

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 non-compliance with the ADA to simply make substantial progress in remediating 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 set-

tlements 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).

□ 1100

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.

In some cases, these barriers can and should be immediately addressed. But in a State like California, which is prone to earthquakes, construction permits can take time. Small businesses should be given a reasonable amount of time to make changes and better serve their customers.

Having heard both sides of this debate, I believe we can, and should, find a compromise that works for both. I have seen how hard Sacramento small businesses work and how important they are for growing our economy and creating good-paying jobs. As a doctor, I have seen firsthand the challenges of those with disabilities. This amendment seeks the middle ground and is a commonsense improvement.

Americans with disabilities deserve to live full, healthy lives, unafraid of barriers that restrict their movement.

Now, let me be clear: if a business does not make the modifications to obstructions once notified, they should be held accountable and there should be consequences.

When we work across the aisle, Washington can get things done for the American people. This amendment is a commonsense fix that makes the bill better.

Mr. Chair, I urge support of my amendment, and I reserve the balance of my time.

Mr. LANGEVIN. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Rhode Island is recognized for 5 minutes.

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

Mr. Chairman, I rise, again, in opposition to this amendment.

While I thank the gentleman from California for stressing the importance of providing opportunities for places of public accommodation to learn that they are in violation of the ADA, I disagree with the premise that the onus of enforcement should be placed on people with disabilities by requiring them to issue arduous and detailed notices.

There are free resources available that provide information and technical assistance to the public on the requirements of the ADA.

I can't stress this enough: when someone owns a business, they have to balance a variety of regulations and requirements at both the State and Federal Government level. Why should the requirements that their business be accessible to people with disabilities, requirements that have been in existence for decades, be weakened or viewed as less important?

Why should business owners be given a free pass until someone catches a violation before they comply?

The suggestion that we can reduce the timeframe of a notice and cure period misses the point. There is nothing that can be done to improve a notice requirement that shouldn't exist in the first place.

No other civil rights law requires people who experience discrimination

to wait for justice or provide a written notice before taking legal action. Why should people with disabilities be treated any differently?

Further, what are the incentives to comply with the ADA in the first place if businesses can wait to be told what is wrong and then maybe fix the issue?

After all, even with a reduction in the notice and cure timeframe, there is still no clear requirement that a barrier actually be removed.

Again, I appreciate my colleague's desire to find a compromise, but this is not the answer.

Whether the notice and cure period is 120 days or 180 days, it does nothing to address the underlying issue of drive-by lawsuits. That is the crux of the problem happening in States that have gone beyond the requirements of the ADA and merely delays access and creates a national policy of apathy on ADA implementation.

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

Mr. BERA. Mr. Chair, I yield such time as he may consume to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. Mr. Chairman, I support the amendment.

The goal of the bill is to provide more access for Americans more quickly. Absent circumstances beyond a business' control, 120 days is sufficient time to remove a barrier. Under this amendment offered by the gentleman, instead of 180 days total, a business would have up to 120 days, instead, to fix access problems.

I believe this amendment improves the bill. I urge its support, and I thank the gentleman for offering this amendment.

Mr. LANGEVIN. Mr. Chairman, again, while I appreciate my colleague's attempt to find somewhat of a common ground on this issue, it does not address the underlying problem. The issue of the ADA being around for 30 years—it is well-known now. People are even proactive about finding out what their responsibilities are under the ADA, as opposed to just waiting until they are notified of a problem and then perhaps complying with.

No, we should not treat people with disabilities any differently than anyone else who is protected under civil rights laws. That is why we have them in the first place.

I would urge my colleagues to oppose this amendment. Let's work together on finding a better common-ground solution. But this amendment and the underlying bill is not the answer.

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

Mr. BERA. Mr. Chair, this amendment makes the bill better. I urge my colleagues to support the amendment, and I yield back the balance of my time.

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

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. POE OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 115-559.

Mr. POE of Texas. Mr. Chairman, I rise as the designee of Mrs. McMorris Rodgers, and 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, beginning on line 22, strike "the specific sections of the Americans with Disabilities Act alleged to have been violated,".

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

The Chair recognizes the gentleman from Texas.

Mr. POE of Texas. Mr. Chairman, this amendment will make it easier for a disabled American to provide a business with a notice of an ADA violation.

Violations of the ADA can be very technical. The Department of Justice has hundreds, if not thousands, of pages of regulations and guidance documents on complying with the public accommodation requirements of title III of the ADA. Given that the Department of Justice will not certify whether a business' property is ADA compliant, these ADA requirements are often left to the interpretation of plaintiffs' lawyers.

The notice provisions of H.R. 620 require that those who allege a business is violating the ADA must provide the business with a description of "the specific sections of the Americans with Disabilities Act alleged to have been violated." This provision was designed to ensure that businesses have a clear picture of the alleged violation with the business.

However, this requirement may go too far. Accordingly, the amendment removes this requirement, making clear that written notices provided by disabled individuals can be written in plain English, without legalese.

Removing this requirement will also facilitate a dialogue between the individual and the business. Additionally, it may avoid any need for a disabled individual to hire a lawyer.

Mr. Chair, I ask my colleagues to join me in supporting this amendment, and I reserve the balance of my time.

Mr. NADLER. Mr. Chair, I rise in opposition to the amendment.

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

Mr. NADLER. Mr. Chair, I appreciate the intent behind this amendment to make the notice provision of H.R. 620 slightly less onerous, and I acknowledge that it does so by eliminating the requirement that an aggrieved person cite in his or her initial notice to a business the specific ADA provision being violated.

The amendment, however, still leaves in place the basic problem with the

bill, the basic problem with the notice and cure provision, and that is the notice and cure provision. Therefore, it does not alleviate any of the real concerns with the underlying bill.

Again, the basic notice and cure provisions of the bill turn on its head the normal practice of any civil rights statute in which the burden of compliance is on the actor, not on the victim. Here, we put the burden of compliance on the victim.

The debate has been as if people have not had 28 years to come into compliance, only to find out they are not in compliance when someone complains about it, some victim is victimized. That is just wrong. This goes in exactly the wrong direction.

Although this amendment would slightly alleviate the provision, it is putting lipstick on a pig. For this reason and in deference to the disability rights community, which opposes this amendment and the pre-suit notice and cure requirements, I must oppose the amendment.

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

Mr. POE of Texas. Mr. Chairman, I appreciate the gentleman's comments.

I want to remind folks that notice requirement is required even under title VII of the Civil Rights Act. It is also required under title I of the original ADA legislation. So this is not a new phenomena.

This legislation and this amendment gives potential plaintiffs the ability to advise and put a business on notice without even having to hire a lawyer with the legalese requirements that are written by the Department of Justice, which constantly updates what requirements are under the ADA.

The intention is to simply have the violation described in a way that is sufficient to put the business on notice of what the ADA violation is.

Therefore, Mr. Chairman, I would ask that all Members support this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The amendment was agreed to.

The Acting CHAIR. The Chair understands that amendment No. 7 will not be offered.

□ 1115

Mr. POE of Texas. 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. MOONEY of West Virginia) having assumed the chair, Mr. WOMACK, Acting 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 be-

fore 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 11 o'clock and 15 minutes a.m.), the House stood in recess.

□ 1120

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MITCHELL) at 11 o'clock and 20 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 Arkansas (Mr. WOMACK) kindly assume the chair.

□ 1121

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. WOMACK (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 6 printed in part A of House Report 115-559 offered by the gentleman from Texas (Mr. POE) had been disposed of.

AMENDMENT NO. 2 OFFERED BY MR. LANGEVIN

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, the unfinished business is the demand for a recorded vote on amendment No. 2 printed in part A of House Report 115-559 offered by the gentleman from Rhode Island (Mr. LANGEVIN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 226, not voting 16, as follows:

Adams	Green, Al	Norcross
Aguilar	Green, Gene	O'Halleran
Barragán	Grijalva	O'Rourke
Beatty	Hanabusa	Pallone
Beyer	Harper	Panetta
Blumenauer	Hastings	Pascarell
Blunt Rochester	Heck	Payne
Bonamici	Higgins (NY)	Pelosi
Boyle, Brendan	Himes	Perlmutter
F.	Hoyer	Peterson
Brady (PA)	Huffman	Pingree
Brown (MD)	Jackson Lee	Pocan
Brownley (CA)	Jayapal	Polis
Bustos	Jeffries	Price (NC)
Butterfield	Johnson, E. B.	Quigley
Capuano	Kaptur	Raskin
Carbajal	Katko	Reichert
Cárdenas	Keating	Richmond
Carson (IN)	Kelly (IL)	Ros-Lehtinen
Cartwright	Kennedy	Rosen
Castor (FL)	Khanna	Roybal-Allard
Castro (TX)	Kihuen	Ruiz
Chu, Judy	Kildee	Ruppersberger
Cicilline	Kilmer	Rush
Clark (MA)	Kind	Ryan (OH)
Clarke (NY)	King (NY)	Sánchez
Clay	Krishnamoorthi	Sarbanes
Cleaver	Kuster (NH)	Schakowsky
Clyburn	Lance	Schiff
Cohen	Langevin	Schneider
Comstock	Larsen (WA)	Scott (VA)
Connolly	Larson (CT)	Scott, David
Costello (PA)	Lawrence	Sensenbrenner
Crist	Lawson (FL)	Serrano
Crowley	Lee	Sewell (AL)
Davis (CA)	Levin	Shea-Porter
Davis, Danny	Lewis (GA)	Sherman
DeFazio	Lieu, Ted	Sires
DeGette	Lipinski	Slaughter
Delaney	Loeb sack	Smith (NJ)
DeLauro	Lofgren	Smith (WA)
DelBene	Lowenthal	Soto
Demings	Lowe	Suozi
DeSaulnier	Lujan Grisham,	Swalwell (CA)
Dingell	M.	Takano
Doggett	Luján, Ben Ray	Thompson (CA)
Doyle, Michael	Lynch	Thompson (MS)
F.	Maloney,	Thompson (PA)
Ellison	Carolyn B.	Titus
Engel	Maloney, Sean	Tonko
Eshoo	Matsui	Tsongas
Espallat	McCollum	Upton
Esty (CT)	McEachin	Vargas
Evans	McGovern	Veasey
Fitzpatrick	McNerney	Vela
Frankel (FL)	Meeks	Velázquez
Frelinghuysen	Meng	Visclosky
Fudge	Moore	Walz
Gabbard	Moulton	Waters, Maxine
Galleo	Murphy (FL)	Watson Coleman
Garamendi	Nadler	Welch
Gomez	Napolitano	Wilson (FL)
Gonzalez (TX)	Neal	Yarmuth
Gotthelmer	Nolan	Yoder

NOES—226

Abraham	Budd	Duffy
Aderholt	Burgess	Duncan (TN)
Allen	Byrne	Dunn
Amash	Calvert	Emmer
Amodei	Carter (GA)	Estes (KS)
Arrington	Carter (TX)	Farenthold
Babin	Chabot	Faso
Bacon	Coffman	Ferguson
Banks (IN)	Cole	Fleischmann
Barletta	Collins (GA)	Flores
Barr	Collins (NY)	Fortenberry
Barton	Comer	Foster
Bera	Conaway	Fox
Bergman	Cook	Gallagher
Biggs	Cooper	Garrett
Bilirakis	Correa	Gianforte
Bishop (MI)	Cramer	Gibbs
Bishop (UT)	Crawford	Gohmert
Black	Cuellar	Goodlatte
Blackburn	Culberson	Gosar
Blum	Curbelo (FL)	Gowdy
Bost	Curtis	Granger
Brady (TX)	Davidson	Graves (GA)
Brat	Davis, Rodney	Graves (LA)
Bridenstine	Denham	Graves (MO)
Brooks (AL)	Dent	Griffith
Brooks (IN)	DeSantis	Grothman
Buchanan	DesJarlais	Guthrie
Buck	Diaz-Balart	Handel
Bucshon	Donovan	Harris