

# ADA AMENDMENTS ACT OF 2008

The ADA Amendments Act was signed into law on Thursday, September 25, 2008. The bill enjoyed bipartisan support and was passed unanimously by the US Senate and very strongly by the US House of Representatives. The law goes into effect on January 1, 2009.

**PURPOSE: To restore the intent and protections of the Americans with Disabilities Act of 1990.**

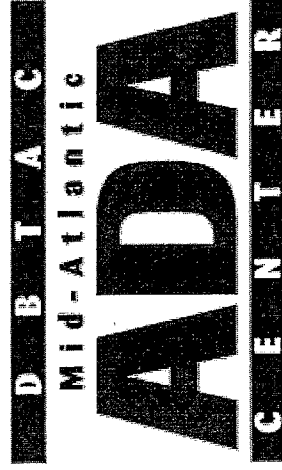
## What it Changes or Clarifies

- **MITIGATING MEASURES**  
The law overturns the *Sutton v. United Airlines, Inc.* mitigating measures ruling. Substantial limitation will be determined without considering mitigating measures such as medication or assistive technology. An exception is made for “ordinary eyeglasses or contact lenses” that may be taken into account.
- **FINDINGS**  
The findings disapprove of the Supreme Court’s findings in *Sutton v. United Airlines, Inc.* and *Toyota v. Williams*.
- **ONE MAJOR LIFE ACTIVITY**  
The law clarifies that an individual shall not be excluded from coverage because of the ability to do many things so long as one major life activity is substantially limited.
- **EPISODIC/REMISSIONS**  
The law clarifies that an otherwise substantially limiting impairment is in remission or episodic does not remove the individual from coverage.
- **BROAD INTERPRETATION**  
The courts are instructed to give a broad (as opposed to narrow) interpretation to the definition of disability.
- **“REGARDED AS” PRONG FOCUS CHANGED**  
The “regarded as” prong now focuses on an employer’s treatment of a person with a disability rather than the difficult to prove “perception” of the employer. A person who can establish that he/she was discriminated against can bring suit.
- **MAJOR LIFE ACTIVITIES LIST**  
Major life activities include, but are not limited to, caring for oneself, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- **MAJOR BODILY FUNCTIONS**  
A major life activity also includes the operation of a major bodily function. Major bodily functions include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.
- **NO ACCOMMODATIONS FOR “REGARDED AS”**  
While the “regarded as” prong now covers anyone who can establish discrimination, it will NOT allow that person to get an accommodation.

**\*\*This information modified and added to using information from Disability Rights Education Defense Fund (DREDF). [http://www.dredf.org/programs/DREDF\\_ADARA\\_Memo\\_6\\_16\\_06\\_Final.pdf](http://www.dredf.org/programs/DREDF_ADARA_Memo_6_16_06_Final.pdf)**

## What it does NOT change

- **SUBSTANTIALLY LIMITS**  
This law maintains a severity test for coverage under the first prong (has a disability). One must be substantially limited in at least one major life activity or major bodily function to receive accommodations.
- **THREE PRONGS**  
There remain three prongs in the definition of disability: has a disability, has a history or record of a disability, is regarded as having a disability.
- **PHYSICAL OR MENTAL IMPAIRMENT**  
The requirement that a disability be a physical or mental impairment (which substantially limits at least one major life activity) has not been changed.
- **COVERED ENTITIES**  
The requirements for who must comply with the ADA (employers with 15 or more employees, state and local governments, public accommodations, telecommunications providers, transportation providers) remain the same.
- **COMPLAINT PROCESSES**  
The processes for filing complaints under any of the five titles have not been altered.
- **ENFORCEMENT AGENCIES**  
The enforcement agencies continue to be: Equal Employment Opportunity Commission (EEOC), Department of Justice (DOJ), Department of Transportation (DOT), Federal Communications Commission (FCC)



Provided by:  
**DBTAC: Mid-Atlantic ADA Center**  
*A Disability and Business Technical Assistance Center*  
451 Hungerford Drive, Suite 700  
Rockville, Maryland 20850  
**800-949-4232 V/TTY Toll free**  
301-217-0124 V/TTY Tel  
301-217-0754 Fax  
[www.adainfo.org](http://www.adainfo.org) Web  
[adainfo@transcen.org](mailto:adainfo@transcen.org) Email

The DBTAC: Mid-Atlantic ADA Center is one of ten regional centers funded by the National Institute on Disability Rehabilitation and Research (NIDRR), the US Department of Education (grant # H133A060085), to provide technical assistance, training, and materials on the Americans with Disabilities Act.