

116TH CONGRESS
1ST SESSION

H. R. 4099

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

JULY 30, 2019

Mr. CALVERT (for himself, Mr. COOK, Mr. HUNTER, Mr. WALKER, Mr. GROTHMAN, Mr. TURNER, Mr. RICE of South Carolina, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

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 Compliance for
5 Customer Entry to Stores and Services Act” or the “AC-
6 CESS Act”.

1 **SEC. 2. COMPLIANCE THROUGH EDUCATION.**

2 (a) IN GENERAL.—Based on existing funding, the
3 Disability Rights Section of the Department of Justice
4 shall, in consultation with property owners and represent-
5 atives of the disability rights community, develop a pro-
6 gram to educate State and local governments and property
7 owners on effective and efficient strategies for promoting
8 access to public accommodations for persons with a dis-
9 ability (as defined in section 3 of the Americans with Dis-
10 abilities Act (42 U.S.C. 12102)). Such program may in-
11 clude training for professionals such as Certified Access
12 Specialists to provide a guidance of remediation for poten-
13 tial violations of the Americans with Disabilities Act.

14 (b) MATERIALS PROVIDED IN OTHER LANGUAGES.—
15 The Disability Rights Section of the Department of Jus-
16 tice shall take appropriate actions, to the extent prac-
17 ticable, to make technical assistance publications relating
18 to compliance with this Act and the amendments made
19 by this Act available in all the languages commonly used
20 by owners and operators of United States businesses.

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

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

25 “(1) AVAILABILITY OF REMEDIES AND PROCE-
26 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, in the case of a barrier, the re-
13 moval of which requires additional time as
14 a result of circumstances beyond the con-
15 trol of the owner or operator, fails to make
16 substantial progress in removing the bar-
17 rier during the period beginning on the
18 date the description is provided and ending
19 60 days after that date.

20 “(C) SPECIFICATION OF DETAILS OF AL-
21 LEGED VIOLATION.—The written notice re-
22 quired under subparagraph (B) must also speci-
23 fy in detail the circumstances under which an
24 individual was actually denied access to a public
25 accommodation, including the address of prop-

1 erty, whether a request for assistance in remov-
 2 ing an architectural barrier to access was made,
 3 and whether the barrier to access was a perma-
 4 nent or temporary barrier.”.

5 **SEC. 4. EFFECTIVE DATE.**

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

8 **SEC. 5. MEDIATION FOR ADA ACTIONS RELATED TO ARCHI-**
 9 **TECTURAL BARRIERS.**

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

1 **SEC. 6. STUDY REGARDING WCAG 2.0 STANDARDS.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Attorney General shall complete a study
4 to determine whether WCAG 2.0 standards, accessibility
5 widgets, or providing a telephone number through which
6 members of the public can obtain the same information
7 and services as they would on a website would all provide
8 reasonable accommodations for individuals with disabil-
9 ities who are protected by the provisions of the Americans
10 with Disabilities Act of 1990.

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