

Mobility Device Size and Type

The definition of “wheelchair” has been refined

- The reference to “three- or four-wheeled devices” has been changed to “three- or *more* wheeled devices”
- This change was made in light of advances in wheelchair design, with many power wheelchairs now having more than four wheels; these should not be excluded from the definition of “wheelchair” solely on the basis of having a larger number of wheels

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The operational use of the term “common wheelchair” has been removed

- This concept was originally developed to provide a set of parameters for designers and manufacturers to use in the process of designing and building accessible vehicles and equipment
- Original DOT ADA regulation created an operational use of this design concept, saying that transportation operators were required to transport “common wheelchairs.”

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- Over time, transit operators began to apply this concept to exclude wheelchairs that did not fit into the common wheelchair weight and dimension “envelope” regardless of whether their vehicles and equipment could accommodate them
 - A Federal court decision, *Kiernan v. Utah Transit Authority*, 10th Cir. 2003, said that transit operators could exclude these “oversize” wheelchairs, even if the vehicle could physically accommodate the device.

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Goal of the rule: Prevent arbitrary denial of service

Some transit agencies operate a fleet of vehicles that meet only the minimum part 38 requirements – this is fine

Others procure vehicles with lifts with a capacity of 800 pounds and then deny service to passengers who weigh more than 600 pounds – this is not fine

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- The rule provides that transit operators must carry a wheelchair and occupant **if the lift and vehicle can physically accommodate them**, unless doing so is inconsistent with legitimate safety requirements
 - “Legitimate safety requirements” includes such circumstances as a wheelchair of such size that it would block an aisle, would be too large to fully enter a railcar, would block the vestibule, or would interfere with the safe evacuation of passengers in an emergency

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Consistent with the rule before this last revision, a transit provider cannot impose a limitation on the transportation of wheelchairs and other mobility aids based on the inability of the securement system to secure the device to the satisfaction of the transportation provider.

It would be inconsistent with the rule to deny service to people who use wheelchairs just because particular devices may be problematic from a securement point of view.

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Requirement: carry devices that fit on the lift and vehicle, even if the devices exceed 30" x 48" footprint or weigh more than 600 pounds

No requirement to carry devices that do not fit on the lift or vehicle

No requirement to retrofit vehicles

No requirement to procure vehicles or lifts that exceed the ADA requirements – see e.g., 49 CFR part 38, specifically 38.23(b) and (d).