



**THE REPUBLICAN
STUDY COMMITTEE**

LIBERTY. OPPORTUNITY. SECURITY.
MARK WALKER, CHAIRMAN

H.R. 620 — ADA Education and Reform Act of 2017 (Rep. Ted Poe, R-TX)

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FLOOR SCHEDULE:

Scheduled for consideration on February 15, 2018, under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 620, the ADA Education and Reform Act of 2017](#), would create notice and opportunity to cure requirements before a disability access lawsuit if commenced, direct the Department of Justice (DOJ) to create a program to educate local entities regarding disability access, and direct the federal court system to create a model program to promote alternative dispute resolution mechanisms in litigation dealing with disability access.

COST:

The Congressional Budget Office (CBO) [estimates](#) that the bill would cost would cost \$18 million over the 2018-2022 period, “assuming appropriation of the necessary amounts, CBO estimates that the DOJ program would cost about \$2 million in 2018 and \$4 million each year thereafter”.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** The bill would expand the federal government by creating a new federal program within the Department of Justice to educate state and local government units and local property holders on disability access. On the other hand, the bill would reduce the scope of the federal government by placing restraints on the availability of lawsuits based on federal disability access laws.
- **Encroach into State or Local Authority?** Although the bill would generally restrain litigation regarding federal disability access litigation, some conservatives may believe that the federal government should play no role at all in matters regarding disability access and building standards under the belief that they are inherently local in nature and thus should be regulated – if at all – by state and local governments.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The Americans with Disabilities Act (ADA) generally allows disabled individuals to sue public accommodations (egs. hotels, restaurants, theaters, and shopping centers) if there is an architectural barrier present. Courts can award plaintiffs damages, injunctive relief, and attorney's fees.

According to the [committee report](#), this legal framework has sparked an abundance of abusive litigation where plaintiffs and attorneys do not seek to rectify a situation in which they were legitimately discriminated against, but rather use the ADA as a means to obtain a court award or settlement.

The bill would reform existing law allowing plaintiffs to sue public accommodations for access violations. Specifically the bill would require a potential plaintiff to provide written notice and an opportunity for the defendant to fix an architectural barrier.

The written notice would have to meet several requirements. It must be specific enough to allow the property owner to identify the barrier, specify in detail the circumstances under which an individual was actually denied access, the address of property, the specific sections of the ADA alleged to have been violated, whether a request for assistance in removing an architectural barrier was made, and whether the barrier was a permanent or temporary barrier.

A potential plaintiff cannot sue a public accommodation unless the public accommodation fails to send back a plan to remove the barrier within 60 days of receiving the written notice, or after sending the plan fails to remove or make substantial progress to remove the barrier within the following 120 days.

The bill would direct the Department of Justice (DOJ) to develop a program to educate state and local governments and property owners on ways to promote access at public accommodations for disabled persons.

The bill would also direct the federal court system to create 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, with the goal of promoting access quickly and efficiently without the need for costly litigation.

AMENDMENTS:

1. [Denham \(R-CA\)](#): Requires the Department of Justice's Disability Rights Section to make, to the extent practicable, ADA compliance publications available in all languages commonly used by owners and operators of U.S. businesses.
2. [Langevin \(D-RI\)](#): Guts the purpose of the bill by removing the portion that requires a potential plaintiff to provide written notice and gives a property owner an opportunity to cure the architectural barrier.
3. [Foster \(D-IL\)](#): Expands federal penalties relating to architectural barriers by providing for the possibility of an indefinite amount of punitive damages for noncompliance after the cure period.
4. [Speier \(D-CA\)](#): Dictates that a property owner only can only qualify for the substantial progress safe harbor if the property owner is prevented from completely removing the barrier because of circumstances outside the control of the property owner.

5. [Bera \(D-CA\)](#): Halves the opportunity-to-cure period from 120 days to 60 days.
6. [McMorris Rodgers \(R-WA\)](#): Undercuts the written notice requirement of the bill by striking the requirement that the written notices of alleged violation include the specific sections of the ADA alleged to have been violated.
7. [Hartzler \(R-MO\)](#): Allows the use of portable pool lifts and allows the sharing of lifts between pools and spas to satisfy the pool accessibility requirements under the Americans with Disabilities Act for places of public accommodation.

COMMITTEE ACTION:

H.R. 620 was introduced on January 24, 2017, and was referred to the House Committee on the Judiciary. On September 7, 2017, a mark-up was held and the bill was reported by a vote of 15-9.

OUTSIDE GROUPS:

Support:

- National Federation of Independent Business (NFIB) – Key Vote
- U.S. Chamber of Commerce – Key Vote
- National Association of Realtors
- National Grocers Association
- National Association of Federal Credit Unions
- Click [HERE](#) to view more letters of support

Oppose:

- Disability Rights Education & Defense Fund
- National Disability Rights Network
- The Leadership Conference on Civil and Human Rights
- National Federation of the Blind
- [Consortium for Citizens with Disabilities](#) (coalition letter)

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 18.”

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