



# S.7374 (Cooney) / A.8054 (Woerner)

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<b>BILL</b> S.7374 (Cooney) / A.8054 (Woerner)
<b>SUBJECT</b> Additional Notice Prior to Commencing an Action in Certain Discrimination Cases
<b>DATE</b> February 23, 2022
<b>SUPPORT</b>

The Business Council supports S.7374 (Cooney)/A.8054 (Woerner), which amends the Executive Law to require that notice is provided to the owner of a place of accommodation, resort or amusement sixty days prior to the commencement of an action that alleges the contents of a website or mobile application constitute an unlawful discriminatory practice. This bill provides a sixty-day time frame for businesses to resolve discrimination complaints related to their websites in relation to standards related to the Americans with Disabilities Act (ADA).

New York leads the nation in web-related ADA lawsuits where advocates search for small business websites that are noncompliant. At one time, ADA-related cases were linked to accessibility issues such as parking spaces, sidewalks, or ramps. However, plaintiff's focus has changed to websites and if one is seen as being non-compliant, its owner faces costly lawsuits. Many of these complaints are settled out of court since the small business does not have the resources to engage in costly litigation. Even so, they often result in costly settlements.

Many businesses are familiar with the Act, especially those in the hospitality sector which include hotels, campgrounds, and ski resorts. However, due to the vague nature of the federal requirements for website accessibility, many businesses, particularly those in the hospitality sector, are vulnerable to allegations of non-compliance, hence they become easy targets for lawsuits.

Since the federal government has been slow to adopt specific guidelines, many small businesses in this sector are dealing with the challenge and expense of responding to these types of lawsuits brought against them. For example, in 2021, approximately twelve New York ski areas had been sued and all had settled for amounts ranging from \$20,000 to \$50,000. The Campground Owners of New York stated they had thirty members sued to date and all have settled as well. These lawsuits come at a time when the

hospitality industry is attempting to get back on its feet as it recovers from the pandemic. Most have not made a profit during this time and in addition to the fiscal challenges they face, they are now hit with lawsuits costing them thousands of dollars.

Hospitality businesses are not opposed to matters of accessibility, especially for those who face digital barriers that are hard to overcome. By making the necessary investments in web-based marketing tools, hospitality businesses are demonstrating their commitment to making their technology available to everyone to ensure that every customer can fully utilize it. Hotels and hospitality businesses are feeling financial stress at this very moment and this legislation gives businesses a chance to resolve violations without having to settle out of court for large sums of money. By providing a sixty-day window to correct any alleged violation prior to the commencement of an action and the ability to communicate with a claimant, it will provide relief and more importantly, access.

For these reasons, the Business Council strongly supports S.7374 (Cooney)/A.8054 (Woerner).