



ENSURING ACCESS...HELPING BUSINESS...

SB 1608 helps business owners become compliant and deal with claims of access violations

In 2008, the Legislature passed historic legislation related to disability access. Groups that often are at odds with one another – the Consumer Attorneys of California, the California Restaurant Association, the California Chamber of Commerce, Disability Rights of California, the California Building Owners Association, the California Disability Community Action Network and the California Foundation for Independent Living Centers – put aside their differences to work together for more than two years in an effort to:

- Prevent lawsuits that sought fees and not access compliance.
- Better educate building owners about their obligations under the law.

As a result of this joint effort, the Legislature passed SB 1608 (Corbett), which was signed by Governor Schwarzenegger. SB 1608 contained four provisions:

1. The creation of a California Commission on Disability Access.
2. The imposition of continuing ADA education requirements for architects and building officials.
3. A required notice to business owners that a plaintiff's attorney must provide a complaint or demand letter detailing the business or building owners' legal rights and obligations.
4. New legal protections for businesses that have undergone an on-site inspection and approval by a Certified Access Specialist, who is trained to determine if a property complies with ADA accessibility laws. Approved businesses can request an early conference opportunity and a stay in the case.

These changes are meant to help business owners comply with a law that has a noble purpose. Under the California Civil Code Sections 54 and 54.1, people with disabilities

and certain medical conditions are entitled to full and free access to roadways, sidewalks, public buildings and facilities, hospitals and medical facilities, and housing. Congress enacted the federal Americans with Disabilities Act (ADA) in 1990, and the state made a violation of the ADA also a violation in Sections 54 or 54.1.

SB 1608 created special legal protections for businesses who are sued pursuant to California's disability access laws. The creation of the Certified Access Specialist program, for instance, gives qualified business owners a protection no other defendant in California currently enjoys. We believe allowing a judge to take an early look at the case will deter attorneys that file frivolous suits. SB 1608 also requires that attorneys who write monetary demand letters alleging a physical access violation [must send a specified explanatory notice to the building owner of his or her legal rights and obligations](#).

The other three main components of SB 1608 included:

- The creation of the [California Commission on Disability Access](#), an independent state entity with responsibility for monitoring disability access compliance in California. The Commission, a 19-member state advisory board, acts as an information center on disability access requirements, makes recommendations to the Legislature on needed reforms of disability laws and develops a master checklist for building inspectors to use for access compliance. It also studies and issues reports on disability access issues. We believe that further changes to the law should stem from the commission recommendations.
- Mandatory continuing education for building inspectors and architects. In order to make California accessible, those responsible for designing and building our buildings must be aware of access compliance laws. Continued education in this area serves that goal.
- Local building inspection departments are required to have at least one Certified Access Specialist on staff who is available to provide consultations on access compliance. Prior to SB 1608, there was no requirement that local public entities have such a specialist on staff.