So today I stand with Ranking Member NADLER, Congressman LANGEVIN and all those who stand for civil rights and for the rights of Americans with disabilities.

For these reasons I oppose the rule governing H.R. 620.

Mr. BLUMENAUER. Mr. Chair, when the Americans with Disabilities Act was first signed into law, President George H.W. Bush praised this bill for its assurance ''that people with disabilities [were] given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, and the opportunity to blend fully and equally into the rich mosaic of the American mainstream.'' His words were true when the ADA passed, and they are true today.

H.R. 620 would reverse decades of progress. It would pave the way for businesses to delay or completely avoid complying with the ADA, and shift the onus on people with disabilities to report noncompliance. If this bill were signed into law, it would effectively hold harmless places of public accommodation for willfully failing to comply with the ADA.

This legislation purports to curb ''drive-by'' lawsuits, which can be a legitimate problem, but 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.

This would be a step backwards. We have a responsibility to protect these safeguards and ensure that people with disabilities are provided accessible accommodations.

Mr. GOODLATTE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. POE of Texas) having assumed the chair, Mr. SIMPSON, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 620) 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, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for a period of less than 15 minutes.

Accordingly (at 10 o'clock and 22 minutes a.m.), the House stood in recess.

□ 1027

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POE of Texas) at 10 o'clock and 27 minutes a.m.

ADA EDUCATION AND REFORM ACT OF 2017

The SPEAKER pro tempore. Pursuant to House Resolution 736 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 620.

Will the gentleman from Idaho (Mr. SIMPSON) kindly resume the chair.

□ 1028

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 620) 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, with Mr. SIMPSON in the chair.

The CHAIR. When the Committee of the Whole rose earlier today, all time for general debate pursuant to House Resolution 736 had expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule, and shall be considered as read.

The text of the bill is as follows:

H.R. 620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''ADA Education and Reform Act of 2017''.

SEC. 2. COMPLIANCE THROUGH EDUCATION.

Based on existing funding, the Disability Rights Section of the Department of Justice shall, in consultation with property owners and representatives of the disability rights community, develop a program to educate State and local governments and property owners on effective and efficient strategies for promoting access to public accommodations for persons with a disability (as defined in section 3 of the Americans with Disabilities Act (42 U.S.C. 12102)). Such program may include training for professionals such as Certified Access Specialists to provide a guidance of remediation for potential violations of the Americans with Disabilities Act.

SEC. 3. NOTICE AND CURE PERIOD.

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

''(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

''(B) BARRIERS TO ACCESS TO EXISTING PUBLIC ACCOMMODATIONS.—A civil action under section 302 or 303 based on the failure to remove an architectural barrier to access into an existing public accommodation may not be commenced by a person aggrieved by such failure unless—

''(i) that person has provided to the owner or operator of the accommodation a written notice specific enough to allow such owner or operator to identify the barrier; and

''(ii)(I) during the period beginning on the date the notice is received and ending 60 days after that date, the owner or operator fails to provide to that person a written description outlining improvements that will be made to remove the barrier; or

''(II) if the owner or operator provides the written description under subclause (I), the owner or operator fails to remove the barrier or to make substantial progress in removing the barrier during the period beginning on the date the description is provided and ending 120 days after that date.

''(C) SPECIFICATION OF DETAILS OF ALLEGED VIOLATION.—The written notice required under subparagraph (B) must also specify in detail the circumstances under which an individual was actually denied access to a public accommodation, including the address of property, the specific sections of the Americans with Disabilities Act alleged to have been violated, whether a request for assistance in removing an architectural barrier to access was made, and whether the barrier to access was a permanent or temporary barrier.''.

SEC. 4. EFFECTIVE DATE.

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

SEC. 5. MEDIATION FOR ADA ACTIONS RELATED TO ARCHITECTURAL BARRIERS.

The Judicial Conference of the United States shall, under rule 16 of the Federal Rules of Civil Procedure or any other applicable law, in consultation with property owners and representatives of the disability rights community, develop a model program to promote the use of alternative dispute resolution mechanisms, including a stay of discovery during mediation, to resolve claims of architectural barriers to access for public accommodations. To the extent practical, the Federal Judicial Center should provide a public comment period on any such proposal. The goal of the model program shall be to promote access quickly and efficiently without the need for costly litigation. The model program should include an expedited method for determining the relevant facts related to such barriers to access and steps taken before the commencement of litigation to resolve any issues related to access.

The CHAIR. No amendment to the bill shall be in order except those printed in part A of House Report 115–559. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1030

AMENDMENT NO. 1 OFFERED BY MR. DENHAM

The CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 115–559.

Mr. DENHAM. Mr. Chair, I rise to offer my amendment to H.R. 620.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 7, strike ''Based on existing funding'' and insert the following:

(a) IN GENERAL.—Based on existing funding

Page 3, insert after line 18 the following:

(b) MATERIALS PROVIDED IN OTHER LANGUAGES.—The Disability Rights Section of the Department of Justice shall take appropriate actions, to the extent practicable, to make technical assistance publications relating to compliance with this Act and the amendments made by this Act available in all the languages commonly used by owners and operators of United States businesses.

The CHAIR. Pursuant to House Resolution 736, the gentleman from California (Mr. DENHAM) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. DENHAM. Mr. Chairman, my amendment would ensure that the Department of Justice takes appropriate actions to provide ADA compliance materials for businessowners whose primary language is not English.

As a Representative from California's Central Valley, my district is far too familiar with the kinds of abusive lawsuits H.R. 620 aims to curb.

For years, small businesses—some that make less than $30,000 a year—have been targeted by ''drive-by'' lawsuits from people who are driving by—many of whom are from outside of our State and, certainly, outside of our community. They have been slapped with demands for thousands, even tens of thousands, of dollars for minor infractions, like faded parking signs or outdated signage or stripes in the parking lot.

More often than not, the lawyer or plaintiff didn't even enter the business in the first place. In too many cases, these lawsuits did not lead to compliance. They led to shakedowns and shutdowns.

Throughout California and, certainly, throughout California's Central Valley, we have seen a number of minority businesses and businesses as a whole, small businesses, that have been shut down by many of these shakedown lawsuits where the attorney will call back and say: I understand that you can't pay us today, but we will put you on a monthly plan.

That doesn't solve any problems for those with disabilities. It certainly doesn't solve any problems for the businesses. All it does is line the pockets of some abusers that are coming into our area that will target dozens of businesses in a day's or week's time, only to leave our community without even going into these businesses.

In my district alone, Barnwood Restaurant in Ripon was sued and shut down. Main Street Inn in Ripon was sued. Country Ford Trucks in Ceres was sued. The city hall in Escalon was sued.

In Turlock, my hometown, seven businesses less than a mile apart on the same road were sued by the same plaintiff. Forty-three businesses in the city of Modesto were all sued by the same plaintiff.

California has been ground zero for this lawsuit abuse. Even the State legislature in a State that is not considered conservative by any means has had a number of ADA lawsuit measures aimed at trying to curb those.

The Federal Government has a job to fix this, and that is one of the reasons that I am a coauthor and support the ADA Education and Reform Act. I especially support its provisions to increase businessowner education on ADA compliance, which I believe my amendment can help to strengthen.

In California, 75 percent of the businesses targeted by these types of lawsuits are immigrant- or minority-owned businesses. These demographics are more unlikely to be familiar with ADA standards as well as their own legal rights. That is the reason for the shakedown of these minority-owned businesses.

One obstacle for these types of businesspeople is that the vast majority of the DOJ's compliance resources aren't readily available in other languages that they may need to be made available. For example, key sections of a Spanish-translated web page haven't been updated for 3 years and doesn't include close to the number of materials available in English. With a district like mine that is over 40 percent Hispanic, this is a real problem.

If you want businesses to comply with the law, you have to give these businesses the opportunity to comply. Give them the ability to read from their own website what new laws are going into effect every single year. Because if only the lawyers know, then the shakedowns will continue to occur and businesses will continue to lose more of their profits and be unable to provide raises and bonuses to their employees. But worse than that, you will continue to see small businesses shut down.

Let me finish on one final note. A few years ago I received a phone call in my office. We had been focused on ADA lawsuit abuse for quite some time. I talked to the lady about her concerns. She explained how she had received a notice in the mail and then a follow-up notice. No attorney had ever come into her restaurant—a small-business owner. She was just trying to make ends meet. In fact, she was not only the proprietor of this restaurant, but she worked the kitchen. In fact, she started the business and worked the front end and the back end. She was the first to come and the last to leave.

We have heard a lot of these stories about small businesses and the regulatory impacts that they face. But in this case, I was amazed to find out when I visited that she was more than happy to fix any ADA compliance issue. As she wheeled around in her wheelchair from her kitchen to the cash register, and her Spanish language being the first language that she knew, she wanted to fix things for her customers and fix things for those who are coming in with disabilities.

We need to give her the opportunity to do that.

Mr. Chair, I ask for support of this bill, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I claim the time in opposition to the amendment, but I do not oppose the amendment.

The CHAIR. Without objection, the gentleman from Virginia is recognized for 5 minutes.

There was no objection.

Mr. GOODLATTE. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I want to first commend the gentleman from California for addressing this issue. He is quite right that it is important that, in order to expeditiously make sure that accommodations for the disabled are made, people have to understand what those requirements are. The regulations on this change frequently and constantly.

I do not oppose this amendment. In fact, I support it. I would ask the gentleman if he would work with us moving forward to make sure that this does not impose an inordinate burden on the bureaucracy responsible for putting this out so as to delay getting new regulations to protect the ADA folks out.

There are many languages spoken by people in various businesses in this country. Some are very common, and that is definitely the case, but we may not have this written in every single language that is spoken by every single individual.

Mr. DENHAM. Will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. DENHAM. Mr. Chair, I look forward to working with the gentleman.

Mr. GOODLATTE. Mr. Chairman, at this time I am pleased to yield 1 minute to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. Mr. Chairman, I thank the gentleman and I thank Mr. DENHAM for offering this amendment and letting us all know some of the drive-by lawsuit problems in California.

Mr. Chairman, the Department of Justice, for example, has come up with 250 pages of regulations recently about the ADA. These regulations are sent out to the businesses. It is important, as the gentleman from California has mentioned, that these businesses be able to understand what those regulations are because many of these businesses that are being targeted by unscrupulous lawyers are minority-owned businesses, some first-generation Americans who have come into our country trying to make ends meet.

So the amendment is a good idea. I support the amendment, and I urge all Members of this body to vote for it as well.

Mr. GOODLATTE. Mr. Chairman, I have no further speakers. I urge my colleagues to support the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from California (Mr. DENHAM).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. LANGEVIN

The CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 115–559.

Mr. LANGEVIN. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, strike line 19 and all that follows through page 6, line 2.

The CHAIR. Pursuant to House Resolution 736, the gentleman from Rhode Island (Mr. LANGEVIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island.

Mr. LANGEVIN. Mr. Chair, I yield myself such time as I may consume.

Mr. Chairman, I am offering this amendment with my colleague and fellow Bipartisan Disabilities Caucus cochair, Representative GREGG HARPER. I want to mention that it is the only bipartisan amendment being offered to H.R. 620, and I think it is important to stress this point.

Mr. Chairman, two Members of Congress from different political parties—who represent a caucus that exists solely to inform, educate, and highlight issues impacting the disability community—have come together to say that there is something gravely wrong with this bill.

We are offering an amendment that would make it palatable. The amendment would strike H.R. 620's notice and cure requirement. As presently written, the notice and cure section mandates that someone who claims discrimination on the basis of a disability relating to an architectural barrier must provide a written notice that allows 60 days in order to acknowledge receipt of the complaint and 120 days to demonstrate substantial progress in removing the barrier before further legal action may be pursued.

That is 6 months of waiting without a guarantee that the architectural barrier will be removed and access granted. So the idea that places of public accommodation must first receive a notice before correctly implementing a law that has been part of our legal framework for nearly three decades creates an obvious disincentive for ADA compliance.

The proposal of a notice ignores the tenets of the ADA that support an indisputable right to inclusion and respect. No other civil rights law requires protected class members to hand a notice to people behaving in a discriminatory manner in order to educate them without any guarantee the situation will improve.

This amendment would keep program funding for the ADA education. It also maintains language supporting alternative mediation pathways relating to architectural barriers outside of the existing framework within the Department of Justice.

If supporters of H.R. 620 truly believe these State-based nuisance lawsuits are the result of a lack of knowledge of what the Federal ADA requires, and that businesses need less costly avenues to remedy violations, then why wouldn't they support an amendment that provides an answer to both of those claims without the harm of a notice and cure period that weakens the civil rights protections of the ADA?

Mr. Chairman, I urge my colleagues to consider the consequences of a bill that delays justice for people with disabilities in a way that no other class protected by civil rights laws must endure when asserting their civil rights. I then urge my colleagues to consider whether the delay of a notice and cure requirement adequately addresses the underlying issue of ''drive-by'' lawsuits.

I am hopeful that doing so will result in a decision to support this amendment to remove the harmful notice requirement, while maintaining provisions that increase access to education and mediation.

Mr. Chairman, I urge passage of the amendment, and I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Chairman, I must oppose this amendment because it would completely gut the notice and cure provisions, which are the core provisions of this bill. The need for a notice and cure period has been highlighted in congressional hearings since the early 2000s.

In 2016, David Weiss, who testified on behalf of the International Council of Shopping Centers, stated:

The problem that the private sector faces is an increasing number of lawsuits typically brought by a few plaintiffs in various jurisdictions and often by the same lawyers for very technical and usually minor violations. It has become all too common for property owners to settle these cases, as it is less expensive to settle them than to defend them, even if the property owner is compliant. It is often too costly to prove that a property owner is doing what is right or required. Therefore, the property owner makes a rational business decision commonly resulting in settlement.

Mr. Chairman, given that plaintiffs' attorneys' motives are often monetary, there is little or no incentive to work with businesses to cure a violation before a lawsuit is filed. This unintended result wastes resources on the cost of litigation that could have been used to improve access sooner. This delays justice.

H.R. 620 remedies these problems by allowing businesses a finite period of time, before a private enforcement lawsuit can be filed, to fix defects on their premises once they are notified that these premises do not comply with the ADA.

This will reduce abuses of the law by opportunistic lawyers. It will result in more access for the disabled because it encourages businesses to cure their access issues now in order to avoid costly litigation later.

Mr. Chair, I would also note that made in order is an amendment coming up that would reduce this amount of time by 2 months, the total amount of time for notice and cure.

I think that is a good step to address the concerns raised, but I cannot support an amendment that completely takes away the purpose of the legislation, which is to give small-business owners the opportunity to cure a problem once they are made aware of it. Many of these are very technical violations of the law designed primarily to line the pockets of some unscrupulous lawyers, as opposed to really helping advance the cause of accessibility.

For those reasons, I oppose this amendment, and I reserve the balance of my time.

□ 1045

Mr. LANGEVIN. Mr. Chairman, I proudly yield 1 minute to the distinguished gentleman from New York (Mr. NADLER), who is the ranking member of the House Judiciary Committee.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I strongly support the Langevin-Harper amendment. This bipartisan amendment removes from the bill its onerous and unjustified notice and cure provisions while leaving in place its potentially helpful educational and mediation-related provisions.

As I discussed extensively during general debate, the notice and cure provisions would have the effect of drastically weakening the ability of discrimination victims enforcing their rights in court.

Any law, including the ADA, is only effective to the extent that it is enforceable, and civil rights statutes, particularly, depend primarily on private rights of action for their enforcement. By weakening enforcement, H.R. 620's notice and cure provisions ultimately undermine the ADA's goal of integrating people with disabilities into the mainstream of American life.

For these reasons, I urge the House to adopt the Langevin-Harper amendment which cures most of the problems with this bill.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. LANGEVIN. Mr. Chairman, I am prepared to close.

The CHAIR. The gentleman from Rhode Island has 30 seconds remaining.

Mr. LANGEVIN. Mr. Chairman, again, I urge support of my amendment. The whole point of this amendment is to remove the notice and cure provision.

Again, the ADA law has been around for nearly three decades now. People should be proactive about understanding what their responsibilities are

to operate businesses or issues of public accommodation, to understand what their responsibilities are. Not, basically, taking that responsibility incentivizes people to say: Well, just wait and see if there is an issue, and only if we get notified will we then fix the problem.

People need to be proactive and comply with the law, and I believe, there, everybody wins.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I oppose this amendment, as I indicated, because the ADA is a regulation-based law, and those regulations are constantly changing as new technology changes and as accessibility to new features that businesses offer are desired by those in the disability community.

That is a necessary thing, but it is also necessary to make sure that businesses have time to accommodate as well and learn about those new requirements and have the opportunity to fix it before somebody can just get attorney's fees for something that is going to be done anyway.

So I think the better approach is to oppose this amendment and support the underlying bill with the addition of an amendment coming up that would reduce that time by 2 months.

Mr. Chairman, I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Rhode Island (Mr. LANGEVIN).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. LANGEVIN. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Rhode Island will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. FOSTER

The CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 115–559.

Mr. FOSTER. Mr. Chairman, I rise to speak in favor of the amendment.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, line 10, insert after ''in violation of section 303'' the following: '', except that if a violation continues to occur after the expiration of the applicable period provided for under subparagraph (B), the court may, in addition to any other available relief, award punitive damages in such amount as the court determines appropriate''.

The CHAIR. Pursuant to House Resolution 736, the gentleman from Illinois (Mr. FOSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. FOSTER. Mr. Chairman, since the start of the debate on this legislation, I have been laser-focused on getting the problems with ADA compliance actually fixed. The problems of drive-by lawsuits have hit my district, and abusive demand letters are a problem nationwide. One of the tragedies of the status quo is that, even after settlement of demand letters, the problems are often not even fixed.

Many of my colleagues have expressed concern, however, that the underlying text of this legislation would not provide sufficient incentive for legitimate civil rights attorneys to take to court businesses that offer no good faith effort to solve the problem with ADA compliance after they have been pointed out.

My amendment simply would allow courts to award punitive damages in the cases that a business has made no good faith effort to remove a barrier to access. If they cure the problem, the matter is resolved; if not, they should be subject to the full force of the law, including punitive damages.

Since its enactment, the Americans with Disabilities Act has allowed millions of Americans to gain access to public accommodations that many of us take for granted. The passage of the ADA was a major civil rights victory. Many more schools, hospitals, grocery stores, and movie theaters are now accessible. Thanks to the ADA, many of our fellow citizens are fully integrated into the fabric of society.

Despite these gains, however, more still remains to be done. As people with disabilities have continued to work to make our public accommodations more accessible, unfortunately, some individuals have found ways to use the current system for their own financial benefit.

The underlying bill aims to prevent unscrupulous individuals from taking advantage of the law and to establish a process leading to increased compliance. However, during many meetings with disability groups in my district over their concerns, some voiced fears that the underlying bill would discourage attorneys from taking ADA cases.

My amendment would work to create an incentive for lawyers to take ADA cases, knowing that, if a business does not comply, punitive damages may be sought. The goal is that individuals with disabilities have access to competent legal representation in order to bring meritorious cases against businesses that seek to purposely avoid compliance with the ADA.

Mr. Chairman, I reserve the balance of my time.

Mr. POE of Texas. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. POE of Texas. Mr. Chairman, I oppose this amendment because it would defeat the whole purpose of the bill, which is to resolve access issues under title III without the need for expensive litigation. The private enforcement provisions provided in title III of the ADA are already a powerful tool to achieve greater accessibility through injunctive relief.

Importantly, the ADA does not provide for damages in private lawsuits; it never has. This amendment would then, for the first time, allow such damages, which will drive up litigation costs and provide even more fodder for trial lawyers to abuse the law. Businesses should use their resources to fix access to problems, not to pay unnecessary and wasteful litigation costs.

Mr. Chairman, I urge my colleagues to oppose this amendment, and I reserve the balance of my time.

Mr. FOSTER. Mr. Chairman, I would just like to answer by saying that my goal in this amendment has nothing to do with the plaintiff's bar. It has to do with getting the problems fixed without going to court.

Unfortunately, I think without at least the threat of punitive damages, I think it is a legitimate question as to whether some fraction of the violations of the ADA will, in fact, not be fixed as part of the calculation of cost benefit. I think that is not the way we should solve this in this country.

It is a time in this country when a lot of our justice system—our courts—are coming under attack, and I actually have faith in the judges and courts in our country to make a reasonable judgment as to whether or not there was a good faith effort made to fix this fundamental law in our country.

Mr. Chairman, I yield back the balance of my time.

Mr. POE of Texas. Mr. Chairman, I thank the gentleman for his comment about having faith in judges. As a former judge, I appreciate that comment.

When the ADA legislation was debated here on this House floor in 1990, there was discussion about this whole issue. The purpose of the ADA legislation that passed Congress was to fix the problems that businesses had in accessibility for the disabled. It was not designed for punitive damages at all. It was designed to fix the problem. That is why the underlying legislation that we are sponsoring today makes businesses move in a timely manner if there is a violation.

So this would change the whole concept of the ADA. Mr. Chairman, I oppose this legislation, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. FOSTER).

The amendment was rejected.

AMENDMENT NO. 4 OFFERED BY MS. SPEIER

The CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 115–559.

Ms. SPEIER. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, line 12, insert after ''barrier or'' the following: '', in the case of a barrier, the removal of which requires additional time as a result of circumstances beyond the control of the owner or operator, fails''.

The CHAIR. Pursuant to House Resolution 736, the gentlewoman from California (Ms. SPEIER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. SPEIER. Mr. Chairman, the ADA is a powerful and important law that we all respect and embrace. Unfortunately, in States like California, it has created a cottage industry of unscrupulous attorneys abusing title III of the ADA.

The amendment I am offering is very simple. The current language in the bill permits a business notified of noncompliance with the ADA to simply make substantial progress in remedying the violation. Frankly, this language is too loose. My amendment strengthens this language to only permit the language of ''substantial progress'' where they cannot complete the work because of extenuating circumstances.

Mr. Chairman, this amendment promotes basic fairness. It does not allow dishonest property owners to abandon responsibility by claiming they have made substantial progress. The message is still clear: businesses must fix their ADA violations.

Today is a chance to pass something that addresses the real problem. Let's not let the lack of a perfect solution get in the way of real progress.

I want to speak to some of the issues that we have had in California.

In California, this particular law has created an industry that allows for lawyers to make a lot of money off of small businesses. It has basically allowed shady law firms to make a profit out of abusing the ADA, often resulting in high legal bills and no fix to the allegations presented.

In many cases, businesses are forced into settlements because the cost of fighting an allegation is so great. The average cost of a settlement is $16,000, but the cost of fighting the allegation is sometimes four to six times the average $75,000 income generated by the business.

In California, a simple fix—putting up a sign or moving a door a few inches—can carry a $4,000 penalty, the minimum amount of damages, which will still be in place when the bill passes. This is no small sum if you are a local bakery, a neighborhood grocery store, or a barber shop.

California is ground zero for this problem. It is home to 12 percent of the disabled population but 40 percent of ADA lawsuits nationwide. From 2012 to 2014, 54 percent of all related complaints in California were filed by just two law firms.

The law firms sometimes recruit plaintiffs who are not directly impacted by the ADA or even living in the same State. Fourteen plaintiffs brought 46 percent of all these lawsuits. One of them, Robert McCarthy, filed more than 400 suits against California businesses, and he doesn't even live in the State.

One infamous example is the California-based Moore Law Firm, which filed more than 700 lawsuits over the past few years, resulting in large settlements and sometimes even bankruptcy for some businesses. Given recent laws to address this in my home State, trial lawyers are rushing to States like Texas, New York, and Florida, where they can make a profit.

In 2014, a bar owner living in Torrance, California, was handed five lawsuits in the past 2 years and needed to save up to $30,000 to remodel. She was the target of a small group of attorneys who took aim at businesses in shopping centers for a quick profit.

What we need to do, Mr. Chairman, is take the profit out of making these facilities accessible. We all want them to be accessible. We want to give them notice and a couple of months to cure the problem or else the lawsuit can continue. I think this makes a lot of sense.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman from New York is recognized for 5 minutes.

Mr. NADLER. Mr. Chairman, this amendment does not appear to make any substantive change to H.R. 620. Whether or not the amendment is adopted, it still would be the case under the bill that a businessowner who fails to make substantial progress in removing an access barrier would be subject to a lawsuit.

The amendment, however, does not address the fundamental concerns with H.R. 620's notice and cure provisions that I expressed in general debate, including the fact that the bill does not require a business to comply with the ADA, only to make ''substantial progress'' toward compliance within the bill's 180-day cure period.

While the amendment does not make the bill worse, it also does not make the bill better. Regrettably, therefore, I must oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. SPEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. POE).

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Mr. POE of Texas. Mr. Chairman, I thank the gentlewoman for offering this amendment and being the original sponsor of this legislation. I support the amendment. The substantial progress provision in H.R. 620 provides needed flexibility in cases in which removing a barrier is halted for reasons beyond the business' control.

For example, a business may not be able to pour concrete in Alaska during the winter to fix a ramp. Likewise, a business may find that getting a building permit from their local government is taking longer than expected.

In these cases, as well as other unexpected events, the substantial progress provision provides judges with a discretionary standard to determine whether the improvements and progress by the business are both material and meaningful.

This clarifying amendment further defines the term ''substantial progress'' to make clear that circumstances beyond the business' control—owner—are the only allowable justifications for not making substantial progress within the required time.

The amendment will help provide more access for the disabled. I support it because it makes this legislation better.

Ms. SPEIER. Mr. Chair, let me close by saying this: I wholeheartedly support the letter and the spirit of this law. I recognize how important it is. This law is powerful, but it has been weaponized by lawyers who are trying to make a quick buck.

Mr. Chair, I yield back the balance of my time.

Mr. NADLER. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR (Mr. WOMACK). The question is on the amendment offered by the gentlewoman from California (Ms. SPEIER).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. BERA

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part A of House Report 115–559.

Mr. BERA. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, line 15, strike ''120'' and insert ''60''.

The Acting CHAIR. Pursuant to House Resolution 736, the gentleman from California (Mr. BERA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. BERA. Mr. Chair, the Americans with Disabilities Act is landmark civil rights legislation. Americans with disabilities face real challenges every day. We should strive to support them every way we can.

When Congress passes a law, we have an obligation to make sure that legislation is working and see if improvements can be made. Under the ADA, business owners are responsible to make sure their business is fully accessible to those with disabilities. However, in some cases, business owners are unaware they are in violation of the ADA.

Most Americans can agree: rather than immediately face lawsuits for violations, business owners should be given time to actually fix what is wrong. This solution advances our shared goal of improved access for all members of the community. But in listening to my constituents in Sacramento County, many are concerned that the timeframe for fixing these violations was too long. And I agree.

In response, my amendment would cut the time businesses have to fix violations in half. This means, after the notification period, a business has 60 days to fix violations, instead of 120 days in the current bill.