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SENATE BILL NO. 1302

Offered January 9, 2019

Prefiled January 7, 2019

A *BILL to amend the Code of Virginia by adding in Chapter 9 of Title 51.5 a section numbered 51.5-46.1, relating to rights of persons with disabilities; procedures for certain actions; website accessibility.*

Patron—Barker

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 51.5-46.1 as follows:****§ 51.5-46.1. Procedures for certain actions; website accessibility; opportunity to cure.**

A. For the purposes of this section, "entity" means a bank, trust company, savings institution, or credit union.

B. Before bringing a civil action alleging that an entity's website does not comply with applicable law regarding its accessibility by persons with vision or hearing impairment, the person alleging the violation shall provide written notice to the entity. Such notice shall be sent by certified mail, return receipt requested, at least 120 days prior to filing the civil action, and shall include:

1. An explanation regarding the manner in which the website fails to comply with applicable law regulating website accessibility to accommodate individuals with disabilities; and

2. Specific alleged violations, including screen shots of the entity's website as evidence of the alleged violations.

C. A petition filed for a civil action based on a claim that an entity's website does not comply with applicable law regarding its accessibility by persons with vision or hearing impairment shall include a copy of the notice required in subsection B and proof of service.

D. Upon motion of the defendant, the court shall dismiss without prejudice a civil action that is filed pursuant to this section if the action is filed less than 120 days after the date notice is provided pursuant to subsection B.

E. If the entity has made a reasonable effort to cure the defect but has not completed the correction within 120 days of the notice required by subsection B or prior to the filing of the petition, the court may grant the entity a reasonable extension of time to cure the deficiency. If the correction is made within such extended time, the court shall dismiss the action.

F. An entity that has cured an alleged violation shall provide a written notice of the correction to the person alleging the violation describing each correction and the manner in which the correction addresses the alleged violation. If the entity cures the alleged website defect prior to the filing of the action and notifies the person alleging the violation of such correction and the person proceeds with filing the action, the court shall dismiss the action and award costs and reasonable attorney fees to the defendant.

G. An entity's website is presumed to be in compliance if it meets the Web Content Accessibility Guidelines 1.0 as developed by the Web Accessibility Initiative.

INTRODUCED

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