

114TH CONGRESS
2D SESSION

H. R. 4719

To amend the Americans with Disabilities Act of 1990 to require notice and a compliance opportunity to be provided before commencement of a private civil action related to public accommodations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2016

Mr. MCNERNEY 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 require notice and a compliance opportunity to be provided before commencement of a private civil action related to public accommodations, 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 “Correcting Obstruc-
5 tions to Mediate, Prevent, and Limit Inaccessibility Act”
6 or the “COMPLI Act”.

1 **SEC. 2. NOTICE AND COMPLIANCE OPPORTUNITY UNDER**
2 **THE AMERICANS WITH DISABILITIES ACT.**

3 Section 308(a)(1) of the Americans with Disabilities
4 Act of 1990 (42 U.S.C. 12188(a)(1)) is amended—

5 (1) by striking “PROCEDURES.—” and all that
6 follows through “The”, and inserting the following:

7 “PROCEDURES.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the”; and

10 (2) by adding at the end the following:

11 “(B) NOTICE AND COMPLIANCE OPPOR-
12 TUNITY.—A civil action for discrimination de-
13 scribed in section 302(b)(2) may not be com-
14 menced by a person aggrieved by such discrimi-
15 nation unless—

16 “(i) such person has provided to the
17 owner or operator of such accommodation
18 a written notice by certified mail specific
19 enough to allow such owner or operator to
20 identify such barrier;

21 “(ii) such notice shall include the date
22 and time that such person was denied ac-
23 cess to the public accommodation as a re-
24 sult of the barrier;

25 “(iii) such notice specifies that the
26 owner or operator has 90 days to remove

1 the barrier or correct the violation before a
2 civil action will be brought;

3 “(iv) such owner or operator failed to
4 remove such barrier or correct such viola-
5 tion within 90 days beginning on the date
6 such notice was received;

7 “(v) the civil action states that the
8 person bringing the action has notified the
9 owner or operator against whom the action
10 is brought of the violation as required
11 under this subparagraph and such owner
12 or operator has not corrected the alleged
13 violation within the 90-day period; and

14 “(vi) the person filing the civil action
15 has refrained from sending any demand
16 letter (other than the notice described in
17 this subparagraph), request for settlement,
18 or other communication to the owner or
19 operator of such accommodation during
20 such 90-day period.

21 “(C) NOTIFICATION OF CORRECTIVE AC-
22 TION.—

23 “(i) IN GENERAL.—An owner or oper-
24 ator of a public accommodation who is pro-
25 vided notice described in subparagraph (B)

1 shall provide reasonable notification to the
2 public of the alleged violation that is the
3 subject of the notice and of the steps being
4 taken by such owner or operator to remedy
5 the basis for such alleged violation.

6 “(ii) PENALTY FOR NONCOMPLI-
7 ANCE.—An owner or operator who does
8 not provide such notification to the public
9 within 15 days after receiving notice of the
10 alleged violation shall not be entitled to the
11 90-day period to remove the barrier or cor-
12 rect the violation as set forth in subpara-
13 graph (B) and a civil action for discrimina-
14 tion described in section 302(b)(2) based
15 on the alleged violation may be commenced
16 immediately after such 15 days.

17 “(D) GOOD FAITH EFFORT.—

18 “(i) ADDITIONAL 30 DAYS.—An owner
19 or operator of a public accommodation who
20 is provided notice described in subpara-
21 graph (B) who demonstrates a good faith
22 effort to remove such barrier or correct
23 such violation but is not able to do so with-
24 in the 90-day period provided shall be enti-

1 tled to an additional 30 days to comply
2 with such requirements.

3 “(ii) FACTORS.—Factors indicating
4 such a good faith effort include that the
5 owner or operator of a public accommoda-
6 tion—

7 “(I) has secured the requisite
8 construction permits to start the ren-
9 ovation necessary to remove the bar-
10 rier or correct the violation;

11 “(II) has hired contractors to
12 complete such construction and has
13 secured an estimate from the con-
14 tractor for the date of completion for
15 such renovation; or

16 “(III) has begun any necessary
17 construction and has worked to mini-
18 mize delays and complete the required
19 renovation.

20 “(E) LIMITATIONS.—

21 “(i) ADDITIONAL ACTIONS.—No civil
22 action for discrimination under section
23 302(b)(2) may be commenced—

24 “(I) during the 90-day period de-
25 scribed in subparagraph (B) or, where

1 applicable, the additional 30-day pe-
2 riod described in subparagraph (D)(i);
3 or

4 “(II) while a civil action relating
5 to the same violation is pending.

6 “(ii) DAMAGES.—In an action de-
7 scribed in this paragraph any damages
8 awarded shall be limited to a plaintiff who
9 was actually denied access to or reasonable
10 use of the public accommodation that is
11 the subject of such action.”.

12 **SEC. 3. REPORT ON HIGH-FREQUENCY LITIGATORS.**

13 Not later than 2 years after the date of enactment
14 of this Act, the Attorney General shall submit a report
15 to Congress that analyzes the impact of the notice and
16 compliance opportunity afforded under section
17 308(a)(1)(B), as added by this Act. The report shall in-
18 clude—

19 (1) a determination of the number of persons in
20 each State who have filed 10 or more actions alleg-
21 ing a violation described in section 302(b)(2) of the
22 Americans with Disabilities Act of 1990 within any
23 12-month period after the date of enactment of this
24 Act;

1 (2) an analysis on whether the notice and com-
2 pliance opportunity has had an effect on the number
3 of actions commenced alleging such a violation;

4 (3) an analysis on whether the notice and com-
5 pliance opportunity has impacted an individual's
6 ability to bring a legitimate good-faith accessibility
7 claim under such section; and

8 (4) recommendations on whether a cap on re-
9 coverable attorneys fees would reduce the number of
10 such actions brought by individual plaintiffs.

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