



Senate Judicial Proceedings Committee

SB0092: Places of Public Accommodation – Motion Picture Houses – Captioning

February 8, 2024

Position: Support

The Arc Maryland is the largest statewide membership organization that is dedicated to protecting and advancing the rights of people with intellectual and developmental disabilities and supporting their families. The Arc Maryland supports SB0092 because captioning benefits everyone. In our past, captioning would be a labor intensive and costly thing to provide on celluloid film and complex processing. However, with the digital age, and increased use of assistive technology, captioning is/should be within our reach- affordable and accessible. SB0092 is important for ensuring more Marylanders have the opportunity to experience and enjoy movies. Captioning is already mandatory for almost everything that airs on US Television. There are only two circumstances under which the closed captioning requirement can be waived for TV: 1.) the 'economically burdensome exemption' and 2.) the 'self-implementing exemption.'ⁱ We do not believe either of these exempting standards would apply to movie theaters.

SB0092 would require:

- 1.) Movie theaters (considered places of public accommodation) to provide access to fully operational open caption technology for the general public for each screening of a movie that is produced and offered with closed captioning.
- 2.) (I) This paragraph does not apply during the first 7 days after a motion picture premieres in the motion picture house.
(II) A place of public accommodation that controls, operates, owns, or leases at least two motion picture houses in the state shall provide open captioning for each motion picture it screens each week that is produced and offered with closed captioning for at least two screenings each week.

The Americans with Disabilities Act (ADA) requires that individuals with disabilities shall not be discriminated against in "places of public accommodation." Although the ADA doesn't refer specifically to media content accessibility, which is regulated by the CVAA- The 21st Century Communications

and Video Accessibility Actⁱⁱ- it was the legal basis for a lawsuit that the National Association of the Deaf (NAD) filed against Netflix in 2010ⁱⁱⁱ.

NAD alleged Netflix was in violation of the ADA as it did not offer closed captions for all of its content. Netflix argued that, as a streaming service, it was not subject to the requirements of the CVAA. The court sided with the NAD and ruled that Netflix was a place of “public accommodation” and therefore subject to ADA Title III. This decision resulted in a settlement and with Netflix offering CC for the entirety of its content library. This was the first time that the ADA had been interpreted to apply to an online business. We believe this case sets a precedent and standard to be followed in the case of movie theaters.

For more information, please contact:

Ande Kolp, Executive Director, The Arc Maryland akolp@thearcmd.org

ⁱ <https://haymillian.com/blog/closed-captioning-requirements-in-the-us>

ⁱⁱ <https://www.fcc.gov/consumers/guides/21st-century-communications-and-video-accessibility-act-cvaa>

ⁱⁱⁱ <https://www.nad.org/2012/06/19/landmark-precedent-in-nad-vs-netflix/>