

KPTA NEWSLETTER

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AMERICANS WITH DISABILITIES ACT; Federal Questions and Answers

On March 29, a series of questions and answers about the ADA and parts of the U.S DOT's rule of implementation for several provisions of the ADA were published in the Federal Register. The questions and answers were published by UMTA to help public and private operators plan for the implementation and hopefully understand its implications to a greater extent. Because of space constraints, what follows is a summary of the issues raised in the publication. For more information please refer to the ADA article on page 3.

The transportation provisions of the ADA apply to both Titles II and III as described in the Act. This includes both public and private entities regardless of their receipt of Federal funds. This Act, therefore, differs from the DOT regulations implementing Section 504 of the Rehabilitation act of 1973, as amended. The principle of "stand in the shoes" will apply to the private entities that contract with public entities to perform services as if the public entities were performing them themselves. The only deviation to this principle would be if the private entity has contracted to provide the service for the public entity with an existing fleet of vehicles.

The vehicle procurement process applies the same to both public and private transportation entities under Section 37.29 of the ADA. The regulations differ, depending on what type service is to be engaged in. They also differ as mentioned earlier regarding a private entity contracting to perform a public entity's service.

State DOT's have been forwarded guidance information, by UMTA, involving the procurement of vehicles under 16(b)2, Section 18 and Section 9. This information was published in the Federal Register on October 4, 1990 and subsequent literature was mailed directly to each grantee. UMTA, however, will be sending out more information following the July 1991 release.

The ADA does not apply to rehabilitated vehicles but does apply to remanufactured. The difference being the extent of the work involved. Usually a vehicle rehab involves mechanical and interior improvements as needed to return a vehicle to its original specifications, while a remanufactured vehicle has undergone major structural work designed to prolong the life of the vehicle by more than five years. A rehabilitated vehicle does not need to undergo a retro-fit for accessibility while a remanufactured vehicle does unless, of course, the vehicle is already accessible. Certain exceptions also apply to vehicles with historical significance or serves solely in a historical area

Fixed route systems must make literature regarding routes and schedules as available to the disabled as they do for the non-disabled.

without disabilities. It was stated at the Workshop that most Section 16(b)(2) systems would fall under this category of "private entities not primarily engaged in the business of transporting people."

There was a special session on the Paratransit provisions of the ADA. The ADA states that fixed-route systems, regardless of the size of the community, must provide paratransit services for disabled not able to ride the accessible fixed-route system. Many specific questions on comparable times, fares, service area, undue financial burden, etc. could not be addressed because the Notice of Proposed Rule Making (NPRM) cannot be commented on until it is released to everyone (couple of weeks, supposedly). The USDOT regulations must be finalized by July 26, 1991. A system must submit its service plan to UMTA and implementation commenced (not full-blown operations) by January 26, 1992. It was recommended that fixed-route systems begin now to address the provisions: go ahead and meet with disabled groups, form advisory groups to help form your plan, have a public hearing and opportunities for comment. Other points made included:

(1) Eligibility for the ADA paratransit service is very narrow; in fact, some current disabled passengers may be "bumped off" of the service if they don't meet the ADA definition. Basically, a disabled person must not be able to "board, ride, or disembark" the fixed-route service to be eligible, that is, (a) they can board, but they cannot "navigate" once on; (b) they cannot get to a bus stop because of their own condition, not because of the distance to the stop or because there are no cut curbs; (c) the fixed-route is not accessible at the particular time or within a reasonable time.

(2) You can refer, for now, to the 1986 504 Regulations for questions concerning comparable service, fares, etc.

(3) One companion must be allowed on with the eligible passenger. Other companions must also be allowed to ride, provided they would not take up space that would be needed for an ADA passenger.

(4) Some small fixed-route systems may consider changing to a demand-response system.

(5) Fixed-route systems are urged to coordinate when planning their supplemental service, to ascertain what is already out there. In fact, the plan submitted to UMTA can state (name and describe) another provider(s) that is doing service sufficient to cover this paratransit requirement. However, this provider(s) must be monitored throughout the year.

(6) This plan should be submitted to UMTA annually.

(7) "Undue Financial Burden" means that you must meet these provisions to the extent that it becomes a financial burden.

There was another session devoted to Technical Standards held at the same time as the Paratransit session. This addressed the standards for securement devices, wheelchairs, lifts, etc. The Architectural and Transportation Barriers Compliance Board's (ATBCB) Notice of Proposed Rule Making on this should be out soon.

Please feel free to contact the staff of the Division of Mass Transportation at any time with questions you may have regarding the ADA. As soon as we receive further information, it will be passed on to you. We will, of course, assist all systems in implementing the provisions of the ADA. We also urge each of you to keep a positive attitude while changing your system for the better.

TARC AND DERBY WEEK

The Transit Authority of River City has announced plans for its special bus and trolley services for the Kentucky Derby and related events.

For those attending the Kentucky Oaks on Friday, May 3, TARC will provide a Downtown Express to Churchill Downs beginning at 9:45 a.m.. Fare will be \$2.00 cash each way, and no discount tickets will be accepted.

Derby Day services will include a shuttle from the downtown area and one from the Kentucky Fair & Exposition Center. These shuttles will operate from 7:30 a.m. to 8:30 p.m. for \$4.00 each way. The Fairgrounds Express must be used for roundtrip and the charge is \$8.00.

Wheelchair accessible service will be available approximately every half hour from downtown and the fairgrounds.

Sunday trolleys will run on April 21 and 28 from 1:00 p.m. to midnight to accommodate large crowds downtown. Expanded trolley service will be provided, particularly during large-crowd producing events.

BUSH CALLS FOR HIGHER LIMIT ON COMMUTER SUBSIDIES

On February 20, President Bush proposed his comprehensive energy strategy that made many pro-commuter groups happy. "The National Energy Strategy will increase transportation efficiency by increasing use of public transportation, vanpooling and ridesharing by raising the limit on tax-free commuter subsidies that employers can give employees," said an official White House statement.

Raising the nontaxable limit was only one part of the plan, other aspects include vehicles that use alternative fuels and research in the auto industry to accelerate the development of electric vehicles.

PASSENGER ASSISTANCE TECHNIQUES?

Federated Transportation Services of the Bluegrass is soliciting responses from KPTA members and interested parties as to the need for another state-wide PAT train-the-trainer session. Several requests for such a session have come in recently and we need more names and numbers to request RTAP to pay for it. If you are interested, please call Ned at 606-233-0066.

ARCHITECTURAL BARRIERS ADDRESSED

According to the April 1 edition of Passenger Transport, guidelines for standardizing features that make transit vehicles accessible to people with disabilities were proposed on March 20 by the Architectural and Transportation Barriers Compliance Board. When finalized the guidelines will be used by the U.S. DOT to establish vehicle accessibility standards for the ADA.

Some of the affected design guidelines include, wheelchair lifts and lift operations, doorways, floors steps, lighting, handrails, stop-request boxes, route signs, bus and van sizes, bus stop shelters, key stations of existing facilities as well as other things.

The final rules for the proposed vehicle design regulations are supposed to be completed by April 26, but will definitely not be done in time. This will cause problems since the public comment time period will be up May 20.

LOOKING FOR PIGGY-BACK 16(B)2 PURCHASERS

Bluegrass Community Action, DBA Bluegrass Ultra-transit System (BUS) and the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, DBA Community Action Transit System (CATS) are going to purchase a couple raised-roof, wheelchair equipped vans with 16(b)2 capital money and are looking for other agencies interested in a group purchase.

If your agency is interested, please contact Sue Jeffers at 1-800-456-6588 or Phil Pack at 1-800-548-2287 for a specification packet and other information.

TURN OFF THE LIGHTS

As stated in the Tuesday, April 9, 1991 edition of the Federal Register, "passenger vehicles" need not leave their running lights on during daytime hours. This notice was given to deny a petition for rulemaking as filed by Charles Campbell of Ormond Beach, Florida to amend Standard No. 108 to require daytime running lamps on "passenger vehicles". In support, he argued that the use of the lamps would provide a marked reduction in traffic accidents. The National Highway Traffic Safety Administration (NHTSA) denies his petition on the basis that insufficient justification has been shown to mandate installation of daytime running lamps.

Americans with Disabilities Act (ADA) Workshop

March 13, 1991
Washington, D. C.
Written by: Gail Mayeux

The one-day workshop on the Americans with Disabilities Act (ADA) was held in Washington, D. C. on March 13, 1991. The ballroom used for the workshop was overflowing, with people still trying to register that morning. This is indicative of the interest in the Act. Transit agencies, government groups, employers, disabled groups, etc. from all over the country were represented. Although many felt a great deal of confusion and uncertainty over the provisions of the ADA, the mood of the presenters was upbeat and positive. The ADA will be strictly enforced and there is not much room for leeway in the regulations. However, we were asked to leave with the attitude of "want to do", not "have to do" - make it a positive thing for the community. Future workshops to be held around the country will also emphasize this.

As you are aware, the ADA was signed into law by President Bush on July 26, 1990. The ADA prohibits discrimination based on disabilities in the areas of employment, public services, public accommodations and services operated by private entities, and telecommunications - all of these areas having implications for transit systems in some manner. The Kentucky Transportation Cabinet will be concerned with Title II regarding Public Services and Title III dealing with Services operated by Private Entities. The U. S. Department of Transportation (USDOT) is required to issue final implementing regulations on all aspects of the ADA it is responsible for by July 26, 1991.

Regarding the purchase of vehicles, we were referred to the USDOT's Federal Register of October 4, 1990. This final rule implements the portions of the ADA concerning the acquisition of accessible vehicles. Applicable provisions include:

- (1) Fixed-route systems must purchase or lease, after August 25, 1990, new vehicles that are accessible to individuals with disabilities, including wheelchair users. Waivers can be requested.
- (2) Fixed-route systems must purchase or lease, after August 25, 1990, used vehicles that are accessible to individuals with disabilities, including wheelchair users. If inaccessible vehicles are purchased, an agency must show that "good faith efforts" were made to obtain accessible vehicles.
- (3) Remanufactured vehicles (extends life at least by five years) to be used or purchased or leased by a fixed-route system, after August 25, 1990, should be accessible to individuals with disabilities, including wheelchair users, to the "maximum extent feasible."
- (4) Demand-response systems may purchase inaccessible vehicles only if its system, when viewed in its entirety, provides service for the disabled that is "equivalent" to the services provided to those without disabilities. A system must make this Certification to the State before an inaccessible vehicle is purchased. (A copy of this certification was sent to all Section 18 grantees with the 1/18/91 letter on FY 1992 application instructions.)
- (5) A private entity, not primarily engaged in the business of transporting people and operating a fixed-route system, must purchase or lease a vehicle with a seating capacity in excess of 16 passengers, after August 25, 1990, that is accessible to individuals with disabilities, including wheelchair users. Purchased or leased vehicles with a seating capacity of 16 passengers or less may be inaccessible only if the system, when viewed in its entirety, provides service for the disabled that is "equivalent" to the services provided to those

The KPTA will meet on Thursday,
April 25, 1991 at 12:00 noon. The
meeting will be held in the TARC
Board Room, 1000 West Broadway,
Louisville.

Lunch will be provided, so please
call the office of Dave Arnett, at
502-561-5100, if you plan to attend.

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