



# LAWSUIT REFORM ALLIANCE OF NEW YORK

## OPPOSE

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**BILL NUMBER:** S.1034A (GIANARIS) / A.2681A (Reyes)  
**SUBJECT:** Occupational Exposure to Airborne Infectious Disease  
**DATE:** March 8, 2021  
**CONTACT:** Tom Stebbins, [tstebbins@LRANY.org](mailto:tstebbins@LRANY.org)

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### **Summary:**

This legislation would compel the Commissioner of the Department of Health to create new workplace regulations related to infectious disease and apply those regulations to all private businesses with at least ten employees. The bill would also set fines, penalties and gives employees a private right of action, with attorneys' fees, for violations.

### **Why we strongly oppose this legislation:**

#### ***Would Lead to a New Cottage Industry of Lawsuits Against Businesses***

- This legislation would not only impose significant regulatory burdens on businesses, but would also create a private right of action for violations and the awarding of attorneys' fees. As we have seen with the Americans with Disabilities Act (ADA), this would lead to massive spike in attorney-driven litigation in New York. In the case of the ADA, we have seen attorneys operate with no client,<sup>1</sup> no violation,<sup>2</sup> an ineligible client,<sup>3</sup> or an unknowing client,<sup>4</sup> all in pursuit of settlements and attorneys' fees. This bills similar lack of a cure period, private right of action, and awarding of attorneys' fees would undoubtedly lead to a similar pattern of legal abuse.

#### ***Unfairly Targets Businesses***

- This legislation specially does not apply to "the state, any political subdivision of the state, a public authority, or any other governmental agency or instrumentality." This imbalanced application is grossly unfair to businesses. Further, this would mean that the legislation would not even succeed at its purported goal and would leave all public workplaces unprotected.

#### ***Worksites are Not a Significant Source of Transmission***

- According to data from the State of New York based contact tracing for COVID-19, worksites are not a significant source of infection. Household and social gatherings account for 74%, and healthcare delivery is second at 8%.<sup>5</sup>

<sup>1</sup> Fisher, Daniel, "Judge Raps Disability-Lawsuit Mill After 'Client' Disappears," Forbes, March 2013

<sup>2</sup> Hobday, Kate, "Serial Plaintiffs, the Abuse of ADA Title III," Lawsuit Reform Alliance of New York, March 2018

<sup>3</sup> Marsh, Julia "Man who faked being wheelchair-bound drops two lawsuits after Post expose," *New York Post*, October 2018

<sup>4</sup> Brown, Steven "Lawyer filed bogus ADA lawsuits without telling his own disabled clients: prosecutors," *New York Daily News*, November 2019

<sup>5</sup> Reisman, Nick, "What New York's Contact Tracing Data Show," Spectrum News, December 2020

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The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, healthcare professionals, membership organizations, and concerned citizens dedicated to reform of the legal system in order to foster a better business climate, promote job growth and address the growing cost of lawsuit abuse.