

Introduced by Senator Oller

January 17, 2003

An act to amend Section 54.1 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 69, as introduced, Oller. Disability: access.

Existing law provides that individuals with disabilities are entitled to full and equal access to accommodations, advantages, facilities, privileges of various modes of transportation, and as specified.

This bill would set forth the duty of an individual with a disability who in good faith believes that a public accommodation or housing accommodation does not provide full and equal access, to notify the owner or manager of that accommodation. The bill would also set forth the duty of the owner or manager, or other responsible party, to notify the individual of planned access improvements, as defined, and to make those improvements within a specified period, during which period the individual would be prohibited from commencing a cause of action under any state disabled access law. The bill would also prohibit the recovery of attorney's fees, treble damages, or any other costs, with respect to any action or proceeding regarding access improvements.

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 54.1 of the Civil Code is amended to
2 read:

1 54.1. (a) (1) Individuals with disabilities shall be entitled to
2 full and equal access, as other members of the general public, to
3 accommodations, advantages, facilities, medical facilities,
4 including hospitals, clinics, and physicians' offices, and privileges
5 of all common carriers, airplanes, motor vehicles, railroad trains,
6 motorbuses, streetcars, boats, or any other public conveyances or
7 modes of transportation—~~(whether, whether private, public,~~
8 ~~franchised, licensed, contracted, or otherwise provided)~~ *provided*,
9 telephone facilities, adoption agencies, private schools, hotels,
10 lodging places, places of public accommodation, amusement, or
11 resort, and other places to which the general public is invited,
12 subject only to the conditions and limitations established by law,
13 or state or federal regulation, and applicable alike to all persons.

14 (2) As used in this section, "telephone facilities" means tariff
15 items and other equipment and services that have been approved
16 by the Public Utilities Commission to be used by individuals with
17 disabilities in a manner feasible and compatible with the existing
18 telephone network provided by the telephone companies.

19 (3) "Full and equal access," for purposes of this section in its
20 application to transportation, means access that meets the
21 standards of Titles II and III of the Americans with Disabilities Act
22 of 1990 (Public Law 101-336) and federal regulations adopted
23 pursuant ~~thereto~~ *to those standards*, except that, if the laws of this
24 state prescribe higher standards, it ~~shall mean~~ *means* access that
25 meets those higher standards.

26 (b) (1) Individuals with disabilities shall be entitled to full and
27 equal access, as other members of the general public, to all housing
28 accommodations offered for rent, lease, or compensation in this
29 state, subject to the conditions and limitations established by law,
30 or state or federal regulation, and applicable alike to all persons.

31 (2) "Housing accommodations" means any real property, or
32 ~~portion thereof~~ *of real property*, that is used or occupied, or is
33 intended, arranged, or designed to be used or occupied, as the
34 home, residence, or sleeping place of one or more human beings,
35 but ~~shall~~ *does* not include any accommodations included within
36 subdivision (a) or any single-family residence the occupants of
37 which rent, lease, or furnish for compensation not more than one
38 room ~~therein~~ *of the residence*.

39 (3) (A) Any person renting, leasing, or otherwise providing
40 real property for compensation shall not refuse to permit an



1 individual with a disability, at that person's expense, to make
2 reasonable modifications of the existing rented premises if the
3 modifications are necessary to afford the person full enjoyment of
4 the premises. However, any modifications under this paragraph
5 may be conditioned on the disabled tenant entering into an
6 agreement to restore the interior of the premises to the condition
7 existing prior to the modifications. No additional security may be
8 required on account of an election to make modifications to the
9 rented premises under this paragraph, but the lessor and tenant may
10 negotiate, as part of the agreement to restore the premises, a
11 provision requiring the disabled tenant to pay an amount into an
12 escrow account, not to exceed a reasonable estimate of the cost of
13 restoring the premises.

14 (B) Any person renting, leasing, or otherwise providing real
15 property for compensation ~~shall~~ *may* not refuse to make reasonable
16 accommodations in rules, policies, practices, or services, when
17 those accommodations may be necessary to afford individuals
18 with a disability equal opportunity to use and enjoy the premises.

19 (4) Nothing in this subdivision ~~shall require~~ *requires* any
20 person renting, leasing, or providing for compensation real
21 property to modify his or her property in any way or provide a
22 higher degree of care for an individual with a disability than for an
23 individual who is not disabled.

24 (5) Except as provided in paragraph (6), nothing in this part
25 ~~shall require~~ *requires* any person renting, leasing, or providing for
26 compensation real property, if that person refuses to accept tenants
27 who have dogs, to accept as a tenant an individual with a disability
28 who has a dog.

29 (6) (A) It shall be deemed a denial of equal access to housing
30 accommodations within the meaning of this subdivision for any
31 person, firm, or corporation to refuse to lease or rent housing
32 accommodations to an individual who is blind or visually impaired
33 on the basis that the individual uses the services of a guide dog, an
34 individual who is deaf or hearing impaired on the basis that the
35 individual uses the services of a signal dog, or to an individual with
36 any other disability on the basis that the individual uses the
37 services of a service dog, or to refuse to permit ~~such~~ an individual
38 who is blind or visually impaired to keep a guide dog, an individual
39 who is deaf or hearing impaired to keep a signal dog, or an



1 individual with any other disability to keep a service dog on the
2 premises.

3 (B) Except in the normal performance of duty as a mobility or
4 signal aid, nothing contained in this paragraph ~~shall~~ *may* be
5 construed to prevent the owner of a housing accommodation from
6 establishing terms in a lease or rental agreement that reasonably
7 regulate the presence of guide dogs, signal dogs, or service dogs
8 on the premises of a housing accommodation, ~~nor shall this~~
9 ~~paragraph be construed to~~ *or* relieve a tenant from any liability
10 otherwise imposed by law for real and personal property damages
11 caused by ~~such a dog when~~ *those dogs if* proof of the same exists.

12 (C) (i) As used in this subdivision, “guide dog” means any
13 guide dog that was trained by a person licensed under Chapter 9.5
14 (commencing with Section 7200) of Division 3 of the Business and
15 Professions Code or as defined in the regulations implementing
16 Title III of the Americans with Disabilities Act of 1990 (Public
17 Law 101-336).

18 (ii) As used in this subdivision, “signal dog” means any dog
19 trained to alert an individual who is deaf or hearing impaired to
20 intruders or sounds.

21 (iii) As used in this subdivision, “service dog” means any dog
22 individually trained to the requirements of the individual with a
23 disability, including, but not limited to, minimal protection work,
24 rescue work, pulling a wheelchair, or fetching dropped items.

25 (7) It shall be deemed a denial of equal access to housing
26 accommodations within the meaning of this subdivision for any
27 person, firm, or corporation to refuse to lease or rent housing
28 accommodations to an individual who is blind or visually
29 impaired, an individual who is deaf or hearing impaired, or other
30 individual with a disability on the basis that the individual with a
31 disability is partially or wholly dependent upon the income of his
32 or her spouse, if the spouse is a party to the lease or rental
33 agreement. Nothing in this subdivision, however, ~~shall prohibit~~
34 *prohibits* a lessor or landlord from considering the aggregate
35 financial status of an individual with a disability and his or her
36 spouse.

37 (c) Visually impaired or blind persons and persons licensed to
38 train guide dogs for individuals who are visually impaired or blind
39 pursuant to Chapter 9.5 (commencing with Section 7200) of
40 Division 3 of the Business and Professions Code or guide dogs as



1 defined in the regulations implementing Title III of the Americans
2 with Disabilities Act of 1990 (Public Law 101-336), and persons
3 who are deaf or hearing impaired and persons authorized to train
4 signal dogs for individuals who are deaf or hearing impaired, and
5 other individuals with a disability and persons authorized to train
6 service dogs for individuals with a disability, may take dogs, for
7 the purpose of training them as guide dogs, signal dogs, or service
8 dogs in any of the places specified in subdivisions (a) and (b).
9 These persons shall ensure that the dog is on a leash and tagged as
10 a guide dog, signal dog, or service dog by identification tag issued
11 by the county clerk, animal control department, or other agency,
12 as authorized by Chapter 3.5 (commencing with Section 30850)
13 of Division 14 of the Food and Agricultural Code. In addition, the
14 person shall be liable for any provable damage done to the
15 premises or facilities by his or her dog.

16 (d) A violation of the right of an individual under the
17 Americans with Disabilities Act of 1990 (Public Law 101-336)
18 also constitutes a violation of this section, and nothing in this
19 section ~~shall~~ *may* be construed to limit the access of any person in
20 violation of that act.

21 (e) Nothing in this section ~~shall preclude~~ *precludes* the
22 requirement of the showing of a license plate or disabled placard
23 when required by enforcement units enforcing disabled persons
24 parking violations pursuant to Sections 22507.8 and 22511.8 of the
25 Vehicle Code.

26 (f) (1) *An individual with a disability who in good faith*
27 *believes that a public accommodation or housing accommodation*
28 *does not provide full and equal access to that accommodation, as*
29 *required by this section, Section 51, 52, 54, or 54.2, or Section*
30 *4450 or 4452 of the Government Code, shall notify the*
31 *accommodation by sending a certified letter addressed to the*
32 *owner or manager of that accommodation. The certified letter*
33 *shall clearly identify the specific access problems.*

34 (2) *Upon receipt of the certified letter, the owner or manager,*
35 *or other responsible party as designated by the owner or manager,*
36 *shall comply with the following:*

37 (A) *Within 60 days from receipt of the certified letter, respond*
38 *in writing to that individual and provide a description of the access*
39 *improvements that are being made or will be made pursuant to*
40 *subparagraph (B). For purposes of this section, "access*



1 *improvements” are improvements made on a voluntary basis,*
2 *irrespective of any law, regulation, or court order that may require*
3 *the improvements.*

4 (B) *Within 90 days from receipt of the certified letter, act in*
5 *good faith to make appropriate access improvements. These*
6 *improvements need not be completed in 90 days if there is good*
7 *cause for delay. “Good cause” includes, but is not limited to,*
8 *weather, application for required permits, the availability of*
9 *contractors, consultants, experts, or attorneys, unforeseen*
10 *circumstances, or similar delays.*

11 (3) *An individual with a disability may not commence a cause*
12 *of action against any public accommodation or housing*
13 *accommodation for an alleged violation of any section described*
14 *in paragraph (1) until 90 days after the owner or manager of the*
15 *accommodation receives the certified letter.*

16 (4) *A plaintiff may not recover attorney’s fees, treble damages,*
17 *or any other costs, pursuant to subdivision (a) of Section 54.3, with*
18 *respect to any action or proceeding regarding access*
19 *improvements.*

