



RESTORE THE INTEGRITY OF THE ADA

ENACT H.R. 620, THE ADA EDUCATION AND REFORM ACT

BACKGROUND

H.R. 620, The ADA Education and Reform Act, was introduced in early 2017 by Congressmen Ted Poe (R-TX) and Scott Peters (D-CA). This bipartisan bill closes the loophole in the Americans with Disabilities Act (ADA) that has unintentionally contributed to the growth in federal “drive-by” ADA Title III lawsuits. At the same time the legislation adds safeguards that incentivize the remedy of alleged violations – without taking away the right to pursue negligent business owners who ignore compliance. This “notice and cure” bill requires a plaintiff to give specific notice to the property owner about the alleged violation(s) so they know what must be fixed. The legislation allows property owners up to 120 days to fix the alleged ADA violation before the clock starts running on attorney fees.

THE RISE OF “DRIVE-BY LAWSUITS”

“Drive-by” ADA lawsuits are the scourge of all types of private businesses open to the public. Since current law grants attorney’s fees to plaintiffs pursuing various claims, numerous law firms take advantage of this incentive by issuing demand letters or threatening property owners with lawsuits unless they pay a settlement consisting largely of those fees.

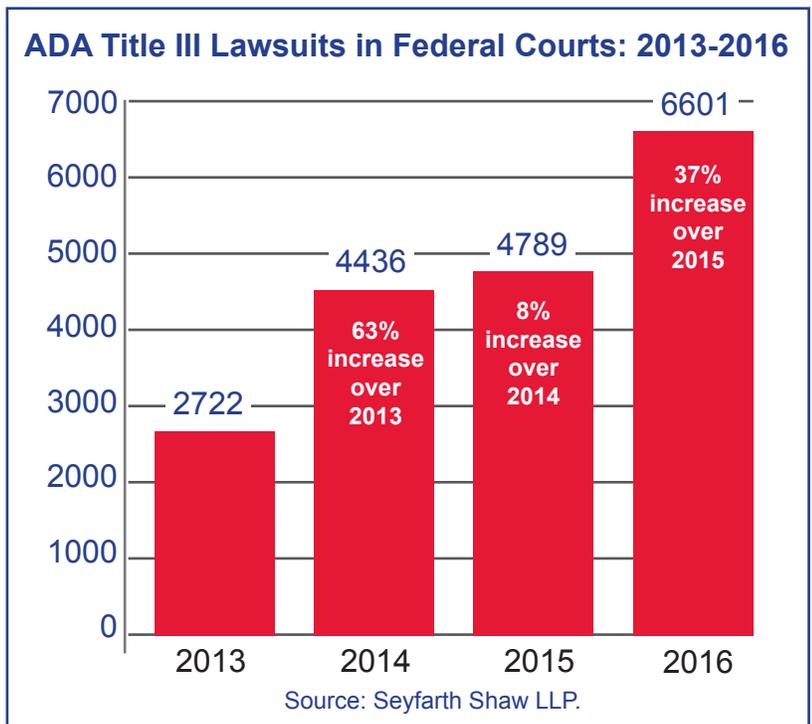
This “cash for compliance” phenomena has created a pervasive practice of inspecting shopping centers, theaters, stores and restaurants in order to allege minor, easily-correctable ADA infractions, such as those relating to parking lot striping and signs, bathroom dispensers and ramps. Many of these property owners reasonably believed their properties were ADA-compliant based on assurances by state or local inspectors and/or outside consultants.

Despite the best efforts of some states to curb ADA lawsuit abuse through additional litigation protections (such as special rules in district courts), suits in federal courts are on the rise and a federal fix is required.

RESTORE THE INTEGRITY OF THE ADA

ICSC vigorously supports the letter and spirit of the ADA. Our members share the collective goals of more accessibility and full compliance. It is time for Congress to restore the integrity of the ADA by providing clearer rules for identifying and correcting ADA access violations.

Please cosponsor H.R. 620.



In 2016, 6,601 ADA Title III lawsuits were filed in federal court — 1,812 more than in 2015. This 37% increase continues the upward trend in the number of filings, which have been tracked since 2013. In 2015, there were 8% more Title III lawsuits filed than in 2014.

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