

# WASHINGTON STATE HUMAN RIGHTS COMMISSION

## Closed Captioning in Places of Public Accommodation



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The Washington State Human Rights Commission enforces the RCW 49.60, the Washington Law Against Discrimination (WLAD). The WLAD prohibits discrimination in the areas of employment, places of public accommodation, housing, and credit and insurance transactions on the basis of race, color, creed, national origin, citizenship or immigration status, age (in employment), sex (including pregnancy), disability, use of a trained dog guide or service animal, sexual orientation, gender identity, honorably discharged veteran and military status (in employment, credit, housing, and public accommodation), marital status (in employment, credit, insurance, housing), family status (in housing), or status as a breastfeeding mother (in public accommodation), or in retaliation for opposing discrimination.

### **Background:**

The Washington Law Against Discrimination now specifically requires places of public accommodation to provide closed captioning on televisions in public areas. During the 2021 Legislative Session, the State Legislature passed and the Governor signed Senate Bill 5027, putting this requirement into the law.

### **Questions and Answers:**

#### **When does the closed captioning law go into effect?**

The law goes into effect on July 25, 2021.

#### **What businesses and what televisions must follow this requirement?**

Televisions that are in public areas within places of public accommodation must have closed captioning in most circumstances. Places that might have such televisions in public areas include, but are not limited to: bars; restaurants; salons and barber shops; hotel lobbies; transportation centers such as train stations or airports; visitor areas in hospitals, medical offices, and medical centers; and waiting rooms in vehicle maintenance businesses. Regardless of the type of business, if there is a television that members of the public can watch, that television is included in this new law.

#### **Are there any exceptions?**

Here are the exceptions:

- ▶ where there are multiple televisions, up to 50% do not have to display closed captioning, but those that do not display closed captioning must clearly show they are on mute/have no sound
- ▶ when a television receiver is not technologically able to display closed captioning, closed captioning is not required
- ▶ when another state or federal law exempts the business from the closed captioning requirement, that law supersedes this one

### **What if a customer cannot see well, and the closed captioning makes it more difficult for that person to see the television?**

The closed captioning may be deactivated upon request of someone who is vision impaired. When that person leaves the business, the closed captioning needs to be turned back on.

### **What if a business sells televisions, and has multiple televisions on display for sale?**

When televisions are displayed for sale, at least one closed-captioned television must be available for viewing.

### **Are there specifics about how the closed captioning must look?**

Yes, it must have a black background, with white text in a style and font that is readable to someone with low vision.

### **What does a business need to do to get ready for this new law?**

By October 23, 2021, (which is 90 days from the effective date of this new law) places of public accommodation must be in compliance. Businesses should check all of their television sets to make sure that the televisions are technologically capable of displaying closed captioning, and to test the closed captioning. If a particular television is not capable, then it is a good idea for the business owner or manager to make a note for their own reference that the television does not display closed captioning. There is no requirement that the television needs to be replaced.

By October 23, 2021, all television sets that are technologically able to display closed captioning, will need to display closed captioning. If there are multiple television sets in the business, up to half of them do not have to display the closed captioning, but those that do not must clearly display that they have no volume/are on mute.

Businesses must train their staff on this requirement. Businesses can use this guide as training material for staff. The Human Rights Commission has also prepared a PowerPoint training for businesses to use for training, which is available at [www.hum.wa.gov](http://www.hum.wa.gov).

### **Who enforces this law?**

The Washington State Human Rights Commission enforces this law. If this agency receives a complaint that there is a violation, we will visit the establishment to corroborate the complaint. There is no requirement that the Human Rights Commission give notice of or announce its visit to a business ahead of time.

### **What counts as a violation?**

A violation is defined on a per business and per day basis. The number of violations is not determined by the number of television sets there are. For example, a hotel breakfast area failed to provide closed captioning on any of its three televisions for four days in a row. The hotel also did not have closed captioning on its lobby television for two of those same four days. All of the televisions are capable of displaying closed captioning. This would count as four violations, because the hotel failed to provide closed captioning on the televisions that should have had it displayed, for four different days.

### **What happens if a business does not comply with this law?**

The business owner or manager will receive written notice of the violation and will be informed that a fine can be assessed. Information will also be provided about how the business can cure the violation; by turning on the closed captioning display on the television(s) in their business within 30 days of receiving the notice, and then leaving it displayed.

If the business follows the instructions in the notice, and cures the violation by turning on the closed captioning display on the television(s) in their business within 30 days of receipt of the notice, and leaving the closed captioning on display, then there will be no fine and the violation will be dismissed.

If the business fails or refuses to provide closed captioning within 30 days after they receive notice, a fine of \$75 will be assessed for each violation. Any subsequent violation will result in \$150 fine. If the Human Rights Commission verifies that a second (or another subsequent) violation has occurred after the initial \$75 fine was assessed, there will not be additional written notices of violation with an opportunity to cure the violation; the \$150 fine will immediately be imposed.

**What if I am at a business, and see that the television set does not display closed captioning?**

You can report this violation to the Human Rights Commission, and we will confirm the violation and send notice to the business.

**Does this bill prevent someone who is deaf or hard of hearing from filing a disability discrimination complaint or lawsuit if they request closed captioning be turned on for a television in a public area in a place of public accommodation and the business refuses?**

There is no language in this bill that stops an individual from filing a complaint with the Human Rights Commission or the U.S. Department of Justice, or from filing a lawsuit in state or federal court. If an individual who is deaf or hard of hearing is in a place of public accommodation that has televisions in public areas, but the televisions do not display closed captioning, that person can make a reasonable accommodation request to the business that the closed captioning be displayed so that they can watch and understand the programming. If the business refuses the request, the person can file a disability discrimination claim, or file a lawsuit.

If you need additional information regarding discrimination issues, please contact the WSHRC at 360-753-6770 or 800-233-3247 (TTY 800-300-7525). Additional information on discrimination and other civil rights issues can be found on our website at [www.hum.wa.gov](http://www.hum.wa.gov). **This document is intended as general guidance does not constitute legal advice; if you have a particular situation about which you need legal advice, you should contact your attorney.**