

104TH CONGRESS  
2D SESSION

# H. R. 4017

To amend the Americans with Disabilities Act of 1990 with respect to safety-sensitive employment functions and individuals who have a record or history of the habitual or regular use of illegal drugs or of the abuse of alcohol, or of clinical alcoholism, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. ZELIFF (for himself, Mr. HASTERT, Mr. BURTON of Indiana, Mr. SOUDER, Mr. BARTON of Texas, and Mr. SCARBOROUGH) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

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## A BILL

To amend the Americans with Disabilities Act of 1990 with respect to safety-sensitive employment functions and individuals who have a record or history of the habitual or regular use of illegal drugs or of the abuse of alcohol, or of clinical alcoholism, and for other purposes.

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 “Drug-Free Workplace  
5       and Public Safety Assurance Act of 1996”.

1   **SEC. 2. AMENDMENTS REGARDING PERFORMANCE OF**  
2                   **SAFETY-SENSITIVE FUNCTIONS BY EMPLOY-**  
3                   **EES WITH RECORD OF SUBSTANCE ABUSE.**

4       (a) IN GENERAL.—Section 104(a) of the Americans  
5 With Disabilities Act of 1990 (42 U.S.C. 12114(a)) is  
6 amended—

7                   (1) by striking “(a) QUALIFIED” and all that  
8 follows through “of this title,” and inserting the fol-  
9 lowing:

10          “(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—  
11                  “(1) EXCLUSION REGARDING CURRENT ILLE-  
12                  GAL USE OF DRUGS.—For purposes of this title,”;  
13                  and

14                  (2) by inserting at the end the following para-  
15                  graph:

16                  “(2) EXCLUSION REGARDING SAFETY-SEN-  
17                  SITIVE FUNCTIONS AND RECORD OF SUBSTANCE  
18                  ABUSE.—

19                  “(A) IN GENERAL.—With respect to the  
20                  performance of a safety-sensitive employment  
21                  function by an individual with a disability, an  
22                  employee or applicant shall not be considered to  
23                  be a qualified individual with a disability for  
24                  purposes of this title if, subject to subparagraph  
25                  (B), the status of the employee or appli-  
26                  cant as an individual with a disability is based

1       in whole or in part on the fact that the em-  
2       ployee or applicant has a medical, legal, or  
3       other verifiable record or history of the habitual  
4       or regular use of illegal drugs or of the abuse  
5       of alcohol, or of clinical alcoholism. This para-  
6       graph applies notwithstanding any other provi-  
7       sion of law.

8           “(B) LONG-TERM EXCLUSION.—An em-  
9       ployee with a medical, legal, or other verifiable  
10      record or history of the illegal use of drugs  
11      shall be permanently excluded from employment  
12      in a safety-sensitive employment function; an  
13      employee with a medical, legal, or other verifi-  
14      able record or history of the abuse of alcohol,  
15      or of clinical alcoholism, shall be excluded from  
16      employment in a safety-sensitive employment  
17      function for at least 10 years.

18           “(C) SAFETY-SENSITIVE EMPLOYMENT  
19      FUNCTION.—For purposes of this paragraph,  
20      the term ‘safety-sensitive’, with respect to an  
21      employment function, means an employment  
22      function that, if performed improperly, would  
23      pose a significant risk of physical harm to one  
24      or more persons or a significant risk of sub-  
25      stantial damage to real or personal property.

1                 “(D) REHABILITATION ACT OF 1973.—This  
2                 paragraph applies with respect to sections 503  
3                 and 504 of the Rehabilitation Act of 1973 to  
4                 the same extent and in the same manner as this  
5                 paragraph applies with respect to this title.”.

6                 (b) CONFORMING AMENDMENTS.—

7                 (1) AMERICANS WITH DISABILITIES ACT OF  
8                 1990.—Section 104(b) of the Americans With Dis-  
9                 abilities Act of 1990 (42 U.S.C. 12114(b)) is  
10                 amended in the matter preceding paragraph (1) by  
11                 striking “subsection (a)” and inserting “subsection  
12                 (a)(1)”.

13                 (2) REHABILITATION ACT OF 1973.—Section  
14                 7(8) of the Rehabilitation Act of 1973 (29 U.S.C.  
15                 706(8)) is amended by adding at the end the follow-  
16                 ing subparagraph:

17                 “(G) With respect to sections 503 and 504 as such  
18                 sections relate to employment, this paragraph is subject  
19                 to section 104(a)(2)(D) of the Americans with Disabilities  
20                 Act of 1990 (relating to safety-sensitive employment func-  
21                 tions and the abuse of drugs or alcohol).”.

22                 **SEC. 3. EFFECTIVE DATE.**

23                 The amendments made by section 2 are effective in  
24                 the case of any cause of action arising under title I of

- 1 the Americans with Disabilities Act of 1990 on or after
- 2 the date of the enactment of this Act.

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