

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 907, 1154 & 1272

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUDSON.

5627S.07P

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to abusive website access litigation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto
2 one new section, to be known as section 537.1250, to read as
3 follows:

537.1250. 1. (1) This section shall be known and may
2 be cited as the "Act Against Abusive Website Access
3 Litigation".

(2) As used in this section, the following terms mean:

(a) "Access violation", any allegation that a website
6 fails to comply with the accessibility requirements of the
7 federal Americans with Disabilities Act or under state law;

(b) "Resident of this state", any individual residing
9 in Missouri; any entity that has registered with the
10 Missouri secretary of state's office under chapter 351; or
11 the state of Missouri or any political subdivision thereof,
12 including all boards, commissions, agencies, institutions,

13 authorities, and bodies politic and corporate of the state
14 created by or in accordance with state law or regulations.

15 2. (1) The attorney general under section 507.070 on
16 behalf of a class of residents of this state who are subject
17 to litigation that alleges any website access violation, or
18 any resident of this state who is subject to litigation that
19 alleges any website access violation, may file a civil
20 action in any court of competent jurisdiction within this
21 state against the party, attorney, or law firm that
22 initiated such litigation for a determination as to whether
23 such litigation alleging a website access violation is
24 abusive litigation.

25 (2) In determining whether any litigation that alleges
26 any website access violation constitutes abusive litigation,
27 the court shall consider the totality of the circumstances
28 to determine if the litigation was filed in good faith. For
29 the purposes of making this determination, the court may
30 assess the following factors and any other factors the court
31 deems relevant for assessing:

32 (a) Whether the same plaintiff, attorney, or law firm
33 has filed a high number of substantially similar lawsuits
34 without meaningful efforts to resolve or improve
35 accessibility;

36 (b) Whether the plaintiff provided the defendant with
37 reasonable notice and an opportunity to correct the alleged
38 barrier prior to filing suit;

39 (c) Any history of sanctions or findings of bad faith
40 against the plaintiff or counsel;

41 (d) The nature of settlement discussions and the
42 reasonableness of settlement offers and refusals to settle.
43 The application of such settlement information shall be used

44 only as provided by this section and shall not otherwise
45 alter the rules of evidence applicable to such court; and

46 (e) Whether any factors under Missouri supreme court
47 rule 55.03(b) exist in the litigation and whether sanctions
48 are appropriate under Missouri supreme court rule 55.03(c).

49 (3) A defendant who receives written notice of an
50 alleged website access violation and in good faith initiates
51 substantial steps to correct it within ninety days shall
52 have a rebuttable presumption that any subsequent claim for
53 a website access violation is abusive. Nothing in this
54 section shall be construed to prohibit a defendant from
55 filing a motion to dismiss or from notifying the plaintiff,
56 prior to the expiration of the ninety-day period, that the
57 alleged access violation has been corrected in good faith.
58 There shall not be a rebuttable presumption that such
59 litigation is abusive litigation if the alleged website
60 access violation is not corrected, as determined by the
61 court, within ninety days after being provided written
62 notice or being served a petition or complaint with
63 sufficient detail to identify and correct the alleged access
64 violation. The trier of fact shall not determine whether
65 such litigation is abusive litigation until after such
66 ninety-day period expires or the alleged access violation is
67 corrected, as determined by the court, whichever occurs
68 first. This subdivision shall be known and may be cited as
69 the "Safe Harbor Provision".

70 3. The attorney general may intervene or bring an
71 action on behalf of Missouri residents or entities that are
72 the targets of abusive website access litigation as defined
73 in this section. The attorney general may also issue
74 guidance or determinations clarifying when litigation

75 practices are deemed abusive, but such determinations shall
76 not preclude legitimate accessibility enforcement actions.

77 4. If the trier of fact determines that an initiator
78 of an action under subsection 2 of this section is a
79 defendant in abusive litigation, the court may award
80 reasonable attorney's fees and costs in bringing the action
81 under subsection 2 of this section as well as defending
82 against the abusive litigation to be paid by the party
83 bringing the abusive litigation. In addition, the court may
84 award punitive damages or sanctions not to exceed three
85 times the amount of attorney's fees awarded by the court.

86 5. At the conclusion of the litigation alleging a
87 website access violation, the court shall review any
88 determination that such litigation is abusive and any award
89 of attorney's fees under the Missouri supreme court rules of
90 professional conduct to determine the reasonableness of the
91 award before issuing a judgment.

92 6. If the United States Department of Justice issues
93 standards concerning website accessibility under Title III
94 of the federal Americans with Disabilities Act, 42 U.S.C.
95 Sections 12181 to 12189, the attorney general shall notify
96 the revisor of statutes that such standards have been
97 issued. Upon receipt of such notification by the revisor,
98 the provisions of this section shall expire with respect to
99 any entity that has filed with the Missouri secretary of
100 state's office under chapter 351.

101 7. This section shall apply to litigation pending on
102 August 28, 2026. The provisions of subdivision (3) of
103 subsection 2 of this section shall apply to any defendant in
104 any pending litigation on August 28, 2026, that has complied
105 with the requirements of subdivision (3) of subsection 2 of

106 this section prior to August 28, 2026, or that is within the
107 ninety-day correction period after August 28, 2026.

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