

AMENDED IN SENATE APRIL 21, 2008

SENATE BILL

No. 1608

**Introduced by Senator Corbett Senators Corbett, Harman, Steinberg,
Runner, and Calderon**

(Principal coauthor: ~~Assembly Member Wolk~~ coauthors: *Assembly
Members Smyth and Wolk*)

February 22, 2008

~~An act to amend Section 54.3 of the Civil Code, relating to disabled persons.~~ *An act to amend Section 5600 of the Business and Professions Code, to add Section 55.3 to, and to add Part 2.52 (commencing with Section 55.51) to Division 1 of, the Civil Code, to add Chapter 3.7 (commencing with Section 8299) to Division 1 of Title 2 of the Government Code, and to amend Sections 18945 and 18949.29 of the Health and Safety Code, relating to disability access.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1608, as amended, Corbett. ~~Disabled persons.~~ *persons: equal access rights: civil actions.*

(1) Existing law provides for the licensure and regulation of persons engaged in the practice of architecture by the California Architects Board.

This bill would require a person licensed to practice architecture, as a condition of continued licensure, to complete coursework regarding disability access requirements, as specified, and provide proof of that completion to the California Architects Board.

(2) Existing law prohibits any person, firm, or corporation from denying or interfering with a disabled person's admittance to or enjoyment of public facilities, or from otherwise interfering with the rights of an individual with a disability, including the right to be

accompanied by a guide dog, signal dog, or service dog, as specified. Existing federal law, the Americans with Disabilities Act of 1990, prohibits discrimination against an individual with a disability on the basis of that disability in specified situations, including employment opportunities and access to public accommodations, services, and transportation.

This bill would require an attorney to provide a specified written advisory to a building owner or tenant with each demand for money or complaint for any alleged physical access violation, as defined, in a form to be developed by the Judicial Council, and on a separate page clearly distinguishable from the demand for money, as specified.

(3) Existing law authorizes the State Architect to establish a program for voluntary certification by the state of any person who meets specified criteria as a certified access specialist with respect to access to buildings for persons with disabilities.

This bill would enact the Construction-Related Accessibility Standards Compliance Act, which would provide for the inspection of sites by certified access specialists and the provision of specified certificates and reports regarding those inspections. The bill would require that, commencing July 1, 2009, all inspections of a privately owned place of public accommodation that relate to permitting, plan checks, or new construction be conducted by a building inspector who is a certified access specialist. It would require a local agency to employ or retain a sufficient number of building inspectors, and in no event less than one, who are certified access specialists. The bill would allow a local government to charge or increase inspection fees to the extent necessary to offset the costs of complying with these provisions. By imposing a new requirement on local agencies with respect to building inspectors, the bill would impose a state-mandated local program.

The bill would require a court, with respect to an action involving an accessibility claim, to issue an order that, among other things, grants a 90-day stay of the action and schedules an early evaluation conference if the defendant has satisfied certain requirements relating to inspection of the site at issue. The bill would provide that damages may be recovered only for a violation of a construction-related accessibility standard that personally and actually deterred the plaintiff.

(4) Existing law establishes various boards and commissions within state government.

The bill would establish the California Commission on Disability Access for certain purposes relating to disability access, and would

require the commission to conduct studies and make reports to the Legislature, as specified.

(5) Existing law provides that any person adversely affected by a regulation or other specified action of any state agency respecting the administration of any building standard may appeal the issue for resolution to the California Building Standards Commission. Existing law also provides that, if any local agency having authority to enforce a state building standard and any person adversely affected by any regulation or other specified action of that agency respecting that building standard both wish to appeal the issue for resolution to the commission, then both parties may appeal to the commission. Existing law provides that the commission may accept that appeal only if it determines that the issues involved in the appeal have statewide significance.

This bill would provide, in addition, that, with respect to a building standard adopted by the commission relating to making public accommodations accessible to and usable by people with disabilities, if either a local agency having authority to enforce that building standard or a person adversely affected by a regulation or other specified action of that agency respecting that building standard wishes to appeal the issue for resolution to the commission, then either party may appeal to the commission. It would provide that the commission may accept the appeal only if it determines that the issues involved in the appeal have statewide significance.

(6) Existing law requires all construction inspectors, plans examiners, and building officials to complete a minimum of 45 hours of continuing education for every 3-year period, as specified.

This bill would require that at least 8 of those hours of continuing education relate to disability access requirements, as specified. The bill would allow a local government to charge or increase inspection fees to the extent necessary to offset any added costs incurred in complying with these provisions.

(7) The bill would provide that certain provisions described above shall become operative only upon the funding, and commencement of operations, of the California Commission on Disability Access, and shall cease to be operative 60 days following the cessation of operations of the commission.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, individuals with certain disabilities are entitled to equal access rights to various facilities. Any person who denies or interferes with admittance to, or enjoyment of, public facilities, or otherwise interferes with the rights of an individual with a disability, is liable for each offense, as specified.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.

State-mandated local program: ~~no~~yes.

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

1 *SECTION 1. Section 5600 of the Business and Professions*
 2 *Code is amended to read:*

3 5600. (a) All licenses issued or renewed under this chapter
 4 shall expire at 12 midnight on the last day of the birth month of
 5 the licenseholder in each odd-numbered year following the issuance
 6 or renewal of the license.

7 (b) To renew an unexpired license, the licenseholder shall,
 8 before the time at which the license would otherwise expire, apply
 9 for renewal on a form prescribed by the board and pay the renewal
 10 fee prescribed by this chapter.

11 (c) The renewal form shall include a statement specifying
 12 whether the licensee was convicted of a crime or disciplined by
 13 another public agency during the preceding renewal period and
 14 that the licensee’s representations on the renewal form are true,
 15 correct, and contain no material omissions of fact, to the best
 16 knowledge and belief of the licensee.

17 (d) (1) *As a condition of continued licensure, a licensee shall*
 18 *have completed coursework regarding disability access*
 19 *requirements pursuant to subparagraphs (2) and (3). A licensee*
 20 *shall provide proof that he or she has completed the required*
 21 *coursework prior to approval of his or her continued licensure.*

22 (2) (A) *For licenses renewed on and after July 1, 2009, and*
 23 *before January 1, 2010, a licensee shall have completed one hour*
 24 *of coursework.*

1 (B) For licenses renewed on and after January 1, 2010, and
2 before January 1, 2011, a licensee shall have completed two and
3 one-half hours of coursework.

4 (C) For licenses renewed on and after January 1, 2011, a
5 licensee shall have completed five hours of coursework within the
6 previous two years.

7 (3) Coursework regarding disability access requirements shall
8 include information and practical guidance concerning
9 requirements imposed by the Americans with Disabilities Act of
10 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state
11 laws that govern access to public facilities, and federal and state
12 regulations adopted pursuant to those laws. Coursework provided
13 pursuant to this paragraph shall be presented by trainers or
14 educators with knowledge and expertise in these requirements.
15 The board shall certify coursework in compliance with this
16 provision.

17 SEC. 2. Section 55.3 is added to the Civil Code, to read:

18 55.3. (a) For purposes of this section, the following shall
19 apply:

20 (1) “Complaint” means a civil complaint that is filed or is to
21 be filed with a court and is sent to or served upon a defendant on
22 the basis of one or more alleged physical access violations, as
23 defined in this section.

24 (2) “Demand for money” means a written document that is
25 provided to a building owner or tenant, or an agent or employee
26 of a building owner or tenant, that contains a request for money
27 on the basis of one or more alleged physical access violations, as
28 defined in paragraph (3).

29 (3) “Physical access violation” means any physical condition
30 of a privately owned building, facility, or site that interferes with
31 the physical access, circulation, or full use of the building, facility,
32 or site by persons with disabilities in violation of any existing state
33 law or regulation. “Physical access violation” does not include
34 interference with housing accommodations within the meaning of
35 paragraph (2) of subdivision (b) of Section 54.1, or any
36 interference caused by something other than the physical condition
37 of the property, including, but not limited to, the conduct of any
38 person.

39 (b) An attorney shall provide a written advisory with each
40 demand for money or complaint sent to or served upon a defendant,

1 *in the form described in subdivision (c), and on a single page that*
2 *is separate and clearly distinguishable from the demand for money*
3 *or complaint, as follows:*

4

5 **IMPORTANT INFORMATION FOR BUILDING OWNERS AND**
6 **TENANTS**

7 *This form is available in English, Spanish, Chinese,*
8 *Vietnamese, and Korean through the Judicial Council of*
9 *California. Persons with visual impairments can get assistance*
10 *in viewing this form through the Judicial Council Web site at*
11 *<http://www.courtinfo.ca.gov>.*

12 *Existing law requires that you receive this information*
13 *because the demand for money or complaint you received with*
14 *this document claims that your building or property does not*
15 *comply with one or more existing state laws or regulations*
16 *protecting the civil rights of persons with disabilities to access*
17 *public places.*

18 **YOU HAVE IMPORTANT LEGAL OBLIGATIONS.**
19 *Compliance with disability access laws is a serious and*
20 *significant responsibility that applies to all California building*
21 *owners and tenants with buildings open for business to the*
22 *public. You may obtain information about your legal*
23 *obligations and how to comply with disability access laws*
24 *through the Division of the State Architect. Commencing*
25 *September 1, 2009, information will also be available from*
26 *the California Commission on Disability Access Web site.*

27 **YOU HAVE IMPORTANT LEGAL RIGHTS.** *You are not*
28 *required to pay any money unless and until a court finds you*
29 *liable. Moreover, RECEIPT OF THIS ADVISORY DOES NOT*
30 *NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR*
31 *ANYTHING.*

32 *You may wish to promptly consult an attorney experienced*
33 *in this area to get helpful legal advice or representation in*
34 *responding to the demand for money or complaint you*
35 *received. You may contact the local bar association in your*
36 *county for information on available attorneys in your area. If*
37 *you have insurance, you may also wish to contact your*
38 *insurance provider. You have the right to seek assistance or*
39 *advice about this demand for money or complaint from any*
40 *person of your choice, and no one may instruct you otherwise.*

1 *Your best interest may be served by seeking legal advice or*
2 *representation from an attorney.*

3 *If a complaint has been filed and served on you and your*
4 *property has been inspected by a Certified Access Specialist*
5 *(CASp), you may have the right to a court stay (temporary*
6 *stoppage) and early evaluation conference to evaluate the*
7 *merits of the accessibility claim against you pursuant to Civil*
8 *Code Section 55.54. At your option, you may be, but need not*
9 *be, represented by an attorney to file a reply and to file an*
10 *application for a court stay and early evaluation conference.*
11 *If you choose not to hire an attorney to represent you, you*
12 *may obtain additional information about how to represent*
13 *yourself and how to file a reply without hiring an attorney*
14 *through the Judicial Council Web site at*
15 *<http://www.courtinfo.ca.gov/selfhelp/>. You may also obtain a*
16 *form to file your reply to the lawsuit, as well as the form and*
17 *information for filing an application to request the court stay*
18 *and early evaluation conference at that same Web site.*

19 *If you choose to hire an attorney to represent you, the*
20 *attorney who sent you the demand for money or complaint is*
21 *prohibited from contacting you further unless your attorney*
22 *is present or your attorney has given the other attorney*
23 *permission to contact you. If the other attorney does try to*
24 *contact you, you should immediately notify your attorney.*

25
26 *(c) On or before July 1, 2009, the Judicial Council shall adopt*
27 *a form that may be used by attorneys to comply with the*
28 *requirements of subdivision (b). The form shall be in at least*
29 *14-point boldface type and shall contain only those statements*
30 *required pursuant to this section and any other statements*
31 *determined necessary by the Judicial Council to implement this*
32 *section. The form shall be available in English, Spanish, Chinese,*
33 *Vietnamese, and Korean, and shall include a statement that the*
34 *form is available in additional languages and the Judicial Council*
35 *Web site address where the different versions of the form may be*
36 *located. The form shall include Web site information for the*
37 *Division of the State Architect and, when operational, the*
38 *California Commission on Disability Access.*

39 *(d) Subdivision (b) shall apply only to a demand for money or*
40 *complaint made by an attorney. Nothing in this section is intended*

1 to affect the right to file a civil complaint under any other law or
 2 regulation protecting the physical access rights of persons with
 3 disabilities. Additionally, nothing in this section requires a party
 4 acting in propria persona to provide or send a demand for money
 5 to another party before proceeding against that party with a civil
 6 complaint.

7 SEC. 3. Part 2.52 (commencing with Section 55.51) is added
 8 to Division 1 of the Civil Code, to read:

9

10 PART 2.52. CONSTRUCTION-RELATED ACCESSIBILITY
 11 STANDARDS COMPLIANCE

12

13 55.51. This part shall be known, and may be cited, as the
 14 Construction-Related Accessibility Standards Compliance Act.
 15 Notwithstanding any other provision of law, the provisions of this
 16 part shall apply to any construction-related accessibility claim,
 17 as defined in this part, including, but not limited to, any claim
 18 brought under Section 51, 54, 54.1, or 55.

19 55.52. (a) For purposes of this part, the following definitions
 20 apply:

21 (1) “Accessibility claim” or “construction-related accessibility
 22 claim” means any civil claim in a civil action, including, but not
 23 limited to, a claim brought under Section 51, 54, 54.1, or 55, based
 24 wholly or in part on an alleged violation of any
 25 construction-related accessibility standard.

26 (2) “Application for stay and early evaluation conference”
 27 means an application to be filed with the court that meets the
 28 requirements of subdivision (c) of Section 55.54.

29 (3) “Certified access specialist” or “CASp” means any person
 30 who has been certified pursuant to Section 4459.5 of the
 31 Government Code.

32 (4) “CASp-inspected” means the site was inspected by a CASp
 33 and determined to meet all applicable construction-related
 34 accessibility standards pursuant to paragraph (1) of subdivision
 35 (a) of Section 55.53.

36 (5) “CASp determination pending” means the site was inspected
 37 by a CASp and is pending a determination by the CASp that the
 38 site meets applicable construction-related accessibility standards
 39 pursuant to paragraph (2) of subdivision (a) of Section 55.53.

1 (6) “Construction-related accessibility standard” means a
2 provision, standard, or regulation under state or federal law
3 requiring compliance with standards for making new construction
4 and existing facilities accessible to persons with disabilities,
5 including, but not limited to, any such provision, standard, or
6 regulation set forth in Section 51, 54, 54.1, or 55 of this code,
7 Section 19955.5 of the Health and Safety Code, the California
8 Building Standards Code (Title 24 of the California Code of
9 Regulations), the Americans with Disabilities Act of 1990 (Public
10 Law 101-336; 42 U.S.C. Sec. 12101 et seq.), and the Americans
11 with Disabilities Act Accessibility Guidelines (Appendix A to Part
12 36, Title 28, Code of Federal Regulations).

13 (7) “Place of public accommodation” has the same meaning
14 as “public accommodation,” as set forth in Section 12181(7) of
15 Title 42 of the United States Code and the federal regulations
16 adopted pursuant to that section.

17 (8) “Qualified defendant” means a defendant in an action that
18 includes an accessibility claim that is based in whole or in part
19 on a place of public accommodation that met the requirements of
20 “CASp-inspected” or “CASp determination pending” prior to the
21 date the defendant was served with the summons and complaint
22 in an action that includes an accessibility claim. To be a qualified
23 defendant, the defendant is not required to have been the party
24 who hired the CASp, so long as the basis of the alleged liability
25 of the defendant is a qualified site. To determine whether a
26 defendant is a qualified defendant, the court need not make a
27 finding that the place of public accommodation complies with all
28 applicable construction accessibility standards as a matter of law.
29 The court need only determine that the place of public
30 accommodation has a status of “CASp-inspected” or “CASp
31 determination pending.”

32 (b) Unless otherwise indicated, terms used in this part relating
33 to civil procedure have the same meanings that those terms have
34 in the Code of Civil Procedure.

35 55.53. (a) For purposes of this part, a certified access
36 specialist shall, upon completion of the inspection of a site, comply
37 with the following:

38 (1) For a CASp-inspected site, if the CASp determines the site
39 meets all applicable construction-related accessibility standards,

1 *the CASp shall provide a written inspection report to the requesting*
2 *party that includes both of the following:*
3 *(A) An identification and description of the inspected structures*
4 *and areas of the site.*
5 *(B) A signed and dated statement of compliance that includes*
6 *both of the following:*
7 *(i) A statement that, in the opinion of the CASp, the inspected*
8 *structures and areas of the site meet construction-related*
9 *accessibility standards.*
10 *(ii) If corrections were made as a result of the CASp inspection,*
11 *an itemized list of all corrections and dates of completion.*
12 *(2) For a CASp determination pending site, if the CASp*
13 *determines that the corrections are needed to the site in order for*
14 *the site to meet all applicable construction-related accessibility*
15 *standards, the CASp shall do both of the following:*
16 *(A) Provide a written inspection report to the requesting party*
17 *that includes all of the following:*
18 *(i) An identification and description of the inspected structures*
19 *and areas of the site.*
20 *(ii) An identification and description of the structures or areas*
21 *of the site that need correction.*
22 *(iii) A schedule of completion of the corrections within a*
23 *reasonable time frame.*
24 *(B) Monitor the corrections no less than once every 180 days*
25 *and, if applicable, provide a signed and dated statement of progress*
26 *that includes both of the following:*
27 *(i) A statement that, in the opinion of the CASp, the corrections*
28 *are in progress and timely.*
29 *(ii) If applicable, an updated schedule for completion of*
30 *corrections within a reasonable time frame.*
31 *(b) For purposes of this section, in determining whether the site*
32 *meets applicable construction-related accessibility standards when*
33 *there is a conflict or difference between a state and federal*
34 *provision, standard, or regulation, the state provision, standard,*
35 *or regulation shall apply unless the federal provision, standard,*
36 *or regulation is more protective of accessibility rights.*
37 *(c) Every CASp who conducts an inspection of a privately owned*
38 *place of public accommodation shall, upon completing the*
39 *inspection of the site, provide the building owner or tenant who*
40 *requested the inspection with the following notice, which the State*

1 *Architect shall make available as a form on the State Architect's*
2 *Web site:*

3
4 *NOTICE TO PRIVATE PROPERTY OWNER/TENANT:*
5 *YOU ARE ADVISED TO KEEP IN YOUR RECORDS ANY*
6 *WRITTEN INSPECTION REPORT AND ANY OTHER*
7 *DOCUMENTATION CONCERNING YOUR PROPERTY SITE*
8 *THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS*
9 *SPECIALIST.*

10 *IF YOU BECOME A DEFENDANT IN A LAWSUIT THAT*
11 *INCLUDES A CLAIM CONCERNING A SITE INSPECTED*
12 *BY A CERTIFIED ACCESS SPECIALIST, YOU MAY BE*
13 *ENTITLED TO A STAY (TEMPORARY STOPPAGE) OF THE*
14 *CLAIM AND AN EARLY EVALUATION CONFERENCE.*

15 *IN ORDER TO REQUEST THE STAY AND EARLY*
16 *EVALUATION CONFERENCE, YOU WILL NEED TO*
17 *VERIFY THAT A CERTIFIED ACCESS SPECIALIST HAS*
18 *INSPECTED THE SITE THAT IS THE SUBJECT OF THE*
19 *CLAIM. YOU WILL ALSO BE REQUIRED TO PROVIDE*
20 *THE COURT AND THE PLAINTIFF WITH A COPY OF A*
21 *WRITTEN INSPECTION REPORT BY THE CERTIFIED*
22 *ACCESS SPECIALIST, AS SET FORTH IN CIVIL CODE*
23 *SECTION 55.54. THE APPLICATION FORM AND*
24 *INFORMATION ON HOW TO REQUEST A STAY AND*
25 *EARLY EVALUATION CONFERENCE MAY BE OBTAINED*
26 *AT <http://www.courtinfo.ca.gov/selfhelp/>.*

27 *YOU ARE ENTITLED TO REQUEST, FROM A CERTIFIED*
28 *ACCESS SPECIALIST WHO HAS CONDUCTED AN*
29 *INSPECTION OF YOUR PROPERTY, A WRITTEN*
30 *INSPECTION REPORT AND OTHER DOCUMENTATION*
31 *AS SET FORTH IN CIVIL CODE SECTION 55.53. YOU ARE*
32 *ALSO ENTITLED TO REQUEST THE ISSUANCE OF A*
33 *DISABILITY ACCESS CERTIFICATE, WHICH YOU MAY*
34 *POST ON YOUR PROPERTY IF IT IS FOUND TO MEET*
35 *APPLICABLE CONSTRUCTION-RELATED ACCESSIBILITY*
36 *STANDARDS.*

37
38 *(d) Commencing July 1, 2009, all inspections of a privately*
39 *owned place of public accommodation that relate to permitting,*
40 *plan checks, or new construction, including, but not limited to,*

1 inspections relating to tenant improvements that may impact
2 access, shall be conducted by a building inspector who is a certified
3 access specialist. To timely comply with this provision, a local
4 agency shall employ or retain a sufficient number of building
5 inspectors, and in no event less than one, who are certified access
6 specialists. A local government may charge or increase inspection
7 fees to the extent necessary to offset the costs of complying with
8 this subdivision, and revenues generated from the charge or
9 increase shall be used solely to offset the costs incurred to comply
10 with this subdivision.

11 (e) (1) Every CASp who completes an inspection of a privately
12 owned place of public accommodation shall, upon determination
13 that the site meets applicable construction-related accessibility
14 standards pursuant to paragraph (1) of subdivision (a), provide
15 the building owner or tenant requesting the inspection with a
16 numbered disability access certificate indicating that status. The
17 disability access certificate shall be dated and signed by the CASp
18 inspector, and shall contain the inspector's license number. Upon
19 issuance of a certificate, the CASp inspector shall record the
20 issuance of the numbered certificate and the name and address of
21 the recipient in a record book the CASp inspector shall maintain
22 for that purpose.

23 (2) Beginning March 1, 2009, the State Architect shall make
24 available for purchase by local building departments and CASp
25 inspectors sequentially numbered disability access certificates that
26 are printed with a watermark or other feature to deter forgery.
27 The certificate shall be in substantially the following form:

**THE PUBLIC PLACES AT THIS SITE
MEET APPLICABLE
CONSTRUCTION-RELATED
ACCESSIBILITY STANDARDS.**



Certificate NO. (preprinted sequential #)

*Watermark
if used*

Inspected on: _____

*By: _____
(Name and license # of Certified Access Specialist)*

Restaurants, hotels, stores and other places that serve the public may post this sign at their site. If any construction changes take place after the date of inspection, this sign must be taken down until the site is inspected again and determined to meet applicable standards.

1 (3) *The certificate may be posted on the premises of the place*
2 *of public accommodation, unless, following the date of inspection,*
3 *the inspected site has been modified or construction has*
4 *commenced to modify the inspected site.*

5 (f) *Nothing in this section or any other provision of law is*
6 *intended to require a property owner or tenant to hire a CASp. A*
7 *property owner's or tenant's election not to hire a CASp shall not*
8 *be admissible to prove that person's lack of intent to comply with*
9 *the law.*

10 55.54. (a) (1) *An attorney who causes a summons and*
11 *complaint to be served in an action that includes an accessibility*
12 *claim, including, but not limited to, a claim brought under Section*
13 *51, 54, 54.1, or 55, shall, at the same time, cause to be served a*
14 *copy of the application form specified in subdivision (c) and a*
15 *copy of the following notice to the defendant on separate papers*
16 *that shall be attached to the summons and complaint:*

17

18

NOTICE TO DEFENDANT

19

YOU MAY BE ENTITLED TO ASK FOR A STAY
20 *(TEMPORARY STOPPAGE) AND EARLY EVALUATION*
21 *CONFERENCE IN THIS LAWSUIT.*

22

If the accessibility claim pertains to a site that has been
23 *inspected by a Certified Access Specialist (CASp) and you*
24 *have an inspection report for that site, you may make an*
25 *immediate request for a court stay and early evaluation*
26 *conference in the accessibility claim by filing the attached*
27 *application form with the court. You may be entitled to the*
28 *court stay and early evaluation conference in the accessibility*
29 *claim only if ALL of the statements in the application form are*
30 *true.*

31

The court will schedule the conference to be held within 35
32 *days after you file the attached application form. The court*
33 *will also issue an immediate stay of the proceedings unless*
34 *the plaintiff has obtained a temporary restraining order in the*
35 *accessibility claim. At your option, you may be, but need not*
36 *be, represented by an attorney to file the application to request*
37 *the early evaluation conference. You may obtain a copy of the*
38 *application form, filing instructions, and additional*
39 *information about the stay and early evaluation conference*

1 through the Judicial Council Web site at
2 <http://www.courtinfo.ca.gov/selfhelp/>.

3 You may file the application after you are served with a
4 summons and complaint, but no later than your first court
5 pleading or appearance in this case, which is due within 30
6 days after you receive the summons and complaint. If you do
7 not have an attorney, you will need to file the application
8 within 30 days after you receive the summons and complaint
9 to request the stay and early evaluation conference. If you do
10 not file the application, you will still need to file your reply to
11 the lawsuit within 30 days after you receive the summons and
12 complaint to contest it. You may obtain more information
13 about how to represent yourself and how to file a reply without
14 hiring an attorney at <http://www.courtinfo.ca.gov/selfhelp/>. If
15 a plaintiff representing himself or herself hires an attorney
16 after the case is filed, you will have 30 days to file an
17 application for a court stay and early evaluation conference
18 after you receive a Notice of Substitution of Counsel, unless
19 an early evaluation conference or settlement conference has
20 already been held.

21 You may file the application form without the assistance of
22 an attorney, but it may be in your best interest to immediately
23 seek the assistance of an attorney experienced in disability
24 access laws when you receive a summons and complaint.
25

26 (2) An attorney who files a Notice of Substitution of Counsel to
27 appear as counsel for a plaintiff who, acting in propria persona,
28 had previously filed a complaint in an action that includes an
29 accessibility claim, including, but not limited to, a claim brought
30 under Section 51, 54, 54.1, or 55, shall, at the same time, cause
31 to be served a copy of the application form specified in subdivision
32 (c) and a copy of the notice specified in paragraph (1) upon the
33 defendant on separate pages that shall be attached to the Notice
34 of Substitution of Counsel.

35 (b) (1) Notwithstanding any other provision of law, upon being
36 served with a summons and complaint in an accessibility claim,
37 including, but not limited to, a claim brought under Section 51,
38 54, 54.1, or 55, a qualified defendant may file a request for a court
39 stay and early evaluation conference in the proceedings of that
40 claim prior to or simultaneous with the qualified defendant's

1 responsive pleading or other initial appearance in the action that
2 includes the claim. If the qualified defendant filed a timely request
3 for stay and early evaluation conference before a responsive
4 pleading was due, the period for filing a responsive pleading shall
5 commence on the date the stay is lifted. Any responsive pleading
6 filed simultaneously with a request for stay and early evaluation
7 conference may be amended without prejudice, and the period for
8 filing that amendment shall commence on the date the stay is lifted.

9 (2) Notwithstanding any other provision of law, if the plaintiff
10 had acted in *propria persona* in filing a complaint that includes an
11 accessibility claim, including, but not limited to, a claim brought
12 under Section 51, 54, 54.1, or 55, a qualified defendant who is
13 served with a Notice of Substitution of Counsel shall have 30 days
14 to file an application for a stay and an early evaluation conference.
15 The application may be filed prior to or after the defendant's filing
16 of a responsive pleading or other initial appearance in the action
17 that includes the claim, except that an application may not be filed
18 in a claim in which an early evaluation conference or settlement
19 conference has already been held on the claim.

20 (c) (1) An application for an early evaluation conference and
21 stay shall include a signed declaration that declares both of the
22 following:

23 (A) The site identified in the complaint has been CASp-inspected
24 or is CASp determination pending.

25 (B) An inspection report pertaining to the site has been issued
26 by a CASp. The inspection report shall be provided to the court
27 and the plaintiff at least 15 days prior to the court date set for the
28 early evaluation conference.

29 (2) The following provisional request form may be used and
30 filed by a qualified defendant until a form is adopted by the Judicial
31 Council for that purpose pursuant to subdivision (k):

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number if attorney, and address):</p> <p>TELEPHONE NO.: FAX NO. (Optional):</p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name):</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
<p>PLAINTIFF:</p> <p>DEFENDANT:</p>	
<p>NOTICE AND ORDER OF STAY OR PROCEEDINGS AND EARLY EVALUATION CONFERENCE (CLAIM OF ACCESSIBILITY)</p>	<p>CASE NUMBER:</p>

Stay of Proceeding

For a period of 90 days from the date of the filing of this court notice, unless otherwise ordered by the court, the parties are stayed from taking any further action relating to the claim or claims of accessibility in this case.

This stay does not apply to an accessibility claim in which the plaintiff has obtained temporary injunctive relief that is still in place.

Notice of Early Evaluation Conference

1. This action includes an accessibility claim under Civil Code Section 55.52(a)(1) or other provision of law.
2. A defendant has requested an early evaluation conference and a stay of proceedings under Civil Code Section 55.54.
3. The early evaluation conference is scheduled as follows:

a. Date:	Time:	Dept.	Room:
----------	-------	-------	-------

- b. The conference will be held at _____, the court address shown above, or _____ at:
4. The plaintiff and defendant shall attend with any other person needed for settlement of the case.
5. The defendant who requested the conference and stay of proceedings shall file with the court and serve on all parties a copy of the CASp report for the site that is the subject of the accessibility claim at least than 15 days before the date set for the early evaluation conference.
6. The plaintiff shall file with the court and serve on all parties at least 15 days before the date set for the early evaluation conference a statement, to the extent known, of all of the following:
 - a. An itemized list of specific conditions on the subject premises that are the basis of the claimed accessibility violations in the plaintiff's complaint;
 - b. The amount of damages claimed;
 - c. The amount of attorney's fees and costs incurred to date, if any, that are being claimed; and
 - d. Any demand for settlement of the case in its entirety.

7. A copy of this Notice and Order and the Defendant's Application shall be served on the plaintiff or plaintiff's attorney by hand delivering it or mailing it to the address listed on the complaint on the same date that the court issues this Notice and Order of Stay of Proceedings and Early Evaluation Conference.

Date: _____ Clerk, by _____, Deputy

More information about this Notice and Order and the defendant's application, and instructions to assist plaintiffs and defendants in complying with this Notice and Order, may be obtained at <http://www.courtinfo.ca.gov/selfhelp/>.

Requests for Accommodation

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the date on which you are to appear. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for Request for Accommodations by Persons with Disabilities and Order (form MC-410). (Civil Code Section 54.8)

Proof of Service

(Required from Defendant Filing Application for Stay and Early Evaluation Conference)

I served a copy of the defendant's Application For Stay and Early Evaluation Conference Pursuant To Civil Code Section 55.54 and the court Notice and Order of Stay of Proceedings and Early Evaluation Conference (check one):

_____ On the Plaintiff's attorney

_____ On the Plaintiff who is not represented by an attorney

By hand delivering it or mailing it to the address listed on the complaint on the day the court signed this Notice and Order of Stay of Proceedings and Early Evaluation Conference.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: _____

Type or Print Name

Signature

Address of named person

1 (3) *The provisional form and any replacement Judicial Council*
2 *form shall also provide space for the court's order pursuant to*
3 *subdivision (d), the defendant's declaration of proof of service of*
4 *the application, and the notice of the court's order.*

5 (d) *Upon the filing of an application for stay and early*
6 *evaluation conference by a qualified defendant, the court shall*
7 *immediately issue an order that does all of the following:*

8 (1) *Grants a 90-day stay of the proceedings in the accessibility*
9 *claim, unless the plaintiff has obtained temporary injunctive relief*
10 *that is still in place for the accessibility claim.*

11 (2) *Schedules a mandatory early evaluation conference for a*
12 *date as soon as possible from the date of the order, but in no event*
13 *later than 35 days after issuance of the order, and in no event*
14 *earlier than 21 days after the filing of the request.*

15 (3) *Directs the parties, and any other person whose authority*
16 *is required to negotiate and enter into settlement, to appear in*
17 *person at the time set for the conference. Appearance by counsel*
18 *shall not satisfy the requirement that the parties or those with*
19 *negotiation and settlement authority personally appear.*

20 (4) *Directs the defendant to file with the court and serve on the*
21 *plaintiff a copy of any relevant CASp inspection report at least 15*
22 *days before the date of the conference.*

23 (5) *Directs the plaintiff to file with the court and serve on the*
24 *defendant at least 15 days before the date of the conference a*
25 *statement that includes, to the extent reasonably known, all of the*
26 *following:*

27 (A) *An itemized list of specific conditions on the subject premises*
28 *that are the basis of the claimed violations of construction-related*
29 *accessibility standards in the plaintiff's complaint.*

30 (B) *The amount of damages claimed.*

31 (C) *The amount of attorney's fees and costs incurred to date,*
32 *if any, that are being claimed.*

33 (D) *Any demand for settlement of the case in its entirety.*

34 (e) (1) *A party failing to comply with any court order may be*
35 *subject to court sanction at the court's discretion.*

36 (2) *The court shall lift the stay when the defendant has failed*
37 *to file and serve the CASp inspection report prior to the early*
38 *evaluation conference and has failed also to produce the report*
39 *at the time of the early evaluation conference, unless the defendant*
40 *shows good cause for that failure.*

1 (3) *The court may lift the stay at the conclusion of the early*
2 *evaluation conference upon a showing of good cause by the*
3 *plaintiff.*

4 (f) *All discussions at the early evaluation conference shall be*
5 *subject to Section 1152 of the Evidence Code. It is the intent of the*
6 *Legislature that the purpose of the evaluation conference shall*
7 *include, but not be limited to, evaluation of all of the following:*

8 (1) *Whether the defendant is entitled to the 90-day stay for some*
9 *or all of the identified issues in the case, as a qualified defendant.*

10 (2) *Whether the qualified defendant has corrected or is willing*
11 *to correct the alleged violations, and the timeline for doing so.*

12 (3) *Whether the case can be settled in whole or in part.*

13 (g) *Nothing in this section precludes any party from making an*
14 *offer to compromise pursuant to Section 998 of the Code of Civil*
15 *Procedure.*

16 (h) *The court may schedule additional conferences and may*
17 *extend the 90-day stay for good cause shown, but not to exceed*
18 *one additional 90-day extension.*

19 (i) *Nothing in this part shall be deemed to make any inspection*
20 *report, opinion, or other finding or conclusion of a CASp binding*
21 *on the court, or to abrogate in any manner the ultimate authority*
22 *of the court to make all appropriate findings of fact and law.*

23 (j) *Nothing in this part shall be construed to invalidate or limit*
24 *any California construction-related accessibility standard that*
25 *provides greater or equal protection for the rights of individuals*
26 *with disabilities than is afforded by the Americans with Disabilities*
27 *Act (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.) and the*
28 *federal regulations adopted pursuant to that act.*

29 (k) (1) *The Judicial Council shall prepare and post on its*
30 *Internet Web site instructions and a form for a qualified defendant*
31 *to use to file an application for stay and early evaluation*
32 *conference as provided in subdivisions (b) and (c), and a form for*
33 *the court's notice of stay and early evaluation conference. Until*
34 *those forms are adopted, the Judicial Council shall post on its*
35 *Internet Web site the provisional forms set forth in subdivision (c).*

36 (2) *The Judicial Council shall also prepare and post on its*
37 *Internet Web site instructions and a cover page to assist plaintiffs*
38 *and defendants, respectively, to comply with their filing*
39 *responsibilities under subdivision (d). The cover page shall also*

1 *provide for the party's declaration of proof of service of the*
2 *pertinent document served under the court order.*

3 *(l) The stay provisions shall not apply to any accessibility claim*
4 *in which the plaintiff has been granted temporary injunctive relief*
5 *that remains in place.*

6 *55.55. Notwithstanding subdivision (d) of Section 55.54, in*
7 *determining an award of reasonable attorneys' fees and*
8 *recoverable costs in any construction-related accessibility claim,*
9 *the court may consider, along with other relevant information,*
10 *settlement offers made and rejected by the parties.*

11 *55.56. Damages may be recovered for a violation of a*
12 *construction-related accessibility standard that personally and*
13 *actually deterred the plaintiff. Evidence that the violation*
14 *personally and actually deterred the plaintiff may include, but not*
15 *be limited to, evidence that the plaintiff experienced difficulty,*
16 *discomfort, or embarrassment because of the violation.*

17 *SEC. 4. Chapter 3.7 (commencing with Section 8299) is added*
18 *to Division 1 of Title 2 of the Government Code, to read:*

19

20 *CHAPTER 3.7. THE CALIFORNIA COMMISSION ON DISABILITY*
21 *ACCESS*

22

23 *8299. The Legislature finds and declares that, despite the fact*
24 *that state law has provided individuals with disabilities the right*
25 *to full and equal access to public facilities since 1968, and that a*
26 *violation of the right of any individual under the Americans with*
27 *Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec.*
28 *12101 et seq.) has also constituted a violation of the Unruh Civil*
29 *Rights Act (Section 51 of the Civil Code) since 1992, individuals*
30 *with disabilities are still being denied full and equal access to*
31 *public facilities in many instances. The Legislature further finds*
32 *and declares that businesses in California have the responsibility*
33 *to provide full and equal access to public facilities as required in*
34 *the laws and regulations, but that compliance may be thwarted in*
35 *some cases by conflicting state and federal regulations, which in*
36 *turn results in unnecessary litigation. With a view to developing*
37 *recommendations that will enable individuals with disabilities to*
38 *exercise their right to full and equal access to public facilities,*
39 *and that will facilitate business compliance with the laws and*

1 regulations to avoid unnecessary litigation, the Legislature has
2 created the California Commission on Disability Access.

3 8299.01. (a) There shall be established in the state government,
4 on or before May 1, 2009, the California Commission on Disability
5 Access. The commission shall consist of 19 members appointed as
6 follows:

7 (1) Two Members of the Senate appointed by the Senate
8 Committee on Rules, one member each from the majority and
9 minority party.

10 (2) Two public members appointed by the Senate Committee on
11 Rules, with one appointee from the business community and one
12 appointee from the disability community.

13 (3) Two Members of the Assembly appointed by the Speaker of
14 the Assembly, one member each from the majority and minority
15 party.

16 (4) Two public members appointed by the Speaker of the
17 Assembly, with one appointee from the business community and
18 one appointee from the disability community.

19 (5) The State Architect.

20 (6) The Attorney General or his or her representative.

21 (7) Nine public members appointed by the Governor, with the
22 consent of the Senate. Five of the Governor's appointees shall be
23 from the disability community and shall represent a cross-section
24 of that community, including a person with a physical disability,
25 a person who is visually impaired or blind, a person with a
26 cognitive disability, and a person who is hearing-impaired or deaf.
27 Four appointees shall be from the business community, including
28 an appointee from the building community, an appointee who is
29 a licensed architect in good standing possessing at least five years
30 of practice experience with disability access requirements, and an
31 appointee representative from either the California Chamber of
32 Commerce or a group representing building owners.

33 (b) (1) The Members of the Legislature shall serve at the
34 pleasure of the appointing powers.

35 (2) Public member appointees of the Speaker of the Assembly
36 and the Senate Committee on Rules, and appointees of the
37 Governor, shall serve four-year terms. The appointing powers may
38 reappoint a member whose term has expired and shall immediately
39 fill any vacancy for the unexpired portion of the term in which it
40 occurs.

1 (3) All appointees shall hold office until the appointment of their
2 successors.

3 8299.02. (a) Public members of the commission shall receive
4 one hundred dollars (\$100) per diem while on official business of
5 the commission, not to exceed 12 days per year. Each member of
6 the commission shall also be entitled to receive his or her actual
7 necessary traveling expenses while on official business of the
8 commission.

9 (b) The commission shall select annually from its membership
10 a chairperson and a vice chairperson.

11 8299.03. Meetings of the commission shall be subject to the
12 Bagley-Keene Open Meeting Act (Article 9 (commencing with
13 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

14 8299.04. The commission shall have the powers and authority
15 necessary to carry out the duties imposed upon it by this chapter,
16 including, but not limited to, the following:

17 (a) To employ any administrative, technical, or other personnel
18 that may be necessary for the performance of its powers and duties.

19 (b) To hold hearings, make and sign any agreement, and do or
20 perform any act that may be necessary, desirable, or proper to
21 carry out the purposes of this chapter.

22 (c) To cooperate with, and secure the cooperation of, any
23 department, division, board, bureau, commission, or other agency
24 of the state to facilitate the proper execution of its powers and
25 duties under this chapter.

26 (d) To appoint advisers or advisory committees from
27 time-to-time when the commission determines that the experience
28 or expertise of those advisers or advisory committees is needed
29 for projects of the commission. Section 11009 shall apply to
30 advisers or advisory committees.

31 (e) To accept any federal funds granted by an act of Congress
32 or by executive order for any purpose of this chapter.

33 (f) To accept any gift, donation, grant, or bequest for any
34 purpose of this chapter.

35 8299.05. (a) The commission shall study and make reports to
36 the Legislature on the following:

37 (1) Issues regarding compliance with state laws and regulations
38 that are raised by either individuals with disabilities or businesses.

1 (2) State laws and regulations that promote equal access for
2 individuals with disabilities, and whether there are conflicting
3 federal laws and regulations that might create compliance issues.

4 (3) Whether public and private inspection programs, including
5 the Certified Access Specialist Program, are meeting the needs of
6 both the business community and the disability community by the
7 provision of timely, competent inspections that properly identify
8 violations and order appropriate remedial measures.

9 (4) Whether existing training and continuing education
10 requirements for personnel involved in designing, plan checking,
11 building, or inspecting a structure are sufficient to provide the
12 personnel with sufficient knowledge of the state disability access
13 laws and regulations.

14 (5) Whether training and continuing education requirements
15 should be enacted for landscape architects, professional engineers,
16 and contractors to provide these professionals with sufficient
17 knowledge of the state and federal disability access laws and
18 regulations. This study and report shall be completed and delivered
19 to the Legislature no later than July 1, 2010.

20 (b) (1) The commission shall act as an information center on
21 the status of compliance in California with state laws and
22 regulations providing individuals with disabilities full and equal
23 access to public facilities. To this end, it shall publish an annual
24 report, which may be combined with the biannual report required
25 in odd-numbered years pursuant to subdivision (e), on the state
26 of disability access compliance by both the public and private
27 sector. The report shall be written in general terms and shall not
28 identify any particular violators.

29 (2) The commission shall, to the extent feasible, coordinate with
30 other state agencies and local building departments to ensure that
31 information provided to the public on disability access
32 requirements are uniform and complete.

33 (c) The commission shall recommend, develop, prepare, or
34 coordinate materials, projects, or other activities, as appropriate,
35 relating to any subject within its jurisdiction.

36 (d) The commission shall provide, within its resources, technical
37 and consultative advice to public or private groups or persons
38 concerned with any of the following:

39 (1) Preventing or minimizing problems of compliance by
40 California businesses by engaging in educational outreach efforts

1 *and by preparing and hosting on its Internet Web site a Guide to*
2 *Compliance with State Laws and Regulations Regarding Disability*
3 *Access Requirements.*

4 *(2) Recommending programs to enable individuals with*
5 *disabilities to obtain full and equal access to public facilities.*

6 *(e) The commission shall make reports on its activities, findings,*
7 *and recommendations to the Legislature from time to time, but not*
8 *less often than once during every odd-numbered year.*

9 *8299.06. The commission, as soon as practicable, but in no*
10 *event later than July 1, 2010, shall develop, in consultation with*
11 *the staff of the California Building Standards Commission, a master*
12 *checklist for disability access compliance that may be used by*
13 *building inspectors.*

14 *8299.07. The commission shall study the operation of Section*
15 *55.54 of the Civil Code to assess whether it is operating to achieve*
16 *its desired goal of reducing unnecessary civil actions that seek*
17 *attorney's fees and damages but that do not facilitate compliance*
18 *with state laws and regulations governing disability access, and*
19 *whether that section is unduly impacting claims brought to*
20 *facilitate compliance. The commission shall report its findings*
21 *and any recommendations to the Legislature no earlier than July*
22 *1, 2013, and no later than July 1, 2014.*

23 *8299.08. (a) The commission is expressly authorized to inform*
24 *the Legislature of its position on any legislative proposal pending*
25 *before the Legislature and to urge the introduction of legislative*
26 *proposals.*

27 *(b) The commission is expressly authorized to state its position*
28 *and viewpoint on issues developed in the performance of its duties*
29 *and responsibilities as specified in this chapter.*

30 *8299.09. With respect to its duties, the commission shall be an*
31 *advisory commission only, and there shall be no right or obligation*
32 *on the part of the state to implement the findings of the commission*
33 *without further legislation that specifically authorizes that the*
34 *evaluations, determinations, and findings of the commission be*
35 *implemented.*

36 *8299.10. The commission shall hire staff or contract for those*
37 *experts or technical and professional services that may be required*
38 *for the completion of any study required by Section 8299.05. Staff*
39 *hired pursuant to this section shall be hired in compliance with*
40 *the State Civil Service Act (Part 2 (commencing with Section*

1 18500) of Division 5 of Title 2). Contracts awarded pursuant to
2 this section shall be in compliance with Section 19130.

3 8299.11. This chapter shall not be implemented unless funds
4 are appropriated for that purpose by the Legislature in the annual
5 Budget Act or another statute.

6 SEC. 5. Section 18945 of the Health and Safety Code is
7 amended to read:

8 18945. (a) Any person adversely affected by any regulation,
9 ~~rules~~ rule, omission, interpretation, decision, or practice of any
10 state agency respecting the administration of any building standard
11 may appeal the issue for resolution to the commission.

12 (b) If any local agency having authority to enforce a state
13 building standard and any person adversely affected by any
14 regulation, rule, omission, interpretation, decision, or practice of
15 ~~such~~ that agency respecting ~~such~~ that building standard both wish
16 to appeal the issue for resolution to the commission, then both
17 parties may appeal to the commission. The commission may accept
18 ~~such~~ that appeal only if the commission determines that the issues
19 involved in ~~such~~ the appeal have statewide significance.

20 (c) Notwithstanding subdivisions (a) and (b), with respect to a
21 building standard adopted by the commission and set forth in Part
22 2 of Title 24 of the California Code of Regulations relating to
23 making public accommodations accessible to and usable by people
24 with disabilities, if either a local agency having authority to enforce
25 that building standard or a person adversely affected by a
26 regulation, rule, omission, interpretation, decision, or practice of
27 that agency respecting that building standard wishes to appeal
28 the issue for resolution to the commission, then either party may
29 appeal to the commission. The commission may accept the appeal
30 only if the commission determines that the issues involved in the
31 appeal have statewide significance.

32 SEC. 6. Section 18949.29 of the Health and Safety Code is
33 amended to read:

34 18949.29. (a) All construction inspectors, plans examiners,
35 and building officials shall complete a minimum of 45 hours of
36 continuing education for every three-year period, with at least
37 eight hours regarding disability access requirements pursuant to
38 subdivision (d). A local government may charge or increase
39 inspection fees to the extent necessary to offset any added costs
40 incurred in complying with this section.

1 (a)
 2 (b) Providers of continuing education may include any
 3 organizations affiliated with the code enforcement profession,
 4 community colleges, or other providers of similar quality, as
 5 determined by the local agency.

6 (b)
 7 (c) For purposes of this section, “continuing education” is
 8 defined as that education relating to the enforcement of Title 24
 9 of the California Code of Regulations, and any other locally
 10 enforced building and construction standards, including, but not
 11 limited to, the model uniform codes adopted by the state. When a
 12 local agency selects a model code organization as a provider of
 13 continuing education or certification programs regarding the
 14 enforcement of a model code adopted by the state, the local agency
 15 shall give preference to the organization responsible for
 16 promulgating or drafting that model code.

17 (d) *Continuing education regarding disability access*
 18 *requirements shall include information and practical guidance*
 19 *concerning requirements imposed by the Americans with*
 20 *Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec.*
 21 *12101 et seq.), state laws that govern access to public facilities,*
 22 *and federal and state regulations adopted pursuant to those laws.*
 23 *Continuing education provided pursuant to this subdivision shall*
 24 *be presented by trainers or educators with knowledge and expertise*
 25 *in these requirements.*

26 *SEC. 7. Sections 2, 3, and 5 of this act shall become operative*
 27 *only upon the funding, and commencement of operations, of the*
 28 *California Commission on Disability Access, and shall cease to*
 29 *be operative 60 days following the cessation of operations of the*
 30 *commission.*

31 *SEC. 8. No reimbursement is required by this act pursuant to*
 32 *Section 6 of Article XIII B of the California Constitution because*
 33 *a local agency or school district has the authority to levy service*
 34 *charges, fees, or assessments sufficient to pay for the program or*
 35 *level of service mandated by this act, within the meaning of Section*
 36 *17556 of the Government Code.*

37 ~~SECTION 1. Section 54.3 of the Civil Code is amended to~~
 38 ~~read:~~

39 ~~54.3. (a) Any person or persons, firm or corporation who~~
 40 ~~denies or interferes with admittance to, or enjoyment of, the public~~

1 facilities as specified in Sections 54 and 54.1, or otherwise
2 interferes with the rights of an individual with a disability pursuant
3 to Sections 54, 54.1, and 54.2 is liable for each offense for the
4 actual damages and any amount as may be determined by a jury,
5 or the court sitting without a jury, up to a maximum of three times
6 the amount of actual damages but in no case less than one thousand
7 dollars (\$1,000), and attorney's fees as may be determined by the
8 court in addition thereto, suffered by any person denied any of the
9 rights provided in Sections 54, 54.1, and 54.2. "Interfere," for
10 purposes of this section, includes, but is not limited to, preventing
11 or causing the prevention of a guide dog, signal dog, or service
12 dog from carrying out its functions in assisting a disabled person.

13 (b) Any person who claims to be aggrieved by an alleged
14 unlawful practice in violation of Section 54, 54.1, or 54.2 may also
15 file a verified complaint with the Department of Fair Employment
16 and Housing pursuant to Section 12948 of the Government Code.
17 The remedies in this section are nonexclusive and are in addition
18 to any other remedy provided by law, including, but not limited
19 to, any action for injunctive or other equitable relief available to
20 the aggrieved party or brought in the name of the people of this
21 state or of the United States.

22 (c) A person may not be held liable for damages pursuant to
23 both this section and Section 52 for the same act or failure to act.