

SENATE JUDICIAL PROCEEDINGS COMMITTEE
HOUSE BILL 1238: PLACES OF PUBLIC ACCOMMODATION - MOTION PICTURE
HOUSES – CAPTIONING

APRIL 5, 2022

POSITION: SUPPORT

Thank you, Mister Chair Smith and Committee Members, for the opportunity to provide testimony on House Bill 1238: Places of Public Accommodation - Motion Picture Houses – Captioning. Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to improve community integration and access for people with disabilities living in Maryland.

HB 1238 would require chain movie theaters in Maryland to provide just two open-captioned showings of each film that is over 7 days past its original release date. AMC Theatres (franchised throughout Maryland) announced in late 2021 that it would start offering open-captioned showings. State laws requiring that movie theaters provide open captioning are increasingly common throughout the nation. New York’s City Council passed a bill, which went into effect on January 15, 2022, that requires all movie theaters to offer 25% of all showings to be open-captioned.¹ Comparatively, Maryland’s approach is more cautious, but makes it easier for movie theaters to comply. Open captioning will also benefit seniors with moderate age-related hearing loss, children learning to read, and immigrants for whom English is a second language.

Although Title III “Public Accommodations and Commercial Facilities” of the Americans with Disabilities Act (ADA) was signed into law over 30 years ago, movie theater patrons with disabilities still have not yet achieved equal enjoyment of this public accommodation. The applicable law under 28 CFR § 36.202(b) states:

“A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.”

Pursuant to a Final Rule issued in 2016 by the U.S. Department of Justice, movie theaters must provide captioning technology to patrons with disabilities.²

¹ <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4601879&GUID=D699DDAA-933A-47AF-8645-9205878F762D>

² See https://www.ada.gov/regs2016/movie_rule.htm

When this Final Rule was issued, Deaf and hard of hearing individuals won the novel right to enjoy this public pastime. Most often, closed captioning is offered. Time has shown that closed captioning cannot function as the sole auxiliary aid available to customers with disabilities. Closed captioning devices provided to movie theater guests often do not function as promised, causing the customer to miss essential dialogue as their device is repaired or replaced. The movie theater may “meet its obligation to provide captioning... through any technology so long as that technology provides communication as effective as that provided to movie patrons without disabilities.”³ Since communication through a closed captioning device is unreliable at best, a movie theater may choose to “use open movie captioning as an alternative to complying with the requirements.”⁴

Maryland should join the cadre of states implementing similar disability rights legislation, in the interest of compliance with Title III of the ADA.

For these reasons, DRM supports House Bill 1238.

Respectfully,

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³ 28 CFR § 36.303(d)(6)(i)

⁴ *Id.* at (d)(6)(ii)