



**Statement of Position on HB 1523:
Captioning in Movie Theaters
(Open Captioning Equality Act of 2020)**

Position: Unfavorable

**Before the House Economic Matters Committee
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On behalf of the National Association of Theatre Owners (NATO), representing movie theaters across the United States, and our regional affiliate Mid-Atlantic NATO, representing movie theaters throughout Maryland, we respectfully submit these written comments in opposition to HB 1523. NATO and Mid-Atlantic NATO collectively represent over 60 movie theaters and over 600 screens across Maryland.

I. The Movie Theater Industry is Committed to Access for the Deaf and Hard of Hearing

Access for individuals who are deaf and hard of hearing has been a major goal and effort of NATO and its members for a long time. Over the years we have worked with advocacy groups, film studios, and technology developers to ensure we could provide access to all feature films at all times. Twenty years ago, there were no more than a handful of captioned films. Through our efforts, today practically every feature film is provided with caption files, and personal captioning systems are available at every digital theater as required by existing regulation. These achievements are directly due to the efforts of movie theater owners to engage stakeholders to ensure interoperability of closed captioning and audio description systems and availability of access files on all movies.

II. Movie Theaters in Maryland Provide Closed and Open Captioning

Today, a deaf or hard of hearing moviegoer in Maryland can go to their local theater and obtain a personal captioning device to view any movie, at any time of day, with captions, provided the movie comes with a closed captioning track. The overwhelming majority of films are available with this technology. Further, theaters update the closed captioning equipment when the technology companies come out with new models. This flexibility is a combined result of the theater industry's proactive, voluntary efforts over time and a recent federal rulemaking (more on that below).

In addition to the access provided by personal captioning devices, Maryland theaters have been voluntarily scheduling open-captioned shows at the request of groups when possible, and at select times as part of their regular programming. Voluntary open captioning policies allow theaters to react to demand, adjusting the number of screenings and their showtimes as appropriate. Movie theaters have found that the majority of moviegoers prefer to attend movies without the captions displayed on the screen. By programming open-captioned shows strategically and thoughtfully, movie theaters can provide this format of access successfully and sustainably. That way, theaters can continue to thrive and provide open-captioned showtimes for patrons who request them, while minimizing guest complaints, and mitigating the negative impact on ticket sales experienced with open-captioned shows.

In December 2016, the Department of Justice ("DOJ") published a Final Rule on access for moviegoers who are blind, low vision, deaf, or hard of hearing. This rule builds on the years of progress made by our members, and requires all digital movie theaters to equip their auditoriums with closed captioning and audio description technology, and to have a certain number of personal captioning and audio description devices available. The rule was effective January 17, 2017, and theaters were required to become fully compliant by June 2, 2018.



The parameters of the Department of Justice rule are based on a framework devised by NATO and leaders of four major deaf and hard of hearing advocacy groups. In 2014, when the rule was in the proposed stage, NATO, the National Association of the Deaf, the Hearing Loss Association of America, the Association of Late Deafened Adults, and The Alexander Graham Bell Association entered into a joint agreement to set reasonable standards and voluntary efforts to provide the necessary accommodations for moviegoers who are deaf or hard of hearing to enjoy first-run motion pictures in our facilities. This historic agreement was submitted to the DOJ, which subsequently modified their proposed regulations to adopt several of the standards of the joint agreement between NATO and the advocacy groups. The agreement also garnered bipartisan support on Capitol Hill.

As part of the recommendations submitted to the DOJ, the parties further agreed that NATO would encourage its members to adopt voluntary policies on open captioning requests. Such policies would allow open-captioned shows to be provided if a group of individuals requested an open-captioned show, and provided sufficient advance notice to ensure availability and advertising of the show. This voluntary action was taken notwithstanding historical data reflecting low attendance at such shows and complaints from consumers who do not need or desire such accommodations. Additionally, in its guidance to the final rule, the DOJ specifically declined to require open-captioned movie show times.

The cost to comply with the rule is significant and ongoing. As noted earlier, theaters are making upgrades in equipment when newer models become available. Passage of the Maryland open captioning proposal may have the effect of stifling investments in upgraded technology. Increased burdens on theaters will further restrict the market for newer and more sophisticated solutions that may be preferred by deaf and hard of hearing moviegoers.

III. Conclusion

While we appreciate the intent of this legislation, we believe the flexibility offered by closed captioning equipment and the collaborative efforts to provide open-captioned shows in Maryland render no need for legislation. We welcome the opportunity to continue working with local advocacy groups on improving the moviegoing experience.

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