



## H.R. 3195 – ADA RESTORATION ACT OF 2008

### EXECUTIVE SUMMARY

This legislation was introduced by Representative Steny Hoyer (D-MD) on July 26, 2007. The House Committee on Education and Labor reported the bill, as amended, by a vote of 43-1 on June 18, 2008. The House Committee on the Judiciary reported the bill, as identically amended, by a vote of 37-0 on the same day.

The Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) defines “disability” with respect to an individual to mean: 1) a physical or mental impairment that substantially limits one or more major life activity; 2) having a record of physical or mental impairment; or 3) being regarded as having a physical or mental impairment.

H.R. 3195, as amended defines the term “substantially limits” to mean an impairment that “materially restricts” one or more major life activity, including activities such as sleeping, reading, and hearing, as well as major bodily functions.

Under the bill, any treatment, medication, or other measures taken to mitigate the effects of impairment (except the use of contacts or glasses) may not be taken into consideration when determining whether an individual has a disability that substantially limits a major life activity.

The bill clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The Administration is supportive of H.R. 3195, however, is still “concerned that a few of the provisions could unduly expand ADA coverage, would result in a significant increase in litigation, and would be difficult to implement.”

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### FLOOR SITUATION

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H.R. 3195 is being considered on the floor under a closed rule. The rule:

- Provides one hour of debate in the House, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.
- Waives all points of order against consideration of the bill except those arising under clauses 9 (Earmarks) or 10 (PAYGO) of rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read.
- Waives all points of order available under clause 9 of rule XXI (regarding earmark disclosure).
- Provides one motion to recommit with or without instructions.



- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration to a time designated by the Speaker.

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H.R. 3195 is expected to be considered on the floor of the House on Wednesday, June 25, 2008.

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#### SUMMARY

The Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) defines "disability" with respect to an individual to mean: 1) a physical or mental impairment that substantially limits one or more major life activity; 2) having a record of physical or mental impairment; or 3) being regarded as having a physical or mental impairment.

H.R. 3195, defines the term "substantially limits" to mean an impairment that "materially restricts" one or more major life activity. Major life activities include (but are not limited to) eating, sleeping, reading, lifting, communicating, and hearing. The bill provides that the impairment of a major bodily function, such as the immune system, digestive, neurological, or reproductive functions, may also be considered a substantially-limited major life activity.

Under the bill, any treatment, medication, or other measures taken to mitigate the effects of impairment (except the use of contacts or glasses) may not be taken into consideration when determining whether an individual has a disability that substantially limits a major life activity. The bill clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. Unlike prior versions of the bill, H.R. 3195 as amended ensures that the burden of proof in disability discrimination cases always rests with the plaintiff.

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#### BACKGROUND

The ADA was originally signed into law by President George H.W. Bush in 1990 to provide qualified individuals with a disability with certain public services, accommodations, as well as to prohibit employment discrimination against these individuals. The Act stated that its purpose was to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."

The changes proposed by H.R. 3195 are in response to decisions by the Supreme Court interpreting the definition of disability, which affected an employer's consideration of mitigating measures when hiring.

Senator Tom Harkin (D-IA) introduced similar legislation, S. 1881, on July 26, 2007. The Senate bill was referred to Committee, but has not yet been considered.

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#### ADDITIONAL VIEWS

According to the White House Statement of Administration Policy, "The Administration strongly supports the overall intent of H.R. 3195, as well as a number of the specific changes it would make. For example, the bill strikes the appropriate balance with respect to use and consideration of mitigating measures in evaluating disabilities. Moreover, the bill as reported represents a significant improvement over H.R. 3195 as introduced, and the Administration appreciates the sponsors' willingness to address many of the concerns that were previously raised. However, the Administration still has significant concerns with the bill as reported. Specifically, the Administration is concerned that a few of the provisions could unduly expand ADA coverage, would result in a significant increase in litigation, and would be difficult to implement." June 24, 2008.



# LEGISLATIVE DIGEST

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## COST

The Congressional Budget Office “estimates that implementing H.R. 3195 would cost about \$25 million over the 2009-2013 period for the Equal Employment Opportunity Commission (EEOC) to handle additional discrimination cases.” [Full CBO cost estimate for H.R. 3195](#)

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## STAFF CONTACT

For questions or further information contact Justin Hanson at (202) 226-2302.