



# Improving Access by Removing Barriers

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Your Policy, Training and Technical Resource | [disability.state.mn.us](http://disability.state.mn.us)

# Prevalence of Disability

According to the U.S. Census Bureau

- 21% of the population 15 years of age and older has a disability
- 11.9 % of the population 15 years of age and older have an ambulatory disability – that is about 35 million people
- 52% of the population 65 years of age and older has a disability

# ADA Requirements

- Landlord and tenant have responsibilities to remove barriers
- Either or both may be sued
- Under title III of the ADA a place of public accommodation is a facility whose operations affect commerce and fall within a least one of the 12 categories laid out in the ADA
- ADA requires that businesses remove architectural barriers in existing facilities when it is “readily achievable” to do so

- No grandfather provision
  - But there is a Safe Harbor provision (next slide)
- ADA is different from the state building code
- Use the state building code as your access standard
- Use WCAG 2.0 AA as your digital access standard
- Use the ADA to determine when to make changes

# Title III Safe Harbor Barrier Removal

- If existing elements comply with ADA 1991 Accessibility Guidelines, they are “safe” from further barrier removal under any stricter or new requirements
- Applies element-by-element
- Applies only if element is not altered

# Recent State Law Change

- Gives businesses 60 days notice (363A.331) under MN Human Rights Act (HRA)
- May not demand money in notification letter
- Gives businesses an “affirmative defense” if you have a barrier removal plan in place and are taking steps to implement it
- Shifted many MN lawsuits to federal court under the ADA not HRA
- Amending the ADA will be much more difficult...focus on removing barriers so there is no need for a lawsuit in the first place

- Building Access Short Survey
- Quick Reference Guides
  - Parking
  - Entrance
  - Bathroom
- Contact Information for Accessibility Specialists
- The guy talking right now

# Tax Credit and Deduction

- Internal Revenue Service (IRS) Code includes a Disabled Access Credit (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year
- Section 190 of the IRS Code provides a tax deduction for businesses of all sizes for costs incurred in removing architectural barriers in existing facilities or alterations – the maximum deduction is \$15,000 per year



- ADA Checklist for Existing Facilities <http://www.ada.gov/racheck.pdf>
- Minnesota Council on Disability (MCD) 651-361-7800  
[www.disability.state.mn.us](http://www.disability.state.mn.us)
- ADA Minnesota 651-603-2015 [www.adaminnesota.org](http://www.adaminnesota.org)
- Great Lakes ADA Center 800-949-4232 [www.adagreatlakes.org](http://www.adagreatlakes.org)
- US Department of Justice 800-514-0301 (V) <http://www.ada.gov>
- US Access Board 800-872-2253 <http://www.access-board.gov>

# Thank You

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