

EDITORIAL: Assembly opts to protect predatory lawyers, guts ADA bill

It was despicable that fair and sensible legislation to protect small businesses from being blackmailed by unscrupulous lawyers suing under the guise of helping the disabled was gutted April 22 in a state Assembly committee.

Last summer, The Modesto Bee and Merced Sun-Star, our sister papers, combined on a series of articles detailing how the Americans With Disabilities Act has been misused to create profit centers for opportunistic lawyers. These attorneys recruit people — some with minor disabilities, some with criminal records, some here illegally — to visit small businesses in hopes of spotting the smallest of ADA violations. The lawyers then demand \$4,000 for each violation.

The law allows attorneys and their so-called victims to keep the money with no requirement that the problem gets fixed. Many of the violations are grossly minor — out-of-date wording on handicapped parking signs, a soap dispenser an inch higher than required, a trash bin too close to a door. If the “victim” spots four or five such violations — jackpot!

There are attorneys whose entire practice is filing ADA lawsuits over minor violations, giving business owners no chance to cure the problem and giving disabled customers no relief. One so-called victim in Los Angeles, as detailed by the Los Angeles Times, got more than \$1 million as his cut from the lawsuits before being deported.

Some of these attorneys apparently identified the San Joaquin Valley as ripe for such lawsuits. After visits from their so-called victims, some businesses paid up to \$40,000 to make the lawsuits go away. Others closed because they couldn't afford to pay.

When the legislative session began this year, Assembly Members Kristin Olsen, R-Riverbank, and Adam Gray, D-Merced, and Sen. Cathleen Galgiani, D-Manteca, authored separate but similar remedies to fix the broken law. Each would have made the law more fair to the disabled community and business owners while discouraging extortionate practices. Key to each was giving business owners an “opportunity to cure” the problem without paying predatory attorneys.

But the Assembly Judiciary Committee — chaired by Mark Stone, D-Scotts Valley — stripped away the essential “opportunity to cure” provision of Olsen's bill and replaced it with a meaningless tax credit for compliance inspections. It passed 10-0, but who cares? The bill keeps alive a business model for unscrupulous attorneys.

Gray withdrew his bill, hoping for a better chance next year. That leaves only Galgiani's SB 67, expected to go before the Senate Judiciary Committee in May. Galgiani's bill also would provide an opportunity to cure, among other remedies. We hope it gets a fair hearing.

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