



September 25, 2018

The Honorable Kevin Bacon  
Chair, Ohio Senate Judiciary Committee  
1 Capitol Square, Ground Floor  
Columbus, OH 43215

Chairman Bacon:

On behalf of the 22,000 governing members of the National Federation of Independent Business (NFIB), I am writing to express support for House Bill 271, legislation we believe will reduce Americans with Disabilities Act (ADA) lawsuits while also remedying issues related to providing better access to individuals with disabilities.

By way of background, a typical NFIB member employs 25 or fewer employees and does less than \$2 million in annual sales. Our members come from every industry type, and our organization looks like Main Street in any legislative district across Ohio. We set policy based upon a unique member balloting process and the positions we take before the Ohio General Assembly are directly related to this process.

Our members strive to comply with the law to ensure the ability of all individuals to have easy access to their businesses. However, situations may arise where they find themselves out of compliance with a specific provision of the ADA. Our members, in general, are not intentionally breaking the law, they may simply not know of an issue on their property. Entrepreneurs typically wear many different hats in their businesses. It is challenging to know every specific, albeit well-intentioned, detail of the ADA. We believe House Bill 271 allows business owners the opportunity to correct a violation before having to combat a lawsuit.

The intent of this bill is to increase compliance with the ADA by making businesses aware of violations and offering a right to remedy. House Bill 271 requires an aggrieved party to file a notice indicating the alleged violation, and grants a reasonable response time of 15 days followed by a 60-day cure period, with reasonable exceptions to exceed this window permitted.

An aggrieved party may file a lawsuit. However, once the aforementioned notice is served, they must wait until any of the following occurs: a response indicating a property will be brought into compliance and it is not, a challenge to the validity of an alleged violation, a response indicating the violation has been corrected but the aggrieved party believes violation still exists, or no response. If an aggrieved party does not undertake the notice process, they may forgo attorney fees. House Bill 271 seeks to discourage the filing of lawsuits simply to force or receive a settlement with no intent of seeking or ensuring proper remedy of an ADA violation.

We believe House Bill 271 strikes a fair balance. Business owners who have an ADA violation, many times unbeknownst, will be afforded an opportunity to remedy the violation ensuring access for all individuals. Aggrieved individuals will see violations of the ADA remedied, or may proceed with a lawsuit

to recover damages. We believe resources used to remedy ADA violations in lieu of paying attorney fees better enshrines the spirit of the ADA, and addressing violations to provide accessibility for all should be the goal.

House Bill 271 unanimously passed the Ohio House of Representatives. NFIB encourages favorable recommendation of this legislation and may consider it a key vote.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Christopher J. Ferruso". The signature is written in a cursive style with a prominent initial "C" and a long, sweeping underline.

Christopher J. Ferruso  
Legislative Director