

February 8, 2023

Economic Matters Committee
State Capitol
Annapolis, Maryland 21401

Dear Committee:

Thank you for the opportunity for us to testify in support of HB 264 - Open Captioning Movies Bill. We would like to provide some follow-up information after hearing what Mr. Doug Murdoch, the Executive Director of the Mid-Atlantic National Association of Theaters Owners, testified before you last year, on Wednesday, March 9, 2022.

Federal Law is sufficient

The National Association of Theater Owners (NATO) explained that the federal law is sufficient and is established. However, we would like to make a point that the Federal Government gives the States' rights to create laws. We believe that it is important for the State of Maryland to establish this law to ensure that the community at the state-level are protected and have equal access for all. State laws can solve issues that citizens of Maryland are experiencing. We ask that the State of Maryland provides equal access for all.

Voluntary Basis

Mr. Murdoch says that it is not necessary for the state to mandate open captioning and movie theaters are already doing it on a voluntary basis.

It is great that movie theaters are doing it on a voluntary basis however, we need this bill to pass because in the past, there were around 50 open captioning movies during the first week of the month, then a week later, it reduced to 30 then a week later, it was reduced again to 0. This incident was with AMC Theaters, which has not been transparent about how it decides which titles will be Open Captioning (OC) and how often. It looks like AMC focused on just having OC on a movie on its opening weekend and never again.

Voluntary basis means that movie theaters can decide to provide open captioning movies during the week or not. With this bill, it will guarantee that there will be open captioning movies every week. Not having an open captioning movie every week does not give equal access.

No Complaints

As you heard from people who testified that devices have problems, especially broken devices. We had to deal with the staff person to get it fixed or to get a new device. Movie theaters often give a coupon, gift card or free ticket for the future movie when devices are broken. Many people do not know that there is a complaint form. They do not inform people that it is available to fill out. They provide coupons to prevent people from complaining.

There is an organization, Disability Rights Advocates that is collecting all complaints and investigating the failure of the devices.¹ There is a potential violation of the American with Disabilities Act when it comes to effective communication.

Captioning benefits everyone

According to the National Institute of Health (NIH)'s study,² captioning benefits everyone which includes veterans, people who come to the United States, especially the State of Maryland to learn English and become a citizen, adults and children who are learning how to read and write.

According to the Governor's Office of Deaf and Hard of Hearing (GODHH), there are around 1.2 million Deaf, DeafBlind, and Hard of Hearing people living in the State of Maryland. According to the data, there are around 6.2 million people living in the State of Maryland, so captioning benefits them as well.

Hawaii Movie Theaters

Mr. Murdoch mentioned that two movie theaters in Hawaii were impacted by the similar law to HB 264 (HB 1238 in 2022). The Hawaii Department of Business, Economic Development, and Tourism (DBEDT) did a study or survey on the impact of the bill for the movie theaters. According to the Hawaii Disability and Communication Access Board (DCAB³),

"Pursuant to Section 3 of Act 211, DBEDT undertook an effort to study the impact of Act 211 on the two motion picture theater companies in Hawaii. The reasoning for the study was an assertion by the movie theater industry that the provision of open captioned movies would have a negative financial impact on the industry. In essence, the claim was that movie patrons who objected to seeing the captions, ostensibly hearing patrons, would not patronize the theater, resulting in a loss of revenue. In the face of shrinking attendance due to a shift of viewers to home streaming services, any possibility of reducing the number of patrons would be alarming to brick-and-mortar motion picture theaters.

The study was conducted by DBEDT with findings released in December 2017, "Impact of Act 039 Relating to Movie Theaters." The only means of gathering information from the two motion picture theaters was via aggregate, self-reported data that compared the overall attendance at all showings that were open captioned with the overall average attendance at all showings that did not have captions. The result showed an overall average difference in attendance (lower for those movies with open captioning) but, due to resource limitations, did not test for causation for the difference in attendance. DCAB prepared a response to the report and noted that the study: (1) did not (and could not, given the methodology limitations imposed by the theaters) compare attendance per showing (i.e., to compare the same show shown at the same time on different days in open versus closed viewings); (2) could not determine if attendance shifted away from open to closed captioned viewings, resulting in no net loss to the motion picture theater; or (3) did not

¹ <https://dralegal.org/case/closed-captioning-at-movie-theaters/>

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5214590/>

³ <https://health.hawaii.gov/dcab/files/2019/07/Movie-Captioning-Summary-June-2019.pdf>

analyze the increase in attendance from those individuals who would not have otherwise attended were it not for the presence of open captioning.”

This means that the survey was not consulted or designed properly.

NATO Admission

NATO explained that they have different programs to download such as 2D, 3D and more to be purchased by the movie theater owner. We would like to remind you that Mr. Murdoch was asked during his testimony if it costs extra money to create open captioning and his answer was that having Open Captioning does not cost extra.

Loss of Business

We only are asking for the minimum of 2 open captioning movies per movie per week. We are not asking for every movie and movie theaters show movies at several times and will not hurt the business. That will attract more people to attend the movie theaters that they did not have an opportunity to attend in the past. We believe that this is a win-win situation for the community and movie theaters.

NATO explained that people won't go to the movie theater if there is an open captioning movie. We feel that the perspective from NATO is unsupportable and that NATO is implying that they do not want us (1.2 million Deaf, DeafBlind, and Hard of Hearing people) to attend movie theaters. As a part of the minority and marginalized community; we would like to see the State of Maryland take a lead on equal access for all.

Thank you for your continued support on the bill, HB 264.

If you have any further questions or want to seek clarification, you may contact the point of contact, Jacob Leffler at JLeffler24@gmail.com or MDopencaptioning@gmail.com.