Title of 2008 Amendment note above
cr "(a) FINDINGS.—Congress finds that—
"(1) in enacting the Americans with Disabilities
Act of 1990 (ADA) (42 U.S.C. 12101 et seq.), Congress intended that the Act ‘provide a clear and compre-

hensive national mandate for the elimination of dis-

crimination against individuals with disabilities’ and provide broad coverage;

"(2) in enacting the ADA, Congress recognized that
physical and mental disabilities in no way diminish a
person’s right to fully participate in all aspects of so-
ciety, but that people with physical or mental dis-
abilities are frequently precluded from doing so be-
cause of prejudicial attitudes or the fail-
ure to remove societal and institutional barriers;

"(3) while Congress expected that the definition of
disability under the ADA would be interpreted consis-
tently with how courts had applied the definition of
a handicapped individual under the Rehabilitation
Act of 1973 (29 U.S.C. 701 et seq.), that expectation has
not been fulfilled;

"(4) the holdings of the Supreme Court in Sutton v.
United Air Lines, Inc., 527 U.S. 471 (1999) and its com-
ppanion cases have narrowed the broad scope of
protection intended to be afforded by the ADA, thus
eliminating protection for many individuals whom
Congress intended to protect;

"(5) the holding of the Supreme Court in Toyota
Motor Manufacturing, Kentucky, Inc. v. Williams, 534
U.S. 184 (2002) further narrowed the broad scope of
protection intended to be afforded by the ADA;

"(6) as a result of these Supreme Court cases, lower
courts have incorrectly found in individual cases that
people with a range of substantially limiting impair-
ments are not people with disabilities;

"(7) in particular, the Supreme Court, in the case of
Toyota Motor Manufacturing, Kentucky, Inc. v. Wil-

liams, 534 U.S. 184 (2002), interpreted the term ‘sub-

stantially limits’ to require a greater degree of limi-
tation than was intended by Congress; and

"(8) Congress finds that the current Equal Employ-
ment Opportunity Commission ADA regulations de-
fining the term ‘substantially limits’ as ‘significantly re-
stricted’ are inconsistent with congressional in-

tent, by expressing too high a standard.

"(b) PURPOSES.—The purposes of this Act [see Short
Title of 2008 Amendment note above] are—

"(1) to carry out the ADA’s objectives of providing
‘a clear and comprehensive national mandate for the
elimination of discrimination’ and ‘clear, strong, con-

sistent, enforceable standards addressing discrimina-

tion’ by reinstating a broad scope of protection to be
available under the ADA;

"(2) to reject the requirement enunciated by the
Supreme Court in Sutton v. United Air Lines, Inc.,
527 U.S. 471 (1999) and its companion cases that
whether an impairment substantially limits a major
life activity is to be determined with reference to the
ameliorative effects of mitigating measures;

"(3) the Supreme Court’s reasoning in Sut-

regard to coverage under the third prong of the defi-
nition of disability and to reinstate the reasoning of
the Supreme Court in School Board of Nassau Coun-
try v. Arline, 480 U.S. 273 (1987) which set forth a broad
view of the third prong of the definition of handicap
under the Rehabilitation Act of 1973;

"(4) to reject the standards enunciated by the Su-

preme Court in Toyota Motor Manufacturing, Ken-
tucky, Inc. v. Williams, 534 U.S. 184 (2002), that the


terms ‘substantially’ and ‘major’ in the definition of
disability under the ADA ‘need to be interpreted
strictly to create a demanding standard for qualifying
as disabled,’ and that to be substantially limited

in performing a major life activity under the ADA ‘an

individual must have an impairment that prevents or

severely restricts the individual from doing activities
that are of central importance to most people’s daily

lives’;

"(5) to convey congressional intent that the stand-

ard created by the Supreme Court in the case of
Toy-

ota Motor Manufacturing, Kentucky, Inc. v. Wil-

liams, 534 U.S. 184 (2002) for ‘substantially limits’, and

applied by lower courts in numerous decisions, has
created an inappropriately high level of limitation
necessary to obtain coverage under the ADA, to con-
voy that it is the intent of Congress that the primary
object of attention in cases brought under the ADA
should be whether entities covered under the ADA
have complied with their obligations, and to convey
that the question of whether an individual’s impair-
ment is a disability under the ADA should not de-
mand extensive analysis; and

"(6) to express Congress’ expectation that the Equal
Employment Opportunity Commission will revise
that portion of its current regulations that defines
the term ‘substantially limits’ as ‘significantly re-
stricted’ to be consistent with this Act, including the
amendments made by this Act.

STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING
DISABILITY-RELATED EMPLOYMENT INCENTIVES
Pub. L. 106–170, title III, § 303(a), Dec. 17, 1999, 113
Stat. 1003, provided that, as soon as practicable after
Dec. 17, 1999, the Comptroller General was to
undertake a study to assess existing tax credits and other disabil-
ity-related employment incentives under the Ameri-
cans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other Federal laws, specifically addressing the extent to which such credits and other incentives would encourage employers to hire and retain individu-
als with disabilities; and that, not later than 3 years
after Dec. 17, 1999, the Comptroller General was to
transmit to the appropriate congressional committees a written report presenting the results of the study and
any appropriate recommendations for legislative or ad-
ministrative changes.

§ 12102. Definition of disability
As used in this chapter:

(1) Disability
The term ‘disability’ means, with respect to an individual—

(A) a physical or mental impairment that

substantially limits one or more major life

activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an im-

pairment (as described in paragraph (3)).

(2) Major life activities
(A) In general
For purposes of paragraph (1), major life

activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions
For purposes of paragraph (1), a major life

activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive func-

ions.
(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):
(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of “disability” in paragraph (1) shall be construed in accordance with the following:
(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.
(B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.
(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—
(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
(II) use of assistive technology;
(III) reasonable accommodations or auxiliary aids or services; or
(IV) learned behavioral or adaptive neurological modifications.
(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
(iii) As used in this subparagraph—
(I) the term “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
(II) the term “low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

(2008—Pub. L. 110–325 amended section generally. Prior to amendment, section consisted of pars. (1) to (3) defining for purposes of this chapter “auxiliary aids and services”, “disability”, and “State”.

AMENDMENTS

2008—Pub. L. 110–325 amended section generally. Prior to amendment, section consisted of pars. (1) to (3) defining for purposes of this chapter “auxiliary aids and services”, “disability”, and “State”.

EFFECTIVE DATE OF 2008 AMENDMENT


§ 12103. Additional definitions

As used in this chapter:

(1) Auxiliary aids and services

The term “auxiliary aids and services” includes—
(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
(C) acquisition or modification of equipment or devices; and
(D) other similar services and actions.

(2) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.


EFFECTIVE DATE

Section effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as an Effective Date of 2008 Amendment note under section 705 of Title 29, Labor.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.