

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON JUDICIARY  
Ash Kalra, Chair  
AB 2190 (Wallis) – As Introduced February 19, 2026

As Proposed to be Amended

**SUBJECT:** INTERNET WEBSITE ACCESSIBILITY

**KEY ISSUE:** SHOULD BUSINESSES BE PROVIDED AN AFFIRMATIVE DEFENSE TO A WEBSITE ACCESSIBILITY-RELATED LEGAL CLAIM SO LONG AS THE BUSINESS TAKES PROACTIVE STEPS TO MAKE THEIR WEBSITE ACCESSIBLE TO PERSONS WITH DISABILITIES?

**SYNOPSIS**

*The Americans with Disabilities Act, and California's parallel Disabled Persons Act, have been the source of significant heartburn for the business community for decades. While these laws protect critical civil rights for persons with disabilities, the business community finds them to be a burdensome litigation trap. While existing law provides for clear guidelines for construction-related disability access, even if those guidelines are often ignored by businesses, no such guidance exists for website accessibility. As a result of no state or federal standards, businesses and courts have been left to use private industry standards to evaluate website accessibility. The existing legal framework, essentially, requires a business to utilize a private standard and then hope such adherence is sufficient to avoid liability. This lack of guidance on accessibility spurred two prior legislative attempts to address the issue. However, due to the complexity of website accessibility issues, no legislative solution has yet to reach the Governor's desk.*

*This bill represents the Legislature's third attempt to remedy the issue. This bi-partisan measure would provide businesses two avenues for achieving an affirmative defense to website accessibility claims. One avenue requires a business to voluntarily audit their own website, publicly identify accessibility barriers, and then remedy those issues within 45 days. The second option for an affirmative defense requires a website operator to proactively meet an accessibility standard, continually test and monitor the website for issues, and remedy any issues that do occur within 45 days. The bill also clarifies liability standards for third-party website creators and defines intentional discrimination for the purposes of website accessibility.*

*This bill is supported by a coalition of disability rights advocates and some business groups, including Disability Rights California, the California Council of the Blind, the California Association of Realtors, and the Coachella Valley Chamber of Commerce. The proponents argue that this bill balances the needs of the disability community with the need for clear guidance for businesses. The bill is opposed by the California Chamber of Commerce, the California Retailers Association and the Civil Justice Association of California. The opponents note that while they appreciate the attempt at guidance, they believe the bill's affirmative defenses are too difficult to achieve. Should the bill pass this Committee, it will be referred to the Privacy & Consumer Protection Committee.*

**SUMMARY:** Provides an entity an affirmative defense to a civil action seeking statutory damages stemming from accessibility barriers on an entity's internet website if the entity

publishes a digital accessibility report on the accessibility page of its internet website disclosing the specific access barrier and updates that report to reflect remediation of the access barrier and complies with various requirements to remedy access barriers. Specifically, **this bill**:

- 1) Provides an entity an affirmative defense to a claim seeking statutory damages under specified provisions of the Civil Code related to disability access, on the basis of a specific accessibility barrier on the entity's internet website, as defined, if the entity provided evidence to the plaintiff demonstrating within 30 of days of receiving a written pre-lawsuit demand from the plaintiff that either of the following applies:
  - a) Before receiving a written pre-lawsuit demand from the plaintiff through the time the affirmative defense under this subdivision is asserted, both of the following apply:
    - i. The entity published a digital accessibility report on the accessibility page of its internet website disclosing the specific access barrier; and
    - ii. The entity published an updated digital accessibility report disclosing that the specific access barrier was remediated within 45 days of the initial digital accessibility report.
  - b) Before receiving a written pre-lawsuit demand from the plaintiff through the time the affirmative defense under this subdivision is asserted, all of the following apply:
    - i. The entity had a reasonable and good faith basis to believe that the internet website was accessible and conformed with the internet website accessibility standard;
    - ii. The entity documented the regular use of automated and manual testing mechanisms to monitor the internet website on the same frequency that it is updated to ensure that the internet website is accessible and conforms to the internet website accessibility standard;
    - iii. The entity remediated any specific accessibility barrier identified by testing within 45 days of identification;
    - iv. The entity posts on its accessibility page its policy and general practices for ensuring that the entity's internet website is accessible, including the frequency of reviewing or monitoring and testing content on the internet website and specifies the extent to which the entity relies on manual testing by users with disabilities and the extent to which the entity uses automated testing mechanisms;
    - v. The entity ensures that if a user of the internet website is required to utilize either a link to third-party content, or a resource developed or controlled by a third party, to access, view, utilize, conduct transactions, or interact with the entity or the entity's goods, services, or presentations via the internet, the required third-party content or resource is accessible;
    - vi. The entity maintains an accessibility page;
    - vii. The entity's accessibility page provides an accessible process for a user of the internet website, including a user with a disability, to contact the entity to obtain immediate assistance with inaccessible content on the internet website or to otherwise access,

view, utilize, or conduct transactions with respect to the entity or the entity's goods, services, or presentations, and report in writing specific accessibility barriers that users encounter on the internet website;

- viii. The entity reviews each report made pursuant to the process described in vii) within five business days to determine whether the report identifies a specific accessibility barrier and responds to the person making the report within 48 hours of receiving the report by acknowledging its receipt and providing a copy of the report;
  - ix. No later than 45 days after the date of a report pursuant to the process described in vii), the entity remediates each reported specific accessibility barrier and notifies the reporting party of its determination and remediation, as applicable; and
  - x. The entity retains all records related to any report pursuant to the process described in vii) for at least three years after the date on which the report is submitted to the entity.
- 2) Prohibits a resource service provider in exchange for money or any other form of remuneration from negligently, recklessly, or knowingly do either of the following:
    - a) Construct, license, distribute, or maintain for online use a resource or part of an internet website that causes an entity's internet website to be inaccessible or not conformant with the internet accessibility standard if the resource or part of the internet website is within the control of the resource service provider to remediate; or
    - b) Make a false representation that a resource or part of an internet website is accessible or conforms to the internet accessibility standard.
  - 3) Authorizes any of the following to bring a civil action to enforce the prohibitions of 2):
    - a) A small business entity that pays, compensates, or contracts with the resource service provider to construct, license, distribute, or maintain an internet website and is injured as a result of the violation;
    - b) The Attorney General, the Civil Rights Department, or a district attorney, county counsel, or city attorney.
  - 4) Authorizes a private plaintiff prevailing in an action brought pursuant to 3) to recover any damages, including, but not limited to, any statutory damages and attorney's fees and costs paid by the small business entity as a result of a lawsuit against the small business entity pursuant to specified sections of the Civil Code based upon the inaccessibility of the person or small business entity's internet website.
  - 5) Authorizes a public prosecutor bringing an action to enforce the provisions of 2) to recover the following:
    - a) Injunctive or declaratory relief; and
    - b) Attorney's fees and costs.
  - 6) Provides that, notwithstanding the lawsuits authorized pursuant to 3), if a person is harmed by a violation of the bill by a resource service provider caused the same specific accessibility

barrier on multiple internet websites or caused specific accessibility barriers on multiple internet websites that are so similar that they have the same effect on a user of the internet websites, the person may bring a civil action against the resource service provider to obtain all of the following:

- a) Injunctive or declaratory relief;
  - b) Attorneys fees and costs.
- 7) Provides that a provision within a contract that seeks to waive liability under this bill, or otherwise shift the liability to a person or small business entity that pays, compensates, or contracts with the resource service provider is void as a matter of public policy.
- 8) Provides that nothing in this bill limits or alters the application of any other provision of the Civil Code related to disability access or the ability of a plaintiff to bring a civil action under any other theory of the law, including, but not limited to, breach of contract, implied warranty of merchantability, or false or deceptive advertising.
- 9) Provides that a violation of this bill can be deemed an intentional violation of specified provisions of the Civil Code related to disability access if both of the following can be demonstrated:
- a) A user with a disability sent written notice to the entity describing a specific accessibility barrier on the entity's internet website that explains how the barrier made the internet website inaccessible to that user; and
  - b) The entity failed to remediate that specific accessibility barrier within 45 days of receiving notice from the user with the disability.
- 10) Clarifies that any federal law granting written notice and a corresponding opportunity to cure under the federal Americans with Disabilities Act of 1990 (Public Law 101-336) are not applicable to any civil action under state law based on federal access standards, as specified.
- 11) Defines the following terms:
- a) "Accessibility" means the degree to which an internet website is accessible;
  - b) "Accessibility page" means a publicly available page on an internet website that is labeled and displayed as "accessibility: and is linked from the main page, conforms to an internet website accessibility standard, and contains a specified notice regarding disability access;
  - c) "Accessible" means that an internet website provides equally effective communication to individuals with disabilities and facilitates full and equal access to, and enjoyment of, an entity's goods and services such that an individual with a disability can access the website with substantially equivalent timeliness, privacy, independence, and ease of use as an individual without a disability, as specified;
  - d) "Conformant" means that an internet website either meets the criteria specified by the applicable internet accessibility standard, or does not meet the criteria specified by the applicable internet accessibility standard but doing so is not necessary, or not possible,

due to the nature of the data sought to be presented on the internet website or failing to do so has such a minimal impact on a user of the internet website that the failure does not affect the accessibility of the internet website.

- e) “Digital accessibility report” means a date-stamped and downloadable report that contains all of the following information about a specific accessibility barrier identified in the report in an accessible and conformant, nonproprietary tabular format that can be fully viewed offline without dependence upon an external database, as specified;
- f) “Entity” means a business establishment of any kind whatsoever, firm or corporation, person, or persons, that are subject to the provisions of Civil Code Section 51, 54, or 54.1;
- g) “Inaccessible” means the inverse of accessible;
- h) “Internet website” includes, but is not limited to, any internet web-based technology, including a mobile internet website, an application that can be accessed by a personal mobile device or other personal consumer electronic device, any of which makes information about an entity’s goods, services, or presentations available to the public, regardless of whether payment, membership, or other eligibility criteria are required;
- i) “Internet website accessibility standard” means any of the following:
  - i. Before January 1, 2027, the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA standard for the accessibility of internet websites established by the World Wide Web Consortium (W3C) Accessibility Guidelines Working Group on June 5, 2018, or the accessibility standards for Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d) in Part 1194 of Title 36 of the Code of Federal Regulations;
  - ii. On or after January 1, 2027, the Web Content Accessibility Guidelines (WCAG) 2.2 Level AA standard for the accessibility of internet websites established by the World Wide Web Consortium (W3C) Accessibility Guidelines Working Group on June 12, 2023, or the accessibility standards for Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d) in Part 1194 of Title 36 of the Code of Federal Regulations; or
  - iii. If there is an accessibility standard in federal law regarding the accessibility of a particular type of data that results in greater accessibility, that federal standard shall apply instead of a standard described by i) or ii).
- j) “Resource service provider” means an entity that, in exchange for money or any other form of remuneration, constructs, licenses, distributes, or maintains for online use an internet website or resource to be used within, or in conjunction with, an internet website, as specified;
- k) “Small business entity” means an entity that is not publicly traded, employs less than 25 full-time employees and earns less than \$5 million in annual revenue; and

- 1) “Specific accessibility barrier” means the specific aspect of an internet website’s content design, functionality, interactive control, or behavior that causes the internet website to not be conformant or accessible to users with disabilities.

**EXISTING LAW:**

- 1) Provides, pursuant to the federal Americans with Disabilities Act, that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation. (42 U.S.C. Section 12182.)
- 2) Pursuant to Section 508 of the federal Rehabilitation Act, all federal agencies, when they develop, procure, maintain, or use electronic and information technology, must give disabled employees and members of the public access to information that is comparable to access available to others. (29 U.S.C. Section 794 d.)
- 3) Pursuant to the Unruh Civil Rights Act, provides that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind; provides that a violation of the Americans with Disabilities Act also constitutes a violation of Unruh; and subjects a person or entity in violation to actual damages incurred by an injured party, treble actual damages but not less than \$4,000, and any attorney’s fees as the court may determine to be proper. (Civil Code Section 51 *et seq.*)
- 4) Provides, pursuant to the Disabled Persons Act, that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics and physicians’ offices, public facilities and other public places, and also provides that a violation of an individual’s rights under the Americans with Disabilities Act constitutes a violation of state law. (Civil Code Section 54.)
- 5) Entitles individuals with disabilities to full and equal access to public accommodations, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons. (Civil Code Section 54.1.)
- 6) Provides that a small business is not liable for minimum statutory damages in a construction-related accessibility claim if the small business remedies any violations within 120 days of receiving an inspection of the premises by a certified access specialist (CASp Inspection), as specified. (Civil Code Section 55.56 (g)(3)(A).)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** The Americans with Disabilities Act and the analogous provisions of the California Civil Code are designed to ensure that disabled Californians can access public services with respect and dignity in the same manner as persons without disabilities. However, particularly in the physical access and construction space, many businesses believe unscrupulous attorneys prey on small business and ignore legitimate disability access concerns. While it has long been the contention of this Committee that the standards of the Americans with Disabilities

Act is the law and should be complied with, the Committee has sought to provide businesses some relief from lawsuits so long as the business attempts to comply with the law.

One vexing area of disability access policy is related to internet websites. Because of the diverse nature of websites, the Legislature has struggled to determine a proper standard for reviewing disability claims related to website access. This bill seeks to adopt a framework for providing website access to disabled Californians while providing businesses a clear framework to promote compliance and lessen liability. In support of this bill the author states:

In a world where shopping, banking, healthcare and so much more happens online, the digital divide shuts people with disabilities out of everyday life. Accessibility isn't a luxury, it's essential.

The bill rewards businesses that act early by using common tools to remove barriers, maintain a clear accessibility page, report known issues openly, and demonstrate good faith remediation efforts.

In return, those companies gain strong protections, including affirmative defenses against statutory damages claims, moving away from endless reactive lawsuits that waste resources that could have been invested in building more accessible websites.

California has long led on disability rights. The Unruh Act helped inspire the federal ADA, and AB 2190 carries that legacy into the digital age. It extends the ADA's bipartisan promise online by making the internet more inclusive and creating a fairer system overall.

***Background – the federal Americans with Disabilities Act and State Civil Rights Laws Protect the Ability of All Persons to Access Public Accommodations.*** Under the more than 30 year-old federal Americans with Disabilities Act, a business that constitutes a place of public accommodation (e.g., many places of lodging, entertainment, recreation, restaurants, bars, theaters, stores, health clubs, etc.) is prohibited from discriminating on the basis of disability if its operations affect interstate commerce. Prohibited discrimination can take a number of forms – e.g., denial of participation in the facility, or a service, benefit, or good of the business; denial of equal participation in a good, service, or facility; or provision of a different or separate facility, service or good (unless necessary to provide services and the like that are as effective as that provided to others). Government facilities are also covered by the access obligations of the Americans with Disabilities Act.

According to the California Supreme Court, “In 1992, shortly after passage of the Americans with Disabilities Act, the Legislature amended the state's disability protections ‘to strengthen California law in areas where it is weaker than the [federal Act] and to retain California law when it provides more protection for individuals with disabilities than the [federal Act].’ Two overlapping laws, the Unruh Civil Rights Act (Civil Code Section 51) and the Disabled Persons Act (Civil Code sections 54–55.3), are the principal sources of state disability access protection.” (*Jankey v. Lee* (2012) 55 Cal.4th 1038, 1044 [Citation to internal quotation omitted].) As a result of incorporating the Americans with Disabilities Act into the state’s Unruh Civil Rights, a plaintiff who prevails in a construction-related accessibility claim, like all plaintiffs in other civil rights cases, is entitled to minimum statutory damages of \$4,000 per violation.

Therefore, since 1992, public accommodations in California have been required to comply with not only the Americans with Disabilities Act, but also with the state's Unruh Act and Disabled Persons Act, which incorporate the Americans with Disabilities Act into their provisions and make a violation of the ADA punishable as a violation of Unruh Act and the Disabled Persons Act. (Sections 51, 54.) All persons who violate the Disabled Persons Act are liable for the actual damages and an amount determined by a jury, or the court sitting without a jury, up to a maximum of three times the actual damages (there is a minimum fine of \$1,000) and attorney's fees. While most violations of Unruh Act are subject to statutory damages of at least \$4,000 per violation, for some construction-related accessibility claims lower damages (a minimum of \$1,000 or \$2,000, depending on the circumstances of the case) apply.

***Inconsistent federal guidance and changing standards have significantly complicated accessibility issues related to websites.*** One of the many roles of the federal Department of Justice is to enforce federal civil rights laws, including the Americans with Disabilities Act. Accordingly, the Department of Justice has set forth standards and regulations dictating how businesses are to comply with the Americans with Disabilities Act. Notably, and despite the fact that online commerce has dominated the United States economy for well over a decade, the Department of Justice has never formally established regulations regarding website accessibility. In 2010, the Obama Administration commenced a rulemaking to establish website accessibility standards, however, the first Trump Administration halted that process in 2017.

Instead of directly addressing website accessibility, the Department regulations require that a public accommodation, in its communications to the public, "furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities." (28 C.F.R. 36.303(c)(1).) Federal regulations also define "auxiliary aids and services" to include "accessible electronic and information technology" or "other effective methods of making visually delivered materials available to individuals who are blind or have low vision" in 28 C.F.R. 36.303(b)(2). Utilizing these regulations, the Ninth Circuit Court of Appeals has held that the Americans with Disabilities Act applies to websites and internet applications which connect customers to the goods and services. (*Robles v. Domino's Pizza, LLC* (9th Cir. 2019) 913 F.3d 898, 905-906.) However, despite the court's ruling, the federal government has not since tried to restart rulemaking regarding website accessibility standards.

In the absence of meaningful guidance from the federal government, courts have been forced to turn to private standards when evaluating website accessibility cases. As part of their Web Accessibility Initiative, the World Wide Web Consortium, more commonly known as W3C, has promulgated a series of web accessibility guidelines, including the Web Content Accessibility Guidelines. The original draft of these guidelines, referred to as WCAG 1.0, were first introduced in 1999. The guidelines were overhauled in 2008 with the release of WCAG 2.0. Those standards were updated again in 2018, with the introduction of WCAG 2.1, to add seventeen additional criteria for website accessibility. The standards were once again revised in 2023 with the release of WCAG 2.2. Although courts have not held that a failure to adhere to the WCAG standard is a per se violation of the Americans with Disabilities Act, they have ordered compliance with the standard as a means of remedying an otherwise proven violation of the Act. (*Robles, supra*, 913 F.3d at p. 907.)

In the absence of federal guidance, California has twice tried to adopt standards for website accessibility into law. However, differences of opinion between the business community and advocates for Californians with disabilities have caused both prior efforts to stall.

***This bill seeks to provide for a balanced framework to promote website accessibility and avoid unnecessary litigation.*** This bill represents the Legislature’s third attempt to address website disability standards. The bill establishes two paths for a company to assert an affirmative defense to a website accessibility claim. First, if an entity publishes a digital accessibility report on its website, which identifies any accessibility barriers on the website, and subsequently fixes those barriers within 45 days the company may assert an affirmative defense. The second avenue for an affirmative defense arises from a company that utilizes an applicable WCAG standard, regularly tests its website for accessibility issues, remedies any discovered barriers within 45 days, maintains an accessibility page on their website, and provides a means by which a website user can both file a complaint about an access issue with the company and provides a means for the person with a disability to conduct business with the company notwithstanding the website accessibility barrier.

The bill also addresses the liability of website developers, referred to as “resource service providers” in the bill. The bill imposes liability on the website developer if the developer negligently, recklessly, or knowingly distributes a website resource that fails to conform to the WCAG standards and makes a false representation about the websites compliance with the WCAG standards. The bill empowers website users, public prosecutors, and small businesses to file suit to enforce the resource service provider liability portions of the bill.

Finally, the bill imposes liability for intentional discrimination on any entity that receives a complaint regarding an accessibility concern on their website and fails to remediate the accessibility barrier within 45 days.

***Proposed amendments fill in missing lengths for compliance timelines.*** As currently in print the bill lacks timelines outlining how soon a website accessibility issue must be remediated. The bill also lacks a timeline for how soon after a pre-lawsuit demand letter is received by a company before they have to assert the above described defenses. The author is proposing amendments to fill in these gaps. For the response to a demand letter the author is proposing a 30 day timeline. Accordingly the proposed Civil Code Section 55.58.2 will now read:

An entity shall have an affirmative defense to a claim seeking statutory damages under subdivision (a) of Section 52 or 54.3 on the basis of a specific accessibility barrier on an entity’s internet website if either of the following apply, and the entity provided evidence to the plaintiff demonstrating that fact within **30** \_\_\_\_\_ days of receiving a written pre-lawsuit demand from the plaintiff:

All of the other blank timelines, which relate to coming into compliance with accessibility standards after a deficiency is discovered will now be amended to mandate compliance within 45 days of discovering a defect in order to maintain the affirmative defense provided by the bill.

***Despite opposition concerns about remaining liability this bill represents a significant step forward toward standardizing disability access in California.*** The bill is opposed, unless amended, by the California Chamber of Commerce, the Civil Justice Association, and the California Retailers Association. The opposition argues the criteria for qualifying for the affirmative defense in the bill are too onerous and that maintaining the accessibility page on a website required by this bill may expose business to new liability. While the steps to achieve an affirmative defense are robust, they are designed to ensure that a website is truly accessible and remains that way. Additionally, as evidenced by the repeated attempts to establish a standard, under the existing law, businesses have little guidance as how to avoid liability. Although this

bill may require robust monitoring of one's website, the bill is certainly a better alternative to the existing confusion and potentially limitless liability present under existing law.

The opposition also notes that this bill's new provisions that a failure to remedy a deficiency within 45 days is evidence of *intentional* discrimination is a novel approach to proving intentional discrimination. The opposition contends that under this language a business may be held to intentionally discriminate against a plaintiff because it is unable to make its website accessible in 45 days. This is indeed a new approach to a vexing problem in the disability access space.

The proponents of this bill note that existing law makes proving intentional discrimination on the ground of disability access exceedingly difficult. This is why so much of the focus on litigation surrounding the Americans with Disabilities Act relates to statutory violations of the law. They also remind the opposition that what is a glitchy website to a business is a barrier to accessing basic services to a person with disabilities. As this Committee well knows from hearing bills related to construction claims and the Americans with Disabilities Act, too many businesses are prone to treating the Americans with Disabilities Act as a mere suggestion, and not the law, until they face the threat of legal action. The proponents of this bill argue this provision simply uses a stronger method for ensuring compliance with the law. Nonetheless, the author has indicated to this Committee that he is willing to engage with all stakeholders on this provision of the bill.

***ARGUMENTS IN SUPPORT:*** This bill is supported by several disability rights advocates, including the California Council of the Blind and Disability Rights California, and some business organizations including the California Association of Realtors and the Greater Coachella Valley Chamber of Commerce. In support of the bill, Disability Rights California states:

DRC worked closely with disability led organizations to support AB 2190, which looks to provide access for disabled people and protect businesses from frivolous litigation. This bill helps to push California forward and provide opportunities for disabled people to have more access to information, resources, services and products available to others.

AB 2190 strikes a balance between encouraging access and maintaining accountability. The bill creates structured mechanisms, such as Digital Accessibility Reports and defined timelines for remediation, that promote prompt identification and resolution of access barriers.

At the same time, it preserves the core enforcement tools that have long made California's civil rights laws effective, including liability where businesses fail to remedy known violations. By conditioning limited protections on good-faith efforts and timely remediation, AB 2190 ensures that incentives for compliance do not become shields for inaction.

The California Association of Realtors also notes:

REALTORS® strongly support policies that promote equal access to housing, services, and information for individuals with disabilities. As real estate professionals increasingly rely on websites and digital tools to serve clients, ensuring meaningful accessibility is critical.

This bill takes an important step forward by providing clear, objective standards for website accessibility, including alignment with recognized benchmarks such as WCAG standards. It also creates practical compliance pathways, including the use of accessibility pages, digital

accessibility reports, and ongoing monitoring practices, which will help businesses proactively identify and remediate barriers. Equally important, the bill introduces reasonable guardrails around liability by establishing an affirmative defense for businesses that act in good faith to maintain accessible websites and promptly correct identified barriers.

***ARGUMENTS IN OPPOSITION:*** As noted, the bill is opposed, unless amended, by the California Chamber of Commerce, the Civil Justice Association, and the California Retailers Association. In opposition to the bill, a coalition letter from these groups states:

The bill is structured as a trade-off between a liability protection and new, pass-through liability for “resource service providers.” In practice, however, the liability protections appear largely unworkable, meaning the bill may primarily function to create new exposure and a new cause of action without providing meaningful protection.

AB 2190 would add Civil Code Section 55.58.2, which conditions the availability of an affirmative defense on requirements that are either circular or infeasible. Under subdivision (a), for example, a business must both identify an accessibility issue in a publicly posted digital accessibility report and have already remediated that issue prior to receiving a complaint. In effect, a business qualifies for protection only where no issue remains.

At the same time, identifying unresolved issues in a public report may increase litigation risk without providing protection during the period in which remediation is underway. This structure may discourage transparency and proactive compliance, undermining the bill’s stated intent. While Subdivision (b) offers an alternative pathway, it would impose a series of extremely burdensome obligations that may be impossible for many businesses to meet in practice. These include maintaining ongoing compliance with evolving federal accessibility standards, conducting continuous automated and manual testing, remediating all identified issues within unspecified timeframes, publicly posting detailed testing protocols, and assuming responsibility for accessibility issues caused by third-party content or integrations.

The bill would also require rapid response timelines for addressing complaints, such as a required response to any reports of inaccessibility within 48 hours and a review of any complaint for accuracy within 5 business days. These rapid timelines may not be feasible depending on the nature and complexity of the issue, and the proposed timelines create concerns particularly in the absence of any provision for a user impact assessment or a mechanism to allow extensions based on technical feasibility.

Additionally, the bill leaves many other key remediation timelines blank, creating further uncertainty. Entities vary widely in size, resources, and operational complexity, including obligations to comply with multiple jurisdictions. These factors can significantly affect the time required to investigate and remediate alleged issues. Leaving these timelines undefined invites substantial debate and uncertainty, particularly given the challenges the Legislature has historically faced in establishing workable and balanced remediation periods.

AB 2190 also creates new liability for “resource service providers,” even where those entities may not control the underlying website or the specific accessibility issue. This raises concerns regarding the scope of liability and the potential for expanded litigation against entities that are not in a position to control or remediate the alleged harm.

A final and critical concern is newly proposed Section 55.58.4 of the Civil Code, which appears to represent a significant shift in how intentional discrimination is established under the Unruh Civil Rights Act. As currently drafted, a business would be deemed to have engaged in intentional discrimination if it receives written notice of an alleged violation and fails to remediate within an unspecified number of days. This approach effectively lowers the standard for proving intent and raises concerns about fairness and due process.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Audioeye  
California Assisted Living Association  
California Association of Realtors  
California Council of the Blind  
Disability Rights California  
Disability Rights Education & Defense Fund  
National Federation of the Blind of California  
The Greater Coachella Valley Chamber of Commerce

**Opposition**

California Chamber of Commerce  
California Retailers Association  
Civil Justice Association of California

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