

# Override Amendatory Veto of SB 593 (Cullerton/Fritchey)

SB 593 = 1 Step Forward

SB 593 Amendatory Veto = 3 Steps Back

SB 593 updates the Illinois Human Rights Act to bring it in line with the federal government and 39 other states, ensuring that all persons are free from unlawful discrimination when they enter a medical or dental office in Illinois. SB593 was amended to accommodate concerns and unanimously passed out of both chambers. [Senate: 56-0-0 (May 10); House: 114-0-0 (May 31)].

Yet, the Governor, in his Amendatory Veto, recommends the following changes to the definition of “place of public accommodation”:

on page 12, line 5, by replacing “includes, but is not limited to” with “means a **facility**, operated by a **private entity**, whose operations **affect commerce** and fall within at least one of the following categories”.

The Governor’s amendatory veto *unintentionally* adds three unnecessary limitations that frustrate the Human Rights Act’s protections and remedial approach. Accordingly, these suggested changes should be rejected.

## **Amendatory Veto’s “Private Entity”: Turns Back the Clock on Civil Rights**

The addition of “private entity” would apparently exempt government-owned spaces and carriers – such as parks, auditoriums, buses, and trains – from the statutory definition of public accommodations.<sup>1</sup> Under the Governor’s approach, a modern-day Rosa Parks would NOT be able to use the Illinois Human Rights Act to secure a seat at the front of a municipal bus, much less the back.

## **Amendatory Veto’s “Facility”: Effectively Excludes People with Disabilities from Internet- & Phone-Sales**

SB 593, as passed, was drafted to bring Illinois law in line with similar federal and state statutes. One main comparison was Title III of the Americans with Disabilities Act (ADA), which the Chicago-based Seventh Circuit has read broadly enough to cover both physical and electronic spaces in Illinois.<sup>2</sup> The Governor’s insertion of “facility” unnecessarily cuts off the Illinois Human Rights Act’s application to in-state transactions placed over the Internet or by phone.

## **Amendatory Veto’s “Affect Commerce”: Invites Litigation & Will Waste Tax-Payer Money to Construe**

The Illinois General Assembly has broad “police powers” to legislate on the full spectrum of issues affecting our state. Congress, on the other hand, can legislate only on specific issues, such as those that “affect commerce.” Allowing the Governor’s “commerce” suggestion to stand weakens the state’s prerogative to legislate through its inherent police powers. Moreover, the Governor fails to even define his term, which invites protracted litigation and forces the Illinois Department of Human Rights to defend the ambiguous concept at taxpayers’ expense.

### **The Bill & Override are Supported By:**

**Access Living**  
**The Arc of IL**  
**The Autism Society of IL**  
**Coalition of Citizens w/ Disabilities of IL**  
**Equip for Equality**  
**IL Network of Centers for Indept. Living**  
**United Cerebral Palsy of IL**

**ACLU of IL**  
**AIDS Foundation of Chicago**  
**AIDS Legal Council of Chicago**  
**Asian American Institute**  
**CAIR-Chicago**  
**MALDEF Midwest Regional Office**

**Chicago Lawyer’s Committee for Civil Rights Under the Law, Inc.**  
**Cook County Bar Association**  
**Hispanic Lawyers Association of IL**  
**Puerto Rican Bar Association of IL**

**(10/2/07)**

<sup>1</sup> The Illinois Supreme Court has construed the Human Rights Act’s “place of public accommodation” protections in lockstep with its “property under [a public] official’s care” protections. *Bd. of Trs. of SIU v. Dep’t of Human Rights*, 636 N.E.2d 528, 532 (Ill. 1994). Requiring “public accommodations” to be privately-held negatively impacts and confuses the current broad interpretation property under a “public official’s” care gets under the Act.

<sup>2</sup> See, e.g., *Doe v. Mutual of Omaha Ins. Co.*, 179 F.3d 557, 559 (7th Cir. 1999) (Posner, J.) (finding that the “core meaning” of “place of public accommodation” to cover physical spaces and electronic spaces).