

January 31, 2018

The Honorable Paul Ryan
Speaker of the House
United States House of Representatives
H-232, The United States Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
H-204, The United States Capitol
Washington, DC 20515

The Honorable Bob Goodlatte
Chair
House Judiciary Committee
2309 Rayburn House office Building
Washington, DC 20515

The Honorable Jerry Nadler
Ranking Member
House Judiciary Committee
2109 Rayburn House office Building
Washington, DC 20515

Dear Speaker Ryan, Leader Pelosi, Chairman Goodlatte and Ranking Member Nadler:

United Spinal Association writes to strongly oppose H.R. 620 the Americans with Disabilities Act (ADA) Education and Reform Act. This legislation has been marked up and passed out of the House Judiciary Committee, and it is now waiting to be addressed by the House for a full vote.

United Spinal Association is the largest disability-led national non-profit organization founded by paralyzed veterans in 1946 and has since provided service programs and advocacy to improve the quality of life of those across the life span living with spinal cord injuries and disorders (SCI/D) such as multiple sclerosis, amyotrophic lateral sclerosis (ALS), post-polio syndrome and spina bifida. United Spinal has over 49,000 members and represents over one million individuals with spinal cord injuries and disorders, over 50 chapters, over 100 rehabilitation hospital members and close to 200 support groups nationwide. Throughout its history, United Spinal Association has devoted its energies, talents and programs to improving the quality of life for these Americans and for advancing their independence. United Spinal Association is also a VA-recognized veterans service organization (VSO) serving veterans with disabilities of all kinds.

H.R. 620 severely undermines the landmark civil rights law, the Americans with Disabilities Act (ADA) because it will ultimately harm individuals with disabilities and at a time where there are already effective mandates, programs and initiatives that are established through the Department of Justice Civil Rights Division. This bill works to protect businesses instead of ensuring the rights of people with disabilities are protected. United Spinal Association strongly urges you not to present this bill to the House for the following reasons:

1. The ADA Protects the Rights of People with Disabilities

H.R. 620 significantly weakens the ADA and requires that people with disabilities assume the responsibility to inform public facilities and businesses of access challenges they have encountered with their facilities. People with disabilities are the only protected class that would bear the burden of independent notification of accessibility issues to businesses. H.R. 620 would amend the ADA to require the individual with a disability to send a letter of notification to the business that was out of compliance with the law, and cite the exact Title III violation under the ADA. Businesses are given a grace period of a total of 180 days before someone can file

suit. The bill allows 60 days for businesses to acknowledge the barrier after receipt of a notification letter and another 120 days for businesses to fix the access problem. Since 1990, the ADA has required that existing commercial establishments remove barriers that impede access by people with disabilities provided such barriers can be removed in a readily achievable manner. H.R. 620 would permit businesses to remain out of compliance with the ADA and maintain inaccessible facilities until they receive written notice from an aggrieved person with a disability.

Proponents of H.R. 620, such as the International Council of Shopping Centers and business trade associations, are misinterpreting and miscommunicating facts which will result in depriving people with disabilities of their rights under the ADA. What proponents refer to as “a time period fix” does in fact harm people with disabilities. This means that people with disabilities will not be able to gain access to the respective businesses for months or possibly years, and it removes any incentive for businesses to comply proactively with the ADA. This legislation requires people with disabilities to navigate additional administrative barriers before they can commence a lawsuit to protect their rights.

2. What is “Substantial Progress”?

H.R. 620 is written in a way that permits businesses to potentially wait years without having to remove access barriers without penalty as long as the business can show that “substantial progress” was made. There is no definition for “substantial progress.” This would remove the incentive for a business to learn about ADA compliance or take any steps to comply prior to notification. ADA Title III provisions on public accommodation would effectively change. **Progress is not access.**

The “drive-by” lawsuits are not addressed in this bill. There are ways to address the problem of unscrupulous attorneys without placing the burden on individuals with disabilities. These frivolous lawsuits stem primarily from state laws that include damages which encourage such unscrupulous behavior. It is not the federal ADA that needs to be changed. There are established and tested avenues to address the lawsuit issue. Courts and state bar examiners have the tools needed to shut down unscrupulous lawyers through sanctions, disciplinary measures and other steps.

3. H.R. 620 Fails to Recognize Mandates That Already Exist

H.R. 620 does not acknowledge that the Department of Justice (DOJ) under their Civil Rights Division already has mandates under Title III of the Americans with Disabilities Act, and that there is already a mediation process established that is readily available to businesses and people with disabilities directed to public access issues. DOJ recently published comments stating that the ADA already calls for compliance on barrier removal issues without any additional delays as stated in H.R. 620. In addition, DOJ hosts a toll-free ADA information line, provides exceptionally helpful information on the DOJ Website, www.ada.gov, provides educational materials, and conducts presentations and trainings to businesses, people with disabilities, state and local governments and other entities. The Civil Rights Division also works in collaboration with the ADA National Network to support training and outreach while partnering with ten Regional ADA Centers located across the United States which are funded by the Department of Health and Human Services National Institute on Disability, Independent Living and Rehabilitation Research. Without question, information regarding how a business can be compliant with ADA in making facilities accessible has been available to businesses for years.

We request your careful consideration of our opposition to H.R. 620, the Americans with Disabilities Act Education and Reform Act of 2017. For additional information or questions, please contact Jasey Cárdenas, Senior Policy Associate, United Spinal Association at 202-556-2076, x7104 or jcardenas@unitedspinal.org.

Sincerely,

A handwritten signature in black ink, appearing to read "James Weisman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James Weisman
President & CEO
United Spinal Association

Cc: United States House of Representatives