



February 2, 2023

Dear Maryland Legislators:

Every day, people are able to go to theaters and watch any movie they want on a big screen. The National Association of the Deaf (NAD) respectfully asks that you support the right of deaf and hard of hearing people to have the equivalent and equitable experience by passing House Bill 264, the Open Captioning Movies Bill. Based in Maryland, the NAD is the oldest national civil rights organization in the United States, having been founded in 1880 and overseen for the past 142 years by deaf and hard of hearing leaders. The NAD also has a state association affiliate in Maryland – the Maryland Association of the Deaf (MDAD), and supports the efforts of MDAD to pass HB 264.

This bill is necessary to correct the inequity that all deaf and hard of hearing individuals currently face in movie theaters. The U.S. Department of Justice issued a Final Rule on November 21, 2016 that mandates movie theaters to provide closed captioning technology (see, https://www.ada.gov/regs2016/movie_captioning_rule_page.html). However, closed captioning technology in movie theaters are devices that deaf and hard of hearing people have had to borrow from the theater management to be able to view captioning through them while trying to watch a movie at the same time. In addition, such devices have been prone to malfunction during the course of movies due to breaking down, powering down, and signal disconnects. While the DOJ's 2016 Final Rule made it possible in theory for deaf and hard of hearing people to go to any movie theater and be able to watch practically any movie, these equipment failures were so common that going to the movies was fraught with disappointment rather than the equal access that was the idealized goal.

Ask any deaf or hard of hearing person who has gone to a movie and had to endure the theater's closed captioning equipment, and you will find that nearly all of them have experienced the failure of this equipment. And they will also tell you that they have complained practically every time to the theater involved. However, the theaters do not compile and share the data on those failures and complaints, but only offer the deaf or hard of hearing patrons with refunds, free popcorn, and other concessions. The deficiency of closed captioning devices for movie theaters was also newsworthy at the Sundance Festival this year (see, <https://people.com/movies/marlee-matlin-and-other-sundance-film-festival-jurors-walk-out-of-premiere-over-captioning-malfunction/>).

By contrast, open captioning is fully accessible simply because the captioning is turned on the movie itself. With open captioning, deaf and hard of hearing people do not need to depend on any specialized devices and can just enjoy movies along with everyone else. The open captioning function is simple to use now that all movie theaters use digital technology, and the open captions are easily turned on through such technology. While some movie theater chains have seen the writing on the wall and have started to provide open captioned showings at various theaters, the showings are not frequent enough and often are during inconvenient times. These movie theaters often only offer closed captioning technology during peak showings.

Such limitations were the impetus for the deaf and hard of hearing community to seek state and local level remedies, including in Maryland. The first successful legislation was by Hawaii in 2015 with a new open captioning law, HRS 489-9, which had to be restored in 2019 after theater owners watered down the legislation in 2017. New York City recently enacted its own open captioning requirement – NYC Administrative Code section 20-699.7. These legislative efforts are just the beginning, as there is a huge demand for open captioning.



National Association of the Deaf

www.nad.org

According to research done by Johns Hopkins experts, there are at least 48 million people in the United States who are deaf or hard of hearing (see, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3564588/>). In Maryland alone, it is estimated that there are more than 1.2 million deaf and hard of hearing people (see, <https://odhh.maryland.gov/press-releases/featured-story/over-1-2-million-deaf-and-hard-of-hearing-marylanders/>). This is a huge audience that needs access at movie theaters along with their families and friends.

Moreover, movie theaters in Maryland are failing to provide open captioning to a sufficient degree to ensure access to the latest movies. Too often, movie theaters make arbitrary decisions on which movies will be open captioned and how infrequent they will be shown. They will often show a very popular movie with open captioning only once during its run and do so on a day and time that is entirely inconvenient for anyone.

HB 264 would ensure that every covered movie theater provides at least two open captioning showings of each movie per week, and this is not unreasonable. Would the deaf and hard of hearing community be seeking open captioned showings of movies across the country if they were truly happy with closed captioned showings? The answer is obvious.

Deaf and hard of hearing Marylanders simply ask that we be able to watch movies at any time without dreading machine failures. Please pass HB 264 to make that possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'H.A. Rosenblum', is written over a white background.

Howard A. Rosenblum
Chief Executive Officer