

AMENDED IN ASSEMBLY MAY 10, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2282**

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**Introduced by Assembly Member Bill Berryhill**

February 24, 2012

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An act to amend Sections 52 and 55 of the Civil Code, relating to ~~personal rights~~ *disability access*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2282, as amended, Bill Berryhill. ~~Personal rights: violations: standing.~~ *Disability access: standing: injunctive relief.*

*Existing law establishes the California Commission on Disability Access to develop recommendations that will enable persons with disabilities to exercise their right to full and equal access to public facilities, and that will facilitate business compliance with disability access laws and regulations to avoid unnecessary litigation. Existing law requires the commission to study specified disability access issues, and to make reports on those issues to the Legislature.*

*This bill would require the commission to analyze and make recommendations to the Legislature regarding whether compliance with state and federal construction-related disability accessibility laws would be improved or potentially deterred by changes to state rules regarding legal standing for actions seeking injunctive relief to correct alleged violations of disability access laws or the manner by which these claims are pleaded.*

~~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.~~

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

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

- 1 *SECTION 1. The Legislature finds and declares both of the*
- 2 *following:*

1 (a) *The California Commission on Disability Access was*  
2 *established pursuant to Chapter 3.7 (commencing with Section*  
3 *8299) of Division 1 of Title 2 of the Government Code as a*  
4 *bipartisan entity, composed of representatives of the business*  
5 *community and the disability community, as well as the State*  
6 *Architect and the Attorney General.*

7 (b) *Among the purposes of the commission is to develop*  
8 *recommendations that will enable persons with disabilities to*  
9 *exercise their right to full and equal access to public facilities,*  
10 *and that will facilitate business compliance with laws and*  
11 *regulations to avoid unnecessary litigation.*

12 *SEC. 2. The California Commission on Disability Access shall*  
13 *analyze and make recommendations to the Legislature regarding*  
14 *whether compliance with state and federal construction-related*  
15 *disability accessibility laws would be improved or potentially*  
16 *deterred by changes to state rules regarding legal standing for*  
17 *actions seeking injunctive relief to correct alleged violations of*  
18 *disability access laws or the manner by which these claims are*  
19 *pleaded. This study and recommendation shall be undertaken*  
20 *promptly in light of urgent concerns among businesses regarding*  
21 *alleged misuse of existing law, consistent with other pending*  
22 *projects of the commission.*

23 ~~SECTION 1. Section 52 of the Civil Code is amended to read:~~

24 ~~52. (a) Whoever denies, aids or incites a denial, or makes any~~  
25 ~~discrimination or distinction contrary to Section 51, 51.5, or 51.6,~~  
26 ~~is liable for each and every offense for the actual damages, and~~  
27 ~~any amount that may be determined by a jury, or a court sitting~~  
28 ~~without a jury, up to a maximum of three times the amount of~~  
29 ~~actual damage but in no case less than four thousand dollars~~  
30 ~~(\$4,000), and any attorney's fees that may be determined by the~~  
31 ~~court in addition thereto, suffered by any person denied the rights~~  
32 ~~provided in Section 51, 51.5, or 51.6.~~

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

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

39 ~~(2) A civil penalty of twenty-five thousand dollars (\$25,000)~~  
40 ~~to be awarded to the person denied the right provided by Section~~

1 51.7 in any action brought by the person denied the right, or by  
2 the Attorney General, a district attorney, or a city attorney. An  
3 action for that penalty brought pursuant to Section 51.7 shall be  
4 commenced within three years of the alleged practice.

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

6 (e) (1) Whenever there is reasonable cause to believe that any  
7 person or group of persons is engaged in conduct of resistance to  
8 the full enjoyment of any of the rights described in this section,  
9 and that conduct is of that nature and is intended to deny the full  
10 exercise of those rights, the Attorney General, any district attorney  
11 or city attorney, or any person aggrieved by the conduct may bring  
12 a civil action in the appropriate court by filing with it a complaint.  
13 The complaint shall contain the following:

14 (A) The signature of the officer, or, in his or her absence, the  
15 individual acting on behalf of the officer, or the signature of the  
16 person aggrieved.

17 (B) The facts pertaining to the conduct.

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

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

26 (A) The person has suffered an injury in fact.

27 (B) The injury in fact was caused by the violation.

28 (C) The violation is redressable.

29 (d) Whenever an action has been commenced in any court  
30 seeking relief from the denial of equal protection of the laws under  
31 the Fourteenth Amendment to the Constitution of the United States  
32 on account of race, color, religion, sex, national origin, or disability,  
33 the Attorney General or any district attorney or city attorney for  
34 or in the name of the people of the State of California may  
35 intervene in the action upon timely application if the Attorney  
36 General or any district attorney or city attorney certifies that the  
37 case is of general public importance. In that action, the people of  
38 the State of California shall be entitled to the same relief as if it  
39 had instituted the action.

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

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

8 ~~(g) This section does not require any construction, alteration,~~  
9 ~~repair, structural or otherwise, or modification of any sort~~  
10 ~~whatsoever, beyond that construction, alteration, repair, or~~  
11 ~~modification that is otherwise required by other provisions of law,~~  
12 ~~to any new or existing establishment, facility, building,~~  
13 ~~improvement, or any other structure, nor does this section augment,~~  
14 ~~restrict, or alter in any way the authority of the State Architect to~~  
15 ~~require construction, alteration, repair, or modifications that the~~  
16 ~~State Architect otherwise possesses pursuant to other laws.~~

17 ~~(h) For the purposes of this section, “actual damages” means~~  
18 ~~special and general damages. This subdivision is declaratory of~~  
19 ~~existing law.~~

20 ~~SEC. 2.— Section 55 of the Civil Code is amended to read:~~

21 ~~55. (a) Any person who is aggrieved by a violation of Section~~  
22 ~~54 or 54.1 of this code, Chapter 7 (commencing with Section 4450)~~  
23 ~~of Division 5 of Title 1 of the Government Code, or Part 5.5~~  
24 ~~(commencing with Section 19955) of Division 13 of the Health~~  
25 ~~and Safety Code may bring an action to enjoin the violation, if all~~  
26 ~~of the following standing requirements are met:~~

- 27 ~~(1) The person has suffered an injury in fact.~~
- 28 ~~(2) The injury in fact was caused by the violation.~~
- 29 ~~(3) The violation is redressable.~~

30 ~~(b) The prevailing party in an action pursuant to this section~~  
31 ~~shall be entitled to recover reasonable attorney’s fees.~~