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SENATE BILL NO. 1327

Senate Amendments in [] — January 29, 1999

A *BILL to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 53, consisting of sections numbered 2.1-807 through 2.1-811, relating to information technology access by individuals who are blind or visually impaired.*

Patrons—Whipple and Ticer; Delegate: Darner

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 53, consisting of sections numbered 2.1-807 through 2.1-811, as follows:

*CHAPTER 53.**INFORMATION TECHNOLOGY ACCESS ACT.**§. 2.1-807. Findings; policy.*

A. *The General Assembly finds that: (i) the advent of the information age throughout the United States and around the world has resulted in lasting changes in information technology; (ii) use of interactive visual display terminals by state and state-assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but nonvisual access, whether by speech, Braille, or other appropriate means has been overlooked in purchasing and deploying the latest information technology; (iii) presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life, such as education and employment; (iv) alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and use of the information presented is possible by both visual and nonvisual means; and (v) the goals of the state in obtaining and deploying the most advanced forms of information technology properly include universal access so that the segments of society with particular needs (including individuals unable to use visual displays) will not be left out of the information age.*

B. *It is the policy of the Commonwealth that all covered entities shall conduct themselves in accordance with the following principles: (i) individuals who are blind or visually impaired have the right to full participation in the life of the Commonwealth, including the use of advanced technology which is provided by such covered entities for use by employees, program participants, and members of the general public, and (ii) technology purchased in whole or in part with funds provided by the Commonwealth to be used for the creation, storage, retrieval, or dissemination of information and intended for use by employees, program participants, and members of the general public shall be adaptable for access by individuals who are blind or visually impaired. The implementation of nonvisual access technology under this Act shall be determined on a case-by-case basis as the need arises.*

§ 2.1-808. Definitions.

As used in this chapter, unless the context clearly requires a different meaning:

"Access" means the ability to receive, use, and manipulate data and operate controls included in information technology.

"Blind" or "visually impaired" individual means an individual who has: (i) a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees; (ii) a medically indicated expectation of visual deterioration; or (iii) a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability.

"Covered entity" means all state agencies, public colleges and universities, and political subdivisions of the Commonwealth.

"Information technology" means all electronic information processing hardware and software, including telecommunications.

"Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

"Telecommunications" means the transmission of information, images, pictures, voice or data by radio, video, or other electronic or impulse means [, but shall not include public broadcasting services as defined in § 2.1-563.27:2].

§ 2.1-809. Assurance of nonvisual access.

In general, the head of each covered entity shall ensure that information technology equipment and software used by employees, program participants, or members of the general public (i) provide blind or

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visually impaired individuals with access (including interactive use of the equipment and services) which is equivalent to that provided to individuals who are not blind or visually impaired; (ii) are designed to present information (including prompts used for interactive communications) in formats adaptable to both visual and nonvisual use; and (iii) have been purchased under a contract which includes the technology access clause required pursuant to § 2.1-810.

§ 2.1-810. Procurement requirements.

A. The technology access clause specified in clause (iii) of § 2.1-809 shall be developed by the [~~Department of General Services~~ Secretary of Technology created pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-Three (1998)] and shall require compliance with the nonvisual access standards established in subsection B. The clause shall be included in all contracts for the procurement of information technology by, or for the use of, entities covered by this Act on or after the effective date of this Act.

B. The nonvisual access standards shall include the following minimum specifications: (i) the effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means; (ii) the technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts; (iii) nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and (iv) the technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.

Compliance with the nonvisual access standards shall not be required if the head of a covered entity determines that (i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and (ii) nonvisual equivalence cannot be developed.

§ 2.1-811. Implementation.

A. The head of any covered entity (i) may not approve the exclusion of the technology access clause from any contract with respect to the compatibility of standard operating systems and software with nonvisual access software and peripheral devices or with respect to the initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software, or (ii) may, with respect to nonvisual access software or peripheral devices, approve the exclusion of such clause to the extent that the cost of such software or devices for the covered entity would increase the total cost of the procurement by more than five percent. All exclusions of the technology access clause from any contract shall be reported to the [~~Department of General Services~~ Secretary of Technology created pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-Three (1998).

B. The installation of software or peripheral devices used for nonvisual access when the information technology is being used exclusively by individuals who are not blind or visually impaired shall not be required.

C. Notwithstanding the provisions of subsection B, the applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

D. Compliance with this Act for information technology purchased prior to September 1, 2000, shall be achieved at the time of procurement of an upgrade or replacement of the existing equipment or software.