

Ask Lambda Legal

Our attorneys field your questions on the issues that matter to you most.



Q Several weeks ago a few friends and I were at a restaurant. We attempted to get the attention of the wait staff, but it soon became clear to us that they were purposefully not serving us. I've heard that people can still be denied services at restaurants just for being gay. Does that kind of thing still happen? And what can we do about it?

A Unfortunately, it does still happen. Lambda Legal's Legal Help Desk gets calls from all over the country from people who feel they have been mistreated or denied service because they are, or are perceived to be, gay, lesbian, bisexual or transgender. If you have been discriminated against, there may be local or state government agencies that can assist in the investigation, conciliation, or enforcement of discrimination claims.

Although businesses may put up signs that say "we reserve the right to refuse business to anyone," that often isn't actually true: no

business may engage in unlawful discrimination against its customers. A public accommodation law protects certain groups from being discriminated against in places like restaurants or lodging. In general, a "public accommodation" is any facility, place or establishment that offers services or goods to the general public. (Private clubs and religious organizations

are generally exempt from the requirements for public accommodations.)

Unfortunately, there is no federal law that prohibits discrimination based on sexual orientation or gender identity in places of public accommodation, but many states have such laws (see sidebar). However, discrimination based on disability, including HIV status, in places of public accommodation is prohibited by the Americans with Disabilities Act.

Lambda Legal recently led a case on behalf of a woman in Queens, New York, after she was denied services at a Sizzler restaurant. The case, *Friedlander v. Warogé Met, Ltd. d/b/a Sizzler*, involved a shocking scenario. Our client, Liza Friedlander, was confronted by the Sizzler manager, who angrily yelled homophobic slurs at her in front of the other patrons and physically assaulted her. Other Sizzler patrons joined in, verbally attacking Friedlander with homophobic and hate-filled language

and threatening her with sexual assault. Under New York State and City Human Rights laws, a restaurant is a place of public accommodation, and Ms. Friedlander's civil rights were violated when she was attacked because of her actual or perceived sexual orientation, gender identity and sex. Lambda Legal reached an agreement with the local owners of the Sizzler restaurant. They agreed that she had been discriminated against, promised to take steps to prevent discrimination in the future, and paid an amount to her to settle the case.

Another current Lambda Legal case, *Cervelli v. Aloha Bed & Breakfast*, involves a lesbian couple, Diane Cervelli and Taeko Bufford, who were denied a room at a bed and breakfast in Honolulu, Hawaii after the owner of the business cited her personal discomfort with same-sex couples. With the court's permission, the Hawaii Civil Rights Commission intervened in the lawsuit on the side of plaintiffs to protect and enforce the state's antidiscrimination law. Hawaii state law specifically prohibits discrimination on the basis of sexual orientation in places of public accommodation, including specifically establishments that provide lodging to temporary guests.

In response to the lawsuit, the business owner, who is represented by the Alliance Defense Fund, has asserted that her religious beliefs provide a defense to the state antidiscrimination law. Indeed, when the business owner turned over documents to support her defenses, she included pages from the Bible. However, the state has a paramount interest in eradicating discrimination, and individuals cannot use their personal religious beliefs as an excuse to discriminate against people in places of public accommodation. Lambda Legal established precisely that precedent in California in 2008, after a doctor refused to provide infertility treatment to a lesbian on religious grounds. When a business opens its doors to the general public, it must play by the same rules as everyone else. **L**

TODAY, 15 STATES AND THE DISTRICT OF COLUMBIA PROHIBIT DISCRIMINATION IN EMPLOYMENT, HOUSING AND PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY/EXPRESSION. These states include California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Maine, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington. Six additional states prohibit discrimination based on *only* sexual orientation, including Delaware, Maryland, Massachusetts, New Hampshire, New York and Wisconsin.



IF YOU HAVE ANY QUESTIONS, or feel you have been discriminated against because of your sexual orientation or gender identity/expression, please contact our Legal Help Desk for assistance at 866-542-8336 or visit www.lambdalegal.org/help.