

## Landlord or tenant responsibilities under the law

- Both the landlord who owns the property or building and the tenant are equally responsible for ensuring proper access.
- The landlord and tenant may strike an agreement allocating responsibility for compliance. Potential tenants are advised to carefully read their lease agreements, as they may contain alteration clauses allocating responsibility to the tenant for all federal, state and local laws.

## Incentives are available

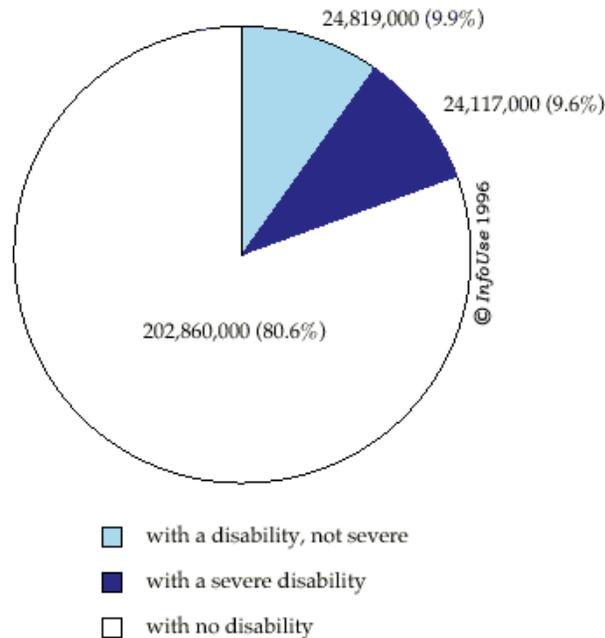
Tax incentives are available for alterations to a property for ADA compliance purposes, including a \$15,000-per-year deduction and a \$5,000 tax credit.

## Where can I make recommendations to improve the law?

California has a 17- member Commission on Disability Access composed of members of the disability and business communities. The Commission acts as an information center on disability access requirements, makes recommendations to the Legislature on needed reforms of disability laws, develops a master checklist for building inspectors, and studies and issues reports on disability access issues. You may contact the Commission with concerns or suggestions at <http://www.bsc.ca.gov/CCDA/default.htm>.

## Disability in America

Nearly one in five people in the U.S. suffer from a disability that can limit access to your business.



A public service pamphlet prepared by the  
Consumer Attorneys Public Interest Foundation  
[www.caoc.com](http://www.caoc.com)

# ACCESS TO PUBLIC ACCOMMODATIONS

## Your Obligations Under The Law

## What You Can Do To Avoid Being Sued



## The law on disability access



California businesses must comply with both federal and state law related to disability access. Under 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.

Access enforcement lawsuits are intended to improve public access for people with disabilities. California laws recognize that stairs are as formidable a barrier to persons who use wheelchairs as discrimination based on race or sex. With nearly one in five Americans having a disability, good access is an important factor for a business.

## New California Legislation

In 2008, the Legislature passed a historic measure 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 Center for Independent Living Centers – worked together for more than two years in an effort to:

- Prevent lawsuits that seek 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 contained four provisions:

1. Creation of a California Commission on Disability Access.

2. Continuing ADA education requirements for architects and building officials.

3. A required notice to business owners that plaintiffs 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 accessibility laws. Approved businesses can request an early conference opportunity and a stay if they are sued.

## How to comply with the law and avoid a disability access civil lawsuit



The most important thing any business can do is to obtain a Certified Access Specialist (CASp) evaluation. This will help you become compliant and will give your business special legal protections should you be sued. A small business can generally hire a CASp

to evaluate 3,000 to 5,000 square feet for around \$850-\$1,000.

- A new window sign is available for business owners to post showing they have had their inspection. This sign will alert the public that your business welcomes all Californians – including the one in five with a disability – and also serves to reduce lawsuits as you will be less likely to be sued.

- The inspection report shows areas that were inspected and any compliance problems. For buildings needing correction, the report will identify the changes and a reasonable timeframe for making those changes.

## If you are sued or get a demand letter



- If you have been inspected by a CASp prior to being sued, you are entitled to special legal protections, including a 90-day stay of the lawsuit and an Early Evaluation Conference.

- A stay temporarily halts all litigation, thus limiting legal costs.

- To obtain the stay and request a Conference, the building owner must file a request with the court within 30 days of being sued.

- The law further requires attorneys who submit written demands for money to give an explanation of the legal rights of the building owner.