

HCS HBs 1694, 1674, 1780, 2056, 2312 & 1755 -- ABUSIVE WEBSITE ACCESS LITIGATION

SPONSOR: Christensen

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on General Laws by a vote of 14 to 0. Voted "Do Pass" by the Standing Committee on Rules-Legislative by a vote of 10 to 0.

The following is a summary of the House Committee Substitute for HBs 1694, 1674, 1780, 2056, 2312 & 1755.

This bill creates the "Act Against Abusive Website Access Litigation".

If an allegation is made that a website is in violation of the Americans with Disabilities Act ("ADA"), the Attorney General or an adversely affected resident of this State can file a civil action against the party, attorney, or law firm claiming that an ADA violation has occurred. The civil action will ask for a determination as to whether the alleged website access violation is abusive litigation. If the court determines that the litigation is abusive, the court can award reasonable attorney's fees and costs, and punitive damages not to exceed three times the amount of attorney's fees awarded by the court.

In determining whether any litigation that alleges any website access violation is abusive, the court shall consider the totality of the circumstances to determine if the primary purpose of the litigation that alleges a website access violation is obtaining a payment from a defendant. To make such a determination, the court can assess the following factors:

- (1) Whether the same plaintiff, attorney, or law firm has filed a high number of substantially similar actions without meaningful efforts to resolve or improve accessibility;
- (2) Whether the plaintiff provided the defendant with reasonable notice and an opportunity to correct the alleged barrier prior to filing suit;
- (3) Any history of sanctions or findings of bad faith against the plaintiff or counsel;

(4) Whether the filing party or lawyer filing the litigation is a resident of this State or is licensed to practice law in this State;

(5) The nature of settlement discussions and the reasonableness of settlement offers and refusals to settle; and

(6) Whether the plaintiff or the lawyer filing on behalf of the plaintiff violated Missouri Supreme Court rules pertaining to the signing all pleadings and motions.

If the defendant who is alleged to have violated the ADA's rules on website access in good faith attempts to correct the alleged violations within 90 days after receiving written notice, the defendant will have a rebuttable presumption that any subsequent claim for a website accessibility violation is abusive. Nothing shall prohibit a defendant from filing a motion to dismiss or from notifying the plaintiff prior to the expiration of the 90-day period that the alleged accessibility violation has been corrected in good faith.

The rebuttable presumption can be overcome by showing that the defendant failed to complete reasonable corrective measures within 90 days or acted in bad faith.

The court must not make a determination as to whether or not the alleged ADA website access violation is abusive until after the 90 day period expires, or the alleged violation is corrected, whichever occurs first.

The Attorney General can intervene or bring an action on behalf of affected residents or entities that have been targeted by abusive website access litigation and issue guidance to clarify when such litigation practices are to be deemed abusive.

This bill is similar to HB 1674; HB 1755; HB 1780; HB 1842; and HB 2056 (2026).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROponents: Supporters say that this bill will provide clear guidelines for the courts to follow when faced with these types of predatory lawsuits. Supporters further state that the main target of this bill is a small number of law firms that file

frivolous lawsuits in an attempt to force small businesses into quick settlements. Because the small businesses do not have the funds to defend against the allegations, they have no choice but to settle the claims, which often leads to the small business having to close down. Supporters state that this bill will encourage compliance with existing law, while at the same time disincentivizing the frivolous suits.

Testifying in person for the bill were Representative Christensen; Brad Jones, National Federation of Independent Business; Associated Industries of Missouri; Arnie C. Dienoff; Kevin Halderman; Armorvine; Greater KC Chamber of Commerce; MO Civil Justice Reform Coalition, Inc.; MO Association of Sheltered Workshop Managers; Sandy Waggett, MSW Interactive Designs; and Scott Fetterman, Fetterman's Deli LLC.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.