresdavis@ncd.gov](mailto:atorresdavis@ncd.gov) with the subject “State Law Update.”

## States that Allow Compensatory Damages for Disability Discrimination by Public Accommodations

**Arkansas**

16-123-107. Discrimination offenses.

(a) The right of an otherwise qualified person to be free from discrimination because of … the presence of any sensory, mental, or physical disability is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(b) Any person who is injured by an intentional act of discrimination in violation of subdivisions (a)(2)- (5)(includes public accommodations) of this section shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover compensatory and punitive damages, and, in the discretion of the court, to recover the cost of litigation and a reasonable attorney's fee. AR Code 16-123-107(b).

## California

CA Civ. Code § 51. Citation of section; Civil rights of persons in business establishments; Definitions

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their … disability … are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

CA Civ. Code § 51.5. Discrimination by business establishment prohibited

(a) No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, or refuse to buy from, contract with, sell to, or trade with any person in this state on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51, …

CA Civ Code § 52(a): Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars ($4,000), and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

(h) For the purposes of this section, “actual damages” means special and general damages. This subdivision is declaratory of existing law.

**Colorado**

CO Rev. Stat. § 24-34-601. Discrimination in places of public accommodation - definition.

(2)(a) It is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny to an individual or a group, because of disability … the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation ….

CO Rev Stat § 24-34-802. Violations - penalties - immunity.

(1)(b) An individual with a disability, as defined in section 24-34-301, must not, by reason of the individual’s disability, be excluded from participation in or be denied the benefits of services, programs, or activities provided by a place of public accommodation, as defined in section 24-34-601 (1), a public entity, as defined in section 24-34-301, or a state agency, as defined in section 24-37.5-102, or be subjected to discrimination by any such place of public accommodation, public entity or state agency.

(2)(a) An individual with a disability, as defined in section 24-34-301, who is subject to a violation of subsection (1) of this section or of section 24-34-502, 24-34-502.2, 24-34-601, or 24-34-803 based on the individual’s disability may bring a civil suit in a court of competent jurisdiction and is entitled to a court order requiring compliance with the provisions of the applicable section and either of the following remedies:

(II) The recovery of actual monetary damages; or (III) A statutory fine of three thousand five hundred dollars, payable to each plaintiff for each violation.

## Connecticut

Conn. Gen. Stat § 46a-64. (Formerly Sec. 53-35). Discriminatory public accommodations practices prohibited. Penalty.

(a) It shall be a discriminatory practice in violation of this section: (1) To deny any person within the jurisdiction of this state full and equal accommodations in any place of public accommodation, resort or amusement because of … intellectual disability, mental disability, physical disability, including, but not limited to, blindness or deafness … subject only to the conditions and limitations established by law and applicable alike to all persons; (2) to discriminate, segregate or separate on account of … intellectual disability, mental disability, learning disability, physical disability, including, but not limited to, blindness or deafness…

Conn. Gen. Stat. § 46a-104.The court may grant a complainant in an action brought in accordance with section 46a-100 such legal and equitable relief which it deems appropriate including, but not limited to, temporary or permanent injunctive relief, punitive damages, attorney’s fees and court costs… Conn. Gen. Stat. § Sec. 46a-86. Complaint: Determination; orders; dismissal. Treatment of discrimination awards. (Commission)

(a) If, upon all the evidence presented at the hearing … the presiding officer finds that a respondent has engaged in any discriminatory practice, the presiding officer shall serve… an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as is necessary to achieve the purpose of this chapter.

Note - Although not explicit on the face of the statute, Connecticut’s Commission on Human Rights and Opportunities (CHRO) can award compensatory damages. In a 2016 CHRO hearing on allegations that a public school (public accommodation) discriminated against a disabled student, the hearing officer awarded the parents $25,000 in damages for “emotional distress. See, <https://portal.ct.gov/-/media/CHRO/OPH-Decisions/1230148AndrewMirandavNewHavenBoardofEducationFinalDecisionpdf.pdf>

## Delaware

6 Del. C. § 4508. Complaint Procedure

(a) An individual who believes they have been aggrieved by a discriminatory public accommodation practice prohibited under § 4504 of this title may file a written complaint with the Division.

(h) If the panel determines that a violation of § 4504 of this title has occurred, it shall issue an order stating its findings of fact and conclusions of law and containing such relief as may be appropriate, including any of the following: (1) Actual damages suffered by the aggrieved person, including damages caused by humiliation and embarrassment…

## District of Columbia

## D.C. Code § 2-1402.31. Prohibitions.

## (a) General. — It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: … disability … of any individual: (1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations…

D.C. Code § 2–1403.13. Decision and Order.

(a)(1) Except as provided in paragraph (3) of this subsection, if, at the conclusion of the hearing, the Commission determines that a respondent has engaged in an unlawful discriminatory practice or has otherwise violated the provisions of this chapter, the Commission shall issue, and cause to be served … a decision and order … requiring such respondent to cease and desist from such unlawful discriminatory practice, and to take such affirmative action, including but not limited to:

(a)(1)(D). The payment of compensatory damages to the person aggrieved by such practice.

D.C. Code § 2-1403.16. Private Cause of Action.

(b) In a private cause of action, the court may grant any relief it deems appropriate, including, the relief provided in §§ 2-1403.07 (injunctive relief) and 2-1403.13(a) (includes compensatory damages).

## Florida

Fla. Stat. § 760.08. Discrimination in places of public accommodation.

All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the ground of race, color, national origin, sex, pregnancy, handicap, familial status, or religion.

Fla. Stat § 760.11. Administrative and civil remedies; construction

5. In any civil action brought under this section, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages.

6. (In an administrative hearing) If the commissioner, after the hearing, finds that a violation of the Florida Civil Rights Act of 1992 has occurred, the commissioner shall issue an appropriate proposed order in accordance with chapter 120 prohibiting the practice and providing affirmative relief from the effects of the practice ….

**Hawaii**

HRS § 489-3. Discriminatory practices prohibition.

Unfair discriminatory practices that deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of … disability, including the use of a service animal, are prohibited.

HRS § 489-7.5. Suits by persons injured; amount of recovery, injunctions.

Any person who is injured by an unlawful discriminatory practice, other than an unlawful discriminatory practice under part II of this chapter, may: (1) Sue for damages sustained, and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than $1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable attorneys' fees together with the costs of suit.

HRS § 368-17. Remedies.

(a) The remedies ordered by the commission or the court under this chapter may include compensatory and punitive damages and legal and equitable relief, including, but not limited to:

(8) Payment to the complainant of damages for an injury or loss caused by a violation of part I of chapter 489, (see above) …

## Idaho

Idaho Code § 67-5909. Acts prohibited.

(6) For a person who owns, leases or operates a place of public accommodation:

(a) To deny an individual on the basis of disability the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation;

(b) To impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation …;

(c) To fail to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities …;

(d) To fail to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services …;

(e) To fail to remove architectural barriers and communication barriers that are structural in nature….

Idaho Code § 67-5908. Procedure in District Court.

3. In a civil action filed by the commission or filed directly by the person alleging unlawful discrimination, if the court finds that unlawful discrimination has occurred, its judgment shall specify an appropriate remedy or remedies therefore. Such remedies may include, but are not limited to…(c) An order for actual damages.…

## Illinois

## Illinois is the first state to pass legislation in response to *Cummings*. *The Civil Rights Remedies Restoration Act* (Public Act 103-0150)(2023), restores the right to emotional distress damages for intentional discrimination by entities that receive federal financial assistance.

## Section 15. Violation. A violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12132 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or the provisions of any other federal statute prohibiting discrimination under a program or activity receiving federal financial assistance shall constitute a violation of this Act.

## Section 20. Remedies. Whoever injures another by a violation of this Act is liable for each and every offense for all remedies available at law, including, but not limited to, damages for past, current, and future monetary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonmonetary losses, and any amount that may be determined by a jury, or a court sitting without a jury, but in no case less than $4,000, and any attorney's fees, costs, and expenses, including, but not limited to, expert witness fees, that may be determined by the court in addition thereto.

## In addition, the Illinois Human Rights Act (IHRA), 775 ILCS 5/1-101, et seq., provides for actual damages, but not punitive damages, which may be awarded by the Illinois Human Rights Commission or by a circuit court. Specifically,775 ILCS 5/8A-104, identifies as a remedy permitted under the Act, "actual damages, as reasonably determined by the Commission, for injury or loss suffered by the complainant" but not punitive damages. The IHRA provides that the same remedies that are available in the Illinois Human Rights Commission are also available in court. See 775 ILCS 5/8-111(A)(4) ("[u]pon the finding of a civil rights violation, the circuit court or jury may award any of the remedies set forth in Section 8A-104 or 8B-104 ").

## Indiana

Burns Ind. Code Ann. § 22-9-1-2. Purpose - Public policy of state.

(a) It is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations … and to eliminate segregation or separation based solely on … disability …. [E]qual access to and use of public accommodations … are hereby declared to be civil rights.

(b) The practice of denying these rights to properly qualified persons by reason of the disability …shall be considered as discriminatory practices….

Burns Ind Code Ann. § 22-9-1-6. Powers and duties.

(j) The commission shall state its findings of fact after a hearing and, if the commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring the person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power:

(1) to restore the complainant’s losses incurred as a result of discriminatory treatment, as the commission may deem necessary to assure justice; however, except in discriminatory practices involving veterans, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions;…

Burns Ind. Code Ann. § 22-9-1-12.1. Local commissions authorized - Powers - Exclusivity of remedy - Appeal.

(c) An ordinance adopted under this section may grant to the local agency the power to: (8) order payment of actual damages ….

Burns Ind. Code Ann. § 22-9-1-17(b). Determination of discriminatory practice by court.

If the court finds that a discriminatory practice has occurred the court may grant the relief allowed under IC 22-9-1-6(j). (See above)

## Iowa

Iowa Code § 216.7. Unfair practices - accommodations or services.

1. It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

a. To refuse or deny to any person because of … disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of … disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.

Iowa Code § 216.16. Sixty-day administrative release. (Civil Action)

1. A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek administrative relief by filing a complaint with the commission in accordance with section 216.15. This provision also applies to persons claiming to be aggrieved by an unfair or discriminatory practice committed by the state or an agency or political subdivision of the state …

6. The district court may grant any relief in an action under this section which is authorized by section 216.15, subsection 9, to be issued by the commission….

Iowa Code § 216.15 Complaint - hearing.

(9): If … the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall … issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action ….

## Kansas

K.S.A. 44-1002. Definitions**.**

(i) “Unlawful discriminatory practice” means: (1) Any discrimination against persons, by reason of their … disability …: (A) In any place of public accommodations; or (B) in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof….

K.S.A. § 44-1005. Complaints; investigation; proceedings; remedial orders; dismissal of certain complaints, when, procedure and effect.

(k) If the presiding officer finds a respondent has engaged in or is engaging in any … unlawful discriminatory practice as defined in this act, the presiding officer shall render an order … Such order may also include an award of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of $2,000.

**Louisiana**

La. R.S. § 51:2247. Public accommodations, resorts, amusements; discriminatory practices prohibited.

Except as otherwise provided in this Chapter, it is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in this Chapter, on the grounds of … disability….

La. R.S. § 51:2261. Findings of the commission; orders; nature of affirmative action

B. If the commission determines that the respondent has engaged in an unlawful practice, the commission shall … issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this Chapter…

C. Affirmative action ordered under this Section may include but is not limited to: … (8) The Commission may order damages for injury caused by an unlawful practice, including compensation for humiliation and embarrassment.

La. R.S. § 51:2264. Civil remedies for injunction and damages

Any person deeming himself injured by any alleged violation of the provisions of this Chapter shall have a civil cause of action in district court to enjoin further violations and to recover the actual damages sustained by him ….

## Massachusetts

## ALM GL ch. 272 § 98. Discrimination — Race, Color, Religious Creed, National Origin, Sex, Sexual Orientation, Deafness, Blindness, Physical or Mental Disability or Ancestry.

## Whoever makes any distinction, discrimination or restriction on account of … deafness, blindness or any physical or mental disability … in any place of public accommodation, resort or amusement, as defined in section ninety-two A, or whoever aids or incites such distinction, discrimination or restriction, … shall be liable to any person aggrieved thereby for such damages as are enumerated in section five of chapter one hundred and fifty-one B; …. All persons shall have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement subject only to the conditions and limitations established by law and applicable to all persons. This right is recognized and declared to be a civil right.

## ALM GL ch. 151B § 5. Enforcement — Complaints.

## If upon all the evidence at any such hearing the commission shall find that a respondent has engaged in any such unlawful practice … it may, in addition to any other action which it may take under this section, award the petitioner damages…

## ALM GL ch. 151B § 9. Construction

## … Any person claiming to be aggrieved by a practice made unlawful under this chapter or under chapter one hundred and fifty-one C, or by any other unlawful practice within the jurisdiction of the commission, may, at the expiration of ninety days after the filing of a complaint with the commission, or sooner if a commissioner assents in writing, but not later than three years after the alleged unlawful practice occurred, bring a civil action for damages or injunctive relief….

## Note - Case notes under this section and the following section (151B § 9) on Lexis show that both the Massachusetts Commission Against Discrimination and the court are empowered to order emotional distress damages to prevailing complainants and plaintiffs.

## Michigan

## MCLS § 37.1606. Civil action; commencement; “damages” defined; compensation for lost wages; notice as condition to bringing civil action; applicability of subsection (5).

Sec. 606. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both. (3) As used in subsection (1), “damages” means damages for injury or loss caused by each violation of this act, including reasonable attorneys' fees.

Note - Types of damages are not specifically described in statute, but compensatory damages/emotional distress damages may be awarded in a civil action, see, e.g., [Eide v. Kelsey-Hayes Co., 431 Mich. 26](https://plus.lexis.com/api/document/collection/cases/id/3RX6-FV40-003D-63XF-00000-00?cite=431%20Mich.%2026&context=1530671) (1988), and by Commission in an administrative hearing. [https://www.michigan.gov/mdcr/-](https://www.michigan.gov/mdcr/-/media/Project/Websites/mdcr/mcrc/decisions/bercheni.pdf?rev=ba83c4d0d29f4ea7b52fecb8aa8ca74c&hash=D239CCA8134210631604DF17E7E685BE)

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**Minnesota**

363A.11. Public Accommodations

Subdivision 1. Full and equal enjoyment of public accommodations.

(a) It is an unfair discriminatory practice:

(1) to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of … disability … or for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person’s disability; or

(2) for a place of public accommodation not to make reasonable accommodation to the known physical, sensory, or mental disability of a disabled person ….

Minn. Stat. § 363A.29. Hearings

Subd. 4. In all cases where the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three times the actual damages sustained. In all cases, the administrative law judge may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorney's fees, in addition to punitive damages in an amount not more than $25,000 pursuant to section 549.20.

Minn. Stat. § 363A.33. Court Actions, Suits By Private Parties, Intervention, District Court Jurisdiction, Attorney’s Fees, And Costs.

Subd. 6. If the court or jury finds that the respondent has engaged in an unfair discriminatory practice, it shall issue an order or verdict directing appropriate relief as provided by section 363A.29, subdivisions 3 to 6.

## Missouri

§ 213.065 R.S. Mo. Discrimination in public accommodations prohibited, exceptions

1. All persons within the jurisdiction of the state of Missouri are free and equal and shall be entitled

to the full and equal use and enjoyment within this state of any place of public accommodation … without discrimination or segregation because of … disability.

§ 213.075. R.S.Mo. Complaints to commission, how filed, when-filing with federal agencies, effect-duties of executive director-respondents-hearing, notice, procedure-attorney general to represent commission-appeal, discovery-effect of orders of commission

11. When the case is heard by a panel of the commission …The panel shall state its findings of fact and conclusions of law, and if, upon all the evidence at the hearing, the panel finds:

(1) That a respondent has engaged in an unlawful discriminatory practice as defined in this chapter, the commission shall issue and cause to be served on the respondent an order …. The order shall require the respondent to take such affirmative action … including, but not limited to … payment of actual damages….

213.111. R.S.Mo. Right to civil action, when — relief available — costs and attorney's fees, awarded when.

2. The court may grant as relief, as it deems appropriate … and may award to the plaintiff actual and punitive damages ….

## New Hampshire

RSA § 354-A:17. Unlawful Discriminatory Practices in Public Accommodations.

It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the … physical or mental disability … of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof ….

RSA § 354-A:21. Procedure on Complaints.

(2)(d). If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order …. The commission may … order compensatory damages to be paid to the complainant ….

RSA § 354-A:21-a. Choice of Forum.

I. …A court in cases so removed may award all damages and relief which could have been awarded by the commission, except that in lieu of an administrative fine, enhanced compensatory damages may be awarded when the court finds the respondent’s discriminatory conduct to have been taken with willful or reckless disregard of the charging party’s rights under this chapter.

## New Jersey

NJ Stat. § 10:1-2. Equal rights and privileges of all persons in public places

All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons.

The New Jersey Law Against Discrimination remedies include compensatory damages, and damages for pain & humiliation in both administrative and civil actions. See comparison of administrative and judicial remedies section at: <https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/division-on-civil-> [rights-file-a-complaint/](https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/division-on-civil-rights-file-a-complaint/)

NJ Stat. § 10:5-13. Filing complaints, prosecution; jury trial; remedies; damages

(2) Any complainant, including any person claiming to be aggrieved by … an unlawful discrimination … may initiate suit in Superior Court without first filing a complaint with the division or any municipal office. In such proceedings: … (b) All remedies available in common law tort actions shall be available to prevailing plaintiffs…

N.J. Stat. § 10: 5-17. Findings and conclusions of director; actions; remedies or dismissal

…In addition to any other remedies provided by P.L.1945, c.169 (C.10:5-1 et seq.), a prevailing complainant may recover damages to compensate for emotional distress caused by the activities found to be in violation of P.L.1945, c.169 (C.10:5-1 et seq.) to the same extent as is available in common law tort actions.

## New Mexico

## NM Code § 28-1-7. Unlawful discriminatory practice.

It is an unlawful discriminatory practice for: any person in any public accommodation to:

F. any person to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any person because of … physical or mental disability ….

NM Code § 28-1-11. Hearing Procedures

E. … If the commission finds from the evidence presented at any hearing … that the respondent has engaged in a discriminatory practice, it … may require the respondent to pay actual damages to the complainant …..

NM Code § 28-1-13. Appeal.

D. In any action or proceeding under this section, if the complainant prevails, the court in its discretion may allow actual damages and reasonable attorney fees and the state shall be liable the same as a private person.

## New York

NY CLS Exec § 296. Unlawful discriminatory practices.

2.(a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation … because of the … disability … of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof ….

NY CLS Exec § 297(4)(c). If, upon all the evidence at the hearing, the commissioner shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this article , the commissioner shall state findings of fact and shall issue and cause to be served on such respondent an order…including such of the following provisions as in the judgment of the division will effectuate the purposes of this article: … (iii) awarding of

compensatory damages to the person aggrieved by such practice…

NY CLS Exec § 298. Judicial review and enforcement.

Any complainant, respondent or other person aggrieved by an order of the commissioner which is an order after public hearing, a cease and desist order, an order awarding damages, an order dismissing a complaint, or by an order of the division which makes a final disposition of a complaint may obtain judicial review thereof …. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter … an order enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such order….

**Oregon**

Oregon law contains numerous sections that are complex. Oregon’s nondiscrimination law allows for recovery of compensatory damages for disability discrimination by places of public accommodation.

ORS 659A.142. Discrimination against individual with disability by employment agency, labor organization, place of public accommodation or state government prohibited; mental disorder treatment not evidence of inability to manage property.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 659A.400, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is an individual with a disability.

(5)(a) It is an unlawful practice for state government to exclude an individual from participation in or deny an individual the benefits of the services, programs or activities of state government or to make any distinction, discrimination or restriction because the individual has a disability.

ORS § 659A.850 Hearing; orders; fees.

(4) After a hearing under this section, the commissioner shall issue an appropriate cease and desist order against any respondent found to have engaged in any unlawful practice alleged in the complaint … The order may require that the respondent:

(B) Eliminate the effects of the unlawful practice that the respondent is found to have engaged in, including but not limited to paying an award of actual damages suffered by the complainant ….

ORS 659A.885. Civil Action

(2) An action may be brought under subsection (1) of this section alleging a violation of (a) . 659A.103 to 659A.145….

(3)  In any action under subsection (1) of this section alleging a violation of ORS . . . 659A.103 to 659A.145: (a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or $200, whichever is greater, and punitive damages.

**Puerto Rico**

§ 13. Civil rights—Discrimination in public places, businesses, transportation and housing

(a) No person shall be denied in Puerto Rico any access, service, and equal treatment in public places and businesses and in the means of transportation because of political, religious, race, color or sex issues, or for of any other reason not applicable to all person in general.

Note - Not clear if italicized clause covers people with disabilities.

§ 14. Civil rights—Penalties; actions for damages; punitive damages

Any person aggrieved by any violation of §§13-18 of this title may bring the corresponding civil action in a competent court for the damages such violation may have caused him.

If the remedy is granted, the court shall, in addition to the proper compensation for losses and damages caused, impose the payment of another indemnity as punitive damages.

Note – Puerto Rico P&A states that people with disabilities are included in § 13(a) although not specifically named in that provision.

**Rhode Island**

R.I. Gen. Laws § 42-87-3. Discriminatory acts.

(5) No qualified individual with a disability, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., nor any individual or entity because of a known relationship or association with an individual with a disability shall be:

(i) Discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation or commercial facilities covered by the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.;

(ii) Excluded from participation in or be denied the benefits of the services, programs, or activities of, or be subjected to discrimination by, a public entity covered by the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

R.I. Gen. Laws § 42-87-4. Civil liability.

(a) Any person with a disability who is the victim of discrimination prohibited by this chapter may bring an action in the superior court against the person or entity causing the discrimination for equitable relief, compensatory and/or punitive damages or for any other relief that the court deems appropriate.

R.I. Gen. Laws § 42-87-5. Enforcement of anti-discrimination provisions.

(a) … Upon the commission’s own initiative or whenever … the “complainant”, makes a charge to the commission that … the “respondent”, has violated or is violating any of the provisions of §§ 42-87-1 — 42-87-4, the commission may proceed in the same manner and with the same powers as provided in §§ 28-5-16 — 28-5-26, and the provisions of §§ 28-5-13 and 28-5-16 — 28-5-36,

28-5-24. Injunctive and other remedies — Compliance.

(b) If the commission finds that the respondent has engaged in intentional discrimination in violation of this chapter, the commission, in addition, may award compensatory damages. The complainant shall not be required to prove that he or she has suffered physical harm or physical manifestation of injury in order to be awarded compensatory damages.

## South Dakota

S.D. Codified Laws § 20-13-23. Public accommodations.

It shall be an unfair or discriminatory practice for any person engaged in the provision of public accommodations because of race, color, creed, religion, sex, ancestry, disability or national origin, to fail or refuse to provide to any person access to the use of and benefit from the services and facilities of such public accommodations; or to accord adverse, unlawful, or unequal treatment to any person with respect to the availability of such services and facilities….

S.D. Codified Laws § 20-13-23.1. Right to reasonably equal accommodations.

Any person with a disability is entitled to reasonably equal accommodations, advantages, facilities and privileges of all hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

S.D. Codified Laws § 20-13-35.1. Right to proceed by civil action in lieu of hearing--Forms of relief available.

In a civil action, if the court or jury finds that an unfair or discriminatory practice has occurred, it may award the charging party compensatory damages.

S.D. Codified Laws § 20-13-42. Cease and desist orders.

If, upon taking into consideration all the evidence at a hearing, the commission finds that a respondent has engaged in, or is engaging in, any discriminatory or unfair practice as defined in this chapter, the commission shall … cause to be served upon such respondent an order requiring such respondent to cease and desist from such discriminatory or unfair practice and to take such affirmative action, including … compensation incidental to the violation, other than pain and suffering, punitive, or consequential damages; costs allowable under chapter 15-17; any other appropriate relief ….

**Texas**

Tex. Hum. Res. Code § 121.003 (d): discrimination prohibited includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to… make reasonable accommodations in policies, practices, and procedures; or provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

Tex. Hum. Res. Code § 121.004(b): Subject to Section 121.0041(notice and opportunity to cure), if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least $300 to the person with a disability.

Note - Type of damages are not defined and no cases on §121.033(d) were found to clarify.

## Vermont

9 V.S.A. § 4502. Public accommodations

(c) No individual with a disability shall be excluded from participation in or be denied the benefit of the services, facilities, goods, privileges, advantages, benefits, or accommodations or be subjected to discrimination by any place of public accommodation on the basis of his or her disability as follows:

(5) A public accommodation shall make reasonable modifications in policies, practices, or procedures when those modifications are necessary to offer goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(6) A public accommodation shall take whatever steps may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden on the public accommodation.

9 V.S.A. § 4553(a)(6)(A)(iii). The Commission may enforce conciliation agreements and prohibitions against discrimination by bringing an action in the name of the Commission seeking any of the following: Compensatory and punitive damages on behalf of an aggrieved individual or class of individuals similarly situated.

**Virginia**

Va. Code Ann. § 2.2-3904. Nondiscrimination in places of public accommodation; definitions.

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation … on the basis of … disability ….

Va. Code Ann. § 2.2-3908. Civil actions by private parties.

B. If the court or jury finds that unlawful discrimination has occurred, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages and the court may award reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice, or order such affirmative action as may be appropriate.

## Virgin Islands

10 VIC § 64. Unlawful Discriminatory Practices

(3) It shall be an unlawful discriminatory practice for any person to restrict access to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, because of … disability ….

(15) In addition to other remedies, any person who has been discriminated against as defined in this section may bring an action for *compensatory* and punitive damages in any court of competent jurisdiction.

## Washington

ARCW 49.60.030. Freedom from discrimination - Declaration of civil rights.

1. The right to be free from discrimination because of … the presence of any sensory, mental, or physical disability … is recognized as and declared to be a civil right. This right shall include, but not be limited to: (b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

2. Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person….

ARCW 49.60.250. Hearing of complaint by administrative law judge — Limitation of relief — Penalties — Order — Arbitration.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall cause to be served on such respondent an order requiring such respondent to … take such affirmative action … including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed twenty thousand dollars….

## West Virginia

W. Va. Code § 5-11-9. Unlawful discriminatory practices

(6) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations to: (A) Refuse, withhold from or deny to any individual because of his or her disability, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of the place of public accommodations ….

W. Va. CSR § 77-2-9. Final Decision of the Administrative Law Judge.

9.2. If … the administrative law judge shall find that the respondent has engaged in or is engaging in any unlawful discriminatory practice as defined by the Act, the administrative law judge shall issue an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action as will effectuate the purpose of the Act…

.9.3. In addition to the remedies outlined in Rule 9.2. above, the administrative law judge may:

9.3.b. Award to complainant incidental damages up to $2,950.00, or such amount as may be adjusted from time to time by the Commission in accord with the standard established in Bishop Coal Co. v. Salyers, 380 S.E.2d 238 (W. Va. 1989).

Note - Incidental damages, are defined as “compensation for humiliation, embarrassment, emotional and mental distress, and loss of personal dignity, without proof of monetary loss. <https://hrc.wv.gov/about/Documents/Investigative%20Procedure.pdf>

## Wisconsin

## Wis. Stat. § 106.52. Public places of accommodation or amusement.

## (3) Public place of accommodation or amusement.

## (a) No person may do any of the following: 1. Deny to another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of … disability ….

## (4) Investigation and review of claims, public places.

## (a) Claims filed with department.

## 4. If the department finds probable cause to believe that any act prohibited under sub. (3) has been or is being committed, the department may endeavor to eliminate the act by conference, conciliation and persuasion. If the department determines that such conference, conciliation and persuasion has not eliminated the alleged act prohibited under sub. (3), the department shall issue and serve a written notice of hearing … If, after the hearing, the examiner finds by a fair preponderance of the evidence that the respondent has violated sub. (3), the examiner shall make written findings and order such action by the respondent as will effectuate the purpose of this subsection and sub. (3).

## (4)(e) Civil actions.

1. A person, including the state, alleging a violation of sub. (3)(public accommodations) may bring a civil action for appropriate injunctive relief, for damages including punitive damages and, in the case of a prevailing plaintiff, for court costs and reasonable attorney fees.

**States that Do Not Allow Compensatory Damages for Disability Discrimination by Public Accommodations**

## Alabama

Code of Ala. § 21-7-3. Places of public accommodation.

(a) An individual with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges in every public accommodation.

(b) A public accommodation shall modify its policies, practices, and procedures to permit the use of a service animal by an individual with a disability.

(c) This chapter may not require a person, firm, business, or corporation, or an agent thereof, to modify or provide a vehicle, premises, facility, or service to a higher degree of accommodation than is required for an individual who is not disabled.

No state regulation describing complaint process for disability discrimination in public accommodations. No remedy identified.

## Alaska

## Alaska Stat. § 18.80.230. Unlawful practices in places of public accommodation. [Effective January 1, 2024]

## (a) It is unlawful for the owner, lessee, manager, agent, or employee of a public accommodation

## (1) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of … physical or mental disability ….

## Alaska Stat. § 18.80.130. Order; interest rate.

(a) At the completion of the hearing or after consideration of a petition for summary decision … if the commission finds that a person charged in an accusation has engaged in the discriminatory practice alleged in the accusation, it shall order the person to refrain from engaging in the discriminatory practice. The order … may order the person to take affirmative action to correct the discriminatory practice. The commission may not order an award of noneconomic or punitive damages in a case. Alaska Stat. § 44.62.560. Judicial review.

(a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560 — 44.62.570.

Alaska Stat. § 44.62.570. Scope of review.

(e) The court shall enter judgment setting aside, modifying, remanding, or affirming the order or decision, without limiting or controlling in any way the discretion legally vested in the agency.

## Arizona

Arizona has extensive provisions prohibiting disability discrimination in public accommodations at ARS § 41-1492.02. (Prohibition of discrimination by public accommodations and commercial facilities) and ARS § 41-1492.01. (Prohibition of discrimination by public entities).

ARS § 41-1492.08. Enforcement by an aggrieved person; notice; affidavit; prohibited demand for money; definition

A. Any aggrieved person who is subjected to discrimination in violation of section 41-1492.01, 41-1492.02, 41-1492.03, 41-1492.04, 41-1492.05 or 41-1492.11 or this article’s implementing rules may institute a civil action for preventive or mandatory relief, including an application for a permanent or temporary injunction, restraining order or other order.

**Georgia**

O.C.G.A. § 30-4-2. Right to equal public accommodations; right to be accompanied by guide dog or service dog.

(a) Blind persons, persons with visual disabilities, persons with physical disabilities, and deaf persons are entitled to full and equal accommodations, advantages, facilities, and privileges on all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation and at hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

O.C.G.A. § 30-4-4. Denial of or interference with admittance to or enjoyment of facilities or exercise of rights.

Any person, firm, corporation, or the agent of any person, firm, or corporation who denies or interferes with admittance to or enjoyment of the facilities enumerated in this chapter or otherwise interferes with the rights of a totally or partially blind person, physically disabled person, or deaf person or person engaged in the training or raising of a guide dog or service dog as provided by this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine not to exceed $2,000.00, imprisonment for not more than 30 days, or both.

## Maine

5 MRS § 4592. Unlawful public accommodations

… It is unlawful public accommodations discrimination, in violation of this Act:

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of … physical or mental disability … any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodations, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, ….

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, …;

C. A failure to take steps to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, ….

5 MRS § 4613. Procedure in Superior Court

(2)All actions under this Act

In any action filed under this Act by the commission or by any other person:…

(B) If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:…

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of $20,000 in the case of the first order under this Act against the respondent, not in excess of $50,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of $100,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph.

Note - Civil penalty damages available rather than compensatory damages and have been applied in cases of disability discrimination by public accommodations.

**Maryland**

Md. State Government Code Ann. § 20-301. “Place of public accommodation” defined. (Does not cover hospitals or health care)

In this subtitle, “place of public accommodation” means:

(1) an inn, hotel, motel, or other establishment that provides lodging to transient guests;

(2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or alcoholic beverages for consumption on or off the premises, including a facility located on the premises of a retail establishment or gasoline station;

(3) a motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(4) a retail establishment that:

(i) is operated by a public or private entity; and

(ii) offers goods, services, entertainment, recreation, or transportation; or

(5) an establishment:…. (i) 1. that is physically located within the premises of any other establishment covered by this subtitle; or

2. within the premises of which any other establishment covered by this subtitle is physically located; and

(ii) that holds itself out as serving patrons of the covered establishment.

Md. State Government Code Ann. § 20-1009. Decision of administrative law judge; remedies.

(c)(1)(i) Except as provided in subparagraph (ii) of this paragraph, if the respondent is found to have engaged in or to be engaging in a discriminatory act other than an unlawful employment practice, in addition to an award of civil penalties as provided in § 20-1016 of this subtitle, nonmonetary relief may be granted to the complainant.

Option for civil action not found except for employment cases.

https://codes.findlaw.com/md/state-government/md-code-state-govt-sect-20-1009.html

**Montana**

MCA § 49-2-304. Discrimination in public accommodations.

(1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of … physical or mental disability ….

MCA § 49-2-506. Procedure upon decision finding discrimination.

(1) If the hearings officer finds that a party against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, the department shall order the party to refrain from engaging in the discriminatory conduct. The order may: (b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against.

MCA § 49-2-511. Dismissal after informal proceedings — filing of objections — procedures — action in district court.

(3)(a) Within 90 days after the department has issued a notice of dismissal pursuant to 49-2-501(5) or 49-2-504(7)(b) or within 90 days after the commission has issued an order affirming the department’s notice of dismissal pursuant to subsection (2)(b) of this section, the charging party may commence a civil action for appropriate relief on the merits of the case in the district court …. The court may provide the same relief as described in 49-2-506….

## Nebraska

R.R.S. Neb. § 20-132. Full and equal enjoyment of accommodations.

All persons within this state shall be entitled to a full and equal enjoyment of any place of public accommodation, as defined in sections 20-132 to 20-143, without discrimination or segregation on the grounds of … disability ….

R.R.S. Neb. § 20-134. Discriminatory practices; violation; penalty.

Any person who directly or indirectly refuses, withholds from, denies, or attempts to refuse, withhold, or deny, to any other person any of the accommodations, advantages, facilities, services, or privileges, or who segregates any person in a place of public accommodation on the basis of … disability … shall be guilty of discriminatory practice and shall be subject to the penalties of sections 20-132 to 20-143.

R.R.S. Neb. § 20-140. Unlawful discriminatory practice; complaint; file with commission; contents; resolution of complaint; confidential; violation; penalty.

…If the commission determines after such investigation that there is reasonable cause to believe that the charge is true, the commission shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation, and persuasion.

**Nevada**

Nev. Rev. Gen. Stat. § 651.070. All persons entitled to equal enjoyment of places of public accommodation.

All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the ground of … disability….

Nev. Rev. Gen. Stat.§ 651.090. Deprivation of, interference with and punishment for exercising rights and privileges: Civil actions; damages; equitable relief; costs and attorney’s fees.

2. In an action brought pursuant to this section, the court may: (a) Grant any equitable relief it considers appropriate, including temporary, preliminary or permanent injunctive relief, against the defendant….

## North Carolina

## N.C. Gen. Stat. § 168A-6. Discrimination in public accommodations.

## It is a discriminatory practice for a person to deny a qualified person with a disability the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of a disabling condition.

N.C. Gen. Stat. § 168A-11. Civil action.

(a) A person with a disability aggrieved by a discriminatory practice prohibited by G.S. 168A-5 through 168A-8 … may bring a civil action

(b) Any relief granted by the court shall be limited to declaratory and injunctive relief…

**North Dakota**

## N.D. Cent. Code §14-02.4-14. Public accommodations — Discriminatory practices.

## 1. It is a discriminatory practice for a person engaged in the provision of public accommodations to fail to provide to a person access to the use of any benefit from the services and facilities of the public accommodations; or to give adverse, unlawful, or unequal treatment to a person with respect to the availability to the services and facilities, the price or other consideration therefor, the scope and equality thereof, or the terms and conditions under which the same are made available because of the person’s … physical or mental disability ….

## 2. If a place of public accommodation has an architectural or communication barrier, the person engaged in the provision of public accommodations shall remove the barrier, if removal is readily achievable….

## N.D. Cent. Code §14-02.4-19. Actions — Limitations.

1. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court ….N.D. Cent. Code §14-02.4-20. Relief.

N.D. Cent. Code §14-02.4-20. Relief.

Neither the department nor an administrative hearing officer may order compensatory or punitive damages under this chapter … In any action or proceeding under this chapter, the court may grant the prevailing party a reasonable attorney’s fee as part of the costs. …

**Oklahoma**

25 Okl. Stat. § 1402. Discriminatory Practice

It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a “place of public accommodation” because of race, color, religion, sex, national origin, age, or disability.

Note - The Oklahoma Anti-Discrimination Act, Okla. Stat. tit. 25, §§ 1101-1706, prohibits discrimination in public accommodations but no provisions were found describing enforcement or damages for discrimination no public accommodations.

## Pennsylvania

43 P.S. § 953. Right to freedom from discrimination in employment, housing and public accommodation.

The opportunity for an individual to … obtain all the accommodations, advantages, facilities and privileges of any public accommodation … and commercial property without discrimination because of … handicap or disability … the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this act.

43 P.S. § 959. Procedure

(c) If it shall be determined after such investigation that probable cause exists for crediting the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion.

(f)(1) The Commission may award actual damages, including damages caused by humiliation and embarrassment in certain employment and housing discrimination complaints, not public accommodations complaints.

## South Carolina

§ 1-13-20. Declaration of policy.

… The General Assembly declares the practice of discrimination against an individual because of … disability as a matter of state concern and declares that this discrimination is unlawful and to alleviate these problems a state agency is created which shall seek to eliminate and prevent discrimination because of … disability.

Employment focus, no public accommodations. protections

**Tennessee**

Disability is not a protected class in TN law on public accommodations.

4-21-501. Discrimination prohibited.

Except as otherwise provided in this chapter, it is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, resort or amusement, as defined in this chapter, on the grounds of race, creed, color, religion, sex, age or national origin.

## Utah

26B-6-802. Rights and privileges of an individual with a disability.

(1) An individual with a disability has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as an individual who is not an individual with a disability.

(2) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

No enforcement scheme found in Utah state law for enforcement of these provisions and people with disabilities are not a protected class under the Utah Civil Rights Act (§§ 13-7-1 -13-7-5).

**Wyoming**

## Public accommodations law does not cover people with disabilities.

## Wyo. Stat. § 6-9-101. Equal enjoyment of public accommodations and facilities; penalties.

## (a) All persons of good deportment are entitled to the full and equal enjoyment of all accommodations, advantages, facilities and privileges of all places or agencies which are public in nature, or which invite the patronage of the public, without any distinction, discrimination or restriction on account of race, religion, color, sex or national origin.

## States Where It Is Unclear Whether Compensatory Damages Are Available for Disability Discrimination by Public Accommodations

## Kentucky

## KRS § 344.120. Refusal to rent or sell public accommodations unlawful.

## Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of disability, race, color, religion, or national origin.

## KRS 344.130. Definition of “place of public accommodation, resort, or amusement” for chapter — Exceptions.

## As used in this chapter, unless the context requires otherwise, “place of public accommodation, resort, or amusement” includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds. (Exceptions for private clubs, rooming houses, religious organizations).

## KRS § 344.450 Civil remedies for injunction and damages.

## Any person injured by any act in violation of the provisions of this chapter shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained …

## Note - Unclear whether § 344.450 applies to disability discrimination by public accommodations.

**Ohio**

ORC Ann. § 4112.02. Unlawful discriminatory practices. Part 1 of 2.

It shall be an unlawful discriminatory practice: (G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of …disability … the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

ORC Ann. § 4112.05. Filing of charge of discrimination; preliminary investigation; actions by commission; issuance of complaint; hearing; order awarding relief or dismissing complaint.

(G)(1)(a) If, upon all reliable, probative, and substantial evidence presented at a hearing under division (B) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice … the commission … shall issue … cause to be served on the respondent an order requiring the respondent to do all of the following:

(i) Cease and desist from the unlawful discriminatory practice.

(ii) Take any further affirmative or other action that will effectuate the purposes of this chapter …

ORC Ann. § 4112.99. Civil remedies for violation. (A) Whoever violates this chapter is subject to a civil action for damages, injunctive relief, or any other appropriate relief. Except as otherwise provided in division (B) of this section, a person may bring such a civil action in a court of competent jurisdiction. (B) A person is prohibited from bringing a civil action for employment discrimination under this section.

Note – Advocates in Ohio report no current case law where compensatory damages were awarded in a disability discrimination case but assume that these damages are available.