

108TH CONGRESS
1ST SESSION

H. R. 728

To amend title III of the Americans with Disabilities Act of 1990 to require, as a precondition to commencing a civil action with respect to a place of public accommodation or a commercial facility, that an opportunity be provided to correct alleged violations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2003

Mr. FOLEY (for himself, Mr. SHAW, Mr. COX, Mr. HUNTER, Mr. HERGER, Mr. PAUL, Mr. ADERHOLT, Mr. ROHRABACHER, Mr. CUNNINGHAM, Mr. RADANOVICH, Mr. HEFLEY, Mr. DUNCAN, Ms. GRANGER, Mr. BALLENGER, Mr. KOLBE, Mr. WELDON of Florida, and Mr. ISSA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title III of the Americans with Disabilities Act of 1990 to require, as a precondition to commencing a civil action with respect to a place of public accommodation or a commercial facility, that an opportunity be provided to correct alleged violations.

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 Notification
5 Act”.

1 **SEC. 2. AMERICANS WITH DISABILITIES ACT OF 1990;**
2 **AMENDMENT TO PROVIDE OPPORTUNITY TO**
3 **CORRECT ALLEGED VIOLATIONS AS PRE-**
4 **CONDITION TO CIVIL ACTIONS REGARDING**
5 **PUBLIC ACCOMMODATIONS AND COMMER-**
6 **CIAL FACILITIES.**

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

9 (1) by striking “(1) AVAILABILITY” and all that
10 follows through “The remedies and procedures set
11 forth” and inserting the following:

12 “(1) AVAILABILITY OF REMEDIES AND PROCE-
13 DURES.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graphs (B) and (C), the remedies and proce-
16 dures set forth”;

17 (2) in subparagraph (A) (as designated by
18 paragraph (1) of this section), by striking the second
19 sentence; and

20 (3) by adding at the end the following subpara-
21 graphs:

22 “(B) OPPORTUNITY FOR CORRECTION OF
23 ALLEGED VIOLATION.—A court does not have
24 jurisdiction in a civil action filed under sub-
25 paragraph (A) with the court unless—

1 “(i) before filing the complaint, the
2 plaintiff provided to the defendant notice
3 of the alleged violation, and the notice was
4 provided by registered mail or in person;

5 “(ii) the notice identified the specific
6 facts that constitute the alleged violation,
7 including identification of the location at
8 which the violation occurred and the date
9 on which the violation occurred;

10 “(iii) 90 or more days has elapsed
11 after the date on which the notice was so
12 provided;

13 “(iv) the notice informed the defend-
14 ant that the civil action could not be com-
15 menced until the expiration of such 90-day
16 period; and

17 “(v) the complaint states that, as of
18 the date on which the complaint is filed,
19 the defendant has not corrected the alleged
20 violation.

21 “(C) CERTAIN CONSEQUENCES OF FAIL-
22 URE TO PROVIDE OPPORTUNITY FOR CORREC-
23 TION.—With respect to a civil action that does
24 not meet the criteria under subparagraph (B)

1 to provide jurisdiction to the court involved, the
2 following applies:

3 “(i) The court shall impose an appro-
4 priate sanction upon the attorneys involved
5 (and notwithstanding the lack of jurisdic-
6 tion to proceed with the action, the court
7 has jurisdiction to impose and enforce the
8 sanction).

9 “(ii) If the criteria are subsequently
10 met and the civil action proceeds, the court
11 may not under section 505 allow the plain-
12 tiff any attorneys’ fees (including litigation
13 expenses) or costs.”.

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