

112TH CONGRESS
2D SESSION

S. 2390

To direct the Attorney General to revise certain rules under titles II and III of the Americans with Disabilities Act of 1990 relating to accessible means of entry to pools.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To direct the Attorney General to revise certain rules under titles II and III of the Americans with Disabilities Act of 1990 relating to accessible means of entry to pools.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pool Safety and Acces-
5 sibility for Everyone Act” or the “Pool SAFE Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) One of the purposes of the Americans with
9 Disabilities Act of 1990 is to “provide a clear and

1 comprehensive national mandate for the elimination
2 of discrimination against individuals with disabili-
3 ties”.

4 (2) The Nation’s proper goals regarding indi-
5 viduals with disabilities are to ensure equality of op-
6 portunity and full participation for such individuals.

7 (3) The Department of Justice’s revised regula-
8 tions for titles II and III of the Americans with Dis-
9 abilities Act of 1990 (as in effect on the date of en-
10 actment of this Act) recognize that public accom-
11 modations should provide access to their amenities
12 to individuals with disabilities.

13 (4) It is important for public accommodations
14 to provide access to their amenities, including pools,
15 to individuals with disabilities.

16 (5) Public accommodations should provide ac-
17 cess to their amenities, including pools, in a reason-
18 able, efficient, and expedient manner that accounts
19 for the interests of individuals with disabilities and
20 also considers other legitimate concerns, such as
21 safety and feasibility.

22 (6) The revised regulations for titles II and III
23 of the Americans with Disabilities Act of 1990, as
24 the regulations relate to the accessibility of pools at
25 public accommodations, do not reasonably or ade-

1 quately balance the access needs of individuals with
2 disabilities with other legitimate, and sometimes
3 competing, safety and feasibility concerns.

4 **SEC. 3. REVISION OF RULES.**

5 (a) EXTENSION OF COMPLIANCE DEADLINE.—

6 (1) IN GENERAL.—No suit may be brought for
7 an alleged violation, of the revised regulations for ti-
8 tles II and III of the Americans with Disabilities Act
9 of 1990 (part 36 of title 28, Code of Federal Regu-
10 lations, as in effect on the date of enactment of this
11 Act) regarding the requirements for a public accom-
12 modation or commercial facility to provide an acces-
13 sible means of entry to pools, that occurred on or
14 after March 15, 2012, and before the date that is
15 1 year after the date of enactment of this Act. The
16 Attorney General may not investigate, or initiate a
17 compliance review of, such an alleged violation.

18 (2) PENDING PROCEEDINGS DISMISSED.—Be-
19 ginning on the date of enactment of this Act, any
20 suit, against a public accommodation or commercial
21 facility for a violation described in paragraph (1),
22 that is brought on or after March 15, 2012, and be-
23 fore the date of enactment of this Act, shall be dis-
24 missed.

1 (b) REVISION OF RULES.—Not later than 60 days
2 after the date of enactment of this Act, the Attorney Gen-
3 eral shall revise section 36.304 of title 28, Code of Federal
4 Regulations, and any other appropriate rules in part 36
5 of such title to provide that—

6 (1) a public accommodation or commercial facil-
7 ity that has a pool and uses a portable pool lift on
8 request shall be in compliance with the requirement
9 under such rules to provide an accessible means of
10 entry to such pool, even if installation of a perma-
11 nent lift is readily achievable; and

12 (2) a public accommodation or commercial facil-
13 ity that has more than 1 pool and uses 1 portable
14 pool lift on request for all such pools shall be in
15 compliance with the requirement under such rules to
16 provide an accessible means of entry to each such
17 pool.

18 (c) DEFINITIONS.—

19 (1) COMMERCIAL FACILITIES; PUBLIC ACCOM-
20 MODATION.—The terms “commercial facilities” and
21 “public accommodation” have the meanings given
22 the terms in section 301 of the Americans with Dis-
23 abilities Act of 1990 (42 U.S.C. 12181).

24 (2) POOL.—The term “pool” means a swim-
25 ming pool, wading pool, sauna, steam room, spa,

1 wave pool, lazy river, sand bottom pool, other water
2 amusement, or any other manmade body of water to
3 which part 36 of title 28, Code of Federal Regula-
4 tions, requires a public accommodation or commer-
5 cial facility to provide an accessible means of entry.

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