

Americans with Disabilities Act - Title III

Public Accommodations and Commercial Facilities Fact Sheet

Purpose of the Act:

Address the concerns of the 43 million Americans that have one of more physical or mental disabilities and are faced each day with architectural / transportation barriers, over-protective rules and policies, international exclusion and relegation to lesser services, programs, activities, benefits, jobs and other opportunities.

General Rule:

No individuals shall be discriminated against on the basis of disabilities in the full and equal enjoyment of goods, services, facilities, privileges, advantages or accommodations at any place of public accommodation by any person who owns, leases, or operates a place of public accommodation.

Benefits provided for people with disabilities cannot be separate or different from those provided for others, unless they are as effective as those provided for others.

It is discriminatory to exclude an individual who has a relationship or association with one who is disabled from the equal enjoyment of goods, services, facilities, privileges, advantages or accommodations or other opportunities afforded other individuals.

Existing Facilities:

Architectural and communication barriers that are structural in nature in existing facilities had to be removed on or before Jan. 26, 1992 where such removal is readily achievable. If these were not all readily achievable then alternate methods must be provided, until they are readily achievable.

Auxiliary aids and services must be offered to those with disabilities to ensure that they are not excluded, denied services, segregated or otherwise treated differently from others, unless it can be shown that taking such steps would alter the fundamental nature of the benefit or would result in an undue burden.

New Construction:

All new construction must be readily accessible to and usable by individuals with disabilities if the first occupancy was after January 26, 1993 and the last application for a building permit was certified as complete after Jan. 26, 1992 unless it could be demonstrated that it was structurally impracticable.

Alterations

All altered portions of an existing facility must, to the maximum extent feasible, be made readily accessible to and usable by individuals with disabilities. If a primary function area is altered, the path of travel including restrooms, public telephones and drinking fountains serving that area must also be made readily accessible except where alterations to the path of travel are disproportionate (more than 20% of cost of the overall alterations project). Elevators are required in all new facilities except those less than 3 stories or those with less than 3000 S.F. per floor (shopping centers and professional offices of health care providers are not exempt, nor are airport passenger terminals or other stations used for specified public transportation.

Regulations and Standards:

The Attorney General issued regulations associated with this portion on July 26, 1991. ATBCB issued the design standards for Title III (ADA Accessibility Guidelines) on that

same day. Additional regulations and corrections are issued in the Federal Register periodically.

Exemptions:

The Act does not apply to private clubs or establishments exempted from coverage under Title II of the Civil Rights Act of 1964, nor does it apply to religious organizations or entities controlled by religious organizations. Residential buildings, covered or not by FHAA, and Federal Buildings, covered by ABA, are also exempt from ADA.

Enforcement:

Those who believe themselves discriminated against may file a civil suit for injunctive relief limited to an order to alter the facilities to make them readily accessible to and usable by the disabled and / or the requirement of auxiliary aids or services, modification of policies or the provision of alternative methods, to the extent required by law. The U.S. Attorney General has the power to investigate alleged violations and file suit for appropriate relief including monetary (but not punitive) damages and civil penalties up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution including settlement negotiations, conciliation, facilitation, mediation, fact finding, mini-trials and arbitration is encouraged to resolve disputes arising under this Act.

Effective Dates:

In general, the effective date of this Title of the ADA Law was January 26, 1992. Smaller businesses were given either six months or a year extension depending on their size and their previous year's gross receipts.

All new construction with first occupancy after January 26, 1993 shall comply with the provisions of this Act. All alterations to existing facilities shall, to the maximum extent feasible, be made readily accessible to and usable by the disabled if construction began after January 26, 1992.

Notes:

1. Information presented above was taken from DOJ Title III Regulations and U.S. Public Law 101-336, July 26, 1990.
2. Limited tax credits are available to small businesses that make accommodations accessible to the disabled. Tax deductions for the removal of barriers to the disabled, allowed under IRC-190, were reduced in October 1990 to \$15,000. An accountant should be consulted.
3. *This is not legal advice. A competent lawyer should be consulted regarding any specific legal questions.*