

AMENDMENT TO H.R. 620
OFFERED BY MR. SWALWELL OF CALIFORNIA

Page 3, strike line 9 and all that follows through
“barrier.” on page 4, line 21; and insert the following:

1 “(B) BARRIERS TO ACCESS TO EXISTING
2 PUBLIC ACCOMMODATIONS.—In any civil action
3 under section 302 or 303 based on the failure
4 to remove an architectural barrier to access into
5 an existing public accommodation, the com-
6 plaint shall state —

7 “(i) if the attorney filing the civil ac-
8 tion has commenced 5 or more such ac-
9 tions in any court in the prior 30 days, in-
10 clusive of the day of the filing of the action
11 at issue; or

12 “(ii) the plaintiff has been a plaintiff
13 in 5 or more such actions in any court in
14 the prior 30 days, inclusive of the day of
15 the filing of the action at issue.

16 “(C) DEFENDANT TO FILE MOTION.—If
17 the conditions in subparagraph (B)(i) or (ii) are
18 satisfied then not later than 30 days after serv-

1 ice of the filing a defendant may move that the
2 court take action under subparagraph (F).

3 “(D) REASONABLE BELIEF.—In making a
4 motion under subparagraph (C), a defendant
5 must have a reasonable belief that evidence may
6 exist to support a dismissal of the case under
7 subparagraph (F).

8 “(E) OPPORTUNITY TO BE HEARD.—Prior
9 to taking action under subparagraph (F), the
10 court shall provide the parties an opportunity to
11 present arguments and evidence, which may in-
12 clude a hearing.

13 “(F) CONDITIONS FOR DISMISSAL OF A
14 CASE.—The court shall dismiss the civil action
15 if it finds, by clear and convincing evidence,
16 that—

17 “(i) prior civil actions brought by the
18 attorney for the plaintiff or in which the
19 plaintiff was a plaintiff under section 302
20 or 303 based on the failure to remove an
21 architectural barrier to access into an ex-
22 isting public accommodation, in combina-
23 tion with the one at issue, taken together,
24 show a pattern of duplicative lawsuits, law-
25 suits intended solely to cause nuisance, or

1 lawsuits brought without any factual sup-
2 port; or

3 “(ii)(I) there is no objective evidence
4 of a good faith expectation of prevailing in
5 the civil action at issue; and

6 “(II) the defendant had no reason to
7 believe and received no notice that it was
8 in violation of section 302 regarding archi-
9 tectural access.

10 “(G) DISMISSAL WITHOUT PREJUDICE.—
11 Any dismissal of the case under subparagraph
12 (F) pursuant to a motion filed because the con-
13 dition in subparagraph (B)(i) was satisfied shall
14 be without prejudice to the plaintiff in the case
15 at issue.

16 “(H) SENSE OF CONGRESS.—It is the
17 Sense of Congress that a court should make de-
18 terminations under the procedures established
19 under this paragraph as expeditiously as pos-
20 sible so as to avoid prejudice to the parties and
21 maintain judicial efficiency.”.

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