



Restore the Integrity of the ADA

Congressional Action Needed to Improve Disability Access

STATUS

On February 15, 2018, the U.S. House of Representatives passed H.R. 620 by a vote of 225-192. This bipartisan bill provides for “notice and cure” giving property owners reasonable notice about the alleged violation(s) and 120 days to work towards curing the problem. Should a business not comply, the plaintiff’s attorneys fees would revert back to the date of when the initial notice was filed, providing additional incentive for business compliance.

THE RISE OF “DRIVE-BY LAWSUITS”

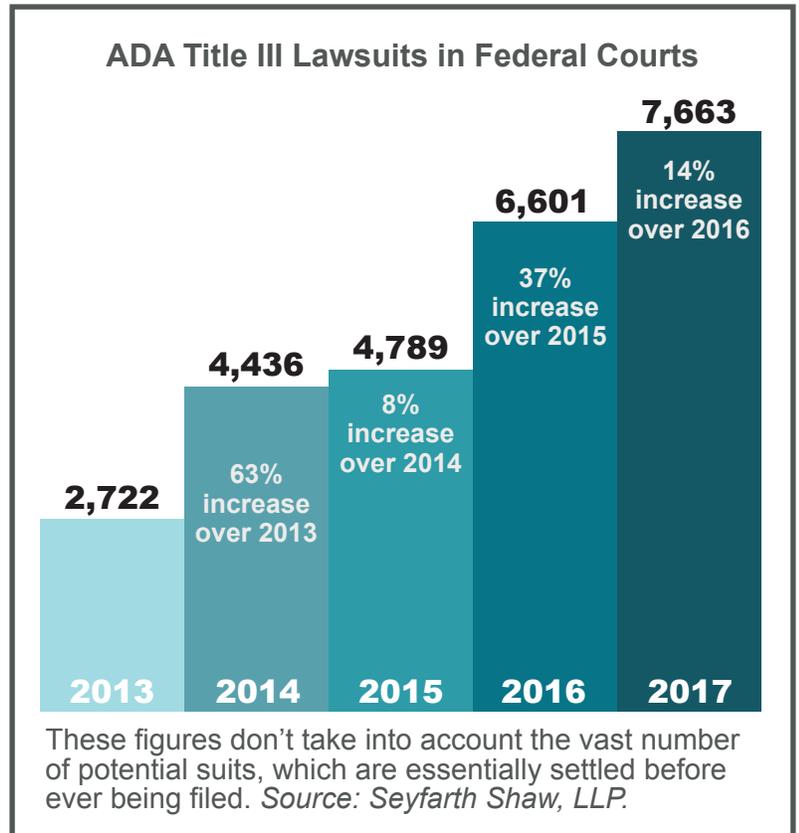
Over the years, “drive-by” ADA lawsuits have eroded the integrity of the ADA by creating a “cash for compliance” phenomenon. Since current law grants attorney’s fees to plaintiffs pursuing various claims, numerous law firms take advantage of this incentive by issuing demand letters or threatening property owners with lawsuits unless they pay a settlement consisting largely of those fees. This practice was never contemplated when the landmark law was enacted. These lawsuits are often focused on minor, easily correctible ADA infractions in shopping centers, theaters, stores and restaurants, 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. In many cases, the first time the business is made aware of the breach in ADA access is when the demand letter or the suit is filed.

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 have nearly tripled in the last five years (Seyfarth Shaw LLP). Though state solutions have been fairly effective in reducing frivolous lawsuits in state court, a federal fix is needed.

ICSC believes giving businesses both a reasonable notice of the problem and a set timeline to fix the issue will increase access for the disabled community, lessen the frivolous lawsuits that loom over small businesses and liberate the courts. Based on the legal timeline under the current system, most violations will be resolved quicker under this proposal.

OUR POSITION

ICSC members want to make their businesses accessible to as many customers as possible and seek a common sense solution that will allow for rapid resolution of ADA access violations when they are identified.



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