

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2282

Introduced by Assembly Member Bill Berryhill

February 24, 2012

An act to amend ~~Section 54.3~~ Sections 52 and 55 of the Civil Code, relating to ~~disabled persons~~ *personal rights*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2282, as amended, Bill Berryhill. ~~Disabled persons: equal access remedies.~~ *Personal rights: violations: standing.*

Existing law provides that all persons in this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments without regard to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. Existing law further prohibits a business establishment from, among other things, boycotting, blacklisting, refusing to contract with, sell to, or trade with a person based on the criteria described above, and from discriminating on the price charged for similar or like services on the basis of a person's gender. Existing law provides that all persons within this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of the criteria described above, or position in a labor dispute, or because another person perceives them to have any of those characteristics. A person aggrieved by a violation of any of the above-described provisions may bring a civil action seeking relief, as specified.

Existing law provides that individuals with disabilities or medical conditions have the same right as the general public to the full and free

use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, public facilities, and other public places. Existing law also provides that individuals with disabilities are entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of common carriers, other places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons, and full and equal access to all housing accommodations, as specified. A person aggrieved or potentially aggrieved by a violation of any of the above-described provisions, or other similar anti-discrimination provisions, may bring a civil action seeking relief, as specified.

This bill would authorize a person aggrieved by a violation of any of the above-described provisions to bring an action seeking relief only if that the person has suffered an injury in fact, the injury in fact was caused by the violation, and the violation is redressable.

~~Existing law provides that individuals with disabilities shall be entitled to full and equal access to specified facilities and places and other places to which the general public is invited, subject only to conditions and limitations established by law. Existing law provides that a person, firm, or corporation who denies or interferes with admittance to or enjoyment of those public facilities, or otherwise interferes with the rights of an individual with a disability under those provisions, is liable for specified damages. Existing law also allows a person who claims to be aggrieved by an alleged unlawful practice in violation of those provisions to file a verified complaint with the Department of Fair Employment and Housing pursuant to certain provisions of law.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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 read:
- 2 52. (a) Whoever denies, aids or incites a denial, or makes any
- 3 discrimination or distinction contrary to Section 51, 51.5, or 51.6,
- 4 is liable for each and every offense for the actual damages, and
- 5 any amount that may be determined by a jury, or a court sitting

1 without a jury, up to a maximum of three times the amount of
2 actual damage but in no case less than four thousand dollars
3 (\$4,000), and any attorney’s fees that may be determined by the
4 court in addition thereto, suffered by any person denied the rights
5 provided in Section 51, 51.5, or 51.6.

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

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

12 (2) A civil penalty of twenty-five thousand dollars (\$25,000)
13 to be awarded to the person denied the right provided by Section
14 51.7 in any action brought by the person denied the right, or by
15 the Attorney General, a district attorney, or a city attorney. An
16 action for that penalty brought pursuant to Section 51.7 shall be
17 commenced within three years of the alleged practice.

18 (3) Attorney’s fees as may be determined by the court.

19 (c) (1) Whenever there is reasonable cause to believe that any
20 person or group of persons is engaged in conduct of resistance to
21 the full enjoyment of any of the rights described in this section,
22 and that conduct is of that nature and is intended to deny the full
23 exercise of those rights, the Attorney General, any district attorney
24 or city attorney, or any person aggrieved by the conduct may bring
25 a civil action in the appropriate court by filing with it a complaint.
26 The complaint shall contain the following:

27 (1)

28 (A) The signature of the officer, or, in his or her absence, the
29 individual acting on behalf of the officer, or the signature of the
30 person aggrieved.

31 (2)

32 (B) The facts pertaining to the conduct.

33 (3)

34 (C) A request for preventive relief, including an application for
35 a permanent or temporary injunction, restraining order, or other
36 order against the person or persons responsible for the conduct, as
37 the complainant deems necessary to ensure the full enjoyment of
38 the rights described in this section.

1 (2) *An aggrieved person may bring an action pursuant to*
 2 *paragraph (1), if all of the following standing requirements are*
 3 *met:*

- 4 (A) *The person has suffered an injury in fact.*
- 5 (B) *The injury in fact was caused by the violation.*
- 6 (C) *The violation is redressable.*

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

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

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

25 (g) This section does not require any construction, alteration,
 26 repair, structural or otherwise, or modification of any sort
 27 whatsoever, beyond that construction, alteration, repair, or
 28 modification that is otherwise required by other provisions of law,
 29 to any new or existing establishment, facility, building,
 30 improvement, or any other structure, nor does this section augment,
 31 restrict, or alter in any way the authority of the State Architect to
 32 require construction, alteration, repair, or modifications that the
 33 State Architect otherwise possesses pursuant to other laws.

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

37 *SEC. 2. Section 55 of the Civil Code is amended to read:*
 38 *55. (a) Any person who is aggrieved or potentially aggrieved*
 39 *by a violation of Section 54 or 54.1 of this code, Chapter 7*
 40 *(commencing with Section 4450) of Division 5 of Title 1 of the*

1 Government Code, or Part 5.5 (commencing with Section 19955)
2 of Division 13 of the Health and Safety Code may bring an action
3 to enjoin the violation. ~~The, if all of the following standing~~
4 ~~requirements are met:~~

- 5 (1) ~~The person has suffered an injury in fact.~~
- 6 (2) ~~The injury in fact was caused by the violation.~~
- 7 (3) ~~The violation is redressable.~~
- 8 (b) ~~The prevailing party in the an action pursuant to this section~~
9 ~~shall be entitled to recover reasonable attorney’s fees.~~

10 SECTION 1. ~~Section 54.3 of the Civil Code is amended to~~
11 ~~read:~~

12 ~~54.3. (a) A person or persons who, or a firm or corporation~~
13 ~~that, denies or interferes with admittance to, or enjoyment of, public~~
14 ~~facilities, as specified in Sections 54 and 54.1, or otherwise~~
15 ~~interferes with the rights of an individual with a disability pursuant~~
16 ~~to Sections 54, 54.1, and 54.2, is liable for each offense for the~~
17 ~~actual damages suffered by a person denied any of the rights~~
18 ~~provided in Sections 54, 54.1, and 54.2, and any amount as may~~
19 ~~be determined by a jury, or the court sitting without a jury, up to~~
20 ~~a maximum of three times the amount of actual damages, but in~~
21 ~~no case less than one thousand dollars (\$1,000), in addition to~~
22 ~~attorney’s fees as may be determined by the court. “Interfere,” for~~
23 ~~purposes of this section, includes, but is not limited to, preventing~~
24 ~~or causing the prevention of a guide dog, signal dog, or service~~
25 ~~dog from carrying out its functions in assisting a disabled person.~~

26 (b) ~~A person who claims to be aggrieved by an alleged unlawful~~
27 ~~practice in violation of Section 54, 54.1, or 54.2 may also file a~~
28 ~~verified complaint with the Department of Fair Employment and~~
29 ~~Housing pursuant to Section 12948 of the Government Code. The~~
30 ~~remedies in this section are nonexclusive and are in addition to~~
31 ~~any other remedy provided by law, including, but not limited to,~~
32 ~~an action for injunctive or other equitable relief available to the~~
33 ~~aggrieved party or brought in the name of the people of this state~~
34 ~~or of the United States.~~

35 (c) ~~A person shall not be held liable for damages pursuant to~~
36 ~~both this section and Section 52 for the same act or failure to act.~~

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