

HCS HBs 1842 & 2150 -- ABUSIVE WEBSITE ACCESS LITIGATION

SPONSOR: Gallick

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Commerce by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HBs 1842 & 2150.

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

If a lawsuit is filed claiming that a website is in violation of the Americans with Disabilities Act ("ADA"), the Attorney General or an adversely affected resident of this state may file a separate civil action against the party, attorney, or law firm claiming that an ADA violation has occurred. The civil action must 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 may award reasonable attorney's fees and costs and punitive damages not to exceed three times the amount of attorney's fees awarded.

To determine whether the ADA website access litigation is abusive, the court will consider the totality of the circumstances to determine if the primary purpose of the litigation is to obtain payment from the defendant due to the costs of defending the action in court. To make such a determination, the trier of fact may assess the following factors:

- (1) The number of substantially similar actions filed by the same plaintiff, lawyer, or law firm, and any history of frivolous lawsuits brought by the plaintiff, lawyer, or law firm within the previous 10 years;
- (2) The number of full-time employees that the defendant employs and the resources available to defend against the litigation;
- (3) The resources available to the defendant to correct the alleged website access violation;
- (4) Whether the jurisdiction or venue in which the lawsuit is brought is a substantial obstacle in the defendant's efforts to defend against the litigation;

(5) Whether the plaintiff or the lawyer filing on behalf of the plaintiff is a resident of Missouri or is licensed to practice law in this state;

(6) The nature of settlement discussions, the reasonableness of settlement offers, and refusals to settle at all; and

(7) 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 30 days after receiving written notice or being served with a petition and the notice or petition provides sufficient detail to identify and correct the alleged violation, there will be a rebuttable presumption that a continuation of the litigation by the plaintiff is abusive.

If the alleged ADA website access violation is not corrected by the defendant within 90 days after receiving written notice or being served with a petition, there must not be a rebuttable presumption that the litigation is abusive.

The court will 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.

If the Attorney General determines that the litigation alleging an ADA website access violation is not abusive, and such a determination is attached to the plaintiff's petition, there will be a rebuttable presumption that litigation is not abusive.

This bill is similar to HB 1674; HB 1694; HB 1755; HB 1780; 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 Gallick; NFIB (National Federation Of Independent Business); Arnie C. Dienoff; Columbia Chamber of Commerce; Phillip Andreas; Mo Civil Justice Reform Coalition, Inc; Mo Association of Sheltered Workshop Managers; Katherine Lane; Elizabeth Snyder, Call Me Liz, LLC; Tamara Taleosiah, Callaway Chamber of Commerce; Hampton Williams, Mo Insurance Coalition; and Matthew Smith, Associated Industries of Missouri.

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.