

204 CMR: ALCOHOLIC BEVERAGES CONTROL COMMISSION

204 CMR 10.00: DISCRIMINATION BY CLUB LICENSEES

Section

10.01: General Provisions

10.02: Criteria

10.03: Definitions

10.04: Exclusion

10.05: Severability

10.06: Effective Date

10.01: General Provisions

No holder of a club license issued pursuant to M.G.L. c. 138, § 12, other than a club that is distinctly private, may make any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual orientation, physical or mental disability or ancestry relative to the admission of any person to membership in the club or to admission to the premises as a guest or relative to the treatment of any member or guest at the club premises.

10.02: Criteria

Evidence that a club is a public accommodation and not distinctly private may include, but is not limited to, the following:

- (1) The extent to which the club facilities, the alcoholic beverages license or both are used for commercial purposes.
- (2) The extent to which club membership exceeds 200 persons.
- (3) The extent to which regular meal and beverage service are available at the premises.
- (4) The degree to which the club receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business or professional interests.
- (5) The frequency with which the premises or any part of the premises are used for conferences and meetings sponsored by or on behalf of trade or business or professional enterprises.
- (6) The degree to which club facilities, including, but not limited to, meal and beverage service, are utilized by non-members.
- (7) The degree to which persons are selected for membership in the club on the basis of trade or business or professional associations or achievement.
- (8) The number of members who are partners, officers, directors, or trustees of trade or business or professional enterprises.
- (9) The club's holding, by lease or otherwise, of any interest in real property owned by a governmental entity or municipality.

10.03: Definitions

For the purposes of 204 CMR 10.00, the following definitions shall apply:

204 CMR: ALCOHOLIC BEVERAGES CONTROL COMMISSION

10.03: continued

Payment made for the furtherance of trade or business or professional interests shall mean payment made by or on behalf of a trade or business or professional organization or enterprise, payment made by an individual from an account which the individual uses primarily for trade or business or professional purposes, payment made by an individual who is reimbursed for the payment by the individual's employer or by a trade or business or professional organization or enterprise, or other payment made in connection with an individual's trade or business or profession, including entertaining clients or trade or business or professional associates or holding meetings or other trade or business or profession related events.

Payment directly from a nonmember shall mean payment made to a club by a nonmember for expenses incurred by a member or nonmember for dues, fees, use of space, facilities, services, meals and beverages.

Payment indirectly from a nonmember shall mean payment made to a member or nonmember by another nonmember as reimbursement for payment made to a club for expenses incurred for dues, fees, use of space, facilities, services, meals or beverages.

Payment on behalf of a nonmember shall mean payment by a member or nonmember for expenses incurred for dues, fees, use of space, facilities, services, meals or beverages by or for a nonmember.

Regular beverage service shall mean the provision of alcoholic beverages and/or soft drinks at the club premises for one hour or more on three or more days per week during two or more weeks per month during six or more months per year.

Regular meal service shall mean the provision, either directly or under a contract with another person, of breakfast, lunch, or dinner on three or more days per week during two or more weeks per month during six or more months per year.

10.04: Exclusion

204 CMR 10.00 shall not prohibit:

- (a) segregation of locker rooms and rest rooms on the basis of sex, or
- (b) distinctions on the basis of sex in the conduct of competitive sporting events except that no such segregation or distinction may be used to deny on account of sex reasonable overall equality of access to club membership, activities of facilities.

10.05: Severability

If any provision of 204 CMR 10.00 or the application thereof is held invalid, the remainder of 204 CMR 10.00 shall not be affected by such holding and shall remain in full force and effect.

10.06: Effective Date

204 CMR 10.00 shall take effect on March 1, 1993.

REGULATORY AUTHORITY

204 CMR 10.00: M.G.L. c. 6, §§ 43, 44; c. 138, § 24.