

1-1 By: Smithee, et al. (Senate Sponsor - Seliger) H.B. No. 1463  
1-2 (In the Senate - Received from the House May 8, 2017;  
1-3 May 8, 2017, read first time and referred to Committee on State  
1-4 Affairs; May 15, 2017, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 15, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Estes	X		
1-13	Lucio	X		
1-14	Nelson	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to procedures for actions alleging failure to comply with  
1-20 certain standards to accommodate persons with disabilities.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 121.004(b), Human Resources Code, is  
1-23 amended to read as follows:

1-24 (b) In addition to the penalty provided in Subsection (a), a  
1-25 person, including a firm, association, corporation, or other public  
1-26 or private organization, or the agent of the person, who violates  
1-27 the provisions of Section 121.003 is deemed to have deprived a  
1-28 person with a disability of his or her civil liberties. Subject to  
1-29 Section 121.0041, if applicable, the [The] person with a disability  
1-30 deprived of his or her civil liberties may maintain an [a cause of]  
1-31 action for damages in a court of competent jurisdiction, and there  
1-32 is a conclusive presumption of damages in the amount of at least  
1-33 \$300 to the person with a disability.

1-34 SECTION 2. Chapter 121, Human Resources Code, is amended by  
1-35 adding Section 121.0041 to read as follows:

1-36 Sec. 121.0041. PROCEDURES FOR CERTAIN ACTIONS; OPPORTUNITY  
1-37 TO CURE. (a) In this section:

1-38 (1) "Claimant" means a person filing or intending to  
1-39 file an action under Section 121.004(b).

1-40 (2) "Respondent" means the person against whom a  
1-41 claimant files or intends to file an action under Section  
1-42 121.004(b).

1-43 (b) This section applies only to an action under Section  
1-44 121.004(b) alleging a failure to comply with applicable design,  
1-45 construction, technical, or similar standards required under  
1-46 Chapter 469, Government Code, or other applicable state or federal  
1-47 laws that require compliance with specified design, construction,  
1-48 technical, or similar standards, including Internet website  
1-49 accessibility guidelines, to accommodate persons with  
1-50 disabilities.

1-51 (c) Not later than the 60th day before the date an action to  
1-52 which this section applies is filed, the claimant must give written  
1-53 notice of the claim to the respondent. The notice may be given in a  
1-54 manner prescribed for service of process in a civil action. The  
1-55 written notice:

1-56 (1) must state:

1-57 (A) the name of the individual alleging a failure  
1-58 to comply with applicable design, construction, technical, or  
1-59 similar standards;

1-60 (B) in reasonable detail, each alleged  
1-61 violation; and

2-1 (C) the date, place, and manner in which the  
2-2 claimant discovered the alleged violation; and

2-3 (2) may not demand a sum of damages, request  
2-4 settlement, or offer to settle the claim without a determination of  
2-5 whether a condition stated in the notice is excused by law or may be  
2-6 remedied.

2-7 (d) A respondent who has received a written notice under  
2-8 Subsection (c) may correct the alleged violation before the  
2-9 earliest date on which the claimant may file the action.

2-10 (e) A respondent who has corrected an alleged violation  
2-11 shall provide a notice of the correction to the claimant that  
2-12 describes each correction and the manner in which the correction  
2-13 addresses the alleged violation. If the respondent concludes that  
2-14 an alleged violation has not occurred and that a correction is not  
2-15 necessary, the respondent shall provide the claimant an explanation  
2-16 of the respondent's conclusion. The notice of correction or  
2-17 explanation may be given in a manner prescribed for service of  
2-18 process in a civil action.

2-19 (f) If a claimant files an action to which this section  
2-20 applies, the claimant must establish by a preponderance of the  
2-21 evidence that the respondent has not corrected one or more of the  
2-22 alleged violations stated in the written notice provided under  
2-23 Subsection (c).

2-24 (g) If an action is filed, the respondent may file a plea in  
2-25 abatement and request an evidentiary hearing on the plea. The court  
2-26 shall abate the action for a period not to exceed 60 days after the  
2-27 date of the hearing if the court finds by a preponderance of the  
2-28 evidence that:

2-29 (1) the respondent initiated action to correct the  
2-30 alleged violation during the time allowed under Subsection (d);

2-31 (2) the respondent could not complete the corrections  
2-32 within that time; and

2-33 (3) the corrections will be completed by the end of the  
2-34 period of abatement.

2-35 (h) If a respondent has provided the notice of correction or  
2-36 has completed corrections during a period of abatement under  
2-37 Subsection (g):

2-38 (1) the claimant may file a motion to dismiss the  
2-39 action without prejudice; or

2-40 (2) the respondent may file a motion for summary  
2-41 judgment in accordance with the Texas Rules of Civil Procedure.

2-42 SECTION 3. This Act takes effect September 1, 2017.

2-43 \* \* \* \* \*