MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2289

2001 SENATE TRANSPORTATION

SB 2289

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2289

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-2-01;2-8-01

Tape Number	Side A	Side B	Meter #
2	x		15.7-30.6
2-8-01 1	x		22.6-27.3
Committee Clerk Signature			

Minutes:SB 2289 relates to parking spaces for mobility-impaired individuals; and to provide a penalty.

Layton Freborg: (District 8; Supports) See attached. States that the Federal Act requires blue lines and the State requires a sign for each space. What I want is a fine for the infraction of not putting up the signs.

Cal Swanson: (Desmond, ND; Supports) States that if there is no sign, the blue curb is often covered with snow so able bodies park there. If you don't put up a sign, there should be a fine.

Senator Stenehjem: Who gives the "official notification" as stated in proposed bill?

Senator Espegard: Law enforcement officers shall enforce this.

Hearing closed.

Committee reopened on SB 2289 on 2-8-01.

Senator O'Connell: The fine's too high.

Senator Stenehjem: It doesn't mandate a $500 fine.

Senator Espegard moves to Do Pass. Seconded by Senator Trenbeath. Roll call taken. 4-2-0.

Carrier is Senator Stenehjem.

Committee closed.

Date: 2-8
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2289

Senate **Transportation** Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Espegard Seconded By Trenbeath

	Senators	Yes	No	Senators	Yes	No
1	**Senator Stenehjem,** Chairman	X		**Senator Bercier** 6	X	
2	**Senator Trenbeath,** Vice-Chair	X		**Senator O'Connell** 5		X
4	**Senator Espegard**	X				
3	**Senator Mutch**		X			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Stenehjem

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2289: Transportation Committee (Sen. Stenehjem, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2289 was placed on the Eleventh order on the calendar.

2001 HOUSE TRANSPORTATION

SB 2289

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2289

House Transportation Committee

☐ Conference Committee

Hearing Date March 2, 2001

Tape Number	Side A	Side B	Meter #
1		x	398
Committee Clerk Signature	Lauren L. Ford		

Minutes: Rep. Pollert - Vice Chairman opened the hearing on SB 2289: A BILL for an Act to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to parking spaces for mobility-impaired individuals; and to provide a penalty.

Sen . Freborg: I am Layton Freborg, State Senator from District 8. SB 2289 changes nothing in law. It doesn't change the requirements for handicap parking. First, requirements for handicap parking is a federal law. The federal government requires parking spaces and the state law kicks in. The spaces must be indicated by blue paint at each reserved space and each space must be indicated by an official sign. The sign say that the fine (violation) is $100. There is no penalty for not putting up the sign.

Rep. Jensen: (592) Why do we not have a penalty?

Sen Freborg: Because they can't force them to put the sign up. If you look it up you will see that it is an infraction and only after 60 days notice -- that is after they have been given the warning

they have 60 days to comply. The biggest problem, especially in rural areas is that they use the blue paint and don't put the sign up.

Rep. Thoreson: (693) Do they have to have the blue paint in a gravel parking lot also?

Sen. Freborg. No -- everyone does not have to have a parking space. The federal law says that one must be readily achieveable or otherwise everyone else must provide one or more. Remember that North Dakota does not require you to have a parking space. The federal law does. We require the signs if you have the space but their is not space. If you don't put the signs up there is no penalty.

Kell Swanson: I am from Esmond. I am here to support SB 2289. There are businesses here that refuse to put up the signs. They have only the blue paint painted on the pavement. In the winter it is covered. If there were signs it would more readily identify these areas which should be reserved for the handicapped. We feel that first the spaces should be, then the signs and the penalty. I ask that you give this a do pass. It is important.

Rep. Thorpe: (1086) Why is this drafted like this --? A private entity ?

Kell Swanson: I think what they are talking about are private businesses.

Sen Freborg: Yes, it is definitely private businesses. Under the federal law all you need is the blue lines. If you are a small business and have a parking place within 7 paces from the front door you are not required to have a handicapped parking spot. The private entity does refer to a private business.

Rep. Thorpe: (1233) My question was whether this suffices. It is a little confusing because if it is public business owned by a individual.

Rep. Hawken: (1278) So what we are doing here is that it would be $100 fine for a business that did not post a sign?

Sen. Freborg: No -- its an infraction. I believe that is up to $500.

Rep. Price: (1418) The last time we put in a penalty for parking in a handicapped space the judges weren't applying the fine that made it worth the while for enforcement people -- because the infraction is a wide open amount they can set it -- maybe we have set a specific amount like had to do on the phones?

Sen. Freborg: You mean so that the infraction that -- I would not be opposed to that. Law enforcement needs something to use as a lever because there is not penalty.

Rep. Price: (1501) I think we need to look a something to make people stop parking.

? (unidentified voice) Excuse me but I think the cost of a sign is $18 according to the DOT. Darrell Farland. I am testifying today as a private citizen. I have copies of this section of the law. (a copy of his handout is attached). I am happy some body brought this bill because they recognize that this isn't a handicapped bill -- it is about the mobility impaired. Over the years we have tried several things. At one time we called it a fine and because judge --well then we called it a fee. My question on this particular amendment is who is going to enforce it? It is a constant problem with law enforcement is that if you can't see the blue paint -- or -- there is no sign -- if you look at section 9, it says it must be marked with blue paint and signs. If it's not there, the attorney says sorry it is not appropriately marked. We some how need to get them to put their paint down and their sign but to do it in the manner prescribed by our DOT, the federal law, and our own state law. I am also going to suggest that you put both 'public' or 'private'. Keith (Kiser

- from the DOT in the audience) I don't know how many parking permits we are up to now -- (answer - 40,000).

Rep. Mahoney: (2376) How many spaces are required? In North Dakota are some businesses providing more spaces than required?

Darrell Farland: Only if they are a medical facility and that makes sense. But if it like here at the capital they meet the requirements. There is a formula to go by but I don't have it here right now.

Rep. Mahoney: (2473) What I am looking at - say grocery stores-- down in south Bismarck, they have a lot of spaces -- I am wondering how many of those are required and how many of those are voluntary.

Rep. Mahoney: (2510) Where there are more marked and signed places and those businesses are required with a penalty to put up these spaces -- it may have an adverse effect of less spaces in some areas -- if they are threatened with a violation if the marking isn't keep up?

Darrell Farland: If you look at section 9 --

Rep. Mahoney: (2584) I know understand that -- I have seen there are spaces that aren't compliance -- you couldn't enforce them because they don't have sign -- they are left open nonetheless but they may disappear rather than put a sign.

Darrell Farland: What you are saying is that many places are going to provide the minimum-- I say there a lot of them are doing that now.

Rep. Mahoney: (2768) Have you seen any improvement since we put that $100 penalty notice on the signs?

Darrell Farland: No -- who's going to enforce that.

Rep. Mahoney: Did the availability of spaces improve after we put that $100 notice on signs?

Kell Swanson: I realize that I have talked to only one county sheriff, but that sheriff readily admits -- if the signs are up and there is a law that could cause a penalty, he would enforce that.

Sen. Freborg: Just for the committees information - - I am doing this from memory but according to ADA -- If you have 2 spots, one spot has to be handicap - I believe it is if you have 25 - - it is one spot and from there on up it is one for each additional 25 -- I know that is not 100% accurate because that is not what it says but it works out that way. So, if you have two spots-- one has to be handicap.

Rep. Pollert - Vice Chairman: (3066) There was no one appearing to testify as opposed to SB 2289. There were no others wishing to testify. Rep. Pollert closed the hearing on further testimony.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2289 B

House Transportation Committee

☐ Conference Committee

Hearing Date March 15, 2001

Tape Number	Side A	Side B	Meter #
3		x	501
Committee Clerk Signature			

Minutes:Rep. Weisz - Chairman opened the discussions for action SB 2289.

Rep. Mahoney: (485) I would like to move that on page 1, line 7 replace " A Private" with and " An". And page 1, line 8 remove the word " private".

Rep. Thoreson: (501) I second the motion.

Motion carried on a voice vote.

Rep. Hawken: (974) I move a 'Do Pass as Amended' for SB 2289.

Rep. Kelsch: I second the motion.

On a roll call vote, motion carried. 11 yeas 2 nays 0 absent.

Rep. Kelsch was designated to carry SB 2289 on the floor. (1165)

10720.0101
Title.0200

Adopted by the Transportation Committee
March 15, 2001

VR
3/16/01

HOUSE AMENDMENTS TO SB 2289 HOUSE HTRN 3-16-01

Page 1, line 7, replace "A private" with "An"

Page 1, line 8, remove "private"

Renumber accordingly

Date: 3/15
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2289

House Transportation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Hawken Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman		✓	Howard Grumbo	✓	
Chet Pollert - Vice Chairman	✓		John Mahoney	✓	
Al Carlson		✓	Arlo E. Schmidt	✓	
Mark A. Dosch	✓		Elwood Thorpe	✓	
Kathy Hawken	✓				
Roxanne Jensen	✓				
RaeAnn G. Kelsch	✓				
Clara Sue Price	✓				
Dan Ruby	✓				
Laurel Thoreson	A				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Kelsch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 16, 2001 1:49 p.m.

Module No: HR-46-5889
Carrier: R. Kelsch
Insert LC: 10720.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2289: Transportation Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2289 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "A private" with "An"

Page 1, line 8, remove "private"

Renumber accordingly

CONT

NEXT FICHE

2001 TESTIMONY

SB 2289

SB2289

9. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must comply with the requirements of the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by an official sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by mobility-impaired persons. In that case, each temporarily reserved space must be indicated by a sign or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.

NDCC
39-01-15

APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

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APPENDIX A1

1. PURPOSE.

This document sets guidelines for accessibility to places of public accommodation and commercial facilities by individuals with disabilities. These guidelines are to be applied during the design, construction, and alteration of such buildings and facilities to the extent required by regulations issued by Federal agencies, including the Department of Justice, under the Americans with Disabilities Act of 1990.

The technical specifications 4.2 through 4.35, of these guidelines are the same as those of the American National Standard Institute's document A117.1-1980, except as noted in this text by italics. However, sections 4.1.1 through 4.1.7 and sections 5 through 10 are different from ANSI A117.1 in their entirety and are printed in standard type.

The illustrations and text of ANSI A117.1 are reproduced with permission from the American National Standards Institute. Copies of the standard may be purchased from the American National Standards Institute at 1430 Broadway, New York, New York 10018.

2. GENERAL.

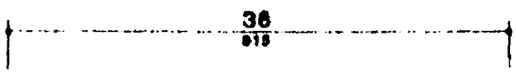
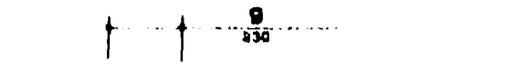
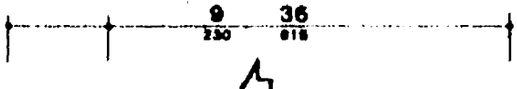
2.1 Provisions for Adults. *The specifications in these guidelines are based upon adult dimensions and anthropometrics.*

2.2* Equivalent Facilitation. *Departures from particular technical and scoping requirements of this guideline by the use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility.*

3. MISCELLANEOUS INSTRUCTIONS AND DEFINITIONS.

3.1 Graphic Conventions. Graphic conventions are shown in Table 1. Dimensions that are not marked minimum or maximum are absolute, unless otherwise indicated in the text or captions.

Table 1
Graphic Conventions

Convention	Description
	Typical dimension line showing U.S. customary units (in inches) above the line and SI units (in millimeters) below
	Dimensions for short distances indicated on extended line
	Dimension line showing alternate dimensions required
	Direction of approach
max	Maximum
min	Minimum
	Boundary of clear floor area
℄	Centerline

4. ACCESSIBLE ELEMENTS AND SPACES: SCOPE AND TECHNICAL REQUIREMENTS.

4.1 Minimum Requirements

4.1.1* Application.

(1) General. All areas of newly designed or newly constructed buildings and facilities required to be accessible by 4.1.2 and 4.1.3 and altered portions of existing buildings and facilities required to be accessible by 4.1.6 shall comply with these guidelines, 4.1 through 4.35, unless otherwise provided in this section or as modified in a special application section.

(2) Application Based on Building Use. Special application sections 5 through 10 provide additional requirements for restaurants and cafeterias, medical care facilities, business and mercantile, libraries, accessible transient lodging, and transportation facilities. When a building or facility contains more than one use covered by a special application section, each portion shall comply with the requirements for that use.

(3)* Areas Used Only by Employees as Work Areas. Areas that are used only as work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas. These guidelines do not require that any areas used only as work areas be constructed to permit maneuvering within the work area or be constructed or equipped (i.e., with racks or shelves) to be accessible.

(4) Temporary Structures. These guidelines cover temporary buildings or facilities as well as permanent facilities. Temporary buildings and facilities are not of permanent construction but are extensively used or are essential for public use for a period of time. Examples of temporary buildings or facilities covered by these guidelines include, but are not limited to: reviewing stands, temporary classrooms, bleacher areas, exhibit areas, temporary banking facilities, temporary health screening services, or temporary safe pedestrian passageways around a construction site. Structures, sites and equipment directly associated with the actual processes of construction, such as scaffolding, bridging, materials hoists, or construction trailers are not included.

(5) General Exceptions

(a) In new construction, a person or entity is not required to meet fully the requirements of these guidelines where that person or entity can demonstrate that it is structurally impracticable to do so. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance with the requirements of these guidelines is structurally impracticable, a person or entity shall comply with the requirements to the extent it is not structurally impracticable. Any portion of the building or facility which can be made accessible shall comply to the extent that it is not structurally impracticable.

(b) Accessibility is not required to (i) observation galleries used primarily for security purposes; or (ii) in non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or freight (non-passenger) elevators, and frequented only by service personnel for repair purposes; such spaces include, but are not limited to, elevator pits, elevator penthouses, piping or equipment catwalks.

4.1.2 Accessible Sites and Exterior Facilities: New Construction. An accessible site shall meet the following minimum requirements:

(1) At least one accessible route complying with 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones if provided, and public streets or sidewalks, to an accessible building entrance.

(2) At least one accessible route complying with 4.3 shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site.

(3) All objects that protrude from surfaces or posts into circulation paths shall comply with 4.4.

4.1.2 Accessible Sites and Exterior Facilities: New Construction

(4) Ground surfaces along accessible routes and in accessible spaces shall comply with 4.5.

(5) (a) If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces complying with 4.6 shall be provided in each such parking area in conformance with the table below. Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

Except as provided in (b), access aisles adjacent to accessible spaces shall be 60 in (1525 mm) wide minimum.

(b) One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated "van accessible" as required by 4.6.4. The vertical clearance at such spaces shall comply with 4.6.5. All such spaces may be grouped on one level of a parking structure.

EXCEPTION: Provision of all required parking spaces in conformance with "Universal Parking Design" (see appendix A4.6.3) is permitted.

(c) If passenger loading zones are provided, then at least one passenger loading zone shall comply with 4.6.6.

(d) At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 4.6 shall be provided in accordance with 4.1.2(5)(a) except as follows:

(i) Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility;

(ii) Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.

(e) Valet parking: Valet parking facilities shall provide a passenger loading zone complying with 4.6.6 located on an accessible route to the entrance of the facility. Paragraphs 5(a), 5(b), and 5(d) of this section do not apply to valet parking facilities.

(6) If toilet facilities are provided on a site, then each such public or common use toilet facility shall comply with 4.22. If bathing facilities are provided on a site, then each such public or common use bathing facility shall comply with 4.23.

For single user portable toilet or bathing units clustered at a single location, at least 5% but no less than one toilet unit or bathing unit complying with 4.22 or 4.23 shall be installed at each cluster whenever typical inaccessible units are provided. Accessible units shall be identified by the International Symbol of Accessibility.

EXCEPTION: Portable toilet units at construction sites used exclusively by construction personnel are not required to comply with 4.1.2(6).

(7) Building Signage. Signs which designate permanent rooms and spaces shall comply with 4.30.1, 4.30.4, 4.30.5 and 4.30.6. Other signs which provide direction to, or information about, functional spaces of the building shall comply with 4.30.1, 4.30.2, 4.30.3, and 4.30.5. Elements and spaces of accessible facilities which shall be identified by the International Symbol of Accessibility and which shall comply with 4.30.7 are:

(a) Parking spaces designated as reserved for individuals with disabilities;

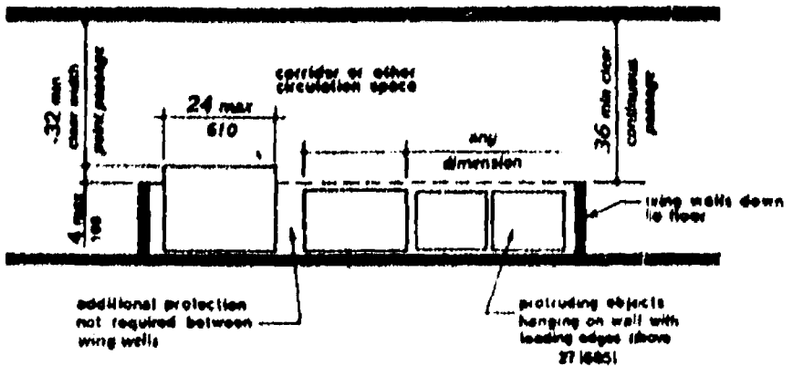


Fig. 8 (c)
Example of Protection around Wall-Mounted Objects and Measurements of Clear Widths

Fig. 8
Protruding Objects *(Continued)*

shall be beveled with a slope no greater than 1:2 *(see Fig. 7(d))*. Changes in level greater than 1/2 in (13 mm) shall be accomplished by means of a ramp that complies with 4.7 or 4.8.

4.5.3* Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing, or no cushion or pad; and have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. The maximum pile thickness shall be 1/2 in (13 mm) *(see Fig. 8(f))*. Exposed edges of carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall comply with 4.5.2.

4.5.4 Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than 1/2 in (13 mm) wide in one direction *(see Fig. 8(g))*. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel *(see Fig. 8(h))*.

4.6 Parking and Passenger Loading Zones.

4.6.1 Minimum Number. *Parking spaces required to be accessible by 4.1 shall comply with 4.6.2 through 4.6.5. Passenger loading zones required to be accessible by 4.1 shall comply with 4.6.5 and 4.6.6.*

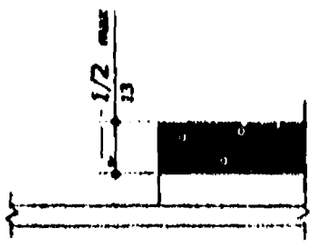


Fig. 8 (f)
Carpet Pile Thickness

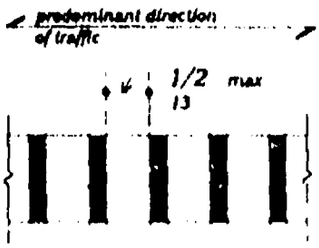


Fig. 8 (g)
Gratings

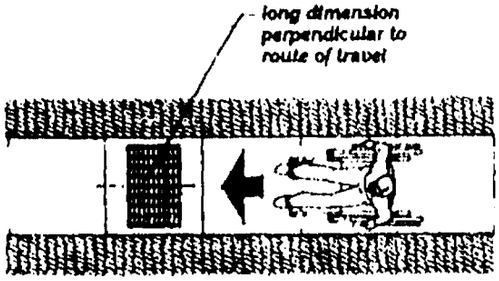


Fig. 8 (h)
Grating Orientation

4.6.2 Location. *Accessible parking spaces serving* a particular building shall be located on the shortest accessible route of travel *from adjacent parking* to an accessible entrance. *In parking facilities* that do not serve a particular building, *accessible parking* shall be located on the shortest accessible route *of travel* to an accessible pedestrian entrance of the parking facility. *In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.*

4.6.3* Parking Spaces. *Accessible* parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with 4.3. Two accessible parking spaces may share a common access aisle (see Fig. 9). Parked vehicle overhangs shall not reduce the clear width of an accessible route. *Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.*

4.6.4* Signage. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility (see 4.30.7). *Spaces complying with 4.1.2(5)(b) shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility.* Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

4.6.5* Vertical Clearance. *Provide minimum vertical clearance of 114 in (2895 mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 4.1.2(5)(b), provide minimum vertical clearance of 98 in (2490 mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).*

4.6.6 Passenger Loading Zones. Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (240 in) (6100 mm) long adjacent and parallel to the vehicle pull-up space (see Fig. 10). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with 4.7 shall be provided. *Vehicle standing spaces and access aisles shall be level with*

4.7 Curb Ramps

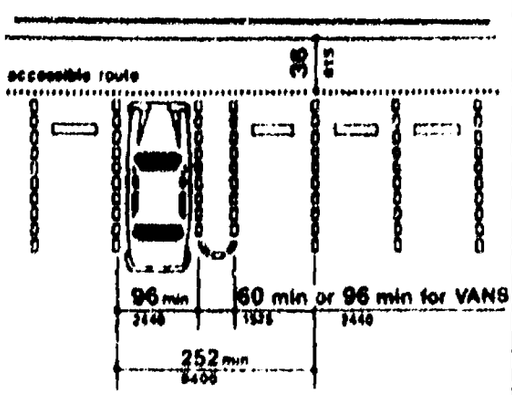


Fig. 9
Dimensions of Parking Spaces

surface slopes not exceeding 1:50 (2%) in all directions.

4.7 Curb Ramps.

4.7.1 Location. Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb.

4.7.2 Slope. Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. *Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.*

4.7.3 Width. The minimum width of a curb ramp shall be 36 in (915 mm), exclusive of flared sides.

4.7.4 Surface. Surfaces of curb ramps shall comply with 4.5.

4.7.5 Sides of Curb Ramps. If a curb ramp is located where pedestrians must walk across the ramp, *or where it is not protected by handrails or guardrails*, it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

4.7.6 Built-up Curb Ramps. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes (see Fig. 13).

4.7.7 *Detectable Warnings.* A curb ramp shall have a *detectable* warning complying with 4.29.2. *The detectable warning shall extend* the full width and depth of the curb ramp.

4.7.8 Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

4.7.9 Location at Marked Crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides (see Fig. 15).

4.7.10 Diagonal Curb Ramps. If diagonal (or corner type) curb ramps have returned curbs or other well-defined edges, such edges shall be parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have 48 in (1220 mm) minimum clear space as shown in Fig. 15(c) and (d). If diagonal curb ramps are provided at marked crossings, the 48 in (1220 mm) clear space shall be within the markings (see Fig. 15(c) and (d)). If diagonal curb ramps have flared sides, they shall also have at least a 24 in (610 mm) long segment of straight curb located on each side of the curb ramp and within the marked crossing (see Fig. 15(c)).

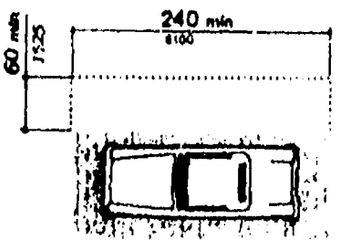


Fig. 10
Access Aisle at Passenger Loading Zones

pointed out that responsibility for "historic and cultural preservation" functions appropriately belongs with the Department of Interior rather than the Department of Education. The Department of Justice also agrees with the Department of Education that "museums" more appropriately should be delegated to the Department of Interior, and that "preschool and daycare programs" more appropriately should be assigned to the Department of Health and Human Services, rather than to the Department of Education. The final rule reflects these decisions.

The Department of Commerce opposed its listing as the designated agency for "commerce and industry, including general economic development, banking and finance, consumer protection, insurance, and small business". The Department of Commerce cited its lack of a substantial existing section 504 enforcement program and experience with many of the specific functions to be delegated. The Department of Justice accedes to the Department of Commerce's position, and has assigned itself as the designated agency for these functions.

In response to a comment from the Department of Health and Human Services, the regulation's category of "medical and nursing schools" has been clarified to read "schools of medicine, dentistry, nursing, and other health-related fields". Also in response to a comment from the Department of Health and Human Services, "correctional institutions" have been specifically added to the public safety and administration of justice functions assigned to the Department of Justice.

The regulation also assigns the Department of Justice as the designated agency responsible for all State and local government functions not assigned to other designated agencies. The Department of Justice, under an agreement with the Department of the Treasury, continues to receive and coordinate the investigation of complaints filed under the Revenue Sharing Act. This entitlement program, which was terminated in 1986, provided civil rights compliance jurisdiction for a wide variety of complaints regarding the use of Federal funds to support various general activities of local governments. In the absence of any similar program of Federal financial assistance administered by another Federal agency, placement of designated agency responsibilities for miscellaneous and otherwise undesignated functions with the Department of Justice is an appropriate continuation of current practice.

The Department of Education objected to the proposed rule's inclusion of the functional area of "arts and humanities" within its responsibilities, and the Department of Housing and Urban Development objected to its proposed designation as responsible for activities relating to rent control, the real estate industry, and housing code enforcement. The Department has deleted these areas from the lists assigned to the Departments of Education and Housing and Urban Development, respectively, and has added a new paragraph (c) to §35.190, which provides that the Department of Justice may assign responsibility for components of State or local governments that exercise responsibilities, regulate, or administer services, programs, or activities relating to functions not assigned to specific designated agencies by paragraph (b) of this section to other appropriate agencies. The Department believes that this approach will provide more flexibility in determining the appropriate agency for investigation of complaints involving those components of State and local governments not specifically addressed by the listings in paragraph (b). As provided in §§35.170 and 35.171, complaints filed with the Department of Justice will be referred to the appropriate agency.

Several commenters proposed a stronger role for the Department of Justice, especially with respect to the receipt and assignment of complaints, and the overall monitoring of the effectiveness of the enforcement activities of Federal agencies. As discussed above, §§35.170 and 35.171 have been revised to provide for referral of complaints by the Department of Justice to appropriate enforcement agencies. Also, language has been added to §35.190(a) of the final regulation stating that the Assistant Attorney General shall provide policy guidance and interpretations to designated agencies to ensure the consistent and effective implementation of this part.

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

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APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

APPENDIX B TO PART 36—PREAMBLE TO REGULATION ON NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES (PUBLISHED JULY 26, 1991)

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12188(b); Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

SOURCE: Order No. 1513-91, 56 FR 35592, July 26, 1991, unless otherwise noted.

Subpart A—General

§ 36.101 Purpose.

The purpose of this part is to implement title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§ 36.102 Application.

(a) *General.* This part applies to any—

(1) Public accommodation;

(2) Commercial facility; or

(3) Private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations.* (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to—

(i) A facility used as, or designed or constructed for use as, a place of public accommodation; or

(ii) A facility used as, or designed and constructed for use as, a commercial facility.

(c) *Commercial facilities.* The requirements of this part applicable to commercial facilities are set forth in subpart D of this part.

(d) *Examinations and courses.* The requirements of this part applicable to

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 public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples.* The term "auxiliary aids and services" includes—

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication.* A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) *Telecommunication devices for the deaf (TDD's).* (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TDD for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TDD for receiving or making telephone calls incident to its operations.

(e) *Closed caption decoders.* Places of lodging that provide televisions in five or more guest rooms and hospitals that provide televisions for patient use shall provide, upon request, a means for decoding captions for use by an individual with impaired hearing.

(f) *Alternatives.* If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§ 36.304 Removal of barriers.

(a) *General.* A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples.* Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities.* A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part.* (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in §§ 36.402 and 36.404–36.406 of this part for the element being altered. The path of travel requirements of § 36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps.* Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.

(f) *Selling or serving space.* The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations.* (1) The requirements for barrier removal under § 36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of § 36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that § 36.310 applies to rolling stock and other conveyances.

§ 36.305 Alternatives to barrier removal.

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery;

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations;

(c) *Multiscreen cinemas.* If it is not readily achievable to remove barriers to provide access by persons with mobility impairments to all of the theaters of a multiscreen cinema, the cinema shall establish a film rotation schedule that provides reasonable access for individuals who use wheelchairs to all films. Reasonable notice shall be provided to the public as to the location and time of accessible showings.

§ 36.306 Personal devices and services.

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§ 36.307 Accessible or special goods.

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked goods, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§ 36.308 Seating in assembly areas.

(a) *Existing facilities.* (1) To the extent that it is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§ 36.309 Examinations and courses.

(a) *General.* Any private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary

series of related projects, housing five or more sales or rental establishments. For purposes of this section, places of public accommodation of the types listed in paragraph (5) of the definition of *place of public accommodation* in §36.104 are considered sales or rental establishments. The facility housing a *shopping center or shopping mall* only includes floor levels housing at least one sales or rental establishment, or any floor level designed or intended for use by at least one sales or rental establishment.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

APPENDIX TO §36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application, General	36.102(b)(3): public accommodations. 36.102(c): commercial facilities 36.102(e): public entities. 36.103 (other laws) 36.401 ("for first occupancy"). 36.402(a) (alterations).	1, 2, 3, 4.1.1.
Definitions	36.104: commercial facilities, facility, place of public accommodation, private club, public accommodation, public entity, religious entity.	3.5 Definitions, including: addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(ii), 36.404(a)(2): shopping center or shopping mall. 36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider. 36.402: alteration, usability. 36.402(c): to the maximum extent feasible.	4.1.6(j), technical infeasibility.
New Construction:		
General	36.401(a) General	4.1.2.
	36.401(b) Commercial facilities in private residences. 36.207 Places of public accommodation in private residences.	4.1.3.
Work Areas		4.1.1(3).
Structural Impracticability.	36.401(c)	4.1.1(5)(a).
Elevator Exemption.	36.401(d)	4.1.3(5).
	36.404	
Other Exceptions.		4.1.1(5), 4.1.3(5) and throughout.
Alterations. General.	36.401(b): commercial facilities in private residences.	
	36.402	4.1.6(1).

	Subparts A–D	ADAAG
Alterations Affecting an Area Containing A Primary Function; Path of Travel, Disproportionality.	36.403	4.1.6(2).
Alterations: Special Technical Provisions.		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic Preservation.	36.405	4.1.7.
Technical Provisions.		4.2 through 4.35.
Restaurants and Cafeterias.		5
Medical Care Facilities.		6.
Business and Mercantile.		7.
Libraries		8.
Transient Lodging (Hotels, Homeless Shelters, Etc.).		9.
Transportation Facilities.		10.

[Order No. 1513-91, 56 FR 35592, July 26, 1991, as amended by Order No. 1836-94, 59 FR 2675, Jan. 18, 1994]

§ 36.407 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 2001.

[Order No. 2191-98, 63 FR 64837, 64838, Nov. 23, 1998]

§§ 36.408—36.499 [Reserved]

Subpart E—Enforcement

§ 36.501 Private suits.

(a) *General.* Any person who is being subjected to discrimination on the basis of disability in violation of the Act or this part or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303 of the Act or subpart D of this part may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in the civil action if the Attorney General or his or her designee certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security. Nothing in this section shall require a person with a disability to engage in a futile gesture if the person has actual notice that a person or organization covered by title III of the Act or this part does not intend to comply with its provisions.

(b) *Injunctive relief.* In the case of violations of § 36.304, §§ 36.308, 36.310(b), 36.401, 36.402, 36.403, and 36.405 of this part, 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 the Act or this part. 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 the Act or this part.

§ 36.502 Investigations and compliance reviews.

(a) The Attorney General shall investigate alleged violations of the Act or this part.

(b) Any individual who believes that he or she or a specific class of persons has been subjected to discrimination prohibited by the Act or this part may request the Department to institute an investigation.

(c) Where the Attorney General has reason to believe that there may be a violation of this part, he or she may initiate a compliance review.

§ 36.503 Suit by the Attorney General.

Following a compliance review or investigation under § 36.502, or at any other time in his or her discretion, the Attorney General may commence a civil action in any appropriate United States district court if the Attorney

General has reasonable cause to believe that—

(a) Any person or group of persons is engaged in a pattern or practice of discrimination in violation of the Act or this part; or

(b) Any person or group of persons has been discriminated against in violation of the Act or this part and the discrimination raises an issue of general public importance.

§ 36.504 Relief.

(a) *Authority of court.* In a civil action under § 36.503, the court—

(1) May grant any equitable relief that such court considers to be appropriate, including, to the extent required by the Act or this part—

(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;

(2) May award other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(3) 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 occurring before September 29, 1999, and not exceeding $55,000 for a first violation occurring on or after September 29, 1999; and

(ii) Not exceeding $100,000 for any subsequent violation occurring before September 29, 1999, and not exceeding $110,000 for any subsequent violation occurring on or after September 29, 1999.

(b) *Single violation.* For purposes of paragraph (a) (3) of this section, 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.

(c) *Punitive damages.* For purposes of paragraph (a)(2) of this section, the terms "monetary damages" and "such other relief" do not include punitive damages.

(d) *Judicial consideration.* In a civil action under § 36.503, 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 part 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.

[Order No. 1513–91, 56 FR 35592, July 26, 1991, as amended by Order No. 2249–99, 64 FR 47103, Aug. 30, 1999]

§ 36.505 Attorneys fees.

In any action or administrative proceeding commenced pursuant to the Act or this part, 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.

§ 36.506 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, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Act and this part.

§ 36.507 Effect of unavailability of technical assistance.

A public accommodation or other private entity shall not be excused from compliance with the requirements of this part because of any failure to receive technical assistance, including any failure in the development or dissemination of any technical assistance manual authorized by the Act.

§ 36.508 Effective date.

(a) *General.* Except as otherwise provided in this section and in this part, this part shall become effective on January 26, 1992.

(b) *Civil actions.* Except for any civil action brought for a violation of section 303 of the Act, no civil action shall be brought for any act or omission described in section 302 of the Act that occurs—

(1) Before July 26, 1992, against businesses with 25 or fewer employees and gross receipts of $1,000 000 or less.

(2) Before January 26, 1993, against businesses with 10 or fewer employees and gross receipts of $500,000 or less.

(c) *Transportation services provided by public accommodations.* Newly purchased or leased vehicles required to be accessible by § 36.310 must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the solicitation for the vehicle is made after August 25, 1990.

§§ 36.509—36.599 [Reserved]

Subpart F—Certification of State Laws or Local Building Codes

§ 36.601 Definitions.

Assistant Attorney General means the Assistant Attorney General for Civil Rights or his or her designee.

Certification of equivalency means a final certification that a code meets or exceeds the minimum requirements of title III of the Act for accessibility and usability of facilities covered by that title.

Code means a State law or local building code or similar ordinance, or part thereof, that establishes accessibility requirements.

Model code means a nationally recognized document developed by a private entity for use by State or local jurisdictions in developing codes as defined in this section. A model code is intended for incorporation by reference or adoption in whole or in part, with or without amendment, by State or local jurisdictions.

Preliminary determination of equivalency means a preliminary determination that a code appears to meet or exceed the minimum requirements of title III of the Act for accessibility and usability of facilities covered by that title.

Submitting official means the State or local official who—

(1) Has principal responsibility for administration of a code, or is authorized to submit a code on behalf of a jurisdiction; and

(2) Files a request for certification under this subpart.

§ 36.602 General rule.

On the application of a State or local government, the Assistant Attorney General may certify that a code meets or exceeds the minimum requirements of the Act for the accessibility and usability of places of public accommodation and commercial facilities under this part by issuing a certification of equivalency. At any enforcement proceeding under title III of the Act, such certification shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of title III.

§ 36.603 Filing a request for certification.

(a) A submitting official may file a request for certification of a code under this subpart.

(b) Before filing a request for certification of a code, the submitting official shall ensure that—

(1) Adequate public notice of intention to file a request for certification, notice of a hearing, and notice of the location at which the request and materials can be inspected is published within the relevant jurisdiction;

(2) Copies of the proposed request and supporting materials are made available for public examination and copying at the office of the State or local agency charged with administration and enforcement of the code; and

(3) The local or State jurisdiction holds a public hearing on the record, in the State or locality, at which the public is invited to comment on the proposed request for certification.

(c) The submitting official shall include the following materials and information in support of the request:

(1) The text of the jurisdiction's code; any standard, regulation, code, or other relevant document incorporated by reference or otherwise referenced in the code; the law creating and empowering the agency; any relevant manuals, guides, or any other interpretive information issued that pertain to the