

AMENDED IN SENATE APRIL 13, 2016

SENATE BILL

No. 1142

Introduced by Senator Moorlach

(Coauthors: Senators Bates, Gaines, Roth, and Vidak)

*(Coauthors: Assembly Members Bigelow, Brough, Gallagher, Grove,
Kim, and Olsen)*

February 18, 2016

An act to add Sections 54.15 and 55.565 to the Civil Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

SB 1142, as amended, Moorlach. Disability access.

(1) Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. Existing law provides that individuals with disabilities are entitled to full and equal access to places to which the general public is invited, subject to specified conditions and limitations.

This bill would provide that when there is a conflict or difference between the federal Americans with Disabilities Act of 1990 and any state law, standard, or regulation relating to the access of individuals with disabilities to any place to which the general public is invited, the federal Americans with Disabilities Act of 1990 shall control.

(2) Existing law allows a plaintiff to collect statutory damages in a construction-related accessibility claim against a place of public accommodation only if a violation of a construction-related accessibility standard denied the plaintiff full and equal access to the place of public accommodation on a particular occasion, as specified. Existing law reduces a defendant's liability for statutory damages in a construction-related accessibility claim against a place of public

accommodation to a minimum of \$1,000 for each offense if the defendant demonstrates that it has corrected all construction-related violations that are the basis of a claim within 60 days of being served with the complaint and meets certain requirements, or a minimum of \$2,000 for each offense if the defendant has corrected all construction-related violations that are the basis of a claim within 30 days of being served with the complaint and is a small business, as specified.

This bill would prohibit a construction-related accessibility claim *for statutory damages* from being initiated in a legal proceeding against a defendant unless the defendant has been served with a demand letter specifying each alleged violation of a construction-related accessibility standard and the alleged violations have not been corrected within 120 days of service. The bill would provide that a defendant is not liable for statutory damages, costs, or plaintiff's attorney's fees for an alleged violation that is corrected within 120 days of service of a demand letter alleging the violation.

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. The Legislature finds and declares as follows:
- 2 (a) Under California law, all persons are entitled to full and
- 3 equal accommodations, advantages, facilities, privileges, or
- 4 services in all business establishments, including both private and
- 5 public entities. However, oppressive lawsuits are needlessly
- 6 decreasing or limiting access to public facilities since funds that
- 7 could have been used to create greater accessibility are being taken
- 8 by some attorneys for their excessive fees through unnecessary
- 9 litigation.
- 10 (b) To encourage greater accessibility and to ensure that
- 11 compliance can be accomplished quickly, the Legislature hereby
- 12 amends the law to allow remedial access corrections to be made
- 13 without litigation and without needless payments of overly
- 14 burdensome attorney's fees.
- 15 SEC. 2. Section 54.15 is added to the Civil Code, to read:
- 16 54.15. Notwithstanding any other law, when there is a conflict
- 17 or difference between the federal Americans with Disabilities Act
- 18 of 1990 (Public Law 101-336) and any state law, standard, or

1 regulation relating to the access of individuals with disabilities to
2 any place to which the general public is invited, the federal
3 Americans with Disabilities Act of 1990 (Public Law 101-336)
4 shall control.

5 SEC. 3. Section 55.565 is added to the Civil Code, to read:

6 55.565. (a) Notwithstanding any other law, a
7 construction-related accessibility claim *for statutory damages* shall
8 ~~not~~ be initiated in a legal proceeding against a defendant ~~unless~~
9 *only if* both of the following apply:

10 (1) The defendant has been served with a demand letter
11 specifying each alleged violation of a construction-related
12 accessibility standard.

13 (2) The alleged violations of construction-related accessibility
14 standards have not been corrected within 120 days of service of
15 the demand letter.

16 (b) Service of a demand letter pursuant to ~~subdivision (a)~~ *this*
17 *section* may be accomplished by any means authorized for service
18 of a summons.

19 (c) A defendant shall not be liable for statutory damages, costs,
20 or plaintiff's attorney's fees for an alleged violation of a
21 construction-related accessibility standard that is corrected within
22 120 days of service of a demand letter alleging the violation.