

114TH CONGRESS
1ST SESSION

H. R. 3765

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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2015

Mr. POE of Texas (for himself, Mr. COLLINS of Georgia, and Mr. JOLLY) 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 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.

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 Education and
5 Reform Act of 2015”.

1 **SEC. 2. COMPLIANCE THROUGH EDUCATION.**

2 Based on existing funding, the Disability Rights Sec-
3 tion of the Department of Justice shall, in consultation
4 with property owners and representatives of the disability
5 rights community, develop a program to educate State and
6 local governments and property owners on effective and
7 efficient strategies for promoting access to public accom-
8 modations for persons with a disability (as defined in sec-
9 tion 3 of the Americans with Disabilities Act (42 U.S.C.
10 12102)). Such program may include training for profes-
11 sionals such as Certified Access Specialists to provide a
12 guidance of remediation for potential violations of the
13 Americans with Disabilities Act.

14 **SEC. 3. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**
15 **LATING TO ADA COMPLIANCE DEMAND LET-**
16 **TERS.**

17 It shall be unlawful for any person to send or other-
18 wise transmit a demand letter or other form of pre-suit
19 notification alleging a violation of section 302 or 303 of
20 the Americans with Disabilities Act of 1990 (29 U.S.C.
21 12182; 12183) if such letter or communication does not
22 specify in detail the circumstances under which an indi-
23 vidual was actually denied access to a public accommoda-
24 tion, including the address of property, the specific sec-
25 tions of the Americans with Disabilities Act alleged to
26 have been violated, whether a request for assistance in re-

1 moving an architectural barrier to access was made, and
2 whether the barrier to access was a permanent or tem-
3 porary barrier. Any person who violates this section shall
4 be fined under title 18, United States Code.

5 **SEC. 4. NOTICE AND CURE PERIOD.**

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

9 “(1) AVAILABILITY OF REMEDIES AND PROCE-
10 DURES.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the remedies and procedures set
13 forth in section 204(a) of the Civil Rights Act
14 of 1964 (42 U.S.C. 2000a–3(a)) are the rem-
15 edies and procedures this title provides to any
16 person who is being subjected to discrimination
17 on the basis of disability in violation of this title
18 or who has reasonable grounds for believing
19 that such person is about to be subjected to dis-
20 crimination in violation of section 303. Nothing
21 in this section shall require a person with a dis-
22 ability to engage in a futile gesture if such per-
23 son has actual notice that a person or organiza-
24 tion covered by this title does not intend to
25 comply with its provisions.

1 “(B) BARRIERS TO ACCESS TO EXISTING
2 PUBLIC ACCOMMODATIONS.—A civil action
3 under section 302 or 303 based on the failure
4 to remove an architectural barrier to access into
5 an existing public accommodation may not be
6 commenced by a person aggrieved by such fail-
7 ure unless—

8 “(i) that person has provided to the
9 owner or operator of the accommodation a
10 written notice specific enough to allow such
11 owner or operator to identify the barrier;
12 and

13 “(ii)(I) during the period beginning on
14 the date the notice is received and ending
15 60 days after that date, the owner or oper-
16 ator fails to provide to that person a writ-
17 ten description outlining improvements
18 that will be made to remove the barrier; or

19 “(II) if the owner or operator provides
20 the written description under subclause (I),
21 the owner or operator fails to remove the
22 barrier or to make substantial progress in
23 removing the barrier during the period be-
24 ginning on the date the description is pro-

1 vided and ending 120 days after that
2 date.”.

3 **SEC. 5. MEDIATION FOR ADA ACTIONS RELATED TO ARCHI-**
4 **TECTURAL BARRIERS.**

5 The Judicial Conference of the United States shall,
6 under rule 16 of the Federal Rules of Civil Procedure or
7 any other applicable law, in consultation with property
8 owners and representatives of the disability rights commu-
9 nity, develop a model program to promote the use of alter-
10 native dispute resolution mechanisms, including a stay of
11 discovery during mediation, to resolve claims of architec-
12 tural barriers to access for public accommodations. To the
13 extent practical, the Federal Judicial Center should pro-
14 vide a public comment period on any such proposal. The
15 goal of the model program shall be to promote access
16 quickly and efficiently without the need for costly litiga-
17 tion. The model program should include an expedited
18 method for determining the relevant facts related to such
19 barriers to access and steps taken before the commence-
20 ment of litigation to resolve any issues related to access.

21 **SEC. 6. EFFECTIVE DATE.**

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

○