

Be proactive on ADA: Increase access; avoid lawsuits

By Doug Loon

Many Minnesota small businesses have been the target of lawsuits in the past two years by a few lawyers alleging violations of the Americans with Disabilities Act (ADA). Legislation was passed this year that provides businesses with additional tools to fight these lawsuits, thanks to efforts of a broad-based coalition led by the Minnesota Chamber of Commerce and many local chambers.

The legislation is important. However, the best way to avoid these lawsuits is to be proactive in making sure your business is ADA compliant. We are working with the Minnesota State Council on Disability to help educate and provide a toolkit for business owners and our local chamber of commerce partners on accessibility requirements.

A top priority as a statewide business organization is to make sure that businesses are fully accessible to all their customers and comply with all federal and state disability laws. That's simply good business. Our reason for seeking the legislation is that many of these lawsuits appear to have the primary goal of lining the pockets of attorneys versus improving access.

The legislation, HF 2955, is intended to help thwart these lawsuits. The new law, passed unanimously by Legislature and signed by Governor Dayton, importantly shifts the burden of proof to the plaintiff if a business has undertaken an audit for ADA compliance. We are working with the State Council on Disability to compile and publicize individuals and organizations specialized in accessibility that are able to assist with these audits.

At the same time, however, the law will not necessarily prevent these lawsuits from being filed. And the law does not eliminate state and federal requirements for businesses to be accessible to the physically disabled.

Many of the common violations alleged in these lawsuits may be easily addressed and fixed. Among them: parking lot stalls including the color and height of signs; ramp entrances to buildings; the width and lip on door frames and door handles; aisle widths. Here's a [fact sheet](#) on parking lot requirements. Most businesses, when notified of an alleged violation, have immediately taken steps to correct the problem or have shown that they are actually compliant.

Yet, the lawsuits unfortunately are not dropped, and the plaintiffs continue to seek large financial settlements. Businesses often wind up paying out the money – \$8,000 on average – to avoid the additional cost and time of litigation. These settlements are an obvious financial hardship, especially on small businesses.

The best way to avoid these lawsuits, as well as to help improve access for disabled individuals, is for businesses to make sure they are complying with the laws. In addition, federal tax credits may be available to help offset the cost of removing barriers.

Where should you start? The ADA recommends the following priorities for removing barriers to customer access:

- Provide access to your business from public sidewalks, parking areas and public transportation.
- Provide access to your goods and services.
- Provide access to public restrooms.
- Remove barriers to other amenities offered to the public such as drinking fountains.

We do not want to protect businesses that refuse to correct a violation. We do, however, want to educate businesses on accessibility laws and give them opportunity to fix a problem before facing a lawsuit. The new law is a step in that direction.

Please visit our [website](#) and make use of the educational resources. The site will be updated as information becomes available. As always, don't hesitate to contact us with any questions.

**Doug Loon is president of the Minnesota Chamber of Commerce – [www.mnchamber.com](http://www.mnchamber.com)**