

ADA: CLOSING THE MOBILITY GAP FOR PASSENGERS WITH DISABILITIES

ISSUE

In 1998, the DOT passed final rules establishing accessibility requirements for intercity motorcoaches. To be considered accessible, a motorcoach must now have a wheelchair lift and two wheelchair securement locations. This is an important and costly endeavor for the motorcoach industry, particularly fixed route operators.

BACKGROUND

The Americans with Disabilities Act (ADA) requires accessibility based on vehicle type. In October 2001, the ADA implementation schedule required fixed route motorcoaches to provide lift-equipped service on 48-hours notice until their fleets were fully lift-equipped. The ADA implementation schedule calls for 100 percent lift access by 2012. Charter and tour operators must provide lift-equipped service on 48-hours notice with no requirement for fleet accessibility. DOT was required to review implementation and actual demand for accessible motorcoach service in 2005. The findings from that review were to go into a report to Congress in 2006 with recommendations on amending the accessibility requirements for motorcoaches under the ADA based on a cost benefit analysis. DOT has not completed the use analysis and report as of July 2009.

The purpose of the ADA is to provide access to transportation for persons with disabilities needing special accommodation. The requirement for reporting and analysis is to assess the relationship of the accommodation to the need for service and whether the rule is a “reasonable accommodation.” For fixed route services, compliance is indicated by the accessibility of the fleet rather than accessible services provided to customers. At the inception of the law it was not clear what a “reasonable accommodation” was and whether the cost of lifts and the use of them indicated a benefit to users that bore a reasonable relationship to the cost to providers to comply with the rules.

The requirement for reporting and lift use analysis was part of the implementation program. A wheelchair lift adds \$40,000 to the cost of a motorcoach, excluding the costs of maintenance, repair and employee training. According to ABA members the data collected indicates demand for accessible service is substantially less than predicted by the DOT in establishing the ADA requirements. ABA would like DOT to complete the report required in the rules, particularly for fixed route operators because of the high cost of full fleet accessibility and low utilization rates.

Congress authorized funding for motorcoach operators to cover “up to 90 percent” of the incremental costs of ADA compliance. The grant funds available have been a fraction of the cost of this vital social interest. The Transportation Research Board has estimated the annual cost of compliance to exceed \$40 million. SAFETEA-LU provided approximately \$40 million for the five years through 2009.

ABA POSITION

Congress needs to reauthorize and extend the compliance-funding program through the life of the next highway and transit bill, and increase the available funding for motorcoach operators to \$47¹

¹ The TRB study of 2002 concluded that \$40 million was an appropriate annual dollar amount for ADA accessibility over the next reauthorization period. However from 2002 to January of 2008 there has been an average annual rate

million annually to cover the actual costs of ADA compliance for intercity, charter, and commuter services. The motorcoach industry has the obligation of an ongoing federal mandate to supply on-demand accessible transportation to the general public. This obligation is part of being a public mass transportation provider. However, crucial assistance in defraying the cost of equipment, training and maintenance is disproportionately provided to other modes of transportation. As part of the national transportation system, the motorcoach industry should be afforded the same level of financial support as other public mass transportation modes.

Additionally, Congress should provide funding for the Government Accountability Office to conduct an adequate review of the actual use of accessible motorcoaches as required in the original statute. This review should include an alternatives analysis that would assess options for implementing accessibility based on customer needs and uses rather than solely on fleet metrics. Motorcoaches providing commuter services should be eligible for the funds that FTA makes available to public commuter services for wheelchair lifts. Furthermore, ABA supports legislation that requires the Federal Motor Carrier Safety Administration to ensure compliance with ADA by denying interstate registration to, and revoking the interstate registration of, bus companies which demonstrate they are unwilling or unable to comply with DOT's over-the-road bus accessibility regulations.

of inflation of approximately 3.2 percent. Therefore over the six years a total of 19.19 percent inflation has occurred. By January 2008 inflation has reduced the buying value of the initial 40 million 2002 dollars to a net present value of just over \$32 million. The historical average annual inflation rate since 1914 is approximately 3.4 percent. It is a reasonable assumption that the average annual inflation rate through the next reauthorization period will fall within the 3.2 to 3.4 percent ranges. Future accessibility grant funding considerations should acknowledge the annual inflation rate as a factor when establishing funding levels.