

113TH CONGRESS  
2D SESSION

# S. 2888

To promote the provision of exercise and fitness equipment that is accessible to individuals with disabilities.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2014

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To promote the provision of exercise and fitness equipment that is accessible to individuals with disabilities.

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 “Exercise and Fitness  
5 For All Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Individuals with disabilities can maintain  
9 and improve their health through appropriate phys-  
10 ical activity.

1           (2) In the 2008 Physical Activity Guidelines for  
2 Americans (referred to as the “Guidelines”), the De-  
3 partment of Health and Human Services rec-  
4 ommends that individuals with disabilities, who are  
5 able, participate in regular aerobic activity.

6           (3) The Guidelines also recommend that adults  
7 with disabilities, who are able, do muscle-strenght-  
8 ening activities of moderate or high intensity on 2  
9 or more days a week, as these activities provide ad-  
10 ditional health benefits.

11           (4) The Guidelines recommend that when  
12 adults with disabilities are not able to meet the  
13 Guidelines, they should engage in regular physical  
14 activity according to their abilities and avoid inac-  
15 tivity.

16           (5) Unfortunately, many individuals with dis-  
17 abilities are unable to engage in the recommended  
18 exercise or fitness activities due to the inaccessibility  
19 of exercise or fitness equipment.

20           (6) Physical inactivity by adults with disabilities  
21 can lead to increased risk for functional limitations  
22 and secondary health conditions.

23           (b) PURPOSE.—The purposes of this Act are—

1           (1) to encourage exercise and fitness service  
2 providers to provide accessible exercise and fitness  
3 equipment for individuals with disabilities; and

4           (2) to provide guidance about the requirements  
5 necessary to ensure that such exercise and fitness  
6 equipment is accessible to, and usable by, individuals  
7 with disabilities.

8 **SEC. 3. DEFINITIONS.**

9           In this Act:

10           (1) ACCESS BOARD.—The term “Access Board”  
11 means the Architectural and Transportation Bar-  
12 riers Compliance Board established under section  
13 502 of the Rehabilitation Act of 1973 (29 U.S.C.  
14 792).

15           (2) ACCESSIBLE EXERCISE OR FITNESS EQUIP-  
16 MENT.—The term “accessible exercise or fitness  
17 equipment” means exercise or fitness equipment  
18 that is accessible to, and can be independently used  
19 and operated by, individuals with disabilities.

20           (3) EXERCISE OR FITNESS EQUIPMENT.—The  
21 term “exercise or fitness equipment” means devices  
22 such as motorized treadmills, stair climbers or step  
23 machines, stationary bicycles, rowing machines,  
24 weight machines, circuit training equipment, cardio-

1       vascular equipment, strength equipment, or other ex-  
2       ercise or fitness equipment.

3               (4) EXERCISE OR FITNESS SERVICE PRO-  
4       VIDER.—The term “exercise or fitness service pro-  
5       vider” means a fitness facility, health spa, health  
6       club, college or university facility, gymnasium, or  
7       other similar place of exercise or fitness that—

8               (A) is considered a public accommodation  
9       under section 301 of the Americans with Dis-  
10       abilities Act of 1990 (42 U.S.C. 12181) or is  
11       considered a public entity under section 201 of  
12       such Act (42 U.S.C. 12131); and

13              (B) provides exercise or fitness equipment  
14       for the use of its patrons.

15              (5) INDIVIDUAL WITH A DISABILITY.—The term  
16       “individual with a disability” means any person with  
17       a disability as defined in section 3 of the Americans  
18       with Disabilities Act of 1990 (42 U.S.C. 12102).

19              (6) INDIVIDUALS WITH DISABILITIES.—The  
20       term “individuals with disabilities” means more than  
21       one individual with a disability.

22 **SEC. 4. EXERCISE AND FITNESS ACCESSIBILITY GUIDE-**  
23 **LINES.**

24       (a) ESTABLISHMENT OF GUIDELINES.—Not later  
25       than 18 months after the date of enactment of this Act,

1 the Access Board shall develop and publish guidelines for  
2 exercise or fitness service providers regarding the provi-  
3 sion of accessible exercise or fitness equipment, including  
4 relevant personnel training.

5 (b) CONTENTS OF GUIDELINES.—The guidelines de-  
6 scribed in subsection (a) shall—

7 (1) be consistent with the Standard Specifica-  
8 tion for Universal Design of Fitness Equipment for  
9 Inclusive Use by Persons with Functional Limita-  
10 tions and Impairments of the American Society for  
11 Testing and Materials (ASTM F3021–13) (and any  
12 future revisions thereto);

13 (2) ensure that—

14 (A) exercise or fitness equipment is acces-  
15 sible to, and usable by, individuals with disabil-  
16 ities; and

17 (B) individuals with disabilities have inde-  
18 pendent entry to, use of, and exit from the ex-  
19 ercise or fitness equipment, to the maximum ex-  
20 tent possible; and

21 (3) take into consideration the following:

22 (A) Whether the exercise or fitness service  
23 provider is a new or existing facility.

24 (B) Whether the exercise or fitness service  
25 provider is staffed or not.

1 (C) Instruction and additional assistance  
 2 on the use of the accessible exercise or fitness  
 3 equipment (including specific accessibility fea-  
 4 tures) for individuals with disabilities.

5 (D) The size and overall financial re-  
 6 sources of the exercise or fitness service pro-  
 7 vider.

8 (E) The availability of closed captioning of  
 9 video programing displayed on equipment and  
 10 televisions provided by an exercise or fitness  
 11 service provider.

12 (c) REVIEW AND AMENDMENT.—The Access Board  
 13 shall periodically review and, as appropriate, amend the  
 14 guidelines, and shall issue the resulting guidelines as re-  
 15 vised guidelines.

16 **SEC. 5. TAX CREDIT FOR EXPENDITURES TO PROVIDE AC-**  
 17 **CESSIBLE EXERCISE OR FITNESS EQUIP-**  
 18 **MENT.**

19 (a) IN GENERAL.—Paragraph (1) of section 44(c) of  
 20 the Internal Revenue Code of 1986 is amended—

21 (1) by striking “paid or incurred by an eligible  
 22 small business” and inserting “paid or incurred—

23 “(A) by an eligible small business”,

24 (2) by striking “section).” and inserting “sec-  
 25 tion), and”, and

1 (3) by inserting at the end the following:

2 “(B) by an eligible small business which is  
3 an exercise or fitness service provider for the  
4 purpose of providing for use by individuals with  
5 disabilities accessible exercise or fitness equip-  
6 ment that meets the guidelines established by  
7 the Access Board under section 4 of the Exer-  
8 cise and Fitness for All Act.

9 Any term used in subparagraph (B) which is defined  
10 in section 3 of the Exercise and Fitness for All Act  
11 shall have the meaning given such term in such sec-  
12 tion, as in effect on the date of the enactment of  
13 such subparagraph.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to expenses paid or incurred in  
16 taxable years beginning after the date of the enactment  
17 of this Act.

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