

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

AB 649 (Lowenthal)  
Version: May 12, 2025  
Hearing Date: June 30, 2026  
Fiscal: Yes  
Urgency: No  
ME

**SUBJECT**

Disability access: construction-related accessibility claim

**DIGEST**

This bill provides a process for a business to avoid liability for construction-related accessibility claims, as specified. The bill changes the statutes that allow for defendant businesses to obtain attorney's fees when a suit is brought against them for construction-related accessibility claims.

**EXECUTIVE SUMMARY**

California's disability access laws have long operated to ensure that people with disabilities can utilize businesses and places of public accommodation in the state. In spite of their important civil rights functions, these laws have sometimes generated controversy due to high-volume claims made by a relatively small group of litigants and law firms. One way the Legislature has addressed this issue is through the California Certified Access Specialist Program. Under this program businesses can request a trained inspector to examine their establishment and point out any changes that are needed to ensure compliance with disability access standards. If the business proceeds to undertake necessary upgrades, the business receives temporary immunity from disability access lawsuits.

AB 649 would increase the amount of time a defendant business can receive immunity from disability access lawsuits, as specified. The bill also contains a provision that would make it more difficult for defendant businesses to obtain court ordered attorney's fees.

This bill is author sponsored and supported by the California Apartment Association, City of Long Beach, Disability Rights California, and other organizations which support the civil rights of disabled people. The bill is opposed by the California Chamber of Commerce, the Civil Justice Association of California, and other business organizations.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Provides, pursuant to the federal Americans with Disabilities Act (ADA), 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. § 12182.)
- 2) Pursuant to the Unruh Civil Rights Act (Unruh), 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 ADA 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. (Civ. Code §§ 51 et seq.)
- 3) Provides that, pursuant to the Disabled Persons Act, individuals with disabilities or medical conditions have the same rights as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, and 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 ADA constitutes a violation of state law. (Civ. Code § 54.)
- 4) 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. (Civ. Code § 54.1.)
- 5) Establishes the Construction-Related Accessibility Standards Compliance Act which, among other things, requires the Department of the State Architect (DSA) to establish the Certified Access Specialist Program and develop the specified criteria to have a person qualify as a Certified Access Specialist (CASp). Requires a local agency to employ or retain building inspectors who are a CASp to provide consultation to local agencies, permit applicants, and members of the public on compliance with state construction-related accessibility standards with respect to inspections of a place of public accommodation that relate to permitting, plan checks, or new construction, as specified. (Gov. Code § 4459.5; Civ. Code §§ 55.51, 55.52.)
- 6) Provides that a business, as defined, shall not be liable for minimum statutory damages in a construction-related accessibility claim, with respect to a violation

noted in a report by a CASp for a period of 120 days following the date of the inspection if the defendant demonstrates compliance with each of the following:

- (a) The defendant is a business that, as of the date of inspection, has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years, as evidenced by wage report forms filed with the Employment Development Department.
  - (b) The structure or area of the alleged violation was the subject of an inspection report indicating "CASp determination pending" or "Inspected by a CASp."
  - (c) The inspection predates the filing of the claim by, or receipt of a demand letter from, the plaintiff regarding the alleged violation of a construction-related accessibility standard, and the defendant was not on notice of the alleged violation prior to the CASp inspection.
  - (d) The defendant has corrected, within 120 days of the date of the inspection, all construction-related violations in the structure or area inspected by the CASp that are noted in the CASp report that are the basis of the claim. (Civ. Code § 55.56(g).)
- 7) Requires a city, county, or city and county to provide to an applicant for the issuance or renewal of a business license or equivalent instrument or permit, the following information relating to obtaining information about the legal obligation to comply with disability access laws: "Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies ..." (Gov. Code § 4469.)
- 8) Defines a "high-frequency litigant" (HFL) as a plaintiff who has filed 10 or more complaints alleging violations of construction-related accessibility standards in the past 12 months; or an attorney who has represented 10 or more such plaintiffs in the past year. (Code of Civ. Proc. § 425.55 (b).)
- 9) Requires an HFL to pay a supplemental filing fee of one thousand dollars (\$1,000) and imposes the following pleading requirements on HFLs who file new claims:
- a) Whether the complaint is filed by, or on behalf of, an HFL.
  - b) If the HFL is a plaintiff, the number of complaints filed by the plaintiff in the past 12 months.
  - c) If the HFL is a plaintiff, the reason why the HFL was in the geographic area of the defendant's business.
  - d) If the HFL is a plaintiff, the reason why the individual desired to access the defendant's business, including the specific commercial, business, personal, social, leisure, recreational, or other purpose. (Code of Civ. Proc. § 425.50 (a), § 425.50 (b); Gov. Code § 70616.5.)

- 10) Allows a court, after notice and a reasonable opportunity to respond, to determine whether the requirements above, have been violated and, if so, impose sanctions. (Code of Civ. Proc. § 425.50 (d).)
- 11) Requires an attorney who sends or serves a complaint alleging a construction-related accessibility violation to do both of the following:
  - a) Send a copy of the complaint to the California Commission on Disability Access (CCDA) within five business days of sending or serving the complaint.
  - b) Notify the CCDA about how the claim is resolved, including whether the violations were remedied and whether the defendant applied for an early evaluation conference and stay. (Civ. Code § 55.32 (b).)
- 12) Entitles any business that is served with a complaint by an HFL to obtain a stay of the proceedings and an early evaluation conference. (Civ. Code § 55.54 (b)(2)(D).)
- 13) Allows a court to declare an unrepresented litigant, after providing notice and a hearing, to be a vexatious litigant, require them to post security, and prohibit them from filing new claims without court permission, including in a case where the litigant “repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.” (Code of Civ. Proc. § 391 *et seq.*)
- 14) Provides that any person who is aggrieved or potentially aggrieved by a violation of Section 54 or 54.1 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney’s fees. (Civ. Code § 55.)
- 15) Provides that any person who is aggrieved or potentially aggrieved by a violation of this part, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney’s fees. Health & Saf. Code § 19953.

This bill:

- 1) Establishes, until January 1, 2034, the Small Business Right to Cure Program and prohibits a defendant who qualifies for the program from being liable for minimum statutory damages for any construction-related accessibility claim for a period of 6 years following a CASp report, as provided. To qualify for the program, the bill

requires the defendant to demonstrate specified conditions, among others, that the defendant has posted, as provided, both the CASp inspection notice and a Notice of Participation in the Small Business Right to Cure Program, as defined.

- 2) Authorizes the State Architect to develop, as specified, a form Notice of Participation in the Small Business Right to Cure Program, and authorizes a business to satisfy any requirement to provide the notice by providing a specified written statement until and unless the State Architect promulgates the form.
- 3) Requires a public accommodation that participates in the program to make available specified documents for public inspection, including the CASp report that is the basis for the public accommodation asserting that it qualifies for the program.
- 4) Provides that no provision of the program applies under any of specified conditions, including that the plaintiff or prospective plaintiff alleges an intentional violation of any state or federal disability rights law, a violation related to policies, practices, or procedures, or seeks special damages that arise from physical personal injuries or damage to personal property.
- 5) Until January 1, 2034, additionally requires an attorney to include in their notification to the Commission on Disability Access whether the defendant qualified for and used the Small Business Notice and Right to Cure Program.
- 6) Provides that a person who posts a specified notice, including a Notice of Participation in the Small Business Right to Cure Program on the premises of a place of public accommodation, or authorizes the document to remain posted on the premises, and knows or should know that the document is inauthentic, materially inaccurate, or that the place of public accommodation does not qualify for the applicable program or other limitation on liability provided by law shall be subject to enforcement under the Unfair Competition Law.
- 7) Prohibits assessing a prevailing defendant's attorney's fees or costs in these actions unless a court finds that the plaintiff's claim was frivolous, unreasonable, or groundless, as specified.

### COMMENTS

#### 1. Stated need for the bill

According to the author:

The goal of AB 649 is to strike an appropriate balance between maintaining the critically important rights and protections granted to disabled individuals under current law, incentivizing businesses to obtain CASp inspections, make

necessary corrections to remove barriers, and drive compliance with ADA law, while granting those businesses who are complying with the law greater protection from lawsuits.

AB 649 creates the Small Business Right to Cure Program, which grants businesses that proactively elect to get a CASp inspection and correct all construction-related violations identified by the CASp a six-year window, where they will have a 120 day right to correct any construction-related violation identified in a construction-related liability claim. The most important component of the bill is that the business must proactively obtain a CASp inspection and correct all construction-related violations identified in the inspection to enjoy the protections provided under the bill.

## 2. Efforts to provide relief to small businesses

The Legislature enacted bills to better protect small businesses from abusive disability access lawsuits. SB 269 (Roth, Ch. 13, Stats. 2016), was enacted to protect businesses with 50 or fewer employees from liability for minimum statutory damages in a construction-related accessibility claim for the 120-day period after the business has obtained an inspection of its premises by a CASp, allowing the business to identify and correct violations during that period. SB 269 also established a presumption that certain “technical violations” of construction-related accessibility standards (such as faded paint on parking spaces or missing signage) do not constitute grounds for a complaint under Unruh as long as those violations are corrected within 15 days of the business owner being notified about them. AB 2093 (Steinorth, Ch. 379, Stats. 2016) was enacted to require a commercial property owner to disclose on every lease form or rental agreement, whether or not the property being leased has undergone inspection by a CASp. AB 1521 (Committee on Judiciary, Ch. 755, Stat. 2015) was enacted to provide additional information and legal resources to small business owners to help them minimize their liability for ADA violations. It also limited the practice of high-volume lawsuits motivated by quick settlement with business owners, rather than correction of ADA violations. As explained in the Assembly Judiciary Committee analysis of AB 913 (Gray, 2017):

[AB 1521(Committee on Judiciary, 2016)] limited the practice of high-volume lawsuits motivated by quick settlement with business owners, rather than correction of ADA violations, by enacting special procedural requirements – including payment of a \$1,000 filing fee--and post-settlement reporting requirements on HFLs. AB 1521 requires an HFL who files a new claim to do the following, in addition to paying the higher filing fee: (1) comply with special pleading requirements, including an explanation of why he or she was on the premises of the accommodation; (2) certify that, among other things, the complaint is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of

litigation; (3) provide a notice and answer form to the defendant upon service of the complaint; and (4) meet the defendant, upon the defendant's request, at the site of the accommodation to jointly inspect the premises, and review any programmatic or policy issues, that are claimed to constitute a violation of a construction-related accessibility standard. All of these provisions in AB 1521 were intended to deter lawsuits by HFLs; inform unsophisticated owners about their legal rights *and* responsibilities; and assist those business owners take self-help measures to limit their liability for violations.

As stated above, existing law provides certain protections to businesses who actively seek out a CASp inspection prior to being sued for construction-related accessibility violations. These businesses are entitled to a 90-day stay and an early evaluation conference. They also qualify for reduced minimum statutory damages of \$1000 per violation if the violations are corrected within 120 days. In addition, existing law extends similar protections to small businesses that have not had a CASp inspection. These small businesses qualify for minimum statutory damages of \$2000 per violation if the violations are cured within 30 days.

Under current law, the potential threat of these statutory penalties and attorney fees creates an incentive for business owners to make their buildings accessible and thus provide access to disabled people. If their buildings are accessible then the business owners are protected from liability.

### 3. Attorney's fees and damages

Under existing law, people who are deterred from accessing a business are entitled to, at the very least, minimum statutory damages ranging from \$1000 per violation to \$4000 per violation, depending on the type of business. In addition, people who are able to demonstrate some type of harm, may be entitled to "actual" damages, although actual damages in access suits are rarely present because they are very difficult to ascertain except in situations involving, for example, hospitals and clinics when the plaintiff needed medical attention. Thus, the law provides for the minimum of \$1,000 in statutory damages so that businesses are deterred from ignoring access standards with regard to their establishments. California law provides that the prevailing party "in the action shall be entitled to recover reasonable attorney's fees." (Civ. Code § 55, Health and Safety Code §19953.)

Civil Code section 55 provides that:

Any person who is aggrieved or potentially aggrieved by a violation of Section 54 or 54.1 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the

violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

Health and Safety Code section 19953 provides that "the prevailing party in the action shall be entitled to recover reasonable attorney's fees." Specifically, current law reads as follows:

Any person who is aggrieved or potentially aggrieved by a violation of this part, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

AB 649 would amend these prevailing party attorney's fees provisions and make it more difficult for defendant businesses to recover attorney's fees. Moreover, the opposition contends that adding this amendment would remove the deterrent effect of the current prevailing party attorney's fees provisions.

The Assembly Committee on Judiciary explained the importance of this change of law in their analysis. They write:

*[ . . . ] the bill would amend Civil Code Section 55 and Health and Safety Code Section 19953, regarding the award of attorney's fees in Civil cases seeking the enforcement of state construction-related accessibility laws, to align with the ADA and to more closely reflect the award of attorney's fees for other violations of the Unruh Act.*

[ . . . ] Section 55 was enacted more than 50 years ago and is an outlier among state Civil rights statutes because it *mandates* the award of attorney's fees to prevailing defendants in cases that seek to enforce the disability access provisions of Unruh. Health and Safety Code Section 19953, enacted in 1983, replicated the language of Section 55 to mandate that attorney's fees shall be awarded to the prevailing party in a Civil action regarding the accessibility of public amusements and resorts, including theaters, concert halls, and stadiums shall provide seating or accommodations for physically disabled persons in a variety of locations within the facility set forth in Health and Safety Code Sections 19952 *et seq.* The bill, as proposed to be amended, would bring Section 55 into alignment with the ADA and closer into harmony with virtually all other states Civil rights laws by providing that in either such action, "A plaintiff shall not be assessed their opponent's attorney's fees and or costs unless a court finds that their claim was frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it became clear that the claim was frivolous, unreasonable, or groundless."

This is consistent with the discretionary fee provision of the ADA, as interpreted by the U.S. Supreme Court in *Christiansburg Garment Co. v. Equal Employment Opportunity Comm'n* (1978) 434 U.S. 412. Under *Christiansburg*, while prevailing plaintiffs should always receive fees in an ADA case *unless an award would be unjust* (*Christiansburg*, at pp. 416–417), prevailing defendants should not receive fees unless the trial court finds that a plaintiff's claim is "frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so." (*Id.*, at p. 422 [Citations omitted].) This is also a fair and appropriate benefit to the disabled community for how the bill, even as proposed to be amended, would infringe on their rights to pursue redress for a violation of Unruh in state or federal courts, in a manner that is equal to other victims of discrimination.

#### Amendments

The author has agreed to remove the bill's provisions that make it more difficult for business owners to recover attorney's fees and costs. The following amendments remove these provisions:

- Strike out lines 1 through 13 on page 5.
- Strike out lines 13 through 26 on page 46.

#### 4. Support

The California Apartment Association, in support of AB 649 writes:

On behalf of the members of the California Apartment Association (CAA), I am writing to extend CAA's continued support for AB 649, your bill that would, among other things, create a six-year right to cure accessibility violations for small businesses that voluntarily obtain a Certified Access Specialist (CASp) inspection and correct all violations found in the report. The bill would also provide the small business immunity from minimum statutory damages for any construction-related accessibility claim brought during that six-year period if specified procedures are followed.

Existing law imposes financial damages for construction-related accessibility claims if the violation denied a disabled plaintiff full and equal access to the place of public accommodation on a particular occasion, as specified. This includes the office and parking area, for example, at a residential rental building. AB 649 would allow small businesses the opportunity to proactively remedy these violations without the specter of a crippling disability-related lawsuit. This bill will provide much needed security for California's most vulnerable businesses.

The City of Long Beach writes the following in support of AB 649:

The City is committed to creating an inclusive environment that prioritizes accessibility for all residents and visitors. The City recognizes the importance of upholding the rights of individuals with disabilities while also supporting our local small businesses that are integral to the economic vitality of our community. Everyone benefits when businesses are accessible and successful.

AB 649 introduces a balanced approach by providing small businesses with a six-year period following a Certified Access Specialist (CAsp) inspection to address identified accessibility violations without being subject to minimum statutory damages, provided they meet specified conditions. This initiative encourages proactive compliance and remediation efforts, ultimately enhancing accessibility across the state. This bill will encourage more businesses to obtain CAsp inspections to ensure their businesses are fully compliant with the requirements of the Americans with Disabilities Act, providing predictability and confidence to countless small business and individuals with disabilities in Long Beach.

By facilitating a collaborative process that promotes both accessibility and economic sustainability, AB 649 aligns with the City's dedication to equitable and inclusive community development.

A coalition of advocates that support the civil rights of disabled people, including Disability Rights California, Disability Rights Education & Defense Fund, NorCal Services for Deaf & Hard of Hearing, and the Service Center for Independent Life write the following in support of the bill:

The organizations submitting this letter advocate for the rights of people with disabilities, and we support AB 649. Some of our organizations opposed this bill when it was first introduced but removed our opposition after the author engaged with members of our coalition to address our concerns and remove objectionable provisions. The bill now strikes a thoughtful balance between businesses' interest in containing litigation costs and the need for disability access in the built environment.

This bill establishes the Small Business Right to Cure Program. Although our coalition generally opposes "notice and cure" bills, we support this bill because the program it establishes is contingent on remediation of access barriers and includes reasonable safeguards against abuse by either party. These features make the bill a more balanced and equitable approach than other "notice and cure" bills like SB 84 (Niello), which we continue to vehemently oppose. And, unlike SB 84, AB 649 is the result of thoughtful negotiation and a shared interest

in avoiding the erosion of disability rights and disabled peoples' right of access to the courts.

## 5. Opposition

The Long Beach Area Chamber of Commerce asserts that the bill in print invites further abuse by predatory attorneys. They write:

Rather than curbing abusive litigation, this bill invites it. By requiring public access to CASp reports within 72 hours, even upon oral request, AB 649 arms opportunistic lawyers with new tools to exploit vulnerable businesses – especially those in underserved communities. The bill also makes it nearly impossible for prevailing small businesses to recover attorneys' fees, even when they defeat frivolous lawsuits in court.

A vast coalition of businessowners, including the California Chamber of Commerce and the Civil Justice Association write the following in opposition:

The bill eliminates an important deterrent to abusive disability access litigation in California by making it nearly impossible to recover attorneys' fees from bad actor lawyers. [ . . . ]

We are very concerned that businesses that opt into AB 649's Small Business Right to Cure Program would face landmines and new forms of liability.

To even participate in the SBRCP, small businesses would need to pay as much as \$3000 or more for a new CASp report in 2026 or after. [ . . . ]

Small businesses participating in the SBRCP would be required to provide CASp inspection reports and documents related to improvements within 72 hours of oral or written demands.

AB 649 makes no exception for modifications that are impossible, technically infeasible, and/or not readily achievable to make.

Small businesses need protections from abusive lawsuits, not legislation that creates a right to cure that is costly, complicated, and fraught with potential pitfalls and traps. We are concerned that the Small Business Right to Cure Program ("SBRCP") created under AB 649 would harm rather than help participating small businesses for the following reasons:

To qualify for the SBRCP program, a business would have to pay for a new CASp inspection sometime after January 1, 2026 – even if it had already fully

passed a CASp inspection on all counts earlier this year. The expense and delay of obtaining CASp reports (many of which cost in excess of \$3,000 and can take months to receive after the initial call) continues to be a huge problem for small businesses. Many CASps are already overburdened with responding to current litigation-related requests, so this bill would likely create a “run” on CASp inspections and reports, making it even harder for defendants in litigation matters needing quick CASp info.

Any business that participates in the SBRCPP would be required to make available a site inspection report from a Certified Access Specialist (“CASp”) along with “[a]ll building permits and all other documents related to improvements, including improvements that did not require a permit, such as the resurfacing or restriping of parking lots, that evidence alteration, modification, or structural repair” to any member of the public who requests it (*even orally*) within 72 hours of the request. Imagine a busy restaurant or salon getting multiple requests during business hours or right before a holiday weekend.

The current bill language provides that: “[i]f the defendant has failed to correct, within 120 days of the date of the inspection, *all* construction-related violations in the structure or area that are noted in the CASp report, *the defendant shall not receive any protection from liability* for minimum statutory damages . . .” (emphasis added). However, established case law recognizes that certain improvements are not “readily achievable” (i.e., “easily accomplishable and able to be carried out without much difficulty or expense”) for a given defendant to make at a given location.

Many small businesses would need to pay thousands of dollars they do not have to hire a lawyer to ensure the CASp uses the correct legal standards. AB 649 creates a new form of UCL liability for small businesses. [ . . . ]

#### 6. Commitment to amend the bill in the next Committee

The 46-page bill contains several provisions that should be amended to effectuate a right to cure. The Committee is seeking a commitment from the author to amend the bill in the next Committee as below:

A small business owner has a right to cure access violations for 8 years if the business receives a CASp inspection and the business fixed what was in the report or the business did not fix something that was not in the report but fixes it within 120 days of being alerted of the violation. That business owner can ask the court for an extension of the 120 days. Also, a business receives a right to cure if they tried to obtain a CASp inspection and have not been able to procure one. The right to cure continues until an inspection occurs and deficiencies are corrected. If deficiencies are detected the business has 120 days to cure before

there is an actionable claim. If a business does what is specified above, it is an affirmative defense. Essentially the concept is, if a business cannot obtain a CASp inspection the business should not be on the hook for statutory damages/liability, if a business obtains a CASp inspection and the CASp specialist does not catch a problem then the business should not be on the hook for statutory damages/liability. Once the business is on notice about the actual violation then they are obligated to fix it within 120 days.

The Committee is also seeking a commitment from the author to work on process and procedure and the other provisions of the bill that may frustrate the purpose of providing a right to cure. For example, the bill in print voids the right to cure if an intentional violation is merely alleged.

### SUPPORT

Cal Voices  
California Apartment Association  
California Foundation for Independent Living Centers  
City of Long Beach  
Disability Rights California  
Disability Rights Education & Defense Fund  
Garden Grove Chamber of Commerce  
NorCal Services for Deaf & Hard of Hearing  
Service Center for Independent Life  
South Bay Association of Chambers of Commerce

### OPPOSITION

Civil Justice Association of California  
Acclamation Insurance Management Services  
Allied Managed Care  
Associated General Contractors of California  
Brea Chamber of Commerce  
Building Owners and Managers Association of California  
California Business Properties Association  
California Chamber of Commerce  
California Civil Liberties Advocacy  
California Hotel and Lodging Association - Lynn Mohrfeld  
California Justice Alliance, APC  
California Retailers Association  
Carlsbad Chamber of Commerce  
Coalition of Small and Disabled Veteran Businesses  
Commercial Real Estate Development Association of California

Denco Family, Inc.  
Flasher Barricade Association  
Greater Conejo Valley Chamber of Commerce  
Greater High Desert Chamber of Commerce  
Independent Hospitality Coalition  
Long Beach Area Chamber of Commerce  
National Federation of Independent Business  
Newport Beach Chamber of Commerce  
Oceanside Chamber of Commerce  
Porterville Chamber of Commerce  
Tulare Chamber of Commerce  
Wine Institute

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 84 (Niello, 2025) prohibits a construction-related accessibility claim for statutory damages from being initiated in a legal proceeding against a defendant unless the defendant has: 1) been served with a letter specifying each alleged violation of a construction-related accessibility standard; and 2) the alleged violations have not been corrected within 120 days of service. This bill provides that a defendant is not liable for statutory damages, costs, or plaintiff's attorney's fees for an alleged violation that is corrected within 120 days of service of a letter. The provisions of this bill apply to a defendant who employs 50 or fewer individuals as of the date of the receipt of the letter or for any period over the past three years from the date of the receipt of the letter. The bill is pending in the Assembly Judiciary Committee.

#### **Prior Legislation:**

SB 585 (Niello, 2023) would have prohibited a construction-related accessibility claim for statutory damages from being initiated in a legal proceeding against a defendant unless the defendant has: 1) been served with a letter specifying each alleged violation of a construction-related accessibility standard; and 2) the alleged violations have not been corrected within 120 days of service. Would have provided that a defendant is not liable for statutory damages, costs, or plaintiff's attorney's fees for an alleged violation that is corrected within 120 days of service of a letter. Would have applied to a defendant who employs 50 or fewer individuals as of the date of the receipt of the letter or for any period over the past three years from the date of the receipt of the letter. SB 58 died in the Assembly Judiciary Committee.

SB 748 (Roth, Ch. 76, Stats. 2023) required applicants for business licenses or renewals to be provided with a specified notice by local governments regarding potential liability

under state and federal disability access laws and the importance of obtaining inspection services by CASp specialists.

AB 3158 (Mathis, 2018) would have prohibited a cause of action on the basis of a construction-related access barrier in an existing public accommodation by an individual who alleges to have been aggrieved by the existence of the access barrier from accruing unless specified conditions are met. The bill would have created a specified 90-day period and an additional 30-day period during which the owner or operator of the public accommodation shall be permitted to remove the barrier or to make substantial progress toward removing the barrier, or to made a good faith effort to remove the barrier, as defined, before a cause of action accrues. The bill would also have specified that a cause of action against an owner or operator of a public accommodation on the basis of a construction-related access barrier by an individual who alleges to have been aggrieved by the existence of the access barrier shall not accrue during a 90-day period, and, if applicable, the additional 30-day period, if a civil action relating to the same construction-related access barrier is pending. AB 3158 failed passage in the Assembly Judiciary Committee.

AB 3002 (Grayson, Ch. 680, Stats. 2018) promoted disability access at commercial businesses and places of public accommodation by requiring local government agencies to provide building permit applicants with an advisory about federal and state disability access laws, encouragement to obtain an inspection from a CASp, information about how to contact a CASp, and notice regarding the availability of state and federal programs to assist small businesses with disability access expenditures.

AB 1379 (Thurmond, Ch. 667, Stats. 2017) increased CASp funding by requiring, on January 1, 2018 and through December 31, 2023, any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, to pay an additional fee of four dollars (rather than one dollar) for that license, instrument, or permit, in order to fund CASp services by the city, county, or city and county that issued the license, instrument, or permit. At the same time, the bill allowed local jurisdictions to retain a larger percentage of the revenue (90 percent) generated by the fees for CASp training and disability access purposes. Finally, where the local jurisdiction did not charge for business licenses, AB 1379 imposed a fee on building permits. After five years, the fees were scheduled to revert back to the pre-AB 1379 amount of one dollar and the local rate of retention would return to the pre-AB 1379 amount of 70 percent. The goal of AB 1379 was to increase the availability of CASp services and ultimately improve overall business compliance with state and federal construction-related accessibility standards.

SB 1142 (Moorlach, 2016) was nearly identical to this bill and failed passage in this Committee.

SB 269 (Roth, Ch. 13, Stats. 2016) protected a business with 50 or fewer employees from liability for minimum statutory damages in a construction-related accessibility claim during the 120-day period immediately after the business has obtained an inspection of its premises by a CASp. SB 269 also established a presumption that certain “technical violations” of construction-related accessibility standards (such as faded paint on parking spaces or missing signage) do not constitute grounds for a complaint under the Unruh Civil Rights Act or the Disabled Persons Act as long as those violations are corrected within 15 days of notification to the business owner.

AB 2093 (Steinorth Ch. 379, Stats. 2016) increased the information available to the public and to prospective tenants of commercial property about the ADA and a commercial property’s compliance with construction-related accessibility standards and created a presumption that the responsibility for making any repairs or modifications necessary to correct violations of construction-related accessibility standards that are noted in a CASp report is the responsibility of the commercial property owner or lessor, unless otherwise mutually agreed upon by the commercial property owner or lessor and the lessee or tenant.

AB 1230 (Gomez, Ch. 787, Stats. 2015) established the California Americans With Disabilities Act Small Business Capital Access Loan Program within the California Capital Access Loan Program in order to create a self-sustaining program to provide loans to assist small businesses in financing the costs of projects that alter or retrofit existing small business facilities according to certain criteria, to comply with the federal ADA.

AB 1521 (Committee on Judiciary, Ch. 755, Stats. 2015) made various changes to the law as it pertains to construction-related accessibility claims, including creating a new class of plaintiff, a “high frequency litigant,” upon which it imposed additional costs and procedural burdens. Special pre-filing requirements are imposed on “high-frequency litigants” (HFLs) – plaintiffs who file more than 10 or more complaints in one year and attorneys who represent 10 or more high frequency litigant plaintiffs – and post-settlement reporting requirements on all attorneys who file construction-related accessibility claims.

SB 1186 (Steinberg, Ch. 383, Stats. 2012) created a number of protections for small businesses and defendants who had, prior to a claim being filed, sought out a CASp inspection. These protections included reduced minimum statutory damages, early evaluation conferences, and mandatory stays of court proceedings while the violations were corrected. That bill also prevented the stacking of multiple claims to increase damages, banned pre-litigation demands for money, and increased data collection regarding alleged access violations. The bill also required an attorney who sends a demand letter or files a lawsuit alleging a violation of construction-related disability access laws to submit a copy and report specified information about the claim and its outcome to the California Commission on Disability Access and required a \$1

additional fee to be paid by any applicant for a local business license, permit, or similar instrument when it is issue or renewed.

SB 1608 (Corbett, Ch. 549, Stats. 2008) enacted various reforms intended to increase voluntary compliance with longstanding state and federal laws requiring access to the disabled in any place of public accommodation.

SB 262 (Kuehl, Ch. 872, Stats. 2003) required the DSA to establish and publicize the CASp Program for voluntary certification by the state of any person who meets specified criteria as a CASp.

**PRIOR VOTES:**

Assembly Floor (Ayes 78, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

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