

116TH CONGRESS  
1ST SESSION

# S. 1244

To promote the provision of exercise or fitness equipment, and exercise or fitness classes and instruction, that are accessible to individuals with disabilities.

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## IN THE SENATE OF THE UNITED STATES

APRIL 30, 2019

Ms. DUCKWORTH (for herself, Mr. CASEY, and Mr. BLUMENTHAL) 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 or fitness equipment, and exercise or fitness classes and instruction, that are 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:

1           (1) Individuals with disabilities can maintain  
2           and improve their health through appropriate phys-  
3           ical activity.

4           (2) In the 2018 Physical Activity Guidelines for  
5           Americans (referred to in this section as the “Guide-  
6           lines”), the Department of Health and Human Serv-  
7           ices recommends that individuals with disabilities,  
8           who are able, participate in regular aerobic activity.

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

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

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

22          (6) Many individuals with disabilities are unable  
23          to engage in the exercises or fitness activities rec-  
24          ommended in the Guidelines due to the failure of ex-

1        exercise or fitness service providers to provide acces-  
2        sible exercise or fitness equipment.

3            (7) The failure to provide accessible exercise or  
4        fitness equipment constitutes discrimination in viola-  
5        tion of the Americans with Disabilities Act of 1990  
6        (referred to in this section as the “ADA”).

7        (b) PURPOSE.—The purpose of this Act is—

8            (1) to carry out the ADA’s objectives of pro-  
9        viding “a clear and comprehensive national mandate  
10       for the elimination of discrimination” and “clear,  
11       strong, consistent, enforceable standards addressing  
12       discrimination”; and

13           (2) specifically, to carry out those objectives by  
14       issuing guidelines and regulations for exercise or fit-  
15       ness service providers specifying the accessible exer-  
16       cise or fitness equipment, and the accessible exercise  
17       or fitness classes and instruction, necessary to en-  
18       sure that individuals with disabilities can—

19            (A) obtain the benefits of physical activity;

20            and

21            (B) fully participate in the services offered

22            by exercise or fitness service providers.

23        **SEC. 3. DEFINITIONS.**

24        In this Act:

1           (1) ACCESS BOARD.—The term “Access Board”  
2 means the Architectural and Transportation Bar-  
3 riers Compliance Board established under section  
4 502 of the Rehabilitation Act of 1973 (29 U.S.C.  
5 792).

6           (2) ACCESSIBLE EXERCISE OR FITNESS EQUIP-  
7 MENT.—The term “accessible exercise or fitness  
8 equipment”—

9           (A) means exercise or fitness equipment  
10 that is accessible to, and can be independently  
11 used and operated by, individuals with disabil-  
12 ities; and

13           (B) includes equipment that complies  
14 with—

15           (i) the American Society for Testing  
16 and Materials (referred to in this section  
17 as “ASTM”) Standard Specification for  
18 Universal Design of Fitness Equipment for  
19 Inclusive Use by Persons with Functional  
20 Limitations and Impairments, ASTM  
21 F3021–17 (or any corresponding similar  
22 ASTM standard); and

23           (ii) other ASTM standards with speci-  
24 fications for inclusive use of specific exer-

1                   cise or fitness equipment, such as bicycles  
2                   or strength equipment.

3                   (3) EXERCISE OR FITNESS EQUIPMENT.—The  
4                   term “exercise or fitness equipment” means devices  
5                   such as motorized treadmills, stair climbers or step  
6                   machines, stationary bicycles, rowing machines,  
7                   weight machines, circuit training equipment, cardio-  
8                   vascular equipment, strength equipment, or other  
9                   similar equipment.

10                  (4) EXERCISE OR FITNESS SERVICE PRO-  
11                  VIDER.—The term “exercise or fitness service pro-  
12                  vider”—

13                         (A) means an entity that—

14                                 (i) provides exercise or fitness equip-  
15                                 ment, or exercise or fitness classes or in-  
16                                 struction, for the use of patrons; and

17                                 (ii) is considered a public accommoda-  
18                                 tion under section 301 of the Americans  
19                                 with Disabilities Act of 1990 (42 U.S.C.  
20                                 12181) or is considered a public entity  
21                                 under section 201 of such Act (42 U.S.C.  
22                                 12131); and

23                         (B) includes a stand-alone exercise or fit-  
24                         ness center and an exercise or fitness center  
25                         within an entity such as a hotel, retirement

1 community, gymnasium, elementary or sec-  
 2 ondary school, or institution of higher edu-  
 3 cation.

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

8 **SEC. 4. EXERCISE AND FITNESS ACCESSIBILITY GUIDE-**  
 9 **LINES AND REGULATIONS.**

10 (a) ESTABLISHMENT OF GUIDELINES.—Not later  
 11 than 18 months after the date of enactment of this Act,  
 12 the Access Board shall develop and publish guidelines for  
 13 exercise or fitness service providers regarding the provi-  
 14 sion of accessible exercise or fitness equipment.

15 (b) CONTENTS OF GUIDELINES.—The guidelines de-  
 16 scribed in subsection (a) shall ensure that the appropriate  
 17 number of items and types of accessible exercise or fitness  
 18 equipment are provided by an exercise or fitness service  
 19 provider.

20 (c) REVIEW AND AMENDMENT.—

21 (1) REVISION.—The Access Board shall periodi-  
 22 cally review and, as appropriate, amend the guide-  
 23 lines, and shall issue the resulting guidelines as re-  
 24 vised guidelines.

1           (2) INAPPLICABILITY OF REGULATORY ELIMI-  
2           NATION PROVISION.—Executive Order 13771 (5  
3           U.S.C. 601 note; relating to reducing regulation and  
4           controlling regulatory costs) shall not apply to this  
5           Act.

6           (d) REGULATIONS.—

7           (1) IN GENERAL.—Not later than 18 months  
8           after the Access Board issues guidelines under this  
9           section, the Department of Justice shall issue regu-  
10          lations regarding the provision of accessible exercise  
11          or fitness equipment and accessibility of exercise or  
12          fitness classes and instruction.

13          (2) EQUIPMENT.—With respect to the provision  
14          of exercise or fitness equipment, the regulations  
15          shall be consistent with the Access Board guidelines.

16          (3) EXERCISE OR FITNESS CLASSES AND IN-  
17          STRUCTION.—The regulations shall—

18                 (A) ensure that exercise or fitness classes  
19                 and instruction offered by the service provider  
20                 are accessible to individuals with disabilities;  
21                 and

22                 (B) ensure that the service provider makes  
23                 available at least one employee who is able to  
24                 assist individuals with disabilities in their use of  
25                 accessible exercise or fitness equipment.

1           (4) CONSIDERATIONS.—In issuing the regula-  
 2           tions, the Department of Justice shall take into con-  
 3           sideration each of the following:

4                   (A) Whether the exercise or fitness service  
 5           provider is providing equipment, classes, or in-  
 6           struction at a new or existing facility.

7                   (B) The size of the exercise or fitness facil-  
 8           ity.

9                   (C) The availability of closed captioning of  
 10          video programming displayed on equipment or a  
 11          television provided by the exercise or fitness  
 12          service provider.

13 **SEC. 5. TAX CREDIT FOR EXPENDITURES TO PROVIDE AC-**  
 14                   **CESSIBLE EXERCISE OR FITNESS EQUIP-**  
 15                   **MENT.**

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

18                   (1) by striking “means amounts paid or in-  
 19          curred by an eligible small business” and inserting  
 20          “means—

21                           “(A) amounts paid or incurred by an eligi-  
 22          ble small business”;

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

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



1           “(B) amounts paid or incurred by an eligi-  
2           ble small business which is an exercise or fit-  
3           ness service provider for the purpose of pro-  
4           viding for use by individuals with disabilities ac-  
5           cessible exercise or fitness equipment that  
6           meets the guidelines established by the Access  
7           Board under section 4 of the Exercise and Fit-  
8           ness 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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