

# WorkLife



A Publication on Employment and People with Disabilities  
FALL, 1990  
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**ADA**

A Special Issue





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**A Special Issue**

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The President's Committee on Employment of People with Disabilities presents *Worklife: A Publication on Employment and People with Disabilities*, focusing on employment information that is vital to both employers and persons with disabilities seeking employment. Our goal is to educate employers, persons with disabilities, rehabilitation professionals and other interested parties on the varied elements that go into the employment of persons with disabilities.

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The Editor encourages the submission of articles for publications, especially from people with disabilities.

This publication does not accept advertising.

One of the purposes of *Worklife* is to provide a forum for issues of interest to employers, rehabilitation professionals and persons with disabilities. Editorials and other expressions of opinion may occasionally be published for this reason. Such editorials and expressions are the opinions of the writers and not necessarily the policy of the President's Committee on Employment of People with Disabilities and should not be construed as such.

*This is the first of two Special Issues on the Americans with Disabilities Act. The second issue will focus on the history of ADA, and its impact on the future.*

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# ADA: Landmark Declaration of Equality

by Justin Dart

President George Bush signed the Americans with Disabilities Act on July 26, 1990, a landmark date in the evolution of human culture.

Throughout all of reported history until recent decades, people perceived as having significant disabilities have been treated as sub-humans. At worst they were killed or left as beggar-outcasts to die, at best they were cared for through subsistence welfare, out of sight and mind in institutions and back rooms.

With the development of modern medicine and social responsibility, millions of 20th Century humans are surviving previously fatal conditions and living on with significant disabilities. These individuals have a great potential to be happy, productive members of their communities. However, our best efforts to fulfill this potential have been consistently limited by a massive residue of prejudice and paternalism. Our society is still infected by an insidious, now almost subconscious assumption that people with disabilities are less than fully human, and therefore are not fully eligible for the opportunities, services and support systems which are available to other people as a matter of right.

More than two decades ago many of us in the disability community concluded that Americans with disabilities would never achieve full, productive citizenship until this nation made a firm statement of law protecting their civil rights.

The Americans with Disabilities Act is such a law. It establishes "a clear and comprehensive prohibition of discrimination on the basis of disability." Taken in combination with previously existing disability rights law, it provides a sound legal framework for the practical implementation of the inalienable right of all people with disabilities to participate equally in the mainstream of society. It extends to people with disabilities the same protection of their rights that is already enjoyed by the members of all other minorities.

Most importantly, ADA is a landmark commandment of fundamental human morality. It is the world's first declaration of equality for people with

disabilities by any nation. It will proclaim to America and to the world that people with disabilities are fully human; that paternalistic, discriminatory, segregationist attitudes are no longer acceptable; and that henceforth people with disabilities must be accorded the same personal respect and the same social and economic opportunities as other people.

ADA opens the doors of opportunity for millions of isolated, dependent Americans to become employees, taxpayers and welcome participants in the life of their communities. It prepares the way for the emancipation of more than half of a billion of the world's most oppressed people.

I am proud of America. I am proud of President Bush, Attorney General Thornburgh and Boyden Gray. I am proud of Senators Harkin, Hatch, Kennedy and Dole. I am proud of Congressmen Hoyer, Owens, Bartlett, Mineta, Fish, Brooks and all the great members of Congress who supported ADA. I am proud of former members Lowell Weicker and Tony Coelho. I am proud of Bob Silverstein, Bill Roper, John Wodatch, Melissa Schulman, Bob Tate, Maureen West and all the great Congressional and Administrative staff who authored and fought for ADA.

I am proud of Pat Wright, Lex Frieden, Evan Kemp, Sandra Parrino, Paul Marchand, Wade Blank, Elizabeth Boggs, Liz Savage, Marca Bristo, Judy Heumann, Arlene Mayerson and the thousands of other patriots who have struggled for long, hard years in a wilderness of prejudice and paternalism for the victory of ADA.

Once again America has passed the torch of liberty and productivity to the world.

All who love justice must unite in action to protect our hard won ADA rights, and to ensure that they are implemented through strong regulations, and enforced in every community.

We of the disability community must communicate to America that full compliance with ADA can be profitable for all citizens, and we must join in cooperative action with government and the private sector to ensure that all will profit.

But ADA is only the beginning. It is not a solution. Rather, it is an essential foundation on which solutions will be constructed.

We must undertake a courageous reallocation of our society's resources from paternalism to independence and productivity. We must invest in a continuum of new and strengthened programs to liberate people with disabilities from dependency, and empower them to be equal and productive participants in the mainstream: Productivity-oriented education for all citizens. Economic, technological, independent living, vocational rehabilitation, transitional, personal assistance and community based supports for productivity and quality of life. Prevention. Affordable insurance and health care for all. Incentives for productivity to replace disincentives. Accessible communications, transportation, housing, and completely new communities that are accessible as a whole.

A large agenda? Certainly! But no larger than that which faced our patriot forefathers at the successful conclusion of the revolutionary war.

Like them, we have accomplished much. Like them, we have a profound responsibility to make a bold declaration of equality real in the lives of hundreds of millions of people in future generations.

I believe that we will unite to fulfill that responsibility. Because I believe in you, the patriots of ADA. And I believe in you, the patriots to be.

Together we have overcome. Together we shall overcome.

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*Justin Dart, Chairman of the President's Committee on Employment of People with Disabilities, is a lifelong advocate for human rights. As a three term member of the National Council on Disability, he was an active participant in the development of ADA. For the last 32 months he chaired the ADA focused Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. Since 1982 he has traveled to every state at least three times promoting a vision of full civil rights for people with disabilities.*

# Independence Day I

## *3000 Disability Rights Advocates at the White House; An Epic Celebration of Democracy, A Message to the World*

July 26, 1990, 10 a.m.

**T**hey gathered on the South Lawn of the White House in the mild morning sun to witness the signing of ADA—leaders of the administration and the Congress, the national and international press and more the 3,000 members of the disability rights movement from every state.

There were people with epilepsy, blindness, AIDS, deafness, paraplegia, learning disabilities, arthritis, mental retardation, cerebral palsy, head injuries, mental illness, heart trouble, cancer, MS, and all manner of other physical and mental impairments.

There were educators, doctors, lawyers, clerks, computer experts, businesspersons, federal, state and local government officials, parents of persons with disabilities, providers of disability-related services, representatives of virtually every major disability constituency organization, and not a few unemployed persons.

They had one thing in common: all of them had fought for the passage of ADA.

There was Dick Pomo from Wisconsin, who had taken his white cane to the offices of all 535 members of Congress to lobby for ADA; wheelchair user Mark Johnson of Georgia, arrested 20 times for pro-ADA civil disobedience; and Mary Straughn of Delaware who came in an ambulance and viewed the ceremony from a stretcher.

There was Mike Lechner, from Kansas; Darrell Farland, from North Dakota; Eileen Horndt, Connecticut; Hughey Walker, South Carolina; Mary Linden, Illinois; Duane French, Alaska; May Lynn Fletcher, Tennessee; Kathy Williams, Kentucky; Dan Piper, Iowa; Ralph Rouse, Texas; Sherry Repscher, Utah; Marilyn Golden and Gerald Baptiste, California; Lamona Lucas, Alabama; Larry Robinson, New Hampshire; Judy Myers,





# *The Signing of the ADA*





History at 10:26 AM—President Bush signs the Americans with Disabilities Act flanked by EEOC Chairman Evan Kemp (left), Justin Dart, Chairman of the President's Committee on Employment of People with Disabilities (right), the Rev. Harold Wilke and National Council on Disability Chairperson Sandra Parrino, standing.

New Mexico; and hundreds of other heroes of the long struggle for justice.

The US Marine Band played "Battle Hymn of the Republic," "The Stars and Stripes Forever" and finally, "Hail to the Chief." President and Mrs. Bush and Vice President Quayle joined four disability rights leaders and two sign language interpreters for the deaf on the temporary stage.

The Reverend Harold Wilke prayed: "Today we celebrate the breaking of the chains," and "new access to the Promised Land." EEOC Chairman Evan Kemp introduced the President: "Like Abraham Lincoln, he had the political courage to support an unpopular idea."

President Bush, interrupted by applause 20 times, hailed ADA as "the world's first comprehensive declaration of equality for people with disabilities," and as taking "a sledgehammer" to a "wall which has . . . separated Americans from the freedom they could glimpse but not grasp." He concluded, "I lift my pen to sign this Americans with Disabilities Act and say, let the shameful walls of exclusion finally come tumbling down."

Signing four copies of the Act, he handed the first three pens to pioneer ADA advocates Justin Dart, Evan Kemp and Sandra Parrino, reserving the fourth for ADA champion Attorney General Dick Thornburgh, who was not on the stage. He took a fifth pen from his pocket, and gave it to the Rev. Wilke, who received it deftly with his foot.



"What a spectacular day this is . . . The signing of this law ushers in a new era—an era in which Americans with disabilities will have an opportunity for full participation in the American mainstream—an era in which disabled people will have greater control over the decisions that affect their lives."—Vice President Dan Quayle



"Do you know why there are so many famous politicians here today? Because today we stopped being a charity and started being a constituency, and it does make a difference!"

—Picnic MC George Covington

Euphoria prevailed. There were smiles, shouts and tears. Advocates, Congresspersons and cabinet members embraced. It took several minutes for the President, First Lady and the Vice President to make their way through hundreds of outstretched hands back to the White House.

About 11:15 a.m. the celebration migrated across E Street to Ellipse Park for what will surely be remembered as the historic first 26th of July picnic. There was free fried chicken, soda, music and huge cakes bearing pictures of President Bush and Congressional sponsors Senator Tom Harkin and Representative Steny Hoyer. Vice Presidential Assistant George Covington, disability rights pioneers Sharon Mistler, Janet Dorsey and Pat Wright introduced a who's who of ADA supporters: Vice President Quayle, Attorney General Thornburgh, Tony Coelho, Senators Tom Harkin, Ted Kennedy, John McCain, James Jeffords and Paul Simon; Representatives Steny Hoyer, Hamilton Fish, Norman Mineta, Major Owens, Steve Bartlett and Jack Brooks; Jim DeJong, Ted Kennedy, Jr.,

Ralph Neas, Justin Dart, and I. King Jordan.

There were scores of media interviews and thousands of photos and autographs. There were more hugs and tears, and long conversations among veteran advocates.

Bob Williams— "We actually did it! This is our day!"

Senator Tom Harkin—"We won it! ADA is the 20th Century Emancipation Proclamation! Today we say no to fear. We say no to ignorance. We say no to prejudice. We say yes to dignity, respect and empowerment for people with disabilities."

"I'll be human again."—Gene Hohl, Virginia.

Jim DeJong—"Its a great day. It again proves that America can open its heart and its opportunity to all its people."

"This is the greatest day of my life!"—Evan Kemp.

Attorney General Dick Thornburgh—"The signing of ADA today by the President is an emancipation—an emancipation for all the citizens of the United States who will benefit by the abilities of people with disabilities."

"We did it together! We overcame!"—Virginia Roberts, Texas.

Senator Ted Kennedy—"It has been a long, long struggle. What a contribution you have made! You have made this country a better, a fairer, a more just nation . . . and I am inspired to see this movement going to the world. There are going to be people whose names or disabilities you will never know who will live in a fairer, better world because of what you have done."

Cyndi Jones, San Diego—"I have the strongest sense possible that no one is indispensable, and that the people at the top are TRULY empowered by the people they represent.



The first July 26th picnic—2000 eat fried chicken and huge cakes picturing President Bush, Senator Tom Harkin and Congressman Steny Hoyer.







Gallaudet University  
President I. King Jordan:

"This is the way it should  
be. This happened be-  
cause we all worked  
together."

"It's just fantastic. It's a tremendously exhilarating feeling . . . Employers are going to start reaching out to the disabled."—Gordon Anthony, California.

Around 3 p.m. the temperature reached 92. The crowd thinned, only to reconvene at 5 p.m. for a free wine and seafood buffet and another Bush cake. Room 216 of the Hart Senate office building—one of the largest in the Capitol complex—was packed. Much of the celebration occurred in adjacent hallways. MC Pat Wright, the incomparable chief of staff and field marshal of ADA negotiations, paid tribute to cooperative members and staff of Congress, and to her colleague advocates from across the nation. Most of the picnic speakers reappeared, plus Senators Robert Dole, Orrin Hatch, and Brock Adams; Representatives Jerry Costello, Glenn Anderson, John Lewis, and Peter Smith; ADA '89 author Bob Silverstein, Liz Savage, Paul Marchand, Chai Feldblum, Melissa Schulman, John Wodatch, and more. There were thousands of kisses, and cheer after cheer. The wine ran out but the euphoria did not.

Pat Wright—"No longer will people with disabilities be second-class citizens."

Senator Robert Dole—"ADA is going to open up magnificent new opportunities for all of us—opportunities in the area of employment, public access, communications and transportation."

"America will be a better place because of the action we take today,"—Senator Orrin Hatch.

Representative Steny Hoyer: "I can't tell you what an incredible honor, what an incredibly meaningful experience it has been for me to work with Pat Wright and Justin Dart and with each and every one of you around the country—to see your courage, your enthusiasm, your caring, not just for your own concerns, but for the concerns of 43 million fellow Americans. You are the heroes of today."

Representative John Lewis agreed and closed the program with an eloquent address urging activists to remain united in the struggle for full citizenship, "Keep your eyes on the prize!"

The signing of ADA was the largest such ceremony ever held at the White House, and one of the most dramatically democratic public events ever sponsored by the government of the nation that has popularized democracy in the world.

Who breached the barriers of tradition to make it happen? Evan Kemp, White House Counsel Boyden Gray, Justin Dart, George Covington, and others had been promoting the idea for more than a year. Virginia Thornburgh was an early and effective advocate for a people's ceremony—"let's have it at the Lincoln Memorial." Pat Wright and her ADA lobbying team were strong proponents. The President was favorable. As final passage of ADA approached, there was a groundswell of support among advocates across the nation, and ADA leaders in Congress took up the cause.

But there was understandable hesitation among

White House staff. "It will set an impossible precedent." (it did) "It will require massive logistical support." (it did) "What if it rains?" (it didn't) If the day is very hot there might be health problems." (there were none)

Shortly after final passage of ADA on July 13th, the rumor went around that ADA would be signed in the East Room of the White House (as was the Civil Rights Act of 1964)—no more than 220 invitees. The disability community protested. ADA leaders in Congress supported them. Disability rights leaders talked of organizing a "people's signing ceremony" outside the White House gates. The matter was bucked up to the highest levels.

On July 16 it was announced that the ceremony would be held at 10 a.m., July 26 on the South Lawn. "Rain or shine—bring your umbrella, the President's going to bring his."

White House Public Liaison executive Bobbie Kilberg, passionately undertook to produce a miracle: getting 3,000 people—the right 3,000 people, from every state in the union—onto the White House lawn



Senator Tom Harkin and Iowa advocate Dan Piper.





## *Solidarity Today, Solidarity Forever!*

Nothing should ever cloud this bright and shiny day. This is one of the greatest days in the history of this nation . . . The civil rights community, the Congress and the public are finally beginning to understand that disability rights are civil rights—and that when one of us suffers discrimination, the

rights of all of us are diminished. Solidarity today, solidarity forever!"

*Ralph Neas, Director of the Leadership Conference on Civil Rights, worked full time with disability rights advocates to negotiate a bipartisan ADA, and to marshal the civil rights community behind it. His leadership was crucial to passage.*

in ten days. Aided by colleague Shiree Sanchez and a small staff, she launched a day-and-night logistical blitz. Address lists were collected from disability rights leaders and organizations, and disability-related agencies. Tickets and invitation letters were printed and mailed. Hundreds of calls were made. Thousands were received. EEOC executive Phil Calkins, a veteran disability rights organizer, spent days in the Kilberg-Sanchez offices helping them to orchestrate arrangements that would reflect the historic nature and purpose of ADA. Pat Wright, Liz Savage, Sharon Mistler and others participated, mostly by telephone.

Addressing 120 White House staffers on the eve of the event, Kilberg said, "Tomorrow you will host 3,000 people who are guests of the President of the United States. You will treat them like any guests of the President."

Democrat Calkins: "Kilberg was superb."

Outside the White House Sharon Mistler, Liz Savage, Monica Hall, Donna Ledder, Yoshiko Dart and others worked feverishly to fund and organize a post ceremony picnic and Senate reception that would live up to the occasion. Sponsors, most of them people with disabilities, were recruited for everything from music, fried chicken and wine, to big blue buttons that said "ADA, Independence Day I, July 26, 1990." American, US AIR, Continental, United, Delta, TWA and Northwest Airlines, and seven Washington, D.C. hotels agreed to give substantial discounts. Grassroots disability rights leaders in every state were called: "Your invitations from the President are on the way—make your reservations; get your ticket money together."

Perhaps because of its very nature, democracy never achieves the perfectly ordered surface symmetry idealized by utopians and authoritarians. In the ten days rush to July 26th some of the worthy did not get invited—and there were other imperfections.

But the chemistry of democracy occurred. The ADA signing had the stuff of epic history.

The Declaration of July 4, 1776 gave eloquent voice to the American dream: "that all men are created equal . . ." Representatives of traditional cultures first yawned, and then laughed at what they saw as an outrageous combination of shameless demagoguery and childish naivete. But we Americans took this glorious, impossible vision seriously and began a long tortuous effort to make it live. Our spectacular partial successes have influenced an international cultural revolution. On July 26, 1990, the dream lived again. With a power that could have been achieved in no other way, the message of ADA went forth through TV and print to every American community and most foreign nations: PEOPLE WITH DISABILITIES HAVE THE SAME INALIENABLE RIGHTS AS OTHER PEOPLE TO PARTICIPATE IN THE MAINSTREAM OF SOCIETY.

The world will never be the same.

Mr. Jefferson and Reverend King must have been smiling.



Veteran disability rights activist Phil Calkins worked closely with White House staff to make the July 26 ADA signing ceremony a landmark demonstration of democracy.



President Bush celebrating with rights advocates after signing the ADA.

## The Introduction of the President

by Evan J. Kemp, Jr.



Evan Kemp introduces President Bush.

I am delighted to be here today with so many friends to celebrate with all of you this great victory of the disability rights community. So many people worked tirelessly to develop this civil rights bill—in the Administration, in Congress, and in the Disability Community—Justin Dart, Sandy Parrino, Pat Wright, Arlene Mayerson. But all of you from the grassroots, and many who could not be here today, are responsible for the success of this effort.

Without the steadfast support of one man, this bill would not have become law. I have been witness to his commitment to disability rights for over nine years.

Like Abraham Lincoln, he had the political courage to support an unpopular

idea. He had the wisdom to insist that we move into the 21st century and welcome all Americans into the mainstream.

Today he will sign the most important civil rights legislation of the last quarter of a century.

I have the great honor of introducing to you the foremost member of the disability community, our good friend, the President of the United States, George Bush.

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*EEOC Chairman Evan Kemp worked for a decade to influence Washington leaders, including George Bush and Boyden Gray, to understand the mainstreaming of Americans with disabilities as a moral, economic and political imperative. He was instrumental in the President's decision to endorse ADA.*



# President Bush:

## *"Let the Shameful Wall of Exclusion Finally Come Tumbling Down."*

**W**elcome to every one of you, out there in this splendid scene of hope, spread across the South Lawn of the White House. I want to salute the members of the United States Congress, the House and the Senate who are with us today—active participants in making this day come true. (Applause.)

This is, indeed, an incredible day. Especially for the thousands of people across the nation who have given so much of their time, their vision, and their courage to see this Act become a reality.

You know, I started trying to put together a list of all the people who should be mentioned today. But when the list started looking a little longer than the Senate testimony for the bill, I decided I better give up, or we'd never get out of here before sunset. So, even though so many deserve credit, I will single out but a tiny handful. And I take those who have guided me personally over the years.

Of course, my friends, Evan Kemp and Justin Dart up here on the platform with me. (Applause.) And of course, I hope you'll forgive me for also saying a special word of thanks to two who—from the White House—Boyden Gray and Bill Roper, labored long and hard. (Applause.)

And I want to thank Sandy Parrino, of course, for her leadership and I again—(applause)—it is very risky with all these members of Congress here who worked so hard. But I can say on a very personal basis, Bob Dole has inspired me. (Applause.)

And then, the organizations. So many dedicated organizations for people with disabilities who gave their time and their strength and, perhaps most of all, everyone out there across the breadth of this nation, the 43 million Americans with disabilities. You have made this happen. All of you have made this happen. (Applause.)

To all of you, I just want to say your triumph is that your bill will now be law, and that this day

belongs to you. On behalf of our nation, thank you very, very much. (Applause.)

Three weeks ago we celebrated our nation's Independence Day. Today, we're here to rejoice in and celebrate another 'Independence Day,' one that is long overdue. With today's signing of the landmark Americans with Disabilities Act, every man, woman and child with a disability can now pass through once-closed doors into a bright new era of equality, independence and freedom.

As I look around at all these joyous faces, I remember clearly how many years of dedicated commitment have gone into making this historic new civil rights Act a reality. It's been the work of a true coalition. A strong and inspiring coalition of people who have shared both a dream and a passionate determination to make that dream come true. It's been a coalition in the finest spirit. A joining of Democrats and Republicans. Of the Legislative and the Executive Branches. Of federal and state agencies. Of public officials and private citizens. Of people with disabilities and without.

This historic Act is the world's first comprehensive declaration of equality for people with disabilities. The first. (Applause.) Its passage has made the United States the international leader on this human rights issue. Already, leaders of several other countries, including Sweden, Japan, the Soviet Union and all 12 members of the EEC, have announced that they hope to enact now similar legislation. (Applause.)

Our success with this Act proves that we are keeping faith with the spirit of our courageous forefathers who wrote in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights." These words have been our guide for more than two centuries as we've labored to form our more perfect

union. But tragically, for too many Americans, the blessings of liberty have been limited or even denied.

The Civil Rights Act of '64 took a bold step towards righting that wrong. But the stark fact remained that people with disabilities were still victims of segregation and discrimination, and this was intolerable. Today's legislation brings us closer to that day when no Americans will ever again be deprived of their basic guarantee of life, liberty, and the pursuit of happiness. (Applause.)

This Act is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard. Independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the right mosaic of the American mainstream.

Legally, it will provide our disabled community with a powerful expansion of protections and then basic civil rights. It will guarantee fair and just access to the fruits of American life which we all must be able to enjoy. And then, specifically, first the ADA ensures that employers covered by the Act cannot discriminate against qualified individuals with disabilities. (Applause.) Second, the ADA ensures access to public accommodations such as restaurants, hotels, shopping centers and offices. And third, the ADA ensures expanded access to transportation services. (Applause.)

And fourth, the ADA ensures equivalent telephone services for people with speech or hearing impediments. (Applause.) These provisions mean so much to so many. To one brave girl in particular, they will mean the world. Lisa Carl, a young Washington State woman with cerebral palsy, who I'm told is with us today, now will always be admitted to her hometown theater.

Lisa, you might not have been welcome at your theater, but I'll tell you—welcome to the White House. We're glad you're here. (Applause.) The ADA is a dramatic renewal, not only for those with disabilities, but for all of us. Because along with the precious privilege of being an American comes a sacred duty—to ensure that every other American's rights are also guaranteed.

Together, we must remove the physical barriers we have created and the social barriers that we have accepted. For ours will never be a truly prosperous nation until all within it prosper. For inspiration, we need look no further than our own neighbors. With us in that wonderful crowd out there are people representing 18 of the daily points of light that I've named for their extraordinary involvement with the disabled community. We applaud you and your shining example. Thank you for your leadership for all that are here today. (Applause.)

Now, let me just tell you a wonderful story—a



The silent applause of the deaf community thunders across the South Lawn of the White House.



story about children already working in the spirit of the ADA. A story that really touched me. Across the nation, some 10,000 youngsters with disabilities are part of Little League's Challenger Division. Their teams play just like others, but—and this is the most remarkable part—as they play at their sides are volunteer buddies from conventional Little League teams. All of these players work together. They team up to wheel around the bases and to field grounders together and most of all, just to play and become friends. We must let these children be our guides and inspiration.

I also want to say a special word to our friends in the business community. You have in your hands the key to the success of this Act. For you can unlock a splendid resource of untapped human potential that, when freed, will enrich us all.

I know there have been concerns that the ADA may be vague or costly, or may lead endlessly to litigation. But I want to reassure you right now that my administration and the United States Congress have carefully crafted this Act. We've all been determined to ensure that it gives flexibility, particularly in terms of the timetable of implementation; and we've been committed to containing the costs that may be incurred.

This Act does something important for American business though, and remember this—you've called for new sources of workers. Well, many of our fellow citizens with disabilities are unemployed, they want to work and they can work. And this is a tremendous pool of people. (Applause.) And remember this is a tremendous pool of people who will bring to jobs diversity, loyalty, proven low turnover rate, and only one request, the chance to prove themselves.

And when you add together federal, state, local and private funds, it costs almost \$200 billion annually to support Americans with disabilities, in effect, to keep them dependent. Well, when given the opportunity to be independent, they will move proudly into the economic mainstream of American life, and that's what this legislation is all about. (Applause.)

Our problems are large, but our unified heart is larger. Our challenges are great, but our will is greater. And in our America, the most generous, optimistic nation on the face of the earth, we must not and will not rest until every man and woman with a dream has the means to achieve it.

And today, America welcomes into the mainstream of life all of our fellow citizens with disabilities. We embrace you for your abilities and for your disabilities, for our similarities and indeed for our differences, for your past courage and your future dreams.

Last year, we celebrated a victory of international freedom. Even the strongest person couldn't scale the Berlin Wall to gain the elusive promise of independence that lay just beyond. And so together we rejoiced when that barrier fell.



**"We rejoice as this barrier falls, proclaiming together we will not accept, we will not excuse, we will not tolerate discrimination in America."**

And now I sign legislation which takes a sledgehammer to another wall, one which has—(applause)—one which has, for too many generations, separated Americans with disabilities from the freedom they could glimpse, but not grasp. Once again, we rejoice as this barrier falls, proclaiming together we will not accept, we will not excuse, we will not tolerate discrimination in America. (Applause.)

With, again, great thanks to the members of the United States Senate, many of whom are here today, and those who worked so tirelessly for this legislation on both sides of the aisles. And to those members of the House of Representatives with us here today, Democrats and Republicans as well, I salute you.

And on your behalf, as well as the behalf of this entire country, I now lift my pen to sign this Americans with Disabilities Act and say, let the shameful wall of exclusion finally come tumbling down. (Applause.)

God bless you all.

(The Act is signed.)

END 10:26 A.M. EDT 7/26/90

# ADA: *The Advocates*



"We won!" ADA heroes Senator Tom Harkin and staffer Bob Silverstein.

*Senator Tom Harkin*

## **Emancipation!**

We won! The ADA is now the law of the land. From now on, Americans with disabilities will be treated as first-class citizens. Today, we say "no" to ignorance, and "no" to prejudice. Segregation is finished! Inequality is finished! Today, we say "yes" to dignity and respect for disabled people; "yes" to empowerment; and "yes" to judging people on abilities, *not* disabilities. The ADA truly is the 20th century emancipation proclamation for people with disabilities.

The ADA is now the law of the land because of the vision and extraordinary efforts by the disability community. You knew in your hearts what we now write into law—that discrimination on the basis of disability is wrong. You fought together as a community, singing in the streets that "people united will never be defeated."

This is your bill, and you've earned it. I applaud you.

With the passage of the ADA, we as a Nation make a pledge that every person with a disability will have the opportunity to maximize his or her potential and to live proud, productive, and prosperous lives in the mainstream of our society. We say, "Whatever you decide as your goal, go for it!" The doors are open and the barriers are coming down!

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**Senator Tom Harkin (D-IA)** *Chairman of the Senate Subcommittee on Disability Policy, was the Senate sponsor of ADA '89-90. He worked closely with staff director Bob Silverstein and Pat Wright to rewrite the Act of '88, and to negotiate consensus positions with the White House, business, colleague Senators and the disability community. In spite of serious threats to his 1990 re-election by powerful special interests opposing ADA, he led the fight in the Senate to maintain the principle of equality.*



Bob Silverstein

## I Will Never Forget the Joy

I thank Senator Harkin for the opportunity to work on this landmark legislation, and I thank the disability community for their trust in me through some very difficult times. As long as I live I will never forget the joy I felt the day ADA passed.

The purpose of the ADA bill is to provide clear, strong, consistent, enforceable standards addressing all forms of discrimination against individuals on the basis of disability.

Discrimination is sometimes the result of prejudice; sometimes it is the result of patronizing attitudes; and still other times it is the result of thoughtlessness or indifference. But whatever its origin, the results are the same: segregation, exclusion, or the denial of equal, effective and meaningful opportunities to participate in programs and activities.

Discrimination affects all categories of people with disabilities, including those with mobility impairments, sensory impairments, mental retardation, and other physical and mental impairments. It affects those who have hidden disabilities such as cancer, diabetes, epilepsy, heart disease and mental illness; people who have a history of a disability but are no longer disabled; persons who have been incorrectly classified as having a disability; and those who do not have a disability but who are treated or perceived by others as having a disability.

Pollster Lou Harris recently found that "not working" is perhaps the truest definition of what it means to be disabled in America. Ending discrimination will have the direct impact of reducing the Federal government's expenditure of \$57 billion annually on disability benefits and programs that are premised on dependency of the individual with a disability. It will also have the immediate effect of making people with disabilities into consumers and taxpayers.

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**Bob Silverstein**, Director of the Senate Subcommittee on Disability Policy, is a brilliant and passionate proponent of full equality, who authored the ADA of '89-90 and skillfully negotiated bipartisan White House and Senate support.



Rep. Steny Hoyer (D-MD) took over House leadership for ADA after the resignation of Tony Coelho from the Congress. Hoyer became a dynamic and eloquent proponent for ADA as an essential statement of fundamental human rights. Along with staffer Melissa Schulman, he worked tirelessly to pilot the Act safely through a formidable complexity of barriers thrown up by powerful opponents in four different committees, the Conference Committee and during the final debates in the House floor.

**Rep. Steny Hoyer**—"Passing this law was incredibly historic. Now every day we must fight to make sure that the words in the law, that the words on the White House lawn, that the words in the House and the words in the Senate become reality for the 43 million Americans with disabilities and millions around the world who are looking to American leadership for the rights of the disabled."



Lisa Carl, Tacoma, Washington advocate whose eloquent testimony about being denied entry to her local movie theater impressed the Congress and the President.

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**President Bush:** "Lisa now will always be admitted to her hometown theater."

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Pat Wright

## The Culmination of Decades of Struggle

The Americans with Disabilities Act is the most sweeping federal civil rights legislation enacted by Congress since the landmark 1964 Civil Rights Act. The ADA is an extraordinary example of the effectiveness of broad-based coalitions in shaping social reform and represents the culmination of decades of struggle for equality by people with disabilities. The ADA, for the first time, confers equal citizenship status on people with disabilities in the United States. Not only does this legislation guarantee the right of people with disabilities to be free from discrimination in employment, public accommodations, public services, transportation, and telecommunica-

tions, it also sends a powerful message to societies throughout the world that the United States will no longer tolerate the exclusion and isolation of people with disabilities based on stereotype and prejudice. The ADA is the symbol and the substance of the Disability Rights Movement.

*Pat Wright, of the Disability Rights Education and Defense Fund (DREDF), led an all-star disability community negotiating team which represented Americans with disabilities throughout the ADA legislative process. She and her colleagues overcame seemingly insurmountable opposition and complexities to gain the passage of ADA as a true mandate for equality. Justin Dart has called her "one of the great Congressional negotiators of American history."*

Dr. Kenneth Jernigan

## A Milestone

Enactment of the Americans with Disabilities Act is a milestone and an accomplishment of major proportions. Persons with disabilities as a class are now equal to all other persons, both as a matter of fact and as a matter of law. However, much remains to be done. The law is just the beginning. It is a framework for the future. The barriers of social prejudice will only crumble as we work to make the rights provided by the law a reality in our everyday lives and our hearts.

*Dr. Kenneth Jernigan, longtime leader of the National Federation of the Blind.*

Senator Orrin Hatch

## The Time Has Come

The time has come. Congress has sent a loud, clear message across this country—individuals with disabilities, no less than other Americans, are entitled to an equal opportunity to participate in the American dream. That dream can now become a reality.

The "Americans with Disability Act" is the most sweeping piece of civil rights legislation since the Civil War era.

Persons with disabilities, through their hard work and self-determination, have already made great advances and successfully destroyed many of the stereotypes which have been used to deny them equal opportunities in the past. More can still be done.

This now will be accomplished with the ADA bill.



Senator Orrin Hatch (R-UT), known as a champion of free enterprise, opposed certain provisions of ADA as originally introduced on the grounds that businesses would be damaged. However, during the legislative process he demonstrated extraordinary political courage and statesmanship to ensure bipartisan support for the principle of full equality.



Lex Frieden

## A Significant Evolution

ADA represents a significant accomplishment in the evolution of society's views and treatment of people with disabilities. It is a profound tribute to unity and leadership of people with disabilities. It will predictably affect the lives of millions of people with disabilities in the United States, but more significantly, it has the potential to affect the attitudes and behavior of the public at large throughout the world.

Nonetheless, ADA is but one node in a continuum of progress, and it pales in relation to the extant overwhelming service and survival needs of people with disabilities. Ultimately, the full impact of ADA will be realized only after the majority of people with disabilities gain access to certain basic services like attendant care, readers, interpreters, transportation, housing assistance, affordable health care, and medical and vocational rehabilitation. Formless as liquid in a vacuum, the concept of equality has little meaning for people who struggle to survive without the resources necessary to meet fundamental human needs.



ADA hero Lex Frieden, right, at signing ceremony with longtime colleague advocates, wife Joyce, and Mac Brodie, left. Director of the TIRR Foundation in Houston, Frieden is a pioneer of the independent living movement and of ADA. As Director of the National Council on Disability, 1984-88, he coauthored—with Bob Burgdorff—and edited the original version of ADA, guiding the proposal masterfully through the maze of Washington bureaucracies and politics to introduction in Congress in 1988.



Rep. Steve Bartlett

## Declaration of Independence

This bill is about the 43 million Americans who are today being denied their civil rights and have been for 214 years. Americans with mental retardation, with mental illness, with severe physical limitations, with speech, language and hearing disabilities. It is their declaration of independence.

ADA will empower people to control their own lives. It will result in a cost savings to the Federal Government. As we empower people to be independent, to control their own lives, to gain their own employment, their own income, their own housing, their own transportation, taxpayers will save substantial sums from the alternatives.

*Rep. Steve Bartlett (R-TX), earned the respect of the disability community by investing long hours in behind-the-scenes negotiations to secure the passage of ADA as an authentic declaration of independence.*

Sandra Parrino

## A New Beginning

ADA heralds a new beginning for the 43 million Americans with disabilities and their families... its provisions will shape the lives of those with disabilities for decades to come.



Sandra Parrino—Chairperson of the National Council on Disability, worked closely with Lex Frieden, Bob Burgdorff, Justin Dart and others to develop the Council's original version of ADA. In the days when it had few influential proponents, she provided tenacious leadership to create ADA as a real civil rights law, and for its introduction in Congress in 1988.

**"It's a great day.  
Thank God it has  
finally come to  
pass . . . America  
has always been  
great. It's greater  
today!"**



**Congressman Major Owens (D-NY)** (far left), Chairman of the Subcommittee on Select Education was an adamant advocate for no compromise with the principle of equality, and for the full empowerment of people with disabilities in the legislative process. Simultaneous with the introduction of ADA in 1988, he appointed the Task Force on the Rights and Empowerment of Americans with Disabilities, composed of the leaders of virtually every major disability community constituency.

*Paul Marchand*

## Victory

While critical to the lives of many persons with disabilities, such vital Federal laws as the Education for All Handicapped Children Act, Social Security and Supplemental Security Income, Vocational Rehabilitation, Medicaid and Medicare are all limited in their scope and coverage. The ADA, however, has the potential to reach and service each and every American who is disabled, regardless of type and



**Paul Marchand** is the Director of the Governmental Affairs Office of the Association for Retarded Citizens of the United States and Chairman of the Consortium for Citizens with Disabilities. He has worked tirelessly with Pat Wright in the process of issue negotiation, and to unite disability rights leaders throughout the nation in all-out advocacy for a strong ADA.

severity of disability, age, income, and other factors. Equally important, it equates Federal protections for citizens with disabilities with other protected minorities. Persons with disabilities and their advocates should be justly proud of this monumental achievement.

This gigantic victory did not come about easily or automatically. A supportive President and a committed Congress were essential to ADA's enactment. A vocal and determined grassroots also played an instrumental role in the bill's passage. No less significant was the Rights Task Force of the Consortium for Citizens with Disabilities. This Task Force, comprised of several dozen key national disability groups, lobbied most effectively on a daily basis from the day the bill was originally conceived until the day it was signed into law. Citizens with disabilities, their families and advocates should be aware of the critical importance that the Consortium for Citizens with Disabilities plays each day in our nation's Capitol, helping shape Federal policy to foster a better society in which people with disabilities can live. I am extraordinarily proud of the many Consortium for Citizens with Disabilities' heroes and heroines who gave so much of themselves to see our dream of an ADA become a reality.

*Chai Feldblum*

## 26 Years: A Long Time

Discrimination on the basis of disability should have been outlawed in 1964, along with race, religion, sex and national origin.

Twenty-six years is a long time for people with disabilities to wait for equal rights. I'm glad that the wait for, at least legal equal rights, is over. Now let's work on changing people's attitudes.



**Chai Feldblum**, the brilliant legislative counsel of the American Civil Liberties Union, worked full time with the Pat Wright team as negotiator and advocate throughout the Congressional consideration of ADA.





Tony Coelho

## Our Voices Were Heard Loud and Clear— Let's Not Lose the Momentum

The campaign we mobilized on behalf of ADA was unlike anything I had seen before in my quarter-century of public service—literally hundreds of thousands of persons with disabilities and disability advocates calling and writing their Congressmen, working to educate the public at large, and coming to Washington by car, bus and plane to demand equal rights in person. Never before had the disability movement acted in such a coordinated and effective manner—and what a force we were! Our voices were heard loud and clear all the way from Capitol Hill to the White House—as evidenced by the President's signing the Americans with Disabilities Act that sunny day in July.

The barriers we seek to dismantle through this new law are familiar to all of us with disabilities—the discrimination we have experienced in employment, transportation, public accommodations, public services, and communications.

For too long, the disabled have been victims of "out of sight, out of mind" thinking. Americans have allowed their squeamishness toward the disabled, and their feelings of hostility toward them, to perpetuate a gigantic and wasteful injustice. By precluding disabled persons from productive work this country is shouldering a huge economic burden; after all, dependency is expensive.

Dependency increases the costs of entitlements, lowers our gross national product, and reduces revenue to the Federal government. While the charity model once

represented a step forward in the treatment of persons with disabilities, in today's society it does all of us a great disservice. It is time to stop the excuses and strip off the veneer of good intentions. No more of this benign Big Brother attitude. People with disabilities want to work. Disabled does not mean unable. The disabled want to be productive, self-supporting and tax paying participants in society. The Americans with Disabilities Act grants us that dignity and that right.

But more remains to be done before persons with disabilities have true equality of opportunity in our society, and we have to be vigilant to make sure that our newly won rights are respected. The disabled community is recognized as a force to be reckoned with in Washington—let's not lose the momentum we have worked so long and so hard to achieve!

There remains too much prejudice, bigotry and sadness in the world today. If we become short of breath, or short of patience in our fight for equal rights, we must remember just how important the cause that we are fighting for is to us, and indeed to our society as a whole. For not until our 43 million brothers and sisters with disabilities are allowed to take their rightful place in society, on an equal footing with every other American, will the glorious mosaic that is our Nation be complete.

*Former Rep. Tony Coelho (D-CA) was the original sponsor of ADA in the House. After his resignation from the Congress in 1989 he continued to work passionately for passage with no weakening amendments.*

Liz Savage

## The Dream is a Reality

The ADA represents a watershed in the history of the disability rights movement. The dream is now a reality because of the persistence and hard work of the entire disability community, both at the national and local levels. Now all of us are faced with the great challenge of insuring that the Act is effectively implemented. The first step is for people with disabilities to take responsibility for learning what their rights actually are. Then we must work with the business community to assist them in complying with the law's requirements. People with disabilities are the true experts on achieving access and accommodations cost-effectively. We must share our expertise in order to hasten the day when the true promise of the ADA will be realized: total integration into the social and economic mainstream of American life.



*Liz Savage, of the Epilepsy Foundation, served as the strong right advocacy arm of Pat Wright, to coordinate the efforts of Washington and grassroots lobbyists with the needs of current negotiations.*

**Durward McDaniel, pioneer disability rights advocate**—"The passage of title V of the Rehabilitation Act gave us hope for full equality, but most of us did not think it would come so soon. We have a lot of regulations and enforcement ahead of us. We've got to be active in the rule making end and in the reauthorization of the Rehabilitation Act."

Jim Havel

## The Struggle to Include Mental Illness

Inclusion of mental illnesses in the ADA was challenged by opponents seeking to derail the bill. In both the Senate and the



House, there were efforts to exclude persons with mental illnesses from the protections of the Act. Ugly reminders of the stigma unfairly attached to mental illnesses were circulated in some quarters.

Fortunately, Congress was steadfast in its support for broadly inclusive legislation. Intense lobbying by persons with mental illnesses and their families and the unrelenting commitment of the entire disability community to a comprehensive approach made the difference. The achievement of this united resolve, in the long run, may prove as significant as the ADA itself—for it points the way to further victory in our struggle for fundamental human dignity.

*Jim Havel of the Mental Health Policy Resource Center in Washington, DC, is a leading advocate for the rights of persons with mental illness.*

Joseph A. Rogers

## I Am Proud That We Helped

For people with mental illness, the passage of the Americans with Disabilities Act will create opportunities unforeseen a decade ago. I am very proud that we, people with mental disabilities, helped achieve its passage.

People with mental disabilities constitute one of the largest segments of the population of people who have disabilities; it is estimated that as many as one in five Americans will suffer from a disabling mental illness at some time in their lives.

Because such a large number of Americans suffer from mental illness, it is particularly significant that we have been included in the ADA.—*Joseph A. Rogers, President of the National Mental Health Consumer Self-Help Clearinghouse.*

Sharon Mistler

## I Am an Equal Citizen

On the morning of the ADA final vote I stayed home. Although I wanted to be there, my emotions were too strong and deep. I had to be alone. The television commentator said, "ADA passed." I cried. Deep sobs came. So many years of discrimination, pain, and battle. Now the country had decided that I was an equal citizen. I had rights!

Scenes raced through my mind: Robin raised in an institution and not taught to read; Alan told not to come back for ice cream because the store didn't like mentally retarded people; Judy being rejected as a teacher; Pat being refused travel on an airline.

My own memories of humiliation: being refused service in restaurants and theaters because I was a fire hazard; dehydrating so that I could go to school because my chair wouldn't fit into the bathroom; being kicked off airlines; being directly told, "We don't want you people next door or on the bus or on the street!" I had been helpless for I had no rights.

Memories flooded over me: fighting so hard for Section 504, the Fair Housing Act, the Air Carrier Access Act, the State laws . . . and now ADA; remembering the horrible day I was diagnosed with cancer and told I might not live to see ADA passed.

It is hard to realize that we won the war on cancer and won ADA. Maybe now the small, disabled children throughout this country will not have to face the humiliation and discrimination I faced and can grow up with dignity, knowing that they are equal citizens.

*Veteran rights advocate Sharon Mistler is the Executive Director of the Independence Center of Northern Virginia. She helped to coordinate nationwide ADA advocacy, and was chief organizer of the July 26th ADA signing ceremony picnic across the street from the White House.*

Nancy Fulco

## The U.S. Chamber of Commerce Concerned But Committed



U.S. Chamber of Commerce attorney Nancy Fulco supported the concept of ADA, but was a constant public critic of provisions that the Chamber felt would be negative for business. Now she is working with the President's Committee to achieve harmonious implementation of the Act.

The Americans with Disabilities Act presents business with numerous opportunities, but the vagueness of language in the law may foster wasteful and counterproductive litigation.

On the positive side, the law promises to promote greater workforce participation by disabled individuals, enhancing the ability of employers to find qualified employees. Also, disabled individuals who are fully employed will provide additional stimulus to the economy as consumers and users of services.

Unfortunately, the legislation approved by Congress is unnecessarily vague. For example, a business must make itself accessible to the disabled if that is "readily achievable." Such open-ended terminology may lead to expensive lawsuits which we do not need and cannot afford.

All the same, the ADA offers hope to deserving people. The U.S. Chamber of Commerce is committed to making the ADA work as it was intended—and to being certain that lawyers are not the primary beneficiaries.



Rep. Norman Mineta

## ADA: A Matter of Civil Rights

For me, there is no greater promise of the United States Constitution than the fundamental, implicit right we have as Americans to lead our lives as we wish. Strengthen the individual and you strengthen society is an American maxim proven time and time again. I believe that we demonstrated this resolve one more time when the Americans with Disabilities Act became law.

ADA is first and foremost a matter of civil rights. Too many people still do not fully understand how vital the Americans with Disabilities Act is to our nation. But we do, for we know that discrimination towards any group hurts every group.

The Americans with Disabilities Act

will help knock down the remaining barriers confronted by disabled Americans in our transportation network and elsewhere in the effort to be self-reliant, productive members of society.

Our nation has responded to the needs of other segments of our population which have been denied equal opportunity. We will now address the needs of disabled Americans who are currently denied the opportunity to be full participants in our communities.

That's what this legislation is all about: creating a society where everyone is a participant, a society where people are brought together—not set apart.



**Norman Y. Mineta (D-CA)**, Chairman of the House Subcommittee on Surface Transportation, became a hero of the disability community when he took a courageous stand for full equality on the very controversial issues of bus and van transit.



Ted Kennedy at signing ceremony with advocates Atsuko Kuwana (left), Sharon Mistler, Virginia (right) and Jo Holzer (standing).

Ted Kennedy

## America at Its Best

The Americans with Disabilities Act represents America at its best. Few, if any, pieces of legislation in the two centuries of our history have offered greater promise for so many of our fellow citizens.

The road to enactment of this legislation was not easy. But in the process of reaching this goal, we have all learned something about the evils of discrimination in any form, and the importance of judging individuals by their abilities—not patronizing misconceptions, demeaning stereotypes, and irrational fears about their disabilities.

People with disabilities are not unable. The real credit for this achievement belongs to citizens with disabilities in communities across the country, fed up with the senseless physical, social, and psychological barriers that limit their horizons.

In a sense, the ADA is an emancipation proclamation for the disabled. And America will be better, fairer, and a stronger nation because of it.

**Senator Edward M. Kennedy (D-MA)**, a longtime champion of civil rights legislation, contributed his considerable leadership ability to the passage of ADA.

Senator Robert J. Dole

## Working Together We Can Ensure Access

1990 is a historic year and the beginning of a promising decade in completing a broad and comprehensive civil rights mandate for all Americans. For too long Americans with disabilities have had to face subtle and pervasive discrimination. As a nation, discrimination deprives us of our dignity and suppresses our strength. The disability community recognized this striking fact and the President and Congress responded with the enactment of the Americans with Disabilities Act.

To reinforce the goals of the ADA and to move disability policy forward into the next century, it is critical to maintain a united and solid partnership between the disability and business communities as well as the public and private sectors. Working together, we can ensure that every American citizen will be provided the access and opportunity to be a part of all that society offers. More importantly, by increasing public awareness through education, we can break down the attitudinal barriers that prevent full participation in the American mainstream.

Like everyone involved with the ADA, I feel privileged to have played a role in its passage. However, passage does not guarantee that our job is complete. As we look ahead to the next century, I hope that there will be little need for government

intervention to assure the rights of any segment of American society. But, if it is still necessary to redress discrimination, all of us in the disability community can continue to make a difference by working together.

*Robert J. Dole, (R-Kansas), a long time supporter of people with disabilities, worked behind the scenes with staffer Maureen West to achieve a consensus version of ADA that could gain bipartisan support.*



Senate Minority Leader Bob Dole celebrates July 26th with advocates.

Lowell Weicker, Jr.

## A Place in Society for Everyone

I believe that the Americans with Disabilities Act completes the work begun in 1973 to secure the civil rights of all Americans with Disabilities. It provides a place in society for everyone. It does not guarantee you a job—it guarantees that you will not be denied a job on the basis of your disability. This law looks to the future, not to punishing society for the sins of the past. It lays out a clear blueprint for tomorrow—a blueprint that says when a community buys a new bus, it buys a bus that everyone can use. A blueprint that says, when buildings are constructed, they must be usable by persons with disabilities. A blueprint that says our phone system must

be usable by everyone.

Not only is this law an appropriate step in the national quest for equality, the ADA makes good economic sense as well. Right now, we have a system that is based on dependence, with over \$57 billion a year in federal funds going for social insurance benefits for disabled persons. The economic return to society when people with disabilities are able to work cannot be overstated.

As a former chairman and ranking minority member of the Senate Committee on Disability Policy, I was proud to introduce the original version of the ADA in the Senate in April 1988.



*Lowell P. Weicker, Jr., former Senator from Connecticut, was an outspoken proponent of disability rights and services in the Senate for more than a decade, and was the original sponsor of ADA '88. He was elected Governor of Connecticut in 1990.*



John Sloan, Jr.

## ADA and Small Business

Small-business owners will have the greatest difficulty complying with the Americans with Disabilities Act. Although many small firms are exempt from the employment provisions in the law, all must accommodate clients and visitors.

Several factors will complicate the removal of barriers. Just what constitutes a disability will be one issue. Many business owners understand that they must accommodate a wheelchair user but are not as likely to recognize schizophrenia as a disability.

Business owners must provide access to customers when it is "readily achievable." Employers must discuss with job candidates the "essential functions" of a job. These terms and others are not defined clearly in the law, and because there is little or no case law regarding small firms, small-business owners will not know if they are in compliance until a judge hands down a decision.

Yet, ADA can be the catalyst for a closer relationship between small business and the disabled. As the traditional American work force shrinks, small business will be scrambling to attract and retain skilled, loyal workers. The good will that can be generated by business sensitive to the special needs of the disabled



will result in the employment of loyal, dedicated workers, strengthening the competitive position of small firms.

*John Sloan, Jr., is President and CEO of the National Federation of Independent Business, representing more than a half million small and independent business owners in all 50 states. He was perhaps the nation's most aggressive and eloquent spokesperson for the assertion that certain provisions of ADA would hurt small business. Now he has joined the Executive Committee of the President's Committee on Employment of People with Disabilities and has pledged to promote cooperative, non-confrontational compliance.*

## Jay Rochlin on Nightline

"Two important things to remember. Employers are not being asked to hire any person with a disability, they're being asked to hire people who are qualified. And secondly, accommodations need to be made on an individual, case-by-case basis. I've also heard it said that employers are going to have to accommodate some 900 types of disabilities. Employers don't really have to accommodate a disability. What they accommodate is the limitation caused by the disability." —*Nightline, July 25, 1990.*

*Jay Rochlin, former Executive Director of the President's Committee and AT&T executive, was perhaps the only able-bodied career business person to become a marching-in-the-streets activist for ADA.*

Frank Bowe

## An End to Telephone Discrimination

For over half a century individuals with hearing and speech impairments have been forced to depend on others for access to the telephone network. The access that the ADA now guarantees will bring to an end this discrimination, and allow these persons to benefit from the civil rights promised by the other sections of the ADA.



Frank Bowe, author, educator, advocate, has been called the father of modern disability policy.

**"The independent living movement has struggled for more than two decades for the integration of people with disabilities in our society. ADA, if fully implemented, will finally make our dream of independence come true."**—Rights pioneer **Michael Winter**, Director of the Berkeley Center for Independent Living, and President of the National Council of Independent Living.



## The End or Beginning?

As I was riding on the plane headed to Washington, D.C. for the signing of the Americans with Disabilities Act, I had mixed emotions about going to a celebration for something that in reality should not have had to be enacted at all. What were we going to celebrate? The almost 70% unemployment rate of persons with disabilities! The fact that thousands of our brothers and sisters are locked away in institutions and have little chance of being liberated because of economic reasons! The "professionalization" of our movement which tries to live up to an able-bodied view of disability rights advocacy!

The plane started to descend and I shook off these gloomy thoughts and thought of the hundreds of disabled activists who thought little of the Americans with Disabilities Act but acted aggressively for their own civil rights as they defined them. It wasn't the inside the Beltway politics that mattered, they didn't care for the passage of the bill, they didn't care who was on the podium with the President for the signing. All they cared about was how disabled people are treated in this country. They felt the civil rights that this bill was

going to bring about. They had gone to jail fighting for these rights. It was real. It wasn't a piece of paper. To them the rights and responsibilities had some meaning. They had the responsibility to fight for these rights. They fought the battles that made this bill possible and in their own way owned this bill.

The President's speech was stronger than I thought it would be. In fact, the whole day was more exciting than I had anticipated. People I haven't seen in years appeared on the White House lawn. I wondered if everyone's enthusiasm would continue once we all went back to our own communities.

The end or beginning? This nagging question lingered in my mind on the trip back to Texas. I realized that the ADA could be the beginning of a new era in equality for persons with disabilities if we used it aggressively and in concert with other strategies like direct action organizing. If we believed that ADA is the power and we are the recipients of its strength, rather than we are the power and ADA is a tool for us to use, I fear we may still have a long way to go.



Bob Kafka, veteran Texas and national activist, is a demanding conscience of the disability rights movement. He has been arrested 23 times for civil disobedience.

## "I Am Challenging America"

The enactment of ADA is a magnificent accomplishment. It is a fair, balanced and long-overdue law. It can usher in the dawn of a new age for Americans with disabilities IF we get the printed words off the pages of the statute books and into the hearts and actions of the people. Now the task ahead is making ADA work in all communities and neighborhoods. I am challenging America to increase the acceptance, dignity and participation of persons with disabilities.



Jim Brady, former White House press secretary, risked a safe national hero status and wealthy connections to become an aggressive public advocate for ADA. He joined the disability community on March 30, 1981, when he was shot in the head in the attempted assassination of President Ronald Reagan.



## Full Partners

As we see more opportunities for employment buoyed by transportation, communication, and housing, we will see enthusiastic participation in all segments of citizen responsibility by individuals who have been shackled by negative perceptions in the past. By supporting ADA, we have established the fact that our nation is the leading country in the world acknowledging that people with disabilities have absolute rights and responsibilities to become full partners in our society. It is certain that the legislation,



when properly implemented, will change one way or another the deep-seated attitudes of those individuals who, for some reason, consider disability in terms of dependence. It is my expectation that we will see government and private industry join hands to welcome a new and improved labor force.

*Joe S. Dusenbury, Commissioner of the South Carolina Vocational Rehabilitation Department, was an early and consistent advocate for ADA. As Chairperson of the National Council on Disability during the early eighties, he provided strong leadership for that body's first, August 1983, recommendation that comprehensive civil rights protection be extended to people with disabilities, which led to the development by the Council of the original ADA.*

**Organized labor is proud to have supported the ADA. This landmark civil rights legislation will give us the means to open up employment opportunities for millions of qualified Americans with disabilities.**

**—Lane Kirkland, President, AFL-CIO.**



*The Reverend Jesse Jackson*

## From Selma to Gallaudet

The eyes and hearts and hopes of Americans have, over the past several months, been focused on Chinese students and their struggle for dignity and democracy. As I watched their struggle, heard their eloquence, and understood their place on the right side of history, I was reminded of another group of students who fought for what they believed in, another group of students who led in the fight for justice.

I thought of the students at Gallaudet University here in Washington, DC. I am told that the hearing impaired refer to the struggle at Gallaudet as "our Selma." I support the Americans with Disabilities Act, because I believe in civil rights, because I believe in human dignity. From Selma to Gallaudet in a straight line—the line of justice.

There are now tens of millions of Americans who lack basic civil rights protections, men and women who can be turned away from a lunch counter, who can be refused a hotel room, who can be cast out for no reason other than ignorance and fear.

... We have seen many try to turn back the clock on civil rights. The Supreme Court has now thrown obstacles in the way of decades of progress. This bill offers us a chance to say no to injustice. This bill offers us a chance to make our country stronger.

... I say, 'let freedom ring for all Americans.' History has since given us a glimpse of how much better still it is to ride

in dignity. We should all be proud to work for this landmark legislation.

... We all know the fight for the Civil Rights Act of 1964 was long and hard. The triumph was great, but the struggle is not over. There is more work to be done and the ADA represents an important step.



*The Reverend Jesse Jackson supported disability rights during both his 1984 and 1988 campaigns for the Presidency. The above statements were a part of his eloquent testimony before Congress for ADA on July 18, 1989, in a Joint Hearing before the Subcommittees on Select Education and Employment Opportunities of the Committee on Education and Labor, House of Representatives. Rev. Jackson was elected to the position of Shadow Senator for the District of Columbia in November 1990.*

# Firmly Committed to Enforce ADA

by Dick Thornburgh  
Attorney General of the United States

On July 26, 1990, President George Bush signed into law the Americans with Disabilities Act (ADA). This historic civil rights legislation seeks to end the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life. It promises to the over forty million persons with disabilities in this country access to all aspects of daily life—employment opportunities, government services, transportation, telephone services, and countless places of public accommodation. The ADA is fair and balanced legislation that carefully blends the rights of people with disabilities to be free from discrimination with the legitimate needs of the American business community.

Passage of the ADA was truly a cooperative effort between the Congress and the Administration, under the leadership of President George Bush. The President has long been a strong advocate for the productive involvement of persons with disabilities in our social and economic mainstream. Without his active and consistent support, the Americans with Disabilities Act would still today be only an unrealized dream.

I am especially pleased that the Department of Justice was able to contribute to the passage of the ADA. As a parent of a disabled child, as a former Governor, and as Attorney General, I have witnessed the many faces of discrimination confronting persons with disabilities. It is therefore particularly satisfying for me to have been a part of the effort to remove our society's barriers to persons with disabilities. The elimination of these barriers—attitudinal, architectural, and communications barriers—will enable all of us to benefit from the skills and talents of persons with disabilities and will enable persons with disabilities to lead more productive lives.

The most essential element in the passage of the ADA was, however, the tireless work of people with disabilities. From every part of the United States, persons with disabilities worked together to ensure that a comprehensive civil rights bill would be passed. The efforts of the leaders of grassroots organizations representing

persons with disabilities were truly herculean. They lobbied the halls of Congress tirelessly; they met with members of the Administration to ensure that the ADA would pass; and pressed their own case through every available medium.

As head of the Department of Justice, I have important responsibilities for implementation and enforcement of the ADA. One of the first responsibilities is the development and publication of a Government-wide plan for provision of technical assistance to educate the public about its rights and responsibilities under the Act. The plan will be developed in consultation with the President's Committee on Employment of People with Disabilities, the National Council on Disability, the Equal Employment Opportunity Commission, the Department of Transportation, the Federal Communications Commission, and the Architectural and Transportation Barriers Compliance Board.

The Department is also responsible for issuing regulations to implement the Act with respect to public accommodations and state and local government services. Despite the complexity of this task, we expect to publish a proposed regulation early next year, to hold a series of public hearings on the proposed rule, and to publish a final regulation before the statutory deadline of July 26, 1991. At the same time, we will be consulting with the Equal Employment Opportunity Commission and the Department of Transportation on development of the regulations they are required to issue to implement the employment and transportation provision of the Act.

Following the Act's effective date, the Department's enforcement responsibilities will begin. The Civil Rights Division of the Department will investigate alleged violations of the Act by public accommodations and commercial facilities, and will conduct litigation in cases involving patterns or practices of violations or issues of general public importance. With respect to state and local services, the Department will coordinate the activities of the Federal enforcement agencies and will bring suits based on referrals from those agencies. The

Department will also have pattern and practice litigating authority for suits involving discrimination in state and local government employment.

The Department has already begun its technical assistance activities by establishing a telephone information line to respond to inquiries about the ADA. We have also prepared pamphlets and fact sheets describing the major requirements of the Act. Requests for copies of these and questions about the Act may be addressed to the information line. The voice number is (202) 514-0301 and the TDD numbers are (202) 514-0381 and (202) 514-0383.

President Bush and his Administration are firmly committed to enforce the Americans with Disabilities Act vigorously. Only if we all work together can we ensure that the promises made by the ADA become a reality for all persons with disabilities in this country.



*Attorney General Dick Thornburgh and his wife Virginia were early and strong proponents of ADA. The Attorney General defended the Act in testimony before Congress and with several public statements.*



Judy Heumann

## We Must Continue To Struggle

The passage of the Americans with Disabilities Act marks another stage in the development of our Civil Rights Movement. This stage in our struggle has seen a dramatic increase in the number of people with disabilities fighting for ourselves. For this we should all feel proud and look towards the future with greater optimism. The new found independence which will be gained as the ADA is implemented

Ron Drach

## Show Me

While we are certainly pleased with the passage of this important civil rights legislation, it is hard to become enthusiastic over the potential impact it will have on disabled people's lives.

I say this in spite of statements by President Bush that he supports the ADA. Like they say in Missouri, "show me." Until we see policies that reflect aggressive enforcement initiatives, I am less than convinced that ADA will have major impact.



I believe that in a fashion similar to the evolution of civil rights for other minorities, it is going to take court orders and judicial interpretations rather than administration initiatives to ultimately result in effective implementation of ADA.

*Ron Drach is the National Employment Director for Disabled American Veterans and is a long time advocate for the rights of veterans with disabilities.*

will have a profound impact on our lives. We must however remember that the ADA by itself will not result in equality for disabled people. The ADA, 504, the Fair Housing Act, the education for All Handicapped Children's Act are but a part of what we need. We must continue to struggle for increased funding for independent living services and the passage of

legislation which will provide financial support to enable us to purchase technological aides, modifications for our homes, interpreter services, reader services, attendant services and adequate health insurance through a national health plan. Equality for disabled people will only be achieved when these other initiatives become law.



Judy Heumann, Vice President of the World Institute on Disability, is one of the great pioneers of the independent living and disability rights movement in America and on the international level.

Louis W. Sullivan, M.D.  
Secretary of Health and Human Services

## The Opportunity to Live a Full and Giving Life

The story of America is the story of growing opportunity. Throughout our history, our most positive theme—our beacon to the world—has been the levelling of barriers when they hold back individual energy and talent.

The theme was sounded in the Revolution, and kept alive in the Civil War. Its spirit was alight on Ellis Island. And it has informed the most enlightened legislation of our own era.

The Americans with Disabilities Act belongs to this noble line. ADA is about the opportunity to live a full and giving life—a life of independence, a life of contributing to others. Its title notwithstanding, it is about abilities, not disabilities.

America is indebted to those who worked so hard to enact the ADA. In the most important ways, we are a richer nation for its passage.



Secretary of Health and Human Services Dr. Louis Sullivan defended the principle of equality at a crucial time during the Congressional debate on ADA.

Robert A. Mosbacher  
Secretary of Commerce

## An Opportunity for Business

The Americans with Disabilities Act of 1990 is landmark legislation extending the framework of civil rights laws to 43 million Americans who have some form of disability by prohibiting discrimination in employment, public services, public accommodations, and transportation.

I believe that the business community has a tremendous opportunity to make this Act work—and to make it work for business. As President Bush pointed out in his remarks at the signing ceremony, many of our fellow citizens with disabilities are unemployed but they want to work and can work. This is a sizeable pool of people who bring to jobs diversity, loyalty, and a proven low turnover rate.

The ADA has been carefully crafted to ensure that it gives flexibility, particularly with respect to implementation timetables. This will help contain costs. It is also important to keep in mind the almost \$200 billion of government and private spending annually to support Americans with disabilities—too often in situations of dependency. As the President said, "when given the opportunity to be independent, they will move proudly into the economic mainstream of American life, and that's what this legislation is all about."



**Robert A. Mosbacher.** Prior to his appointment as Secretary of Commerce, Robert Mosbacher was the Chief Executive Officer and Chairman of Mosbacher Energy Company.

**The ADA removes the legal barriers which historically allowed discrimination. Further barriers will fall as Federal, State, and local agencies work together with volunteer organizations and private enterprise to promote and champion peoples' abilities rather than their disabilities.—Dr. William L. Roper, prior to his appointment as Director of the Centers for Disease Control, was chief White House negotiator on ADA. As a strong proponent of the principles of full equality and fair implementation, he won the respect of the disability community, and played a positive role in the President's endorsement of the law.**

**The passage of the ADA is a major victory in a long struggle for the equal rights of people with disabilities. But the struggle is not over. ADA must be implemented in the actions, hearts and minds of all Americans.—Gordon Mansfield, Assistant Secretary for Fair Housing and Equal Opportunity, HUD, is a longtime advocate for the rights of veterans and of all people with disabilities. He made significant contributions to the creation of ADA.**

Samuel K. Skinner  
Secretary of Transportation

## An Investment Long Overdue

As Secretary of Transportation, I am proud to have played a part in the Administration's strong support for the Americans with Disabilities Act (ADA). Under President Bush's leadership, we have worked successfully with Congress in enacting legislation that will eliminate barriers in transportation, employment, and other areas to the full participation of disabled Americans in our society. With the enactment of the ADA, we have taken a major step toward ensuring that individuals with disabilities are not prevented from entering the mainstream of American life.



I firmly believe that the United States cannot achieve its full potential if we exclude any segment of society from access to our services. Our National Transportation Policy recognizes the need to make all surface transportation facilities and services accessible to people with disabilities. Under the ADA, transportation facilities, vehicles, and services must be provided with the needs of all Americans in mind. This will require a significant investment of time and money, but it is an investment long overdue.

**Secretary Samuel K. Skinner** serves as the President's chief advisor on transportation issues, as well as a key economic policy advisor. From 1977 to 1989, he served as Chairman of the Regional Transportation Authority of Northeastern Illinois, the second largest urban mass transportation district in the country.



# ADA: What It Says

by John L. Wodatch  
U.S. Department of Justice

**T**he Declaration of Independence recognizes that all persons are endowed with basic human rights. Our nation's history has witnessed the gradual, yet steady, march towards fulfillment of this guarantee. In the past generation this march has accelerated. The American people have wisely acted to eliminate irrational and artificial barriers based on race, color, religion, sex, and national origin. Now, the Americans with Disabilities Act has set this country's sights on removing the barriers that deny individuals with disabilities an equal opportunity to share in the American dream.

The Americans with Disabilities Act, or ADA, is thus truly a landmark civil rights bill. It will open up all aspects of American life to individuals with disabilities—employment opportunities, State and local government services, public accommodations, transportation, and the telephone system.

## History

The first version of the ADA was developed by the National Council on Disability under the leadership of Chairperson Sandra Parrino, and Director Lex Frieden, who coordinated the writing of the Act. In February 1986, the Council issued a report, "Toward Independence," that recommended enactment of a comprehensive law requiring equal opportunity for individuals with disabilities, and outlined the ADA. The bill, sponsored jointly by Senator Lowell Weicker and Representative Tony Coelho, was introduced in 1988 during the 100th Congress. Justin Dart, Jr., in his role as chairperson of the Task Force on the Rights and Empowerment of Americans with Disabilities, raised public awareness of the devastating effects of discrimination on the basis of disability and built support for the goals of the ADA by holding 63 hearings on the ADA in every State in this country. During the 1988 Presidential election campaign, then-Vice President George Bush endorsed the ADA and became its chief advocate.

The ADA was reintroduced, in a modified form, in May 1989 by Senators Tom Harkin, Edward Kennedy, and Dave Durenberger and by Representatives Tony Coelho, Hamilton Fish, and Steny Hoyer. In June, 1989, Attorney General Dick Thornburgh, in testimony before the United States Senate, reiterated

the support of the Bush Administration for the ADA. After extensive negotiations between the Senate and the Administration, the Senate passed an amended version of the ADA on September 7, 1989, by a vote of 76-8.

The House of Representatives then began its consideration of the bill. Five separate House committees held hearings on the ADA, and an amended version of the bill passed the House of Representatives on May 22, 1990, by a vote of 403-20.

Because the House and Senate had passed differing versions of the Americans with Disabilities Act, further congressional action was necessary. The House and Senate held two different conferences on the ADA. The House completed its action on the ADA on July 12, 1990, passing the ADA by a vote of 377-28. The next day the Senate completed its action on the ADA, passing the ADA by a vote of 91-6.

The ADA legislative process was exceptionally complex, and there was powerful opposition on a very large number of issues. Pat Wright, of the Disability Rights Education and Defense Fund, led a strong disability community negotiating team that was successful in protecting the principle of full equality.

The ADA became law on July 26, 1990, when it was signed by President Bush on the South Lawn of the White House in front of almost 3,000 persons, including many who had worked for its passage during the past five years. In signing the bill, President Bush pledged that we, as a nation, "will not accept, we will not excuse, we will not tolerate discrimination in America."

The Americans with Disabilities Act provides civil rights protections for persons with disabilities that are parallel to those that have been established by the Federal government for women and minorities. The ADA is thus an amalgam of two great civil rights statutes: the Civil Rights Act of 1964 and the title V of the Rehabilitation Act of 1973. The ADA generally uses the framework of titles II and VII of the Civil Rights Act of 1964 for coverage and enforcement and the terms and concepts of section 504 of the Rehabilitation Act of 1973 for what constitutes discrimination. The ADA can best be understood by reviewing its chief provisions.

## Employment

A central provision of the ADA is the prohibition of discrimination against individuals with disabilities in public and private sector employment. Passage of title VII of the Civil Rights Act of 1964 opened the doors of American business to minorities and women. Title I of the ADA holds the same promise to individuals with disabilities.

The ADA requires employers to make reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee, unless such accommodation would impose an undue hardship on the employer. The concept of reasonable accommodation is one of the true success stories of the Rehabilitation Act of 1973. It has provided employment opportunities for persons with disabilities and new workers for the American economy at little or no additional cost. Accommodations include a wide variety of actions—making worksites accessible, modifying existing equipment, providing new devices, modifying work schedules, restructuring jobs, reassigning an employee to a vacant position, and providing readers or interpreters. The proliferation of the computer and the technological advances has been instrumental in providing efficient and inexpensive job accommodations.

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**USA TODAY, July 27-29,  
1990—President Bush took  
a “sledgehammer” to bias  
Thursday when he signed a  
bill banning discrimination  
against the USA’s  
43 million disabled.**

—Author Jessica Lee’s lead paragraph of story,  
“New rights for disabled.”

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The ADA prohibits the use of employment tests and other selection criteria that screen out, or tend to screen out, individuals with disabilities, unless such tests or criteria are shown to be job-related and consistent with business necessity. The ADA also bans the use of pre-employment medical examinations or inquiries to determine if an applicant has a disability. It does, however, permit the use of medical examinations after a job offer has been made—if the results of the medical exam are kept confidential, if all persons offered employment are required to take the exam, and if the results are not used to discriminate. Employers are permitted, at any time, to inquire about

the ability of a job applicant or employee to perform job-related functions.

## Transportation

The ADA seeks to ensure that individuals with disabilities have access to transportation. The promise of nondiscrimination in employment and accessible public accommodations would be an illusory one if accessible transportation were unavailable. The ADA provides access by requiring that all new public buses be accessible to persons with disabilities. No retrofitting of existing buses is required by the ADA.

The ADA further requires transit authorities to provide supplementary paratransit services or other special transportation services to those individuals with disabilities who cannot use fixed route bus services. Thus those persons whose physical or mental disabilities are so severe that they are unable to use the accessible mainline bus system will be eligible to gain access to their community through paratransit services. The ADA tempers this requirement by recognizing the existence of an undue burden limitation. The ADA strikes a responsible balance between providing accessible transportation and protecting the economic viability of local transit providers.

Accessibility requirements in over-the-road buses will be the subject of an in-depth study required by the ADA. Allowing sufficient time to complete the needed study, the ADA requires that new over-the-road buses ordered on or after six years from enactment (seven years for small companies) must be accessible. It permits the extension of the deadlines by one year, if appropriate.

In the area of rail transportation, the ADA requires that all new rail vehicles and all new rail stations must be accessible. In addition, existing rail systems must have one accessible car per train within five years from enactment. Addressing existing rail stations, the ADA gives Amtrak 20 years to achieve accessibility in all of its stations. In addition, the ADA requires that existing “key stations” for rapid rail (subways), commuter rail, and light rail (trolleys) be made accessible within three years, unless an extension of up to 20 years is granted (30 years, in some cases, for rapid and light rail).

## Public Accommodations

The inclusion of public accommodations in the ADA provides access to the mainstream of everyday life. In order to address the widespread exclusion of individuals with disabilities from the routine activities of daily living, the ADA defines the term “public accommodation” in a very expansive manner. Coverage is extended to the entire range of private entities that affect commerce. From aquariums to zoos, the ADA sweeps within its reach the broad spectrum of sales, rental, and service establishments, as well as educational institutions, recreational facilities, and social service centers.



The ADA outlaws the use of eligibility criteria that screen out or tend to screen out individuals with disabilities, unless necessary for the operation of the public accommodation. For instance, it would be a violation for a retail store to have a rule excluding all deaf persons from entering its premises, or for a movie theater to exclude an individual with cerebral palsy.

The ADA also requires public accommodations to make reasonable modifications in policies, practices, and procedures, unless those modifications would fundamentally alter the nature of the services provided by the public accommodation. For example, it would be discriminatory for a restaurant to refuse to modify a "no pets" rule for persons who use guide dogs.

The ADA does not, however, impose unlimited requirements on public accommodations. The requirements for retrofitting existing facilities are minimal. A physical barrier need only be removed when its removal is "readily achievable"—that is, when it can be accomplished easily, without much difficulty or expense. Modifications that would be readily achievable in most cases included the simple ramping of a few steps, installation of grab bars in a toilet stall (if only routine reinforcement of the wall is required), lowering of telephones, and similar modest adjustments.

The bill requires provision of auxiliary aids, those devices necessary to enable persons who have visual, hearing, or sensory impairments to participate in the program, but only if their provision will not result in an undue burden on the business. Thus, under the ADA, a restaurant would not be required to provide menus in Braille for blind patrons, if the waiters in the restaurant were willing to read the menu. A clothing boutique would not be required to have

Brailled price tags; the sales personnel can provide access to price information orally when requested to do so by patrons with visual impairments. This auxiliary aid requirement is a flexible one. A public accommodation can choose among various alternatives as long as the result is effective communication.

The ADA's most rigorous accessibility requirements apply to new construction and alterations. All new construction and alterations in public accommodation, as well as in commercial facilities such as office buildings, must be accessible. Experience has shown that, when accessibility features are incorporated in the design phase, less than one percent is added to the total cost of construction. Even for new construction, however, facilities that have less than 3,000 square feet per story or are less than three stories high need not install elevators, unless the building contains a shopping center, mall, or the professional offices of health care providers.

## Religious Entities

The ADA exempts religious organizations or entities controlled by religious organizations from the public accommodations requirements of the Act. It also appropriately permits a religious entity to hire members of its own faith and to require employees to conform to the religious tenets of the employer. These provisions show a proper respect for the First Amendment interests of religious institutions in conducting their internal affairs without excessive governmental oversight.

## Coverage of Drugs

The bill is fully consistent with the nation's commitment to the eradication of the scourge of illegal drug use. It allows employers to prohibit the use of

*The Washington Post—July 15, 1990*

## A More Just Country

People born after the passage of the 1964 Civil Rights Act probably look back with amazement to the time when, in the South, schools and hospitals were segregated by law, the races were separated on buses and trains and even the water fountains were designated black or white. The country went through great turmoil before those practices were changed. But eventually and after much resistance and struggle, society was transformed. The country became more just.

On Friday, the Senate completed action on a bill to ensure the rights of the disabled, and it promises to have some of the same kind of impact. The measure extends the protections of the 1964 law to 43 million Americans with physical or

mental impairments. It will prohibit discrimination in employment based on disability. It will require places of public accommodation, like restaurants, hotels, theaters and stores, to be accessible to disabled patrons and will mandate the gradual replacement of buses and railroad cars with equipment that can accommodate the handicapped. It will make telephone services available for the deaf and speech-impaired, nationwide.

When the president signs this bill, as he has promised to do, millions who will directly benefit by its provisions will have cause for celebration. So will their fellow citizens; a new era of fairness and opportunity will begin.

alcohol or illegal drugs at the workplace by all employees, to require that employees conform their behavior to the requirements of the Drug-Free Workplace Act, and to hold drug users or alcoholics to the same qualification standards applied to others.

The ADA excludes people who currently use illegal drugs from its protections, but does prohibit discrimination against recovering drug addicts and alcoholics. In order to encourage individuals to end drug dependence, the ADA provides civil rights protections for individuals who have successfully completed rehabilitation.

### Enforcement and Remedies

With respect to employment, the ADA provides the remedies available under title VII of the Civil Rights Act of 1964, including administrative enforcement by the Equal Employment Opportunity Commission. After those remedies are exhausted, there is a right to sue in Federal court for injunctive relief and monetary relief in the form of backpay. Because title VII does not now include compensatory and punitive damages, these forms of relief are not available under the ADA. The absence of these extraordinary forms of relief is appropriate in that the ADA seeks to develop an environment that fosters voluntary compliance.

With respect to public accommodations, the bill limits relief available in private suits to injunctive relief, attorney's fees, and court costs. The ADA avoids unnecessary fiscal incentives for private litigation by barring compensatory or punitive damages, while ensuring that individual plaintiffs are not deterred from bringing meritorious suits. Authority to seek monetary damages and civil penalties is given only to the Attorney General, and, then, only in pattern or practice cases or suits of general public importance.

### Telecommunications Relay System

The ADA amends the Communications Act of 1934 to require that telephone companies provide telecommunications relay services. The relay services must permit speech or hearing-impaired individuals who use TDD's or other non-voice terminal devices opportunities for communication that are equivalent

to those provided to other customers. These services are a vital step toward full integration of persons with speech or hearing impairments into the mainstream.

### Technical Assistance

The ADA recognizes the necessity of educating the public about its rights and responsibilities under the Act. Under the ADA, the Attorney General will oversee governmentwide technical assistance activities. The Department of Justice will consult with the Equal Employment Opportunity Commission, the Department of Transportation, the Federal Communications Commission, the National Council on Disability and the President's Committee on Employment of People with Disabilities, among others, in this effort.

The Americans with Disabilities Act represents a dramatic new step in this country's quest to ensure equal opportunity for all of its citizens. The ADA can be the vehicle that, once and for all, brings persons with disabilities into the mainstream of American life. We must all make a personal commitment to take up the challenge of the ADA and turn its grand promises into reality. All Americans will be the beneficiaries of the success of this effort.



*John L. Wodatch, a Deputy Section Chief in the Civil Rights Division of the Department of Justice, was charged with helping to develop administration positions throughout the ADA legislative process. His sensitive attitudes toward people with disabilities and steadfast support for the principle of full equality, has made him a hero of the disability community.*

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**"Every so often something happens that brings out the nobility in Congress."**

*Rep. Hamilton Fish was an early Republican co-sponsor of ADA, and supported the principle of full equality in every debate and on every vote.*

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# ADA: Implementation Dates

by Erica C. Jones

Title	Laws Effective Date	Regulations Due by Federal Agency	Enforcement Jurisdiction
<b>Title I Employment</b>	July 26, 1992 for employers with twenty-five (25) or more employees; July 26, 1994 for employers with fifteen (15) or more employees.	July 26, 1991 all regulations due from Equal Employment Opportunity Commission (EEOC).	Remedies identical to those under Title VII of the Civil Rights Act of 1964 which are private right of action, injunctive relief, i.e. job reinstatement, back pay, and EEOC enforcement.
<b>Title II Public Services</b> All activities of local and state governments	January 26, 1992	July 26, 1991, all regulations due from Attorney General	Remedies identical to those under the Rehabilitation Act of 1973 Section 505 which are private right of action, injunctive relief, and some damages.
<b>(Part I) Public transportation</b> (buses, light and rapid rail including fixed-route systems, paratransit, demand response systems and transportation facilities).	August 26, 1990, all orders for purchases or leases of new vehicles must be for accessible vehicles; one-car-per-train must be accessible as soon as practicable, but no later than July 26, 1995; paratransit services must be provided after January 26, 1992; new stations built after January 26, 1992 must be accessible. Key stations must be retrofitted by July 26, 1993; with some extensions allowed up to July 26, 2020.	July 26, 1991, all regulations due from Secretary of Transportation.	Same as above.
<b>(Part II) Public transportation</b> by intercity Amtrak and commuter rail (including transportation facilities).	By July 26, 2000, Amtrak passenger coaches must have same number of accessible seats as would have been available if every car were built accessible; half of such seats must be available by July 26, 1995. Same one-car-per-train rule and new stations rule as above. All existing Amtrak stations must be retrofitted by July 26, 2010; key commuter stations must be retrofitted by July 26, 1993 with some extensions allowed up to 20 years.	July 26, 1991, all regulations due from Secretary of Transportation.	Same as above.
<b>Title III Public accommodations operated by private entities.</b>			
A. Public accommodations (all business and service providers).	January 26, 1992, for businesses with twenty-five (25) or less employees and revenue \$1 million or less; January 26, 1993 for businesses with ten (10) or less employees and revenue \$500,000 or less.	July 26, 1991, regulations due from Attorney General. Regulations will be based on standards issued by the Architectural and Transportation Barriers Compliance Board (ATBCB). Due April 26, 1991.	For individuals, remedies identical to Title II of the Civil Rights Act of 1964 which are private right of action, injunctive relief. For Attorney General enforcement in pattern or practice cases or cases of general importance with civil penalties and compensatory damages.
B. New construction / alteration to public accommodations and commercial facilities.	January 26, 1992, for alterations. January 26, 1993 for new construction.	Same as above.	Same as above.
C. Public transportation provided by private entities.	In general, January 26, 1992, but by August 26, 1990 all orders for purchases or leases of new vehicles must be for accessible vehicles. Calls for a three (3) year study of over-the-road buses to determine access needs with requirements effective July 26, 1996 to July 26, 1997.	July 26, 1991, regulations due from Secretary of Transportation. Regulations will be based on standards issued by the Architectural and Transportation Barriers Compliance Board (ATBCB). Due April 26, 1991.	Same as above.
<b>Title IV Telecommunications</b>	July 26, 1993, telecommunications relay services to operate twenty-four (24) hours per day.	July 26, 1991, all regulations due by the Federal Communications Commission.	Private right of action and Federal Communications Commission
<b>Title V Miscellaneous</b>	Effective dates of Title V are those determined by most of the analogous sections in Titles I through IV.	In general this title depicts the ADA's relationship to other laws, explains insurance issues, prohibits state immunity, provides congressional inclusion, sets regulations by ATBCB, explains implementation of each title and notes amendments to the Rehabilitation Act of 1973.	

# P.L. 101-336

## Americans With Disabilities Act of 1990

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

#### TITLE I—EMPLOYMENT

- Sec. 101. Definitions.
- Sec. 102. Discrimination.
- Sec. 103. Defenses.
- Sec. 104. Illegal use of drugs and alcohol.
- Sec. 105. Posting notices.
- Sec. 106. Regulations.
- Sec. 107. Enforcement.
- Sec. 108. Effective date.

#### TITLE II—PUBLIC SERVICES

##### Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

- Sec. 201. Definition.
- Sec. 202. Discrimination.
- Sec. 203. Enforcement.
- Sec. 204. Regulations.
- Sec. 205. Effective date.

##### Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

##### Part I—Public Transportation Other Than by Aircraft or Certain Rail Operations

- Sec. 221. Definitions.
- Sec. 222. Public entities operating fixed route systems.
- Sec. 223. Paratransit as a complement to fixed route service.
- Sec. 224. Public entity operating a demand responsive system.
- Sec. 225. Temporary relief where lifts are unavailable.
- Sec. 226. New facilities.
- Sec. 227. Alterations of existing facilities.
- Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
- Sec. 229. Regulations.
- Sec. 230. Interim accessibility requirements.
- Sec. 231. Effective date.

##### Part II—Public Transportation by Intercity and Commuter Rail

- Sec. 241. Definitions.
- Sec. 242. Intercity and commuter rail actions considered discriminatory.
- Sec. 243. Conformance of accessibility standards.
- Sec. 244. Regulations.
- Sec. 245. Interim accessibility requirements.
- Sec. 246. Effective date.

#### TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

- Sec. 301. Definitions.
- Sec. 302. Prohibition of discrimination by public accommodations.
- Sec. 303. New construction and alterations in public accommodations and commercial facilities.
- Sec. 304. Prohibition of discrimination in specified public transportation services provided by private entities.
- Sec. 305. Study.
- Sec. 306. Regulations.
- Sec. 307. Exemptions for private clubs and religious organizations.
- Sec. 308. Enforcement.
- Sec. 309. Examinations and courses.
- Sec. 310. Effective date.

#### TITLE IV—TELECOMMUNICATIONS

- Sec. 401. Telecommunication relay services for hearing-impaired and speech-impaired individuals.
- Sec. 402. Closed-captioning of public service announcements.

#### TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Construction.
- Sec. 502. State immunity.
- Sec. 503. Prohibition against retaliation and coercion.
- Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
- Sec. 505. Attorney's fees.
- Sec. 506. Technical assistance.
- Sec. 507. Federal wilderness areas.
- Sec. 508. Transvestites.
- Sec. 509. Coverage of Congressional and the agencies of the legislative branch.

Sec. 510. Illegal use of drugs.

Sec. 511. Definitions.

Sec. 512. Amendments to the Rehabilitation Act.

Sec. 513. Alternative means of dispute resolution.

Sec. 514. Severability.

#### SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;



(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

### SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—

The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

## TITLE 1—EMPLOYMENT

### SEC. 101. DEFINITIONS

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or

safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

### SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship

on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) **MEDICAL EXAMINATIONS AND INQUIRIES.**—

(1) **IN GENERAL.**—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) **PREEMPLOYMENT.**—

(A) **PROHIBITED EXAMINATION OR INQUIRY.**—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) **ACCEPTABLE INQUIRY.**—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) **EMPLOYMENT ENTRANCE EXAMINATION.**—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) **EXAMINATION AND INQUIRY.**—

(A) **PROHIBITED EXAMINATIONS AND INQUIRIES.**—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) **ACCEPTABLE EXAMINATIONS AND INQUIRIES.**—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) **REQUIREMENT.**—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

**SEC. 103. DEFENSES.**

(a) **IN GENERAL.**—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) **QUALIFICATION STANDARDS.**—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) **RELIGIOUS ENTITIES.**—

(1) **IN GENERAL.**—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) **RELIGIOUS TENETS REQUIREMENT.**—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) **LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Such list shall be updated annually.

(2) **APPLICATIONS.**—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a

covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) **CONSTRUCTION.**—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.

**SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.**

(a) **QUALIFIED INDIVIDUAL WITH A DISABILITY.**—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) **RULES OF CONSTRUCTION.**—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) **AUTHORITY OF COVERED ENTITY.**—A covered entity—

(1) may prohibit the illegal use of drugs and the use alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are



employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) **DRUG TESTING.**—

(1) **IN GENERAL.**—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) **CONSTRUCTION.**—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) **TRANSPORTATION EMPLOYEES.**—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

**SEC. 105. POSTING NOTICES.**

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

**SEC. 106. REGULATIONS.**

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

**SEC. 107. ENFORCEMENT.**

(a) **POWERS, REMEDIES, AND PROCEDURES.**—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination

on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) **COORDINATION.**—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

**SEC. 108. EFFECTIVE DATE.**

This title shall become effective 24 months after the date of enactment.

**TITLE II—PUBLIC SERVICES**

**SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS**

**SEC. 201. DEFINITION.**

As used in this title:

(1) **PUBLIC ENTITY.**—The term “public entity” means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) **QUALIFIED INDIVIDUAL WITH A DISABILITY.**—The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

**SEC. 202. DISCRIMINATION.**

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

**SEC. 203. ENFORCEMENT.**

The remedies, procedures, and rights set forth

in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

**SEC. 204. REGULATIONS.**

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) **RELATIONSHIP TO OTHER REGULATIONS.**—Except for “program accessibility, existing facilities”, and “communications”, regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to “program accessibility, existing facilities”, and “communications”, such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) **STANDARDS.**—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

**SEC. 205. EFFECTIVE DATE.**

(a) **GENERAL RULE.**—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) **EXCEPTION.**—Section 204 shall become effective on the date of enactment of this Act.

**SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY**

**PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS**

**SEC. 221. DEFINITIONS.**

As used in this part:

(1) **DEMAND RESPONSIVE SYSTEM.**—The term “demand responsive system” means any system of providing designated public transportation which is not a fixed route system.

(2) **DESIGNATED PUBLIC TRANSPORTATION.**—The term “designated public transportation” means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) **FIXED ROUTE SYSTEM.**—The term “fixed route system” means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) **OPERATES.**—The term “operates”, as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) **PUBLIC SCHOOL TRANSPORTATION.**—The term “public school transportation” means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

## SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) **PURCHASE AND LEASE OF NEW VEHICLES.**—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) **PURCHASE AND LEASE OF USED VEHICLES.**—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) **REMANUFACTURED VEHICLES.**—

(1) **GENERAL RULE.**—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended; unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

## (2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) **GENERAL RULE.**—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) **VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.**—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

## SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) **GENERAL RULE.**—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) **ISSUANCE OF REGULATIONS.**—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) **REQUIRED CONTENTS OF REGULATIONS.**—

(1) **ELIGIBLE RECIPIENTS OF SERVICE.**—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period

of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to 1 other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) **SERVICE AREA.**—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) **SERVICE CRITERIA.**—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) **UNDUE FINANCIAL BURDEN LIMITATION.**—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) **ADDITIONAL SERVICES.**—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) **PUBLIC PARTICIPATION.**—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) **PLANS.**—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and



(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) **PROVISION OF SERVICES BY OTHERS.**—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) **OTHER PROVISIONS.**—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) **REVIEW OF PLAN.**—

(1) **GENERAL RULE.**—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) **DISAPPROVAL.**—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) **MODIFICATION OF DISAPPROVED PLAN.**—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) **DISCRIMINATION DEFINED.**—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

## SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

## SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) **GRANTING.**—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) **DURATION AND NOTICE TO CONGRESS.**—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) **FRAUDULENT APPLICATION.**—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

## SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

## SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) **GENERAL RULE.**—With respect to altera-

tions of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) **SPECIAL RULE FOR STATIONS.**—

(1) **GENERAL RULE.**—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) **RAPID RAIL AND LIGHT RAIL KEY STATIONS.**—

(A) **ACCESSIBILITY.**—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) **EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.**—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least 2/3 of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) **PLANS AND MILESTONES.**—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan

and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

#### SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

##### (a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

##### (b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

#### SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include

standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

#### SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

#### SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

### PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

#### SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term “commuter authority” has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term “commuter rail transportation” has the meaning given the term “commuter service” in section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term “intercity rail transportation” means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term “rail passenger car” means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term “responsible person” means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term “station” means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

#### SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

##### (a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

##### (2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair, only to the extent provided in paragraph (3).



(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train, as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail

cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger; (ii) space to fold and store a wheelchair; or (iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems,

readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and

drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the

Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms “rail” and “railroad” have the meaning given the term “railroad” in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term “readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term “specified public transportation” means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term “vehicle” does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

## SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases

to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—

It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term “individual or class of individuals” refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of

eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—or purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which



is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

**(D) OVER-THE-ROAD BUSES.—**

**(i) LIMITATION ON APPLICABILITY.—**Subparagraphs (B) and (C) do not apply to over-the-road buses.

**(ii) ACCESSIBILITY REQUIREMENTS.—**or purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

**(3) SPECIFIC CONSTRUCTION.—**Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

**SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.**

**(a) APPLICATION OF TERM.—**Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of

the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

**(b) ELEVATOR.—**Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

**SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.**

**(a) GENERAL RULE.—**No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

**(b) CONSTRUCTION.—**For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—  
**(A)** make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

**(B)** provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

**(C)** remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except

that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

**(4)(A)** the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

**(B)** any other failure of such entity to comply with such regulations; and

**(5)** the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

**(6)** the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

**(7)** the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

**(c) HISTORICAL OR ANTIQUATED CARS.—**

**(1) EXCEPTION.—**To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

**(2) DEFINITION.—**As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

**(A)** which is not less than 30 years old at the time of its use for transporting individuals;

**(B)** the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

**(C)** which—

**(i)** has a consequential association with events or persons significant to the past; or

**(ii)** embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

## SEC. 305. STUDY.

(a) **PURPOSES.**—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) **CONTENTS.**—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) **ADVISORY COMMITTEE.**—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) **DEADLINE.**—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) **REVIEW.**—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board

established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

## SEC. 306. REGULATIONS.

(a) **TRANSPORTATION PROVISIONS.**—

(1) **GENERAL RULE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) **SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.**—

(A) **INTERIM REQUIREMENTS.**

(i) **ISSUANCE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) **EFFECTIVE PERIOD.**—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) **FINAL REQUIREMENT.**—

(i) **REVIEW OF STUDY AND INTERIM REQUIREMENTS.**—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) **ISSUANCE.**—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) **EFFECTIVE PERIOD.**—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) **LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.**—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) **STANDARDS.**—The regulations issued pursuant to this subsection shall include standards

applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) **OTHER PROVISIONS.**—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) **CONSISTENCY WITH ATCBG GUIDELINES.**—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) **INTERIM ACCESSIBILITY STANDARDS.**—

(1) **FACILITIES.**—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) **VEHICLES AND RAIL PASSENGER CARS.**—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

## SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

## SEC. 308. ENFORCEMENT.

(a) **IN GENERAL.**—

(1) **AVAILABILITY OF REMEDIES AND PROCEDURES.**—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies

and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) **INJUNCTIVE RELIEF.**—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) **ENFORCEMENT BY THE ATTORNEY GENERAL.**—

(1) **DENIAL OF RIGHTS.**—

(A) **DUTY TO INVESTIGATE.**—

(i) **IN GENERAL.**—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) **ATTORNEY GENERAL CERTIFICATION.**—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) **POTENTIAL VIOLATION.**—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) **AUTHORITY OF COURT.**—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including

monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding \$50,000 for a first violation; and

(ii) not exceeding \$100,000 for any subsequent violation.

(3) **SINGLE VIOLATION.**—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) **PUNITIVE DAMAGES.**—For purposes of subsection (b)(2)(B), the term “monetary damages” and “such other relief” does not include punitive damages.

(5) **JUDICIAL CONSIDERATION.**—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

#### SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

#### SEC. 310. EFFECTIVE DATE.

(a) **GENERAL RULE.**—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) **CIVIL ACTIONS.**—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of \$1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of \$500,000 or less.

(c) **EXCEPTION.**—Sections 302(a) for purposes of section 302(b)(2)(B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

### TITLE IV—TELECOMMUNICATIONS

#### SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) **TELECOMMUNICATIONS.**—Title II of the Communications Act of 1934 (47 U.S.C. 201

et seq.) is amended by adding at the end thereof the following new section:

#### “SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

“(a) **DEFINITIONS.**—As used in this section—

(1) **COMMON CARRIER OR CARRIER.**—The term ‘common carrier’ or ‘carrier’ includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

(2) **TDD.**—The term ‘TDD’ means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

(3) **TELECOMMUNICATIONS RELAY SERVICES.**—The term ‘telecommunications relay services’ means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

“(b) **AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.**—

(1) **IN GENERAL.**—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

(2) **USE OF GENERAL AUTHORITY AND REMEDIES.**—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

“(c) **PROVISION OF SERVICES.**—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—



(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

**"(d) REGULATIONS.—**

(1) **IN GENERAL.—**The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

(B) establish minimum standards that shall be met in carrying out subsection (c);

(C) require that telecommunications relay services operate every day for 24 hours per day;

(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

(G) prohibit relay operators from intentionally altering a relayed conversation.

(2) **TECHNOLOGY.—**The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

**(3) JURISDICTIONAL SEPARATION OF COSTS.—**

(A) **IN GENERAL.—**Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

(B) **RECOVERING COSTS.—**Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

**"(e) ENFORCEMENT.—**

(1) **IN GENERAL.—**Subject to subsections (f) and (g), the Commission shall enforce this section.

(2) **COMPLAINT.—**The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

**"(f) CERTIFICATION.—**

(1) **STATE DOCUMENTATION.—**Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

(2) **REQUIREMENTS FOR CERTIFICATION.—**After review of such documentation, the Commission shall certify the State program if the Commission determines that—

(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

(3) **METHOD OF FUNDING.—**Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

(4) **SUSPENSION OR REVOCATION OF CERTIFICATION.—**The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

**"(g) COMPLAINT.—**

(1) **REFERRAL OF COMPLAINT.—**If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

(2) **JURISDICTION OF COMMISSION.—**After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

(A) final action under such State program has not been taken on such complaint by such State.

(i) within 180 days after the complaint is filed with such State; or

(ii) within a shorter period as prescribed by the regulations of such State; or

(B) the Commission determines that such State program is no longer qualified for certification under subsection (f)."

(b) **CONFORMING AMENDMENTS.—**The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

**SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.**

Section 711 of the Communications Act of 1934 is amended to read as follows:

**"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.**

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and "(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement."

**TITLE V—MISCELLANEOUS PROVISIONS**

**SEC. 501. CONSTRUCTION.**

(a) **IN GENERAL.—**Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) **RELATIONSHIP TO OTHER LAWS.—**Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) **INSURANCE.—**Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

#### SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

#### SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

#### SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for

listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

#### SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

#### SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grantees described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

#### SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required

to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term “wheelchair” means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

#### SEC. 508. TRANSGESTITES.

For the purposes of this Act, the term “disabled” or “disability” shall not apply to an individual solely because that individual is a transvestite.

#### SEC. 509. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

##### (a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

“No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof:

“(a) fail or refuse to hire an individual;

“(b) discharge an individual; or

“(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual’s race, color, religion, sex, national origin, age, or state of physical handicap.”

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act

of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A).

Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) APPROVAL.—For purposes of subparagraph (B), the Architect of the Capitol shall

submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

#### SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.



(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of “disability” in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term “disability” shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

“(C)(i) For purposes of title V, the term ‘individual with handicaps’ does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

“(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

“(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

“(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

“(III) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

“(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

“(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action

pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

(v) For purposes of sections 503 and 504 as such sections relate to employment, the term ‘individual with handicaps’ does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.’.

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

“(22)(A) The term ‘drug’ means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(B) The term ‘illegal use of drugs’ means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.”.

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking “Subject to the second sentence of this subparagraph,” and inserting “Subject to subparagraphs (C) and (D).”; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

And the House agree to the same.

## Congressional Votes on the Final Passage of The Americans With Disabilities Act

### In the House of Representatives

July 12, 1990 the House agreed to the conference report on S. 933, to establish a clear and comprehensive prohibition of discrimination on the basis of disability. This cleared the measure for Senate action.

For—377	Against—28	Not Voting—27
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### In the Senate

July 13, 1990 the U.S. Senate agreed to the conference report on S. 933, to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

For—91	Against—6	Not Voting—3
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The Americans with Disabilities Act became law when it was signed by President George Bush at 10:26 AM on July 26, 1990.

The President's Committee on  
Employment of People with Disabilities  
Washington, DC 20004-1107

Bulk Rate

Postage and Fees Paid  
U.S. Department of Labor  
Permit No. G-750

