

## Americans with Disabilities Act of 1990 (ADA)

The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability.

Under the act, Title II – Public Services (including public transportation) sections include: public agencies (local, county, state, etc., government and their units) that generally requires the agencies to cover access to all programs offered. Access includes physical access described in the Uniform Federal Accessibility Standards or the ADA Standards for Accessible Design and access that might be obstructed by discriminatory policies or procedures of the entity.

The other section is specific to public transportation provided by public entities and requires the provision of paratransit services to qualified individuals who can not directly access fixed routes.

Under Title III of the ADA – Public Accommodations (and commercial facilities) no individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation. “Public accommodations” include most places of lodging (such as inns and hotels), recreation, transportation, education, and dining, along with stores, care providers, and places of public displays, among other things.

Under Title III, all “new construction” (construction, modification or alterations) after the effective date of the ADA (approximately July of 1992) must be fully compliant, to the “maximum extent feasible,” under the Accessibility Guidelines. This is generally defined as “easily accomplished without much difficulty or expense.” The statutory definition of “readily achievable” calls for a balancing test between the cost of the proposed “fix” and the financial wherewithal of the business and/or owners of the business. What might be “readily achievable” for a financially capable corporation might not be readily achievable for a small “mom-n-pop” outfit.

Under Title IV – Telecommunications, the ADA amended the 1934 Communications Act by requiring that all of the 1,600 some-odd telecommunications companies in the U.S. take steps to ensure functionally equivalent services for consumers with disabilities, notably those who are deaf or hard of hearing and those with speech impairments. This has led to installation of public Teletypewriter (TTY) machines and other TDDs (Telecommunications Device for the Deaf) devices. It has also led to creation throughout the country what were then called dual-party relay services and

now are known as Telecommunications Relay Services (TRS), communication assistants translate between the signed/typed words of a consumer and the spoken words of others.

Currently, the federal ADA Access Review Board is also considering provisions specific to use of public rights-of-way. Although the guidelines are not currently enforceable the provisions are expected to become law with specific requirements in the future.