



Americans with Disabilities Act – Website Compliance Tip Sheet

An emerging concern for small businesses is whether their websites are compliant with the Americans with Disabilities Act (“ADA”). In recent years, opportunistic plaintiffs and attorneys have searched for small businesses with noncompliant websites, in order to file lawsuits. NFIB has previously [discussed](#) this alarming trend. Without clear guidance from the Department of Justice (DOJ) or the Supreme Court, here is what small businesses should know about ADA website compliance.

Title III

- Section 12182(a) of the ADA prohibits discrimination by public accommodations:
 - “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.”

- Section 12181(7) of the ADA defines “Public accommodation” as:
 - (A) “[A]n inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
 - (B) a restaurant, bar, or other establishment serving food or drink;
 - (C) a motion picture house, theater, concert hall, stadium, or other place of exhibition entertainment;
 - (D) an auditorium, convention center, lecture hall, or other place of public gathering;
 - (E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
 - (F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer,

- pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- (G) a terminal, depot, or other station used for specified public transportation;
- (H) a museum, library, gallery, or other place of public display or collection;
- (I) a park, zoo, amusement park, or other place of recreation;
- (J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- (K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- (L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.”
- The current text of the full statute can be found [here](#).

United States Department of Justice

- For over 20 years, the DOJ’s position has been that the ADA includes websites for places of public accommodation.
- In response to a congressional inquiry, the DOJ reaffirmed this position in a 2018 [letter](#) by Assistant Attorney General Stephen Boyd.
 - “The Department first articulated its interpretation that the ADA applies to public accommodations’ websites over 20 years ago. This interpretation is consistent with the ADA’s title III requirement that the goods, services, privileges, or activities provided by places of public accommodation be equally accessible to people with disabilities.”
 - “Absent the adoption of specific technical requirements for websites through rulemaking, public accommodations have flexibility in how to comply with the ADA’s general requirements of nondiscrimination and effective communication. Accordingly, noncompliance with a voluntary technical



standard for website accessibility does not necessarily indicate noncompliance with the ADA."

What This Means for Your Website

- Even if your business is not expressly listed above, the DOJ interprets Section 12181(7)(E)'s listing of "other sales . . . establishment" broadly, to include [car dealerships and their overarching entity](#). Thus, if your business makes sales of any kind and utilizes a website to advance those sales, assume you are a place of public accommodation under the ADA.
- While the DOJ and courts have not specifically adopted a standard, businesses would be in the best position to avoid a lawsuit by adhering close to the Web Content Accessibility Guidelines ("WCAG") 2.0 or 2.1 AA standards.
 - WCAG 2.0 Guidelines - <https://www.w3.org/WAI/standards-guidelines/wcag/20/glance/>
 - WCAG 2.1 Guidelines - <https://www.w3.org/WAI/standards-guidelines/wcag/glance/>
 - Exhaustive List to Meet WCAG 2.1:
<https://www.w3.org/WAI/WCAG21/quickref/>
 - Note the differences in Level A guidelines and Level AA guidelines (meeting the AAA guidelines is better than meeting AA, and AA is better than meeting A)
- Title III exempts businesses where complying with the nondiscrimination prohibitions would cause an "undue burden" to the business (think extreme financial hardship) or compliance would "fundamentally alter the nature" of the goods or services provided. If you believe either of these might apply to your business, let us know and we can provide more information to you.