

AMENDED IN SENATE MAY 24, 2016
AMENDED IN ASSEMBLY JANUARY 13, 2016
AMENDED IN ASSEMBLY JANUARY 4, 2016
AMENDED IN ASSEMBLY APRIL 22, 2015
AMENDED IN ASSEMBLY MARCH 16, 2015
AMENDED IN ASSEMBLY FEBRUARY 18, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 54

Introduced by Assembly Member Olsen
(Principal coauthor: Assembly Member Gray)
(Coauthors: Assembly Members Achadjian, Travis Allen, Baker,
Brough, Lackey, Obernolte, and Steinorth)
(Coauthor: Senator Nielsen)

December 1, 2014

An act to amend Section 55.32 of the Civil Code, *and to add Section 8299.08.1 of the Government Code*, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as amended, Olsen. Disability access: construction-related accessibility claims: demand letters.

Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. The Construction-Related Accessibility Standards Compliance Act establishes standards for making new construction and existing facilities accessible to persons with disabilities and provides for construction-related accessibility claims for violations of those standards. Existing law requires that a

copy of the demand letter and the complaint be sent to the California Commission on Disability Access.

This bill would, in addition, require that information about the demand letter and the complaint be submitted to the commission in a standard format specified by the ~~commission~~. *commission on the commission's Internet Web site. The bill would require the commission to post a new standard format on its Internet Web site at least 30 days before requiring information be in the new standard format.*

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

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

1 SECTION 1. Section 55.32 of the Civil Code, as amended by
2 Section 2 of Chapter 755 of the Statutes of 2015, is amended to
3 read:

4 55.32. (a) An attorney who provides a demand letter, as defined
5 in subdivision (a) of Section 55.3, shall do all of the following:

6 (1) Include the attorney's State Bar license number in the
7 demand letter.

8 (2) Contemporaneously with providing the demand letter, send
9 a copy of the demand letter to the State Bar of California by
10 facsimile transmission at 1-415-538-2171, or by mail to 180
11 Howard Street, San Francisco, CA, 94105, Attention: Professional
12 Competence.

13 (3) Within five business days of providing the demand letter,
14 send a copy of the demand letter, and submit information about
15 the demand letter in a standard format specified by the California
16 Commission on Disability ~~Access~~, *Access on the commission's*
17 *Internet Web site pursuant to Section 8299.08.1 of the Government*
18 *Code*, to the commission.

19 (b) An attorney who sends or serves a complaint, as defined in
20 subdivision (a) of Section 55.3, shall do both of the following:

21 (1) Send a copy of the complaint and submit information about
22 the complaint in a standard format specified by the California
23 Commission on Disability Access *on the commission's Internet*
24 *Web site pursuant to Section 8299.08.1 of the Government Code*
25 to the commission within five business days of sending or serving
26 the complaint.

1 (2) Notify the California Commission on Disability Access
2 within five business days of judgment, settlement, or dismissal of
3 the claim or claims alleged in the complaint of the following
4 information in a standard format specified by the ~~commission~~
5 *commission on the commission's Internet Web site pursuant to*
6 *Section 8299.08.1 of the Government Code:*

7 (A) The date of the judgment, settlement, or dismissal.

8 (B) Whether or not the construction-related accessibility
9 violations alleged in the complaint were remedied in whole or in
10 part after the plaintiff filed a complaint or provided a demand
11 letter, as defined by Section 55.3.

12 (C) If the construction-related accessibility violations alleged
13 in the complaint were not remedied in whole or in part after the
14 plaintiff filed a complaint or provided a demand letter, as defined
15 by Section 55.3, whether or not another favorable result was
16 achieved after the plaintiff filed the complaint or provided the
17 demand letter.

18 (D) Whether or not the defendant submitted an application for
19 an early evaluation conference and stay pursuant to Section 55.54,
20 whether the defendant requested a site inspection, the date of any
21 early evaluation conference, and the date of any site inspection.

22 (c) A violation of paragraph (2) or (3) of subdivision (a) or
23 subdivision (b) shall constitute cause for the imposition of
24 discipline of an attorney where a copy of the complaint, demand
25 letter, or notification of a case outcome is not sent to the California
26 Commission on Disability Access *in the standard format specified*
27 *on the commission's Internet Web site pursuant to Section*
28 *8299.08.1 of the Government Code* within five business days, or
29 a copy of the demand letter is not sent to the State Bar within five
30 business days. In the event the State Bar receives information
31 indicating that an attorney has failed to send a copy of the
32 complaint, demand letter, or notification of a case outcome to the
33 California Commission on Disability Access *in the standard format*
34 *specified on the commission's Internet Web site pursuant to Section*
35 *8299.08.1 of the Government Code* within five business days, the
36 State Bar shall investigate to determine whether paragraph (3) of
37 subdivision (a) or subdivision (b) has been violated.

38 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
39 required to send to the State Bar of California or the California
40 Commission on Disability Access a copy of any subsequent

1 demand letter or amended complaint in the same dispute following
2 the initial demand letter or complaint, unless that subsequent
3 demand letter or amended complaint alleges a new
4 construction-related accessibility claim.

5 (e) A demand letter, complaint, or notification of a case outcome
6 sent to the California Commission on Disability Access shall be
7 for the informational purposes of Section 8299.08 of the
8 Government Code. A demand letter received by the State Bar from
9 either the sender or recipient of the demand letter shall be reviewed
10 by the State Bar to determine whether subdivision (b) or (c) of
11 Section 55.31 has been violated.

12 (f) (1) Commencing July 31, 2013, and annually each July 31
13 thereafter, the State Bar shall report to the Legislature and the
14 Chairs of the Senate and Assembly Committees on Judiciary, both
15 of the following with respect to demand letters received by the
16 State Bar:

17 (A) The number of investigations opened to date on a suspected
18 violation of subdivision (b) or (c) of Section 55.31.

19 (B) Whether any disciplinary action resulted from the
20 investigation, and the results of that disciplinary action.

21 (2) A report to be submitted pursuant to this subdivision shall
22 be submitted in compliance with Section 9795 of the Government
23 Code.

24 (g) The California Commission on Disability Access shall
25 review and report on the demand letters, complaints, and
26 notifications of case outcomes it receives as provided in Section
27 8299.08 of the Government Code.

28 (h) Paragraphs (2) and (3) of subdivision (a) and subdivision
29 (b) shall not apply to a demand letter or complaint sent or filed by
30 an attorney employed or retained by a qualified legal services
31 project or a qualified support center, as defined in Section 6213
32 of the Business and Professions Code, when acting within the
33 scope of employment in asserting a construction-related
34 accessibility claim. The Legislature finds and declares that qualified
35 legal services projects and support centers are extensively regulated
36 by the State Bar of California, and that there is no evidence of any
37 abusive use of demand letters or complaints by these organizations.
38 The Legislature further finds that, in light of the evidence of the
39 extraordinarily small number of construction-related accessibility
40 cases brought by regulated legal services programs, and given the

1 resources of those programs, exempting regulated legal services
2 programs from the requirements of this section to report to the
3 California Commission on Disability Access will not affect the
4 purpose of the reporting to, and tabulation by, the commission of
5 all other construction-related accessibility claims.

6 (i) This section shall become operative on January 1, 2013.

7 (j) This section shall remain in effect only until January 1, 2019,
8 and as of that date is repealed.

9 SEC. 2. Section 55.32 of the Civil Code, as amended by Section
10 3 of Chapter 755 of the Statutes of 2015, is amended to read:

11 55.32. (a) An attorney who provides a demand letter, as defined
12 in subdivision (a) of Section 55.3, shall do all of the following:

13 (1) Include the attorney's State Bar license number in the
14 demand letter.

15 (2) Within five business days of providing the demand letter,
16 send a copy of the demand letter, and submit information about
17 the demand letter in a standard format specified by the California
18 Commission on Disability ~~Access~~, *Access on the commission's*
19 *Internet Web site pursuant to Section 8299.08.1 of the Government*
20 *Code*, to the commission.

21 (b) An attorney who sends or serves a complaint, as defined in
22 subdivision (a) of Section 55.3, shall do both of the following:

23 (1) Send a copy of the complaint and submit information about
24 the complaint in a standard format specified by the California
25 Commission on Disability Access *on the commission's Internet*
26 *Web site pursuant to Section 8299.08.1 of the Government Code*
27 to the commission within five business days of sending or serving
28 the complaint.

29 (2) Notify the California Commission on Disability Access
30 within five business days of judgment, settlement, or dismissal of
31 the claim or claims alleged in the complaint of the following
32 information in a standard format specified by the ~~commission~~:
33 *commission on the commission's Internet Web site pursuant to*
34 *Section 8299.08.1 of the Government Code*:

35 (A) The date of the judgment, settlement, or dismissal.

36 (B) Whether or not the construction-related accessibility
37 violations alleged in the complaint were remedied in whole or in
38 part after the plaintiff filed a complaint or provided a demand
39 letter, as defined by Section 55.3.

1 (C) If the construction-related accessibility violations alleged
2 in the complaint were not remedied in whole or in part after the
3 plaintiff filed a complaint or provided a demand letter, as defined
4 by Section 55.3, whether or not another favorable result was
5 achieved after the plaintiff filed the complaint or provided the
6 demand letter.

7 (D) Whether or not the defendant submitted an application for
8 an early evaluation conference and stay pursuant to Section 55.54,
9 whether the defendant requested a site inspection, the date of any
10 early evaluation conference, and the date of any site inspection.

11 (c) A violation of paragraph (2) of subdivision (a) or subdivision
12 (b) shall constitute cause for the imposition of discipline of an
13 attorney if a copy of the demand letter, complaint, or notification
14 of a case outcome is not sent to the California Commission on
15 Disability Access *in the standard format specified on the*
16 *commission's Internet Web site pursuant to Section 8299.08.1 of*
17 *the Government Code* within five business days. In the event the
18 State Bar receives information indicating that an attorney has failed
19 to send a copy of the demand letter, complaint, or notification of
20 a case outcome to the California Commission on Disability Access
21 *in the standard format specified on the commission's Internet Web*
22 *site pursuant to Section 8299.08.1 of the Government Code* within
23 five business days, the State Bar shall investigate to determine
24 whether paragraph (2) of subdivision (a) or subdivision (b) has
25 been violated.

26 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
27 required to send to the California Commission on Disability Access
28 a copy of any subsequent demand letter or amended complaint in
29 the same dispute following the initial demand letter or complaint,
30 unless that subsequent demand letter or amended complaint alleges
31 a new construction-related accessibility claim.

32 (e) A demand letter or notification of a case outcome sent to
33 the California Commission on Disability Access shall be for the
34 informational purposes of Section 8299.08 of the Government
35 Code. A demand letter received by the State Bar from the recipient
36 of the demand letter shall be reviewed by the State Bar to determine
37 whether subdivision (b) or (c) of Section 55.31 has been violated.

38 (f) (1) Notwithstanding Section 10231.5 of the Government
39 Code, on or before July 31, 2019, and annually thereafter, the State
40 Bar shall report to the Legislature and the Chairs of the Senate and

1 Assembly Judiciary Committees, both of the following with respect
2 to demand letters received by the State Bar:

3 (A) The number of investigations opened to date on a suspected
4 violation of subdivision (b) or (c) of Section 55.31.

5 (B) Whether any disciplinary action resulted from the
6 investigation, and the results of that disciplinary action.

7 (2) A report to be submitted pursuant to this subdivision shall
8 be submitted in compliance with Section 9795 of the Government
9 Code.

10 (g) The California Commission on Disability Access shall
11 review and report on the demand letters, complaints, and
12 notifications of case outcomes it receives as provided in Section
13 8299.08 of the Government Code.

14 (h) The expiration of any ground for discipline of an attorney
15 shall not affect the imposition of discipline for any act prior to the
16 expiration. An act or omission that constituted cause for imposition
17 of discipline of an attorney when committed or omitted prior to
18 January 1, 2019, shall continue to constitute cause for the
19 imposition of discipline of that attorney on and after January 1,
20 2019.

21 (i) Paragraph (2) of subdivision (a) and subdivision (b) shall
22 not apply to a demand letter or complaint sent or filed by an
23 attorney employed or retained by a qualified legal services project
24 or a qualified support center, as defined in Section 6213 of the
25 Business and Professions Code, when acting within the scope of
26 employment in asserting a construction-related accessibility claim.
27 The Legislature finds and declares that qualified legal services
28 projects and support centers are extensively regulated by the State
29 Bar of California, and that there is no evidence of any abusive use
30 of demand letters or complaints by these organizations. The
31 Legislature further finds that, in light of the evidence of the
32 extraordinarily small number of construction-related accessibility
33 cases brought by regulated legal services programs, and given the
34 resources of those programs, exempting regulated legal services
35 programs from the requirements of this section to report to the
36 California Commission on Disability Access will not affect the
37 purpose of the reporting to, and tabulation by, the commission of
38 all other construction-related accessibility claims.

39 (j) This section shall become operative on January 1, 2019.

1 *SEC. 3. Section 8299.08.1 is added to the Government Code,*
2 *to read:*
3 *8299.08.1. At least thirty days before requiring a new standard*
4 *format of the information to be sent to the commission pursuant*
5 *to Section 55.32 of the Civil Code, the commission shall post on*
6 *its Internet Web site the new standard format and the date by when*
7 *the commission will begin requiring that information sent to the*
8 *commission pursuant to Section 55.32 of the Civil Code be in the*
9 *new standard format.*

O