

House Votes to Gut the Americans With Disabilities Act to Nip 'Abusive Lawsuits'

Carlos Ballesteros February 15, 2018

In a 225-192 vote Thursday, most House Republicans and a dozen Democrats passed a bill that makes it harder for disabled persons to sue for discrimination, in an effort to prevent opportunistic attorneys from taking advantage of business owners.

But many disability and civil rights groups fear the bill will weaken incentives for businesses to comply with the Americans With Disabilities Act of 1990 (ADA), which mandates equal access to public accommodations.

Proponents argue that the bill, the ADA Education and Reform Act, or H.R. 620, is necessary to stem the flow of "drive-by lawsuits" brought by lawyers who only wish to line their pockets. The bill would require those filing suit in federal court against businesses for not complying with the ADA to first give that business 60 days to devise a plan to fix the problem. They then have another 120 days to implement the changes.

"There is now a whole industry made up of people who prey on small business owners and file unnecessary and abusive lawsuits," Representative Ted Poe of Texas, who co-sponsored the bill, said after introducing the measure in 2017. "This bill will change that by requiring that the business owners have time to fix what is allegedly broken."

The bill would effectively gut the ADA, detractors argue. Without a fear of being sued, businesses might be inclined to ignore ADA compliance rules. Critics of the bill also believe people with disabilities should not bear the responsibility of making sure businesses are compliant with the law.

"Instead of expecting businesses to own the responsibility of complying with civil rights laws, it shifts the burden to the individual who is being denied access," the American Civil Liberties Union (ACLU) wrote in a letter to congressional representatives on Thursday.

The ACLU called the bill unacceptable. "This scheme removes the business's incentive to proactively ensure that it is accessible to people with disabilities," it said. "Instead, businesses will simply wait until someone's right to access is violated and notification is received before making the change they were already obligated to make."

More than 200 disability rights supporters signed a letter in opposition to the bill, including the National Bar Association, the Paralyzed Veterans of America and the NAACP.

The motivation for the bill stems from reports of trial lawyers and firms across the country submitting dozens of lawsuits against businesses for not complying with the ADA. A 60 Minutes segment from earlier this year showed lawyers in California filing ADA complaints simply after noticing violations by driving by a business or going online via Google Earth.

But critics say that these issues can be addressed at the state level and through district courts.

"[Frivolous] ADA lawsuits...are not an ADA issue; they are a state and court problem," disability rights lawyer Robyn Powell wrote in an op-ed for Rewire in May 2017. "Indeed, ethics rules bar attorneys

from bringing frivolous lawsuits. Rather than go after people with disabilities, attention should be focused on stopping these few bad attorneys."

The bill now goes to the Senate.