

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3765
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “ADA Education and
3 Reform Act of 2016”.

4 SEC. 2. COMPLIANCE THROUGH EDUCATION.

5 Based on existing funding, the Disability Rights Sec-
6 tion of the Department of Justice shall, in consultation
7 with property owners and representatives of the disability
8 rights community, develop a program to educate State and
9 local governments and property owners on effective and
10 efficient strategies for promoting access to public accom-
11 modations for persons with a disability (as defined in sec-
12 tion 3 of the Americans with Disabilities Act (42 U.S.C.
13 12102)). Such program may include training for profes-
14 sionals such as Certified Access Specialists to provide a
15 guidance of remediation for potential violations of the
16 Americans with Disabilities Act.

1 **SEC. 3. NOTICE AND CURE PERIOD.**

2 Paragraph (1) of section 308(a) of the Americans
3 with Disabilities Act of 1990 (42 U.S.C. 12188(a)(1)) is
4 amended to read as follows:

5 “(1) AVAILABILITY OF REMEDIES AND PROCE-
6 DURES.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), the remedies and procedures set
9 forth in section 204(a) of the Civil Rights Act
10 of 1964 (42 U.S.C. 2000a–3(a)) are the rem-
11 edies and procedures this title provides to any
12 person who is being subjected to discrimination
13 on the basis of disability in violation of this title
14 or who has reasonable grounds for believing
15 that such person is about to be subjected to dis-
16 crimination in violation of section 303. Nothing
17 in this section shall require a person with a dis-
18 ability to engage in a futile gesture if such per-
19 son has actual notice that a person or organiza-
20 tion covered by this title does not intend to
21 comply with its provisions.

22 “(B) BARRIERS TO ACCESS TO EXISTING
23 PUBLIC ACCOMMODATIONS.—A civil action
24 under section 302 or 303 based on the failure
25 to remove an architectural barrier to access into
26 an existing public accommodation may not be

1 commenced by a person aggrieved by such fail-
2 ure unless—

3 “(i) that person has provided to the
4 owner or operator of the accommodation a
5 written notice specific enough to allow such
6 owner or operator to identify the barrier;
7 and

8 “(ii)(I) during the period beginning on
9 the date the notice is received and ending
10 60 days after that date, the owner or oper-
11 ator fails to provide to that person a writ-
12 ten description outlining improvements
13 that will be made to remove the barrier; or

14 “(II) if the owner or operator provides
15 the written description under subclause (I),
16 the owner or operator fails to remove the
17 barrier or to make substantial progress in
18 removing the barrier during the period be-
19 ginning on the date the description is pro-
20 vided and ending 120 days after that date.

21 “(C) SPECIFICATION OF DETAILS OF AL-
22 LEGED VIOLATION.—The written notice re-
23 quired under subparagraph (B) must also speci-
24 fy in detail the circumstances under which an
25 individual was actually denied access to a public

1 accommodation, including the address of prop-
2 erty, the specific sections of the Americans with
3 Disabilities Act alleged to have been violated,
4 whether a request for assistance in removing an
5 architectural barrier to access was made, and
6 whether the barrier to access was a permanent
7 or temporary barrier.”.

8 **SEC. 4. EFFECTIVE DATE.**

9 This Act and the amendments made by this Act take
10 effect 30 days after the date of the enactment of this Act.

11 **SEC. 5. MEDIATION FOR ADA ACTIONS RELATED TO ARCHI-
12 TECTURAL BARRIERS.**

13 The Judicial Conference of the United States shall,
14 under rule 16 of the Federal Rules of Civil Procedure or
15 any other applicable law, in consultation with property
16 owners and representatives of the disability rights commu-
17 nity, develop a model program to promote the use of alter-
18 native dispute resolution mechanisms, including a stay of
19 discovery during mediation, to resolve claims of architec-
20 tural barriers to access for public accommodations. To the
21 extent practical, the Federal Judicial Center should pro-
22 vide a public comment period on any such proposal. The
23 goal of the model program shall be to promote access
24 quickly and efficiently without the need for costly litiga-
25 tion. The model program should include an expedited

- 1 method for determining the relevant facts related to such
- 2 barriers to access and steps taken before the commence-
- 3 ment of litigation to resolve any issues related to access.

