

AMENDED IN ASSEMBLY APRIL 26, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2189**

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**Introduced by Assembly Member Baldwin**

February 23, 2000

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An act to amend Section 54.1 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2189, as amended, Baldwin. Disability: access.

Existing law provides that individuals with disabilities shall be entitled to full and equal access to accommodations, advantages, facilities, medical facilities, privileges of various modes of transportation, and as specified.

This bill would *set forth the duty of an individual with a disability who in good faith believes that a public accommodation does not provide full and equal access, to notify the owner or manager thereof. The bill would also set forth the duty of the owner or manager to notify the individual of planned access improvements, and to make undisputed access improvements within a specified period, during which period the individual would be prohibited from bringing a cause of action under any California disabled access law. The bill would also prohibit the recovery of attorney's fees or other costs with respect to any action or proceeding regarding undisputed access improvements, and make technical, nonsubstantive changes to that the above provision.*

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 54.1 of the Civil Code is  
 2 amended to read:

3 54.1. (a) (1) Individuals with disabilities shall be  
 4 entitled to full and equal access, as other members of the  
 5 general public, to accommodations, advantages, facilities,  
 6 medical facilities, including hospitals, clinics, and  
 7 physicians' offices, and privileges of all common carriers,  
 8 airplanes, motor vehicles, railroad trains, motorbuses,  
 9 streetcars, boats, or any other public conveyances or  
 10 modes of transportation (whether private, public,  
 11 franchised, licensed, contracted, or otherwise provided),  
 12 telephone facilities, adoption agencies, private schools,  
 13 hotels, lodging places, places of public accommodation,  
 14 amusement, or resort, and other places to which the  
 15 general public is invited, subject only to the conditions  
 16 and limitations established by law, or state or federal  
 17 regulations, and applicable alike to all persons.

18 (2) As used in this section, "telephone facilities" means  
 19 tariff items and other equipment and services that have  
 20 been approved by the Public Utilities Commission to be  
 21 used by individuals with disabilities in a manner feasible  
 22 and compatible with the existing telephone network  
 23 provided by the telephone companies.

24 (3) "Full and equal access," for purposes of this section  
 25 in its application to transportation, means access that  
 26 meets the standards of Titles II and III of the Americans  
 27 with Disabilities Act of 1990 (Public Law 101-336) and  
 28 federal regulations adopted pursuant thereto, except  
 29 that, if the laws of this state prescribe higher standards, it  
 30 shall mean access that meets those higher standards.

31 (b) (1) Individuals with disabilities shall be entitled to  
 32 full and equal access, as other members of the general  
 33 public, to all housing accommodations offered for rent,  
 34 lease, or compensation in this state, subject to the



1 conditions and limitations established by law, or state or  
2 federal regulation, and applicable alike to all persons.

3 (2) "Housing accommodations" means any real  
4 property, or portion thereof, that is used or occupied, or  
5 is intended, arranged, or designed to be used or occupied,  
6 as the home, residence, or sleeping place of one or more  
7 human beings, but shall not include any accommodations  
8 included within subdivision (a) or any single-family  
9 residence the occupants of which rent, lease, or furnish  
10 for compensation not more than one room therein.

11 (3) (A) Any person renting, leasing, or otherwise  
12 providing real property for compensation shall not refuse  
13 to permit an individual with a disability, at that person's  
14 expense, to make reasonable modifications of the existing  
15 rented premises if the modifications are necessary to  
16 afford the person full enjoyment of the premises.  
17 However, any modifications under this paragraph may be  
18 conditioned on the disabled tenant entering into an  
19 agreement to restore the interior of the premises to the  
20 condition existing prior to the modifications. No  
21 additional security may be required on account of an  
22 election to make modifications to the rented premises  
23 under this paragraph, but the lessor and tenant may  
24 negotiate, as part of the agreement to restore the  
25 premises, a provision requiring the disabled tenant to pay  
26 an amount into an escrow account, not to exceed a  
27 reasonable estimate of the cost of restoring the premises.

28 (B) Any person renting, leasing, or otherwise  
29 providing real property for compensation shall not refuse  
30 to make reasonable accommodations in rules, policies,  
31 practices, or services, when those accommodations may  
32 be necessary to afford individuals with a disability equal  
33 opportunity to use and enjoy the premises.

34 (4) Nothing in this subdivision shall require any person  
35 renting, leasing, or providing for compensation real  
36 property to modify his or her property in any way or to  
37 provide a higher degree of care for an individual with a  
38 disability than for an individual who is not disabled.

39 (5) Except as provided in paragraph (6), nothing in  
40 this part shall require any person renting, leasing, or



1 providing for compensation real property, if that person  
2 refuses to accept tenants who have dogs, to accept as a  
3 tenant an individual with a disability who has a dog.

4 (6) (A) It shall be deemed a denial of equal access to  
5 housing accommodations within the meaning of this  
6 subdivision for any person, firm, or corporation to refuse  
7 to lease or rent housing accommodations to an individual  
8 who is blind or visually impaired on the basis that the  
9 individual uses the services of a guide dog, an individual  
10 who is deaf or hearing impaired on the basis that the  
11 individual uses the services of a signal dog, or to an  
12 individual with any other disability on the basis that the  
13 individual uses the services of a service dog, or to refuse  
14 to permit such an individual who is blind or visually  
15 impaired to keep a guide dog, an individual who is deaf  
16 or hearing impaired to keep a signal dog, or an individual  
17 with any other disability to keep a service dog on the  
18 premises.

19 (B) Except in the normal performance of duty as a  
20 mobility or signal aid, nothing contained in this paragraph  
21 shall be construed to prevent the owner of a housing  
22 accommodation from establishing terms in a lease or  
23 rental agreement that reasonably regulate the presence  
24 of guide dogs, signal dogs, or service dogs on the premises  
25 of a housing accommodation, nor shall this paragraph be  
26 construed to relieve a tenant from any liability otherwise  
27 imposed by law for real and personal property damages  
28 caused by such a dog when proof of the same exists.

29 (C) (i) As used in this subdivision, “guide dog” means  
30 any guide dog that was trained by a person licensed under  
31 Chapter 9.5 (commencing with Section 7200) of Division  
32 3 of the Business and Professions Code or as defined in the  
33 regulations implementing Title III of the Americans with  
34 Disabilities Act of 1990 (Public Law 101-336).

35 (ii) As used in this subdivision, “signal dog” means any  
36 dog trained to alert an individual who is deaf or hearing  
37 impaired to intruders or sounds.

38 (iii) As used in this subdivision, “service dog” means  
39 any dog individually trained to the requirements of the  
40 individual with a disability, including, but not limited to,



1 minimal protection work, rescue work, pulling a  
2 wheelchair, or fetching dropped items.

3 (7) It shall be deemed a denial of equal access to  
4 housing accommodations within the meaning of this  
5 subdivision for any person, firm, or corporation to refuse  
6 to lease or rent housing accommodations to an individual  
7 who is blind or visually impaired, an individual who is deaf  
8 or hearing impaired, or other individual with a disability  
9 on the basis that the individual with a disability is partially  
10 or wholly dependent upon the income of his or her  
11 spouse, if the spouse is a party to the lease or rental  
12 agreement. Nothing in this subdivision, however, shall  
13 prohibit a lessor or landlord from considering the  
14 aggregate financial status of an individual with a disability  
15 and his or her spouse.

16 (c) Visually impaired or blind persons and persons  
17 licensed to train guide dogs for individuals who are  
18 visually impaired or blind pursuant to Chapter 9.5  
19 (commencing with Section 7200) of Division 3 of the  
20 Business and Professions Code or guide dogs as defined in  
21 the regulations implementing Title III of the Americans  
22 with Disabilities Act of 1990 (Public Law 101-336), and  
23 persons who are deaf or hearing impaired and persons  
24 authorized to train signal dogs for individuals who are  
25 deaf or hearing impaired, and other individuals with a  
26 disability and persons authorized to train service dogs for  
27 individuals with a disability, may take dogs, for the  
28 purpose of training them as guide dogs, signal dogs, or  
29 service dogs in any of the places specified in subdivisions  
30 (a) and (b). These persons shall ensure that the dog is on  
31 a leash and tagged as a guide dog, signal dog, or service  
32 dog by identification tag issued by the county clerk,  
33 animal control department, or other agency, as  
34 authorized by Chapter 3.5 (commencing with Section  
35 30850) of Division 14 of the Food and Agricultural Code.  
36 In addition, the person shall be liable for any provable  
37 damage done to the premises or facilities by his or her  
38 dog.

39 (d) A violation of the right of an individual under the  
40 Americans with Disabilities Act of 1990 (Public Law



1 101-336) also constitutes a violation of this section, and  
2 nothing in this section shall be construed to limit the  
3 access of any person in violation of that act.

4 (e) Nothing in this section shall preclude the  
5 requirement of the showing of a license plate or disabled  
6 placard when required by enforcement units enforcing  
7 disabled persons parking violations pursuant to Sections  
8 22507.8 and 22511.8 of the Vehicle Code.

9 (f) (1) *An individual with a disability who in good  
10 faith believes that a public accommodation does not  
11 provide full and equal access as required by this section,  
12 Section 51, 52, 54, or 54.2, or Section 4450 or 4452 of the  
13 Government Code, shall so notify the public  
14 accommodation by sending a certified letter addressed to  
15 the "owner or manager" of the public accommodation.  
16 The letter shall clearly identify the specific access  
17 problems.*

18 (2) *The landlord, tenant, owner, operator, or other  
19 responsible party shall act in good faith by making  
20 undisputed access improvements within 90 days from  
21 receipt of the disabled plaintiff's certified letter.  
22 Undisputed access improvements need not necessarily be  
23 completed in 90 days if there is good cause for any delay.  
24 Good cause includes, but is not limited to, weather,  
25 required permits, the availability of contractors,  
26 consultants, experts, attorneys, unforeseen  
27 circumstances, and similar delays.*

28 (3) *By no later than 60 days from receipt of the  
29 disabled party's certified letter, the responsible party  
30 shall respond in writing to the disabled party and provide  
31 an action plan for undisputed access improvements. A  
32 disabled party may not file an action against a public  
33 accommodation based on one or more of the code  
34 sections listed in paragraph (1) before 90 days from  
35 receipt of the disabled individual's certified letter by the  
36 owner or manager of the public accommodation.*



1    (4) *A disabled party may not recover attorney's fees or*  
2 *other costs with respect to any action or proceeding*  
3 *regarding undisputed access improvements.*

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