

ADA NOTIFICATION LEGISLATION

The Issue

In 2017, U.S. Representative Ted Poe (R-TX) introduced the ADA (Americans with Disabilities Act) Education and Reform Act of 2017 (H.R. 620), which would limit the ability of people with disabilities to enforce their rights under the ADA to access places of public accommodation in the same manner as all other citizens. This legislation would require a person with a disability to send a letter of notification to the business that it was out of compliance with the law giving it a grace period before one could file suit. This bill, which passed the House Judiciary Committee in 2016, would remove all incentive for businesses, social service establishments, and other places of public accommodation to comply with the ADA's accessibility requirements. Businesses could employ a "wait and see" approach, continuing to violate the law with impunity.

The ADA, which was signed on July 26, 1990, is the most comprehensive disability rights legislation ever passed by any country and it provides a model of compromise between business and people with disabilities. It prevents discrimination in employment, public services, public accommodations, telecommunications and other services based on disability. In 2008, Congress amended the ADA to recalibrate it to address discrimination in a broad array of circumstances after interpretation of the law was narrowed by the federal courts.

Title III of the ADA was intended to balance the interests of small businesses along with the accessibility concerns of people with disabilities. It is a myth that the ADA's requirements are too hard on small businesses. The legislative history of the ADA is rife with concern about the burden on small businesses and as a result, Title III does not require any action with respect to existing buildings that would cause an undue burden or that is not readily achievable. The approach of the ADA was not to exempt small businesses from the requirements of the bill, but rather to tailor the requirements of the Act to take into account the needs and resources of small businesses – to require what is reasonable and not to impose obligations that are unrealistic or debilitating to businesses.

PVA's Position

- Ensure people with disabilities continue to have the ability to enforce the ADA public accommodations provisions through the courts, if needed, without providing notification, by opposing H.R. 620.
- Expand access to ADA technical assistance provided through the ADA National Network to ensure that businesses avail themselves of the guidance and training that is available.