

SENATE BILL No. 343

By Committee on Public Health and Welfare

-1-13

1 AN ACT concerning persons with hearing loss; relating to statutory
2 terminology; updating the term "hearing impairment" to "hard of
3 hearing" and other related terms concerning persons with hearing loss;
4 amending K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511, 72-
5 3253, 72-3404, 75-3740, 75-5391, 75-5397c, 75-5399 and 76-1001b
6 and K.S.A. 2021 Supp. 50-676 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 19-2698 is hereby amended to read as follows: 19-
10 2698. (a) The board of county commissioners of any county may levy a tax
11 not to exceed $\frac{1}{2}$ mill on all taxable tangible property within the county for
12 the purpose of assisting in the provision of services for persons with
13 physically handicapping conditions; but such tax shall not be used for the
14 purposes for which a tax is authorized under K.S.A. 12-1680, 19-4004, 19-
15 4011, 65-212 and 65-215, and amendments thereto. The board shall adopt
16 a resolution stating its intent to levy the tax and the purpose therefor. The
17 resolution shall be published once each week for two consecutive weeks in
18 a newspaper of general circulation in the county. If a petition signed by at
19 least 5% of the qualified voters of the county is filed with the county
20 election officer, the board shall submit the proposition for approval by a
21 majority of the qualified voters of the county voting at an election thereon.
22 The election shall be called and held in the manner provided by the general
23 bond law.

24 (b) If a petition signed by not less than 5% of the registered voters of
25 any county is filed with the county election officer requesting an election
26 on the question of whether a tax levy not to exceed $\frac{1}{2}$ mill on all taxable
27 tangible property within the county shall be made for the purpose of
28 assisting in the provision of services for persons with physically
29 handicapping conditions, the board of county commissioners shall submit
30 the proposition for approval by a majority of the qualified voters of the
31 county voting at an election thereon. The election shall be called and held
32 in the manner provided by the general bond law. If such proposition is
33 approved, the board of county commissioners shall levy such tax for such
34 purpose. No such tax shall be used for the purposes for which a tax is
35 authorized under K.S.A. 12-1680, 19-4004, 19-4011, 65-212 and 65-215,
36 and amendments thereto.

Proposed Amendments to
SB 343
Senate Public Health and Welfare
Senator O'Shea
February 3, 2022
Prepared by Jenna Moyer
Office of Revisor of Statutes.

1 (c) As used in this section, "physically handicapping condition"
2 means the physical condition of a person, whether congenital or acquired
3 by accident, injury or disease ~~which~~ *that* constitutes a substantial disability,
4 including but not limited to blindness and hearing ~~impairments~~ *loss*.

5 Sec. 2. K.S.A. 36-517 is hereby amended to read as follows: 36-517.
6 Every licensed lodging establishment designated as a hotel shall provide at
7 no additional charge to deaf ~~and hearing-impaired~~ *or hard of hearing*
8 guests, upon request of such guests, portable smoke detectors of the type
9 suitable for providing visual warning to such guests, or a room equipped
10 with fixed visual warning smoke detectors or a ground floor guest room
11 accessible to the out-of-doors. Each licensed lodging establishment
12 designated as a hotel shall have available for such guests not less than one
13 portable visual warning smoke detector, or one room equipped with a fixed
14 visual warning smoke detector or one ground floor guest room accessible
15 to the out-of-doors for each 50 guest rooms of such lodging establishment,
16 except that no such lodging establishment designated as a hotel shall be
17 required to have more than a total of six portable visual warning smoke
18 detectors, or six rooms equipped with fixed visual warning smoke
19 detectors or six ground floor guest rooms accessible to the out-of-doors
20 nor shall any such lodging establishment have less than one such smoke
21 detector, or one room equipped with a fixed visual warning smoke detector
22 or one ground floor guest room accessible to the out-of-doors.

23 Sec. 3. K.S.A. 39-1107 is hereby amended to read as follows: 39-
24 1107. Every ~~hearing-impaired~~ *person who is deaf or hard of hearing* has
25 the right to be accompanied by a hearing assistance dog, specially selected,
26 trained and tested for the purpose of hearing assistance, in or upon any of
27 the places listed in K.S.A. 39-1101, and amendments thereto, in the
28 acquisition and use of rental, residential housing and in the purchase and
29 use of residential housing without being required to pay an extra charge for
30 the hearing assistance dog. The ~~hearing-impaired~~ *person who is deaf or*
31 *hard of hearing* shall be liable for any damage done to the premises or
32 facilities by such dog.

33 Sec. 4. K.S.A. 2021 Supp. 50-676 is hereby amended to read as
34 follows: 50-676. As used in K.S.A. 50-676 through 50-679, and
35 amendments thereto:

36 (a) "Elder person" means a person who is 60 years of age or older.

37 (b) "Disabled person" means a person who has physical or mental
38 impairment, or both, ~~which~~ *that* substantially limits one or more of such
39 person's major life activities.

40 (c) "Immediate family member" means parent, child, stepchild or
41 spouse.

42 (d) "Major life activities" includes functions such as caring for one's
43 self, performing manual tasks, walking, seeing, hearing, speaking,

- 1 breathing, learning and working.
- 2 (e) "Member of the military" means a member of the armed forces or
- 3 national guard on active duty or a member of an active reserve unit in the
- 4 armed forces or national guard.
- 5 (f) "Physical or mental impairment" means the following:
- 6 (1) Any physiological disorder or condition, cosmetic disfigurement
- 7 or anatomical loss substantially affecting one or more of the following
- 8 body systems:
- 9 (A) Neurological;
- 10 (B) musculoskeletal;
- 11 (C) special sense organs;
- 12 (D) respiratory, including speech organs;
- 13 (E) cardiovascular;
- 14 (F) reproductive;
- 15 (G) digestive;
- 16 (H) genitourinary;
- 17 (I) hemic and lymphatic;
- 18 (J) skin; or
- 19 (K) endocrine; or
- 20 (2) any mental or psychological disorder, such as intellectual
- 21 disability, organic brain syndrome, emotional or mental illness and specific
- 22 learning disabilities.
- 23 The term "physical or mental impairment" includes, but is not limited
- 24 to, ~~such diseases and conditions as~~ orthopedic, ~~visual,~~ speech and hearing
- 25 ~~impairment conditions and diseases~~ cerebral palsy, epilepsy, muscular
- 26 dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual
- 27 disability and emotional illness.
- 28 (g) "Protected consumer" means:
- 29 (1) An elder person;
- 30 (2) a disabled person;
- 31 (3) a veteran;
- 32 (4) the surviving spouse of a veteran;
- 33 (5) a member of the military; and
- 34 (6) an immediate family member of a member of the military.
- 35 (h) "Substantially limits" means:
- 36 (1) Unable to perform a major life activity that the average person in
- 37 the general population can perform; or
- 38 (2) significantly restricted as to the condition, manner or duration
- 39 under which an individual can perform a particular major life activity as
- 40 compared to the condition, manner or duration under which the average
- 41 person in the general population can perform that same major life activity.
- 42 Minor temporary ailments or injuries shall not be considered physical or
- 43 mental impairments ~~which~~ that substantially limit a person's major life

, language and hearing disorders

1 services designed to enable a child with a disability to receive a free
2 appropriate public education as described in the child's IEP, counseling
3 services, including rehabilitation counseling, orientation and mobility
4 services, and medical services; except that such medical services shall be
5 for diagnostic and evaluation purposes only; as may be required to assist
6 an exceptional child to benefit from special education, and includes the
7 early identification and assessment of disabling conditions in children.

8 (2) "Related services" shall not mean any medical device that is
9 surgically implanted or the replacement of any such device.

10 (t) "Supplementary aids and services" means aids, services, and other
11 supports that are provided in regular education classes or other education-
12 related settings to enable children with disabilities to be educated with
13 nondisabled children to the maximum extent appropriate.

14 (u) "Individualized education program team" or "IEP team" means a
15 group of individuals composed of:

16 (1) The parents of a child;

17 (2) at least one regular education teacher of the child; if the child is,
18 or may be, participating in the regular education environment;

19 (3) at least one special education teacher or, where appropriate, at
20 least one special education provider of the child;

21 (4) a representative of the agency directly involved in providing
22 educational services for the child who is:

23 (A) ~~is~~ Qualified to provide, or supervise the provision of, specially
24 designed instruction to meet the unique needs of exceptional children;

25 (B) ~~is~~ knowledgeable about the general curriculum; and

26 (C) ~~is~~ knowledgeable about the availability of resources of the
27 agency;

28 (5) an individual who can interpret the instructional implications of
29 evaluation results;

30 (6) at the discretion of the parent or the agency, other individuals who
31 have knowledge or special expertise regarding the child, including related
32 services personnel as appropriate; and

33 (7) whenever appropriate, the child.

34 (v) "Evaluation" means a multisourced and multidisciplinary
35 examination, conducted in accordance with the provisions of K.S.A. 72-
36 3428, and amendments thereto, to determine whether a child is an
37 exceptional child.

38 (w) "Independent educational evaluation" means an examination
39 ~~which~~ *that* is obtained by the parent of an exceptional child and performed
40 by an individual or group of individuals who meet state and local
41 standards to conduct such an examination.

42 (x) "Elementary school" means any nonprofit institutional day or
43 residential school that offers instruction in any or all of the grades

1 kindergarten through nine.

2 (y) "Secondary school" means any nonprofit institutional day or
3 residential school that offers instruction in any or all of the grades nine
4 through 12.

5 (z) "Children with disabilities" means *children who*:

6 (1) ~~Children with~~ *Have an* intellectual disability, hearing
7 ~~impairments~~ *loss* including deafness, speech or language impairment,
8 visual impairments including blindness, emotional disturbance, orthopedic
9 impairments, autism, traumatic brain injury, other health impairments, or
10 specific learning disabilities and who, by reason thereof, need special
11 education and related services; and

12 (2) ~~Children~~ *are* experiencing one or more developmental delays and,
13 by reason thereof, need special education and related services if such
14 children are ages three through nine.

15 (aa) "Substantial change in placement" means the movement of an
16 exceptional child, for more than 25% of the child's school day, from a less
17 restrictive environment to a more restrictive environment or from a more
18 restrictive environment to a less restrictive environment.

19 (bb) "Material change in services" means an increase or decrease of
20 25% or more of the duration or frequency of a special education service, a
21 related service or a supplementary aid or a service specified on the IEP of
22 an exceptional child.

23 (cc) "Developmental delay" means such a deviation from average
24 development in one or more of the following developmental areas, as
25 determined by appropriate diagnostic instruments and procedures, as
26 indicates that special education and related services are required:

27 (1) Physical;

28 (2) cognitive;

29 (3) adaptive behavior;

30 (4) communication; or

31 (5) social or emotional development.

32 (dd) "Homeless children" means "homeless children and youths" as
33 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
34 § 11434a.

35 (ee) "Limited English proficient" means an individual who meets the
36 qualifications specified in section 9101 of the federal elementary and
37 secondary education act of 1965, as amended.

38 Sec. 9. K.S.A. 75-3740 is hereby amended to read as follows: 75-
39 3740. (a) Except as provided by K.S.A. 75-3740b, and amendments
40 thereto, and subsections (b) and (k), all contracts and purchases made by
41 or under the supervision of the director of purchases or any state agency
42 for which competitive bids are required shall be awarded to the lowest
43 responsible bidder, taking into consideration conformity with the

disorders

1 individual health insurance coverage for each employee. The department
2 of administration shall require a certification of these facts as a condition
3 to the certified business being awarded a contract pursuant to subsection
4 (b); and

5 (D) does not employ individuals under a certificate issued by the
6 United States secretary of labor under 29 U.S.C. § 214(c);

7 (2) "individuals with disabilities" or "individual with a disability"
8 means any individual who:

9 (A) Is certified by the Kansas department for aging and disability
10 services or by the Kansas department for children and families which
11 administers the rehabilitation services program as having a physical or
12 mental impairment—~~which~~ *that* constitutes a substantial barrier to
13 employment;

14 (B) works a minimum number of hours per week for a certified
15 business necessary to qualify for health insurance coverage offered
16 pursuant to subsection (g)(1); and

17 (C) (i) is receiving services; has received services or is eligible to
18 receive services under a home and community based services program, as
19 defined by K.S.A. 39-7,100, and amendments thereto;

20 (ii) is employed by a charitable organization domiciled in the state of
21 Kansas and exempt from federal income taxation pursuant to section

22 501(c)(3) of the federal internal revenue code of 1986, as amended; or

23 (iii) is an individual with a disability pursuant to the disability
24 standards established by the social security administration as determined
25 by the Kansas disability determination services under the Kansas
26 department for children and families;

27 (3) "physical or mental impairment" means:

28 (A) Any physiological disorder or condition, cosmetic disfigurement
29 or anatomical loss substantially affecting one or more of the following
30 body systems:

31 (i) Neurological;

32 (ii) Musculoskeletal;

33 (iii) Special sense organs;

34 (iv) Respiratory, including speech organs;

35 (v) Cardiovascular;

36 (vi) Reproductive;

37 (vii) Digestive;

38 (viii) Genitourinary;

39 (ix) Hemic and lymphatic;

40 (x) Skin; or

41 (xi) Endocrine; or

42 (B) any mental or psychological disorder, such as intellectual
43 disability, organic brain syndrome, mental illness and specific learning

language and hearing disorder

1 disabilities. The term "physical or mental impairment" includes, but is not
2 limited to, ~~such diseases and conditions as~~ orthopedic, ~~visual,~~ speech and
3 hearing ~~impairment conditions and diseases,~~ cerebral palsy, epilepsy, and
4 muscular dystrophy; multiple sclerosis and intellectual disability; and
5 (4) "project architect" ~~shall have the meaning ascribed thereto means~~
6 ~~the same as defined in K.S.A. 75-1251, and amendments thereto;~~
7 (5) "disabled veteran" means a person verified by the Kansas
8 commission on veterans affairs office to have served in the armed forces of
9 the United States and who is entitled to compensation for a service-
10 connected disability, according to the laws administered by the *United*
11 *States department of veterans administration affairs*, or who is entitled to
12 compensation for the loss, or permanent loss of use, of one or both feet or
13 one or both hands, or for permanent visual impairment of both eyes to a
14 prescribed degree;
15 (6) "disabled veteran business" means a business certified annually
16 by the department of administration that is a sole proprietorship,
17 partnership, association or corporation domiciled in Kansas, or any
18 corporation, even if a wholly owned subsidiary of a foreign corporation,
19 and is verified by the *Kansas* commission on veterans affairs office that:
20 (A) Not less than 51% is owned by one or more disabled veterans or,
21 in the case of a publicly owned business, not less than 51% of the stock is
22 owned by one or more disabled veterans;
23 (B) the management and daily business operations are controlled by
24 one or more disabled veterans; and
25 (C) such business maintains the requirements of subparagraphs (A)
26 and (B) during the entire contract term.
27 (h) Any state agency authorized by the director of purchases to make
28 purchases pursuant to K.S.A. 75-3739(e), and amendments thereto, shall
29 consider any unsolicited proposal for goods or services under this section.
30 (i) The secretary of administration and the secretary for aging and
31 disability services, jointly, shall adopt rules and regulations as necessary to
32 effectuate the purpose of this section.
33 (j) ~~On and after January 13, 2014,~~ At the beginning of each regular
34 session of the legislature, the secretary of administration and the secretary
35 for aging and disability services shall submit to the social services budget
36 committee of the house of representatives and the appropriate
37 subcommittee of the committee on ways and means of the senate, a written
38 report on *the number of*:
39 (1) ~~The number of~~ Certified businesses certified by the department of
40 administration during the previous fiscal year;
41 (2) ~~the number of~~ certified businesses awarded contracts pursuant to
42 subsection (b) during the previous fiscal year;
43 (3) ~~the number of~~ contracts awarded pursuant to subsection (b) to

1 (6) encourage and assist local governments in the development of
2 programs for the deaf and hard of hearing;

3 (7) cooperate with public and private agencies and units of local, state
4 and federal governments in promoting coordination in programs for the
5 deaf and hard of hearing;

6 (8) provide for the social, emotional, educational and vocational
7 needs of the deaf and hard of hearing and their families;

8 (9) serve as an advisory board to the governor on the needs of the
9 deaf and hard of hearing by preparing an annual report ~~which that~~ reviews
10 the status of all state services to the deaf and hard of hearing within
11 Kansas, and to recommend priorities to the governor for the development
12 and coordination of services to the deaf and hard of hearing; *and*

13 (10) make recommendations for needed improvements, and serve as
14 an advisory board in regard to new legislation affecting the deaf and hard
15 of hearing.

16 (b) Except as otherwise provided by this act, all budgeting,
17 purchasing and related management functions of the Kansas commission
18 for the deaf and hard of hearing shall be administered under the direction
19 and supervision of the secretary for children and families. Within the
20 limitations of available appropriations, the secretary for children and
21 families shall provide additional clerical and other assistance as may be
22 required for the commission.

23 Sec. 11. K.S.A. 75-5397c is hereby amended to read as follows: 75-
24 5397c. (a) No suit, action or other proceeding, judicial or administrative,
25 lawfully commenced by or against the Kansas commission for the deaf and
26 hearing impaired, or by or against any officer of the state in such officer's
27 official capacity or in relation to the discharge of such officer's official
28 duties, shall abate by reason of the taking effect of this act. The court may
29 allow any such suit, action or other proceeding to be maintained by or
30 against the successor of such state agency, or any officer affected.

31 (b) No criminal action commenced or which could have been
32 commenced by the state shall abate by the taking effect of this act.

33 Sec. 12. K.S.A. 75-5399 is hereby amended to read as follows: 75-
34 5399. ~~When-As~~ used in this act:

35 (a) "Individuals with disabilities" means individuals with intellectual
36 disability, hearing ~~impairments~~ loss including deafness, speech or
37 language impairments, visual impairments including blindness, serious
38 emotional disturbance, orthopedic impairments, autism, traumatic brain
39 injury, other health impairments or specific learning disabilities.

40 (b) "Transition services" means a coordinated set of activities for a
41 student, designed within an outcome-oriented process, which promotes
42 movement from school to post-school activities, including post-secondary
43 education, vocational training, integrated employment ~~(~~ including

disorder