

AMENDED IN ASSEMBLY APRIL 21, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 378

Introduced by Assembly Member Chu

***(Coauthors: Assembly Members Chan, Dymally, Huff, Koretz,
Laird, Pavley, and Ridley-Thomas)***

(Coauthors: Senators Bowen, Kuehl, and Romero)

February 11, 2005

An act to amend Section 52 of the Civil Code, and to amend Section 338 of the Code of Civil Procedure, relating to protected classes.

LEGISLATIVE COUNSEL'S DIGEST

AB 378, as amended, Chu. Statute of limitation: protected classes.

Existing law provides that all persons within this jurisdiction have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute, or because another person perceives them to have any of those characteristics. ~~A~~ *Among other things*, a civil penalty of \$25,000 may be awarded to the person denied this right in any action brought by the aggrieved party, the Attorney General, a district attorney, or a city attorney.

~~Existing law further authorizes an Attorney General, district attorney, city attorney, or an aggrieved individual to bring a civil action against any person who interferes with the exercise or enjoyment of an individual's rights secured by the Constitution or~~

~~laws of the United States, or of rights secured by the Constitution or laws of this state, as specified.~~

Existing law generally prescribes a one-year statute of limitation for the commencement of any action brought upon a statute for a penalty or forfeiture, and 3 years for an action upon a liability created by statute.

This bill would provide for a 3-year statute of limitation for the commencement of any action brought pursuant to the above ~~provisions~~ *provision*.

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 52 of the Civil Code is amended to
2 read:

3 52. (a) Whoever denies, aids or incites a denial, or makes any
4 discrimination or distinction contrary to Section 51, 51.5, or 51.6,
5 is liable for each and every offense for the actual damages, and
6 any amount that may be determined by a jury, or a court sitting
7 without a jury, up to a maximum of three times the amount of
8 actual damage but in no case less than four thousand dollars
9 (\$4,000), and any attorney's fees that may be determined by the
10 court in addition thereto, suffered by any person denied the rights
11 provided in Section 51, 51.5, or 51.6.

12 (b) Whoever denies the right provided by Section 51.7 or 51.9,
13 or aids, incites, or conspires in that denial, is liable for each and
14 every offense for the actual damages suffered by any person
15 denied that right and, in addition, the following:

16 (1) An amount to be determined by a jury, or a court sitting
17 without a jury, for exemplary damages.

18 (2) A civil penalty of twenty-five thousand dollars (\$25,000)
19 to be awarded to the person denied the right provided by Section
20 51.7 in any action brought by the person denied the right, or by
21 the Attorney General, a district attorney, or a city attorney. An
22 action for that penalty *brought pursuant to Section 51.7* shall be
23 commenced within three years of the alleged practice.

24 (3) Attorney's fees as may be determined by the court.

25 (c) Whenever there is reasonable cause to believe that any
26 person or group of persons is engaged in conduct of resistance to

1 the full enjoyment of any of the rights described in this section,
2 and that conduct is of that nature and is intended to deny the full
3 exercise of those rights, the Attorney General, any district
4 attorney or city attorney, or any person aggrieved by the conduct
5 may bring a civil action in the appropriate court by filing with it
6 a complaint. The complaint shall contain the following:

7 (1) The signature of the officer, or, in his or her absence, the
8 individual acting on behalf of the officer, or the signature of the
9 person aggrieved.

10 (2) The facts pertaining to the conduct.

11 (3) A request for preventive relief, including an application for
12 a permanent or temporary injunction, restraining order, or other
13 order against the person or persons responsible for the conduct,
14 as the complainant deems necessary to ensure the full enjoyment
15 of the rights described in this section.

16 (d) Whenever an action has been commenced in any court
17 seeking relief from the denial of equal protection of the laws
18 under the Fourteenth Amendment to the Constitution of the
19 United States on account of race, color, religion, sex, national
20 origin, or disability, the Attorney General or any district attorney
21 or city attorney for or in the name of the people of the State of
22 California may intervene in the action upon timely application if
23 the Attorney General or any district attorney or city attorney
24 certifies that the case is of general public importance. In that
25 action, the people of the State of California shall be entitled to
26 the same relief as if it had instituted the action.

27 (e) Actions brought pursuant to this section are independent of
28 any other actions, remedies, or procedures that may be available
29 to an aggrieved party pursuant to any other law.

30 (f) Any person claiming to be aggrieved by an alleged
31 unlawful practice in violation of Section 51 or 51.7 may also file
32 a verified complaint with the Department of Fair Employment
33 and Housing pursuant to Section 12948 of the Government Code.

34 (g) This section does not require any construction, alteration,
35 repair, structural or otherwise, or modification of any sort
36 whatsoever, beyond that construction, alteration, repair, or
37 modification that is otherwise required by other provisions of
38 law, to any new or existing establishment, facility, building,
39 improvement, or any other structure, nor does this section
40 augment, restrict, or alter in any way the authority of the State

1 Architect to require construction, alteration, repair, or
2 modifications that the State Architect otherwise possesses
3 pursuant to other laws.

4 (h) For the purposes of this section, “actual damages” means
5 special and general damages. This subdivision is declaratory of
6 existing law.

7 SEC. 2. Section 338 of the Code of Civil Procedure is
8 amended to read:

9 338. Within three years:

10 (a) An action upon a liability created by statute, other than a
11 penalty or forfeiture.

12 (b) An action for trespass upon or injury to real property.

13 (c) An action for taking, detaining, or injuring any goods or
14 chattels, including actions for the specific recovery of personal
15 property. The cause of action in the case of theft, as defined in
16 Section 484 of the Penal Code, of any article of historical,
17 interpretive, scientific, or artistic significance is not deemed to
18 have accrued until the discovery of the whereabouts of the article
19 by the aggrieved party, his or her agent, or the law enforcement
20 agency which originally investigated the theft.

21 (d) An action for relief on the ground of fraud or mistake. The
22 cause of action in that case is not to be deemed to have accrued
23 until the discovery, by the aggrieved party, of the facts
24 constituting the fraud or mistake.

25 (e) An action upon a bond of a public official except any cause
26 of action based on fraud or embezzlement is not to be deemed to
27 have accrued until the discovery, by the aggrieved party or his or
28 her agent, of the facts constituting the cause of action upon the
29 bond.

30 (f) An action against a notary public on his or her bond or in
31 his or her official capacity except that any cause of action based
32 on malfeasance or misfeasance is not deemed to have accrued
33 until discovery, by the aggrieved party or his or her agent, of the
34 facts constituting the cause of action; provided, that any action
35 based on malfeasance or misfeasance shall be commenced within
36 one year from discovery, by the aggrieved party or his or her
37 agent, of the facts constituting the cause of action or within three
38 years from the performance of the notarial act giving rise to the
39 action, whichever is later; and provided further, that any action

1 against a notary public on his or her bond or in his or her official
2 capacity shall be commenced within six years.

3 (g) An action for slander of title to real property.

4 (h) An action commenced under Section 17536 of the
5 Business and Professions Code. The cause of action in that case
6 shall not be deemed to have accrued until the discovery by the
7 aggrieved party, the Attorney General, the district attorney, the
8 county counsel, the city prosecutor, or the city attorney of the
9 facts constituting grounds for commencing such an action.

10 (i) An action commenced under the Porter-Cologne Water
11 Quality Control Act (Division 7 (commencing with Section
12 13000) of the Water Code). The cause of action in that case shall
13 not be deemed to have accrued until the discovery by the State
14 Water Resources Control Board or a regional water quality
15 control board of the facts constituting grounds for commencing
16 actions under their jurisdiction.

17 (j) An action to recover for physical damage to private
18 property under Section 19 of Article I of the California
19 Constitution.

20 (k) An action commenced under Division 26 (commencing
21 with Section 39000) of the Health and Safety Code. These causes
22 of action shall not be deemed to have accrued until the discovery
23 by the State Air Resources Board or by a district, as defined in
24 Section 39025 of the Health and Safety Code, of the facts
25 constituting grounds for commencing the action under its
26 jurisdiction.

27 (l) An action commenced under Section 1603.1 or 5650.1 of
28 the Fish and Game Code. These causes of action shall not be
29 deemed to have accrued until discovery by the agency bringing
30 the action of the facts constituting the grounds for commencing
31 the action.

32 (m) An action challenging the validity of the levy upon a
33 parcel of a special tax levied by a local agency on a per parcel
34 basis.

35 (n) An action commenced under Section 51.7 ~~or 52.1~~ of the
36 Civil Code.

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