

Navigating *303 Creative*: A Guide for Small Businesses

This guide is designed to help small businesses navigate *303 Creative* and its fallout.

What was the case about?

The latest Supreme Court case involved a web designer who was considering entering the wedding website business, but did not want to provide wedding services to same-sex couples.

How will this affect my business?

The Supreme Court decision is based upon a narrow set of facts and circumstances. The Court specifically ruled that a business that offers “customized expressive services,” such as the website designer that brought the suit, cannot be required by the government to [curtail its speech](#). However, this narrow exception applies only to creative businesses that offer expressive original designs. Only a fraction of businesses fall into such a niche category. Therefore, the *303 Creative* decision will not apply to 99% of businesses.

What happens next?

You can – and should – continue to conduct business as normal. Businesses must still abide by all local, state and federal anti-discrimination laws. This means providing goods and services to all customers irrespective of their identity, background, or characteristics. This Supreme Court decision doesn’t change that.

Refusing to serve certain customers can trigger legal liability for you and your business.

What Massachusetts law prevents discrimination by businesses?

Massachusetts small businesses and their customers should feel secure knowing that state law promotes diversity and provides strong antidiscrimination protections.

[Massachusetts outlaws discrimination](#) based on race, color, religious creed, national origin, sex, handicap (disability), gender identity, or sexual orientation at places of public accommodation. Places of public accommodation, which are businesses open to the public, are prohibited from discriminating against, harassing, or providing different or inferior service to an individual based on their identity.

Unlawful discriminations includes, but is not limited to: refusing or denying service; offering a different or inferior class or quality of service or a more limited set of products, goods, services, or facilities that are available to others; advertising or otherwise publicizing that it does not accept business from, or the patronage of, protected groups; providing false information about the availability of products, goods, services, facilities, or admission; and harassment and intimidation.

[Places of public accommodation](#) include: hotels or other places of lodging, restaurants or bars, theaters, sport stadiums, or other places of entertainment; stores or other retail establishments; service establishments, such as laundromats, gas stations, lawyers or accountants; hospitals, medical and dental offices, and other health care facilities, transportation providers or stations, museums, libraries, or other places of public display; parks, gyms, beaches, or other places of recreation, schools, colleges, and other educational institutions; child care centers, senior citizen centers, and other social service establishments; public streets and highways; public spaces such as courtrooms and polling places.

What resources exist in Massachusetts for LGBTQ+ businesses?

LCR through its [BizGrow](#) program provides free legal assistance, business support, and technical assistance to minority, immigrant, women, and LGBTQ+ business owners. We welcome any small business in need of legal assistance to reach out to us.

Massachusetts is also home to the [Massachusetts LGBT Chamber of Commerce](#), a non-profit powered by hundreds of LGBT-owned businesses. A bevy of other Massachusetts organizations provide resources for LGBTQ+ businesses. Boston Pride put together a helpful [resource guide here](#).

Remember the best path forward is to have a zero-tolerance policy against all forms of discrimination.