



Center for Disability Rights, Inc.
INTEGRATION, INDEPENDENCE, CIVIL RIGHTS

July 26, 2022

The Honorable Nancy Pelosi
Speaker of the House
The Capitol H-232
Washington, DC 20515

The Honorable Leader McCarthy
Minority Leader
The Capitol H-204
Washington, DC 20515

Re: The 87 Civil and Human Rights groups send this letter of opposition for ADA Compliance for Customer Entry to Stores and Services Act (ACCESS Act) H.R. 77

Dear Speaker Pelosi and Minority Leader McCarthy,

The undersigned 87 civil and human rights organizations send this letter of opposition for [The ADA Compliance for Customer Entry to Stores and Services Act \(ACCESS Act\) \(H.R. 77\)](#) This legislation as all [Americans with Disabilities Act](#) (ADA) Notification legislation bills are set to do, would create barriers and obstacles for people with disabilities to enforce their right under Title III of the ADA. It would impede their ability to engage in daily activities and participate in the mainstream of society.

As we celebrate the 32nd Anniversary of this historic civil rights law, let this country finally commit to the civil rights of people with disabilities and work on implementing and strengthening laws that create full inclusion of people with disabilities. Congress should be creating more access and protecting the civil and human rights of people with disabilities yet in every congress since the year 2000 these ADA Notification bills continue to plague the congressional record with an outright target of removing and weakening the ADA. This law is a civil and human rights law one created with the premise of community integration.

The ACCESS Act is a bill that will weaken the ADA and with that create barriers and obstacles for the protection of full integration for people with disabilities in our society. This bill would place the burden of protecting the right to access a public place to the person with the disability, who first has to be denied access; then must determine that violations of the law have occurred; and then must provide the business with specific notice of which provisions of the law were violated.

The bill's proponents purport to protect business owners from the burden of understanding and complying with rules designed to ensure that people with disabilities could access public accommodations, on the ground that this burden is too heavy for businesses. Yet people with disabilities are expected to shoulder this burden and to provide businesses with information about the specific legal obligations that they are violating—after those individuals have been denied the access rights that Congress gave them decades ago. We know of no other law that outlaws discrimination but permits entities to discriminate with impunity until victims experience that discrimination and educate the entities perpetrating it about their obligations not to discriminate. Such a regime is absurd, and would make people with disabilities second-class citizens.

Over the last 5yrs there has been serious change in our society by having people with disabilities represented in multiple media outlets, included in company's commercial campaigns, on fashion runways, television and movies are including stories about and with actors who have disabilities and the list continues with a fundamental change around inclusion. There is much work still needed to be done. But these accomplishments were done through active collaboration, led by people with disabilities and done with honest intent to create change.

In a time when this country is addressing racial injustice, the lack of equity and ending racism the fact that there is a bill in Congress set to weaken a historic civil right like the ADA is appalling. These types of bills have been introduced in congress for more than 20yrs. It is astonishing that these businesses support this legislation and continue to try to "get out of" complying with this civil right. Instead of working with the disability community to create intentional change and be accessible, these businesses continue to set forth to weaken the ADA.

It is a **privilege** to own a business in the U.S. not a civil right. The word privilege is defined as *something regarded as a rare opportunity and bringing particular pleasure*. That privilege of owning a business comes with a lot of responsibilities. One of the responsibilities is creating accessible spaces in program and building structure for people with disabilities.

It is amazing that these business owners can and do learn how to pay their taxes on time and send them to the right office; they learn CPR so that if someone falls unconscious on their floor they can try to keep them alive; they learn fire hazards and how to address them; they even learn human resource laws and take training on avoiding sexual harassment, labor laws, how to employ youth etc. But they somehow can't Google how to fix their accessibility problems or where to find assistance to become accessible to all. It's not rocket science just ask the people who are trying to use your business.

As we celebrate the 32nd Anniversary of the ADA, a law that was carefully crafted as a bipartisan compromise to take the needs of covered entities, including the types of businesses covered by Title III, into account. Among the compromises reflected in the

ADA **was the absence of any damage remedy in Title III; only injunctive relief and attorney's fees are available for violations of this part of the law.** The fact that, 32 years after enactment, there are still organizations, businesses, and companies who violate the law and deny access to people with disabilities suggests that businesses should be better educated about their legal obligations under the ADA—just as they are expected to be about the other legal obligations that they undertake in running a business—not that we should limit the rights of people with disabilities to participate in their communities.

Section 2 of this bill: (a) – calls for Department of Justice (DOJ) to provide training and education:

develop a program to educate State and local governments and property owners on effective and efficient strategies for promoting access to public accommodations for persons with a disability (as defined in section 3 of the Americans with Disabilities Act (42 U.S.C. 12102)).

This program already exists and is called ADA.gov which is in the US Department of Justice Civil Rights Division and offers Information and Technical Assistance on the ADA services throughout the country. This program has existed for over 20 yrs.

Also the US Government already offers free training, evaluations and assistance in the form of ADA Resource Centers. They also have the Protection and Advocacy offices (1 in every state, every territory and on Native land); the Centers for Independent Living (at least 1 in every state, territory and on Native land) and a multitude of other free or low cost options for finding help to become accessible. There are tax abatements and credits for upgrading to becoming an accessible business and the information on how to do this can be found through the same networks.

As was mentioned earlier, the ADA has been law for 32 years. By this time, business owners have had ample notice of the ADA's requirements and opportunity to remove barriers. If, after 32 years, a business has continued to not comply with the requirements of this legislation, why should a person have to wait more time for enforcement of their civil rights?

Title III of the ADA already reflects a compromise that takes into account the concerns of businesses; **it does not allow individuals to seek damages for violations of their civil rights.** Now legislation like H.R. 77 seeks to further erode the civil rights of people with disabilities

We look forward to an opportunity to speak with you and your staff about our concerns. As H.R. 77 would weaken the civil rights of people with disabilities, we must oppose this legislation. Please contact Dara Baldwin, Director of National Policy, Center for Disability Rights, dara.baldwin@ncdr.us with any questions.

Sincerely,

A Little Piece of Light
AAS EMPOWERMENT LLC
ADAP
ADAPT Delaware
AIDS Alabama
AIM Independent Living Center
ALLIANCE OF FAMILIES FOR JUSTICE
Alyssa Rodriguez Center for Gender Justice
America Walks
American Association of People with Disabilities
Asian Pacific American Labor Alliance, AFL-CIO
Association of Programs for Rural Independent Living
Athlete Ally
Autistic Women & Nonbinary Network
Center for Disability Rights
City Council, Northampton, MA
Coalition of Labor Union Women
COLAGE
Colorado Justice Advocacy Network
DE SILC
Disability Rights Iowa
Disability Law Center of Alaska
Disability Rights Advocates
Disability Rights Arkansas
Disability Rights Center of Kansas
Disability Rights Florida
Disability Rights Maryland
Disability Rights Michigan
Disability Rights North Carolina
Disability Rights South Carolina
Disability Rights TN
Disability Rights Vermont
DISABILITY RIGHTS MISSISSIPPI
Equal Justice Society
Fannie Lou Hamer Center For Change

GLMA: Health Professionals Advancing LGBTQ Equality
Hispanic Federation
Incarcerated Nation Network
Japanese American Citizens League
Justice Strategies
League of American Bicyclists
League of Women Voters of the United States
Mental Health Association in Michigan
Michigan Developmental Disabilities Council
Michigan Developmental Disabilities Institute
Michigan Disability Rights Coalition
Mommieactivist and Sons
MomsRising
National Action Network
National Black Justice Coalition
National Center for Transgender Equality
National Coalition for the Homeless
National Council of Churches
National Council on Alcoholism and Drug Dependence- Maryland Chapter
National Crittenton
National Disability Institute
National Disability Rights Network (NDRN)
National Fair Housing Alliance
National Housing Resource Center
National Juvenile Justice Network
National Pain Advocacy Center
National Parents Union
National Women's Law Center
Network Lobby for Catholic Social Justice
NETWORK Lobby for Catholic Social Justice
New Hour Li
Newark Community Street Team
North Dakota Protection & Advocacy Project
PA TASH
People First of Alabama
Rebuilding Independence My Style
Ride New Orleans
Safe Routes Partnership

Skid row Housing Trust
Southern Tier ADAPT
Southern Tier Independence Center
Starkloff Disability Institute
staten island center for independent living
Strategies For Justice
The Arc Michigan
The Daniel Initiative
The United Methodist Church General Board of Church and Society
TLDEF
Transgender Law Center
Uplift MN
V-Day
Women Prison Association.

Cc: Rep. Ken Calvert (R-CA) -sponsor of HR. 77
Rep. Jerry Nadler – Chair of House Judiciary Committee
Rep. Jim Jordan - Ranking Member of House Judiciary Committee
All House Judiciary Committee Members
All House Members
All US Senate Members
White House Domestic Policy Council