

AMERICANS WITH DISABILITIES ACT of 1990

S. 933

One Hundred First Congress of the United States of America  
AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twenty-third  
day of January, one  
thousand nine hundred and ninty

An Act

To establish a clear and comprehensive prohibition of discrimination  
on the basis of disability.

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Be it enacted by the Senate and House of Representatives of the  
United  
States of America in Congress assembled,

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:

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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.

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.

(B) (C) Requirement.--Information obtained under subparagraph 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 of  
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.

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.

#### 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 one 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, 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 alterations 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.

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--

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.

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,  
other  
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.--For 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.--For 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--

required

under section 302(b)(2)(A)(ii);

the

(B) provide auxiliary aids and services consistent with

section

requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of

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 ATBCB 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. 2000-a(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.

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARINGIMPAIRED 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--

operations "(A) establish functional requirements, guidelines, and

procedures for telecommunications relay services;

carrying out "(B) establish minimum standards that shall be met in

subsection (c);

operate every "(C) require that telecommunications relay services

day for 24 hours per day;

services pay "(D) require that users of telecommunications relay

equivalent rates no greater than the rates paid for functionally

as the voice communication services with respect to such factors

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.".

#### 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

(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 to ensure that individuals with disabilities.

(c) Qualified Historic Properties.--

(1) In general.--The supplemental guidelines issued under subsection

(a) shall include provisions that the 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 ind), 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 grants 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. TRANSVESTITES.

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 paragraph

(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 Hundred 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.