

AMENDED IN ASSEMBLY JUNE 18, 2025

AMENDED IN SENATE MAY 23, 2025

AMENDED IN SENATE APRIL 2, 2025

SENATE BILL

No. 84

**Introduced by Senators Niello, Ashby, Caballero, ~~and Pérez Pérez,~~
and Wahab**

(Principal coauthor: Assembly Member Castillo)

**(Coauthors: Senators Allen, Archuleta, Becker, Blakespear,
Cabaldon, Gonzalez, Limón, McNerney, Ochoa Bogh, Padilla,
Rubio, ~~and Seyarto~~ Seyarto, Stern, Umberg, and Wiener)**

(Coauthors: Assembly Members Irwin, Nguyen, Pacheco, and Ransom)

January 17, 2025

An act to amend Section 55.56 of the Civil Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

SB 84, as amended, Niello. Disability access: construction-related accessibility claims: notice of violation and opportunity to correct.

Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. Existing law imposes minimum statutory damages for construction-related accessibility claims if the violation of a construction-related accessibility standard denied the plaintiff full and equal access to the place of public accommodation on a particular occasion, as specified. Existing law imposes various limits on a defendant's liability for statutory damages under specified sets of conditions, including if the defendant, among other things, corrects the construction-related violations within a specified time.

This bill would prohibit a construction-related accessibility claim for statutory damages from being initiated in a legal proceeding against a defendant who employs 50 or fewer individuals, as specified, unless the defendant has been served with a letter specifying each alleged violation, and the alleged violations have not been corrected within 120 days of service of the letter. The bill would provide that a defendant is not liable for statutory damages, plaintiff's attorney's fees, or costs for an alleged violation that is corrected within 120 days of service of a letter alleging the violation. The bill would also prohibit a plaintiff from avoiding the notice and opportunity to correct provisions and the liability limitations by claiming they are seeking general discrimination damages based on a violation of the Americans with Disabilities Act of 1990 if the underlying claim is based on a defendant's failure to comply with physical accessibility standards under California law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 55.56 of the Civil Code is amended to
- 2 read:
- 3 55.56. (a) Statutory damages under either subdivision (a) of
- 4 Section 52 or subdivision (a) of Section 54.3 may be recovered in
- 5 a construction-related accessibility claim against a place of public
- 6 accommodation only if a violation or violations of one or more
- 7 construction-related accessibility standards denied the plaintiff
- 8 full and equal access to the place of public accommodation on a
- 9 particular occasion.
- 10 (b) A plaintiff is denied full and equal access only if the plaintiff
- 11 personally encountered the violation on a particular occasion, or
- 12 the plaintiff was deterred from accessing a place of public
- 13 accommodation on a particular occasion.
- 14 (c) A violation personally encountered by a plaintiff may be
- 15 sufficient to cause a denial of full and equal access if the plaintiff
- 16 experienced difficulty, discomfort, or embarrassment because of
- 17 the violation.
- 18 (d) A plaintiff demonstrates that the plaintiff was deterred from
- 19 accessing a place of public accommodation on a particular occasion
- 20 only if both of the following apply:

1 (1) The plaintiff had actual knowledge of a violation or
2 violations that prevented or reasonably dissuaded the plaintiff from
3 accessing a place of public accommodation that the plaintiff
4 intended to use on a particular occasion.

5 (2) The violation or violations would have actually denied the
6 plaintiff full and equal access if the plaintiff had accessed the place
7 of public accommodation on that particular occasion.

8 (e) (1) The following technical violations are presumed to not
9 cause a person difficulty, discomfort, or embarrassment for the
10 purpose of an award of minimum statutory damages in a
11 construction-related accessibility claim, as set forth in subdivision
12 (c), where the defendant is a small business, as described by
13 subparagraph (B) of paragraph (2) of subdivision (g), the defendant
14 has corrected, within 15 days of the service of a summons and
15 complaint asserting a construction-related accessibility claim or
16 receipt of a written notice, whichever is earlier, all of the technical
17 violations that are the basis of the claim, and the claim is based on
18 one or more of the following violations:

19 (A) Interior signs, other than directional signs or signs that
20 identify the location of accessible elements, facilities, or features,
21 when not all such elements, facilities, or features are accessible.

22 (B) The lack of exterior signs, other than parking signs and
23 directional signs, including signs that indicate the location of
24 accessible pathways or entrance and exit doors when not all
25 pathways or entrance and exit doors are accessible.

26 (C) The order in which parking signs are placed, or the exact
27 location or wording of parking signs, provided that the parking
28 signs are clearly visible and indicate the location of accessible
29 parking and van-accessible parking.

30 (D) The color of parking signs, provided that the color of the
31 background contrasts with the color of the information on the sign.

32 (E) The color of parking lot striping, provided that it exists and
33 provides sufficient contrast with the surface upon which it is
34 applied to be reasonably visible.

35 (F) Faded, chipped, damaged, or deteriorated paint in otherwise
36 fully compliant parking spaces and passenger access aisles in
37 parking lots, provided that it indicates the required dimensions of
38 a parking space or access aisle in a manner that is reasonably
39 visible.

1 (G) The presence or condition of detectable warning surfaces
2 on ramps, except where the ramp is part of a pedestrian path of
3 travel that intersects with a vehicular lane or other hazardous area.

4 (2) The presumption set forth in paragraph (1) affects the
5 plaintiff's burden of proof and is rebuttable by evidence showing,
6 by a preponderance of the evidence, that the plaintiff did, in fact,
7 experience difficulty, discomfort, or embarrassment on the
8 particular ~~occasion~~ *occasion*, as a result of one or more of the
9 technical violations listed in paragraph (1).

10 (3) This subdivision shall apply only to claims filed on or after
11 the effective date of Senate Bill 269 of the 2015–16 Regular
12 Session.

13 (f) Statutory damages may be assessed pursuant to subdivision
14 (a) based on each particular occasion that the plaintiff was denied
15 full and equal access, and not upon the number of violations of
16 construction-related accessibility standards identified at the place
17 of public accommodation where the denial of full and equal access
18 occurred. If the place of public accommodation consists of distinct
19 facilities that offer distinct services, statutory damages may be
20 assessed based on each denial of full and equal access to the distinct
21 facility, and not upon the number of violations of
22 construction-related accessibility standards identified at the place
23 of public accommodation where the denial of full and equal access
24 occurred.

25 (g) (1) Notwithstanding any other law, a defendant's liability
26 for statutory damages in a construction-related accessibility claim
27 against a place of public accommodation is reduced to a minimum
28 of one thousand dollars (\$1,000) for each offense if the defendant
29 demonstrates that it has corrected all construction-related violations
30 that are the basis of a claim within 60 days of being served with
31 the complaint, and the defendant demonstrates any of the following:

32 (A) The structure or area of the alleged violation was determined
33 to be "CAsp-inspected" or "meets applicable standards" and, to
34 the best of the defendant's knowledge, there were no modifications
35 or alterations that impacted compliance with construction-related
36 accessibility standards with respect to the plaintiff's claim that
37 were completed or commenced between the date of that
38 determination and the particular occasion on which the plaintiff
39 was allegedly denied full and equal access.

1 (B) The structure or area of the alleged violation was the subject
2 of an inspection report indicating “CAsp determination pending”
3 or “Inspected by a CAsp,” and the defendant has either
4 implemented reasonable measures to correct the alleged violation
5 before the particular occasion on which the plaintiff was allegedly
6 denied full and equal access, or the defendant was in the process
7 of correcting the alleged violation within a reasonable time and
8 manner before the particular occasion on which the plaintiff was
9 allegedly denied full and equal access.

10 (C) For a claim alleging a construction-related accessibility
11 violation filed before January 1, 2018, the structure or area of the
12 alleged violation was a new construction or an improvement that
13 was approved by, and passed inspection by, the local building
14 department permit and inspection process on or after January 1,
15 2008, and before January 1, 2016, and, to the best of the
16 defendant’s knowledge, there were no modifications or alterations
17 that impacted compliance with respect to the plaintiff’s claim that
18 were completed or commenced between the completion date of
19 the new construction or improvement and the particular occasion
20 on which the plaintiff was allegedly denied full and equal access.

21 (D) The structure or area of the alleged violation was new
22 construction or an improvement that was approved by, and passed
23 inspection by, a local building department official who is a certified
24 access specialist, and, to the best of the defendant’s knowledge,
25 there were no modifications or alterations that affected compliance
26 with respect to the plaintiff’s claim that were completed or
27 commenced between the completion date of the new construction
28 or improvement and the particular occasion on which the plaintiff
29 was allegedly denied full and equal access.

30 (2) Notwithstanding any other law, a defendant’s liability for
31 statutory damages in a construction-related accessibility claim
32 against a place of public accommodation is reduced to a minimum
33 of two thousand dollars (\$2,000) for each offense if the defendant
34 demonstrates both of the following:

35 (A) The defendant has corrected all construction-related
36 violations that are the basis of a claim within 30 days of being
37 served with the complaint.

38 (B) The defendant is a small business that has employed 25 or
39 fewer employees on average over the past three years, or for the
40 years it has been in existence if less than three years, as evidenced

1 by wage report forms filed with the Economic Development
2 Department, and has average annual gross receipts of less than
3 three million five hundred thousand dollars (\$3,500,000) over the
4 previous three years, or for the years it has been in existence if
5 less than three years, as evidenced by federal or state income tax
6 returns. The average annual gross receipts dollar amount shall be
7 adjusted biannually by the Department of General Services for
8 changes in the California Consumer Price Index for All Urban
9 Consumers, as compiled by the Department of Industrial Relations.
10 The Department of General Services shall post that adjusted
11 amount on its internet website.

12 (3) (A) Notwithstanding any other law, a defendant shall not
13 be liable for minimum statutory damages in a construction-related
14 accessibility claim, with respect to a violation noted in a report by
15 a certified access specialist (CAsp), for a period of 120 days
16 following the date of the inspection if the defendant demonstrates
17 compliance with each of the following:

18 (i) The defendant is a business that, as of the date of inspection,
19 has employed 50 or fewer employees on average over the past
20 three years, or for the years it has been in existence if less than
21 three years, as evidenced by wage report forms filed with the
22 Employment Development Department.

23 (ii) The structure or area of the alleged violation was the subject
24 of an inspection report indicating “CAsp determination pending”
25 or “Inspected by a CAsp.”

26 (iii) The inspection predates the filing of the claim by, or receipt
27 of a demand letter from, the plaintiff regarding the alleged violation
28 of a construction-related accessibility standard, and the defendant
29 was not on notice of the alleged violation prior to the CAsp
30 inspection.

31 (iv) The defendant has corrected, within 120 days of the date
32 of the inspection, all construction-related violations in the structure
33 or area inspected by the CAsp that are noted in the CAsp report
34 that are the basis of the claim.

35 (B) Notwithstanding any other law, a defendant who claims the
36 benefit of the reduction of, or protection from liability for,
37 minimum statutory damages under this subdivision shall disclose
38 the date and findings of any CAsp inspection to a plaintiff if
39 relevant to a claim or defense in an action.

(4) A defendant may claim the protection from liability for minimum statutory damages under paragraph (3) only once for each structure or area inspected by a CASp, unless the inspected structure or area has undergone modifications or alterations that affect the compliance with construction-related accessibility standards of those structures or areas after the date of the last inspection, and the defendant obtains an additional CASp inspection within 30 days of final approval by the building department or certificate of occupancy, as appropriate, regarding the modification or alterations.

(5) If the defendant has failed to correct, 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, the defendant shall not receive any protection from liability for minimum statutory damages pursuant to paragraph (3), unless a building permit is required for the repairs which cannot reasonably be completed by the defendant within 120 days and the defendant is in the process of correcting the violations noted in the CASp report, as evidenced by having, at least, an active building permit necessary for the repairs to correct the violation that was noted, but not corrected, in the CASp report and all of the repairs are completed within 180 days of the date of the inspection.

(6) This subdivision shall not be applicable to intentional violations.

(7) Nothing in this subdivision affects the awarding of actual damages, or affects the awarding of treble actual damages.

(8) This subdivision shall apply only to claims filed on or after the effective date of Chapter 383 of the Statutes of 2012, except for paragraphs (3), (4), and (5), which shall apply only to claims filed on or after the effective date of Senate Bill 269 of the 2015–16 Regular Session. Nothing in this subdivision is intended to affect a complaint filed before those dates, as applicable.

(h) (1) Notwithstanding any other law, a construction-related accessibility claim for statutory damages shall be initiated in a legal proceeding against a defendant only if both of the following apply:

(A) The defendant has been served with a letter specifying each alleged violation of a construction-related accessibility standard.

1 (B) The alleged violations of construction-related accessibility
2 standards have not been corrected within 120 days of service of
3 the letter.

4 (2) Service of a letter pursuant to this section may be
5 accomplished by mail to the defendant pursuant to Section 415.30
6 of the Code of Civil Procedure, by personal delivery to the
7 defendant pursuant to Section 415.10 of the Code of Civil
8 Procedure, or by any other means authorized for service of a
9 summons.

10 (3) A defendant shall not be liable for statutory damages,
11 plaintiff's attorney's fees, or costs for an alleged violation of a
12 construction-related accessibility standard that is corrected within
13 120 days of service of a letter alleging the violation.

14 (4) A plaintiff shall not be permitted to circumvent the
15 requirements of paragraph (1) and the limitations on liability under
16 paragraph (3) by claiming that they are seeking general
17 discrimination damages based on a violation of the Americans
18 with Disabilities Act of 1990, and not damages for a
19 construction-related accessibility claim, if the underlying basis of
20 the claim is the defendant's alleged failure to comply with physical
21 accessibility standards under this part.

22 (5) This subdivision shall apply to any defendant who employs
23 50 or fewer individuals as of the date of the receipt of the letter
24 described in subparagraph (A) of paragraph (1) or for any period
25 during the three years immediately preceding the date of the receipt
26 of the letter described in subparagraph (A) of paragraph (1).

27 (i) This section does not alter the applicable law for the awarding
28 of injunctive or other equitable relief for a violation or violations
29 of one or more construction-related accessibility standards, nor
30 alter any legal obligation of a party to mitigate damages.

31 (j) In assessing liability under subdivision (d), in an action
32 alleging multiple claims for the same construction-related
33 accessibility violation on different particular occasions, the court
34 shall consider the reasonableness of the plaintiff's conduct in light
35 of the plaintiff's obligation, if any, to mitigate damages.

36 (k) For purposes of this section, the "structure or area inspected"
37 means one of the following: the interior of the premises, the
38 exterior of the premises, or both the interior and exterior.

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