OFFICE OF DEMOCRATIC WHIP STENY H. HOYER
THE DAILY WHIP

democraticwhip.gov • (202) 225-3130

FLOOR SCHEDULE FOR THURSDAY, FEBRUARY 15, 2018

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
9:00 a.m.: Legislative Business **Five "One Minutes"**	**11:30 a.m. – 12:00 p.m.**	**12:00 – 12:30 p.m.**

Complete Consideration of H.R. 620 – ADA Education and Reform Act of 2017 (Rep. Poe – Judiciary) (One hour of debate). This bill would add a "notice and cure" component to Title III of the Americans with Disabilities Act (ADA), the Title that guarantees access to public accommodations. This change would shift the current burden of compliance away from public establishments and to victims of discrimination. The proposed provision would require that, before a lawsuit can be filed, a person with a disability who has been unable to access a public accommodation must: (1) provide "written notice" of the alleged barrier to the owner of the accommodation; (2) wait sixty days to see if the owner of the accommodation responds; and (3) prove that the owner either did not respond or has not made "substantial progress" toward fixing the issue within 120 days, before filing a suit.

Proponents of the legislation are framing H.R. 620 as a simple fix to the problem of "drive-by" lawsuits, which critics claim cause undue hardships to small businesses. This can be a legitimate problem but not one that can be solved by amending the federal ADA statute because that problem does not stem from the federal ADA.

These suits have arisen predominantly in states that provide for recovery of money damages in their state laws. The federal ADA does not provide for damages, only injunctive relief and attorney's fees.

H.R. 620 would not fix the problem of vexatious lawsuits filed by a relatively small number of unscrupulous lawyers claiming an ADA violation. Nor would it address the problem of demand letters sent for the sole purpose of settling a claim for just under the cost of hiring a lawyer to dispute the alleged violation. Instead, this legislation would undermine the private right of action, a hallmark of all Federal Civil Rights legislation guaranteed to all protected classes.

Instead, the notice and cure component proposed in H.R. 620 would shift the burden of compliance from public accommodations to victims of discrimination. Even if this text were amended to "soften" the notice and cure requirements, the burden would still be shifted to the victim of discrimination.

If this bill were signed into law with the notice and cure component, it would effectively hold harmless places of public accommodation for willfully failing to comply with the ADA. It would make denial of equal access to persons with disabilities a second-tier violation of civil rights because no other federal civil rights law grants entities that violate the law this right. Additionally this would be the first time Congress weakened an existing civil rights law, in this way, through subsequent legislation.

Title III of the ADA, which would be amended under this legislation, is modeled on the public accommodation mandate in Title II of the Civil Rights Act of 1964 because, in both cases, Congress determined that discrimination on the basis of these protected characteristics was so widespread and harmful that immediate resort to federal litigation was warranted whenever a violation occurred.

That is still very much the case today. As it stands, 28 years after passage of the ADA, people with disabilities still face significant barriers to accessing our public spaces. According to the National Council on Disability (NCD), an independent federal agency charged with gathering information about the effectiveness and impact of the ADA, many public accommodations are still not in compliance with Title III and are not, in fact, accessible. The notice and cure requirement in H.R. 620 would undermine incentives businesses currently have to proactively comply with the ADA.

This legislation is opposed by the AARP, NAACP, ACLU, AFL-CIO, Paralyzed Veterans of America, American Association for Justice (AAJ), the National Disability Rights Network, Leadership Conference on Civil and Human Rights and over 200 other disability organizations. **Members are urged to VOTE NO.**

The Rule, which was adopted yesterday, makes in order 7 amendments, debatable for 10 minutes, equally divided between the offeror and an opponent. The amendments are:

Denham Amendment. Ensures the Department of Justice's Disability Rights Section takes action, to the extent practicable, to make ADA compliance publications available in languages commonly used by owners and operators of U.S. businesses.
Langevin/Harper Amendment. Removes the "notice and cure" provision of the bill. The notice

and cure provision requires that a person who has experienced discrimination first provide written notice outlining precisely how they were discriminated against and then requires the aggrieved individual to wait 60 days for an owner to acknowledge receipt of the complaint and 120 days to demonstrate "substantial progress" in removing the barrier before legal action may be pursued.
Foster Amendment. Allows for punitive damages for noncompliance after the cure period.
Speier/Schrader/Bera/Sinema Amendment. Clarifies that the defendant is still liable if the defendant fails to make substantial progress to remove the barrier.
Bera/Schrader/Peters/Sinema Amendment. Shortens the timeline before a lawsuit can be filed from 180 to 120 total days.
McMorris Rodgers Amendment. Strikes the requirement that the written notices of alleged violation include the specific sections of the ADA alleged to have been violated.
Hartzler Amendment. Allows the use of portable pool lifts and allow the sharing of lifts between pools and spas to satisfy the pool accessibility requirements under the Americans with Disabilities Act for places of public accommodation.

Bill Text for H.R. 620:
PDF Version

Background for H.R. 620:
House Report (HTML Version)
House Report (PDF Version)

The Daily Quote

"A key White House official has acknowledged what independent economists have been saying for months: The $1.5 trillion GOP tax bill does not pay for itself. The admission came from White House Budget Director Mick Mulvaney Wednesday as he testified before the House Budget Committee. Rep. John A. Yarmuth (D-KY.) asked Mulvaney to account for the huge revenue loss projected in the administration's budget over the next 10 years. 'How much of that reduction in revenue projection is from the tax cut?' Yarmuth asked. Mulvaney's response: 'Roughly $1.8 trillion.' The straightforward statement amounted to a rare admission from an administration official about the costs to the federal Treasury of the unpaid-for GOP tax bill."

- Washington Post, 2/14/2018