

August 11, 2017

The Honorable Bob Goodlatte
Chair
House Judiciary Committee
2309 Rayburn House office Building
Washington, DC 20515

The Honorable John Conyers
Ranking Member
House Judiciary Committee
2426 Rayburn House office Building
Washington, DC 20515

The Honorable Steve King
Chair, Subcommittee Constitution and Civil Justice
House Judiciary Committee
2210 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Cohen
Ranking Member, Subcommittee Constitution and Civil Justice
House Judiciary Committee
2404 Rayburn House Office Building
Washington, DC 20515

RE: H.R. 620 Falsely Claims to Support ADA - please oppose H.R. 620 ADA Education and Reform Act of 2017

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman King and Ranking Member Cohen:

United Spinal Association strongly recommends that you oppose H.R. 620 the ADA Education and Reform Act of 2017. This bill undermines the landmark civil rights law, the Americans with Disabilities Act (ADA) and harms people with disabilities. We urge you to not roll back our rights.

United Spinal Association is the largest disability-led national non-profit organization founded by paralyzed veterans in 1946 and has since provided service programs and advocacy to improve the quality of life of those across the life span living with spinal cord injuries and disorders (SCI/D) such as multiple sclerosis, amyotrophic lateral sclerosis (ALS), post-polio syndrome and spina bifida. United Spinal has over 49,000 members and represents over one million individuals with spinal cord injuries and disorders, over 50 chapters, over 100 rehabilitation hospital members and close to 200 support groups nationwide. Throughout its history, United Spinal Association has devoted its energies, talents and programs to improving the quality of life for these Americans and for advancing their independence. United Spinal Association is also a VA-recognized veterans service organization (VSO) serving veterans with disabilities of all kinds.

The ADA is about protecting disability rights

This bill significantly weakens the ADA and undermines one of the key goals of the law. This bill will upend a key provision of the ADA by preventing people with disabilities from immediately going to court to enforce their rights. This bill would amend the ADA to require the individual with a disability to send a letter of notification to the business that was out of compliance with the law giving that business a grace period of 180 days in total before someone can file suit; the bill allows 60 days for businesses to acknowledge the barrier after notification by the individual and another 120 days for businesses to fix the access problem. Since 1990, the ADA has required that existing commercial establishments remove barriers that impede access by people with disabilities provided such barriers can be removed in a readily achievable manner. H.R. 620 would permit businesses to maintain inaccessible facilities until they receive written notice from an aggrieved person with a disability, despite already waiting 27 years to comply with the ADA barrier removal requirement.

Proponents of H.R. 620, such as the International Council of Shopping Centers and other businesses and business trade associations, are falsifying facts to deprive people with disabilities of their rights. What proponents refer to as “a time period fix” does in fact harm people with disabilities. This means that people with disabilities will not be able to gain

physical access to the respective businesses for weeks, months, or possibly years, and it removes any incentive for businesses to comply proactively with the ADA. This legislation requires people with disabilities to navigate additional administrative barriers before they can commence a lawsuit to protect their rights.

What is ‘Substantial Progress’?

The way H.R. 620 is written, a business could wait years without having to remove physical access barriers and face no penalty, as long as it can show that “substantial progress” was made. There is no definition for “substantial progress.” This would remove the incentive for a business to learn about ADA compliance or take any steps to comply prior to notification. The landmark law’s Title III provisions on public accommodation would effectively change. Progress is not access.

The “drive-by” lawsuits are not addressed in this bill. There are ways to address the problem of unscrupulous attorneys without placing the burden on individuals with disabilities. A ‘time period fix’ will at best defer the lawsuits. There are established and tested avenues to address the lawsuit issue. Courts and state bar examiners have the tools needed to shut down unscrupulous lawyers through sanctions, disciplinary measures and other steps.

The disability community asks that you not infringe upon our rights. Last month was the 27th anniversary of the ADA, it was formed through a robust negotiation between the business community and disability stakeholders. This bill was not created in partnership with business and disability communities. In addition, no other segment of the U.S. population has to wait 180 days to have their rights enacted.

This bill is trying to protect businesses at the expense of people with disabilities and that is not the answer. For more information, please contact Alexandra Bennewith, Vice President, Government Relations at abennewith@unitedspinal.org or at 202-556-2076 ext. 7102.

Sincerely,

James Weisman
President & CEO
United Spinal Association

Cc: United States House of Representatives