



Mr. Daniel Murray
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Senate Committee on Judiciary
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Madam Chair and members of the committee, I am pleased to submit testimony in strong support of HB258 on behalf of NFIB Kansas. NFIB Kansas is the leading small business organization in Kansas representing small and independent businesses. A non-profit, nonpartisan organization founded in 1943, NFIB Kansas represents the consensus views of its almost 4,000 members in Kansas.

This bill enacts the “act against abusive access litigation” to create a civil action against trial attorneys and their plaintiffs who baselessly use the Americans with Disabilities Act (ADA) or similar laws to sue small businesses for unfounded, undefined obstruction to the business’ websites. NFIB Kansas supports HB258 because it will alleviate concerns about predatory efforts to illicit more frivolous claims against small businesses.

As the nation’s legal system continues to spiral out of control and billion-dollar lawsuits become the norm, NFIB fights hard for legal reform in all 50 states. Small business owners do not have in-house counsel and the vast majority cannot afford to hire lawyers to defend their business and reputations in court. Trial lawyers know this and, as a result, small business owners are easy targets for the plaintiff’s attorney looking for a quick payout. Just one frivolous lawsuit can force a small business to close its doors forever.

Website accessibility lawsuits began to surface in 2013, during which plaintiffs filed over 2,700 cases. This number has recently grown, with nearly 11,000 lawsuits filed in 2020. And the trend continued into January 2021, when a monthly record of over 1,100 ADA compliance lawsuits were filed by plaintiffs. This flood of private litigation is problematic for several reasons, but one important reason is the imbalance that exists between a plaintiff’s law firm and a small business owner. Sending a demand letter or filing a complaint in court is a relatively small cost to plaintiffs’ law firms because they already have the infrastructure in place to do so. But, the cost of defense for small business owners to answer these frivolous claims is much higher. Plaintiffs’ law firms know this and drive owners to settle to avoid costs from this growing brand of frivolous litigation.

The formation and passage of the ADA, led by Kansas Senator Bob Dole, remains a transformative and positive policy change for the millions of Americans with disabilities. It is shameful that predatory trial attorneys are using this historic legislation to make money on the backs of fearful small business owners. HB258 favorably for passage to help stop this practice. Thank you for your consideration of our comments.