

Union Calendar No. 403

115TH CONGRESS
2D SESSION

H. R. 620

[Report No. 115–539]

To amend the Americans with Disabilities Act of 1990 to promote compliance through education, to clarify the requirements for demand letters, to provide for a notice and cure period before the commencement of a private civil action, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. POE of Texas (for himself, Mr. PETERS, Mr. CALVERT, Mr. BERA, Ms. SPEIER, and Mr. CONAWAY) introduced the following bill; which was referred to the Committee on the Judiciary

JANUARY 30, 2018

Additional sponsors: Mr. AGUILAR, Mr. ABRAHAM, Mr. CORREA, Mr. COLLINS of Georgia, Mr. FOSTER, Mr. DENHAM, Ms. SINEMA, Mr. MITCHELL, Mr. ISSA, Mr. EMMER, Ms. SEWELL of Alabama, Mr. COFFMAN, Mrs. ROBY, Mr. CUELLAR, Mr. RUSSELL, Mr. COSTA, Mr. SMITH of Texas, Mr. VALADAO, Mr. MARCHANT, Mr. BACON, Mr. STEWART, Mr. DUNCAN of South Carolina, Mr. BURGESS, Mr. TIPTON, Mr. BYRNE, Mr. GALLAGHER, Mr. CRAWFORD, Mr. BILIRAKIS, Mr. CURBELO of Florida, Mr. HUNTER, Mr. STIVERS, Mr. WILLIAMS, Mr. WALKER, Mr. BROOKS of Alabama, Mr. SMITH of Missouri, Mr. MOOLENAAR, Mr. SCHWEIKERT, Mr. GRAVES of Louisiana, Mr. NUNES, Mr. GROTHMAN, Mr. CARTER of Georgia, Mr. JOHNSON of Louisiana, Mr. LAMBORN, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. GOHMERT, Miss RICE of New York, Mr. GOSAR, Mr. WOMACK, Mr. SESSIONS, Mr. DENT, Mr. MCCLINTOCK, Mr. WESTERMAN, Mr. LONG, Mr. MOONEY of West Virginia, Mr. LUETKEMEYER, Mr. ROGERS of Kentucky, Mr. LAMALFA, Mr. GUTHRIE, Mr. MACARTHUR, Mr. AMODEI, Mr. BUCK, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Minnesota, Mr. TIBERI, Mr. HARRIS, Mr. TURNER, Mr. BARR, Mr. CHABOT, Mr. RATCLIFFE, Mr. YOHO, Mr. HILL, Mr. AUSTIN SCOTT of Georgia, Mr. NORMAN, Mr. BABIN, Mr. MAST, Mr. TAYLOR, Mr. FRANCIS ROONEY of Florida, Mr. HOLDING, Mr. COMER, Mr. KNIGHT, Mr. COOK, Mr. COLE, Mr. MARINO, Mr. BARTON, Mrs. MIMI WALTERS

of California, Mr. FLEISCHMANN, Mrs. HANDEL, Mr. GAETZ, Mr. LUCAS, Mr. PITTENGER, Mr. BIGGS, Mr. BUDD, Mr. ROSS, Mr. MEADOWS, Mr. RICE of South Carolina, Mr. MESSER, Ms. JENKINS of Kansas, Mr. REED, Mr. HIGGINS of Louisiana, Mr. HULTGREN, Ms. HERRERA BEUTLER, Mr. JODY B. HICE of Georgia, and Mr. WILSON of South Carolina

Deleted sponsors: Mr. RUSH (added May 19, 2017; deleted October 31, 2017)
and Mr. SUOZZI (added June 15, 2017; deleted July 20, 2017)

JANUARY 30, 2018

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend the Americans with Disabilities Act of 1990 to promote compliance through education, to clarify the requirements for demand letters, to provide for a notice and cure period before the commencement of a private civil action, 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 “ADA Education and
5 Reform Act of 2017”.

6 **SEC. 2. COMPLIANCE THROUGH EDUCATION.**

7 Based on existing funding, the Disability Rights Sec-
8 tion of the Department of Justice shall, in consultation
9 with property owners and representatives of the disability
10 rights community, develop a program to educate State and
11 local governments and property owners on effective and
12 efficient strategies for promoting access to public accom-
13 modations for persons with a disability (as defined in sec-
14 tion 3 of the Americans with Disabilities Act (42 U.S.C.
15 12102)). Such program may include training for profes-
16 sionals such as Certified Access Specialists to provide a
17 guidance of remediation for potential violations of the
18 Americans with Disabilities Act.

19 **SEC. 3. NOTICE AND CURE PERIOD.**

20 Paragraph (1) of section 308(a) of the Americans
21 with Disabilities Act of 1990 (42 U.S.C. 12188(a)(1)) is
22 amended to read as follows:

23 “(1) AVAILABILITY OF REMEDIES AND PROCE-
24 DURES.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the remedies and procedures set
3 forth in section 204(a) of the Civil Rights Act
4 of 1964 (42 U.S.C. 2000a–3(a)) are the rem-
5 edies and procedures this title provides to any
6 person who is being subjected to discrimination
7 on the basis of disability in violation of this title
8 or who has reasonable grounds for believing
9 that such person is about to be subjected to dis-
10 crimination in violation of section 303. Nothing
11 in this section shall require a person with a dis-
12 ability to engage in a futile gesture if such per-
13 son has actual notice that a person or organiza-
14 tion covered by this title does not intend to
15 comply with its provisions.

16 “(B) BARRIERS TO ACCESS TO EXISTING
17 PUBLIC ACCOMMODATIONS.—A civil action
18 under section 302 or 303 based on the failure
19 to remove an architectural barrier to access into
20 an existing public accommodation may not be
21 commenced by a person aggrieved by such fail-
22 ure unless—

23 “(i) that person has provided to the
24 owner or operator of the accommodation a
25 written notice specific enough to allow such

1 owner or operator to identify the barrier;
2 and

3 “(ii)(I) during the period beginning on
4 the date the notice is received and ending
5 60 days after that date, the owner or oper-
6 ator fails to provide to that person a writ-
7 ten description outlining improvements
8 that will be made to remove the barrier; or

9 “(II) if the owner or operator provides
10 the written description under subclause (I),
11 the owner or operator fails to remove the
12 barrier or to make substantial progress in
13 removing the barrier during the period be-
14 ginning on the date the description is pro-
15 vided and ending 120 days after that date.

16 “(C) SPECIFICATION OF DETAILS OF AL-
17 LEGED VIOLATION.—The written notice re-
18 quired under subparagraph (B) must also speci-
19 fy in detail the circumstances under which an
20 individual was actually denied access to a public
21 accommodation, including the address of prop-
22 erty, the specific sections of the Americans with
23 Disabilities Act alleged to have been violated,
24 whether a request for assistance in removing an
25 architectural barrier to access was made, and

1 whether the barrier to access was a permanent
2 or temporary barrier.”.

3 **SEC. 4. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act take
5 effect 30 days after the date of the enactment of this Act.

6 **SEC. 5. MEDIATION FOR ADA ACTIONS RELATED TO ARCHITECTURAL BARRIERS.**

7
8 The Judicial Conference of the United States shall,
9 under rule 16 of the Federal Rules of Civil Procedure or
10 any other applicable law, in consultation with property
11 owners and representatives of the disability rights commu-
12 nity, develop a model program to promote the use of alter-
13 native dispute resolution mechanisms, including a stay of
14 discovery during mediation, to resolve claims of architec-
15 tural barriers to access for public accommodations. To the
16 extent practical, the Federal Judicial Center should pro-
17 vide a public comment period on any such proposal. The
18 goal of the model program shall be to promote access
19 quickly and efficiently without the need for costly litiga-
20 tion. The model program should include an expedited
21 method for determining the relevant facts related to such
22 barriers to access and steps taken before the commence-
23 ment of litigation to resolve any issues related to access.

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