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ADA Legislation

## **Bill to curb abusive ADA suits advances;**

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Minnesota legislature

Bill to curb 'abusive' ADA suits advances

Legislation aimed at curbing "abusive" lawsuits under state disability laws, while encouraging businesses to provide full access to disabled customers, passed its first committee hearing earlier this month in the Minnesota House.

The bill was approved by the House Civil Law Committee on a bipartisan vote. A companion measure is headed for a hearing in the Senate Judiciary Committee in April.

The legislation has support from business and agencies representing the disabled.

Over the past three years, attorney Paul Hansmeier has filed more than 100 lawsuits against Minnesota businesses and landlords, alleging violations of the federal Americans with Disabilities Act and the Minnesota Human Rights Act. Many of the violations were considered technicalities, and often a lawsuit and demand for compensation was the first the property owner learned of the alleged infraction.

Michael Frasier, an attorney and board member of the Metro IBA, said the bill's purpose is to stop "drive-by lawsuits" that are accompanied by pressure for payoffs that don't address any underlying accessibility concerns.

"This legislation would help discourage abusive lawsuits while encouraging more accessibility," said Doug Loon, president of the Minnesota Chamber of Commerce. "We do not want to protect businesses that refuse to correct a violation. If a business fails to fix the problem, it would be subject to the same lawsuits that are available under current law. However, a legislative fix is needed both at the state and federal levels ..."

Numerous business owners complained to their associations and legislators that even when they took steps to make improvements, the lawsuit and demand for money continued.

The legislation was authored by Sen. Kari Dziedzic, a DFLer from Minneapolis, and Rep. Dennis Smith, a Republican from Maple Grove

The Minnesota Chamber has worked on the legislation with several organizations, including the Minnesota State Council on Disability, Legal Aid and the Minnesota Department of Human Rights.

The key provisions include:

- A demand letter sent to a business alleging ADA architectural violations that must specify the barrier and provide the business time to fix the issue or submit a plan for fixing the issue. The letter cannot include a demand for a monetary settlement.
- The burden of proof shifts to the plaintiff to show a violation if the suit is against an owner that has had an ADA audit by certified professionals to ensure the owner is in ADA compliance.

Hansmeier faces disbarment or suspension from the state board that investigates ethics complaints against Minnesota lawyers due to his behavior.

And a federal judge in December ordered the liquidation of Hansmeier's assets after finding that he sought bankruptcy protection to thwart creditors.