

My testimony

- Checking movies theater to ensure that they have Closed Caption types of equipment. Sometimes they have glasses and others had the cupholder closed caption device...I always hate how clumsy and uncomfortable designed they were. More than often I have to arrive at the location 20 mins early than the tendency because of unpredictable mechanical issues that may appear up later on. Plus, an additional time when I arrive at the location and speaking with the customer service where to pick up the devices that I required.

a. Glasses are two separate devices – glasses and the battery/wifi connector/adjustment

b. The cupholder closed caption device is a one-piece device.

- When I enter a certain auditorium... depends on the size of the audience that appears for the movie. Since both devices required different adjustment(s) because glasses don't require the armrest hole to set up. Once I take up my seat. From there, I have to do some prep adjustment but 90% of the time where the captions don't come on until the movie starts. So I am stuck with no preview to test before the movie starts.

a. Glasses, I have to click the brightness as a cheat to see how my glasses set up. Adjust the glasses and nose holder. Make sure the battery box is plugged.

b. Sometimes some of the glasses are just difficult to adjust and stuck in placing glasses in a weird setup on my face with a view like put it lower or higher than my straight view.

c. Cupholder CC device, I have to make sure that the base of the device is not worn out and it will remain stationary inside the drink holder. Then put my drink on another side because the majority of this device is designed for the right side. Again depending on the audience on that day where all seats and drink holders may be full...

- When the movie finally started...I would panic if the captions wouldn't come up right away. Like checking the battery, click brightness on, adjusting the glasses or cupholder CC device to line up with my eyes to be visible, and more. 1/3 of times they would be dead because of lack of battery not being charged enough beforehand. Another time, wrong auditorium signals. Either way, I have to stand up and running to customer service while missing the opening. Again, I don't know if the replacement device would work because I am not in the auditorium to confirm the connection. Sometimes, the battery died or the device lost the connection in the middle of the movie where everyone already into the movie...while I have to run to customer service to get a replacement either way. Sometimes, when I run to them for a replacement and they don't have one because nobody recharges them for a while or something. So they gave me a free movie ticket for next time...Wut? No, I am here already...That probably happened 1/3 of the time too! Why do I have to do those extra works? When they could just turn on the Open Captions and let me experience the truest movie theater experiences.

## Re: SB 21-120; Open Caption Requirement for Movie Theaters

Position: Support more open captions because closed caption equipment:

- Is faulty
- Has questionable sanitation
- Is cumbersome and gives a suboptimal movie experience (see photos at bottom)
- Can partially block the view of other movie patrons

### Faulty Closed Caption Equipment



At least 25-33% of the time, I experience faulty equipment during the movie, due to:

1. Battery dying (my photo to left, while I was waiting to exchange devices)
2. Device playing the wrong captions (set for wrong auditorium)

There is no way to verify the equipment is working properly until the feature movie begins. Captions are available for the feature movie, and rarely for the movie previews.

To exchange the non-working device, I must:

1. Leave the movie, taking deep breaths to try to subside my frustration.
2. Wait for a ticketing staff person, who then calls a manager.
3. Wait for the manager, who has access to the equipment.

Staff response:

- One particularly unsettling movie employee's response, "Try this one." Those words told me he was not confident in their internal procedures that a second device would work any better.
- Employees will usually apologize that the equipment didn't work.
- Employees have never acknowledged that I have missed part of the movie, nor the inconvenience of exchanging equipment.
- Written letters are ineffective. No response.

Wynne Whyman, Colorado resident, March 8, 2021

Which would you prefer? (examples from the web)



March 9, 2021

Good afternoon Mr. Chair, Business, Labor, & Technology Committee Members and Senator Woodward, my district Colorado rep.

My name is Terri Shirley. I became profound deaf in both ears overnight as a innocent hearing high school freshman. I did benefit by wearing two hearing aids for 26 years until I woke up one day and the hearing aids no longer worked as I lost the rest of my hearing in my sleep due to enlarged vestibulars. Four months later I became a cochlear implant recipient on one side to restore my ability to hear speech and environmental sounds.

A film was created by several producers all under the age of 25 and they were producing their very first movie ever. My grandson was in the movie. I thought this was the golden opportunity to educate from the bottom up and watch the progress of how captions are added to a movie. The young producers were totally understanding and wanted to have the captioning added. We kept in touch during different phases of the production.

At some point, the movie was sold to an agent and the producers said they unfortunately, no longer had no control of whether the captions would be added. I was heartbroken the opportunity now had slipped away.

Eventually, the movie was featured in a film fest where the movie was filmed and where I lived. The film scheduled only showing one time on one day and that was all. I called and asked if there was captioning and was told, "no, we're sorry, but we would be happy to sell you two tickets for the price of one to make up for not having accommodations for you". I declined because I do not want to pay to see the movie with my grandson and not be able to hear the dialogue. Would you want to watch a movie with the sound turned off or earmuffs over your ears so you can't understand what is said? The movie was shown at one other film fest one-time only in California. Then Spanish subtitles were added to be shown in Barcelona Spain. The first time I was able to see the movie with captions was after it sold on Amazon.

If movies were shown with open captions in the first place, it wouldn't matter if theaters ran out of CC devices or had them at all. It wouldn't matter if all the CC devices were unsanitary, broken, had Wi-Fi connection issues and no more responsibility of keeping up the expensive equipment. What a difference it would have made if open captions were available so I could have been part of that first film fest that my grandson was in.

I whole heartedly support open captions at the movies. Please vote yes on SB21-120 Open Caption Requirements for Movie Theaters.

Respectfully Submitted,

Terri Shirley

March 9, 2021

Good afternoon Mr. Chair, Business, Labor, & Technology Committee Members and Senator Woodward, my district Colorado rep.

On Thanksgiving, the year Pirates of the Caribbean was released, we decided to take the family to see it. We had prepared all other foods in advance so we planned to go to the movies while the turkey was baking.

We drove about 20 minutes and wanted to patronize a different theater. We had to figure out where to pick up the CC device for my wife, who is a cochlear implant recipient. We bought concession popcorn, treats and beverages. We selected the first row after you climbed up a few steps from the lower platform. We sat in the middle to center ourselves with the screen.

Moments after the main feature started, my wife had to get up to get help for the CC device was not working. The movie was an extremely dark-lit movie. The railing bar for that first row to keep people from falling to the lower platform was not very high. My wife had problems getting past all the people and things on the floor. Since my wife has some balance issues, without light too she struggled to get to the end of the row, bothering all those along the way.

She was gone a while and apparently was in the side entrance with an employee who was trying to pair the auditorium with other spare CC devices. My wife came back and told the family they could not get the CC devices to work at all. I do not enjoy watching a movie when my wife does not have access to captioning. I am not going to enjoy it if she can't hear what is being said.

We returned to the lobby and asked for refunds. They would not refund without the paper receipts for the movie tickets or the concession food, which we would never have ordered if there was no access at all to the dialog for my wife! In the darkness of the whole event, we had no idea where the paper receipts were. This was the **fifth time in a row** we had attended movies at different theaters and the CC devices failed. We had to call for a manager and had a heated discussion in order to get our money refunded. They eventually gave us complimentary tickets to use next time so we can go through this all over again.

I whole heartily support open captions at the movies. Please vote yes to SB21-120 so I can stop boycotting the movies due to lack of open captions, which rarely ever malfunction.

Respectfully Submitted,

Dan Shirley

Good afternoon Mr. Chair and Senate Business, Labor, & Technology Committee Members.

Thank you for the opportunity to submit Written Testimony in support of SB21-120 Open Caption Movie Requirement for Movie Theaters. My name is Kathleen Ashworth, representing myself, and I support this bill because it will provide me the opportunity to attend the movies with my friends and family which I have not been able to do since 2019.

I became deaf in my right ear in the Spring of 2019 due to a benign tumor which was wrapped around my right auditory nerve. I underwent a radiation procedure to stop the growth of the tumor but unfortunately, the radiation severely damaged the nerve, causing me to become deaf in the right ear.

I would like you to imagine the social impact of hearing loss. It is similar to a permanent COVID-19 and without Zoom, where you are unable to participate fully in conversations with family and friends and you are unable to hear at public events that have not accommodated the needs of the deaf/hard-of-hearing community.

You may ask why I am not watching the movies using the closed caption devices provided by the movie theaters. There are three reasons:

1. First, the devices are unsanitary and often in disrepair.
2. Second, these devices sit in the cupholder and so I must hold my drink in my lap.
3. Third, some caption eyeglass manufacturers sell captioning glasses weighing up to 2 pounds and I do not want that weight across the bridge of my nose throughout a movie. Would you?

I want to leave you with several thoughts today.

- With the current focus on inclusion in our society, I hope you will consider allowing people who experience hearing loss to have equal access to entertainment opportunities.
- I ask you to imagine yourself or your child losing their hearing over a three-month period like I did or overnight like many people I have known. I'm sure that you would fight for every accommodation possible for yourself and your children and I ask you to do that today.

Respectfully Submitted,

Kathleen Ashworth

Mr. Chair and Members of the Senate Business, Labor, & Technology Committee:

My name is Deborah Mohny, I am from Boulder, CO. I am writing to you in favor of SB21-120 – Open Caption Movie Requirement for Movie Theaters.

I have had hearing loss since birth. I learned to read at an early age thanks to my grandmother who had been a teacher. What we didn't know was how valuable that would be to my development as I went through school with my hearing loss.

I attended movies from a young age, and like all kids, I enjoyed watching these movies with my hearing friends. I remember many movies where I had to ask my friends what was being said. Sometimes, they would say, I'll tell you later. Suffice it to say, I don't remember too many of those times where they could repeat to me what was being said in the movie.

I slowly stopped attending movies as an adult, and several years went by without going to the theater. When my son was little, we started taking him to the movies. Do you know how hard it is to lip read cartoon characters? Pretty darn near impossible.

Imagine my joy when I was finally able to attend an open captioned movie. There was a non-profit organization called Tripod that made arrangements with some of the movie studios to obtain a few limited copies of the films and burn captions directly on to the films. These films traveled around the country, and the first one of these films to make it to Colorado shown in South Denver. It was Titanic in 1997. I sat mesmerized throughout the whole movie, barely able to contain my joy.

I looked for more opportunities to attend these open captioned movies, but they did not happen very often.

In 2003, when the open captioned Pirates of the Caribbean movie came out, I was able to make arrangements for it to come to Louisville, CO and I contacted the Boulder Daily Camera. They wrote an article about the movie showing. I had seen the movie twice before the open captioned showing because we couldn't wait. When I saw the movie with captions, I was floored. I had missed the theme of "Parley" throughout the entire movie. I felt like I had made up my own plot due to not understanding the words without the captions.

About 10 years ago, there were lawsuits in Washington and California to get closed captioning in the theaters. The result was a mandate by the FCC, in which movie theaters across the country agreed to install closed captioning systems.

I was one of the people who expressed gratitude for the closed caption systems. I thanked the theaters over and over for accommodating my hearing loss. What happened is that I had to wear heavy captioned glasses, which gave me headaches. I started to avoid the theaters that had the glasses and find the ones that have the CC cup holder devices. The cup holder devices also have problems, they swivel freely from the base or the top, they are top heavy and fall over. Or I can't get them positioned in the right spot for watching the movie. I have held the cupholder device several times throughout a whole movie.

Both of these systems quickly showed their shortcomings. These devices routinely have to have their batteries charged. If left uncharged, they will stop suddenly during the movie, or not come on at all in the theater. Other times, the captions fail to transmit to the devices, sometimes due to not being turned on, or perhaps turned on in one theater but not another. Routinely, the captions skip over parts of the movie or key words.

All of this results in having to leave the theater and seek out the manager or attendant to have the device replaced. I have lost count of how many movies I've missed from 10 – 15 minutes or more. Meanwhile the other people in the movie have continued to enjoy the movie while I'm dealing with equipment failure. Every time I have to leave the theater, I pick up my belongings because I can't leave them alone in the theater. I have to disturb people when I leave the theater.

Nationally, there have been rules that govern and require the use of captions in federal workplaces or educational settings. National Parks are required to display open captions on their films.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5214590/> is a document that outlines “Video Captions Benefit Everyone” written by Morton Ann Gernsbacher.

The abstract outlines that “Video captions, also known as same-language subtitles, benefit everyone who watches videos (children, adolescents, college students, and adults). More than 100 empirical studies document that captioning a video improves comprehension of, attention to, and memory for the video. Captions are particularly beneficial for persons watching videos in their non-native language, for children and adults learning to read, and for persons who are D/deaf or hard of hearing. However, despite U.S. laws, which require captioning in most workplace and educational contexts, many video audiences and video creators are naïve about the legal mandate to caption, much less the empirical benefit of captions.”

According to this abstract:

- Displaying the Captions on the screen improves reading skills, boosts written and spoken vocabulary, increases attention to lectures, enhances pronunciation in second language learners, and raises literacy rates. For all ages.
- There are more than 100 empirical studies listed in the appendix of this article. These studies report benefits to a wide variety of participants regarding content of videos.
- Eye-movement studies document that captions can be read easily, effortlessly, and integrated to the soundtrack of the film, and verbatim captions are effective.
- These studies show that captions benefit everyone who watches videos, from children to older adults. Watching videos with same-language captions leads to significantly better comprehension.
- Early 20<sup>th</sup> Century Silent Movies leveled the playing field with captions for everyone.
- Reaping the benefits of captions is impeded by erroneous attitudes, many people think that captions are intended for, and only beneficial, to people who are D/deaf.

I submit that SB21-120 Open Caption Movie Requirement for Movie Theaters is beneficial to those of us who have hearing loss, but also anyone who watches movies with Open Captions.

Respectfully submitted,  
Deborah Mohny  
Boulder, Colorado

Thank you Chairman, and Senators for allowing me to give testimony today. My name is Tina McDonald, and I am a hearing impaired non-attorney advocate with the Colorado Cross Disability Coalition, And I don't have \$6000 for hearing aids. It took me a while to figure out that I'd have to submit written testimony, because the video to tell how to use your WebEx software isn't captioned for the hard of hearing. At 11:00 at night, In order to physically hear that video, at that time, I'd be violating my lease.

I can attest after testifying regarding RTD over the last 5 years that even in the Capitol building in the great State of Colorado there has been frequent violations in the ADA in terms of technological devices, not having the devices in certain rooms, staff not knowing what they are, the questioning last year when I returned a device and some other hard of hearing person didn't return theirs, and not using the microphones in the hearing rooms - note if you don't use the microphones, the FM system doesn't work., Now Legislative Services is supposed to be pretty up on that 30 year old law, the ADA.

What do you expect a teenager making minimum wage actually knows about the ADA. I've been refused a device, they've tried to charge me a fee for using the device, I've had to leave my credit card in order to check it out. I've been lent equipment that doesn't work, then they tried to charge me for a replacement of the device that has been in my hands for literally less than five minutes. There is usually at most two device per location.. So odds are pretty fair you are paying \$12 and up for a ticket, and likely have absolutely no clue as to what went on. I maybe go to one movie now every couple years.

How many of you have gone to the movies with young kids, you have your drink, their drink (so they don't spill), a bucket of popcorn and an expensive piece of borrowed technology that you know if there is the teensiest bit of liquid or grease damage to the unit, you are going to have a battle with the theater manager. How many hands do you have?

How many of you have tried to read texts on your phone the entire duration of the film. . I can read the big screen and still see the cinematography effects, but not so much when I'm staring at something the size of a cell phone.

How many of you have noticed that the conversations in the movies are so often being whispered, but the music is really loud. Well add a 40dB gain so you can hear the conversation, and the music literally becomes actually deafening, in that you lose even more of your hearing.

According to the WHO, It takes just four minutes for a sound level of 105 dB - the loudest an MP3 or cell phone can get to permanently damage your inner ear structure. What else is inner ear damage besides hearing?

I have Meniere's Disease, a type of inner ear disorder. Sound damage from listening to things that are too loud can also lead to the same types of symptoms. It's the reason I'm on SSDI - it's specifically listed as a covered disease in the Social Security Act. .Meniere's affects your hearing, your balance, your vision, your ability to walk, live independently and not in a nursing home or on Home and Community Based Services., and your leaning over the toilet for days vomiting during flares, crawling on all fours during an attack, BESIDES not being able to hear.

Assisted listening devices, coupled with people already hard of hearing, coupled with that really loud music, my honored senators costs the state MILLIONS OF DOLLARS in health care and disability benefits. The statistics on noise induced hearing loss in young people is alarming. <https://www.bbc.com/news/health-31661789>

Thank you for your time.