**Kansas Accessibility Standards for Public Buildings – KSA 58-1301-10**

Article 13. - PUBLIC BUILDINGS

58-1301. Accessibility standards for public buildings or facilities. (a) Except as provided in K.S.A. 58-1307, and amendments thereto, all existing facilities, and the design and construction of all new, additions to and alterations of, facilities in this state shall conform to Title II or Title III, as appropriate. The design and construction of new, addition to or alteration of, any facility which receives a building permit or permit extension after the effective date of this act shall be governed by the provisions of this act.

History: L. 1968, ch. 216, § 1; L. 1978, ch. 336, § 4; L. 1978, ch. 212, § 1; L. 1981, ch. 343, § 1; L. 1992, ch. 208, § 1; L. 1994, ch. 195, § 2; July 1.

58-1301b. Same; definitions. As used in this act:

(a) "Governmental entity" means a "public entity" as defined in Title II, but shall not include the national railroad passenger corporation, and any commuter authority, as defined in section 103(8) of the rail passenger service act (45 U.S.C. § 541).

(b) "Person" means an individual, partnership, corporation or other association of individuals.

(c) "Title II" means 28 CFR Part 35, nondiscrimination in state and local government services as required by sections 201 to 205, inclusive, of the Americans with disabilities act of 1990, 42 USCA 12,115 et seq.

(d) "Title III" means 28 CFR Part 36, nondiscrimination on the basis of disability by public accommodations and commercial facilities as required by section 301 et seq. of the Americans with disabilities act of 1990, 42 USCA 12,181 et seq.

(e) "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located. This definition of facility shall not apply to K.S.A. 79-32,175, 79-32,176 and 79-32,177, and amendments to such sections.

History: L. 1994, ch. 195, § 3; July 1.

58-1303. Same; legislative intent. This act is intended to prohibit discrimination on the basis of disability by Title II and Title III entities. All facilities covered by this act are to be designed, constructed and altered to be readily accessible to and usable by individuals with a disability.

History: L. 1968, ch. 216, § 3; L. 1992, ch. 208, § 6; L. 1994, ch. 195, § 4; July 1.

58-1304. Accessibility standards for public buildings or facilities; enforcement of act. (a) The responsibility for enforcement of this act shall be as follows:

(1) For all existing Title II school facilities, and the design and construction of all new, additions to and alterations of Title II school facilities, the state board of education, by plan approval as required by K.S.A. 31-150, and amendments thereto. Facilities operated or used for any purpose by, or located upon the land of any community college, area vocational school, area vocational-technical school, technical college, or institution under the governance of the state board of regents shall not be subject to the provisions of this subsection;

(2) for all existing state government facilities, and the design and construction of all new, additions to and alterations of, facilities for which federal, state, county funds or funds of other political subdivisions of the state or private funds are utilized on state property, the secretary of administration;

(3) for all existing facilities, and the design and construction of all new, additions to and alterations of, any local government facilities where funds of a county, municipality or other political subdivision are utilized, the governmental entity thereof or an agency thereof designated by the governmental entity;

(4) for the design and construction of all other new, additions to and alterations of, facilities which are subject to the provisions of this act, the building inspector or other agency or person designated by the governmental entity in which the facility is located.

(b) The attorney general of the state of Kansas shall oversee the enforcement of this act.

History: L. 1968, ch. 216, § 4; L. 1978, ch. 336, § 5; L. 1978, ch. 212, § 2; L. 1986, ch. 208, § 2; L. 1991, ch. 147, § 18; L. 1992, ch. 208, § 2; L. 1994, ch. 195, § 5; L. 2001, ch. 23, § 2; July 1.

58-1306. Same; display of international symbol. The international symbol of access to individuals with a disability shall be permanently displayed at the entrance of all facilities that are in compliance with the standards established pursuant to this act. Entrances of multi-family dwellings as defined in the K.S.A. 44-1001 et seq., and amendments thereto, and the fair housing act of 1968, as amended, 42 U.S.C. 3601 et seq., also shall display the international symbol of access to individuals with a disability.

History: L. 1978, ch. 213, § 3; L. 1986, ch. 208, § 4; L. 1992, ch. 208, § 8; L. 1994, ch. 195, § 6; July 1.

58-1307. Same; historic facilities; duties of state historic preservation officer; review of state action. (a) Any governmental entity undertaking an addition to or alteration of a qualified historic facility, as defined in section 504(c) of the Americans [with] disabilities act of 1990 as required by Title II, shall follow 28 CFR Part 35.150(b)(2) and 35.150(d).

(b) Any person undertaking an addition to or alteration of a qualified historic facility, as defined in section 504(c) of the Americans with disabilities act of 1990 as required by Title III, shall follow 28 CFR Part 36.405.

(c) Any consultation for alternative methods of access with the state historic preservation officer required by 28 CFR Part 35.150(b)(2) or 35.150(d) or 28 CFR Part 36.405 shall include descriptions of alternative methods of providing access, one copy of the facility plans, with dimensions, for the applicable areas of the addition or alteration, and photographs of the existing conditions.

(d) In addition to subsection (c), the state historic preservation officer shall solicit additional information from the requestor and perform an on-site inspection of the qualified historic facility.

(e) The state historic preservation officer shall initiate consultation and evaluation of properly submitted requests within 30 days from the date the request was received.

(f) Any action by a state officer or agency pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any action pursuant to this section by any other person or entity is subject to review by the district court of the county where the facility is located.

History: L. 1978, ch. 213, § 5; L. 1986, ch. 208, § 5; L. 1986, ch. 318, § 79; L. 1992, ch. 208, § 9; L. 1994, ch. 195, § 7; L. 2010, ch. 17, § 103; July 1.

58-1308. Same; injunction to restrain violation of standards. The attorney general, the city, county or district attorney or any person, agency or governmental entity responsible for the enforcement of this act may apply to the district court for a temporary or permanent injunction restraining any individual, corporation or partnership from violating the standards established by this act. Such court shall have jurisdiction upon hearing and for cause shown to grant such injunction. Such court may require the alteration of any facility by mandatory injunction to ensure compliance with the provisions of this act.

History: L. 1978, ch. 213, § 7; L. 1986, ch. 208, § 6; L. 1991, ch. 147, § 19; L. 1994, ch. 195, § 8; July 1.

58-1309. Same; violation of injunction; civil penalty. (a) An aggrieved individual with a disability shall not be a required party in actions brought by the attorney general or a city, county or district attorney pursuant to this section.

(b) Any willful violation of the terms of any injunction or court order issued pursuant to this act shall render the violator liable for the payment of a civil penalty in such amount as the court shall determine to be necessary and proper.

(c) In administering and pursuing actions under this act, the attorney general and the city, county attorney or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties sued for and recovered by the attorney general shall be paid into the general fund of the state. Civil penalties sued for and recovered by the city, county attorney or district attorney shall be paid into the general fund of the city or county where the proceedings were instigated.

(d) Any person, agency or governmental entity responsible for the enforcement of this act may refer evidence concerning violation of the standards established pursuant to this act to the attorney general or the proper city, county or district attorney, who may institute, with or without such a reference, proceedings under this section.

History: L. 1978, ch. 213, § 6; L. 1992, ch. 208, § 10; L. 1994, ch. 195, § 9; July 1.

58-1310a. Same; rules and regulations. (a) The attorney general of the state of Kansas may adopt any rules and regulations necessary to implement the provisions of K.S.A. 58-1304 and 58-1308, and amendments thereto.

(b) The state board of education may adopt any rules and regulations to implement the provisions of paragraph (1) of subsection (a) of K.S.A. 58-1304, and amendments thereto.

(c) The secretary of administration may adopt any rules and regulations necessary to implement the provisions of K.S.A. 58-1301 et seq. and amendments thereto.

History: L. 1991, ch. 147, § 20; L. 1994, ch. 195, § 10; July 1.