

HB0317/526081/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 317
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “altering certain civil penalties” and substitute “providing that certain maximum penalty amounts”; and strike beginning with “; providing” in line 7 down through “malicious;” in line 9 and substitute “do not apply under certain circumstances; prohibiting the Commission from seeking a civil penalty against a respondent if the discriminatory act is regarding accessibility, the respondent takes certain action, and the respondent has not previously been the subject of a certain complaint; requiring an administrative law judge to consider certain information when determining the amount of a certain civil penalty;”.

AMENDMENT NO. 2

On page 2, in line 13, strike “subsection” and substitute “SUBSECTIONS”; in the same line, after “(b)” insert “AND (C)”; in line 18, strike the brackets; in the same line, strike “\$2,500”; in line 21, strike “NOT LESS THAN \$2,500 AND”; in the same line, strike the brackets; in the same line, strike “\$10,000”; in line 24, strike “NOT LESS THAN \$5,000 AND”; in the same line, strike the brackets; in the same line, strike “\$25,000”; in line 25, after “(b)” insert “(1)”; in lines 25, 27, and 28, in each instance, strike the bracket; in line 27, strike “DETERMINED TO BE MALICIOUS, THE MAXIMUM AMOUNTS”; in line 28, strike “(A)”; after line 28, insert:

“(2) IF THE DISCRIMINATORY ACT IS COMMITTED BY THE AGENT OR EMPLOYEE OF A RESPONDENT, THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY AND THE COMMISSION MAY SEEK AN ORDER ASSESSING A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING \$25,000, PROVIDED THAT:

(Over)

(I) THE DISCRIMINATORY ACT COMMITTED BY THE AGENT OR EMPLOYEE IS DETERMINED TO BE MALICIOUS; AND

(II) THE RESPONDENT HAS NOT REASONABLY MITIGATED HARM CAUSED BY THE DISCRIMINATORY ACT.

(3) THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND (3) DO NOT APPLY IF THE DISCRIMINATORY ACT IS FOUND TO BE MALICIOUS.

(C) THE COMMISSION MAY NOT SEEK AN ORDER ASSESSING A CIVIL PENALTY AGAINST A RESPONDENT IF:

(1) THE DISCRIMINATORY ACT WAS LIMITED TO A VIOLATION RELATING TO ACCESSIBILITY;

(2) THE RESPONDENT, AFTER BEING SERVED, TAKES PROMPT CORRECTIVE ACTION; AND

(3) THE RESPONDENT HAS NOT PREVIOUSLY BEEN THE SUBJECT OF A COMPLAINT UNDER § 20-1004 OF THIS SUBTITLE.

(D) IF THE COMMISSION SEEKS AN ORDER ASSESSING A CIVIL PENALTY BEFORE AN ADMINISTRATIVE LAW JUDGE UNDER § 20-1008 OF THIS SUBTITLE, IN DETERMINING THE AMOUNT OF THE CIVIL PENALTY TO BE IMPOSED, THE ADMINISTRATIVE LAW JUDGE SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE DISCRIMINATORY ACT;

(2) THE GOOD FAITH OF THE RESPONDENT;

(3) THE HARMFUL EFFECT TO THE PUBLIC OF THE DISCRIMINATORY ACT;

(4) THE HARMFUL EFFECT OF THE RESPONDENT'S ACTIONS ON THE INVESTIGATORY PROCESS OF THE COMMISSION; AND

(5) THE RESPONDENT'S ASSETS.”;

and in line 29, strike “(c)” and substitute “**(E)**”.