



February 13, 2018

Congressman Steny Hoyer
1705 Longworth House Office Building
Washington, DC 20515

Dear Minority Whip Hoyer:

On behalf of the Epilepsy Foundation, we urge you to oppose House Bill 620 which erodes the rights of people with disabilities guaranteed under the Americans with Disabilities Act (ADA) by removing a key incentive for voluntary ADA compliance among business owners and shifting the burden of ADA compliance to people with disabilities. There are no monetary damages available under the ADA, so eroding the notification requirement would restrict the rights of all people with disabilities without solving the problem it is intended to address: individuals who file ADA lawsuits for financial gain. We encourage Congress to focus on promoting the physical accessibility of all public places as required by the ADA and support efforts to encourage accessibility and compliance.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the at least 3.4 million Americans with epilepsy and seizures. We foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy at some point in their lifetime.

Some people with epilepsy have such severe physical limitations associated with their seizures and related co-morbidities and need accommodations to access public facilities and businesses. This is why the Epilepsy Foundation has been a significant supporter of the ADA since its passage in 1990. The ADA was the result of bipartisan efforts to promote the rights of people with disabilities to ensure they can participate fully in all aspects of American life. Title III of the ADA reflects the balancing the needs of people with disabilities and of businesses large and small, and requires businesses to make architectural changes to existing structures only when such changes are “readily achievable” by the business. The law defines “readily achievable” by explicit reference to the size and resources of the business to accommodate small businesses. In exchange for this graduated requirement of accessibility for public places and businesses, people with disabilities who are denied physical access can bring suit under the ADA. No monetary damages are available under the ADA, only injunctive relief and legal fees.

HR 620 would dramatically alter the status quo as it relates to the ADA by requiring individuals with disabilities to provide a detailed written notice to a business after encountering an access barrier. After receiving notification, the business would then have up to six months to begin to address the accessibility barrier, and years to eliminate it—forcing people with disabilities to wait for the access they have been legally guaranteed through the ADA. The notification



requirement in HR 620 would delay equal access for people with disabilities and impose a significant barrier to safeguarding their rights.

HR 620 was drafted in response to concerns about a small number of individuals who have filed ADA lawsuits for financial gain. However, monetary damages from ADA lawsuits are the result of state laws, which HR 620 would not address. The notification requirement of HR 620 would also not prevent unscrupulous actors from extorting money from businesses with ADA violations by requesting a payoff in exchange for refraining from filing a lawsuit after the six-month waiting period had passed. This proposed solution would restrict the rights of all people with disabilities without solving the problem it is intended to address. The Epilepsy Foundation urges opposition to HR 620 and encourages Congress to instead focus on promoting the physical accessibility of all public places as required by the ADA and support efforts to encourage accessibility and compliance. If you have any questions or concerns, please contact Angela Ostrom, Chief Legal Office & Vice President Public Policy at aostrom@efa.org or 301-918-3766.

Sincerely,

A handwritten signature in black ink that reads "Philip M. Gattone".

Philip M. Gattone, M.Ed.
President & CEO
Epilepsy Foundation