

1 NATIONAL CAPITOL CONTRACTING

2 RPTS FLEMING

3 HJU189000

4 MARKUP OF:

5 H.R. 320, THE "RAPID DNA ACT OF 2015";

6 H.R. 5578, THE "SURVIVORS BILL OF RIGHTS ACT OF 2016";

7 H.R. 3765, THE "ADA EDUCATION AND REFORM ACT OF 2015"; AND

8 H.R. 68, THE "JUVENILE ACCOUNTABILITY BLOCK GRANT

9 REAUTHORIZATION AND THE BULLYING PREVENTION AND INTERVENTION

10 ACT OF 2015"

11 Thursday, July 7, 2016

12 House of Representatives,

13 Committee on the Judiciary,

14 Washington, D.C.

15 The committee met, pursuant to call, at 10:00 a.m., in

16 Room 2141, Rayburn House Office Building, Hon. Bob

17 Goodlatte, [chairman of the committee] presiding.

18 Present: Representatives Goodlatte, Sensenbrenner,

19 Smith, Chabot, Issa, Forbes, King, Franks, Gohmert, Poe,

20 Marino, Labrador, Farenthold, Collins, DeSantis, Walters,

21 Buck, Ratcliffe, Trott, Bishop, Conyers, Lofgren, Jackson

22 Lee, Cohen, Johnson, Pierluisi, Deutch, Richmond, DelBene,  
23 Jeffries, Cicilline, and Peters.

24 Staff Present: Shelley Husband, Staff Director; Branden  
25 Ritchie, Deputy Staff Director/Chief Counsel; Zachary  
26 Somers, Parliamentarian & General Counsel; Jason Cervenak,  
27 Counsel, Crime, Terrorism, Homeland Security, and  
28 Investigations Subcommittee; Chris Grieco, Counsel, Crime,  
29 Terrorism, Homeland Security, and Investigations  
30 Subcommittee; Ryan Breitenbach, Counsel, Crime, Terrorism,  
31 Homeland Security, and Investigations Subcommittee; John  
32 Coleman, Counsel, Constitution and Civil Justice  
33 Subcommittee; Alley Adcock, Clerk; Arron Hiller, Minority  
34 Chief Oversight Counsel; Susan Jensen, Minority Senior  
35 Counsel; and Veronica Eligan, Minority Professional Staff.

36 Chairman Goodlatte. The Judiciary Committee will come  
37 to order, and without objection, the chair is authorized to  
38 declare a recess of the committee at any time. Pursuant to  
39 notice, I now call up H.R. 320 for purposes of markup, and  
40 move that the committee report the bill favorably to the  
41 House. The clerk will report the bill.

42 Ms. Adcock. H.R. 320, to establish a system for  
43 integration of Rapid DNA instruments for use by law  
44 enforcement to reduce violent crime and reduce the current  
45 DNA analysis backlog."

46 [The bill follows:]

47 \*\*\*\*\* INSERT 1 \*\*\*\*\*

48           Mr. Issa.    Mr. Chairman, technical question: Can we  
49 have whatever TV is on turned down so we do not have this  
50 echo?

51           Chairman Goodlatte.    You repeat yourself.    Without  
52 objection, the bill is considered as read, and open for  
53 amendment at any point.    I will begin by recognizing myself  
54 for an opening statement.

55           I will try not to give it twice, so we are going to  
56 wait on -- today we consider H.R. 320, the Rapid DNA Act of  
57 2015.    The House Judiciary Committee works on many important  
58 issues, but few are more important than making sure that  
59 innocent arrestees are promptly released, and that culpable  
60 suspects are not released to strike again.    Rapid DNA has  
61 the potential to do both and, as such, can be an important  
62 tool for law enforcement, and a key component of this  
63 committee's ongoing efforts on criminal justice reform.

64           With Rapid DNA technology, it is possible to test the  
65 DNA of arrestees as soon as they are in custody, and  
66 determine within hours whether they match the DNA profile  
67 from the crime scene, or from other earlier crimes.    This  
68 technology would also enable police to check the Federal DNA  
69 database to see if an arrestee matches the DNA profile from  
70 previous crimes for which a DNA sample exists, but no known  
71 suspect has been identified.

72           Rather than waiting weeks for a DNA sample to be

73 processed and risk releasing a suspect back into the public  
74 to potentially reoffend, police would be able to determine  
75 at initial booking if the suspect is a person of interest in  
76 other crimes.

77       On June 18, 2015, the Subcommittee on Crime, Terrorism,  
78 Homeland Security, and Investigations held a hearing on the  
79 Rapid DNA Act sponsored by Crime Subcommittee Chairman Jim  
80 Sensenbrenner. During that hearing, the subcommittee heard  
81 from an FBI official, a crime lab administrator, and a rape  
82 victim advocate who all emphasized the need for Rapid DNA  
83 technology.

84       I believe this is necessary, responsible legislation  
85 that will aid law enforcement and protect American citizens  
86 by keeping offenders off the streets. I thank Chairman  
87 Sensenbrenner for sponsoring this important legislation, and  
88 I urge my colleagues to support the bill.

89       It is now my pleasure to recognize the ranking member  
90 of the committee, the gentleman from Michigan, Mr. Conyers,  
91 for his opening statement.

92       [The statement of Chairman Goodlatte follows:]

93 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

94 Mr. Conyers. Thank you, Mr. Chairman, and members of  
95 the committee. I would like to take a moment to say a few  
96 words about our former colleague and friend, Abner Mikva of  
97 Illinois, who passed away on Independence Day. He was a  
98 dedicated public servant, beginning his career in the  
99 Illinois General Assembly, before he was elected to the  
100 House in 1968. And during his five terms in Congress, he  
101 served here with us on the Judiciary Committee, where he  
102 championed reforms to the criminal justice system and gun  
103 violence prevention.

104 In 1979, he was appointed by President Jimmy Carter to  
105 the United States Court of Appeals for the District of  
106 Columbia, where, during his 15 years as a Federal judge, he  
107 issued more than 300 opinions, including a ruling striking  
108 down the Pentagon's ban against gay individuals serving in  
109 the military.

110 He later served as White House counsel to President  
111 Bill Clinton. In 2014, he was awarded the Presidential  
112 Medal of Freedom by President Obama, who regarded him as a  
113 friend and mentor. I am grateful for his service, and I  
114 think many of you who remember him are as well. And in all  
115 three branches of government, and for his dedication to  
116 justice, he was truly a liberal lion, and I thank you for  
117 allowing me --

118 Chairman Goodlatte. Would the gentleman yield briefly?

119 Mr. Conyers. I would be pleased to yield.

120 Chairman Goodlatte. I want to thank the gentleman for  
121 his remembrance of Judge Mikva, and I know that you and  
122 Congressman Sensenbrenner are the only members of the  
123 committee who actually served with him here on the Judiciary  
124 Committee. I only knew him by reputation, but I appreciate  
125 very much your remembering him and sharing your thoughts  
126 with us about him.

127 Mr. Conyers. I thank you, and I am pleased that there  
128 are memories of him, even though there are only a few of us  
129 left that were serving with him, and I thank you.

130 Ms. Lofgren. Would the gentleman yield just for a  
131 moment?

132 Mr. Conyers. I would be pleased to yield.

133 Ms. Lofgren. Although I did not serve with Congressman  
134 Mikva, I was on the staff when he was a member of this  
135 committee, and I remember what a magnificent person he was:  
136 a leader, not only in the House, but in the judiciary, and I  
137 cannot think of another person who served in all three  
138 branches of government with such distinction, and I was so  
139 distraught to hear that he had passed away. He really was a  
140 giant in American law, and he is greatly missed, and I thank  
141 the gentleman for yielding.

142 Mr. Conyers. I thank the gentlelady and our

143 recollection of him, I think, is quite appropriate. Now  
144 with reference to H.R. 320, and the Rapid DNA Act, it is  
145 intended to integrate Rapid DNA technology into the FBI's  
146 Combined DNA Index System, otherwise known as CODIS. DNA  
147 technology is a valuable and ever-changing element of our  
148 criminal justice system. CODIS and the National DNA Index  
149 System often play a critical role in the conduct of many  
150 criminal investigations by Federal, State, and local law  
151 enforcement agencies. Rapid DNA involves a fully automated,  
152 hands-free process designed to produce a DNA profile in  
153 minutes at the booking stage outside of a crime lab.

154 Existing law, however, prohibits Rapid DNA analysis not  
155 performed in an accredited laboratory from being entered  
156 into CODIS. H.R. 320 addresses this need by authorizing law  
157 enforcement to conduct Rapid DNA analysis, and upload the  
158 results to the national index, even when not performed by  
159 crime laboratories. This will add a real time layer to the  
160 CODIS system, and save significant amounts of time and  
161 resources.

162 H.R. 320 has real-world consequences. For example,  
163 Detroit, as of March this year, has tested approximately  
164 10,000 backlogged rape kits, resulting in 2,616 DNA matches,  
165 the identification of 753 potential serial rapists, 36  
166 convictions obtained by the Wayne County prosecutor's  
167 office, and DNA links to crime in 40 States, and the



168 District of Columbia. The addition of Rapid DNA information  
169 to the CODIS database will help identify serial rapists if  
170 matches are made to the laboratory analysis of the sexual  
171 assault kit samples.

172 I understand that our colleague, Jim Sensenbrenner,  
173 will be offering a substitute amendment strengthening the  
174 integrity and quality of Rapid DNA analysis and instruments  
175 used outside of laboratories. I look forward to  
176 consideration of the amendment and adoption of this bill as  
177 amended.

178 And, in closing, I would like to observe that the  
179 committee, over the course of this Congress, has worked with  
180 a great deal of bipartisan cooperation to advance bills to  
181 reform and update various aspects of our criminal justice  
182 system, including H.R. 320. And I am grateful to the  
183 chairman for his leadership on these important issues. I  
184 thank you, and yield back any time that may be remaining.

185 [The statement of Mr. Conyers follows:]

186 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

187 Chairman Goodlatte. The chair thanks the gentleman,  
188 and is now pleased to recognize the sponsor of the bill and  
189 the chairman of the Crime, Terrorism, Homeland Security, and  
190 Investigations Subcommittee, Mr. Sensenbrenner, for his  
191 opening statement.

192 Mr. Sensenbrenner. Thank you very much, Mr. Chairman.  
193 Rapid DNA is a promising new technology that would allow for  
194 almost immediate DNA analysis of an arrestee. Unlike  
195 standard DNA practices, which require sending DNA samples  
196 from arrestees out to labs with the result taking weeks to  
197 ascertain, Rapid DNA results take only a few hours, and can  
198 be done right at the booking station. Like fingerprinting,  
199 photographing, and other booking procedures, which at the  
200 time were novel, but have now become routine, Rapid DNA will  
201 soon be the standard procedure in police stations throughout  
202 the country.

203 There is only one real problem with Rapid DNA  
204 technology: Federal law. Our law written in 1994 when DNA

205 technology was still in its infancy prohibits the use of  
206 Rapid DNA technology in booking stations. This is not  
207 because of any limitation in Rapid DNA technology, but  
208 simply because, at the time, Rapid DNA technology was not  
209 even contemplated.

210         Similar to the transformation of musical devices,  
211 records leading to cassette tapes, cassette tapes leading to  
212 CDs, CDs leading to MP3s and now iPods and online music  
213 hosting services, technology moves quicker than we can  
214 legislate. Now is the time to change the law to permit  
215 Rapid DNA technology.

216         Rapid DNA machines are compact, approximately the size  
217 of a copy machine, and can provide a DNA analysis from a  
218 cheek swab sample of an arrestee within 2 hours. This has  
219 two profound implications. First, arrestees may be  
220 exonerated in crimes of 2 hours, rather than waiting for up  
221 to 72 hours for release, or months for more standard DNA  
222 testing.

223         Second, those arrested for a crime can be quickly  
224 matched to other unsolved crimes where there was forensic  
225 evidence left at the crime scene, but for which there is no  
226 identified suspect.

227         Rapid DNA updates current law to allow DNA samples to  
228 be processed using Rapid DNA instruments located in the  
229 booking stations and other approved locations. The bill

230 will require the FBI to issue standards and procedures for  
231 use of such instruments, and their resulting DNA analyses to  
232 ensure the integrity of such instruments and the accuracy of  
233 results.

234       It will permit those results to be included in the DNA  
235 Index if the criminal justice agencies taking Rapid DNA  
236 samples comply with the standards and procedures that the  
237 FBI approves. In this way, the bill would permit this new  
238 category of DNA samples to be updated to the index with the  
239 same protections and quality standards as the current DNA  
240 samples.

241       Not only does H.R. 320 have the potential to reduce  
242 crime, help expeditiously exonerate the innocent, and also  
243 to positively impact the current backlogs for rape kits and  
244 other DNA sample analyses.

245       This committee has spent a great deal of time and  
246 significant work to try to reduce the forensic DNA backlog,  
247 especially in rape kits. Rapid DNA could not at this time  
248 be used for rape kits, but the implementation of Rapid DNA  
249 will allow forensics labs to focus on forensic samples, not  
250 on identification samples, which can easily be handled by  
251 Rapid DNA machines. I hope this will reduce the rape kit  
252 backlog, which will also prevent future rapes from  
253 happening.

254       I am pleased that the committee is taking a significant

255 step in furthering the use of this technology, and  
256 implementing Rapid DNA in a manner that will aid law  
257 enforcement investigations. I would add that I will be  
258 offering an amendment in the nature of a substitute when the  
259 time comes to do that; that simply substitutes the Senate-  
260 passed text of Rapid DNA into this bill, and it also  
261 strengthens it. I believe that the substitute will be non-  
262 controversial.

263 So I ask my colleagues to support both the substitute  
264 and the bill, and yield back the balance of my time.

265 [The statement of Mr. Sensenbrenner follows:]

266 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

267 Chairman Goodlatte. The chair thanks the gentleman,  
268 and we do not see Ms. Jackson Lee here. For what purpose  
269 does the gentlewoman from California seek recognition?

270 Ms. Lofgren. To strike the last word.

271 Chairman Goodlatte. The gentlewoman is recognized for  
272 5 minutes.

273 Ms. Lofgren. I just want to thank Mr. Sensenbrenner  
274 for his work on this. In December of 2013, I met with  
275 officials of a company called IntegenX, who described Rapid  
276 DNA and the value of this technology. And I will be honest,  
277 it was new to me at that time, even though it had been used

278 extensively in other countries, including Australia, and was  
279 completely reliable.

280       One of the good things about Rapid DNA, in addition to  
281 what Chairman Sensenbrenner has outlined, is that it is less  
282 intrusive from a privacy point of view than the full DNA  
283 analysis. It is an ID system. It is not a way to find out  
284 everything about the genetics of the person involved, and so  
285 it has every good thing about it. It is reliable  
286 identification. It is less intrusive, in terms of the  
287 genetic heritage of not only the individual providing the  
288 DNA sample, but their entire family. It is no more  
289 intrusive, really, than a fingerprint.

290       When these scientists came to me, I suggested that they  
291 go talk to Jim Sensenbrenner because, as chairman of the  
292 committee, he was in a position to move this, and I knew  
293 that Jim Sensenbrenner would take steps to make sure that,  
294 first, that it was reliable, as it has proven to be, but  
295 that he would move this technology forward.

296       And so I just want to say how pleased I am that this  
297 bill is moving today. I want to thank Chairman  
298 Sensenbrenner for his efforts. I agree that we ought to  
299 adopt the Senate bill so this can go directly to the floor  
300 and to the President. And I think, you know, 3 years from  
301 idea to law is not bad for this Congress. So, thank you  
302 very much for allowing me to strike the last word and also

303 Chairman Sensenbrenner, for your efforts.

304 Chairman Goodlatte. For what purpose does the  
305 gentleman from Tennessee seek recognition?

306 Mr. Cohen. Thank you, Mr. Chair, to strike the last  
307 word.

308 Chairman Goodlatte. The gentleman is recognized for 5  
309 minutes.

310 Mr. Cohen. Before I speak about this bill, which I am  
311 a cosponsor of and appreciate Mr. Sensenbrenner and all the  
312 work, I think it is important that we reflect, in this  
313 committee particularly, about the police shootings that we  
314 have experienced in America in the last few days: one in  
315 Baton Rouge, Louisiana, and one in Saint Anthony, Minnesota;  
316 both instances caught on video and both show a prima facie  
317 case of murder, of killing by police; white policemen of  
318 black citizens.

319 Black lives matter, and in Baton Rouge, because of the  
320 -- greatly because of the work of our colleague, Cedric  
321 Richmond, the U.S. Attorney and the Justice Department are  
322 doing an investigation. I do not know what is going to  
323 happen in Minnesota, but we need to look at this and ask the  
324 chairman to look at it.

325 We have got a bill that I filed and many of us are  
326 cosponsors of, H.R. 2302, the Police Training and  
327 Independent Review Act, which simply says -- it calls on

328 States to set up a system of having an independent review of  
329 police shootings so we know they are fair and impartial, and  
330 people know justice is being rendered.

331 There are just too many shootings, and these were  
332 simply because people were allegedly reaching for a gun --  
333 one man who was being held by two policemen and probably  
334 could not reach for anything, but they said he had a gun,  
335 and the other one who told the policeman, "I have a gun in  
336 the glove compartment."

337 He had a back light out. He had never had an arrest in  
338 his life, and when he went to get his wallet, they shot him,  
339 and he is now dead. That is driving while black, and the  
340 problem is -- you know, they had guns. That is what a lot  
341 of the people in our Congress want everybody to have a gun,  
342 but that resulted in being shot by policemen.

343 So I hope we will look at that and I hope we would have  
344 a hearing on the Police Training and Independent Review Act.  
345 This bill is one that I am a cosponsor of, and it brings DNA  
346 to the fore. The Rapid DNA Act will enable DNA analysis to  
347 be conducted more expeditiously, and that is good for our  
348 criminal justice system, which we need to work to improve in  
349 all areas, not just for the police but for the citizenry,  
350 whom it could be victims of police misconduct.

351 DNA technology has proven to be a vitally important  
352 tool in identifying criminals and freeing those who have



353 been wrongfully convicted. I think it would be wrong for us  
354 to take up this bill and not mention the Innocence Project  
355 founded by Gary Scheck and Peter Neufeld. They did the  
356 pioneering legal work on DNA. Their use of DNA analysis has  
357 freed many people who were on death row, and who had been  
358 wrongly convicted. It has been a great success, and I  
359 worked with them to pass the Post-Conviction DNA Analysis  
360 Act in Tennessee, and the Wrongful Imprisonment Compensation  
361 Act there too.

362 I am glad that today we are making steps forward with  
363 DNA analysis, and we will continue to do so. And, again, I  
364 am for the chair to have a hearing on the Independent Police  
365 Review Act, and with that, I yield back the balance of my  
366 time.

367 Chairman Goodlatte. The chair thanks the gentleman.  
368 Are there any amendments?

369 Mr. Sensenbrenner. Mr. Chairman?

370 Chairman Goodlatte. For what purpose does the  
371 gentleman from Wisconsin seek recognition?

372 Mr. Sensenbrenner. I have an amendment at the desk.

373 Chairman Goodlatte. The clerk will report the  
374 amendment.

375 Ms. Ms. Adcock. Amendment to H.R. 320, offered by Mr.  
376 Sensenbrenner of Wisconsin. Strike all --

377 Mr. Sensenbrenner. Mr. Chairman, I ask that the

378 amendment be considered as read.

379 Chairman Goodlatte. Without objection, the amendment  
380 in the nature of a substitute is considered as read, and I  
381 will recognize the gentleman to explain his amendment.

382 Mr. Sensenbrenner. Mr. Chairman, this strengthens the  
383 bill. It adopts the Senate past language who attempt to  
384 speed this into enactment. Both the gentleman from  
385 Michigan, Mr. Conyers and I alluded to that in our opening  
386 statements. No more needs to be said, and I yield back the  
387 balance of my time.

388 Chairman Goodlatte. The chair thanks the gentleman.  
389 The question is on the amendment to the -- well, actually --  
390 are there any amendments to the amendment in the nature of  
391 substitute?

392 The question is on the amendment in the nature of a  
393 substitute to H.R. 320.

394 Those in favor will respond by saying aye.

395 Those opposed, no.

396 In the opinion of the chair, the ayes have it and the  
397 amendment is agreed to.

398 We do not, at this point, have a reporting quorum on  
399 the bill, so we will proceed to call up H.R. 5578 for  
400 purposes of markup, and I move that the committee report  
401 that bill favorably to the House. The clerk will report the  
402 bill.

403 Ms. Adcock. H.R. 5578, to establish certain rights for  
404 sexual assault survivors and for other purposes.

405 [The bill follows:]

406 \*\*\*\*\* INSERT 2 \*\*\*\*\*

407 Chairman Goodlatte. Without objection, the bill is  
408 considered as read and open for amendment at any point, and  
409 I will begin by recognizing myself in an opening statement.

410 Last month, the harrowing account of the Stanford rape  
411 victim sparked outrage across the United States and around

412 the globe. The survivor's letter documented, in graphic and  
413 painstaking detail, the complicated, emotional, and  
414 overwhelming process facing victims of sexual assault.

415 I am going to read a small portion of that letter here.  
416 The victim writes, "The next thing I remember, I was in a  
417 gurney in a hallway. I had dried blood and bandages on the  
418 backs of my hands and elbow. I thought maybe I had fallen  
419 and was in an administration office on campus. Then I felt  
420 pine needles scratching the back of my neck, and started  
421 pulling them out of my hair. I thought maybe the pine  
422 needles had fallen from a tree onto my head. My brain was  
423 talking my gut into not collapsing because my gut was  
424 saying, 'Help me, help me.' I shuffled from room-to-room  
425 with a blanket wrapped around me, pine needles trailing  
426 behind me. I left a little pile in every room I sat in. I  
427 was asked to sign papers that said 'rape victim,' and I  
428 thought, 'Something has really happened.' My clothes were  
429 confiscated, and I stood naked while the nurses held a ruler  
430 to various abrasions on my body and photographed them. The  
431 three of us worked to comb the pine needles out of my hair."

432 The letter goes on to describe the rest of the forensic  
433 exam, her feelings about what happened to her, and her day  
434 in court. What is abundantly clear from this account, which  
435 is unfortunately not a unique account, is the trauma and  
436 difficulty sexual assault victims face from the moment they

437 are assaulted. The Survivors' Bill of Rights Act of 2016  
438 makes much-needed additions to Federal Law to give victims  
439 of sexual assault additional rights in seeking justice and  
440 recovering from their experiences.

441 These additional rights include the right to not be  
442 prevented from accessing a medical forensic exam, the right  
443 not to be charged for that exam, the right to know about the  
444 results of that exam. Furthermore, the bill requires that  
445 the medical exam be preserved throughout the length of the  
446 statute of limitations. Additionally, the bill requires  
447 that the government provide notice to the victim when it  
448 intends to dispose of the collection kit.

449 I remain deeply troubled at the number of untested rape  
450 kits that remain in this country, despite funding by this  
451 committee to address this backlog. Nevertheless, these  
452 additional rights relate to medical exams, will ensure that  
453 forensic medical kits will at the very least be preserved  
454 for the length of the statute of limitations, and the  
455 victims will have notice so they can contest the destruction  
456 of those kits.

457 This bill also clarifies that under existing law, the  
458 Justice Department may make discretionary grants from the  
459 Crime Victims Fund to States to use those grants to notify  
460 victims of existing rights under State law. While this bill  
461 does much to address the rights of sexual assault victims

462 under Federal law, States have different sets of affable  
463 victims' rights that are particular to the State. This  
464 provision will ensure that victims will know what rights  
465 they have in their particular States.

466 I want to thank Ms. Walters and Ms. Lofgren for their  
467 leadership on this very important piece of legislation. I  
468 also want to thank Amanda Nguyen from Rise for her tireless  
469 work on this issue on behalf of victims everywhere. Also,  
470 and without objection, I would like to enter the letter  
471 written by the victim of the Stanford rape case into the  
472 record.

473 As I said at the beginning, this letter captured the  
474 national spotlight on this issue, and I think it is fitting  
475 that we include this in the record of a bill which will help  
476 vindicate the rights of sexual assault victims. I urge all  
477 of you to support this important legislation, and it is now  
478 my pleasure to recognize the ranking member of the  
479 committee, the gentleman from Michigan, for his opening  
480 statement.

481 [The statement of Chairman Goodlatte follows:]

482 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

483 Mr. Conyers. Thank you, Chairman Goodlatte. Members  
484 of the committee, the Survivors' Bill of Rights would

485 provide needed protections and rights to victims of sexual  
486 assault, and I am proud to be an original cosponsor of this  
487 compassionate piece of legislation. I congratulate, as did  
488 the chairman, my colleagues, Zoe Lofgren and Mimi Walters,  
489 for their leadership on this bill, which will help ensure  
490 that victims obtain justice.

491 The legislation would provide victims of sexual assault  
492 the right to receive a free medical forensic examination, a  
493 written notification before their rape kit is destroyed,  
494 notification of results of any forensic examination  
495 requests, written notification of their rights and all  
496 policies regarding collection and preservation of their rape  
497 kit.

498 In addition, H.R. 5578 would require a rape kit to be  
499 preserved for 20 years, or for the applicable statute of  
500 limitations. And this bill would allow the Department of  
501 Justice to award Victims of Crime Act grant funding to  
502 entities that provide written notice of rights and policies  
503 to survivors.

504 Advocacy groups, like RISE, are largely responsible for  
505 bringing to our attention that the treatment which victims  
506 of rape and other sexual offenses receives varies from State  
507 to State. In some cases, victims feel their voices go  
508 unheard in a system that they are initially told is there to  
509 help them through the arduous and sometimes traumatic

510 process that comes after being sexually assaulted.

511       Victims of sexual assault feel victimized again, when  
512 they find themselves alone and without help to navigate  
513 policies and procedures that block their access to the  
514 justice system, and thus, their ability to obtain actual  
515 justice. H.R. 5578 will help ensure that the rights it  
516 establishes will be uniformly provided throughout the United  
517 States to victims of sexual assault in Federal courts in  
518 every State and every territory. Geographic location would  
519 no longer dictate the quality of attention, or degree of  
520 information provided to victims.

521       Most importantly, this legislation encourages the use  
522 of rape kits and ensures their preservation. DNA obtained  
523 from rape kits is probably the most useful and significant  
524 piece of physical evidence in the prosecution of an offense  
525 involving non-consensual sexual contact, enabling  
526 investigators and prosecutors to link perpetrators to their  
527 crimes. And so I hope that the members of the committee  
528 will support this bill as I do, and I yield back to the  
529 balance of my time.

530       [The statement of Mr. Conyers follows:]

531 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



532 Chairman Goodlatte. The chair thanks the gentleman,  
533 and it is now my pleasure to recognize the sponsor of the  
534 legislation, the gentlewoman from California, Ms. Walters,  
535 for her opening statement.

536 Ms. Walters. I thank the chairman, Ms. Lofgren and all  
537 other cosponsors working to advance H.R. 5578, the  
538 Survivors' Bill of Rights. Under current law, basic rights  
539 that protect survivors of sexual assault and allow them full  
540 access to justice vary greatly between each State and  
541 Federal statute. The uneven patchwork of laws across this  
542 country, and the lack of substantive rights for sexual  
543 assault survivors prevent them from having full access to  
544 the justice system. Survivors of sexual assault have  
545 experienced unspeakable trauma, and they should not face  
546 unnecessary barriers to justice.

547 These brave survivors deserve common sense legal  
548 protections and clear procedures that ensure access to  
549 justice. This bipartisan legislation will ensure that  
550 sexual assault survivors in Federal criminal cases have a  
551 right to a sexual assault evidence collection kit, a right  
552 to be notified in writing before the kit is destroyed, a  
553 right to request preservation of the kit, and a right to be  
554 informed of important results from forensic examination.

555 This legislation is so important because it ensures  
556 these rights in the Federal criminal justice system, and

557 furthermore, it will set an example for States to adopt  
558 similar procedures and practices.

559         Additionally, this legislation will establish a joint  
560 working group formed by the Attorney General and the  
561 Department of Health and Human Services on best practices  
562 regarding the care and treatment of sexual assault  
563 survivors, and the preservation of forensic evidence. It  
564 will also make the Victims of Crimes Act grant funding  
565 available for States to disseminate written notice of  
566 survivors' rights.

567         The Senate has unanimously passed these reforms and  
568 now, we must do our part to ensure that sexual assault  
569 survivors have a fair chance at justice. This legislation,  
570 which I have introduced with Ms. Lofgren, has been endorsed  
571 by RISE, the Rape Abuse and Incest National network, more  
572 commonly as RAIN, the National Alliance to end Sexual  
573 Violence, and the National Center for Victims of Crime,  
574 among other groups.

575         I remain committed to ensuring that survivors of sexual  
576 assault can secure justice, and I look forward to working  
577 with my colleagues to advocate for victims of sexual  
578 assault, and enact sensible reforms like this bipartisan  
579 bill. I encourage my colleagues to support the Survivors'  
580 Bill of Rights, and I yield back my time.

581         [The statement of Ms. Walters follows:]

582 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

583 Chairman Goodlatte. The chair thanks the gentlewoman  
584 and recognizes the other gentlewoman from California, Ms.  
585 Lofgren, who is the lead Democratic cosponsor of the  
586 legislation.

587 Ms. Lofgren. Thank you, Mr. Chair. In May, I found  
588 myself meeting with Amanda Nguyen, Lara McLeod, and Marisa  
589 Ferri and their friends in my office as part of the Assault  
590 Awareness Month. They had asked to meet with me since I was  
591 the senior woman on the Judiciary Committee, and told me --  
592 I was the first actual member who had had a time to meet  
593 with them.

594 And when I did listen to them, this is what I heard --  
595 Amanda Nguyen told me about her rape, that every 6 months  
596 she was faced with the choice of reliving her past trauma,  
597 or having the State of Massachusetts destroy essential  
598 evidence that would assist in the prosecution of her rapist  
599 -- her medical forensic examination, or rape kit. When  
600 Amanda sought information on how to prevent her rape kit  
601 from being destroyed, police provided conflicting  
602 administration -- she was even told at one point that the  
603 kit would be stored indefinitely -- which was not correct.

604 She then had to go back and forth between police and

605 State lab techs trying to locate her kit. And even when she  
606 found it and got the extension on storing it, the  
607 technicians moved her kit without telling her, and she now  
608 has to file an extension every 6 months just to preserve  
609 this evidence. I listened to Marisa Ferry tell me that she  
610 thought her rape would be the most traumatic experience of  
611 her life, but that what she found out was -- even more  
612 traumatic according to her -- was the way she was further  
613 victimized by the system after being raped.

614 When Marisa went to the hospital to seek medical  
615 treatment, and requested a forensic exam, she was prevented  
616 from doing so until after she spoke with the detective. She  
617 asked if the interview could wait until the volunteer from  
618 the Rape Crisis Center arrived, but was told that she had to  
619 be interviewed then if she wanted to press charges.

620 Alone, confused and afraid, Marisa underwent nearly 3  
621 hours of questioning by a detective who tried to discourage  
622 her from filing a report and blamed her for her own rape.  
623 Marisa is unfortunately not alone in being misinformed about  
624 her rights, and being interrogated instead of being allowed  
625 the opportunity to undergo a rape kit procedure in an  
626 expedient manner, and to ensure the maximum effectiveness  
627 that the evidence has collected.

628 Marisa endured 6 weeks of repeated questioning by the  
629 detective about her behavior on the night of the rape. At

630 times, she said she felt like she was the one under  
631 investigation. Initially, her case was closed without the  
632 rape kit being tested, and it was only after she filed a  
633 formal complaint that the case was re-opened more than a  
634 year later, and the rape kit was tested. Many survivors  
635 would have given up on a system that had failed them as much  
636 as the system failed Marisa, and would not have pursued re-  
637 opening their closed case.

638 Lara McLeod also suffered through further victimization  
639 after sexual assault. At 19 years old, she was raped by her  
640 sister's fiancé, but did not want to report the crime.  
641 Instead her family, who she told about her sexual assault,  
642 informed the police and she was told to go to the station  
643 for a formal interview.

644 After a cursory investigation, the police accused her  
645 of lying about the rape and arrested her. Her sister was  
646 charged with obstructing justice for aiding Lara's alleged  
647 deceit. The false charge against Lara and her sister were  
648 eventually expunged, but not before damage to her  
649 reputation, and her sister's savings being spent on  
650 dismissing the charges, and worse yet, her sister being  
651 denied full custody of her infant son because of the charge  
652 against her, which ultimately resulted in her son dying  
653 while in the custody of Lara's rapist.

654 Now, I mention these terrifying stories because that is

655 what this bill is all about, and it is also about the power  
656 of individuals to affect the law. After I heard their  
657 stories, within 2 hours, I talked to Chairman Goodlatte on  
658 the House floor, and told him about these stories, and I had  
659 actually not realized until I met with the RISE group that  
660 the Senate had passed this bill.

661 To his credit, Chairman Goodlatte immediately contacted  
662 his staff to make sure that we could work together to make  
663 sure that the House acted on this bill. Between May and  
664 July is pretty fast for congressional action, and I know  
665 that we are going to substitute the Senate bill for our  
666 bill, so that this bill can go directly to the President for  
667 his signature.

668 I want to thank all the members of the committee for  
669 their action, but even more, I want to thank the courageous  
670 victims of rape who formed this group, RISE, who did rise  
671 and who exerted their power to take control of this  
672 situation, who would not accept being victimized, but  
673 instead decided to take their trauma and change the law so  
674 that other victims will have more power than they had. The  
675 congratulations goes to them, and I yield back the balance  
676 of my time.

677 Chairman Goodlatte. The chair thanks the gentlewoman.  
678 Are there any amendments to H.R. 5578? I am sorry, for what  
679 purpose does the gentlewoman from Texas seek recognition?

680 Ms. Jackson Lee. I would like to strike the last word.

681 Chairman Goodlatte. Gentlewoman is recognized for 5  
682 minutes.

683 Ms. Jackson Lee. I am sorry, Mr. Chairman, I am in  
684 several hearings and meetings on the floor, and I thank you  
685 for your courtesy. To the ranking member and chairman to  
686 the -- Chairman Subcommittee, Mr. Sensenbrenner -- I want to  
687 applaud Ms. Walters and Ms. Lofgren, and I am delighted to  
688 be an original cosponsor of this legislation, and indicate  
689 that it always good when we can do something, not only  
690 positive, but what is good what makes you just feel good, to  
691 overcome the tragedy of life of someone being violated.

692 And then unfortunately, in the course of justice, it is  
693 denied. This is an important bill intended to provide  
694 additional legal protections and support to survivors of  
695 horrific crime of sexual assault.

696 An estimated 1 out of every 6 women in the United  
697 States will be a victim of a sexual assault or attempted  
698 sexual assault during their lifetime. And all too often,  
699 the victims of sexual assault, sexual abuse of children --  
700 according to 2013 Department of Health and Human Services  
701 survey on children maltreatment, Child Protective Service  
702 agencies estimate that for the period from 2009 and 2013, an  
703 average of 63,000 child were victims of sexual abuse.

704 But this emphasis on protecting the DNA kit is really a

705 life-line to those who in the course of the assault are so  
706 overwhelmed with grief, guilt, violence, that they  
707 themselves cannot lawyer, or provide their counsel -- "Make  
708 sure my rape kit is kept as it goes through the processes of  
709 police and various other agencies."

710       Despite these statistics, the United States presently  
711 lacks standardized procedures for victims of sexual assault  
712 to gain full access to justice. Basic rights and  
713 protections for survivors of sexual assault vary from State  
714 to State. Moreover, not a single State gives sexual assault  
715 victims the right to require that critical forensic evidence  
716 in their case. The sexual assault evidence collection kit,  
717 or "rape kit," be retained, until the statute of limitations  
718 on the crime has expired. As a result, critical evidence  
719 can be lost. For example, Massachusetts has a 15-year  
720 statute of limitations on sexual assaults, but untested rape  
721 kits are required to be stored for only 6 months.

722       What sense does that make? How can someone have  
723 justice? I want to thank all the groups that have worked  
724 and stood for these women, and others, who have been raped.  
725 For example, Charlotte-Mecklenberg Police Department of  
726 North Carolina, has destroyed more than 1,000 rape kits  
727 since 2000. This bipartisan legislation assures sexual  
728 assault survivors in Federal criminal cases have certain  
729 rights and serve as an example for States to adopt.



730           And this bill would do a number of things: the right  
731 not to be prevented from or charged for receiving a medical  
732 forensic exam; the right to be informed of any result of a  
733 sexual assault evidence collection kit; the right to be  
734 informed in writing; of policies regarding the right to have  
735 the rape kit preserved; the right to receive written notice  
736 if the government intends to destroy it. That is an amazing  
737 contribution to stabilizing a life that has been  
738 destabilized; and the right to request in writing that their  
739 rape kit be preserved. This amends the Victims Crime Act,  
740 and I am delighted to be original cosponsor.

741           But as I close, Mr. Ranking Member, and to the  
742 chairman, I would be remiss if this committee, that is the  
743 holder of justice, that I do not, again, raise up the  
744 concern of moving forward on many aspects of dealing with  
745 our criminal justice system. But in the last 48 hours, we  
746 have seen an unfortunate act of death that has occurred  
747 under the color of law.

748           In my colleague's State, Baton Rouge, I want to commend  
749 Mr. Richmond for the work that he had done, and,  
750 unfortunately, we woke up this morning to a tragic story in  
751 another colleague's district in St. Paul, Minnesota.  
752 Violence that has disturbed my district, I have faith  
753 leaders calling, seeking me to be able to do something. I  
754 have mothers crying.

755           We realize that we have a system of law and order. I  
756 hold that system in the highest respect. But I cannot  
757 tolerate the killing of black men that happens time after  
758 time after time, and in such a manner, that not only do  
759 those on the scene see it, but it is a national phenomena.

760           I am hoping that we can address this question  
761 bipartisan, because people are crying out for the  
762 recognition that we have to, both in the balance of  
763 protecting the blue, at the same time, we have to say to  
764 mothers, and others, who have lost their child in this  
765 manner, seen by the world, that we are able to confront it  
766 in a manner that is not provocative, not suggesting that you  
767 are against police, because you simply want to have the life  
768 of someone protected, and that, under color of law, I can  
769 have a little 5-year-old understand that that is your  
770 rescuer, that is, your savior -- that is not a person to be  
771 fearful.

772           I believe these questions, Mr. Chairman, should be  
773 raised on police actions in Baton Rouge, Louisiana by this  
774 committee. I call that we have hearings, and, as well, the  
775 incident that has just recently occurred. Again, we are a  
776 fact-finding body. I am not an accusatory body. We need to  
777 find out what is happening, and how we can be part of the  
778 solution, and not part of the problem. I thank you for your  
779 courtesies, and I yield back.

780 Chairman Goodlatte. The chair thanks the gentlewoman.  
781 For what purpose does the gentleman from Louisiana seek  
782 recognition?

783 Mr. Richmond. Thank you, and let me applaud --

784 Chairman Goodlatte. The gentleman is recognized for 5  
785 minutes.

786 Mr. Richmond. Thank you. Let me applaud Ms. Walters  
787 and Ms. Lofgren for their outstanding work, and Mr.  
788 Chairman, let me just give you recognition for getting the  
789 bill to this point.

790 And I will now shift over to where my colleagues, Ms.  
791 Cohen and Ms. Jackson Lee, went. As we talk about a bill of  
792 rights and we talk about the importance of it, I would just  
793 shift and say that we are working also on a bill of rights  
794 for those family members who died at the hands of the use of  
795 deadly force.

796 And I am not saying that all instances of deadly force  
797 are murder. But some certainly are. And I think that we,  
798 as a committee, should deal with the deadly force standards,  
799 the protocols, and just go on a fact-finding mission and  
800 have a hearing so that we can also ensure that just because  
801 of your demographics or where you live does not mean that  
802 you will get a thorough DOJ investigation, that you have  
803 full access to the evidence, and that you will have an  
804 independent coroner or independent investigation.

805           The other thing I would just say is that, more than  
806 ever, the county needs us to do this. And I will tell you,  
807 in my opinion, and as I look around the room, I will make an  
808 assumption, but I could be wrong, that I am probably closest  
809 to the population that is very, very disturbed and  
810 frustrated. And as I post on social media and talk about,  
811 let justice run its course -- we have to believe in the  
812 system, there are so many responses of people so frustrated,  
813 that they want to take things into their own hand, that they  
814 would rather burn down the community and neighborhoods and  
815 other things out of frustration because they think that they  
816 will never get a fair shake.

817           I think we owe it to the country to let people know  
818 that it is something that concerns us, and it is something  
819 that we will have a hearing on. And I think we bring in  
820 everybody. I think we bring in Fraternal Order of Police; I  
821 think we bring in victims; I think we bring in prosecutors  
822 and U.S. attorneys and the FBI.

823           And let me just close with this, Mr. Chairman, because  
824 all I can tell you is that everyone in this room is just a  
825 product of their life experiences. And for those who do not  
826 have the same life experiences as me and others, I do not  
827 hold that against you.

828           But I think we should have a hearing so that we should  
829 share those life experiences. And I will just point to two

830 instances -- the Danziger Bridge case in New Orleans after  
831 Katrina, the police arrived on a bridge, they opened fire  
832 on people, and they killed two people. And they investigated  
833 the scene, and they did a year-long investigation, came back  
834 and cleared the officers and said that, "Well, the people  
835 fired on the officers first."

836 Well, after 3 or 4 years of us trying, the Federal  
837 Government finally came down and found out that the police  
838 completely made up the story; that the people had no  
839 weapons, that they were on the bridge because of water, and  
840 that the police just mistakenly opened fire on them and  
841 killed two people. And, as a cause of that, a number of  
842 police officers pled guilty to murder.

843 And my point is that that is my life experience, and  
844 that is the life experience of a bunch of people in my  
845 generation, and I think that we are not doing a service if  
846 we do not try to understand their frustration and  
847 hopelessness, but also show some leadership on the fact that  
848 we hear them, we understand it, and let's review our use of  
849 deadly force standards that are around this country.

850 But, at the same time, my other life experiences is my  
851 good friend, Officer Dale Holloway, that was killed last  
852 year at the hands of a perpetrator with a gun in the  
853 backseat of his police car. And I think that we have to  
854 have an adult conversation about this, Mr. Chairman, and I

855 would just ask that, as we talk about other things, that we  
856 do not put this on the back burner, because I think we are  
857 in such a fragile State in this country; I feel it, I see  
858 it, I read it.

859 And I would just be remiss if I did not give you all  
860 the benefit of life experiences and what we are going  
861 through now in terms of how fragile I think the country is.  
862 And so with that, Mr. Chairman, I will yield back.

863 Chairman Goodlatte. The chair thanks the gentleman  
864 very much for his heartfelt comments, and I appreciate the  
865 comments made by several other members as well. Are there  
866 any amendments to H.R. 5578? For what purpose does the  
867 gentleman from California seek recognition?

868 Ms. Lofgren. Are we substituting the Senate version?

869 Chairman Goodlatte. No, we are not. We have made some  
870 slight adjustments, and the Senate is going to -- we hope,  
871 we have understanding, that they will take the House  
872 version.

873 Ms. Lofgren. That would be the version. If I may, I  
874 am fine with that. I actually think this bill is a slight  
875 improvement over the Senate, but I am hoping that we can  
876 clear the path. It is not that easy to get something  
877 through the Senate.

878 Chairman Goodlatte. We are very cognizant of that. We  
879 have been in communications with the Senate about us, and we

880 would always, of course, have the opportunity to take the  
881 Senate bill from the desk if that did not occur. But we  
882 think that the Senate will --

883 Ms. Lofgren. And that would be your intention?

884 Chairman Goodlatte. -- take this improvement.

885 Ms. Lofgren. Thank you, Mr. Chairman.

886 Chairman Goodlatte. Sure. A reporting quorum being  
887 present, the question is on the motion to report the bill  
888 H.R. 5578 favorably to the House.

889 Those in favor will say aye.

890 Those opposed, no

891 The ayes have it, and the bill is ordered reported  
892 favorably. Members will have 2 days to submit views.

893 We will now return to reporting H.R. 320. A reporting  
894 quorum being present, the question is on the motion to  
895 report the bill H.R. 320 as amended favorably to the House.

896 Those in favor will say aye.

897 Those opposed, no

898 The ayes have it, and the bill, as amended, is ordered  
899 reported favorably. Members will have 2 days to submit  
900 views.

901 Without objection, the bill will be reported as single  
902 amendment in the nature of a substitute incorporating all  
903 adopted amendments and staff is authorized to make technical  
904 and conforming changes.

905           The chair now, pursuant to notice, calls up H.R. 3765  
906 for purposes of markup and moves that the committee to  
907 report the bill favorably to the House. The clerk will  
908 report the bill.

909           Ms. Adcock. H.R. 3765, to amend the American with  
910 Disabilities Act of 1990, to promote compliance through  
911 education, to clarify the requirements for demand letters,  
912 to provide for a notice and cure period before commencement  
913 of a private civil action and for other purposes.

914           [The bill follows:]

915           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

916           Chairman Goodlatte. Without objection, the bill is  
917 considered as read and open for amendment at any point, and  
918 I will begin by recognizing myself for opening statement.

919           H.R. 3765, the ADA Education and Reform Act of 2015,  
920 makes improvements to the public accommodation provisions  
921 under title III of the Americans with Disabilities Act,  
922 which was signed into law by President George H.W. Bush in  
923 1990. Title III provides individuals with disabilities the  
924 full and equal enjoyment of the goods, services, facilities,  
925 privileges, advantages, or accommodations of any place of  
926 public accommodation, which means places open to the public,  
927 like retail stores, theaters, hotels, restaurants, and



928 health care facilities.

929         This law is a critical tool for disabled individuals to  
930 gain access to public accommodations. In addition to  
931 providing a right of action to the Attorney General to  
932 enforce the law, the ADA recognizes the private right of  
933 action for an aggrieved party to seek injunctive relief as  
934 well as attorneys' fees and costs.

935         Unfortunately, private sector enforcement of the ADA  
936 has led to the abuse of our legal system in many cases.  
937 Some plaintiff's attorneys in ADA public accommodation cases  
938 have received deservedly unfavorable press coverage in  
939 papers across the country. Rather than putting their  
940 clients' interests in better access first, some appear to be  
941 more interested in securing a quick payday. One common  
942 tactic used by opportunistic attorneys is to file mass  
943 claims against small businesses, and then settle for just  
944 less than what it would cost these mom-and-pop businesses to  
945 defend themselves in court.

946         This tactic was highlighted by David Weiss, who  
947 testified on behalf of the International Council of Shopping  
948 Centers at this committee's hearing on May 19. Mr. Weiss  
949 stated that the problem that a private sector faces is an  
950 increasing number of lawsuits typically brought by a few  
951 plaintiffs in various jurisdictions, and often by the same  
952 lawyers for very technically and usually minor violations.

953           It has become all too common for property owners to  
954 settle these cases, as it is less expensive to settle than  
955 to defend them, even if the property owner is compliant. It  
956 is often too costly to prove that a property owner is doing  
957 what is right or required.

958           Therefore, the property owner makes a rational business  
959 decision, commonly resulting in settlement. Given that  
960 plaintiffs' attorneys' motives are often monetary, there is  
961 little or no incentive to work with businesses to cure a  
962 violation before a lawsuit is filed. This unintended result  
963 wastes resources on attorney's fees that could have been  
964 used to improve access sooner.

965           This delays justice and require reform. H.R. 3765  
966 remedies these problems by allowing businesses a finite  
967 period of time before a private enforcement lawsuit can be  
968 filed to fix defects on their premises once they are  
969 notified that their premises do not comply with the ADA.  
970 This will reduce abuses of the law by opportunistic  
971 attorneys, and will result in more access for the disabled  
972 because it encourages businesses to cure their access issues  
973 now in order to avoid costly litigation later. I urge my  
974 colleagues to support this legislation.

975           It is now my pleasure to recognize the ranking member  
976 of the committee, a gentleman from Michigan, Mr. Conyers,  
977 for his opening statement.

978 [The statement of Chairman Goodlatte follows:]

979 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

980 Mr. Conyers. Thank you, Chairman Goodlatte. Members  
981 of the committee, H.R. 3765, the ADA Education and Reform  
982 Act, would institute a notice and cure requirement under  
983 title III of the Americans with Disabilities Act.  
984 Specifically, the bill would prohibit a lawsuit from being  
985 commenced unless the plaintiff first gave the business owner  
986 specific notice of an alleged violation, and an opportunity  
987 to fix or make substantial progress toward remedying such  
988 violation.

989 Here is what I have said previously about this  
990 legislation -- I am adamantly opposed to any effort to  
991 weaken the ability of individuals to enforce their rights

992 under title III's public accommodation provisions. And here  
993 are some of my reasons for my opposition to this initiative.

994 To begin with, H.R. 3765's notice and cure requirement  
995 will generate numerous litigation traps for the unwary, and  
996 ultimately dissuade many individuals from pursuing even  
997 legitimate claims. For example, the bill does not define  
998 what is substantial progress towards compliance. Nor does  
999 the bill make clear who determines when an aggrieved party  
1000 or business owner has met any of the bill's procedural  
1001 requirements. As a result, courts will have to struggle to  
1002 determine what these inherently vague terms mean, thereby  
1003 creating an open invitation for well-financed business  
1004 interests to engage in endless litigation that would drain  
1005 the typically limited resources of a plaintiff, potentially  
1006 deny that person their day in court, and dissuade future  
1007 plaintiffs from even filing suit.

1008 In addition, H.R. 3765 would undermine a key  
1009 enforcement mechanism of the American with Disabilities Act  
1010 and other civil rights laws. The credible threat of a  
1011 lawsuit is a powerful inducement to businesses to  
1012 proactively take care to comply with the Act's requirement.

1013 Yet a pre-suit notification requirement would create a  
1014 disincentive to engage in voluntary compliance, as many  
1015 businesses would simply wait until receiving a demand letter  
1016 before complying with the law. This requirement also would

1017 discourage attorneys from representing individuals with  
1018 claims under title III, because attorney fees may only be  
1019 recovered if litigation ensues.

1020 Thus, an individual, with a title III claim, would not  
1021 be entitled to recover such fees if the extent of the  
1022 attorney's representation was effectively limited to  
1023 drafting the demand letter. Pre-suit notification would  
1024 make it even more difficult for those with valid title III  
1025 claims to obtain legal representation to enforce their  
1026 rights.

1027 And, finally, title III, by its terms, is already  
1028 designed to make compliance relatively easy for businesses.  
1029 For instance, title III defines discrimination with some  
1030 deference to business interests. It requires owners to  
1031 remove barriers to access only if doing so is easily  
1032 accomplishable, and able to be carried out without much  
1033 difficulty or expense. In addition, businesses are provided  
1034 tax benefits to encourage compliance, and can obtain free  
1035 technical assistance from the Justice Department to assist  
1036 with compliance.

1037 Voluntary compliance is key to title III's success.  
1038 But H.R. 3765 threatens to erode such compliance. And so I  
1039 must reluctantly oppose H.R. 3765, and urge that my  
1040 colleagues make the same examinations that I have and do the  
1041 same. Thank you, Mr. Chairman.

1042 [The statement of Mr. Conyers follows:]

1043 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1044 Chairman Goodlatte. The chair thanks the gentleman,  
1045 and would now like to recognize the chairman of the  
1046 Subcommittee on the Constitution and Civil Justice, Mr.  
1047 Franks, for his opening statement.

1048 Mr. Franks. Well, thank you, Mr. Chairman. Mr.  
1049 Chairman, on May 19th, 2016, your House Judiciary Committee  
1050 Subcommittee on the Constitution and Civil Justice held a  
1051 hearing titled "Legislation to Promote the Effective  
1052 Enforcement of the ADA's Public Accommodations Provisions,"

1053 which examined H.R. 3765, the ADA Education Reform Act of  
1054 2015. One of the most important elements, Mr. Chairman, of  
1055 this common sense proposal, would require plaintiffs to  
1056 provide defendants with written notice and opportunity to  
1057 correct an alleged ADA violation voluntarily before they  
1058 make a lawsuit aimed at forcing the business owner to concur  
1059 with the law or to incur legal costs.

1060 This bill, which would only apply to cases involving  
1061 public accommodations, would both improve public access for  
1062 disabled individuals and eliminate thousands of predatory  
1063 lawsuits that damage the reputation of the ADA and its  
1064 overall purpose.

1065 When the ADA was signed into law by President George H.  
1066 W. Bush in 1990, the goal was to provide the disabled with  
1067 equal access to public facilities. And in a large part,  
1068 the ADA has worked. It has been hailed as the most sweeping  
1069 non-discrimination legislation since the Civil Rights Act of  
1070 1964. Unfortunately, enterprising plaintiffs and their  
1071 lawyers have abused the law, Mr. Chairman, by filing a  
1072 flurry of ADA lawsuits aimed at churning out billable hours  
1073 and extracting money from small businesses rather than  
1074 improving access for the disabled, as the ADA intended.

1075 These predatory lawsuits are possible for two chief  
1076 reasons. First, 100 percent compliance with the ADA is very  
1077 difficult to achieve. Even though good faith efforts such

1078 as hiring an ADA compliance expert, a business can still  
1079 find itself subject to a lawsuit for the most minor and  
1080 unintentional infractions.

1081 One witness at this committee's hearing on May 19th  
1082 stated in his written testimony, quote, "Properties which  
1083 constitute places of public accommodation for various  
1084 reasons are always in a state of change. For example,  
1085 hotels and motels are often on routine rehabilitation  
1086 schedules, and shopping centers are regularly remodeled,  
1087 modified, or redeveloped. Properties can often change over  
1088 time without the intentional act of any person.

1089 Foundations settle, or a wet summer season, or a freeze  
1090 thaw cycle during winter can cause a parking lot or sidewalk  
1091 to shift, move, or change. These natural occurrences are  
1092 constant, even if they are undetectable to the naked eye  
1093 without resorting to measuring devices. Paint for parking  
1094 places fades from year to year, and newly placed concrete is  
1095 chipped by weather, delivery trucks, snowplows, or parking  
1096 lot sweepers. Each and every one of these normal happenings  
1097 potentially lays the groundwork for a lawsuit claiming a  
1098 technical violation of the ADA standards," unquote, Mr.  
1099 Chairman.

1100 Second, unlike title II of the Civil Rights Act, the  
1101 ADA does not currently require any notice before a lawsuit  
1102 can be filed. This has led to thousands of lawsuits being



1103 filed for issues of relatively minor non-compliance, such as  
1104 a sign being the wrong color, or having the wrong wording.  
1105 Abuse of the ADA has been noted by Federal judges in  
1106 numerous cases throughout the country. They have referred  
1107 to the proliferation of ADA lawsuits as a cottage industry.

1108       These judges have recognized that the explosion of  
1109 private ADA-related litigation is primarily driven by the  
1110 ADA's attorney's fee provisions. H.R. 3765 would help  
1111 eliminate predatory ADA lawsuits and increase compliance  
1112 with the ADA by giving businesses the opportunity to fix ADA  
1113 violations instead of wasting their resources on attorney's  
1114 fees.

1115       Lawsuits should be reserved for those instances in  
1116 which the offenders are truly unwilling to make appropriate  
1117 changes. This would allow legitimate claims to move through  
1118 the legal system much faster. Moreover, requiring  
1119 notification before filing an ADA lawsuit will benefit our  
1120 economy. Many small businesses have been forced to close  
1121 because of the accessibility lawsuits, and others have  
1122 unnecessarily spent thousands of dollars paying off lawyers,  
1123 when the money could have been used to increase access.

1124       Small businesses are critical to America's economic  
1125 recovery, and should not be burdened by unnecessary  
1126 litigation. In sum, Mr. Chairman, this bill contains  
1127 necessary improvements that would increase the

1128 accountability of both businesses and plaintiffs, attorneys  
1129 under the ADA's public accommodations provision of title  
1130 III. And I would just urge my colleagues to support this  
1131 bill as written. Thank you, Mr. Chairman.

1132 [The statement of Mr. Franks follows:]

1133 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1134 Chairman Goodlatte. The chair thanks the gentleman,  
1135 and recognizes the gentleman from Tennessee, the ranking  
1136 member of the Subcommittee on the Constitution and Civil  
1137 Justice, Mr. Cohen, for his opening statement.

1138 Mr. Cohen. Thank you, Mr. Chair. H.R. 3765, the ADA  
1139 Education and Reform Act of 2016, would require pre-suit  
1140 notification to a business for a violation of the public  
1141 accommodations provisions of the Americans with Disabilities  
1142 Act. And we would give that business 180 days to cure such

1143 violations. I am a big fan of the ADA's, passed a Tennessee  
1144 state ADA in the legislature in the 1990s. I understand the  
1145 basis behind it.

1146 I understand the people that want to change it and why  
1147 they want to change it. And there are certain abuses, but  
1148 we should not throw out the baby with the bath water. We  
1149 ought to cure this and find a way to take into consideration  
1150 both the importance of the Act, keep it strong, but also  
1151 root out the people, the lawyers, that are just filing  
1152 cases, that are not interested, really, in the benefits of  
1153 the people with disabilities, but their own personal  
1154 attorneys' fees. And some people are out there looking for  
1155 law cases. So that is why I filed an amendment to the bill  
1156 that I hope we will consider.

1157 When we had our hearings, I saw a problem. And that  
1158 was that while the ADA sets out reasonable attorney's fees  
1159 if you are successful, there are no damages to private  
1160 parties. And that was part of the agreement. But if you  
1161 have this situation where you have to give notice, and the  
1162 person has to wait up to 6 months to see if they can get a  
1163 remedy, it makes it more difficult for this act to work  
1164 properly.

1165 So we need to come up with a system to where the  
1166 parties who are wanting to cure the defect -- and it is a  
1167 minor defect that Mr. Franks and others talked about -- have

1168 that opportunity to cure that defect. But that if somebody  
1169 is not a good party that wants to help and just got caught  
1170 with a little bit of a mistake, that they do not get away  
1171 with it.

1172 So there needs to be a stick, as well as a carrot. And  
1173 that could be used to get businesses to cure their alleged  
1174 violations. And the good actors will have the 180 days and  
1175 they will do what they need to do -- 160 days, whatever it  
1176 is, 180. And they will do what they need to do. But the  
1177 others who do not will get punished.

1178 So if proponents of notice and cure are sincere in  
1179 their assertion that such proposals are intended to help  
1180 businesses comply with the ADA's public accommodation  
1181 provision, then it is their obligation to consider how to  
1182 deal with recalcitrant business owners, too, because with  
1183 recalcitrant business owners, then you have got people with  
1184 disabilities who are being victimized.

1185 If notice and cure provisions are not to become simply  
1186 a means for defendants to engage in dilatory litigation  
1187 tactics, which some think this would happen, there must be  
1188 consequences for those who do not use the cure period in  
1189 good faith. They are not only harming the person with the  
1190 disability, but they are harming the good actors.

1191 Proponents of the bill should consider adding  
1192 provisions that in some way sanction those business owners

1193 who have been given up to 6 months to cure an alleged  
1194 violation, fail to do so. In short, if businesses want to  
1195 have notice and cure provisions added to the ADA, they must  
1196 also accept some very real disincentive to using the notice  
1197 and cure simply to delay or avoid compliance with the law.

1198 I sincerely believe that the proponents of this  
1199 legislation do not want folks to use this to harm people  
1200 with disabilities, to use it for dilatory tactics, or to gut  
1201 the ADA. But if they do not, they need to accept this  
1202 amendment, which I am going to offer. And I think it will  
1203 successfully make this bill work. I am a lawyer. I have a  
1204 disability. I see both sides of this issue.

1205 I am a lifelong champion of civil rights. Tennessee  
1206 State disability law was something I was proud to co-author.  
1207 My only interest is ensuring compliance with our civil  
1208 rights statutes, including the ADA. So the amendment which  
1209 I am going to offer, which will say if you do not cure,  
1210 there is going to be a penalty of \$1,000 a day for not  
1211 curing during that six-month period.

1212 So a good guy, cure your problem, you are home. Do not  
1213 have to fool with the lawyers and you can cure your problem.  
1214 But the bad guy that does not cure within the 160 days --  
1215 180 days, then you have got a penalty. And that stick will  
1216 make them act. And if they do not act, they need to be  
1217 punished because they are destroying the intentions and the

1218 good intentions of this bill.

1219 So I would ask you to have an open mind and consider  
1220 the amendment, and then maybe we can go forward. I give you  
1221 back the balance of my time.

1222 [The statement of Mr. Cohen follows:]

1223 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1224 Chairman Goodlatte. The chair thanks the gentleman.  
1225 For what purpose does the gentleman from Michigan, Mr.  
1226 Trott, seek recognition?

1227 Mr. Trott. Move to strike the last word.

1228 Chairman Goodlatte. The gentleman is recognized for 5  
1229 minutes.

1230 Mr. Trott. So, again, we are having a debate today

1231 about whether the plaintiff's bar should win over common  
1232 sense. That is what this whole discussion is about.  
1233 Reminds me a little bit of the dialogue we had a few months  
1234 back when we considered the bill to bring transparency and  
1235 accountability to the asbestos trusts that are created under  
1236 Section 524(g) of the bankruptcy code. And you may recall  
1237 some people oppose that legislation. I supported it because  
1238 I thought that accountability and transparency was more  
1239 important than the plaintiff's bar, so that we could protect  
1240 the integrity of those trusts to help relieve victims of  
1241 asbestos.

1242 So today we talk about the ADA. The ADA was created to  
1243 provide equal access to people with disabilities. It was  
1244 not created as the lawyer full employment program. It was  
1245 not created to ensure that unscrupulous lawyers had equal  
1246 access so they could file frivolous lawsuits to extort money  
1247 from small businesses. That is not the purpose of the ADA.

1248 This solution is a common sense solution that will  
1249 protect small business. And I need to remind people that  
1250 small business is the backbone of our economy, creates jobs  
1251 for our constituents, and is a big part of the American  
1252 dream. I thank Judge Poe for his legislation. I think it  
1253 is a great solution. It will not only probably result in  
1254 violations of the ADA being solved faster and quicker  
1255 because the businesses will have more money to solve those

1256 problems rather than pay lawyers, and they will not have to  
1257 go to court to determine whether they actually have a  
1258 violation. They will just go ahead and fix the violation.  
1259 It will protect our small businesses and the job creators.  
1260 And it will also free up our clogged-up court dockets.

1261 So I support the legislation and ask my colleagues to  
1262 vote in favor of 3765. I yield back.

1263 Ms. Lofgren. Mr. Chairman?

1264 Chairman Goodlatte. For what purpose does the  
1265 gentlewoman from California seek recognition?

1266 Ms. Lofgren. I would like to strike the last word.

1267 Chairman Goodlatte. The gentlewoman is recognized for  
1268 5 minutes.

1269 Ms. Lofgren. You know, I have heard from enough of my  
1270 constituents in California who own, you know, small motels  
1271 and other establishments to become convinced that there are  
1272 some problems in this area. I know that that is true. And,  
1273 at least in the hearing that I have heard from my  
1274 constituents, it is really a handful of lawyers who are  
1275 engaging in really what is abusive litigation.

1276 Now, looking at this bill -- and I respect, as he  
1277 knows, a great deal, Judge Poe and work with him often on  
1278 many things -- I think the bill that California enacted to  
1279 deal with this issue is superior to what is being advanced  
1280 here. I think some of the terms, substantial progress,



1281 specifics -- what does that mean? In the bill before us,  
1282 California actually has taken action to deal with this  
1283 issue.

1284 California has, you know, noticed that there are some  
1285 businesses in the State who are being financially burdened  
1286 and threatened by lawsuits and demand letters for minor  
1287 violations, and enacted a law that allows any business that  
1288 uses a certified access specialist to inspect for compliance  
1289 and to make necessary repairs, to get a 90-day stay of  
1290 proceedings and an early court evaluation if the business is  
1291 ever sued.

1292 And this bill, and it is now a law, clarified  
1293 requirements for attorney's fees and State law damages, and  
1294 required that any demand for money letters must include an  
1295 advisory to the business on its legal rights, options, and  
1296 responsibilities. Now, this is, I believe, starting to work  
1297 in California. And the concern I have about this bill is  
1298 that it is overbroad. There is a problem with ADA. There  
1299 is a reason why we have the ADA. And I think many of us can  
1300 recall just the chilling testimony that we receive from  
1301 people that are disabled who were really humiliated by lack  
1302 of access.

1303 And that is why, in a bipartisan way, we adopted the  
1304 ADA, and we, with the leadership of Mr. Sensenbrenner,  
1305 updated the ADA. My concern is that this bill would, I

1306 think, pre-empt California law that is working. And I would  
1307 be very reluctant to do so, since California has adopted a  
1308 targeted measure that is modest, defined, and in action for  
1309 a measure that I think has a lot of questions.

1310 And so I just wanted to get that out there for those of  
1311 us who are from California and can appreciate what has  
1312 happened in California. To pre-empt that effort, I think,  
1313 would be a very serious mistake. And with that, Mr.  
1314 Chairman, I would be happy to yield back my time.

1315 Chairman Goodlatte. For what purpose does the  
1316 gentlewoman from Texas seek recognition?

1317 Ms. Jackson Lee. Strike the last word.

1318 Chairman Goodlatte. The gentlewoman is recognized for  
1319 5 minutes.

1320 Ms. Jackson Lee. First of all, I appreciate the  
1321 openness of my colleague, my seatmate, Congresswoman  
1322 Lofgren, because that was just -- as a non-Californian, I  
1323 wanted to acknowledge, without any putative intent, that it  
1324 does seem to be related to issues that California is facing.  
1325 There is some suggestion that the estimated number of  
1326 Federal and State ADA-related lawsuits filed over the past  
1327 decade in California range between 25,000 and 35,000.

1328 And so, at the same time, and I will use these numbers  
1329 again, there are 56.7 million number of Americans with  
1330 disabilities as of 2012, about one in five. And then

1331 another number 30.6 million, number of Americans who use a  
1332 wheelchair, cane, crutches, or walker, or who have  
1333 difficulty walking.

1334 From the Texas perspective, I am very proud of former  
1335 President H. W. Bush, as he is, for his leadership on  
1336 passing the ADA, along with many members of Congress. And  
1337 so I am very sensitive to the tampering in the view that it  
1338 is an improvement with the civil rights of disabled  
1339 Americans.

1340 I frankly believe, as my ranking member has indicated,  
1341 to require disabled persons to notify businesses of a  
1342 violation of the ADA's public accommodation provisions  
1343 contained in title III of the act, and wait up to 180 days  
1344 to remedy that alleged violation before a lawsuit could be  
1345 filed is a direct undermining of the civil rights of  
1346 Americans with disabilities.

1347 And I, as well, know that there are businesses that I  
1348 have a great deal of respect for because there are small  
1349 businesses. And their bottom line is sometimes a shaky  
1350 bottom line. And so I am interested in solutions, but I am  
1351 not interested in weakening the ability of individuals, as  
1352 has been evidenced again by the ranking member, to enforce  
1353 their rights under title III's public accommodation  
1354 provision. I am concerned about it.

1355 I will have an amendment that will ask for a reasoned

1356 study, so that we can make intelligent decisions as what is  
1357 the best mode that we might operate on. 180 days is 6  
1358 months.

1359 And I question whether or not the disabled person with  
1360 a wheelchair or a cane, crutches, who has to face these  
1361 disabilities every single day; for those of us who are  
1362 blessed with our full, complete health, in contrast to  
1363 others who are of good mind and great Americans but have to  
1364 live with a disability -- that was what moved the Congress  
1365 and President Bush when they introduced in 1990 and passed  
1366 in 1990 what so many members who are still here to remember  
1367 it are proud of. They are proud of this civil rights  
1368 legislation. And all change is not good.

1369 Frankly, I do not believe that we have crossed the T's  
1370 and dotted the I's with all the information that we should  
1371 probably have in trying to improve our situation in  
1372 responding to the outcry of many small businesses. I am not  
1373 sure whether we have groups that represent Americans with  
1374 disabilities crying out for these changes. I have not seen  
1375 it, and I would like to think that they are the constituency  
1376 base of the ADA, as I would imagine there would be many of  
1377 us opposing blatant changes to the 1964 Civil Rights Act as  
1378 we have now cried out about the undermining of the 1965  
1379 Voting Rights Act; directly impacted groups who are now  
1380 diminished because of changes in the Voting Rights Act were

1381 not the ones advocating for change, and really not the ones  
1382 whose voices could be heard by those who were moving for  
1383 change.

1384 Today, I want to listen to the Americans with  
1385 disabilities, and make the argument that I have not heard  
1386 from them, and I would hope that as we work through this  
1387 legislation -- I would hope that in moving this legislation,  
1388 that we would try to be understanding, if you will, of a  
1389 different approach. I would not want to undermine their  
1390 civil rights. I yield back.

1391 Mr. Chabot. Mr. Chairman?

1392 Chairman Goodlatte. The chair thanks the gentlewoman.  
1393 For what purpose does the gentleman from Ohio seek  
1394 recognition?

1395 Mr. Chabot. I move to strike the last word.

1396 Chairman Goodlatte. The gentleman is recognized for 5  
1397 minutes.

1398 Mr. Chabot. Thank you, Mr. Chairman. I will not take  
1399 the 5 minutes. I will be very brief. I just want to  
1400 commend my colleague from Texas, Mr. Poe, for offering this  
1401 very common sense legislation. As chairman of the House  
1402 Small Business Committee, I have heard many, many stories  
1403 about small businesses being targeted by unscrupulous  
1404 attorneys who are taking advantage of disabled people, and  
1405 taking advantage of small business folks, and sometimes

1406 literally bankrupting them.

1407       And I think, rather than trying to drag somebody into  
1408 court and get as much money out of them as they possibly  
1409 can, I think it makes sense, as Mr. Poe's legislation does,  
1410 to require some notice if there is a violation, if there is  
1411 ADA noncompliance -- let's notify that business that they  
1412 are doing something wrong and let them remedy that.

1413       Let them fix that rather than just dragging them into  
1414 court so some lawyer can, you know, feather his nest, or  
1415 just, you know, raise a bunch of money and then take a  
1416 pretty significant amount of money him or herself rather  
1417 than the disabled person receiving that money. So, I want  
1418 to commend Judge Poe for offering this legislation, and  
1419 would urge the committee to pass it. I yield back.

1420       Chairman Goodlatte. The chair thanks the gentleman.  
1421 For what purpose does the gentleman from Florida, Mr.  
1422 Deutch, seek recognition?

1423       Mr. Deutch. Move to strike the last word.

1424       Chairman Goodlatte. Gentleman is recognized for 5  
1425 minutes.

1426       Mr. Deutch. Thanks, Mr. Chairman. Mr. Chairman, I  
1427 think that the amendment and the nature of its substitute  
1428 moves H.R. 3765 in the right direction by focusing on the  
1429 real problem that we are seeing, and it is a real problem --  
1430 drive-by lawsuits with no genuine interest in accessibility

1431 or compliance. The amendment helps bring us back to the  
1432 core importance of providing notice and the goal that we all  
1433 share, widespread compliance with the ADA.

1434 As I said in the subcommittee hearing back in May, I  
1435 appreciate that the original compromise that created the ADA  
1436 was designed to balance our national interest in  
1437 accessibility with a desire to make private businesses our  
1438 allies in this endeavor rather than our adversaries.

1439 But I also believe that we must exercise strict  
1440 oversight to ensure that we are achieving continued progress  
1441 toward accessibility. If abuses of the process are doing  
1442 enough to work against that goals, then we have to stop and  
1443 we have to pay attention to them. I believe that any  
1444 efforts that we undertake to address abuses under the  
1445 current law must protect the progress that we have made, and  
1446 continue to ensure that our society is open to everyone.

1447 That is why I think that we need to be open to changes  
1448 here, but we have got to carefully craft them to ensure that  
1449 the original balance of the ADA is not overturned, and that  
1450 while we protect good-faith actors from predatory suits,  
1451 which we ought to be doing, that we are not lowering the bar  
1452 for those who would cut corners at the expense of civil  
1453 rights. Easily correctable small fixes deserve to have a  
1454 process that allows these de minimis fixes with notice.  
1455 They do, and that is why I think the revised bill is a step

1456 in the right direction, but I do not think that we are in  
1457 the right place quite yet. We need to have clear language  
1458 that ensures that businesses who are willfully out of  
1459 compliance with the ADA are not eligible for this notice and  
1460 cure period.

1461 If you have chosen to do the wrong thing you, do not  
1462 deserve extra time to do what should have been done the day  
1463 you opened your doors. The message that we are sending to  
1464 the disabled community is not, and never should be, that we  
1465 only care about accessibility after the fact.

1466 Anyone who is gaming the system deserves to be taken to  
1467 court that day, not 120 days later, only if they still have  
1468 not decided to follow the law. And I say this because the  
1469 vast majority of businesses -- I know, we all know -- that  
1470 the vast majority of businesses are trying to do the right  
1471 thing. Most businesses are proud to do their part in  
1472 creating a society that is open for everyone, because it is  
1473 good business, and because it is the right thing to do.

1474 So as we go forward from today, my hope is that we can  
1475 continue to work together to recognize that there is a  
1476 problem that has to be addressed, but that the way that we  
1477 address it is to focus on the vast majority of those who are  
1478 being preyed upon by predatory actions and actors who are  
1479 not interested in accessibility, but that we not, at the  
1480 same time, wind up letting off the hook those who willfully



1481 violated the ADA to begin with, and intentionally decided  
1482 that it was just not important enough to them to keep their  
1483 businesses open, and to make their businesses available to  
1484 everyone.

1485 I remain confident that we will get there, and I  
1486 appreciate Mr. Poe, and I appreciate the parties working  
1487 together on this. I hope we can continue to do it, and I  
1488 yield back.

1489 Chairman Goodlatte. The chair thanks the gentleman.

1490 Mr. Collins. Mr. Chairman?

1491 Chairman Goodlatte. For what purpose does the  
1492 gentleman from Georgia, Mr. Collins, seek recognition?

1493 Mr. Collins. I move to strike the last word.

1494 Chairman Goodlatte. The gentleman is recognized for 5  
1495 minutes.

1496 Mr. Collins. Thank you, Mr. Chairman. I am a proud  
1497 cosponsor of H.R. 3765, and I appreciate the markup today  
1498 because I believe this legislation is important, and helps  
1499 to address these lawsuits that we have heard about today in  
1500 talking about unscrupulous actors lining their own pocket.  
1501 One quick thing is WSB-TV out of Atlanta did a show, a  
1502 story, showing that a serial plaintiff and his attorney  
1503 filed over 100 identical lawsuits against hotels without  
1504 even visiting the property. That is what we are focusing  
1505 today.

1506 But also, it has been said here a little bit today -- I  
1507 also want to focus on something, because I think that this  
1508 devalues the law of the ADA and its intent, and also it was  
1509 said earlier about the, you know, frankly, the perspective  
1510 of those disabled.

1511 I am blessed to walk and run and do all the things that  
1512 I can do because I am healthy. My daughter was born with  
1513 spina bifida. My daughter's first steps came when she sat  
1514 in her pink wheelchair and she rolled, and her mother and I  
1515 cried for her first steps. I have lived 24 years with  
1516 carrying my daughter, picking up the wheelchair. Her  
1517 brothers, who are now 20 and 17, as much as brothers and  
1518 sisters fight, they would not find two brothers in the world  
1519 who would not fight for Jordan. I watch them pick her up  
1520 and carry her up steps; I have watched them carry her  
1521 around, and even in -- these are areas in which -- it is  
1522 just at the House or wherever it may be, not even public  
1523 accommodations.

1524 A lot has been said this morning about the intent of  
1525 the ADA. The intent is to fix. The intent is to make it  
1526 accessible. As a father who has watched this and been a  
1527 part of this for many, many years, it was interesting to  
1528 hear today that we do not need the pre-suit notification  
1529 because you cannot collect fees, where the judges have said  
1530 that a cottage industry has developed. My daughter and

1531 others who are disabled are not cottage industries. Shame  
1532 on any of these attorneys who do this.

1533 In my opinion, you are lower than even the law you are  
1534 trying to uphold in this. This is bad. A willful actor who  
1535 has a business and does not want to accommodate ADA -- I do  
1536 not know about many in this room, but in my condition, if  
1537 there was some place that my daughter could not go, we avoid  
1538 the business. And, by the way, while we are on the subject,  
1539 we actually talk. We tell others, and others avoid the  
1540 business.

1541 A pre-suit notification is simply saying, "You have got  
1542 a problem; fix it." I know many owners who would simply  
1543 say, "I did not know." I would challenge many of us to go  
1544 to our own offices here and say, "How really handicap-  
1545 accessible are they?" You know, when we think about this,  
1546 you know, what are we weakening? If the intent of the ADA  
1547 was to make accessibility that all members of society, no  
1548 matter what their disability -- or, for many of us, if we  
1549 claim to have no disability, I would say look in the mirror;  
1550 there is probably one finding somewhere. If it is  
1551 accessibility we are looking for, then that is what we are  
1552 talking about. How do you weaken a law that says,  
1553 "Businesses, we are giving you a chance to fix it and make  
1554 it right, and if you do not, you are going to get sued?"  
1555 How is that weakening?

1556 I mean, look, I understand the constituencies we are  
1557 protecting. I mean, I have a problem and I appreciate  
1558 California's work in this, and I do, but also, I am having a  
1559 real problem with another little cottage industry that is  
1560 developed, and that is the certified access people. We are  
1561 paying people who go have a continuing ed course to now go  
1562 tell you, "Oh, here is what you need to do," and charge you  
1563 \$300 for it. Or my daughter, when we were teaching her how  
1564 to drive in Georgia, she had to go to somebody who could  
1565 measure to make sure that they properly put in the handle in  
1566 the car right, as if her own father would let her behind the  
1567 wheel of something that would damage her. I am offended.

1568 This bill today is simply a measure to say, "Let's make  
1569 ADA work." Let's make it work. Let's let businesses know  
1570 that if you do not do it right, you have got a chance to fix  
1571 it; you do not fix it, not only are you going to get sued,  
1572 but not only that, we are going to tell in the community  
1573 that I come from that you are actually not going to be  
1574 welcome in this community, for disability folks are part of  
1575 us, and my family is not going to tolerate it, and neither  
1576 should any of you.

1577 But to think that those with disabilities have become a  
1578 cottage industry, in the words of a judge, to those that  
1579 think, "Well, we do not need pre-suit notification because  
1580 you cannot get attorney's fees," do not bring that to me.

1581 Do not tell me that we are weakening a bill that -- in which  
1582 you are wanting to actually help those who need help. What  
1583 is government for, if it is not to force that to make it  
1584 help?

1585 I am proud to be a father who, last week, watched my  
1586 daughter graduate from Warm Springs Vocational  
1587 Rehabilitation, her and 50-plus others of her friends. Some  
1588 walked; some rolled; some hopped. Some did not talk; some  
1589 signed. But they are all a member of this human race. They  
1590 are all precious. They just seem to know it better than we  
1591 do.

1592 Do not tell me that that industry is a cottage industry  
1593 for people who will not even go to a site but yet file a  
1594 lawsuit, saying they are going to help them. If that is  
1595 where we have come to, and that is the defense we give  
1596 against this, God help us. Mr. Chairman, I yield back.

1597 Mr. Johnson. Mr. Chairman? Mr. Chairman?

1598 Chairman Goodlatte. The chair thanks the gentleman.  
1599 For what purpose does the gentleman from Georgia seek  
1600 recognition?

1601 Mr. Johnson. I move to strike the last word.

1602 Chairman Goodlatte. The gentleman is recognized for 5  
1603 minutes.

1604 Mr. Johnson. Thank you, Mr. Chairman. You know, there  
1605 used to be a time in this country when people with

1606 disabilities were treated as second-class citizens, even  
1607 those who were fortunate to be able to find a job and pay  
1608 taxes. They were still treated as second-class citizens.  
1609 How did that happen? Well, it was just that the norm was  
1610 for able-bodied people without consideration of people with  
1611 disabilities, and so there was no care or concern about  
1612 people with disabilities.

1613         It was not profitable to make accommodations for people  
1614 with disabilities, and so people with disabilities just  
1615 continued to dwell in America as second-class citizens. And  
1616 then something happened in Congress, unlike it does today  
1617 where nothing is happening good, but something happened in  
1618 Congress then. It was the passage of the ADA back in 1990.

1619         Enlightened minds in Congress decided to do something  
1620 about the disabilities that prevented people with  
1621 disabilities from being able to contribute to our society  
1622 that kept them perpetually as second-class citizens.  
1623 Something was done to prevent that from happening.

1624         And so, what it meant was that businesses and other  
1625 public entities had to make their accommodations such that  
1626 people with disabilities could participate just as people  
1627 who did not have disabilities, and the result has been an  
1628 enrichment of the lives of disabled people, and it is been  
1629 an enrichment of the lives of people who do not have  
1630 disabilities, because we have been able to share the lives -

1631 - share our lives with people with disabilities.

1632       It has enhanced us all, and it is enhanced our economy,  
1633 and so what we are doing today is to backtrack on  
1634 legislation that has been such a great force to bring  
1635 equality to people in America with disabilities. We are  
1636 doing something now to hurt that legislation, and we are  
1637 doing it because we are blaming lawyers for being in the  
1638 way.

1639       Well, this is a law that was passed, and the law does  
1640 have some consequences to those who do not comply with it,  
1641 and it is a fact that you need lawyers to enable people to  
1642 impose their legal rights within a legal system, and get  
1643 something done about it. So you have to have lawyers to do  
1644 that.

1645       And it is unfortunate that there may be some lawyers  
1646 who do not have bona fide clients, and they ride around and  
1647 they spot locations where there is no compliance with the  
1648 ADA, and then they file a demand letter, and as a result,  
1649 force the business owner to comply with the law. Well, you  
1650 know, some would say that that is abusive of the lawyers,  
1651 but I would say that it is a public service.

1652       Anytime we can get people to comply with the law when  
1653 they are out of compliance, and of course, businesspeople  
1654 have the opportunity to get into compliance with the law as  
1655 they go into business, or as they acquire a business -- that

1656 should be one of the steps that they take in the purchase of  
1657 the building is to make sure that the premises are ADA-  
1658 compliant, and if not, then, you know, that has -- that  
1659 factors into the cost of -- or to the purchase price.

1660         So let's not throw the baby out with the bathwater and  
1661 blame the attorneys of -- as the reason that we have to do  
1662 this. No, we do not have to do this. The ADA is working  
1663 fine right now; it has brought millions of people into  
1664 equality in America, and they are looking at us to do the  
1665 right thing to protect them. Oftentimes, they do not have  
1666 anyone to speak for them other than a lawyer, and so -- many  
1667 of us on this committee are lawyers.

1668         Let's look at it from the side of the disabled as  
1669 opposed to the business owner. Let's have some compassion  
1670 for those who do not -- who started off life in a different  
1671 situation than us. Let's try to understand what their  
1672 dilemma is, and let's try to make things equal for everyone  
1673 in this country. And with that, I will yield back. I  
1674 oppose this legislation, by the way.

1675         Chairman Goodlatte. For what purpose does the  
1676 gentleman from California, Mr. Peters, seek recognition?

1677         Mr. Peters. Mr. Chairman, I move to strike the word.

1678         Chairman Goodlatte. The gentleman is recognized for 5  
1679 minutes.

1680         Mr. Peters. I appreciate the committee scheduling a



1681 hearing on the ADA Education and Transparency Act for  
1682 markup. I want to start out by saying that I reject the  
1683 notion that we need to provide a balance between ensuring  
1684 that disabled Americans do not face barriers to access, and  
1685 that hardworking small businesses do not face opportunistic  
1686 lawsuits because we ought to be doing both.

1687 And I think that this legislation offered by Mr. Poe,  
1688 and of which I am a cosponsor, does a reasonable job of  
1689 doing that. I certainly think we can all work together to  
1690 improve it, but I think it is the right direction. I am a  
1691 strong supporter of the ADA and hope one day to see 100  
1692 percent compliance with it.

1693 When disabled Americans face barriers to access and  
1694 businesses or property owners willfully refuse to make  
1695 accommodations, the individuals deserve their day in court  
1696 to force businesses to comply.

1697 However, the current framework makes small businesses  
1698 that are unintentionally out of compliance with title III of  
1699 the ADA -- they are treated the same way as bad actors who  
1700 are willfully breaking the rules. The current system does  
1701 not allow any small business owners who may not even know  
1702 of the defect the opportunity to remove the barriers without  
1703 being sued, and that is just -- seems to me unfair.

1704 And the notice and opportunity to cure is common in  
1705 American law. In the Clean Water Act in which I practiced,

1706 you had to give a 60-day notice of violation before you  
1707 filed a lawsuit; it gave people the opportunity to fix it.

1708 In employment discrimination cases for race  
1709 discrimination, age, gender, under the jurisdiction of the  
1710 Equal Employment Opportunity Commission, including the Civil  
1711 Rights Act, title I of the ADA, and others, you have got  
1712 file first a charge of discrimination before a lawsuit can  
1713 be filed against an employer. And the idea is that it gives  
1714 the employer the opportunity to rectify the situation  
1715 without facing litigation. If the employer does not rectify  
1716 or make appropriate change, then that lawsuit, which is  
1717 still a very powerful incentive, can be brought against the  
1718 employer to force compliance. The idea is to create  
1719 compliance, to force compliance, not to force a lawsuit.  
1720 And I think we have lost sight of that in this area of the  
1721 ADA.

1722 A lot of barriers that are the subject of these  
1723 lawsuits can be fixed in a day or less. Little cost to the  
1724 owner. Repainting a handicapped parking space, moving a  
1725 railing up or down an inch are fixes that small businesses  
1726 would be more than willing to make -- changes they may --  
1727 rather than to face a lawsuit and having to go to court.  
1728 And we ought to give them that chance. And we can give them  
1729 that chance while still assuring compliance with the ADA.  
1730 And the point is to find compliance. It still retains the

1731 threat of litigation against bad actors that, even upon  
1732 being notified their property is out of compliance, would  
1733 still refuse to remove the barriers to access.

1734 I would just say a couple things. There is no less  
1735 incentive to comply because you have removed the threat of a  
1736 lawsuit. In fact, the incentive to comply is great because  
1737 you may not be sued. You have an incentive to avoid being  
1738 sued by fixing the problem. There is no evidence, also,  
1739 that the current system is getting any fast results in terms  
1740 of actually solving the problems -- is because we do not  
1741 follow up on what these settlements do. So, I actually  
1742 think that pointing people to the places where they could be  
1743 compliant might actually be a better system.

1744 I am sympathetic to what Mr. Cohen said, my colleague,  
1745 who -- we all acknowledge these abuses. I think the  
1746 thousand dollars a day is pretty punitive. I want to see  
1747 some short of showing that there is willfulness. But you  
1748 also have to accommodate the fact that some people may have  
1749 a good faith dispute about whether they are in compliance or  
1750 not, and they ought not to be penalized for what you would  
1751 expect them to -- the position that they would take in  
1752 court.

1753 But again, we could work on that. We could figure out  
1754 a way to provide the appropriate penalty for people who are  
1755 being willfully non-compliant.

1756           So, I am supportive of the bill. I have read all of  
1757 the opposition to it, and pleased that language that would  
1758 allow criminal penalties to be assessed has been removed in  
1759 the manager's amendment. I am also sensitive to the desire  
1760 to provide the courts with a clearer definition of what  
1761 "substantial progress" toward addressing a barrier to access  
1762 means, and I am hopeful that through amendments today or  
1763 continuing conversations, we can -- we could deal with this  
1764 and make it better.

1765           I am also very cognizant of my colleague Ms. Lofgren's  
1766 point that California usually gets it right ahead of time.  
1767 And you know, I do not have any disagreement about that. I  
1768 do not think everyone -- my colleagues on the other side --  
1769 quite understand our genius, but I am willing to take any of  
1770 those provisions that we think would be useful here to --  
1771 and put that into this effort.

1772           But I want to congratulate Mr. Poe for offering a  
1773 solution to the problem, which again, does not acknowledge  
1774 the need to create a balance between business owners and  
1775 compliance, but really, deals with both abuse and actually  
1776 may bolster compliance.

1777           So, I am supportive and look forward to the discussion.  
1778 Thank you, Mr. Chairman, I yield back.

1779           Chairman Goodlatte. For what purpose does the  
1780 gentleman from Texas, Mr. Poe, seek recognition?

1781 Mr. Poe. Mr. Chairman, I have an amendment in the  
1782 nature of a substitute.

1783 Chairman Goodlatte. The clerk will report the  
1784 amendment in the nature of a substitute. And as she does  
1785 that, I want to thank the gentleman from Texas for offering  
1786 this legislation, and for his amendment in the nature of a  
1787 substitute.

1788 Ms. Adcock. Amendment in the nature of a substitute to  
1789 H.R. 3765, offered by Mr. Poe. Strike all after the  
1790 enacting clause --

1791 [The amendment of Mr. Poe follows:]

1792

1793 \*\*\*\*\* INSERT 3 \*\*\*\*\*

1794 Chairman Goodlatte. Without objection, the amendment  
1795 in the nature of a substitute will be considered as read,  
1796 and the gentleman is recognized for 5 minutes on his  
1797 amendment.

1798 Mr. Poe. I thank the chairman, and I want to thank Mr.  
1799 Collins and Mr. Peters for their comments, and really,  
1800 everybody for their comments on this important piece of  
1801 legislation. The ADA is a good bill, but it is being abused  
1802 by people for money. They are trying to make a profit off  
1803 of the disabled. And those are shyster lawyers in different

1804 parts of the country. Not all lawyers -- but there is a  
1805 handful that are giving all lawyers a bad name.

1806 I am a former judge. I am a lawyer, former prosecutor.  
1807 There is good and bad in everything. What this legislation  
1808 does is to make the ADA better in that it encourages, even  
1809 forces, businesses to comply with the law.

1810 But right now, what is happening? Plaintiffs -- some  
1811 who do not even reside in a state -- use Google Maps,  
1812 investigators, drive by, and figure out that there is some  
1813 screw loose on a rail going into the business. They file a  
1814 notice that they are going to sue the business unless they  
1815 are paid X amount of money within so many days. Some  
1816 businesses ignore it. Some businesses pay. They pay the  
1817 money, okay. Then what happens?

1818 That does not necessarily cure the problem. The  
1819 business goes on, waiting for the next lawsuit. So, the  
1820 purpose of this legislation is to fix the problem, not to  
1821 line the pockets of people at the expense of the disabled.  
1822 And that is what is occurring. So, if there is a problem --  
1823 whatever it is -- put them on notice.

1824 And I agree with Mr. Collins. The answer is to fix the  
1825 problem, not necessarily to make money for somebody else.  
1826 We want businesses to comply, and I agree most businesses do  
1827 comply. They want to comply. Even for economic reasons.  
1828 People are not going to go there if they are not compliant

1829 with the ADA.

1830 But the system is being abused, so let us fix the  
1831 problem so people can -- and businesses, many of which are  
1832 run -- owned by the disabled. Hearings that we had with Mr.  
1833 Franks, we found disabled business owners just being sued.  
1834 Are you kidding me? They would have a business that does  
1835 not comply with the ADA? They are not on notice to know  
1836 what the problem is. So, put them on notice, give them time  
1837 to fix the problem, and make sure that the problem is  
1838 resolved.

1839 I resent the comments in the window, so to speak, that  
1840 those of us who support a change of the ADA, in some way, do  
1841 not believe in helping the disabled. I resent that. Like  
1842 Mr. Collins, this is personal. Ms. Jackson Lee, who is not  
1843 here, knows my parents. It is personal. It is personal,  
1844 probably, with everybody in this room. We want businesses  
1845 to comply.

1846 Now there is a glitch in the system that does not  
1847 really fix the problem. It just gets money for some people  
1848 who really do not even have an issue to be standing, in my  
1849 opinion, to be involved in these types of drive-by lawsuits.  
1850 ADA is to get businesses to comply. This tweak in the ADA  
1851 will help businesses comply. It will encourage them to  
1852 comply.

1853 And in the long term, who does it help? It helps the

1854 disabled. No, it does not help the lawyers. It does help  
1855 the disabled. And I want to make it clear. I am not  
1856 talking about all lawyers are bad. They are not. But we  
1857 have got a few of them here we have got to get out of this  
1858 system of making money off of the disabled.

1859 And with that, I would like to introduce -- have  
1860 unanimous consent to introduce 20 letters from different  
1861 folks from all over the country who support this  
1862 legislation, as amended.

1863 Chairman Goodlatte. Without objection, those letters  
1864 will be made a part of the record.

1865 [The information follows:]

1866 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1867 Mr. Poe. And I will yield back.

1868 Chairman Goodlatte. The chair thanks the gentleman.  
1869 Are there any amendments to the amendment? For what purpose  
1870 does the gentleman from Tennessee seek recognition?

1871 Mr. Cohen. I would like to ask a question of the



1872 sponsor of the amendment, if he would yield.

1873 Chairman Goodlatte. The gentleman is recognized for 5  
1874 minutes.

1875 Mr. Cohen. Judge, I understand where you are coming  
1876 from, and I -- you know, I believe you are well-intentioned.  
1877 I know you are. But do not you agree that there should be  
1878 some type of -- something in the law that is for the bad  
1879 actors who do not cure within 6 months, and just run time --

1880 Mr. Poe. Then they get sued.

1881 Mr. Cohen. But they get sued --

1882 Mr. Poe. They go to court, and let a jury set the  
1883 damages for failure to comply with an ADA -- the ADA law.

1884 Chairman Goodlatte. Would the gentleman yield?

1885 Mr. Cohen. Yes, sir.

1886 Chairman Goodlatte. Because I think the gentleman  
1887 makes a good point. But here is my answer to that. Right  
1888 now, the way the law works today, you do not have this  
1889 intervening span of time to cure. You get hit with a  
1890 lawsuit immediately, and no opportunity to cure.

1891 So, if you are a bad actor, and now you get the amount  
1892 of time allowed in Judge Poe's legislation to cure, and you  
1893 do not cure, well, you are an even bigger bad actor than you  
1894 were beforehand, and you are going to get hit with all kinds  
1895 of problems when you are taken to court, having had the  
1896 opportunity to cure and not having cured.

1897 Mr. Cohen. But sir, there is no damages. And that is  
1898 part of the ADA. There is no damages.

1899 Chairman Goodlatte. There is attorney's fees.

1900 Mr. Cohen. Well, sure, there is attorney's fees now.  
1901 But they are not going to give you treble attorney's fees.  
1902 But they should give you something. There should be some  
1903 extra stick for the bad actor. Either damages, which I am  
1904 proposing, or maybe it should be \$1,000, Mr. Peters -- maybe  
1905 it should be \$250. Whatever it is, something to be --  
1906 something to make the bad guys pay. And maybe it goes into  
1907 some fund for people with disabilities.

1908 Chairman Goodlatte. If the gentleman would yield.

1909 Mr. Cohen. Surely.

1910 Chairman Goodlatte. If your parking space is not close  
1911 enough to the entrance, and you failed, would a thousand-  
1912 dollar-a-day fine, \$180,000 fine be -- you know, the  
1913 individual may -- you may think they are a bad actor. They  
1914 may think they are within the law because they think they  
1915 are in compliance with the ADA. But since there is a  
1916 disagreement, it is going to wind up going to court.

1917 Why would that fact that they find out, after they go  
1918 to court, that yeah, their parking space should have been a  
1919 little bit closer to the entrance to the business, cause  
1920 them to have to pay an additional \$180,000 in fines?

1921 Mr. Cohen. But should they not have figured that out

1922 during that 6-month period, and measured it, and found out?

1923 I mean, we are all supposed to --

1924 Chairman Goodlatte. Sometimes people just --

1925 Mr. Cohen. -- understand what the law is. It is not a  
1926 defense of --

1927 Chairman Goodlatte. If the gentleman would yield  
1928 further.

1929 Mr. Cohen. Surely.

1930 Chairman Goodlatte. Sometimes people do not find out  
1931 that they were wrong until the judge tells them they are  
1932 wrong. That is why we have courts, so the judges can make  
1933 that final arbitration about whether or not they were not  
1934 reasonable. And they may have figured it out and said,  
1935 "Yeah, we are reasonable." And the judge says, "No, you are  
1936 not reasonable. You have got to move the parking space."  
1937 And they are going to have to pay attorney's fees for having  
1938 failed to figure it out the right way.

1939 Mr. Cohen. I am going to yield to Ms. Lofgren.

1940 Ms. Lofgren. It seems to me -- and what we have  
1941 discovered in California -- the real problem, it is a  
1942 shakedown. It is like the patent trolls, where somebody is  
1943 coming in. They are not really necessarily even going to  
1944 engage in litigation. They are just threatening. And you  
1945 have to pay up, because if you do not pay up, it is going to  
1946 cost you more to defend.

1947           As I have mentioned in my earlier statement, I think  
1948 the California law is preferable to this, and I am going to  
1949 defend my State. I mean, there is a 90-day period to cure,  
1950 and there is some guidance, and I think it is preferable to  
1951 this. But the litigation, I do not think, is disturbed by  
1952 this bill. I do not think it is as good as preventing the  
1953 harassment as California's approach. But that is the  
1954 problem. It is abusive demand letters more than the actual  
1955 litigation, I believe. And I thank the gentleman for  
1956 yielding.

1957           Mr. Cohen. You are welcome. And I understand we want  
1958 to get action, and we do want to get a cure. But I do think  
1959 there needs to be a stick of some sort for the person that  
1960 is just -- they have got this opportunity now, and got 6  
1961 months to comply, and they do not do it. We talked to staff  
1962 and we thought, "What is the right stick?" You know, there  
1963 is a lot of people here with -- got good minds who can come  
1964 up with good sticks. Throw me a stick.

1965           Chairman Goodlatte. Are there any amendments to the  
1966 amendment? Oh, for what purpose does the gentleman from  
1967 Michigan seek recognition?

1968           Mr. Conyers. Mr. Chairman, I rise now in opposition to  
1969 H.R. 3765.

1970           Chairman Goodlatte. The gentleman is recognized for 5  
1971 minutes.

1972 Mr. Conyers. Members of the committee, this has been  
1973 an incredible hearing on this subject. And I began going  
1974 over the letters of opposition, and I am astounded that Wade  
1975 Henderson and Nancy Zirkin of the Leadership Conference on  
1976 Civil Rights, which includes 200 civil rights and public  
1977 interest organizations, have written Mr. Franks, Chairman  
1978 Franks, and Member Cohen in opposition to this measure,  
1979 because this is weakening the protections that we are so  
1980 proudly giving to the disabled. But more than that, we have  
1981 the Paralyzed Veterans -- now, that is 200 organizations in  
1982 one letter from Henderson and Zirkin.

1983 Then we have a letter from the Paralyzed Veterans of  
1984 America, who have come out against this measure, my  
1985 colleagues. And then we have the National Disability Rights  
1986 Network, who have come out in opposition to this measure in  
1987 terms of it going the wrong way and weakening the  
1988 protections that we are so proudly presenting.

1989 And then we have the Consortium of Citizens with  
1990 Disabilities that has written against this measure that is  
1991 before us, that we are weakening the protections of the  
1992 disabled that are already existing, instead of strengthening  
1993 them. And the Consortium of Citizens with Disabilities have  
1994 62 organizations. When you add all of these up -- and  
1995 included in them, I do not want to double-count, but the  
1996 Bazelon Center for Mental Health Law, which is already a

1997 part of the 62, the Christopher and Dana Reeve Foundation  
1998 have -- are also part of the 62.

1999 But the American Association of Justice, the trial  
2000 lawyers, have written Chairman Goodlatte and Ranking Member  
2001 Conyers, urging us to oppose 3765. And here is what they  
2002 say -- "When physical barriers inhibit inclusion in society,  
2003 disabled individuals look to the legal system to compel ADA  
2004 compliance. This legislation bars the courthouse doors by  
2005 complicating the process discriminated parties use to seek  
2006 relief.

2007 Not only would H.R. 3765 fail to improve the ADA; it  
2008 would be detrimental to the considerable progress the law  
2009 has made on behalf of disabled Americans. And the  
2010 provisions in this bill" -- listen to this -- "would award  
2011 wrongdoers with a strategic advantage by forcing the  
2012 disabled community to wait over half a year before filing a  
2013 complaint." This is too long, the letter says, and the time  
2014 frame provided for compliance too uncertain.

2015 And so, even within the six-month time period, there is  
2016 no actual requirement that the barrier be removed. The  
2017 legislation that requires that substantial progress be made,  
2018 leaving disabled individuals in limbo, without access to  
2019 public accommodations and delaying access to enforce their  
2020 rights in court.

2021 I ask unanimous consent to include at least some of

2022 these letters, from one, two, three, four organizations in  
2023 the record, Mr. Chairman. And I yield back the balance of  
2024 my time.

2025 Chairman Goodlatte. Without objection, they will be  
2026 made a part of the record.

2027 Mr. Conyers. Thank you.

2028 [The information follows:]

2029 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2030 Chairman Goodlatte. Are there any amendments to the  
2031 amendment in the nature of a substitute?

2032 Mr. Conyers. I have an amendment, Mr. Chairman.

2033 Chairman Goodlatte. The clerk will report the  
2034 amendment, offered by the gentleman from Michigan.

2035 Ms. Adcock. Amendment to the amendment in the nature  
2036 of a substitute to H.R. 3765, offered by Mr. Conyers. Page  
2037 2, Line 16 --

2038 [The amendment of Mr. Conyers follows:]

2039 \*\*\*\*\* INSERT 4 \*\*\*\*\*

2040 Chairman Goodlatte. Without objection, the amendment  
2041 will be considered as read, and the gentleman is recognized  
2042 for 5 minutes on his amendment.



2043 Mr. Conyers. Mr. Chairman and members, my amendment  
2044 would allow potential plaintiffs alleging a violation of the  
2045 Americans with Disabilities Act's public accommodations  
2046 provisions to recover compensatory and punitive damages. As  
2047 the Act was being drafted, the disability rights community  
2048 struck a bargain with the business community by giving up  
2049 the ability to recover damages for failure to comply with  
2050 the Act's public accommodation provisions, in order to  
2051 provide some flexibility for businesses in their attempts to  
2052 comply with the law and, as a result, the act only allows a  
2053 disabled person to obtain injunctive relief and attorneys'  
2054 fees for violations of its public accommodation provisions.

2055 In a sense, the lack of availability of damages is  
2056 itself a barrier to the enforcement of civil rights of  
2057 disabled persons. This is because the lack of damages  
2058 erodes the ability of potential plaintiffs to obtain legal  
2059 representation, given that few attorneys would take on  
2060 matters without the possibility of meaningful compensation,  
2061 and this committee probably has a higher percentage of  
2062 lawyer members of any committee in the House of  
2063 Representatives.

2064 And unfortunately, the negative effect of the  
2065 compromise made in 1990 is proven by the fact that even  
2066 though the Act has been in effect for 26 years, there  
2067 continues to be many businesses that have yet to comply with

2068 the Act's public accommodation requirements.

2069 H.R. 3765 would only exacerbate this problem by forcing  
2070 aggrieved, disabled persons to wait for up to 6 months  
2071 before filing a suit. And even then, such individuals may  
2072 be prohibited from filing suit if one or more of the bill's  
2073 notice and cure provisions is not met. As it is, it is  
2074 difficult for disabled persons to obtain legal  
2075 representation and to enforce their rights when businesses  
2076 violate them.

2077 H.R. 3765 would make such a difficult situation even  
2078 worse. If the bill's proponents insist on delaying the  
2079 ability of a disabled person to vindicate his or her rights  
2080 in court, there must be some countervailing provision that  
2081 would ensure their ability to pursue a lawsuit is not  
2082 further diminished by the bill's notice and cure provisions.

2083 Allowing a plaintiff to recover damages would provide  
2084 such balance by compensating somewhat for the further  
2085 barrier to justice for disabled persons the bill creates.  
2086 If the bill's proponents insist on upending the bargain  
2087 struck 26 years ago between the disability rights and  
2088 business communities, then it is only fair that disabled  
2089 persons now be given the opportunity to recover damages.  
2090 And so I urge the committee to adopt the amendment, and I  
2091 yield back the balance of my time.

2092 Chairman Goodlatte. The chair thanks the gentleman.

2093 For what purpose does the gentleman from Texas seeks  
2094 recognition?

2095 Mr. Poe. I would like to strike the last word.

2096 Chairman Goodlatte. The gentleman is recognized for 5  
2097 minutes.

2098 Mr. Poe. Mr. Chairman, I oppose this amendment because  
2099 it seeks to undermine the core purpose of the bill, which is  
2100 to provide greater accessibility without resorting to  
2101 litigation. For many, the provisions of title III enacted  
2102 in 1990 represent a compromise.

2103 On one hand, the private enforcement provisions provide  
2104 an opportunity for people with disabilities to sue for  
2105 greater accessibility. Injunctive relief is available, as  
2106 well as attorney's fees. Monetary damages, however, were  
2107 not made available.

2108 According to one legal scholar, the compromise that was  
2109 created in 1990 was modeled after an agreement reached in  
2110 1964 when title II of the Civil Rights Act -- CRA title II -  
2111 - was enacted to prohibit racial discrimination at places  
2112 like public accommodation. CRA title II, like ADA title  
2113 III, only permits private individuals to seek injunctive  
2114 relief. Unlike ADA title III, however, CRA title II only  
2115 covers a few categories of public accommodations.  
2116 Proponents of the ADA were, therefore, able to obtain  
2117 broader coverage than previous civil rights activists had

2118 been able to obtain under CRA title II.

2119       The protection provided by ADA is largely shaped by the  
2120 broader definition of public accommodation, which extends  
2121 beyond places that provide essentials such as grocery stores  
2122 and hospitals, to include restaurants, hotels, and places of  
2123 recreation, such as theaters.

2124       While many have criticized that many public  
2125 accommodations are still not in compliance with title III,  
2126 the committee's recent hearings provide some examples that  
2127 show that noncompliance is often not the result of willful  
2128 disregard for the law.

2129       For example, one witness explained that complying with  
2130 the technical and scoping requirements issued by the Federal  
2131 Government, as well as additional access requirement issued  
2132 by States and localities, has made complying with the ADA  
2133 challenging.

2134       In addition, witnesses stated that properties which  
2135 constitute places of public accommodation, for various  
2136 reasons, are always in a state of change, including changes  
2137 resulting from natural shifts in the earth caused by the  
2138 weather and changes that are caused by unintentional human  
2139 acts, such as fading paint lines caused by snow plows and  
2140 street sweepers.

2141       With this in mind, providing a notification period for  
2142 businesses to comply with the public accommodations

2143 provision in title III, as well as other provisions that  
2144 would be added to the ADA bill, are commonsense additions.  
2145 These provisions provided in the bill, however, did not in  
2146 turn merit the addition of damages as a remedy because the  
2147 intent is to encourage compliance. Get it fixed without the  
2148 need of litigation.

2149 As explained, the ADA provides for attorney's fees,  
2150 which would be an available remedy when bad actors do not  
2151 heed requests to improve accessibility of the property. In  
2152 addition, remedies beyond what title III already provides  
2153 would offset the attempts in this bill to provide better  
2154 opportunities for compliance. So I oppose the amendment,  
2155 and I will yield back.

2156 Chairman Goodlatte. For what purpose does the  
2157 gentleman from Georgia to receive recognition?

2158 Mr. Johnson. I move to strike the last word.

2159 Chairman Goodlatte. Gentleman is recognized for 5  
2160 minutes.

2161 Mr. Johnson. I speak in support of the Conyers  
2162 amendment. For 26 years, the Americans with Disabilities  
2163 Act has removed or forced the removal of physical barriers  
2164 that impose second-class citizenship on disabled people.  
2165 Physical barriers prevented them from accessing public  
2166 places; sidewalks, for instance, or trying to get off of a  
2167 sidewalk and ambulate across the street to another sidewalk

2168 became impossible without the Americans with Disabilities  
2169 Act. It made it possible.

2170 You know, physical barriers to other public places, to  
2171 public accommodations; to public transportation; to private  
2172 transportation; to educational opportunities; to employment  
2173 opportunities. People with disabilities were, in effect,  
2174 banned from being able to pursue equal opportunities, and so  
2175 the Americans with Disabilities Act was a civil rights bill  
2176 that granted civil rights to Americans with disabilities.

2177 And now, today, after 26 years, we have broken down a  
2178 lot of the physical barriers, but now we are trying to put  
2179 up legal barriers to the enforcement of the Americans with  
2180 Disabilities Act. I think it is wrong for us to do this.

2181 There is another way that we can do this without  
2182 throwing the baby out with the bathwater. This legislation  
2183 is a sledgehammer taken to a problem that should be solved  
2184 with the surgical, with the skill of a surgeon's knife.  
2185 And, for that reason, I am opposed to it, and I am in  
2186 support of the Conyers amendment.

2187 Before I yield back, I will say that any business -- it  
2188 is so easy to find out how a business can be ADA compliant.  
2189 You just simply go to the Internet, and there is a vast  
2190 array of resources available there that educate business  
2191 owners and property owners about their responsibilities to  
2192 the disabled. You do not need a lawyer to understand the

2193 guidelines, the requirements, and so it is simply a matter  
2194 of caring enough to be in compliance. And we still do not  
2195 have full compliance today, 26 years after the act was  
2196 passed. Some simply refuse to do anything other than what  
2197 they are compelled to do, and that is why we have lawyers to  
2198 force compliance.

2199 Without the lawyers, there would be no compliance. So  
2200 let's not blame the lawyers for the problem. Let's put the  
2201 focus on the problem, which is noncompliance with the ADA.

2202 Mr. Conyers. Would the chairman --

2203 Mr. Johnson. What can we do?

2204 Mr. Conyers. Would the gentleman yield?

2205 Mr. Johnson. I will.

2206 Mr. Conyers. I want to thank you because I wanted to -  
2207 - Wade Henderson has been before this committee many times  
2208 and, as the leader of the Leadership Conference on Civil and  
2209 Human Rights, and the last sentence of his letter to us says  
2210 this: "Such restrictions and penalties on the ability of  
2211 people to attempt to vindicate their rights fly in the face  
2212 of the intent of civil rights statutes, which were enacted  
2213 to ensure the protections of those marginalized in our  
2214 society, and for these reasons, we urge you to oppose the  
2215 ADA Education and Reform Act." And he and Nancy Zirkin have  
2216 taken powerful positions that we have probably supported,  
2217 and I think this is another one of them.

2218 Mr. Johnson. Well, I thank the ranking member --  
2219 reclaiming the time, I cannot say it better than you just  
2220 summed up and, with that, I will yield any additional time.

2221 Mr. Conyers. No, sir. I think this states it more  
2222 clearly than anything I have looked at today on the subject.

2223 Mr. Johnson. Thank you, and I yield back the balance  
2224 of my time.

2225 Chairman Goodlatte. The question occurs on the  
2226 amendment offered by the gentleman from Michigan.

2227 All those in favor respond by saying aye.

2228 Those opposed, no.

2229 In the opinion of the chair, the noes have it.

2230 Mr. Conyers. A record vote is requested.

2231 Chairman Goodlatte. A recorded vote is requested, and  
2232 the clerk will call the roll.

2233 Ms. Adcock. Mr. Goodlatte?

2234 Chairman Goodlatte. No.

2235 Ms. Adcock. Mr. Goodlatte votes no.

2236 Mr. Sensenbrenner?

2237 [No response.]

2238 Mr. Smith?

2239 [No response.]

2240 Mr. Chabot?

2241 [No response.]

2242 Mr. Issa?



2243 [No response.]  
2244 Mr. Forbes?  
2245 [No response.]  
2246 Mr. King?  
2247 [No response.]  
2248 Mr. Franks?  
2249 [No response.]  
2250 Mr. Gohmert?  
2251 [No response.]  
2252 Mr. Jordan?  
2253 [No response.]  
2254 Mr. Poe?  
2255 Mr. Poe. No.  
2256 Ms. Adcock. Mr. Poe votes no.  
2257 Mr. Chaffetz?  
2258 [No response.]  
2259 Ms. Adcock. Mr. Marino.  
2260 [No response.]  
2261 Mr. Gowdy?  
2262 [No response.]  
2263 Mr. Labrador?  
2264 [No response.]  
2265 Ms. Adcock. Mr. Farenthold.  
2266 Mr. Farenthold. No.  
2267 Ms. Adcock. Mr. Farenthold votes no.

2268 Mr. Collins?  
2269 Mr. Collins. No.  
2270 Ms. Adcock. Mr. Collins votes no.  
2271 Mr. DeSantis?  
2272 [No response.]  
2273 Ms. Walters?  
2274 [No response.]  
2275 Mr. Buck?  
2276 Mr. Buck. No.  
2277 Ms. Adcock. Mr. Buck votes no.  
2278 Mr. Ratcliffe?  
2279 Mr. Ratcliffe. No.  
2280 Ms. Adcock. Mr. Ratcliffe votes no.  
2281 Mr. Trott?  
2282 Mr. Trott. No.  
2283 Ms. Adcock. Mr. Trott votes no.  
2284 Mr. Bishop?  
2285 Mr. Bishop. No.  
2286 Ms. Adcock. Mr. Bishop votes no.  
2287 Mr. Conyers?  
2288 Mr. Conyers. Aye.  
2289 Ms. Adcock. Mr. Conyers votes aye.  
2290 Mr. Nadler?  
2291 [No response.]  
2292 Ms. Lofgren?

2293 Ms. Lofgren. Pass.

2294 Ms. Adcock. Ms. Lofgren passes.

2295 Ms. Jackson Lee?

2296 [No response.]

2297 Mr. Cohen?

2298 Mr. Cohen. Aye.

2299 Ms. Adcock. Mr. Cohen votes aye.

2300 Mr. Johnson?

2301 Mr. Johnson. Aye.

2302 Ms. Adcock. Mr. Johnson votes aye.

2303 Mr. Pierluisi?

2304 Mr. Pierluisi. Aye.

2305 Ms. Adcock. Mr. Pierluisi votes aye.

2306 Ms. Chu?

2307 [No response.]

2308 Mr. Deutch?

2309 [No response.]

2310 Mr. Gutierrez?

2311 [No response.]

2312 Ms. Bass?

2313 [No response.]

2314 Mr. Richmond?

2315 Mr. Richmond. Aye.

2316 Ms. Adcock. Mr. Richmond votes aye.

2317 Ms. DelBene?

2318 Ms. DelBene. Aye.

2319 Ms. Adcock. Ms. DelBene votes aye.

2320 Mr. Jeffries?

2321 Mr. Jeffries. Aye.

2322 Ms. Adcock. Mr. Jeffries votes aye.

2323 Mr. Cicilline?

2324 [No response.]

2325 Mr. Peters?

2326 Mr. Peters. No.

2327 Ms. Adcock. Mr. Peters votes no.

2328 Chairman Goodlatte. The gentlewoman from California.

2329 Ms. Lofgren. Aye.

2330 Ms. Adcock. Ms. Lofgren votes aye.

2331 Chairman Goodlatte. The gentleman from Virginia.

2332 Mr. Forbes. No.

2333 Ms. Adcock. Mr. Forbes votes no.

2334 Chairman Goodlatte. The gentleman from Iowa.

2335 Mr. King. No.

2336 Ms. Adcock. Mr. King votes no.

2337 Chairman Goodlatte. The gentleman from Texas.

2338 Ms. Adcock. Not recorded.

2339 Ms. Jackson Lee. Aye.

2340 Ms. Adcock. Ms. Jackson Lee votes aye.

2341 Chairman Goodlatte. The gentleman from Florida.

2342 Mr. DeSantis. No.

2343 Ms. Adcock. Mr. DeSantis votes no.

2344 Mr. Conyers. Can I ask him what the votes were, what  
2345 the number of ties and --

2346 Chairman Goodlatte. The gentleman from Idaho.

2347 Mr. Labrador. No.

2348 Ms. Adcock. Mr. Labrador votes no.

2349 Chairman Goodlatte. Has every member voted who wishes  
2350 to vote?

2351 The gentleman from Georgia?

2352 Mr. Johnson. How am I recorded?

2353 Ms. Adcock. Aye.

2354 Mr. Johnson. Okay.

2355 Chairman Goodlatte. The clerk will report.

2356 Ms. Adcock. Mr. Chairman, 9 members voted aye; 13  
2357 members voted no.

2358 Chairman Goodlatte. And the amendment is not agreed  
2359 to.

2360 Are there further amendments to the amendment in the  
2361 nature of substitute? For what purpose does the gentlewoman  
2362 from Texas seek recognition?

2363 Ms. Jackson Lee. I have an amendment at the desk.

2364 Chairman Goodlatte. The clerk will report the  
2365 amendment.

2366 Ms. Adcock. Amendment to the amendment in the nature  
2367 of a substitute to H.R. 3765 offered by Ms. Jackson Lee --

2368 add at the end the following --

2369 [The amendment of Ms. Jackson Lee follows:]

2370 \*\*\*\*\* INSERT 5 \*\*\*\*\*

2371 Chairman Goodlatte. Without objection, the amendment  
2372 is considered as read and the gentlewoman is recognized for  
2373 5 minutes on her amendment.

2374 Ms. Jackson Lee. Let me thank the chairman and let me  
2375 thank the ranking member for the very full statement, full  
2376 discussion on a very important amendment that offers  
2377 [inaudible] in line of my concerns going forward.

2378 I think in my earlier conversation I mentioned the  
2379 voices of those who are disabled, and I am looking at a  
2380 number of letters -- National Council on Disabilities that  
2381 have indicated their concerns about this legislation  
2382 [inaudible] proud, honest Veterans of America [inaudible]  
2383 disability rights education defense fund opposes [inaudible]  
2384 and the and Leadership Conference of Civil and Human Rights  
2385 opposes this legislation.

2386 I am pleased to say that my amendment is supported by a  
2387 number of, in particular, the national organization dealing  
2388 with disabilities, and I believe, in spite of getting the  
2389 support from those who represent the disabled community,  
2390 that this is an amendment that would provide us with what I  
2391 started out by saying -- that this is a problem that needs  
2392 to have a greater basis of understanding. Now, let me

2393 acknowledge that points of that have been said about  
2394 problems with litigation are not to be ignored.

2395 But let me make this very clear -- I note, in an  
2396 article, that there is a number between 25 and 35,000  
2397 lawsuits filed over the past decade in California. That is  
2398 one decade. Yet, there are 56.7 million Americans with  
2399 disabilities, as recorded in 2012. Somebody might argue  
2400 over 10 years and 25,000 to 35,000 lawsuits is a drop in the  
2401 bucket. I do not think we need major legislation for a drop  
2402 in the bucket. 30.6 million Americans, as I indicated, use  
2403 a wheelchair, cane, crutches, walker, or have difficulty  
2404 walking. Again, the lawsuits, over a decade, is a drop in  
2405 the bucket.

2406 The Jackson Lee amendment is an amendment that I think  
2407 would welcome bipartisan support. The ADA has now been in  
2408 place for 26 years, yet many public accommodations are not  
2409 in compliance with title III and are not accessible.

2410 My amendment would amend the Americans with  
2411 Disabilities Act to, among other things, require -- or the  
2412 amendment that we are trying -- to do, among other things to  
2413 required disabled persons to notify businesses of violations  
2414 of the ADA's public accommodation provisions contained in  
2415 title III, and wait up to 180 days to remedy that alleged  
2416 violation before a lawsuit could be filed.

2417 I am disappointed that the legislation has been written



2418 to be able to address the question of a few bad apples. So,  
2419 my amendment adds a provision to the bill conditioning the  
2420 effective date on the preparation and submission to Congress  
2421 within a year of enactment date, on a study by GAO, of title  
2422 3 ADA actions during the five-year period prior to the  
2423 enactment date, where a claim under a State disability and  
2424 anti-discrimination law is also asserted, comparing numbers  
2425 of cases filed in those States that allowed damages and  
2426 those that not.

2427 That gives us a basis, if you will, of dealing with  
2428 this issue of information and facts.

2429 Mr. Conyers. Would the gentlelady yield?

2430 Ms. Jackson Lee. I would be happy to yield.

2431 Mr. Conyers. I want to thank her for the amendment  
2432 because the importance of this amendment is that it would  
2433 help clarify the distinction by studying the effect of State  
2434 laws on the filing of ADA-related lawsuits. I think that is  
2435 very important, and I thank her for it.

2436 Ms. Jackson Lee. I thank the gentleman for his  
2437 contribution. And let me to follow-up to say to help answer  
2438 this question, this amendment will require the GAO to  
2439 prepare a study examining, comparing the number of suits  
2440 filed in States that provide damages with those filed in  
2441 States that do not provide damages.

2442 Consideration of this legislation would significantly

2443 alter the balance of the ADA by delaying disabled  
2444 individuals from seeking justice for discrimination under  
2445 title III. It is, at the very least, premature, if not  
2446 outright unnecessary. This information would give us more  
2447 information. This data would give us more information,  
2448 because proponents of this bill have not provided evidence  
2449 that the threat of these so-called frivolous suits is being  
2450 driven by the ADA rather than sentence provided by State  
2451 law.

2452 Let's not throw this great civil rights legislation,  
2453 touted by so many -- just take yourself back to 1989, and  
2454 think of yourself as disabled. You had no voice. No one  
2455 cared whether you tripped over a sidewalk, could get into a  
2456 movie, could eat at a restaurant, could take your children  
2457 out to a baseball game. No one cared. And maybe they did,  
2458 but you had no Federal law to give you that civil rights  
2459 protection.

2460 And so, my amendment does what Congress should do --  
2461 act on information. Sadly, not on isolated examples of  
2462 cases coming out of one area of the country versus another.  
2463 25 to 35,000 cases over a decade, compared to 56.7 million  
2464 persons with disabilities and 30 million with canes,  
2465 crutches, wheelchairs, hard to walk, is a poor example to do  
2466 massive legislation.

2467 I, in fact, appreciate the proponents of this

2468 legislation. I see the problem that they are trying to  
2469 cure. I believe it is important to have an amendment --  
2470 excuse me, legislation that is based upon facts. With that,  
2471 Mr. Chairman, I yield back.

2472 Chairman Goodlatte. The time of the gentlewoman has  
2473 expired. For what purpose does the gentleman from Texas  
2474 seek recognition?

2475 Mr. Poe. I move to strike the last word.

2476 Chairman Goodlatte. The gentleman is recognized for 5  
2477 minutes.

2478 Mr. Poe. I oppose the amendment. I have great respect  
2479 for the author of the amendment. And as she mentioned  
2480 earlier -- several hours ago -- part of our duty is to be  
2481 fact-finders on this committee. And we have done that. We  
2482 have had hearings on this issue. We had witnesses testify.  
2483 We have had hundreds of people comment through letters about  
2484 this legislation. So, we have done the due diligence on  
2485 fact-finding.

2486 And as far as the information that is being asked for  
2487 in the amendment, that information is already out there. It  
2488 is not new information. That information is readily  
2489 available on the Internet for anybody's perusal. So, I  
2490 think would just add delay to the bill. I understand the  
2491 author's positive intent, but I would oppose the Jackson Lee  
2492 Amendment, and I will yield back.

2493 Mr. Conyers. Mr. Chairman?

2494 Chairman Goodlatte. For what purpose does the  
2495 gentleman from Michigan seek recognition?

2496 Mr. Conyers. I rise to strike the last word, and I  
2497 would like to yield to --

2498 Chairman Goodlatte. The gentleman is recognized for 5  
2499 minutes.

2500 Mr. Conyers. -- yield to the gentlelady from Texas,  
2501 Ms. Jackson Lee.

2502 Ms. Jackson Lee. I thank the gentleman. I likewise  
2503 have respect for the proponent of the amendment, my fellow  
2504 Texan, as well as his cosponsor. I would beg to differ on  
2505 an element that I think is important about my amendment, is  
2506 that the information has not gathered. And what we are  
2507 trying to find out is the problem with this legislation  
2508 Federal law or is the problem with where a State disability  
2509 anti-discrimination law claim is also asserted, and compare  
2510 the number of cases filed in States providing damages  
2511 against the number of cases filed in States that do not  
2512 provide damages -- so that the local law drives individuals.

2513 And let me applaud States who have gone beyond the call  
2514 of duty, if you will. But that element to draw frivolous  
2515 suits unfortunately may be driven by that aspect of it.  
2516 This study must be prepared and provided to Congress no  
2517 later than one year after the enactment date of the act.

2518           Who are we to massively change Federal law on very  
2519 personal aspects of people's lives, their civil rights --  
2520 which all of us, no matter what side of the aisle that we  
2521 are on, are apt to speak eloquently about, from the Bill of  
2522 Rights that contain so many debates. Right now, we are  
2523 debating, how do we balance the rationale of this -- of many  
2524 amendments, including the Second Amendment.

2525           People vigorously want to argue against you taking away  
2526 their perceived rights. Well, you are taking away perceived  
2527 rights under the ADA. No section of this legislation,  
2528 except for this section, will take effect until the  
2529 submission of a report required by this section. But it is  
2530 one year. And I frankly believe that is worthy of one  
2531 year's attention in dealing with protecting the disabled.

2532           So, I would ask my colleagues, with, again, the mutual  
2533 respect that both my colleague from Texas and myself has for  
2534 hopefully each other. I thank him for his courtesies, but I  
2535 would also make the point, why we could not utilize this  
2536 amendment to give us more information. With that, I want to  
2537 thank the gentlelady for yielding, and I yield back. I am  
2538 sorry, Mr. Ranking Member, thank you.

2539           Chairman Goodlatte. The time belongs to the gentleman  
2540 from Michigan.

2541           Ms. Jackson Lee. Thank you. Yes, it does, and I want  
2542 to thank you -- because Congresswoman Lofgren was also going

2543 to do something. But I thank the ranking member for  
2544 yielding and his courtesies, and I yield back. I think it  
2545 provides, Mr. Ranking Member, as I close again, that, you  
2546 know, it is just information. Why cannot we get  
2547 information? These are civil rights of individuals. I  
2548 yield back. Thank you.

2549 Mr. Conyers. I yield back.

2550 Chairman Goodlatte. The question occurs on the  
2551 amendment offered by the gentlewoman from Texas.

2552 All those in favor, respond by saying aye.

2553 Those opposed, no.

2554 Opinion of the chair, the noes have it, and the  
2555 amendment is not agreed to.

2556 Ms. Jackson Lee. I would like a roll call. Roll call.

2557 Chairman Goodlatte. A roll call vote is requested, and  
2558 the clerk will call the roll.

2559 Ms. Adcock. Mr. Goodlatte?

2560 Chairman Goodlatte. No.

2561 Ms. Adcock. Mr. Goodlatte votes no.

2562 Mr. Sensenbrenner?

2563 [No response.]

2564 Mr. Smith?

2565 [No response.]

2566 Mr. Chabot?

2567 Mr. Chabot. No.

2568 Ms. Adcock. Mr. Chabot votes no.  
2569 Mr. Issa?  
2570 [No response.]  
2571 Mr. Forbes?  
2572 [No response.]  
2573 Mr. King?  
2574 Mr. King. No.  
2575 Ms. Adcock. Mr. King votes no.  
2576 Mr. Franks?  
2577 Mr. Franks. No.  
2578 Ms. Adcock. Mr. Franks votes no.  
2579 Mr. Gohmert?  
2580 Mr. Gohmert. No.  
2581 Ms. Adcock. Mr. Gohmert votes no.  
2582 Mr. Jordan?  
2583 [No response.]  
2584 Mr. Poe?  
2585 Mr. Poe. No.  
2586 Ms. Adcock. Mr. Poe votes no.  
2587 Mr. Chaffetz?  
2588 [No response.]  
2589 Mr. Marino?  
2590 [No response.]  
2591 Mr. Gowdy?  
2592 [No response.]

2593 Mr. Labrador?  
2594 [No response.]  
2595 Mr. Farenthold?  
2596 Mr. Farenthold. No.  
2597 Ms. Adcock. Mr. Farenthold votes no.  
2598 Mr. Collins?  
2599 Mr. Collins. No.  
2600 Ms. Adcock. Mr. Collins votes no.  
2601 Mr. DeSantis?  
2602 [No response.]  
2603 Ms. Walters?  
2604 Ms. Walters. No.  
2605 Ms. Adcock. Ms. Walters votes no.  
2606 Mr. Buck?  
2607 Mr. Buck. No.  
2608 Ms. Adcock. Mr. Buck votes no.  
2609 Mr. Ratcliffe?  
2610 Mr. Ratcliffe. No.  
2611 Ms. Adcock. Mr. Ratcliffe votes no.  
2612 Mr. Trott?  
2613 Mr. Trott. No.  
2614 Ms. Adcock. Mr. Trott votes no.  
2615 Mr. Bishop?  
2616 Mr. Bishop. No.  
2617 Ms. Adcock. Mr. Bishop votes no.



2618 Mr. Conyers?  
2619 Mr. Conyers. Aye.  
2620 Ms. Adcock. Mr. Conyers votes aye.  
2621 Mr. Nadler?  
2622 [No response.]  
2623 Ms. Lofgren?  
2624 Ms. Lofgren. Aye.  
2625 Ms. Adcock. Ms. Lofgren votes aye.  
2626 Ms. Jackson Lee?  
2627 Ms. Jackson Lee. Aye.  
2628 Ms. Adcock. Ms. Jackson Lee votes aye.  
2629 Mr. Cohen?  
2630 Mr. Cohen. I pass.  
2631 Ms. Adcock. Mr. Cohen passes.  
2632 Mr. Johnson?  
2633 Mr. Johnson. Aye.  
2634 Ms. Adcock. Mr. Johnson votes aye.  
2635 Mr. Pierluisi?  
2636 Mr. Pierluisi. Aye.  
2637 Ms. Adcock. Mr. Pierluisi votes aye.  
2638 Ms. Chu?  
2639 [No response.]  
2640 Mr. Deutch?  
2641 [No response.]  
2642 Mr. Gutierrez?

2643 [No response.]

2644 Ms. Bass?

2645 [No response.]

2646 Mr. Richmond?

2647 Mr. Richmond. Aye.

2648 Ms. Adcock. Mr. Richmond votes aye.

2649 Ms. DelBene?

2650 Ms. DelBene. Aye.

2651 Ms. Adcock. Ms. DelBene votes aye.

2652 Mr. Jeffries?

2653 Mr. Jeffries. Aye.

2654 Ms. Adcock. Mr. Jeffries votes aye.

2655 Mr. Cicilline?

2656 [No response.]

2657 Mr. Peters?

2658 Mr. Peters. No.

2659 Ms. Adcock. Mr. Peters votes no.

2660 Chairman Goodlatte. The gentleman from Virginia.

2661 Mr. Forbes. No.

2662 Ms. Adcock. Mr. Forbes votes no.

2663 Chairman Goodlatte. Has every member voted who wishes

2664 to vote? The clerk will report.

2665 Ms. Adcock. Mr. Chairman, 8 members voted aye, 15

2666 members voted no.

2667 Chairman Goodlatte. And the amendment is not agreed

2668 to. Are there further amendments to the amendment in the  
2669 nature of a substitute? For what purpose does the gentleman  
2670 from Tennessee seek recognition?

2671 Mr. Cohen. Mr. Chair, I have an amendment at the desk.  
2672 Chairman Goodlatte. The clerk will report the  
2673 amendment.

2674 Ms. Adcock. Amendment to the amendment in the nature  
2675 of a substitute to H.R. 3765, offered by Mr. Cohen. Page 3,  
2676 Lines --

2677 [The amendment of Mr. Cohen follows:]

2678 \*\*\*\*\* INSERT 6 \*\*\*\*\*

2679 Chairman Goodlatte. Without objection, the amendment  
2680 is considered as read and the gentleman from Tennessee is  
2681 recognized for 5 minutes on his amendment.

2682 Mr. Cohen. Thank you, Mr. Chair. We have talked about  
2683 the amendment. I have mentioned it before. Mr. Poe is  
2684 familiar with it. I think Mr. Peters is familiar.

2685 And the idea is something I have tried to offer at  
2686 committee and offer to both sides, to try to find a  
2687 reasonable compromise, something where the people who we are  
2688 trying to help in this legislation get their help. They  
2689 cure the problem, they do not have a lawsuit, and they --  
2690 people with disabilities get the relief. But the bad actors  
2691 get punished. And also, there is an incentive for the good  
2692 guys to get something done.

2693 So, this amendment says that there is a \$1,000 a day  
2694 fine for somebody who has failed to cure the violation. And

2695 it was suggested to me that a possible point of compromise  
2696 might be to have it be -- by Mr. Peters -- is to have --  
2697 make that punitive damages, that if it is willful violation,  
2698 that there would be a \$1,000 a day as a punitive damage.  
2699 And I think that is a reasonable thing. I am just looking  
2700 for a way to punish the bad guys. Judge Poe knows about  
2701 punishing bad guys. It gives him two toothbrushes -- that I  
2702 remember. But the bad guys ought to be punished.

2703 So, I would like to ask Mr. Poe if he would consider  
2704 some type of effort that we could work on before this goes  
2705 to the floor, to come up with a way to punish the bad guys  
2706 and let the guys that -- the good guys in the white hats get  
2707 their relief. Can I yield to you?

2708 Mr. Poe. The answer would be I will be glad to talk to  
2709 you about it.

2710 Mr. Cohen. That is just the way it is, is it not?

2711 Mr. Poe. That is just the way it is. Two  
2712 toothbrushes. That is pretty funny.

2713 Mr. Cohen. Thank you very much. I yield back to you.  
2714 I am not quite sure how to accept that. I think I am going  
2715 to go ahead and offer my amendment, and we will see where it  
2716 goes. But the amendment is a \$1,000 a day violation. It  
2717 also takes out the 120-day section, where it says that they  
2718 can avoid liability by demonstrating substantial progress,  
2719 because in this case, they have got to show that they in

2720 fact did it, that they cured the violation. And --

2721 Mr. Conyers. Would the gentleman yield?

2722 Mr. Cohen. Sure.

2723 Mr. Conyers. Thank you very much. I believe that this  
2724 amendment would help to mitigate some of its negative  
2725 effects by encouraging compliance with the law while  
2726 dissuading those who would act in bad faith from abusing the  
2727 bill's generous notice and care provisions. And I thank the  
2728 gentleman for putting this amendment forward.

2729 Mr. Cohen. Thank you. I am looking for a way to  
2730 support the bill. It is difficult for me to support it as  
2731 somebody who is so much in favor of civil rights and the  
2732 ADA, and who understands what disabilities are. I am trying  
2733 to help and I am trying to understand, because I do not like  
2734 the lawyers that try to just do these drive-by cases. That  
2735 is why I supported the patent troll case, because of Tyler,  
2736 Texas. Like their band and their dancing world, but not too  
2737 big on their lawyers.

2738 But I think you do need to have something here, and  
2739 this gives the good guys a reason to act and the bad guys --  
2740 it gives the bad guys a reason to act, because if they do  
2741 not, they are going to get hit with that stick. And that  
2742 gets you what you are looking for, which is the disabled to  
2743 get the remedy. And there is nothing here to get the bad  
2744 guys to act. You are just giving them 6 months and putting

2745 some type of barrier between them and the complainant.

2746 So, you are helping the bad guys with this bill, and I  
2747 would hope you would accept the amendment, understanding  
2748 that it fits with what you are saying your purpose is, which  
2749 I think it is, and that is to get action, to get relief, and  
2750 to punish the bad guys. And with that, I move adoption.  
2751 Thank you.

2752 Chairman Goodlatte. For what purpose does the  
2753 gentleman from Texas seek recognition?

2754 Mr. Poe. Move to strike the last word.

2755 Chairman Goodlatte. The gentleman is recognized for 5  
2756 minutes.

2757 Mr. Poe. I understand the gentleman's concern on his  
2758 amendment. I am opposed to the way the amendment is  
2759 drafted. I do think that we need to talk about this issue  
2760 that you have brought up. But as far as the amendment goes,  
2761 I am opposed to the amendment. And I will yield back to the  
2762 chairman.

2763 Chairman Goodlatte. For what purpose does the  
2764 gentleman from California seek recognition?

2765 Mr. Peters. Yeah. Mr. Chairman, I move to strike the  
2766 last word.

2767 Chairman Goodlatte. The gentleman is recognized for 5  
2768 minutes.

2769 Mr. Peters. I just want to recognize, I think we had a

2770 constructive conversation -- work on this issue. The  
2771 problem with the amendment, as drafted, is it is in the  
2772 nature of a strict liability penalty. I think that is  
2773 probably inappropriate -- or I think it is inappropriate.  
2774 So, I oppose the amendment in its current form but hope we  
2775 can achieve some progress in the future. I yield back.

2776 Chairman Goodlatte. The question occurs on the  
2777 amendment offered by the gentleman from Tennessee.

2778 All those in favor, respond by saying aye.

2779 Those opposed, no.

2780 Being the chair, the noes have it, and the amendment is  
2781 not agreed to.

2782 Chairman Goodlatte. Are there further amendments to  
2783 the amendment in the nature of a substitute?

2784 A reporting quorum being present, the question is on  
2785 the motion to report the bill --

2786 Ms. Jackson Lee. I am sorry. I thought I saw Mr.  
2787 Johnson.

2788 Chairman Goodlatte. -- H.R. 3765, as amended,  
2789 favorably to the House.

2790 Those in favor will respond by saying aye.

2791 Those opposed, no.

2792 Ms. Jackson Lee. Did you want your amendments?

2793 Chairman Goodlatte. I think we are past it. We are  
2794 reporting the bill. We have already entered the vote on



2795 reporting the bill.

2796 Ms. Jackson Lee. That is what I was --

2797 Chairman Goodlatte. The ayes have it, and the bill, as  
2798 amended, is ordered reported favorably.

2799 Voice. About the amendment did you -- ask for a  
2800 recorded vote.

2801 Chairman Goodlatte. We did adopt it.

2802 Voice. A substitute?

2803 Chairman Goodlatte. Wait a minute. All right. Okay.

2804 All right. Back up. Back up. Mr. --

2805 Ms. Jackson Lee. Mr. Chairman, I would like to raise a  
2806 point of order.

2807 Chairman Goodlatte. Who is going to offer his  
2808 amendment?

2809 Mr. Jackson Lee. Thank you, Mr. Chairman.

2810 Chairman Goodlatte. What purpose does the gentleman  
2811 from Georgia seek recognition?

2812 Mr. Johnson. I have an amendment at the desk.

2813 Chairman Goodlatte. The clerk will report the  
2814 amendment.

2815 Ms. Adcock. Amendment to the amendment in the nature  
2816 of a substitute to H.R. 3765, offered by Mr. Johnson of  
2817 Georgia. Page 3, lines --

2818 [The amendment of Mr. Johnson follows:]

2819 \*\*\*\*\* INSERT 7 \*\*\*\*\*

2820 Chairman Goodlatte. Without objection, the amendment  
2821 is considered as read, and the gentleman is recognized for 5  
2822 minutes on his amendment.

2823 Mr. Johnson. I thank the chairman. I stepped outside  
2824 to take photos with constituents, so I appreciate the  
2825 forbearance, and whoever else participated in it, I  
2826 appreciate it. But as currently drafted, Mr. Chairman, the  
2827 bill will allow for the noncompliant facility to have 120  
2828 days to remove a barrier to access or demonstrate they have  
2829 made substantial progress; however, the term substantial  
2830 progress is ill-defined and utterly unclear.

2831 Does it mean if a hotel has only stairs and no  
2832 handicapped-friendly ramp, that the facility is making  
2833 substantial progress if it replaces one stair after every  
2834 120 days or installs one section of rail at a time? Or does  
2835 it mean that they have to immediately meet ADA compliance?  
2836 To the courts, plaintiffs, and defendants, this language is  
2837 very unclear.

2838 My amendment will remove this ambiguity and reduce the  
2839 opportunity for cyclical delay by striking the substantial  
2840 progress language from the bill. Not only does the  
2841 substantial progress language provide no clarity to the  
2842 courts, but it can lead to endless litigation that offers no  
2843 guarantee to individuals with disabilities that they will  
2844 have their legal rights upheld. It will instead delay an  
2845 individual's right to seek redress for non-ADA compliance,  
2846 and it will allow for an ADA violator to perpetually make  
2847 progress; thus, leading to cyclical delay, and a denial of  
2848 the basic rights the disabled community deserves under the  
2849 ADA. By striking the substantial progress language in the  
2850 bill, owners or operators will not be able to engage in  
2851 discriminatory behavior and repeated delay, and deny access  
2852 to individuals with disabilities.

2853 While the burden of compliance is a factor congress  
2854 must consider, we must all remember that Federal statutes,  
2855 such as the ADA, act as a floor and not a ceiling. There is

2856 already a grace period provided in the bill for owners-  
2857 operators to address barriers to access. There is no need  
2858 for violators of the ADA to be given further concessions and  
2859 second and third chances.

2860 Compliance with bedrock civil rights and anti-  
2861 discrimination laws are the cost of doing business in the  
2862 U.S. Rather than weakening them in the face of industry  
2863 criticism, we should be finding ways to make these laws  
2864 stronger to alleviate the burden on the vulnerable and the  
2865 underserved. It is important that we in congress remember  
2866 this key fact and uphold basic principles, such as equal  
2867 access for all. Thank you, and I yield back.

2868 Mr. Conyers. Would the gentleman yield?

2869 Mr. Johnson. I will.

2870 Mr. Conyers. I wanted to observe that the Johnson  
2871 amendment would strike from the bill's 120-day cure period  
2872 language allowing a business owner to avoid a lawsuit if  
2873 there is substantial progress towards addressing a violation  
2874 of title III. And I think this is a good idea because the  
2875 term substantial progress is vague and undefined, and is an  
2876 invitation to dilatory litigation by defendants in title III  
2877 lawsuits.

2878 But if we are to adopt such a notice and cure  
2879 requirement, then at a minimum, we must avoid the kind of  
2880 litigation traps that vague language like substantial

2881 progress lay. So I think that this makes a tragic bill a  
2882 little bit better.

2883 Mr. Johnson. I agree, Representative Conyers, and with  
2884 that, I yield back.

2885 Chairman Goodlatte. For what purpose does the  
2886 gentleman from Texas seek recognition?

2887 Mr. Poe. Move to strike last word.

2888 Chairman Goodlatte. Gentleman is recognized for 5  
2889 minutes.

2890 Poe. I am opposed to the amendment. What the  
2891 amendment does is compound the problem in the sense that the  
2892 way this law is written after 160 days, 180 days, the  
2893 business thinks they have substantially complied; the  
2894 litigant does not, and they go to court, and a judge decides  
2895 whether they have substantially complied or not. It is not  
2896 a decision by anybody else. So maybe they have, maybe they  
2897 have not. And if they have, that is one issue. If they  
2898 have not, then they are in violation of this statute.

2899 So I think the substantial compliance is a defense. It  
2900 comes up because of all kinds of different issues. But let  
2901 a judge make that decision whether there is good faith on  
2902 the part of the business owner or not. And I will yield  
2903 back, and I oppose the amendment.

2904 Chairman Goodlatte. A question occurs on the amendment  
2905 offered by the gentleman from Georgia.

2906 All those in favor, respond by saying aye.  
2907 Those opposed, no.  
2908 In the opinion of the chair, the noes have it, and the  
2909 amendment is not agreed to.  
2910 Mr. Johnson. I ask for a recorded vote.  
2911 Chairman Goodlatte. A court vote is requested, and the  
2912 clerk will call the roll.  
2913 Ms. Adcock. Mr. Goodlatte?  
2914 Chairman Goodlatte. No.  
2915 Ms. Adcock. Mr. Goodlatte votes no.  
2916 Mr. Sensenbrenner?  
2917 [No response.]  
2918 Mr. Smith?  
2919 [No response.]  
2920 Mr. Chabot?  
2921 Mr. Chabot. No.  
2922 Ms. Adcock. Mr. Chabot votes no.  
2923 Mr. Issa?  
2924 Mr. Issa. No.  
2925 Ms. Adcock. Mr. Issa votes no.  
2926 Mr. Forbes?  
2927 [No response.]  
2928 Mr. King?  
2929 Mr. King. No.  
2930 Ms. Adcock. Mr. King votes no.

2931 Mr. Franks?  
2932 [No response.]  
2933 Mr. Gohmert?  
2934 Mr. Gohmert. No.  
2935 Ms. Adcock. Mr. Gohmert votes no.  
2936 Mr. Jordan?  
2937 [No response.]  
2938 Mr. Poe?  
2939 Mr. Poe. No.  
2940 Ms. Adcock. Mr. Poe votes no.  
2941 Mr. Chaffetz?  
2942 [No response.]  
2943 Mr. Marino?  
2944 [No response.]  
2945 Mr. Gowdy?  
2946 [No response.]  
2947 Mr. Labrador?  
2948 [No response.]  
2949 Mr. Farenthold?  
2950 Mr. Farenthold. No.  
2951 Ms. Adcock. Mr. Farenthold votes no.  
2952 Mr. Collins?  
2953 Mr. Collins. No.  
2954 Ms. Adcock. Mr. Collins votes no.  
2955 Mr. DeSantis?

2956 [No response.]

2957 Ms. Walters?

2958 Ms. Walters. No.

2959 Ms. Adcock. Ms. Walters votes no.

2960 Mr. Buck?

2961 Mr. Buck. No.

2962 Ms. Adcock. Mr. Buck votes no.

2963 Mr. Radcliffe?

2964 Mr. Radcliffe. No.

2965 Ms. Adcock. Mr. Radcliffe votes no.

2966 Mr. Trott?

2967 Mr. Trott. No.

2968 Ms. Adcock. Mr. Trott votes no.

2969 Mr. Bishop?

2970 Mr. Bishop. No.

2971 Ms. Adcock. Mr. Bishop votes no.

2972 Mr. Conyers?

2973 Mr. Conyers. Aye.

2974 Ms. Adcock. Mr. Conyers votes aye.

2975 Mr. Nadler?

2976 [No response.]

2977 Ms. Lofgren?

2978 Ms. Jackson Lee?

2979 Ms. Jackson Lee. Aye.

2980 Ms. Adcock. Ms. Jackson Lee votes aye.



2981 Mr. Cohen?

2982 Mr. Cohen. Aye.

2983 Ms. Adcock. Mr. Cohen votes aye.

2984 Mr. Johnson?

2985 Mr. Johnson. Aye.

2986 Ms. Adcock. Mr. Johnson votes aye.

2987 Mr. Pierluisi?

2988 Mr. Pierluisi. Aye.

2989 Ms. Adcock. Mr. Pierluisi votes aye.

2990 Ms. Chu?

2991 [No response.]

2992 Mr. Deutch?

2993 [No response.]

2994 Mr. Gutierrez?

2995 [No response.]

2996 Ms. Bass?

2997 [No response.]

2998 Mr. Richmond?

2999 [No response.]

3000 Ms. DelBene?

3001 Ms. DelBene. Aye,

3002 Ms. Adcock. Ms. DelBene votes aye.

3003 Mr. Jeffries?

3004 [No response.]

3005 Mr. Cicilline?

3006 [No response.]

3007 Mr. Peters?

3008 Mr. Peters. No.

3009 Ms. Adcock. Mr. Peters votes no.

3010 Chairman Goodlatte. The gentleman from Arizona?

3011 Mr. Franks. No.

3012 Ms. Adcock. Mr. Franks votes no.

3013 Chairman Goodlatte. Has ever member voted who wishes  
3014 to vote? The clerk will report.

3015 Ms. Adcock. Mr. Chairman, 6 members voted aye; 15  
3016 members voted no.

3017 Chairman Goodlatte. And the amendment is not agreed  
3018 to. Are there further amendments to the amendment in the  
3019 nature of a substitute?

3020 Mr. Johnson. I would call up Amendment Number 5, the  
3021 Johnson Amendment Number 5.

3022 Chairman Goodlatte. The clerk will report Johnson  
3023 Amendment Number 5.

3024 Ms. Adcock. Amendment to the amendment in the nature  
3025 of a substitute to H.R. 3765, offered by Mr. Johnson of  
3026 Georgia, page 4, line --

3027 [The amendment of Mr. Johnson follows:]

3028 \*\*\*\*\* INSERT 8 \*\*\*\*\*

3029 Chairman Goodlatte. Without objection, the amendment  
3030 is considered as read, and the gentleman is recognized for 5  
3031 minutes on his amendment.

3032 Mr. Johnson. Thank you, Mr. Chairman. As currently  
3033 drafted, this bill represents a dangerous step towards  
3034 eroding the basic Federal protections that ensure Americans  
3035 with disabilities are not treated as second-class citizens.  
3036 It does this by placing the burden of ADA compliance on the  
3037 backs of disabled individuals who in turn will suffer

3038 indignities that can only be felt when they are denied  
3039 access to basic facilities and services.

3040 H.R. 3765 requires individuals to not only discover if  
3041 a business is not ADA-compliant, but then provide detailed,  
3042 written notice to the business owner of what the barrier to  
3043 access was, and whether or not it was permanent. There is  
3044 absolutely no need for such legislation to be in this bill  
3045 as it undermines the very spirit of the Americans with  
3046 Disabilities Act, which was created with the idea that  
3047 disabled individuals are an important part of the very  
3048 fabric of American society. They have as much right to  
3049 enter into an establishment as any other individual, and  
3050 businesses have to ensure they have access.

3051 Furthermore, contrary to proponents of the bill, there  
3052 is no other place in the ADA that provides for such  
3053 stringent notice requirements. The only notice section is  
3054 in title II, where plaintiffs must notify State authorities  
3055 of their intent to sue in Federal court. This is by means  
3056 the same as the notice requirements in H.R. 3765.

3057 My amendment fixes this problem by striking the  
3058 language requiring a plaintiff to provide written notice  
3059 that a request for assistance in removing an architectural  
3060 barrier was made, and whether the barrier was permanent or  
3061 temporary. The burden of compliance under the ADA must fall  
3062 on the business owner or service provider, not the disabled

3063 individual.

3064 By removing this language, we can help ensure that  
3065 businesses will in fact comply with ADA requirements. As  
3066 currently drafted, one can essentially operate as a  
3067 noncompliant facility until that proverbial unlucky day when  
3068 someone in a wheelchair needs a ramp and a fixed rail and  
3069 not stairs. By the time notice and cure is allowed, months  
3070 would have passed. Not only was the disabled individual  
3071 denied access and thus already facing harm, but they were  
3072 also forced to expend their time and resources to alert an  
3073 owner of their own unlawful conduct.

3074 Essentially, we are removing any incentive for an owner  
3075 or operator to proactively make their business or facility  
3076 accessible to all. This is unacceptable. The goal of the  
3077 ADA was to help integrate the disabled community and  
3078 alleviate some of the difficulties they may face.  
3079 Permitting the unlawful denial of access, denying  
3080 enforcement, and delaying compliance conveys the message  
3081 that a specific group of people is simply not welcome. We  
3082 cannot place this burden on the shoulders of people with  
3083 disabilities. We should instead expect more kindness,  
3084 understanding, and tolerance from those around us and with  
3085 whom we do business. Thank you, Mr. Chairman, and I yield  
3086 back.

3087 Chairman Goodlatte. For what purpose does the

3088 gentleman from Texas seek recognition?

3089 Mr. Poe. Move to strike the last word.

3090 Chairman Goodlatte. Gentleman is recognized for 5  
3091 minutes.

3092 Mr. Poe. I oppose the amendment, and the reason for  
3093 the whole bill would be eliminated by the amendment. If a  
3094 person is going to a business and they cannot have access,  
3095 if somebody does not know that, the business cannot fix it.  
3096 So what this legislation does is put a requirement that the  
3097 business is notified to get the problem fixed. That is the  
3098 whole goal of this legislation. Removing the notice  
3099 requirement would destroy the entire intent of the bill.

3100 So if the goal of the ADA was -- and I still believe it  
3101 was, in 1990 -- to make accommodations easy for the  
3102 disabled, to comply like it would be for someone not  
3103 disabled, you have got to put the business on notice that  
3104 there is a problem, because they may never know there is a  
3105 problem unless someone tells them, even those that are  
3106 denied the access. Someone has got to tell them, and as  
3107 soon as they are told about that they have an obligation  
3108 under the law and this legislation to fix the problem and  
3109 there are consequences if they do not. So I would oppose  
3110 the gentleman from Georgia's amendment, and I will yield  
3111 back.

3112 Chairman Goodlatte. For what purpose does the

3113 gentleman from Tennessee seek recognition?

3114 Mr. Cohen. Strike the last word.

3115 Mr. Goodlatte. Gentleman is recognized for 5 minutes.

3116 Mr. Poe. With all due respect, and I have got a lot of  
3117 respect for Judge Poe -- he and I are friends -- if the  
3118 purpose of your bill is to get compliance, and if you have  
3119 to write a letter and then the person is supposed to comply,  
3120 and they do not comply, then why are you against some type  
3121 of change to punish the guy that does not comply? That is  
3122 effectively helping the disabled. You want to make the  
3123 disabled get their relief.

3124 Maybe the suggestion I had was not the best stick, but  
3125 it was a way, and we had this discussion in committee, and I  
3126 have had this discussion with folks who are promoting the  
3127 bill. We have had plenty of time to do it, and all we have  
3128 been is stonewalled.

3129 Now maybe something will happen on the floor. I have  
3130 talked to Mr. Collins. I have talked to Mr. Peters. We can  
3131 come up with something. I am trying to come halfway. That  
3132 is generally how you pass legislation, is you come together  
3133 and fight -- but when the proposal is to punish the bad guys  
3134 who you give notice to and they still do not act, they are  
3135 basically thumbing their nose at you. And you do not do  
3136 anything about it? That is the only people you are  
3137 protecting. The good guys are going to comply.

3138           And so I have to wonder -- I understand you say this  
3139 guts the bill. It does gut the bill. But if you are not  
3140 going to take something that punishes the bad guys, I just  
3141 wonder if you are not just trying to protect the property  
3142 owners and not worried about the disabled.

3143           Chairman Goodlatte. Will the gentleman yield?

3144           Mr. Cohen. I yield to Mr. Johnson first.

3145           Mr. Johnson. Yeah. This bill, as written, removes the  
3146 onus that was put on property owners and business owners to  
3147 comply with the ADA themselves. It removes the onus that  
3148 was put on them and shifts the burden to the already-denied  
3149 second-class citizen disabled person. You know, that is not  
3150 what we should be about with this legislation.

3151           If there is a need to fix a problem with overaggressive  
3152 lawyers, then let's fix that. But let's not shift the  
3153 burden of compliance to the ADA to the disabled themselves.  
3154 They are the ones who are least likely to be able to enforce  
3155 their rights, particularly, you know, if we are trying to  
3156 gut lawyers from being able to handle cases. I mean, that  
3157 is all we can talk about here is lawyers.

3158           Mr. Cohen. If I can reclaim my time? I do not see it  
3159 as shifting a burden, and putting a burden on the disabled.  
3160 But my question for Mr. Poe again is, why would you resist  
3161 some proposal that punishes in some way the bad actor who  
3162 gets the notice who you have changed the law for so they do



3163 not have to deal with the drive-by lawyers -- not the drive-  
3164 by truckers -- and have them have an incentive to do right,  
3165 and they have this incentive to avoid punishment, and they  
3166 still do not do it. Then you want to put the gavel down to  
3167 them. Send them away with a toothbrush. Send them to jail.  
3168 But you do not want to do that, and I do not understand  
3169 that, Mr. Poe.

3170 Mr. Poe. Do you yield?

3171 Mr. Cohen. Yes, sir.

3172 Mr. Poe. Let me answer your question this way. When  
3173 the ADA was written in 1990, the purpose of the ADA was to  
3174 make businesses compliant. It did not involve punitive  
3175 damages. It involved attorney's fees where lawsuits  
3176 occurred. The purpose of the ADA was to make businesses  
3177 comply. The issue of damages was not part of the original  
3178 ADA. Now, I think what you are wanting to do is make it a  
3179 part of the new -- this legislation as well. That is where  
3180 you and I disagree on what we should be doing.

3181 I think there should be a discussion about it, but this  
3182 amendment just pushes the purpose of the ADA, which was to  
3183 get compliance, not to get punitive damages. Now, maybe the  
3184 issues should be discussed. I agree that it should be  
3185 discussed. Mr. Peters and I have already talked about that,  
3186 but I do not support the amendment, and that is, if you look  
3187 at the purpose of the ADA, which you know more about it than

3188 most folks, that was the purpose of the ADA. So I yield  
3189 back to the gentleman.

3190 Mr. Cohen. Thank you, sir. That was the purpose, but  
3191 it was also understood that there were not going to be  
3192 damages, but there would be attorney's fees, and private  
3193 attorneys would serve as basically private attorney  
3194 generals, because you would not be having action by the  
3195 government. And you would give private attorneys an  
3196 incentive, a fee, lawyer's fees, to pursue these actions on  
3197 behalf of the disabled. And that is what has worked.

3198 This system takes them out, and it says you have got to  
3199 go and file a paper. Now, you may or may not have a lawyer  
3200 do it, but sometimes it is helpful to have a lawyer look at  
3201 the law and say this is a provision and a barrier and  
3202 something you should do, and you have to file this and know  
3203 about the law.

3204 Well, if the lawyers do not specialize in this because  
3205 they are not going to get fees, you are not going to have  
3206 people for the disabled to go to and know somebody is with  
3207 their shingle out that knows what the law is and is going to  
3208 help you with it. So you are not going to have as many  
3209 people take action to try to get relief because you are  
3210 driving people out of the market. But when you have folks  
3211 who do not comply, why not add something in there to punish  
3212 them? I yield back.

3213 Chairman Goodlatte. The time of the gentleman has  
3214 expired.

3215 Mr. King. Mr. Chairman?

3216 Chairman Goodlatte. What purpose does the gentleman  
3217 from Iowa seek recognition?

3218 Mr. King. Move to strike the last word.

3219 Chairman Goodlatte. The gentleman is recognized for 5  
3220 minutes. I wonder if the gentleman would yield to me  
3221 briefly.

3222 Mr. King. Happy to yield.

3223 Chairman Goodlatte. I thank the gentleman for  
3224 yielding. I just want to say to the gentleman from  
3225 Tennessee, this in no way takes the lawyers out of the  
3226 situation, because a lawyer today, if they wanted to  
3227 continue the practice they are engaging in now, they can  
3228 write all the letters that they have been sending out now,  
3229 and if someone does not comply in 180 days, they have got  
3230 themselves a lawsuit.

3231 So, what this does is takes the "got you" lawyering out  
3232 of it, where you do it before there is ever even an  
3233 opportunity to fix a problem that you may not even be aware  
3234 of is in violation of the ADA. So I thank the gentleman for  
3235 yielding.

3236 Mr. King. I thank the chairman in reclaiming my time.  
3237 I rise, too, and sort of the part of the underlying bill,

3238 and I want to thank Judge Poe from Texas for bringing this.  
3239 We needed this improvement in the ADA, and it would not be  
3240 appropriate for me to see this bill pass out of committee  
3241 without saying a few kind words about my former junior  
3242 senator from Iowa, whose brainchild this was. And that is  
3243 former Senator Tom Harkin. And he put a lot of work into  
3244 this to put in place.

3245 I had my skepticism about what the overall underlying  
3246 ADA would be like in our society. It spent a lot of money  
3247 in some places I thought it was not so wise, but it helped a  
3248 lot of people in ways that I did not anticipate. And I am  
3249 very glad that it is in place, and I am glad that we are  
3250 putting the prudent fix on it here today.

3251 But with my colleagues, especially on the other side of  
3252 the aisle, I wanted to make a point about unintended  
3253 consequences. And that is that 1992, for the Iowa Caucuses  
3254 -- the first in the nation caucuses -- like I say, it would  
3255 be 1992.

3256 In a town where I held my construction office, they  
3257 looked around that town to find a place that was ADA  
3258 compliant that could host the Iowa Caucuses, and they  
3259 discovered that the only place -- at least the only place  
3260 they discovered in town that was compliant with ADA -- more  
3261 by happenstance than by design that early -- was King  
3262 Construction in Odebolt, Iowa.

3263           And so I hosted the Iowa Caucuses that year, and  
3264 because it was my place, I was the temporary chair. Because  
3265 I was the temporary chair, and maybe it was reluctance on  
3266 anybody else's part, I became the permanent chair. And  
3267 becoming the permanent chair I ended up being a delegate to  
3268 the convention, and after a while I ended up in the Iowa  
3269 senate, and now I am here in the United States Congress.

3270           So I just wanted to let my colleagues know that beware  
3271 of what it is that you ask for. You may end up with some  
3272 more opposition on this side of the aisle. But I do  
3273 compliment everyone who has worked so diligently on this  
3274 bill, and good things that have come from the work of my  
3275 former Junior Senator Harkin. Thank you and I yield back.  
3276 Well, I yield to the gentleman from California.

3277           Mr. Issa. Thank you, I thank you for yielding. I will  
3278 be brief. To the author, I just want to engage in a  
3279 dialogue with Mr. Poe briefly. You know, I have lived with  
3280 the American Disability Act for 26 years. I manufactured  
3281 and I built products and I built buildings, and I just have  
3282 one question.

3283           If I understand correctly, Ted, if somebody built a  
3284 building in the last 26 years compliant with this law, and  
3285 has never received a notice that their building permit was  
3286 defective because their city or county failed to tell them  
3287 about something, under the current law they can be sued and

3288 pay those fees. Under your bill, they would have to be  
3289 given notice that, in fact, their city or their county  
3290 failed to guide them in compliance with the law. Is that  
3291 not true?

3292 Mr. Poe. I do not understand your question.

3293 Mr. Issa. Well currently, if you build a building in  
3294 the last quarter of a century, and it complied with your  
3295 building permit, but for some reason there is a defect -- an  
3296 angle on a ramp is incorrect -- even though it is on your  
3297 permit, and the county and the city approved it, you can  
3298 still be sued under the Americans with Disability Act even  
3299 though you built in compliance with both an architect and a  
3300 government agency. Is that not true? Without notice.

3301 Mr. Poe. I cannot answer your question. I yield to  
3302 the chairman.

3303 Mr. Issa. Well, you know, my understanding, Mr.  
3304 Chairman, is that under the current law, even though you  
3305 complied with all Federal, State, and local laws as far as  
3306 you knew -- you used an outside architect and your city  
3307 approved your permit -- you still find yourself being sued,  
3308 even though you have done nothing wrong, and a government  
3309 agency has said you built in compliance with the law. And  
3310 that is 25 years of construction around the country, and  
3311 that is one of my first questions is, without this act, do  
3312 we not have people who have built in compliance with

3313 agencies finding themselves being sued, in spite of the fact  
3314 that they did what they were told by their building permit  
3315 that they were issued from a city?

3316 Chairman Goodlatte. It sounds reasonable to me, and  
3317 that is why I support the judge's bill.

3318 Mr. Issa. It is why I support the judge's bill, and I  
3319 think a quarter-century of complying with counties and  
3320 cities in your permits is probably the best reason that at  
3321 this point your construction, much of it done under the law  
3322 by government agencies that are supposed to do it -- they  
3323 did not know, and that is why they are giving you notice.  
3324 So I support the bill, and I oppose the amendment.

3325 Mr. King. I am reclaiming my time and yielding back.

3326 Chairman Goodlatte. The chair thanks the gentleman.

3327 Mr. Conyers. Mr. Chairman?

3328 Chairman Goodlatte. For what purpose does the  
3329 gentleman from Michigan seek recognition?

3330 Mr. Conyers. I rise in support of this amendment.

3331 Chairman Goodlatte. The gentleman is recognized for 5  
3332 minutes.

3333 Mr. Conyers. Thank you. The language that this  
3334 amendment would strike is not only unnecessary to serving  
3335 the purported purpose of the bill -- which is to give  
3336 business owners the opportunity to cure a violation -- but  
3337 it is also very telling.

3338           This measure, H.R. 3765, directly contradicts the law's  
3339 purpose, because it will require the disabled to alert  
3340 owners to their own failures to comply with the law, and  
3341 allows owners to sit on a violation until they are alerted  
3342 to it. And so for that reason, this amendment, the Johnson  
3343 Amendment, will not address -- this amendment will not  
3344 address the deeply flawed premises of the bill, but it would  
3345 make a bad bill slightly better. And so I urge the  
3346 committee to adopt it. And I yield back the balance of my  
3347 time.

3348           Chairman Goodlatte. A question occurs on the amendment  
3349 offered by the gentleman from Georgia.

3350           All those in favor, respond by saying aye.

3351           Those opposed, no.

3352           In the opinion of the chair, the noes have it, and the  
3353 amendment is not agreed to.

3354           Are there any further amendments to the amendment --

3355           Mr. Johnson. I would ask for a roll call vote, Mr.  
3356 Chair.

3357           Chairman Goodlatte. A recorded vote is requested, and  
3358 the clerk will call the roll.

3359           Ms. Adcock. Mr. Goodlatte?

3360           Chairman Goodlatte. No.

3361           Ms. Adcock. Mr. Goodlatte votes no.

3362           Mr. Sensenbrenner?



3363 [No response.]

3364 Mr. Smith?

3365 [No response.]

3366 Mr. Chabot?

3367 Mr. Chabot. No.

3368 Ms. Adcock. Mr. Chabot votes no.

3369 Mr. Issa?

3370 Mr. Issa. No.

3371 Ms. Adcock. Mr. Issa votes no.

3372 Mr. Forbes?

3373 [No response.]

3374 Mr. King?

3375 Mr. King. No.

3376 Ms. Adcock. Mr. King votes no.

3377 Mr. Franks?

3378 Mr. Franks. No.

3379 Ms. Adcock. Mr. Franks votes no.

3380 Mr. Gohmert?

3381 Mr. Gohmert. No.

3382 Ms. Adcock. Mr. Gohmert votes no.

3383 Mr. Jordan?

3384 [No response.]

3385 Mr. Poe?

3386 Mr. Poe. No.

3387 Ms. Adcock. Mr. Poe votes no.

3388 Mr. Chaffetz?  
3389 [No response.]  
3390 Mr. Marino?  
3391 [No response.]  
3392 Mr. Gowdy?  
3393 [No response.]  
3394 Mr. Labrador?  
3395 [No response.]  
3396 Mr. Farenthold?  
3397 Mr. Farenthold. No.  
3398 Ms. Adcock. Mr. Farenthold votes no.  
3399 Mr. Collins?  
3400 Mr. Collins. No.  
3401 Ms. Adcock. Mr. Collins votes no.  
3402 Mr. DeSantis?  
3403 [No response.]  
3404 Ms. Walters?  
3405 Ms. Walters. No.  
3406 Ms. Adcock. Ms. Walters votes no.  
3407 Mr. Buck?  
3408 Mr. Buck. No.  
3409 Ms. Adcock. Mr. Buck votes no.  
3410 Mr. Ratcliffe?  
3411 Mr. Ratcliffe. No.  
3412 Ms. Adcock. Mr. Ratcliffe votes no.

3413 Mr. Trott?

3414 Mr. Trott. No.

3415 Ms. Adcock. Mr. Trott votes no.

3416 Mr. Bishop?

3417 Mr. Bishop. No.

3418 Ms. Adcock. Mr. Bishop votes no.

3419 Mr. Conyers?

3420 Mr. Conyers. Aye.

3421 Ms. Adcock. Mr. Conyers votes aye.

3422 Mr. Nadler?

3423 [No response.]

3424 Ms. Lofgren?

3425 [No response.]

3426 Ms. Jackson Lee?

3427 Ms. Jackson Lee. Aye.

3428 Ms. Adcock. Ms. Jackson Lee votes aye.

3429 Mr. Cohen?

3430 Mr. Cohen. Aye.

3431 Ms. Adcock. Mr. Cohen votes aye.

3432 Mr. Johnson?

3433 Mr. Johnson. Aye.

3434 Ms. Adcock. Mr. Johnson votes aye.

3435 Mr. Pierluisi?

3436 Mr. Pierluisi. Aye.

3437 Ms. Adcock. Mr. Pierluisi votes aye.

3438 Ms. Chu?

3439 [No response.]

3440 Mr. Deutch?

3441 [No response.]

3442 Mr. Gutierrez?

3443 [No response.]

3444 Ms. Bass?

3445 [No response.]

3446 Mr. Richmond?

3447 [No response.]

3448 Ms. DelBene?

3449 Ms. DelBene. Aye.

3450 Ms. Adcock. Ms. DelBene votes aye.

3451 Mr. Jeffries?

3452 [No response.]

3453 Mr. Cicilline?

3454 [No response.]

3455 Mr. Peters?

3456 Mr. Peters. No.

3457 Ms. Adcock. Mr. Peters votes no.

3458 Chairman Goodlatte. Has every member voted who wishes

3459 to vote? The clerk will report.

3460 Ms. Adcock. Mr. Chairman, 6 members voted aye; 15

3461 members voted no.

3462 Chairman Goodlatte. And the amendment is not agreed

3463 to. The question is --

3464 Mr. Cohen. Mr. Chairman.

3465 Chairman Goodlatte. For what purpose does the  
3466 gentleman from Tennessee seek recognition?

3467 Mr. Cohen. Strike the last word.

3468 Chairman Goodlatte. The gentleman is recognized for 5  
3469 minutes.

3470 Mr. Cohen. Thank you. I have tried to make this  
3471 system work better today. I have offered a constructive  
3472 amendment, and I appreciate Mr. Peters, but there has been  
3473 no effort to work anything like that that would only punish  
3474 bad apples to become part of this law.

3475 Mr. Conyers made a good point. With Mr. Johnson's  
3476 amendment, the way this bill is, the ADA does not start  
3477 until you get a notice. If you do not want to comply, if  
3478 you do not want to spend the money, if you do not care, and  
3479 if you do not have a community like Mr. Collins lives in,  
3480 where people can kind of shame people into doing right  
3481 because you are not going to go there or bring economic  
3482 consequences because you are not going to go there, people  
3483 can just say in Los Angeles or New York or big towns where  
3484 nobody knows you really -- we are not going to do it until  
3485 we get a notice. And then when you get a notice, then the  
3486 ADA starts.

3487 Chairman Goodlatte. Would the gentleman yield?

3488 Mr. Cohen. No sir, I will not, because I have yielded  
3489 on voting on Ms. Lee's amendment because I thought we should  
3490 not have a roll call. And I did not call for a roll call on  
3491 my bill because I think roll calls a lot of times are a  
3492 waste of time, and it is a got you way to put somebody on  
3493 record. And my good friend Mr. Poe had his bill passed and  
3494 wanted a roll call.

3495 Why do you want a roll call when your bill passed?  
3496 When you win, you win. But no. We want to go and have a  
3497 vote and take up time to put people on the record because it  
3498 is got you stuff. It should not be got you stuff. It should  
3499 be work together and let's find a mechanism that works.

3500 But this puts the ADA in suspension until somebody  
3501 comes and gives them notice, and then it sits in suspension  
3502 and it does not start until you give them notice. Without  
3503 some type of stick, the bad guy gets away even further. And  
3504 that is why I tried to vote for it, but I cannot because  
3505 there was no effort to come along and try to find reasonable  
3506 compromise. And instead, it is got you, got you, got you.  
3507 I will yield.

3508 Chairman Goodlatte. Well, I thank the gentleman for  
3509 yielding. I simply wanted to point out to him that under  
3510 the law -- the Americans with Disabilities Act -- the  
3511 Attorney General has the power to act at any time, including  
3512 initial infractions immediately, and can seek up to \$50,000

3513 in penalties for an individual who is acting in good faith,  
3514 and refused to do so.

3515 Mr. Cohen. But the Attorney General is not going to  
3516 deal with a small area with a swimming pool or a toilet  
3517 paper roll. And that may be on some major thing, but on  
3518 minor things, no. They are going to have to deal with  
3519 Benghazi and emails.

3520 Chairman Goodlatte. Does the gentleman yield back?

3521 Mr. Issa. Would the gentleman further yield? Would  
3522 the gentleman further yield? I hear your frustration, and  
3523 you have been a good friend, and we have worked on projects  
3524 together. I am happy to work between now and the time this  
3525 goes to the floor. If we can find some common ground, and  
3526 Mr. Peters, I am sure, would be the same.

3527 I think that the provisions of notice frustrates you,  
3528 but I think the -- I personally believe they are necessary.  
3529 On the other hand, in an absence of teeth for those who  
3530 flagrantly ignore it, I am happy to work with you and others  
3531 to see if we cannot find some common ground. I think that  
3532 when the chairman mentioned, you know, the Attorney  
3533 General's ability to seek \$50,000 in damages. We can keep  
3534 teeth in the act, I believe, while providing constructive  
3535 notice.

3536 And I mentioned earlier, you know, when things have  
3537 been around for 25 years and you built them according to

3538 code, and you do not know what you do not know, I think you  
3539 would agree that there should be some leeway. So let's see  
3540 if we can find some common ground, and I pledge to work with  
3541 you between now and the time we go to the floor.

3542 Mr. Cohen. Thank you, Mr. Issa.

3543 Chairman Goodlatte. The question is on the amendment  
3544 to the amendment and the nature of a substitute.

3545 Those in favor, respond by saying aye.

3546 Those opposed, no.

3547 In the opinion of the chair, the ayes have it, and the  
3548 amendment is agreed to. The amendment and the nature of a  
3549 substitute is agreed to. A reporting quorum being present,  
3550 the question is on the motion to report the bill H.R. 3765  
3551 as amended favorably to the House.

3552 Those in favor will respond by saying aye.

3553 Those opposed, no.

3554 The ayes have it, and the bill as amended is ordered  
3555 reported favorably.

3556 Mr. Conyers. A recorded vote is requested.

3557 Chairman Goodlatte. A recorded vote has been  
3558 requested, and the clerk will call the roll.

3559 Ms. Adcock. Mr. Goodlatte?

3560 Chairman Goodlatte. Aye.

3561 Ms. Adcock. Mr. Goodlatte votes aye.

3562 Mr. Sensenbrenner?



3563 [No response.]

3564 Mr. Smith?

3565 [No response.]

3566 Mr. Chabot?

3567 Mr. Chabot. Aye.

3568 Ms. Adcock. Mr. Chabot votes aye.

3569 Mr. Issa?

3570 Mr. Issa. Aye.

3571 Ms. Adcock. Mr. Issa votes aye.

3572 Mr. Forbes?

3573 [No response.]

3574 Mr. King?

3575 Mr. King. Aye.

3576 Ms. Adcock. Mr. King votes aye.

3577 Mr. Franks?

3578 Mr. Franks. Aye.

3579 Ms. Adcock. Mr. Franks votes aye.

3580 Mr. Gohmert?

3581 Mr. Gohmert. Aye.

3582 Ms. Adcock. Mr. Gohmert votes aye.

3583 Mr. Jordan?

3584 [No response.]

3585 Mr. Poe?

3586 Mr. Poe. Yes.

3587 Ms. Adcock. Mr. Poe votes yes.

3588 Mr. Chaffetz?  
3589 [No response.]  
3590 Mr. Marino?  
3591 [No response.]  
3592 Mr. Gowdy?  
3593 [No response.]  
3594 Mr. Labrador?  
3595 [No response.]  
3596 Mr. Farenthold?  
3597 Mr. Farenthold. Aye.  
3598 Ms. Adcock. Mr. Farenthold votes aye  
3599 Mr. Collins?  
3600 Mr. Collins. Aye.  
3601 Ms. Adcock. Mr. Collins votes aye.  
3602 Mr. DeSantis?  
3603 [No response.]  
3604 Ms. Walters?  
3605 Ms. Walters. Aye.  
3606 Ms. Adcock. Ms. Walters votes aye.  
3607 Mr. Buck?  
3608 Mr. Buck. Aye.  
3609 Ms. Adcock. Mr. Buck votes aye.  
3610 Mr. Ratcliffe?  
3611 Mr. Ratcliffe. Yes.  
3612 Ms. Adcock. Mr. Ratcliffe votes yes.

3613 Mr. Trott?

3614 Mr. Trott. Yes.

3615 Ms. Adcock. Mr. Trott votes yes.

3616 Mr. Bishop?

3617 Mr. Bishop. Yes.

3618 Ms. Adcock. Mr. Bishop votes yes.

3619 Mr. Conyers?

3620 Mr. Conyers. No.

3621 Ms. Adcock. Mr. Conyers votes no.

3622 Mr. Nadler?

3623 [No response.]

3624 Ms. Lofgren?

3625 [No response.]

3626 Ms. Jackson Lee?

3627 Ms. Jackson Lee. No.

3628 Ms. Adcock. Ms. Jackson Lee votes no.

3629 Mr. Cohen?

3630 Mr. Cohen. No.

3631 Ms. Adcock. Mr. Cohen votes no.

3632 Mr. Johnson?

3633 Mr. Johnson. No.

3634 Ms. Adcock. Mr. Johnson votes no.

3635 Mr. Pierluisi?

3636 Mr. Pierluisi. No.

3637 Ms. Adcock. Mr. Pierluisi votes no.

3638 Ms. Chu?  
3639 [No response.]  
3640 Mr. Deutch?  
3641 [No response.]  
3642 Mr. Gutierrez?  
3643 [No response.]  
3644 Ms. Bass?  
3645 [No response.]  
3646 Mr. Richmond?  
3647 [No response.]  
3648 Ms. DelBene?  
3649 Ms. DelBene. No.  
3650 Ms. Adcock. Ms. DelBene votes no.  
3651 Mr. Jeffries?  
3652 [No response.]  
3653 Mr. Cicilline?  
3654 [No response.]  
3655 Mr. Peters?  
3656 Mr. Peters. Aye.  
3657 Ms. Adcock. Mr. Peters votes aye.  
3658 Chairman Goodlatte. Has every member voted who wishes  
3659 to vote?  
3660 The clerk will report.  
3661 Mr. Conyers. Fourteen yes and five --  
3662 Ms. Adcock. Mr. Chairman, 15 members voted aye, 6

3663 members voted no.

3664 Chairman Goodlatte. And the ayes have it, and the bill  
3665 as amended is ordered reported favorably to the House.  
3666 Members will have 2 days to submit views. And without  
3667 objection, the bill will be reported as a single amendment  
3668 in the nature of a substitute incorporating all amendments,  
3669 and staff is authorized to make technical and conforming  
3670 changes.

3671 This concludes our business for today. Thanks to all  
3672 members for participating. And the mark up is adjourned.

3673 [Whereupon, at 1:50 p.m., the committee adjourned  
3674 subject to the call of the chair.]