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State Representative Jeffery Rezabek
Sponsor Testimony – House Bill 271– 132nd General Assembly
Senate Judiciary Committee – May 22, 2018

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas and the members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony today on House Bill 271. This legislation was drafted to preserve the integrity of the American with Disabilities Act (ADA) by discouraging the practice of arbitrary and predatory lawsuits filed against businesses, often times for very minor and technical ADA violations.

While the purpose of the American with Disabilities Act was to ensure that disabled individuals had the same opportunities as everyone else to participate in the mainstream of American life, many instances of abuse of this law have been brought to our attention recently. For example, pre-suit notifications or “demand letters” are often sent to businesses such as grocery stores for extremely minor and unnoticeable violations of the ADA. These letters, often sent by serial filers, are not sent as a courtesy for the business to fix the violation, as is often claimed. Instead, these letters are sent to threaten the business into settling for large sums of money. Promoting the filing of frivolous lawsuits, as described above, was not the goal of the ADA and needs to be prevented.

House bill 271 addresses these problems by requiring that the aggrieved party must provide notice of the access violation before filing suit. In addition, the legislation provides for a notice and cure period before a civil action can be pursued against the businesses. We are not seeking to discourage or delay compliance with the ADA standards, but rather provide an environment that is beneficial for both the businesses and the people of Ohio. This legislation will encourage that violations actually be corrected rather than both parties going through the costly expense of a lawsuit.

The American with Disabilities Act created thousands of technical regulations for businesses and public entities to abide by. These requirements are provided in a 275-page manual that details every item from the thickness of the carpets to the exact height of a bathroom mirror. There are many examples of cases in which these technical requirements, while well intentioned, are heavily utilized as the basis of predatory lawsuits from those only seeking a payday. When businesses are manipulated to settle in these suits it does nothing to preserve the spirit or intent of the ADA. While we understand that these

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regulations are important to ensuring that those with disabilities are never denied full access in public locations, we have seen too many examples of businesses forced to settle in vague, meritless lawsuits. We are in no way disputing the necessity of these ADA standards and regulations; we are working to create an environment that will produce more effective results for the disabled community of Ohio.

House bill 271 is a critical piece of legislation for small businesses and it would improve the intent of the ADA by creating substantial incentives to eliminate barriers, as opposed to filing lawsuits purely for financial gain. The substitute version of HB 271 provides incentives for individuals with disabilities to serve written notice prior to filing an accessibility lawsuit and allow time for the business to cure the issue. It does not bar actions filed without notice. The substitute version of this bill was passed unanimously out of both the House Civil Justice Committee and the full chamber.

Thank you, Chairman Bacon and members of the committee. We would be happy to answer any questions that you may have.

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