



LEGAL ALERT

April 24, 2012

NEW ATM CLASS ACTION LAWSUIT

Unfortunately, one of the law firms that was in the forefront of suing Pennsylvania banks for alleged violations of the Electronic Fund Transfer Act (“EFTA”) has found a new plaintiff and a new cause of action. Thus far, one plaintiff has sued approximately ten banks alleging that their respective ATMs violate the Americans with Disabilities Act and specifically the 2010 Standards for Accessible Design which was issued by the Department of Justice. The relevant portions of the 2010 Standards are attached and the entire document may be found at:

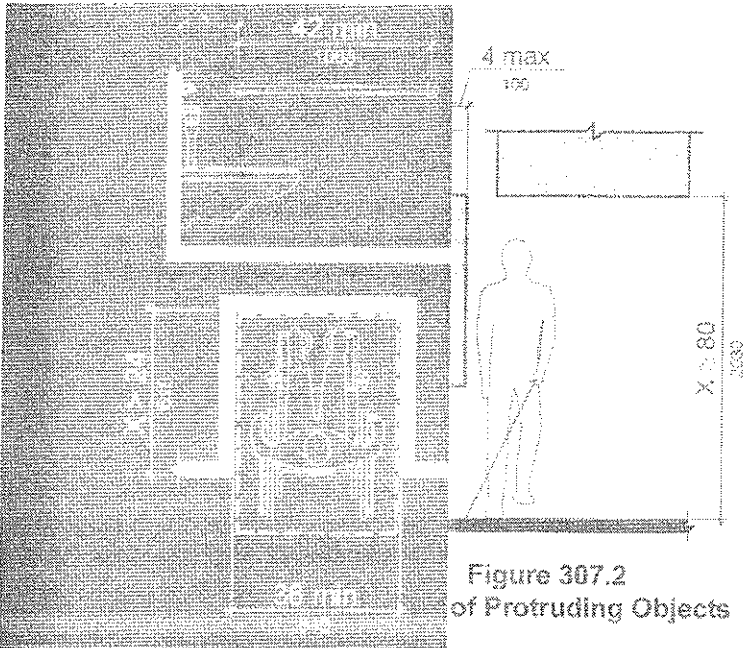
http://www.ada.gov/regs2010/2010ADAStandards/2010ADAStandards_prt.pdf.

As with the EFTA cases, we expect professional plaintiffs to begin targeting ATMs. Ensure that your ATMs are compliant with the ADA, create a policy whereby you check to ensure that the ADA functions are working properly on a regular basis, and as always document that you are compliant with your policy. Should you need any assistance creating the policy or have any questions regarding the 2010 Standards, contact any of the attorneys listed below at 717.731.1700 or by email at the following addresses:

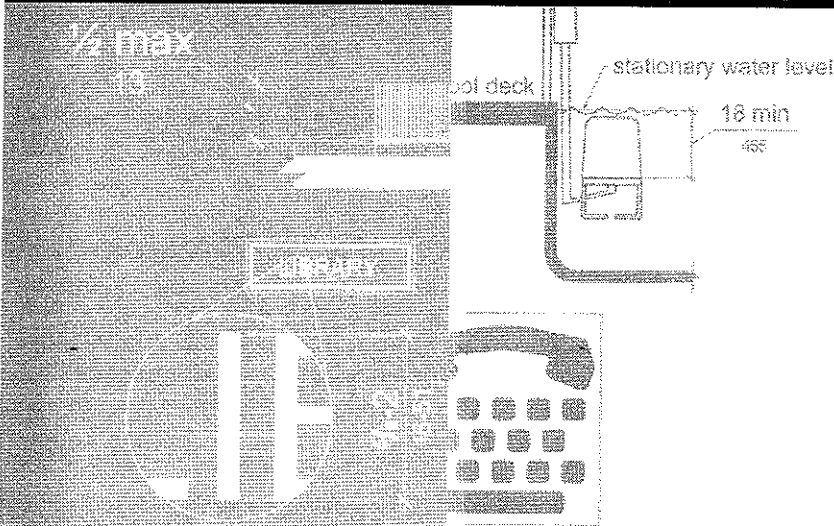
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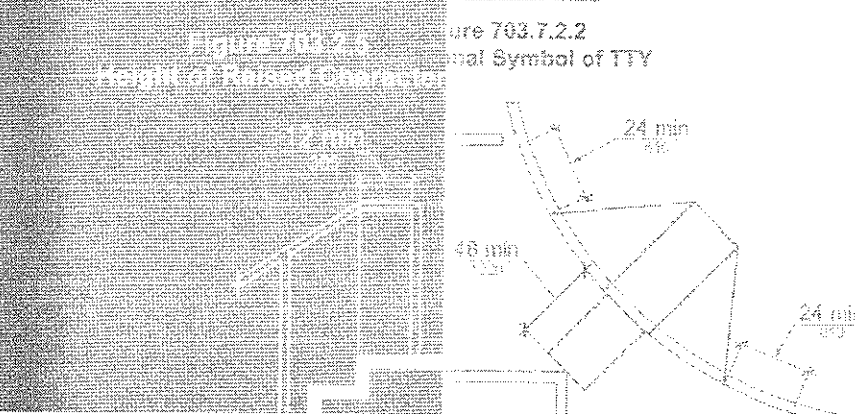
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2010 ADA Standards for Accessible Design



Department of Justice
September 15, 2010



706.3 Receiver Hearing-Aid Compatibility. Receivers required to be hearing-aid compatible shall interface with telecoils in hearing aids through the provision of neckloops.

Advisory 706.3 Receiver Hearing-Aid Compatibility. Neckloops and headsets that can be worn as neckloops are compatible with hearing aids. Receivers that are not compatible include earbuds, which may require removal of hearing aids, earphones, and headsets that must be worn over the ear, which can create disruptive interference in the transmission and can be uncomfortable for people wearing hearing aids.

706.4 Sound Pressure Level. *Assistive listening systems* shall be capable of providing a sound pressure level of 110 dB minimum and 118 dB maximum with a dynamic range on the volume control of 50 dB.

706.5 Signal-to-Noise Ratio. The signal-to-noise ratio for internally generated noise in *assistive listening systems* shall be 18 dB minimum.

706.6 Peak Clipping Level. Peak clipping shall not exceed 18 dB of clipping relative to the peaks of speech.

707 Automatic Teller Machines and Fare Machines

Advisory 707 Automatic Teller Machines and Fare Machines. Interactive transaction machines (ITMs), other than ATMs, are not covered by Section 707. However, for entities covered by the ADA, the Department of Justice regulations that implement the ADA provide additional guidance regarding the relationship between these requirements and elements that are not directly addressed by these requirements. Federal procurement law requires that ITMs purchased by the Federal government comply with standards issued by the Access Board under Section 508 of the Rehabilitation Act of 1973, as amended. This law covers a variety of products, including computer hardware and software, websites, phone systems, fax machines, copiers, and similar technologies. For more information on Section 508 consult the Access Board's website at www.access-board.gov.

707.1 General. Automatic teller machines and fare machines shall comply with 707.

Advisory 707.1 General. If farecards have one tactually distinctive corner they can be inserted with greater accuracy. Token collection devices that are designed to accommodate tokens which are perforated can allow a person to distinguish more readily between tokens and common coins. Place accessible gates and fare vending machines in close proximity to other accessible elements when feasible so the facility is easier to use.

707.2 Clear Floor or Ground Space. A clear floor or ground *space* complying with 305 shall be provided.

EXCEPTION: Clear floor or ground *space* shall not be required at drive-up only automatic teller machines and fare machines.

707.3 Operable Parts. *Operable parts* shall comply with 309. Unless a clear or correct key is provided, each *operable part* shall be able to be differentiated by sound or touch, without activation.

EXCEPTION: Drive-up only automatic teller machines and fare machines shall not be required to comply with 309.2 and 309.3.

707.4 Privacy. Automatic teller machines shall provide the opportunity for the same degree of privacy of input and output available to all individuals.

Advisory 707.4 Privacy. In addition to people who are blind or visually impaired, people with limited reach who use wheelchairs or have short stature, who cannot effectively block the ATM screen with their bodies, may prefer to use speech output. Speech output users can benefit from an option to render the visible screen blank, thereby affording them greater personal security and privacy.

707.5 Speech Output. Machines shall be speech enabled. Operating instructions and orientation, visible transaction prompts, user input verification, error messages, and all displayed information for full use shall be *accessible* to and independently usable by individuals with vision impairments. Speech shall be delivered through a mechanism that is readily available to all users, including but not limited to, an industry standard connector or a telephone handset. Speech shall be recorded or digitized human, or synthesized.

EXCEPTIONS: 1. Audible tones shall be permitted instead of speech for visible output that is not displayed for security purposes, including but not limited to, asterisks representing personal identification numbers.

2. Advertisements and other similar information shall not be required to be audible unless they convey information that can be used in the transaction being conducted.

3. Where speech synthesis cannot be supported, dynamic alphabetic output shall not be required to be audible.

Advisory 707.5 Speech Output. If an ATM provides additional functions such as dispensing coupons, selling theater tickets, or providing copies of monthly statements, all such functions must be available to customers using speech output. To avoid confusion at the ATM, the method of initiating the speech mode should be easily discoverable and should not require specialized training. For example, if a telephone handset is provided, lifting the handset can initiate the speech mode.

707.5.1 User Control. Speech shall be capable of being repeated or interrupted. Volume control shall be provided for the speech function.

EXCEPTION: Speech output for any single function shall be permitted to be automatically interrupted when a transaction is selected.

707.5.2 Receipts. Where receipts are provided, speech output devices shall provide audible balance inquiry information, error messages, and all other information on the printed receipt necessary to complete or verify the transaction.

EXCEPTIONS: 1. Machine location, date and time of transaction, customer account number, and the machine identifier shall not be required to be audible.

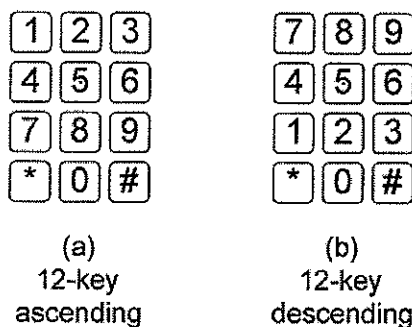
2. Information on printed receipts that duplicates information available on-screen shall not be required to be presented in the form of an audible receipt.
3. Printed copies of bank statements and checks shall not be required to be audible.

707.6 Input. Input devices shall comply with 707.6.

707.6.1 Input Controls. At least one *tactilely* discernible input control shall be provided for each function. Where provided, key surfaces not on active areas of display screens, shall be raised above surrounding surfaces. Where membrane keys are the only method of input, each shall be *tactilely* discernible from surrounding surfaces and adjacent keys.

707.6.2 Numeric Keys. Numeric keys shall be arranged in a 12-key ascending or descending telephone keypad layout. The number five key shall be *tactilely* distinct from the other keys.

Advisory 707.6.2 Numeric Keys. Telephone keypads and computer keyboards differ in one significant feature, ascending versus descending numerical order. Both types of keypads are acceptable, provided the computer-style keypad is organized similarly to the number pad located at the right on most computer keyboards, and does not resemble the line of numbers located above the computer keys.



**Figure 707.6.2
Numeric Key Layout**

707.6.3 Function Keys. Function keys shall comply with 707.6.3.

707.6.3.1 Contrast. Function keys shall contrast visually from background surfaces. *Characters* and symbols on key surfaces shall contrast visually from key surfaces. Visual contrast shall be either light-on-dark or dark-on-light.

EXCEPTION: *Tactile* symbols required by 707.6.3.2 shall not be required to comply with 707.6.3.1.

707.6.3.2 Tactile Symbols. Function key surfaces shall have *tactile* symbols as follows: Enter or Proceed key: raised circle; Clear or Correct key: raised left arrow; Cancel key: raised letter ex; Add Value key: raised plus sign; Decrease Value key: raised minus sign.

707.7 Display Screen. The display screen shall comply with 707.7.

EXCEPTION: Drive-up only automatic teller machines and fare machines shall not be required to comply with 707.7.1.

707.7.1 Visibility. The display screen shall be visible from a point located 40 inches (1015 mm) above the center of the clear floor *space* in front of the machine.

707.7.2 Characters. *Characters* displayed on the screen shall be in a sans serif font. *Characters* shall be 3/16 inch (4.8 mm) high minimum based on the uppercase letter "I". *Characters* shall contrast with their background with either light *characters* on a dark background or dark *characters* on a light background.

707.8 Braille Instructions. Braille instructions for initiating the speech mode shall be provided. Braille shall comply with 703.3.

708 Two-Way Communication Systems

708.1 General. Two-way communication systems shall comply with 708.

Advisory 708.1 General. Devices that do not require handsets are easier to use by people who have a limited reach.

708.2 Audible and Visual Indicators. The system shall provide both audible and visual signals.

Advisory 708.2 Audible and Visual Indicators. A light can be used to indicate visually that assistance is on the way. Signs indicating the meaning of visual signals should be provided.

708.3 Handsets. Handset cords, if provided, shall be 29 inches (735 mm) long minimum.

708.4 Residential Dwelling Unit Communication Systems. Communications systems between a *residential dwelling unit* and a *site, building, or floor entrance* shall comply with 708.4.

708.4.1 Common Use or Public Use System Interface. The *common use or public use* system interface shall include the capability of supporting voice and *TTY* communication with the *residential dwelling unit* interface.

708.4.2 Residential Dwelling Unit Interface. The *residential dwelling unit* system interface shall include a telephone jack capable of supporting voice and *TTY* communication with the *common use or public use* system interface.