

“A Vigorous Voice”

A Letter from US Senator Robert J. Dole

AS A VIGOROUS VOICE for people with disabilities, *Careers & the Handicapped* magazine [now *CAREERS & the DISABLED* magazine] helped Congress and the President focus their attention on competitive employment and disability rights issues. Their insightful articles have detailed how subtle and pervasive discrimination has prevented millions of Americans entry into the mainstream work force.

With a stroke of the pen on July 26, 1990, President George Bush signed the Americans With Disabilities Act (ADA), outlawing discrimination against people with disabilities and ensuring that people with disabilities will have the opportunity to live lives of dignity and independence.

This law is intended to prevent discrimination in employment, public accommodations, transportation, and telecommunications. Most importantly, skilled qualified individuals, regardless of a disability, will become productive, contributing members of society. Tax users will become tax payers, and all Americans will benefit through the ability of an all-inclusive work force and a stronger American economy. Many people with disabilities will become more active consumers, purchasing the goods and services that they desire and need.

The ADA is an important beginning, giving us not only a framework from which to work, but also a mandate from which to proceed. However, to reinforce the goals of the ADA and to move disability policy forward into the next century, it is critical to maintain a united and solid partnership between the disability communities as well as the public and private sectors. Working together, we can en-

sure that every American citizen will be provided the access and opportunity to be a part of all that society offers.

More importantly, by increasing public awareness through education, we can break down the attitudinal barriers that prevent full participation in the American mainstream.

Like everyone involved with the ADA, I feel privileged to have played a role in its passage. However, passage does not guarantee that our job is complete. As we look ahead to the next century, I hope that there will be little need for government intervention to assure the rights of any segment of American society. But, if it is still necessary to redress discrimination, all of us in the disability community can continue to make a difference by working together.

As an advocate for people with disabilities, *CAREERS & the DISABLED* has provided outstanding service to public officials and the disability community for five years. I

am confident this magazine will continue to provide stimulating and provocative reporting. As we formulate a national disability policy for the 21st century, I look forward to ushering in the next decade with copies of *CAREERS & the DISABLED*. ♦



Senator Robert J. Dole (R-KS) is chairman of the Dole Foundation, a nonprofit organization that has provided over \$3 million to community-level vocational training groups. The foundation also supports programs that aid businesses, trade associations, disability organizations, and universities with training and education materials and technical assistance concerning the Americans With Disabilities Act (ADA).

The ADA

AN ANALYSIS

What Will The Americans With Disabilities Act Mean To You?

By John M. Williams and Chet Nagle

THE AMERICANS WITH DISABILITIES ACT (ADA) is a law advancing opportunities for millions of people with disabilities. The law opens doors for more than 43 million individuals in private sector employment, all public services, public accommodations, transportation, and telecommunications.

There has been much misunderstanding about the specific ways in which the ADA will affect you. Therefore, it is important to state the "nots" of the ADA.

✓•The ADA does not impose on employers an obligation to incur costs in hiring members of the protected class, in this case people with disabilities. It is not another federally mandated benefits program, and it does not create a new civil rights statute that requires unequal treatment of equals. The legislation does not expand the size of the protected population of people who can only perform a job with an accommodation.

✓•The ADA does not expand the concept of discrimination to include employers who fail to hire these "less costly and qualified" individuals or who fail to make costly accommodations for them. It does not make firms incur costs that are unrelated to expected benefits, and it does not impose poorly defined obligations on employers. The ADA does not state that individuals need not even be disabled in their limited work ability to secure the full protections of the legislation.

•The ADA is not a budget spending program in-

creasing job costs, inhibiting job information, and it does not produce an undesirable distribution of gainers and losers.

The ADA was passed by the US Senate in September 1989 and by the House of Representatives in July 1990. President George Bush signed the ADA on July 26, 1990 on the South Lawn of the White House before more than 2,000 people with disabilities, members of Congress, and the US Cabinet.

PURPOSES AND FINDINGS

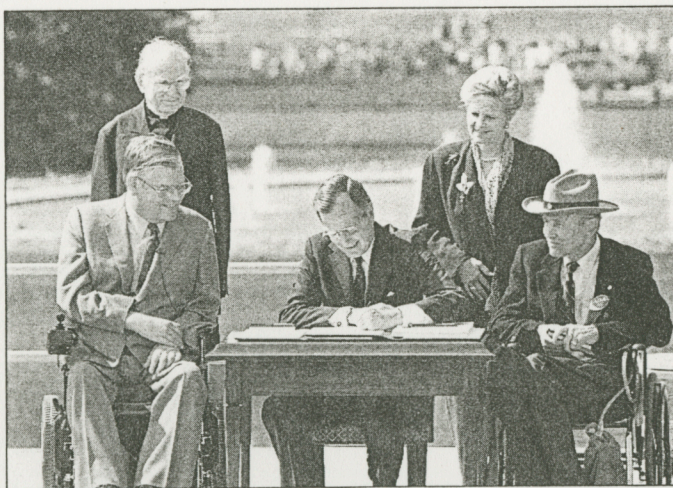
✓What were the reasons for passing the ADA?

While debating the law, Congress learned the following facts on the history of the treatment toward people with disabilities. For example, 43 million Americans have one or more physical or mental disability, and discrimination against them is a serious and pervasive problem. Since the numbers of people with disabilities are growing as the population lives longer, this segment of the population will grow larger.

✓ Discrimination, the country and Congress were told, persists in employment, housing, public accommodations, education, transportation, communication, recre-

ation, institutionalization, health services, voting, and access to public services. Unlike people who have been discriminated against because of race, sex, national origin, religion, or age, people with disabilities often lack legal resources to redress discrimination.

Congress also learned that discrimination includes exclusion or denial of benefits and services. The barri-



President Bush signs the Americans With Disabilities Act of 1990. Standing, left to right: Reverend Harold Wilkie; and Sandra Parrino, National Council on Disability. Seated, left to right: Evan Kemp, chairman, Equal Employment and Opportunity Commission; President Bush; Justin Dart, chairman, President's Committee on Employment of People With Disabilities.

ers affecting people with disabilities are based on false assumptions, generalizations, patronizing attitudes, ignorance, irrational fears, and pernicious mythologies. The US Commission on Civil Rights concluded that discrimination among people with disabilities exists in education and jobs.

A Louis Harris poll found that people with disabilities are uniquely underprivileged, are poorer than the rest of the population, are less educated, have less of a social life than most Americans, have fewer possessions, and have a lower level of satisfaction.

The poll also revealed a continuing existence of unfair and unnecessary discrimination and prejudice, which denies people with disabilities the opportunities to compete on an equal basis with nondisabled people and to pursue these opportunities. The cost to the US in maintaining their dependency is in the hundreds of billions of dollars annually. Congress also learned that federal and state laws were inadequate to address discrimination faced by people with disabilities.

CONGRESSIONAL INTENTION

After learning about the deplorable treatment of people with disabilities, Congress wrote the ADA to provide:

- A clear and comprehensive national mandate for the elimination of discrimination against people with disabilities.

- Clear, strong, consistent, enforceable standards addressing discrimination against people with disabilities.

- Guarantees that the federal government play a central role in enforcing the standards established in ADA on behalf of people with disabilities.

- Its power to enforce the 14th Amendment and to regulate commerce to address discrimination faced daily by people with disabilities.

Since the 1960s, the ADA is the latest in a series of laws benefiting people with disabilities. Other laws have been passed in the areas of education, employment, health, housing, income maintenance, nutrition, civil rights, social services, transportation, and vocational rehabilitation. The most noted legislation is the Rehabilitation Act of 1973. ADA is patterned after Section 504 of that act.

These laws have worked well when they have been adhered to by recipients of federal funds. In fact, companies have found these laws easy to comply with. These companies did not oppose the ADA because their experiences with employing people with disabilities have been positive.

AMERICAN BUSINESSES

Historically, businesses have placed the responsibility of the employment of people with disabilities on the state and federal governments. The largest employer of people with disabilities, for example, is the federal government.

✓ In the last 10 years, the advent of personal computers and the desire of people with disabilities to be employed in businesses have resulted in tens of thousands of people working in the private sector. IBM, Xerox, Kurzweil, AT&T, Boeing, and Digital Equipment employ many people with disabilities. At the same time, thousands of small-to-medium size companies have employed people with disabilities, and they have not been broken financially or even unduly burdened.

“Providing reasonable accommodations is not

necessary for every employee with a disability,” says William Sellers, executive director of personnel for a major accounting firm in Chicago. His company employs five people with disabilities — two are accountants, another is a lawyer, one is a receptionist, and one is a trainee. One accountant and the lawyer are visually impaired and use a variety of vision products. A second accountant has one arm and uses a voice recognition system. The receptionist uses an electric wheelchair. The trainee wears a hearing aid. Only the person with a hearing impairment requires telephone amplifiers to be attached to

the telephones as an accommodation.

A computer company in Boston, MA, employs three individuals who have a disability. One of them is blind, another one is mobility-impaired, and a third one has a severe speech difficulty. All of them design software. The company began re-

COMPLYING WITH THE LAW

Every employer with more than 15 employees will have to comply with the ADA within the next two to four years. There are groups of people with disabilities who have selected businesses, educational institutions, government agencies, transportation providers, telecommunications providers, unions, and other places to be test cases for ADA. Employers and transportation providers can eliminate these undue cases by:

- ✓ • Learning about the ADA. Copies of the ADA can be obtained from your Representative's and Senator's offices.

- ✓ • Providing seminars for employers on the ADA, particularly human resource managers.

- ✓ • Contacting individuals or organizations with a knowledge of technology, laws, and regulations relating to disability. Provide reasonable accommodations and ask them to assist you in preparing the workplace when you hire a person with a disability.

- ✓ • Begin thinking that a disabled person is a person with a disability, and that they are motivated and excellent workers.

- ✓ • Colleges and universities need to train their personnel development counselors on the ADA so they can explain to students with disabilities ways they can use the ADA to their benefit during interviews.

cruiting college students with disabilities five years ago.

"We have been very pleased with our efforts to recruit qualified people with or without disabilities. We have found that there are a lot of myths about people with disabilities that were based on fear and lack of education by personnel recruiters. The biggest myth of all is that a person with a disability can't work. With the computers, peripherals, and software on the market today, the most severely disabled person can be productive. Businesses have to be willing to learn that fact, particularly personnel managers," Jerry Rhome, a company spokesperson, says.

Another myth Rhome cites is the high cost of providing reasonable accommodations. One of the employees with a disability required a large table so he could put his low-vision product on it, and the company put the product on a drafting table. The other two people have not required any type of accommodations.

ADVANCED TECHNOLOGY HELPS

Employers have been creative in providing accommodations. For example, many have some of their employees trained in sign language. They have also utilized telecommunication devices for the deaf so an employee with a hearing impairment can communicate. Employers have used the services of organizations providing sign-language interpreters, and they have suggested that employees with hearing impairments learn to lip read.

Today, people who are blind have access to information because of talking computers, Braille computers, and other communications vehicles. Augmentative communications devices are used by teachers, lawyers, writers, engineers, scientists, and telephone operators. Paraplegics, quadriplegics, and many people who cannot use their hands to type on a keyboard are

producing documents through voice recognition systems.

"We, as a nation, spend nearly \$300 billion annually keeping people with disabilities out of the work force. This is an enormous cost to the nation. And one that we can not afford," President Bush told an audience of thousands of people when he signed the ADA.

ADA's requirements take into account the needs and situations of small businesses. Some of the major ways the ADA has been tailored to consider and make allowances for the needs of the small business operator are:

- Exemption for small employers with fewer than 25 employees for the first two years, and those with fewer than 15 after that.

- Undue hardship limitation. Among the factors to be considered in determining whether an undue hardship exists, the bill specifically lists "the overall size of a business of a covered entity with respect to the number of employees, number and type of facilities, and the size of the budget."

- The requirement of making employment accommodations varies in relation to the size and budget of an employer, with less being required of a smaller, less prosperous business.

- Readily achievable limits on barrier removal in existing public accommodations.

PUBLIC ACCOMMODATION

The ADA regulates private establishments considered public accommodations such as restaurants, hotels, retail stores, theaters, zoos, libraries, parks, schools, drug stores,

museums, gym halls, and offices.

Providing escalators, installing pressurized doors, moving tables for customers, telling a customer there is a telephone call, assisting a fellow employee get into a taxicab, lowering a step on a bus so someone can ride it, automating a work environment, seating a

FOR FURTHER INFORMATION

For additional information on complying with the ADA or making reasonable accommodations, contact the following groups and individuals:

- Applied Information Group Limited, 6819 Elm Street, McLean, VA 22101-3813; 703/448-1862, has compiled a database on federal laws passed to protect people with disabilities in education, employment, health, housing, income maintenance, nutrition, civil rights, social services, transportation, vocational rehabilitation, and miscellaneous areas. In addition, it has compiled a database containing a brief synopsis of more than 50 court decisions since 1984 on education, housing, civil rights, transportation, etc. The copyrighted disk sells for \$100.

- Dr. Joseph Comi, Dean, IRCS, Edinboro University of PA, Edinboro, PA 16444; 814/732-2000. He runs a workshop on the ADA.

- Job Accommodations Network, West Virginia University, 809 Allen Hall, PO Box 6122, Morgantown, WV 26506-6122.

- Ron Hatley, AT&T Special Needs Center, 2001 Route 46, Parsippany, NJ 07054; 201/299-7088 or 800/233-1222. The center assists companies interested in learning how to utilize technology for people with disabilities.

- IBM National Support Center for Persons with Disabilities, IBM Educational Systems, 4111 Northside Parkway, Atlanta, GA 30327; 800/IBM-2133. The center assists companies interested in learning how to accommodate people with disabilities.

- National Rehabilitation Information Center (NARIC), 8455 Colesville Road, Suite 935, Silver Spring, MD 20910; 800/346-2742. NARIC has information on products for employing people with disabilities.



customer in a special place, and making access into a store easier are examples of providing daily accommodations for consumers. These actions are performed voluntarily because the owner believes they will help his business grow.

By providing public accommodations to people with disabilities, businesses are extending their services and potentially increasing their businesses. The ADA, however, does not place enormous costs on businesses to accommodate people with disabilities. For example, new buildings are completed with accessibility features for people who are mobility impaired. In fact, while public places are required by the ADA to remove architectural and communication barriers in existing facilities, these requirements are necessary only if it is "readily achievable" to do so.

The ADA requires accessibility in new construction consistent with overwhelming evidence that the costs of accessibility at the design and construction stage are minimal. To protect small businesses, the ADA has an exception to accessibility requirements with regard to small buildings. For example, for buildings that are less than three stories high or that have less than 3,000 square feet per story (no matter how many stories), no elevator is required either for new construction or for renovation projects.

The ADA also does not require total or universal accessibility even in regard to newly constructed facilities. The "readily accessible to and usable by" standard drawn from previous statutes and regulations imposes accessibility obligations that are tailored to the type and use of each of a particular facility. The ADA does not require that all parking spaces, bathrooms, stalls within bathrooms, etc. be accessible — only a reasonable number, depending on such factors as their location and number.

Transportation of people with disabilities has been an issue that has been fought for decades through legislation and in the courts. The cost to lift equip a bus runs less than \$10,000. Some transportation systems cost even less. In areas such as Seattle and San Francisco, where accessible busing has been available for years, people with disabilities have proven to be daily commuters and are working in large numbers.

Recent court decisions and regulations issued by the US Department of Transportation favor mainline accessible transportation for people with mobility impairments. Exceptions are taxicabs and cars used to provide services. Taxi companies are discriminatory if drivers refuse to serve persons with disabilities. Effec-

tive dates for compliance to the ADA are 18-30 months for most places, intercity buses within six years for large companies; and seven years for smaller buses.

TELECOMMUNICATIONS SERVICES

The establishment of telecommunications relay services for individuals with speech or hearing impairments as provided for in the bill is an accommodation to the needs of small businesses. The system was created to permit persons using telecommunications devices for the deaf (TDDs) to contact businesses through relay system in lieu of requiring all businesses to have TDDs. This will permit customers to call to make reservations, purchase tickets, and check on store hours or show times. The regulations for this section must be completed within one year after the law is enacted. A significant part of this regulation will call for telecommunications services to people with disabilities to be functional 24 hours daily, seven days weekly.

The law opens doors for more than 43 million people with disabilities in employment, public services, public accommodations, transportation, and telecommunications.

Reactions from the business and legislative communities have been vociferous. An IBM spokesperson says, "IBM is pleased that the Americans with Disabilities Act was passed. For more than 60 years, IBM has employed people with disabilities and lauds their abilities."

Jay Rochlin, formerly executive director of the President's Committee on Employment of People With Disabilities, notes: "The ADA represents the coming of a new era in the lives of people with disabilities. Their energies and talents provide American businesses with a pool of qualified workers who will add to the strength of the country."

Congressman Stenny Hoyer (D-MD), who led the house effort on the bill, comments, "For 26 years we have continued to allow unthinking discrimination. The ADA offers simple justice to the millions who have literally been locked out of the mainstream of society."

Senator Tom Harkin (D-IA), who led the Senate effort, says: "The ADA is the culmination of our country's promise to extend opportunities to all of its citizens. We are now entering into a new era for the country and for people with disabilities. This bill sends the world a clear and unequivocal message that people with disabilities are entitled to be judged on the basis of their abilities — and not on the basis of ignorance, fear, and prejudice."