

Fact Sheet

JUSTIFICATION:

The purpose of this legislation is to extend the Board's jurisdiction over "public buildings" to include employee areas to bring the Board's enabling legislation into compliance with the Americans with Disabilities Act. The Board's jurisdiction must be expanded in order to submit its regulations to the Department of Justification for certification as being substantially equivalent to Title III of the ADA.

FINANCIAL:

This legislation would not incur any significant costs.

ANALYSIS:

The Architectural Access Board promulgates rules and regulations designed to make public buildings accessible to and safe for use by persons with disabilities. Toward that end, the Board's enabling legislation limits the Board's authority to buildings open to and used by the public and does not cover areas of employment or parking lots with less than 15 spaces. Preliminary discussions with the Department of Justice have revealed that the Massachusetts regulations will NOT be certified, without the statute being amended to cover areas of employment.

Title III of the ADA, which covers public accommodations and commercial facilities, recognizes the role that building codes play to ensure compliance with building-related aspects of accessibility. Title III authorizes the Department of Justice to certify that State laws, and local building codes meet or exceed the ADA's accessibility requirements for new construction and alterations. In ADA litigation, compliance with a certified code constitutes rebuttable evidence of compliance with the title III requirements. However, the significance of certification extends far beyond litigation.

Certification has many advantages. It facilitates voluntary compliance by having the ADA requirements and local requirements in a single, readily available document. It allows builders to rely on their local inspection and approval processes and it ensures that accessibility will be routinely considered in those processes. It allows builders to be assured of compliance through inspections early in the construction process, when mistakes can be corrected relatively easily and cost-effectively. It also eliminates conflicts between state requirements and ADA requirements. Finally, by incorporating ADA-equivalent accessibility provisions into the state code, certification gives the building official a significant role in enforcing the substance of the ADA. By meshing the state code with the ADA, certification will increase the number of accessible buildings and decrease the need for costly litigation.

PRIOR INITIATIVES:

229, 127, 3313, 164,137, 3938, 4646, 45, 3600, 1246