The National Council on Disability is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. It is the only federal agency charged by Congress with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities.

The Americans with Disabilities Act (ADA), was first proposed in the 1986 special report of the National Council on Disability, Toward Independence. In 1988, the National Council outlined the blueprint for the ADA in another special report entitled On The Threshold of Independence.

The ADA, which was signed into law by President Bush on July 26, 1990, is a wide-ranging civil rights statute that prohibits discrimination against people with disabilities — similar to the protection given to women, minorities and others since the Civil Rights Act of 1964 was enacted.

ADA bars discrimination in employment and requires most employers to make reasonable accommodations for qualified employees with disabilities beginning in 1992. It also bars discrimination in any activity or service operated or funded by the Federal Government or any state or local government — similar to a 1973 requirement for services operated or funded by the Federal Government.

ADA prohibits discrimination in commercial facilities and public accommodations — hotels, restaurants, stores, theaters and museums, among others. New buses, trains, subway cars and rail stations will have to be made accessible in the next few years. Accessible paratransit services must be provided that are comparable to fixed-route transportation services. Phone companies must provide relay services so that people with speech or hearing impairments can converse with people or businesses that use conventional voice phones.

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While many states have laws banning discrimination against people with disabilities, the National Council on Disability felt that the lack of a consistent standard across the nation left people with disabilities living as second-class citizens — unable to move about as freely as people without disabilities and viewed as dependent people unable to work. Unemployment among people with disabilities is higher than in any other group.

Title I — Employment

Title I of the ADA bars employment discrimination in the public and private sectors and in state and local governments. Prior to its passage, any discrimination — including employment — was prohibited in Federal Government operations, as well as in those of employers — including state and local government — that received federal funds. Companies doing more than $2,500 a year of business with the Federal Government had to take "affirmative steps" in hiring and promoting people with disabilities.

ADA takes an across-the-board approach to antidiscrimination protection in employment. It bars discrimination and requires reasonable accommodation in recruiting, hiring, employing, promoting and training qualified workers with disabilities. The term "qualified" refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job held or sought. Consideration is given to the employer's judgment as to what functions of a job are essential.

An employer develops a written job description before recruiting or interviewing applicants. This description is considered evidence of the essential functions.

Employers of 25 or more workers — the number employed each work day in each of 20 weeks in the current or preceding year — are affected starting 2 years after ADA was signed. Employers of 15 or more are covered 2 years later.

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Title II — Public Service and Public Transportation

Title II of ADA is devoted to prohibiting discrimination in services, programs, or activities of a "public entity"—any state or local government (any department, agency, special-purpose district, or instrumentality of state or local government, including public transportation services), the National Railroad Passenger Corporation (Amtrak), and intercity and commuter rail services generally.

New public transportation facilities must be made accessible. While existing facilities — except key stations — need not be retrofitted, portions of existing facilities being altered must be made accessible. Key stations must be made accessible in 5 years, although they have up to 30 years if expensive structural changes are needed. Two-thirds of key stations must be made accessible within 20 years.

Commuter rail services must have at least one accessible car on each train as soon as possible, but not later than 5 years after ADA's signing. Exceptions may be made for historic trains.

Commuter rail service and Amtrak share these requirements — one accessible car per train within 5 years; cars purchased or leased 30 years or later after ADA's approval must be accessible; accessible rail coaches must have an accessible restroom; remanufactured cars, to the extent feasible, must be made accessible if the rebuilding extends the life of the car for 10 years or longer; new stations must be accessible, and all stations must be made accessible within 20 years.

The Secretary of Transportation issued regulations for the implementation of these requirements.

Private entities (other than airplanes) that are primarily in the business of transporting people are required to purchase or lease only accessible fixed-route vehicles if they carry more than 16 passengers, starting 30 days after ADA was signed. Demand-response systems with vehicles seating eight or more (including the driver) must be accessible, and the services must be provided at a level equivalent to those provided to people without disabilities.

Over-the-road buses (those with baggage compartments below the passenger seating areas) must be accessible in 6 or 7 years.

Title IV — Telecommunications

Under Title IV of ADA, telecommunications relay services for people with speech and hearing impairments must be in place across the country by July 26, 1993. These services link users of telecommunications devices for the deaf (TDD) or other nonvoice devices and users of voice telephones.

The mandate calls for both intrastate relay services in all states and interstate services. New York, California and Alabama already provide intrastate relay services.

Title IV requires the relay services to operate 24 hours a day, 7 days a week. Relay operators may not alter conversations, limit the length of calls, or disclose to others the contents of relay conversations. Rates charged to relay users may not exceed those charged for functionally equivalent voice communications as regards to the duration of the call, time of day, and distance between the caller and the place called. Regulations for implementing these services were issued by the Federal Communications Commission.

Title IV also requires that television public service announcements produced or funded in whole or in part by any federal agency be closed-captioned.

Title V — Miscellaneous

Title V of ADA is a potpourri of clarifications, exclusions and add-ons, many of which were inserted to clarify questions or concerns of some Members of Congress as the measure was debated.

Among the provisions are the following:

- Nothing in ADA, except as specifically provided, shall be construed to apply a lesser standard than one already required under Title V of the Rehabilitation Act of 1973 or the regulations issued as a result of that law.

- States are subject to ADA, and ADA does not limit or invalidate state or local laws that provide protection equal to or greater than that of ADA.

- Insurers may continue to underwrite and classify risks consistent with state law and entities covered may provide benefit plans based on risk classifications.

- No person can be discriminated against because he or she has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under ADA.

- The winning party in an ADA action — other than the U.S. Government — may be awarded a reasonable attorney's fee, including litigation expenses and costs.

- The Attorney General — in consultation with the Chairman of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chairman of the Architectural and Transportation Barriers Compliance Board and the Chairman of the Federal Communications Commission — developed a plan to assist entities covered by ADA.

- The term "disabled" or "disability" does not apply to an individual solely because the person is a transvestite.

- Homosexuality and bisexuality are not considered as impairments under ADA.

- The term "disability" does not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments or other sexual behavior; compulsive gambling, kleptomania, or pyromania; or psychoactive substance use disorders resulting from current illegal use of drugs.
<table>
<thead>
<tr>
<th>ADA/ TITLE</th>
<th>EFFECTIVE DATES/REGULATIONS</th>
<th>ENFORCEMENT JURISDICTION</th>
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<tbody>
<tr>
<td><strong>TITLE I</strong>&lt;br&gt;Employment</td>
<td>Two years after the bill was signed, July 26, 1992, for employers with 25 or more employees; 4 years after it was signed for employers with 15 or more employees. Regulations were issued by the EEOC 1 year after the bill was signed. 29 C.F.R. Part 1630.</td>
<td>EEOC, Attorney General. Private right of action, remedies and procedures set forth in Title VII of the Civil Rights Act of 1964, as amended.</td>
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<td><strong>TITLE II</strong>&lt;br&gt;Public Service &lt;br&gt;(Part I), Public transportation (buses, light and rapid rail including fixed-route systems, paratransit, demand-response systems and transportation facilities).</td>
<td>Eighteen months after the bill was signed. Regulations were issued by the Attorney General 1 year after bill was signed.</td>
<td>Private right of action; remedies and procedures set forth in Section 505 of the Rehabilitation Act of 1973.</td>
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<td>After August 25, 1990, all orders for new vehicles must be for accessible vehicles; one car per train must be accessible as soon as practicable, but no later than after 5 years; paratransit services must be provided after 18 months; new stations must be retrofitted in 3 years, with some extensions allowed for up to 30 years.</td>
<td>Same as above.</td>
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<td>Within 10 years after the bill was signed, Amtrak passenger coaches must have the same number of accessible seats as would have been available if every car were built accessible; half of such seats must be available within 5 years. Same one-car-per-train rule and new stations rule as above. All existing Amtrak stations must be retrofitted within 20 years; key commuter stations must be retrofitted in 3 years, with some extensions allowed for up to 20 years. Regulations were issued by the Secretary of Transportation. 49 C.F.R. Parts 37 and 38.</td>
<td>Same as above.</td>
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<td><strong>TITLE III</strong>&lt;br&gt;Public Accommodations &lt;br&gt;A. Public accommodations (all business and service providers).</td>
<td>Eighteen months after the bill was signed; 24 months for businesses with 25 or fewer employees and certain level of revenues; 30 months for businesses with 10 or fewer employees and certain level of revenues. Regulations based on standards issued by the ATBCB were issued by the Attorney General 1 year after bill was signed. 28 C.F.R. Part 36.</td>
<td>Private right of action; remedies of Title II of the Civil Rights Act of 1964; Attorney General enforcement in pattern or practice cases.</td>
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<td>In general, after August 25, 1990, for all new purchases or leases of accessible vehicles. Calls for a 3 year study of over-the-road buses to determine access needs, with requirements effective in 6 to 7 years. Standards to be issued by the ATBCB. Regulations were issued by the Secretary of Transportation. 49 C.F.R. Parts 37 and 38.</td>
<td>Same as above.</td>
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<td><strong>TITLE IV</strong>&lt;br&gt;Telecommunications</td>
<td>Three years after the bill was signed, July 26, 1993, telecommunications relay services to operate 24 hours per day. Regulations were issued by the Federal Communications Commission. 47 C.F.R. Parts 0 and 64.</td>
<td>Private right of action and Federal Communications Commission.</td>
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<tr>
<td><strong>TITLE V</strong>&lt;br&gt;Miscellaneous Provisions</td>
<td>In general, this title describes the ADA's relationship to other laws, explains insurance issues, prohibits state immunity, provides congressional inclusion, sets regulations by the ATBCB, explains implementation of each Title and notes amendments to the Rehabilitation Act of 1973. It also provides that state and local laws that afford persons with disabilities greater protection than ADA remain in effect.</td>
<td>For additional information, contact: National Council on Disability 800 Independence Avenue, SW Suite 814 Washington, DC 20591 (202) 267-3946 Voice (202) 267-3232 TDD (202) 453-4240 Fax</td>
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