



Memorandum

To: Rep. Alan Lowenthal, 47th District - California

From: Tiara Simmons, Four Wheel Workout – Founder

Date: October 4, 2017

Re: **H.R. 620 - ADA Education and Reform Act of 2017**

A Recommendation To Vote “NO” On H.R. 620 In Order To Protect The Rights Of People With Disabilities

The Americans with Disabilities Act of 1990 (ADA) is a protection that ensures equal access and opportunity to people with disabilities (PWD) in places and services with public accommodations. What this means is that under the ADA, places like schools, businesses and other places opened to and serving the public must be accessible to those with different disabilities. The ADA provides owners and operators with specific guidelines and assistance to become compliant. It also provides several exceptions.

The ADA provides the PWD with the right to file an action with the EEOC and includes remedies if there is a cause of action. Remedies may be monetary or a court-ordered injunction to stop the discrimination or remove the barrier.

The ADA is a law that has been in existence for 27 years. With the ADA provisions, it is understood owners/operators will be proactive in compliance and may be subject to civil litigation if they are not. Owners and operators who have been subjected to a suit under the ADA may complain about the prevalence of “frivolous lawsuits”. However, a lawsuit demanding equal access and removal of barriers to further the independence of a PWD is not “frivolous”.

At the time of this writing, sixty-three (63) United States Representatives, 14 from the State of California, are co-sponsors of H.R. 620. If this bill passes, it gives business owners/operators a way out of the ADA. It greatly reduces access for the person with a disability. It punishes the person with a disability for being disabled. It will force the person with a disability to research and locate alternatives. What happens when there are no alternatives?

A. What does HR 620 do?

1. H.R. 620 will roll back ADA protections

This bill will prohibit civil suits based on the failure to remove architectural barriers that prevent the access and use of a public accommodation unless certain elements are met. In other words, the only way a suit to enforce the ADA may be filed is under these circumstances:

1. The PWD has to give the owner or operator specific written notice that identifies the barrier; and
2. The owner/operator has to failed to
 - a. Within **60 days** of receipt of notice, provide that person with a written description outlining what improvements will be made; OR
 - b. Within **120 days** of providing the description, actually remove the barrier complete or make substantial progress after the descriptive outline is given.

The specific written notice that the PWD provides must include:

1. The property address;
2. The specific ADA section that is violated;
3. Whether a request for removing the barrier was made; and
4. Whether the barrier was permanent or temporary.

Further, if a dispute arises, the bill will require mediation between the parties and, if possible, public comment.

B. Why is this a problem?

1. Notice Requirement is an undue burden on the aggrieved party.

HR 620 puts the burden on the PWD to ensure accessibility. H.R. 620 adds an additional layer of red tape and responsibility for people who are trying to enforce their rights under the law. Twenty-seven (27) years is more than enough specific written notice for businesses, and other places open for the public, to either remove pre-existing barriers, or avoid those barriers when they open.

First, the bill requires that the PWD become well-versed in the requirements of the ADA, including exemptions and existing loopholes. She must know what specific section was violated. She must, therefore, be able to read and understand the legalese and language in the ADA. The other option is to hire an attorney to explain the law and draft the letter, adding an additional expense.

Second, written notice must include whether a request for removing the barrier was made. This becomes rebuttable. It leaves the door open for the owner/operator to deny a request was made. In other words, the PWD must be able to prove a request was made and received.

Third, the PWD must know whether the barrier was permanent or temporary. Neither of these terms are defined in the bill. A barrier may be moveable and seemingly temporary (like a store display) but is permanent because of its purpose.

2. Timing Requirement removes the obligation to provide access.

H.R. 620 removes responsibility and accountability from the business owner/operator. After providing the written notice, the PWD must give the owner/operator 60 days from the date notice is received by the owner/operator to respond. The bill does not specifically state what needs to be included in the response, as it does the written notice. All that is needed is an outline of what improvements will be made. There is no requirement that the response include details of when the improvements will begin or expected completion. The owner/operator can deny receiving the written notice or argue that what was received does not satisfy the requirements set forth in the bill and therefore he did not need to respond.

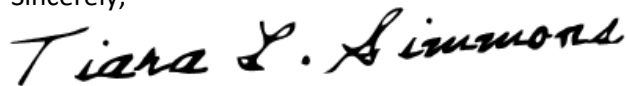
If the owner/operator provides a description within the 60 days, the PWD must wait up to an additional 120 days from the date the description was provided to see if the barrier was either removed completely or at least substantial progress was made. There is no requirement that the owner/operator provide notice of expected completion. Substantial progress is not defined meaning as long as “substantial progress” is shown, access and equality may be years out of reach.

In essence, H.R. 620 forces the PWD to wait up to six (6) months before she can file a suit for violation of the ADA. That is six months of exclusion where the ADA provides for inclusion. This is not just about access to theaters, restaurants, or shopping. This bill will negatively affect one’s ability to continue living an independent lifestyle.

Businesses and other public accommodations have had 27 years to catch up to the law. They do not need an additional six months or more. People with disabilities have been waiting almost 30 years for accessibility and inclusivity in the American society. We should not have to wait an additional six months or more to enforce our rights under the law.

This disabled community urges you to vote “NO” on H.R. 620 and protect our rights under the Americans with Disabilities Act.

Sincerely,



Tiara L. Simmons
Four Wheel Workout, Founder
TLS/tls

Encl: List of H.R. 620 Co-Sponsors

H.R. 620 Cosponsors as of 10/04/2017

* = Original cosponsor

Cosponsor	Date Cosponsored
Rep. Peters, Scott H. [D-CA-52]*	01/24/2017
Rep. Calvert, Ken [R-CA-42]*	01/24/2017
Rep. Bera, Ami [D-CA-7]*	01/24/2017
Rep. Speier, Jackie [D-CA-14]*	01/24/2017
Rep. Conaway, K. Michael [R-TX-11]*	01/24/2017
Rep. Aguilar, Pete [D-CA-31]	02/27/2017
Rep. Abraham, Ralph Lee [R-LA-5]	02/27/2017
Rep. Correa, J. Luis [D-CA-46]	03/22/2017
Rep. Collins, Doug [R-GA-9]	03/22/2017
Rep. Foster, Bill [D-IL-11]	03/28/2017
Rep. Denham, Jeff [R-CA-10]	03/28/2017
Rep. Sinema, Kyrsten [D-AZ-9]	03/29/2017
Rep. Mitchell, Paul [R-MI-10]	03/29/2017
Rep. Issa, Darrell E. [R-CA-49]	04/05/2017
Rep. Rush, Bobby L. [D-IL-1]	05/19/2017
Rep. Emmer, Tom [R-MN-6]	05/19/2017
Rep. Sewell, Terri A. [D-AL-7]	05/22/2017
Rep. Coffman, Mike [R-CO-6]	05/22/2017
Rep. Roby, Martha [R-AL-2]	06/15/2017
Rep. Cuellar, Henry [D-TX-28]	07/26/2017
Rep. Russell, Steve [R-OK-5]	07/26/2017

Cosponsor	Date Cosponsored
Rep. Costa, Jim [D-CA-16]	08/08/2017
Rep. Smith, Lamar [R-TX-21]	08/08/2017
Rep. Valadao, David G. [R-CA-21]	09/08/2017
Rep. Marchant, Kenny [R-TX-24]	09/08/2017
Rep. Bacon, Don [R-NE-2]	09/08/2017
Rep. Stewart, Chris [R-UT-2]	09/08/2017
Rep. Duncan, Jeff [R-SC-3]	09/08/2017
Rep. Burgess, Michael C. [R-TX-26]	09/08/2017
Rep. Tipton, Scott R. [R-CO-3]	09/08/2017
Rep. Byrne, Bradley [R-AL-1]	09/08/2017
Rep. Gallagher, Mike [R-WI-8]	09/08/2017
Rep. Crawford, Eric A. "Rick" [R-AR-1]	09/08/2017
Rep. Bilirakis, Gus M. [R-FL-12]	09/08/2017
Rep. Curbelo, Carlos [R-FL-26]	09/08/2017
Rep. Hunter, Duncan D. [R-CA-50]	09/08/2017
Rep. Stivers, Steve [R-OH-15]	09/08/2017
Rep. Williams, Roger [R-TX-25]	09/08/2017
Rep. Walker, Mark [R-NC-6]	09/08/2017
Rep. Brooks, Mo [R-AL-5]	09/08/2017
Rep. Smith, Jason [R-MO-8]	09/08/2017
Rep. Moolenaar, John R. [R-MI-4]	09/08/2017
Rep. Schweikert, David [R-AZ-6]	09/08/2017
Rep. Graves, Garret [R-LA-6]	09/08/2017

Cosponsor	Date Cosponsored
Rep. Nunes, Devin [R-CA-22]	09/08/2017
Rep. Grothman, Glenn [R-WI-6]	09/08/2017
Rep. Carter, Earl L. "Buddy" [R-GA-1]	09/08/2017
Rep. Johnson, Mike [R-LA-4]	09/08/2017
Rep. Lamborn, Doug [R-CO-5]	09/08/2017
Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large]	09/08/2017
Rep. Gohmert, Louie [R-TX-1]	09/08/2017
Rep. Rice, Kathleen M. [D-NY-4]	09/14/2017
Rep. Gosar, Paul A. [R-AZ-4]	09/26/2017
Rep. Womack, Steve [R-AR-3]	09/26/2017
Rep. Sessions, Pete [R-TX-32]	09/26/2017
Rep. Dent, Charles W. [R-PA-15]	09/26/2017
Rep. McClintock, Tom [R-CA-4]	09/26/2017
Rep. Westerman, Bruce [R-AR-4]	09/26/2017
Rep. Long, Billy [R-MO-7]	09/28/2017
Rep. Mooney, Alexander X. [R-WV-2]	09/28/2017
Rep. Luetkemeyer, Blaine [R-MO-3]	10/02/2017
Rep. Rogers, Harold [R-KY-5]	10/02/2017
Rep. LaMalfa, Doug [R-CA-1]	10/02/2017