

THE AMERICANS WITH DISABILITIES ACT: NOT TO BE FEARED...NOT TO BE TAKEN LIGHTLY

by John Cohrs, AHC/CDC, CCPR

The Americans With Disabilities Act (ADA) might be one of the most misunderstood pieces of legislation that affects the construction industry. While it is feared by some, loathed by others, and completely disregarded by a few, the ADA can stir up some strong emotions. However, those who feel the strongest about it often don't fully understand what it means to them.

One of the reasons for this is that the ADA can be very confusing, and can even sometimes seem to conflict with standard building codes. Much of the law is also vague, and can be open to interpretation. Unfortunately, the ADA is ultimately defined in the courts, where building owners found to be non-compliant can face attorneys' fees and potential fines.

The part of the ADA that architectural openings industry members should be concerned about is Title III, which deals mainly with "accessibility" for businesses and non-profit agencies. Obviously, doors represent a significant part of overall accessibility. In fact, an entire section of the ADA (section 4.13) is devoted solely to doors. So it's important for door hardware distributors to be knowledgeable on the subject.

While the ADA is a civil rights law, not a building code, it does include design and construction standards for both public and private buildings. These standards are expressed in the Americans with Disabilities Act Accessibility Guidelines (ADAAG). In very general terms, the ADA requires a building owner to provide:

- Measures that will enable individuals with disabilities to physically enter the facility.
- Access to those areas where goods and services are made available to the public.
- Access to restroom facilities, and to insure that the restrooms themselves are accessible.
- Any remaining measure of accessibility required to remove barriers in order to provide access to the goods, services, advantages, privileges or accommodations provided to the public.

Common ADA Errors and Omissions Related to Doors

Here are two potential errors/omissions, their results and the applicable ADA requirements, according to the U.S. Department of Justice:

ERROR/OMISSION: Adequate maneuvering clearance is not provided at doors, including doors to accessible toilet stalls.

RESULT: A person using a wheelchair cannot open the door without a clear level area in front of and adjacent to the door that provides a place to maneuver.

ADA REQUIREMENT (4.13.6 Maneuvering Clearances at Doors): Minimum maneuvering clearances at doors that are not automatic or power-assisted shall be as shown in Fig. 25. The floor or ground area within the required clearances shall be level and clear.

ADA REQUIREMENT (4.17.5 Doors): Toilet stall doors, including door hardware, shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 in (1065 mm).

ERROR/OMISSION: The shape of the door hardware requires tight grasping, pinching, and twisting of the wrist to use.

RESULT: The door cannot be opened if the user cannot operate the latch or handle.

ADA REQUIREMENT (4.13.9 Door Hardware): Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Hardware required for accessible door passage shall be mounted no higher than 48 in (1220 mm) above finished floor.

It's not as bad as you think: Common Myths about ADA

Because the ADA is so widely misunderstood, there are a number of misconceptions among people in the commercial construction industry that make the legislation seem much more daunting than it really is. Here are a few of these myths, along with the facts that prove them wrong.

MYTH: The ADA is rigid and requires businesses to spend lots of money to make their existing facilities accessible.

FACT: The ADA is based on common sense. It recognizes that altering existing structures is more costly than making new construction accessible. The law only requires that public accommodations (e.g. stores, banks, hotels and restaurants) remove architectural barriers in existing facilities when it is "readily achievable" i.e. it can be done "without much difficulty or expense." Inexpensive, easy steps to take include ramping one step, installing a bathroom grab bar, lowering a paper towel dispenser, rearranging furniture, installing offset hinges to widen a doorway or painting new lines to create an accessible parking space.

MYTH: The government thinks everything is readily achievable.

FACT: Many times, it may not be readily achievable to remove a barrier, especially in older structures. Let's say a small business is located above ground. Installing an elevator would not, most likely, be readily achievable—and there may not be enough room to build a ramp—or the business may not be profitable enough to build a ramp. In these circumstances, the business would be allowed to simply provide curbside service to persons with disabilities.

MYTH: The government is no help when it comes to paying for accessibility.

FACT: Federal tax incentives are available to help meet the cost of ADA compliance.

MYTH: Businesses must pay large fines when they violate the ADA.

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has shown bad faith in failing to comply. Bad faith can take many forms, including hostile acts against people with disabilities, a long-term failure even to inquire into what the ADA requires, or sustained resistance to voluntary compliance. The Department also considers a business' size and resources in determining whether civil penalties are appropriate.

Make No Mistake: The ADA is Taken Seriously

Just as it's true that the U.S. government is reasonable with businesses in regard to meeting ADA standards, it's also true that the government takes ADA compliance very seriously. In suits brought by the Attorney General (which can be based on complaints filed by individual consumers) monetary damages and civil penalties can be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.

In addition, private parties can bring lawsuits to obtain court orders to stop discrimination. While no monetary damages are available in these cases, reasonable attorney's fees can be awarded.

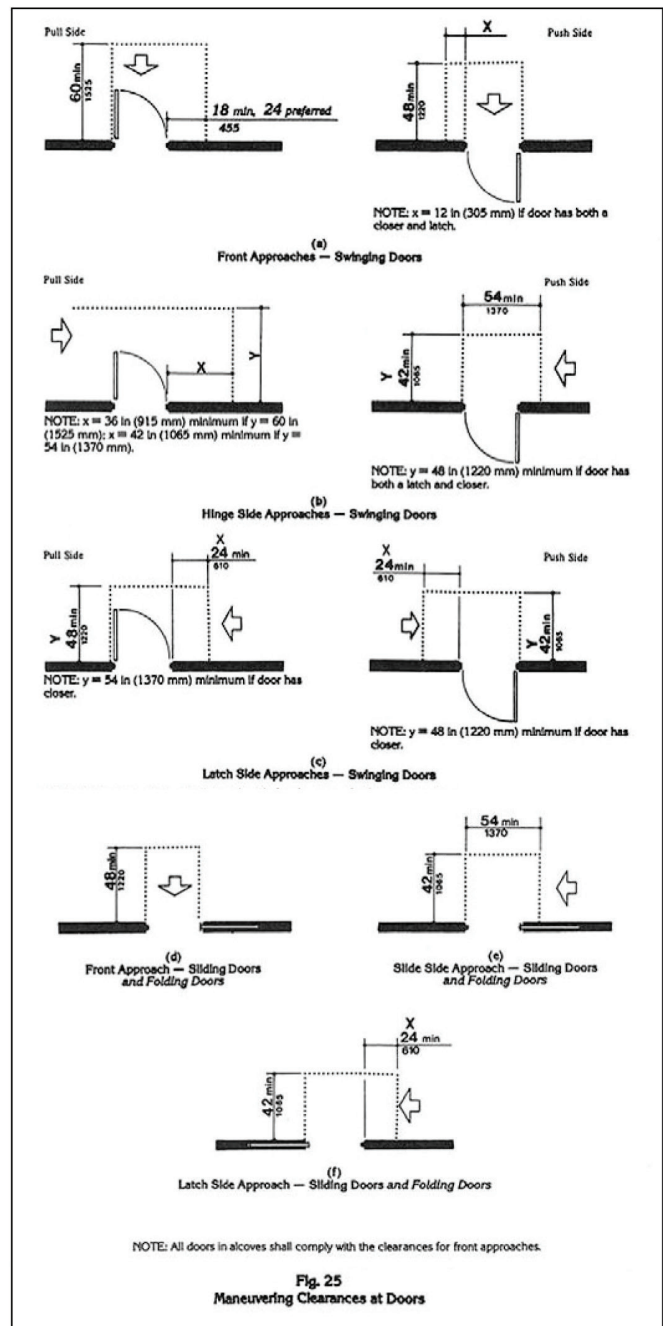
The Bottom Line: Meeting ADA Accessibility Standards is Just Good for Business

No matter how you may feel about the ADA and how it relates to you, there's no question that providing accessibility helps a business create a positive experience for its customers. And the fact is, customers who have accessibility problems with a business probably won't remain customers very long!

Millions of people with disabilities regularly shop, travel, dine out and more—often with family and friends, which makes the total number of potential customers affected by accessibility even greater. Studies show that people with disabilities in the U.S. alone have \$175 billion per year in discretionary income. Plus, this group's global spending power jumps dramatically when you consider the World Health Organization's estimate that there are 600 million people with disabilities around the world.

What's more, there can be tremendous advantages in easing access to the entire aging U.S. population—not only those who are disabled. As people begin to experience physical difficulties with age, they often seek out businesses that make access easier. The U.S. Census Bureau projects that the number of people 65 and older will more than double between 2000 and 2030, from 35 million to 71.5 million people. Plus, the number of people age 85 and older is also expected to double to 9.6 million.

Since one of a person's first interactions with a building (and therefore, a business) is with its door hardware, compliance with ADA legislation is a matter of dollars and cents. That's why, as a member of the door hardware industry, knowledge of applicable ADA standards should be important to you.



JOHN COHRS, AHC, CDC, CCPR, of Hager Companies is an expert in ADA issues related to doors and door hardware. John regularly facilitates educational seminars on ADA compliance, and he has also compiled a white paper on the subject, which is available free of charge for those interested in learning more about the subject. John can be reached at 317-833-4406 or at jcohers@hagerco.com.

