

ALERT

VOLUME 39, NUMBER 32 • NOVEMBER 8, 2013



CalChamber Goes to D.C. to Push Immigration Reform



California Chamber of Commerce Policy Advocate Marti Fisher and a large and diverse delegation from California were in Washington, D.C. last week, continuing to push for comprehensive

immigration reform this year.

“Our country cannot compete and win in a global economy without attracting and retaining a talented workforce,” Fisher said during a news conference with Congressman David G. Valadao (R-Han-

ford). “We appreciate the continued efforts of the House to address this challenging issue and urge House leaders to bring immigration reform before the members of Congress for a vote this year.”

In July, the CalChamber sent a letter to members of the California congressional delegation, urging them to take the lead on this vital issue to ensure that California’s critical industries have the workers and talent they need to create necessary California jobs. Technology, agriculture, and tourism, among others, must have comprehensive immigration reform to thrive.

In a July 12 [CalChamber News video](#), [See CalChamber Pushes: Page 4](#)

State Building Code Change Helps Deter Costly Disability Access Lawsuits



For a number of years, the business community has been victim to a small but widely destructive, atypical group of plaintiffs and lawyers using the disability laws and court system to seek monetary profits rather than access.

The result has been unnecessary, costly litigation for significant numbers of California businesses across the state, and many of them closing their doors for good.

In 2012, California Chamber of Commerce-supported legislation to limit frivolous litigation connected with the Americans with Disabilities Act (ADA) was signed into law. [SB 1186 \(Steinberg; D-Sacramento/Dutton; R-Rancho Cucamonga; Chapter 383, Statutes of 2012\)](#) also promotes increased compli-

ance with disability accessibility building codes throughout the state.

California businesses should be aware of two recent updates regarding ADA compliance:

- The California Building Standards Commission has adopted the new 2013 California Building Standards Code, which will go into effect early next year.
- In conformity with SB 1186, the California Commission on Disability Access (CCDA) has published a list of “Top 10 Demand Letters & Claims.”

Measurement Standards Change

Significantly, among its many provisions, the new 2013 building code permits compliance with specified construction-related accessibility standards pursuant to a variable measurement

[See State Building: Page 11](#)

CalChamber Weighs in on Alleged Common Law Duty on Defibrillator

The California Chamber of Commerce is weighing in on a case before the California Supreme Court that could have a significant impact on personal injury cases involving businesses.

The CalChamber has joined the Civil Justice Association of California (CJAC) in filing a friend-of-the-court brief in *Verdugo v. Target Stores*, in which a store was sued for not having an Automatic External Defibrillator (AED).

Background

In the case, the mother and brother of Mary Ann Verdugo, who died of sudden cardiac arrest (SCA) in 2008 while shopping at a Target store in California, allege that Target Corp. had a common law duty to have an AED on its premises, which Target did not have when Verdugo suffered the cardiac arrest.

Although a 911 call was promptly made when Verdugo suffered the SCA, it took paramedics several minutes to reach her. By the time they arrived, Verdugo had died.

The plaintiffs cite findings that while only 8% of those who suffer from an SCA survive, it is estimated that 30% of those who experience cardiac arrest could be saved if an AED is used immediately. Essentially, the plaintiffs claim that if only Target had a defibrillator available on its premises, Verdugo may have been saved.

[See CalChamber Weighs in: Page 4](#)

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Labor Law Corner

Holiday Pay an Employer's Decision, But Follow Other Wage Rules



Dana Leisinger
HR Adviser

As a small employer, we cannot afford to pay our nonexempt employees for all holidays that other employers offer during Thanksgiving and Christmas. Must we offer paid holidays, and what rate must we pay if an employee works on a holiday?

Holiday pay is not mandatory in California; therefore it is completely within a company's discretion whether to

pay an incentive (overtime) rate to employees who work on holidays.

Incentive Rate Not Mandatory

Many employers do pay an incentive rate so as to lessen the "sting" of having to work on a holiday, but it is not mandatory per California law.

Any amount is equally allowed, given, of course, that minimum wage is satisfied.

Having a "waiting period" before earning holiday pay is permissible for your nonexempt employees, as long as you apply the waiting period to all newly hired nonexempt employees.

Overtime

Keep in mind that if a nonexempt employee is required to work a holiday after working 40 hours in a week, overtime would indeed apply at the applicable rates. Overtime also would result if the employee works more than eight hours on that holiday.

In addition, an exempt employee must be paid for holidays if he/she is ready, willing and able to work, regardless of if that exempt employee actually works the holiday.

Some employers enter into agreements with their employees to pay holiday pay, agreeing on terms between the employer and employee, sometimes negotiated as part of an employment contract.

Employers may adopt policies and practices that work with their individual schedules, as long as employees receive the required minimum wage and overtime, if applicable.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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CalChamber-Sponsored Seminars/Trade Shows

More information: calchamber.com/events.
Labor Law

HR Boot Camp. CalChamber. December 4, San Francisco. (800) 331-8877.

International Trade

Expanding Horizons 2013. Overseas Private Investment Corporation. November 13, San Jose. (800) 814-6548.

K-Tech Conference and Expo. KOTRA, Korea Trade-Investment Promotion Agency NIPA, National IT Industry Promotion Agency. November 14-15, Santa Clara. (408) 432-5011.

U.S.-Spain Council Annual Forum. U.S. Senator Robert Menendez and U.S.-Spain Council. November 15-17, Santa Barbara. (202) 455-4902.

Institute of the Americas 30th Anniversary. Institute of the Americas. November 18, Coronado. (858) 964-1723.

Consul General Luncheon Series. World Affairs Council. November 20, San Francisco. (415) 293-4600.

Latina Style Business Series. Latina Style Magazine. November 21, Universal City. (703) 531-1424.

International Mixer. Northern California World Trade Center. November 21, Sacramento. (916) 319-4274.

International Business Seminar. Pak U.S. Chamber. November 22, San Mateo. (888) 847-9652.

INTRADE Malaysia 2013. Malaysia External Trade Development Corporation. November 26-28, Kuala Lumpur, Malaysia.

Interwine China 2013. MEREBO Messe Marketing. November 28-30, Guangzhou, China.

StartmeupHK. InvestHK. December 4-7, Hong Kong.

10th Annual Global California Conference. Monterey Bay International Trade Association and TradePort. December 5, Redwood City. (831) 335-4780.

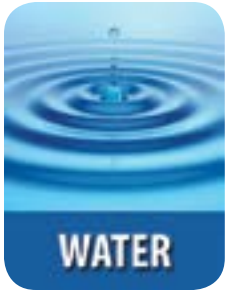
Cuba Educational and Policy Trip. Institute of the Americas. December 7-14, Havana, Cienfuegos and Trinidad, Cuba. (858) 453-5560.

International Investment Forum Chile 2014. Chile Foreign Investment Committee (CIEChile). January 13-16, 2014.

**Next Alert:
November 22**



State Agencies Seek Input on Plan to Move Toward ‘Sustainable Water Management’



Late last week, the administration released the California Water Action Plan for public comment with the intention of finalizing it in December.

The report identifies actions to be taken in the next five years that will move California toward “more sustainable water management.”

John Laird, secretary of the Natural Resources Agency, acknowledges that the plan does not include a lot of new ideas; rather, it integrates existing ideas about water conservation and supply, drawing in various agencies’ views.

An adequate and reliable water supply is a basic need for California residents and businesses from many industries, particularly agriculture and food producers.

Key Actions

The plan lays out 10 key actions:

- Make conservation a California way of life;

- Invest in integrated water management and increase regional self-reliance;
- Achieve the coequal goals for the Delta;
- Protect and restore important ecosystems;
- Manage and prepare for dry periods;
- Expand water storage capacity;
- Provide safe drinking water and secure wastewater systems to all communities;
- Increase flood protection;
- Improve operational and regulatory efficiency;
- Identify sustainable and integrated financing opportunities.

Controversies

Expanded storage and the Bay Delta Conservation Plan (BDCP) are two of the more controversial actions. Not all stakeholders agree that more storage is needed, nor do they believe the twin tunnels embodied in the BDCP are necessary to provide a reliable supply of water, which is one of the coequal goals for the Delta.

Also mentioned is a new Delta Levee

Assessment District and the directive to existing agencies to identify areas where user and/or polluter fees may be appropriate.

The water action plan provisions will be acted upon in the coming years.

The draft water action plan is available on the Natural Resources Agency website, www.resources.ca.gov.

Comments or questions can be directed to wateraction@water.ca.gov.

CalChamber Position

The California Chamber of Commerce supports a comprehensive solution to California’s chronic water shortage. It is vitally important that all Californians have an adequate and reliable source of water while safeguarding the environment.

Developing additional water supplies and conveyance facilities can no longer be postponed without subjecting the state to long-term economic damage. One serious earthquake or a series of Delta levee failures could leave millions of people and businesses without a water supply for the foreseeable future.

Staff Contact: Valerie Nera

Water Update

Forecast: More Water Discussions, Lawsuits, Bills on Horizon

Much activity related to California water is expected in the coming year as planning continues on a key component of the state’s water supply system and stakeholders examine issues ranging from groundwater to recycling, conservation and funding infrastructure.

Bay Delta Plan

Coming in December will be the opening of the formal Bay Delta Conservation Plan (BDCP) public comment period, which was delayed by the federal government shutdown. It is a 120-day comment period, so should close sometime in April 2014.

The Sacramento-San Joaquin Delta is central to the state’s water supply system, providing drinking water for 25 million people (two-thirds of the state’s population) and irrigation water for millions of acres of crops.

It is likely the BDCP document will be final in late summer or early fall of 2014, triggering a host of lawsuits, which should take about a year to process from the time they are filed.

If the BDCP changes significantly after the fact or gets remanded from one or more lawsuits, years will be added to the implementation process.

Given the complexity of the BDCP

and the number of players, it will be years before any new facility in the plan will deliver any water.

Legislative Outlook

As far as water legislation for 2014, other than what is in the water action plan, expect more groundwater bills dealing with disadvantaged communities and efforts to regulate consumption (groundwater use), recycling and reuse bills, as well as more conservation efforts, perhaps directed to agricultural operations and a redone water bond bill.

Staff Contact: Valerie Nera

CalChamber Weighs in on Alleged Common Law Duty on Defibrillator

From Page 1

Exempt Clause

The California Legislature has enacted numerous laws governing the placement and attendant responsibilities of certain types of facilities for maintaining, testing, and training employees about the use of defibrillators.

For example, health studios are required to have AEDs available. The CalChamber points out in its friend-of-the-court brief, however, that the Legislature exempts retail stores from any duty to have AEDs on the premises.

Specifically, California Health and Safety Code 1797.196(f) states in plain language that: “[n]othing in this section or Section 1714.21 may be construed to require a building owner or building manager to acquire and have installed an AED in any building.”

This plain language, the CalChamber argues, clearly shows that the defendant is not under a common law duty to place a defibrillator on its property.

Scope of Duty

Courts recognize a “special relationship” between business owners and their

invitees, including a duty to maintain the premises in a “reasonably safe condition.” Courts also have noted that this relationship may include a duty to take measures to prevent foreseeable harm from occurring to those using the premises or to come to the aid of a patron in the face of ongoing or imminent harm or danger.

The scope of that duty is determined in part by balancing the foreseeability of the harm against the burden of the duty to be imposed.

In *Verdugo*, the CalChamber argues that the “special relationship” duty has never been extended to require the acquisition and placement of a medical device in a business location.

The amicus brief also points to a court case that is very similar to *Verdugo*, *Rotolo v. San Jose Sports and Entertainment, LLC*, 151 Cal.App.4th 307 (2007). *Rotolo* considered the duty owed by the operator of a sports facility to a teenage boy who died of cardiac arrest while playing an ice hockey game on the premises.

The parents sued the operators of the facility for wrongful death, alleging the defendant had a duty to notify facility users of the existence and location of an

AED on the premises. The trial court found no common law duty “beyond a duty to timely summon emergency services, which defendants fulfilled.”

The appellate court agreed, reasoning that the Legislature did not impose an affirmative duty on building owners and managers to acquire AEDs in the first place. The court also declined “to create a legal duty that [was] nowhere defined in the statutes or in common law.”

Wide-Reaching Effects

The Supreme Court’s determination of whether a retail store has a common law duty to keep and maintain an AED, despite being exempt in state statute from doing so, could have wide-reaching effects, as issues of duty are critical to determining negligence liability, which comprise the bulk of personal injury cases crowding the courts, the CalChamber states in the brief.

The CalChamber and CJAC urged the Supreme Court to hold that the defendant in the case has no common law duty in tort to acquire and provide an AED on its premises for invitees who experience cardiac arrest.

Staff Contact: Heather Wallace

CalChamber Pushes for Immigration Reform

From Page 1

CalChamber President and CEO Allan Zaremberg explained, “This is so important to California’s economy. This is more important here than anywhere else. And that is exactly why California’s representatives need to dominate the debate in Washington. They can’t let somebody else, who doesn’t have a stake in this, determine the outcome.”

“What happens in California affects the rest of the country,” Zaremberg says. “Our economy is going to help drive the economic recovery in the rest of the United States.”

In California there are about 2.6 million undocumented immigrants — 23% of the nation’s total — half of whom

have lived here for more than 10 years.

Reform Principles

The CalChamber and a coalition of 97 local chambers of commerce support the following comprehensive reform principles:

- Strong border security without jeopardizing trade with Mexico (California’s largest trading partner);
- A temporary worker program that meets the needs of employers for both high- and low-skilled jobs that cannot be filled by U.S. workers;
- Strict enforcement of employment verification;
- An earned pathway to legal status.

Staff Contact: Marti Fisher

CalChamber Calendar

Business Services Committee:

December 5, San Francisco

Environmental Committee:

December 5, San Francisco

Fundraising Committee:

December 5, San Francisco

Health Care Policy Committee:

December 5, San Francisco

Board of Directors:

December 5–6, San Francisco

International Trade Breakfast:

December 6, San Francisco

Annual Meeting:

December 6, San Francisco

CalChamber Vote Record: Major Bills 2013

This report for the first year of the 2013–2014 legislative session focuses on California legislators’ floor votes on California Chamber of Commerce priority bills.

This is the 39th vote record the CalChamber has compiled. The CalChamber publishes this report in response to numerous requests by member firms and local chambers of commerce that would like a gauge by which to measure the performance of their legislators.

To help readers assess legislators’ vote records, the charts group bills into five areas: civil litigation, economic development, environmental regulation, health insurance costs, and labor and employment mandates.

Partial Picture

No vote record can tell the entire story of a legislator’s attitude and actions on issues of importance to business. Each year, legislators cast thousands of votes on thousands of proposed laws. To fully evaluate your legislative representative, consult the legislative journals and examine your legislator’s votes in committee and on floor issues.

You can view these via links at www.calchambervotes.com.

Many anti-business bills were rejected by legislators in policy or fiscal committees, thus stopping proposals before they reached the floor for a vote. The vote record does not capture these votes.

Most bills in this report cover major business bills that are of concern to both small and large companies.

The CalChamber recognizes that there are many bills supported or opposed by business that are not included in this vote record and analysis.

Factors Considered

The CalChamber considers the following factors in selecting vote record bills:

- The bills and votes reflect legislators’ attitudes toward private enterprise, fiscal responsibility and the business climate.
- Each bill was a priority for the CalChamber in a particular field. Priority

bills have appeared in the “Status Report” sections of *Alert*.

- The bills were voted upon by either the full Senate or Assembly. This year the vote record covers 14 votes in the Senate and 14 votes in the Assembly.
- Unless otherwise noted, final floor votes are shown. Concurrence votes and conference report votes are considered final votes.



When ‘Not Voting’ Helps

Sometimes a legislator is unwilling to vote against a colleague, but is willing to support the CalChamber’s opposition to a bill. In such cases, a legislator may abstain from voting, which will hinder passage of a bill, just as a “no” vote does.

To recognize that not voting can aid the CalChamber’s opposition to a bill, the vote record includes the number of times legislators did not vote “aye” on a CalChamber-opposed bill in the total for the column listing actions “in accord with” the CalChamber’s position, if the legislator was not absent for the day.

Priority Bills

Civil Litigation

- **AB 227 (Gatto; D-Los Angeles) Stops Drive-by Lawsuits.** Protects small businesses from drive-by lawsuits by providing a 14-day right to cure for allegations of a failure to post a Proposition 65 warning related to chemicals produced during the cooking process, alcohol, second-hand smoke, and car exhaust. Passed Senate, September 10, 37-0. Assembly concurred in Senate amendments, September 11, 78-0. Signed by Governor—Chapter 581 (urgency). CalChamber Supported/**Job Creator.**
- **AB 566 (Wieckowski; D-Fremont)**

Unnecessary Restrictions on Trial Courts. Unfairly limits the trial courts’ ability to minimize costs in light of the budget reductions they have faced by placing severe restrictions on their ability to contract for services. Passed Senate, September 12, 22-12. Assembly concurred in Senate amendments, September 12, 45-26. Vetoed. CalChamber Opposed.

- **AB 729 (R. Hernández; D-West Covina) Employee-Union Agent Evidentiary Privilege.** Creates a new evidentiary privilege that is one-sided and will provide a union representative with an unfair opportunity to preclude relevant evidence during litigation regarding labor disputes or collective bargaining, that may ultimately result in the miscarriage of justice. Passed Senate, September 3, 23-10. Assembly concurred in Senate amendments, September 6, 51-27. Vetoed. CalChamber Opposed.

Economic Development

- **AB 1173 (Bocanegra; D-Pacoima) Tax Reduction.** Reduces the state tax penalty imposed on employees for nonqualified deferred compensation from 20% to 5%, as well as provides the ability to utilize the film tax credit to offset income. Passed Senate, September 12, 35-0. Assembly concurred in Senate amendments, September 12, 78-0. Signed by Governor—Chapter 536. CalChamber Supported.

- **AB 1400 (Committee on Jobs, Economic Development and the Economy) Facilitate Expeditious Exporting.** Improves the business climate in California by reducing delays in processing necessary documents for California exporters. Passed Senate, September 9, 39-0. Assembly concurred in Senate amendments, September 10, 77-1. Signed by Governor—Chapter 539. CalChamber Supported.

- **SB 209 (Lieu; D-Torrance) Stops Retroactive Tax.** Repeals the decision by the Franchise Tax Board to retroactively tax small business investors who relied in good faith on the law when they made the decision to invest in California and use the Qualified Small Business tax incen-

See CalChamber Vote Record: Page 6

CalChamber Vote Record: Major Bills 2013

From Page 5

tive which was recently found unconstitutional. Passed Assembly, September 12, 73-0. Senate concurred in Assembly amendments, September 12, 36-2. Signed by Governor—Chapter 543. CalChamber Supported.

Environmental Regulation

● **AB 976 (Atkins; D-South Park/Golden Hill) Coastal Commission Enforcement.** Inappropriately expands the Coastal Commission’s enforcement authority by allowing the commission to impose administrative civil penalties and incentivizes the imposition of fines and penalties at the expense of due process that occurs in the judicial system. Passed Senate, September 6, 21-17. Assembly refused to concur in Senate amendments, September 10, 34-30. CalChamber Opposed.

● **AB 1323 (Mitchell; D-Los Angeles) Moratorium on Hydraulic Fracturing.** Substantially hinders oil and gas production in the state, driving up fuel and energy prices and harming the job market in these sectors, by prohibiting hydraulic fracturing and the use of fresh water in hydraulic fracturing until Cal/EPA re-authorizes the practice under a new regulatory scheme, if at all, in 2019. Failed passage in Assembly, May 30, 24-37. CalChamber Opposed/**Job Killer**.

● **SB 691 (Hancock; D-Oakland) Dramatically Increases Pollution Penalties.** Dramatically increases existing strict-liability penalties for nuisance-based, nonvehicular air-quality violations without adequately defining what types and levels of pollution would trigger those penalties. Passed Senate, May 29, 22-15. Placed on Assembly Inactive File, September 12. CalChamber Opposed/**Job Killer**.

Health Insurance Costs

● **AB 880 (Gomez; D-Los Angeles) Expansion of Discrimination Litigation and New Health Care Coverage Penalties.** Discourages hiring of entry or re-entry workers, increases discrimination litigation and increases costs by taxing large employers with a penalty if any of their employees who work as little as 8 hours per week enroll in California’s Medi-Cal program and expands the Labor

Code to include a protected classification for any person who is enrolled in California’s Medi-Cal program or in the California Health Benefit Exchange. Failed passage in Assembly, June 27, 46-27. CalChamber Opposed/**Job Killer**.

● **AB 912 (Quirk-Silva; D-Fullerton) Increased Health Insurance Premiums.** Increases medical costs, which will be passed on to medium and large employers in the form of higher premiums, by mandating coverage of fertility preservation services in certain medical treatments. Passed Senate, September 6, 24-12. Assembly concurred in Senate amendments, September 10, 51-26. Vetoed. CalChamber Opposed.

● **SB 353 (Lieu; D-Torrance) Increased Health Insurance Premiums.** Increases costs for health plans, which will be passed on to employers in the form of higher premiums, by imposing significant new translation requirement on plans that advertise or market to new communities that speak languages other than English. Passed Assembly, September 9, 51-25. Senate concurred in Assembly amendments, September 10, 25-11. Signed by Governor—Chapter 447. CalChamber Opposed.

Labor and Employment Mandates

● **AB 10 (Alejo; D-Salinas) Automatic Minimum Wage Increase.** Unfairly imposes an automatic \$2.00 increase in minimum wage over the next three years, that will continue to increase costs on employers of all sizes, regardless of other economic factors or costs that California employers are struggling with to sustain their business. Passed Senate, September 12, 26-11. Assembly concurred in Senate amendments, September 12, 52-25. Signed by Governor—Chapter 351. CalChamber Opposed/**Job Killer**.

● **AB 1165 (Skinner; D-Berkeley) Increased Costs for Citation Appeal Process.** Proposes a costly double-appeal process for workplace safety citations that presumes guilt for employers, undermines due process with regards to citations for workplace safety violations and is unnecessary in light of recently adopted regulations for an expedited appeals process for these situations. Passed Senate, September 11, 23-13. Assembly concurred in Senate amend-

Key to Using This Section

- Y means voted for bill.
- N means voted against bill.
- means not voting “aye” on a CalChamber-opposed bill.
- NV means not voting
- means absent.

Boldface type indicates votes in accord with CalChamber position.

Red column headings are “Job Killer” bills.

Green column headings are “Job Creator” bills.

The last three columns are a tabulation of votes in accord with the CalChamber position, not in accord with the CalChamber and not voting or absent.

ments September 11, 47-27. Vetoed. CalChamber Opposed.

● **SB 54 (Hancock; D-Berkeley) Prevailing Wages on Private Projects.** Increases refinery costs and inappropriately applies the payment of prevailing wage to privately financed projects by mandating the payment of prevailing wages in the construction of refineries. Passed Assembly, September 9, 51-24. Senate concurred in Assembly amendments, September 11, 27-11. Signed by Governor—Chapter 795. CalChamber Opposed.

● **SB 404 (Jackson; D-Santa Barbara) Expansion of Discrimination Litigation.** Makes it virtually impossible for employers to manage their employees and exposes them to a higher risk of litigation by expanding the Fair Employment and Housing Act to include a protected classification for any person who is, perceived to be, or associated with an individual who provides medical or supervisory care to a listed family member. Passed Senate, May 29, 26-13. Held on Assembly Appropriations Committee Suspend File, August 30. CalChamber Opposed/**Job Killer**.

2013 Senate Vote Record

	Civil Litigation	AB 227 Drive-by Lawsuits	AB 566 Trial Courts	AB 729 Evidentiary Privilege	Economic Development	AB 1173 Tax Reduction	AB 1400 Facilitate Exporting	SB 209 Stops Retroactive Tax	Environmental Regulation	AB 976 Coastal Commission	AB 1323 Hydraulic Fracturing	SB 691 Pollution Penalties	Health Insurance Costs	AB 880 Coverage Penalties	AB 912 Mandated Services	SB 353 Translation Mandate	Labor/Employment Mandates	AB 10 Minimum Wage Increase	AB 1165 Citation Appeals	SB 54 Prevailing Wages	SB 404 Discrimination Litigation	In Accord with CalChamber	Not in Accord with CalChamber	Not Voting or Absent
Anderson, Joel (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Beall, Jim (D)	Y	Y	Y		Y	Y	NV		Y		Y			Y	Y		Y	Y	Y	Y	Y	3	10	1
Berryhill, Tom (R)	Y	N	•		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Block, Marty (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Calderon, Ron (D)	Y	Y	Y		Y	Y	Y		N		Y			Y	Y		Y	Y	Y	Y	Y	5	9	0
Cannella, Anthony (R)	Y	N	N		Y	Y	Y		N		N			N	N		•	N	Y	N	N	13	1	0
Corbett, Ellen (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Correa, Lou (D)	Y	•	•		Y	Y	Y		•		N			Y	Y		Y	N	Y	N	N	10	4	0
de León, Kevin (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
DeSaulnier, Mark (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Emmerson, Bill (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Evans, Noreen (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Fuller, Jean (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Gaines, Ted (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Galgiani, Cathleen (D)	Y	•	•		Y	Y	Y		N		N			Y	Y		Y	Y	Y	Y	Y	8	6	0
Hancock, Loni (D)	Y	Y	•		NV	Y	Y		Y		Y			Y	•		Y	Y	Y	Y	Y	5	8	1
Hernandez, Ed (D)	NV	Y	Y		Y	Y	Y		Y		•			Y	Y		Y	Y	Y	Y	Y	4	9	1
Hill, Jerry (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Hueso, Ben (D)	Y	Y	Y		NV	Y	Y		N		Y			Y	Y		Y	Y	Y	Y	Y	4	9	1
Huff, Bob (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Jackson, Hannah-Beth (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Knight, Steve (R)	Y	N	N		Y	Y	N		N		N			N	N		N	N	N	N	N	13	1	0
Lara, Ricardo (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Leno, Mark (D)	Y	Y	Y		Y	Y	Y		Y		Y			•	Y		Y	Y	Y	Y	Y	5	9	0
Lieu, Ted (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Liu, Carol (D)	Y	•	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	5	9	0
Monning, Bill (D)	Y	•	Y		NV	Y	Y		Y		Y			Y	Y		Y	Y	•	Y	Y	5	8	1
Nielsen, Jim (R)	Y	N	•		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Padilla, Alex (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Pavley, Fran (D)	Y	•	Y		Y	Y	Y		Y		Y			Y	•		Y	•	Y	Y	Y	7	7	0
Price, Curren (D) *	*	*	*		*	*	*		*		•			*	*		*	*	*	Y		*1	*1	0
Roth, Richard (D)	Y	Y	•		Y	Y	Y		Y		Y			•	Y		•	•	Y	N	N	9	5	0
Steinberg, Darrell (D)	Y	Y	Y		Y	Y	Y		Y		Y			Y	Y		Y	Y	Y	Y	Y	4	10	0
Torres, Norma (D)	Y	Y	Y		Y	Y	Y		N		Y			Y	Y		Y	Y	Y	Y	Y	5	9	0
Vidak, Andy (R) **	Y	N	N		Y	Y	Y		N		**			N	N		N	N	N	**	**	**12	0	0
Walters, Mimi (R)	NV	N	N		Y	Y	Y		N		N			N	•		N	N	N	N	N	13	0	1
Wolk, Lois (D)	Y	Y	Y		NV	Y	N		Y		Y			Y	Y		Y	•	Y	Y	Y	3	10	1
Wright, Roderick D. (D)	Y	Y	Y		Y	Y	Y		N		N			•	Y		Y	Y	Y	Y	Y	7	7	0
Wyland, Mark (R)	Y	N	N		Y	Y	Y		N		N			N	N		N	N	N	N	N	14	0	0
Yee, Leland (D)	Y	Y	Y		Y	Y	Y		Y		N			Y	Y		Y	Y	Y	Y	Y	5	9	0

*Elected to Los Angeles City Council; took office on July 1.
 **Sworn into office on August 10.

2013 Assembly Vote Record

	Civil Litigation			Economic Development			Environmental Regulation		Health Insurance Costs			Labor/Employment Mandates			In Accord with CalChamber					
	AB 227 Drive-by Lawsuits	AB 566 Trial Courts	AB 729 Evidentiary Privilege	AB 1173 Tax Reduction	AB 1400 Facilitate Exporting	SB 209 Stops Retroactive Tax	AB 976 Coastal Commission	AB 1323 Hydraulic Fracturing	SB 691 Pollution Penalties	AB 880 Coverage Penalties	AB 912 Mandated Services	SB 353 Translation Mandate	AB 10 Minimum Wage Increase	AB 1165 Citation Appeals	SB 54 Prevailing Wages	SB 404 Discrimination Litigation	In Accord with CalChamber	Not in Accord with CalChamber	Not Voting or Absent	
Achadjian, Katcho (R)	Y	N	N	Y	Y	Y	●	N		N	N	N	N	N	N		14	0	0	
Alejo, Luis (D)	Y	Y	Y	Y	Y	Y	●	●	Placed on Assembly Inactive File.	Y	Y	Y	Y	Y	Y		6	8	0	
Allen, Travis (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Ammiano, Tom (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Atkins, Toni (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Bigelow, Frank (R)	Y	N	N	Y	Y	Y	N	N			N	N	N	N	N	N		14	0	0
Bloom, Richard (D)	Y	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y		4	10	0
Blumenfield, Bob (D) *	*	*	*	*	*	*	*	Y			Y	*	*	*	*	*		*0	*2	0
Bocanegra, Raul (D)	Y	Y	Y	Y	Y	Y	●	●			●	Y	Y	Y	Y	Y		7	7	0
Bonilla, Susan (D)	Y	Y	Y	Y	Y	Y	●	N			Y	Y	Y	Y	Y	Y		6	8	0
Bonta, Rob (D)	Y	Y	Y	Y	Y	Y	Y	●			Y	Y	Y	Y	Y	Y		5	9	0
Bradford, Steve (D)	Y	Y	Y	Y	Y	Y	Y	●		Y	Y	Y	Y	Y	Y		5	9	0	
Brown, Cheryl (D)	Y	Y	Y	Y	Y	Y	N	N		N	Y	Y	Y	Y	●		8	6	0	
Buchanan, Joan (D)	Y	Y	Y	Y	Y	Y	●	●		Y	Y	Y	Y	●	Y		7	7	0	
Calderon, Ian (D)	Y	Y	Y	Y	Y	Y	Y	●		Y	Y	Y	Y	Y	Y		5	9	0	
Campos, Nora (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Chau, Ed (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Chávez, Rocky (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Chesbro, Wesley (D)	Y	●	Y	Y	Y	NV	Y	Y		Y	Y	Y	Y	Y	Y		4	9	1	
Conway, Connie (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Cooley, Ken (D)	Y	Y	N	Y	Y	Y	N	●		Y	Y	Y	Y	Y	Y		7	7	0	
Dahle, Brian (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Daly, Tom (D)	Y	●	Y	Y	Y	Y	N	N		N	Y	N	Y	N	Y		10	4	0	
Dickinson, Roger (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Donnelly, Tim (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Eggman, Susan Talamantes (D)	Y	●	Y	Y	Y	Y	●	N		Y	Y	Y	Y	Y	Y		7	7	0	
Fong, Paul (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Fox, Steve (D)	Y	●	Y	Y	Y	Y	●	N		●	Y	●	●	Y	Y		10	4	0	
Frazier, Jim (D)	Y	●	Y	Y	Y	Y	●	N		Y	Y	Y	Y	Y	Y		7	7	0	
Gaines, Beth (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Garcia, Cristina (D)	Y	Y	Y	Y	Y	Y	●	●		Y	Y	Y	Y	Y	Y		6	8	0	
Gatto, Mike (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	N	Y	Y	Y		5	9	0	
Gomez, Jimmy (D)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y		4	10	0	
Gonzalez, Lorena (D)	Y	Y	Y	Y	Y	Y	Y	●		Y	Y	Y	Y	Y	Y		5	9	0	
Gordon, Rich (D)	Y	Y	Y	Y	Y	Y	●	Y		Y	Y	Y	Y	Y	Y		5	8	0	
Gorell, Jeff (R)	Y	N	N	Y	Y	Y	N	N		●	N	N	N	N	N		14	0	0	
Gray, Adam (D)	Y	Y	Y	Y	Y	Y	N	N		N	Y	Y	Y	●	Y		8	6	0	
Grove, Shannon (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	
Hagman, Curt (R)	Y	N	N	Y	Y	Y	N	N		N	N	N	N	N	N		14	0	0	

*Elected to Los Angeles City Council; took office on July 1.

2013 Assembly Vote Record

	Civil Litigation	AB 227 Drive-by Lawsuits	AB 566 Trial Courts	AB 729 Evidentiary Privilege	Economic Development	AB 1173 Tax Reduction	AB 1400 Facilitate Exporting	SB 209 Stops Retroactive Tax	Environmental Regulation	AB 976 Coastal Commission	AB 1323 Hydraulic Fracturing	SB 691 Pollution Penalties	Health Insurance Costs	AB 880 Coverage Penalties	AB 912 Mandated Services	SB 353 Translation Mandate	Labor/Employment Mandates	AB 10 Minimum Wage Increase	AB 1165 Citation Appeals	SB 54 Prevailing Wages	SB 404 Discrimination Litigation	In Accord with CalChamber	Not in Accord with CalChamber	Not Voting or Absent
Hall, Isadore (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	●			6	8	0
Harkey, Diane (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Hernández, Roger (D)	Y	Y	Y		Y	Y	NV		●	●			Y	Y	Y		Y	Y	Y			5	8	1
Holden, Chris (D)	Y	Y	Y		Y	Y	Y		Y	—			Y	Y	Y		Y	Y	Y			4	9	1
Jones, Brian (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Jones-Sawyer, Reggie (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	Y			5	9	0
Levine, Marc (D)	Y	N	Y		Y	Y	Y		●	Y			Y	Y	Y		Y	Y	Y			6	8	0
Linder, Eric (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Logue, Dan (R)	Y	N	N		Y	Y	Y		N	N			N	N	Y		N	N	N			13	1	0
Lowenthal, Bonnie (D)	Y	Y	Y		Y	Y	NV		Y	Y			Y	Y	Y		Y	Y	Y			3	10	1
Maienschein, Brian (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Mansoor, Allan (R)	Y	N	N		Y	Y	NV		N	N			N	N	N		N	N	N			13	0	1
Medina, Jose (D)	Y	Y	Y		Y	Y	Y		Y	N			Y	Y	Y		Y	Y	Y			5	9	0
Melendez, Melissa (R)	Y	N	N		Y	Y	Y		N	N			N	N	●		N	N	N			14	0	0
Mitchell, Holly (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			4	10	0
Morrell, Mike (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Mullin, Kevin (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	Y			5	9	0
Muratsuchi, Al (D)	Y	Y	Y		Y	Y	Y		Y	Y			●	N	Y		Y	Y	Y			6	8	0
Nazarian, Adrin (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			4	10	0
Nestande, Brian (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	●			14	0	0
Olsen, Kristin (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Pan, Richard (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	Y			5	9	0
Patterson, Jim (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Perea, Henry T. (D)	Y	Y	Y		Y	Y	Y		●	N			●	Y	Y		Y	●	Y			8	6	0
Pérez, John A. (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			4	10	0
Pérez, V. Manuel (D)	Y	Y	Y		Y	Y	Y		●	N			Y	Y	Y		Y	●	Y			7	7	0
Quirk, Bill (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	Y			5	9	0
Quirk-Silva, Sharon (D)	Y	●	Y		Y	Y	Y		N	●			Y	Y	Y		Y	Y	Y			7	7	0
Rendon, Anthony (D)	Y	Y	Y		Y	N	Y		Y	Y			Y	Y	Y		Y	Y	Y			3	11	0
Salas, Rudy (D)	Y	Y	N		Y	Y	Y		N	N			●	Y	Y		Y	N	Y			9	5	0
Skinner, Nancy (D)	Y	Y	Y		Y	Y	NV		Y	Y			Y	Y	Y		Y	Y	Y			3	10	1
Stone, Mark (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			4	10	0
Ting, Philip Y. (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			4	10	0
Wagner, Donald P. (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Waldron, Marie (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Weber, Shirley (D)	Y	Y	Y		Y	Y	Y		Y	N			Y	Y	Y		Y	Y	Y			5	9	0
Wieckowski, Bob (D)	Y	Y	Y		Y	Y	Y		Y	●			Y	Y	Y		Y	Y	Y			5	9	0
Wilk, Scott (R)	Y	N	N		Y	Y	Y		N	N			N	N	N		N	N	N			14	0	0
Williams, Das (D)	Y	Y	Y		Y	Y	Y		Y	Y			Y	●	Y		Y	Y	Y			5	9	0
Yamada, Mariko (D)	Y	●	Y		Y	Y	Y		Y	Y			Y	Y	Y		Y	Y	Y			5	9	0

Placed on Assembly Inactive File.

Held on Assembly Appropriations Suspense File.

CalChamber Best Business Votes

Legislators are listed in descending order according to how often they voted in accord with the California Chamber of Commerce position (first number) versus how often their votes were not in accord with the CalChamber's position (second number) in 2013. Total votes may not match the vote record because the tally for not voting or absent is not included in this list.

80% or more with CalChamber 60%-79% with CalChamber 40%-59% with CalChamber Less than 40% with CalChamber

Senate

Anderson, Joel (R)	14-0
Berryhill, Tom (R)	14-0
Emmerson, Bill (R)	14-0
Fuller, Jean (R)	14-0
Gaines, Ted (R)	14-0
Huff, Bob (R)	14-0
Nielsen, Jim (R)	14-0
Wyland, Mark (R)	14-0
Walters, Mimi (R)	13-0
Cannella, Anthony (R)	13-1
Knight, Steve (R)	13-1
Vidak, Andy (R)**	12-0
Correa, Lou (D)	10-4
Roth, Richard (D)	9-5
Galgiani, Cathleen (D)	8-6
Pavley, Fran (D)	7-7
Wright, Roderick D. (D)	7-7
Hancock, Loni (D)	5-8
Monning, Bill (D)	5-8
Calderon, Ron (D)	5-9
Leno, Mark (D)	5-9
Liu, Carol (D)	5-9
Torres, Norma (D)	5-9
Yee, Leland (D)	5-9
Hernandez, Ed (D)	4-9
Hueso, Ben (D)	4-9
Block, Marty (D)	4-10
Corbett, Ellen (D)	4-10
de León, Kevin (D)	4-10
DeSaulnier, Mark (D)	4-10
Evans, Noreen (D)	4-10
Hill, Jerry (D)	4-10
Jackson, Hannah-Beth (D)	4-10
Lara, Ricardo (D)	4-10
Lieu, Ted (D)	4-10
Padilla, Alex (D)	4-10
Steinberg, Darrell (D)	4-10
Beall, Jim (D)	3-10
Wolk, Lois (D)	3-10
Price, Curren (D)*	1-1

Assembly

Achadjian, Katcho (R)	14-0
Allen, Travis (R)	14-0
Bigelow, Frank (R)	14-0
Chávez, Rocky (R)	14-0
Conway, Connie (R)	14-0
Dahle, Brian (R)	14-0
Donnelly, Tim (R)	14-0
Gaines, Beth (R)	14-0
Gorell, Jeff (R)	14-0
Grove, Shannon (R)	14-0
Hagman, Curt (R)	14-0
Harkey, Diane (R)	14-0
Jones, Brian (R)	14-0
Linder, Eric (R)	14-0
Maienschein, Brian (R)	14-0
Melendez, Melissa (R)	14-0
Morrell, Mike (R)	14-0
Nestande, Brian (R)	14-0
Olsen, Kristin (R)	14-0
Patterson, Jim (R)	14-0
Wagner, Donald P. (R)	14-0
Waldron, Marie (R)	14-0
Wilk, Scott (R)	14-0
Mansoor, Allan (R)	13-0
Logue, Dan (R)	13-1
Daly, Tom (D)	10-4
Fox, Steve (D)	10-4
Salas, Rudy (D)	9-5
Brown, Cheryl (D)	8-6
Gray, Adam (D)	8-6
Perea, Henry T. (D)	8-6
Bocanegra, Raul (D)	7-7
Buchanan, Joan (D)	7-7
Cooley, Ken (D)	7-7
Eggman, Susan Talamantes (D)	7-7
Frazier, Jim (D)	7-7
Pérez, V. Manuel (D)	7-7
Quirk-Silva, Sharon (D)	7-7
Alejo, Luis (D)	6-8
Bonilla, Susan (D)	6-8
Garcia, Cristina (D)	6-8
Hall, Isadore (D)	6-8
Levine, Marc (D)	6-8
Muratsuchi, Al (D)	6-8

Gordon, Rich (D)	5-8
Hernández, Roger (D)	5-8
Bonta, Rob (D)	5-9
Bradford, Steve (D)	5-9
Calderon, Ian (D)	5-9
Gatto, Mike (D)	5-9
Gonzalez, Lorena (D)	5-9
Jones-Sawyer, Reggie (D)	5-9
Medina, Jose (D)	5-9
Mullin, Kevin (D)	5-9
Pan, Richard (D)	5-9
Quirk, Bill (D)	5-9
Weber, Shirley (D)	5-9
Wieckowski, Bob (D)	5-9
Williams, Das (D)	5-9
Yamada, Mariko (D)	5-9
Chesbro, Wesley (D)	4-9
Holden, Chris (D)	4-9
Ammiano, Tom (D)	4-10
Atkins, Toni (D)	4-10
Bloom, Richard (D)	4-10
Campos, Nora (D)	4-10
Chau, Ed (D)	4-10
Dickinson, Roger (D)	4-10
Fong, Paul (D)	4-10
Gomez, Jimmy (D)	4-10
Mitchell, Holly (D)	4-10
Nazarian, Adrin (D)	4-10
Pérez, John A. (D)	4-10
Stone, Mark (D)	4-10
Ting, Philip Y. (D)	4-10
Lowenthal, Bonnie (D)	3-10
Skinner, Nancy (D)	3-10
Rendon, Anthony (D)	3-11
Blumenfield, Bob (D)*	0-2

* Senator Curren Price and Assemblyman Bob Blumenfield elected to Los Angeles City Council; took office on July 1.

** Senator Andy Vidak sworn into office August 10.

State Building Code Change Helps Deter Costly Disability Access Lawsuits

From Page 1

range as compared to a strict measurement standard currently used in the 2010 building code. This change will eliminate many of the ADA lawsuits alleging a barrier violation based on incorrect measurements.

To avoid confusion and unnecessary litigation so that a property owner is not sued for noncompliance with the 2010 building code when the alleged property violation would be in compliance with the variable measurement range in the 2013 building code, SB 1186 enacted special “transitional” provisions to protect property owners from unwarranted liability claims before the new code actually goes into effect next year. This change applies to claims made on and after July 1, 2013—the publication date of the 2013 California Building Standards Code.

That statute provides that a property’s compliance with property measurement standards for disability access in the 2013 building code is an alternative method of compliance until the 2013 building codes take effect next year.

The California Building Standards Commission will have electronic versions of the 2013 code viewable at: www.bsc.ca.gov/codes.aspx.

The California Commission on Disability Access also provides information and educational materials. The commission’s website is at www.cdda.ca.gov.

New Litigation Tactics

SB 1186 also sought to limit abusive litigation tactics used by plaintiff’s

attorneys with regard to the laws requiring that places of public accommodation are accessible for persons with a disability.

One of the key provisions in SB 1186 prevents the stacking of claims. Before SB 1186, unscrupulous attorneys would have their clients repeatedly visit the same business establishment to encounter the same alleged construction-related accessibility violation in order to drive up the value of the case, as under the California Unruh Civil Rights Act, each violation triggered a minimum \$4,000 statutory penalty.

In one notorious example, the lawsuit claimed that the plaintiff had been denied access to the same business, on the same basis, on 30 occasions and asked for \$120,000 in damages.

Court Review

SB 1186 sought to cure this abuse by mandating a court to review the reasonableness of a plaintiff’s actions in repeatedly returning to the same establishment where the individual had experienced a construction-related accessibility violation in light of the plaintiff’s obligation under the law to mitigate (reduce) damages.

Thus, if the plaintiff’s complaint alleges that he/she went to the same fast food restaurant 20 times and each time the plaintiff encountered the same barrier violation (such as a noncompliant countertop or parking space), SB 1186 allows the judge to question the validity and reasonableness of each of the repeated visits and whether the plaintiff had a reasonable basis for not mitigating his damages.

Reduced Penalty

SB 1186 also reduced the minimum statutory penalty to either \$1,000 or \$2,000 for certain defendants who met specified criteria and corrected the violation within 30 to 60 days. However, for intentional violations and defendants who did not qualify for reduced damages liability, the minimum statutory penalty remains at \$4,000 per violation.

Unfortunately, those same unscrupulous attorneys are trying to manipulate the anti-stacking restrictions. Instead of suing based on the same plaintiff’s multiple visits to the same business for the same violation, now restricted by SB 1186’s anti-stacking provision, some lawyers are using different plaintiffs to sue the same business for the same violation.

By filing separate lawsuits by different plaintiffs, the lawyer is not “stacking” his/her claims in the same case, and is therefore able to avoid the mandatory review by the judge as to the reasonableness of the claims alleged.

This new litigation tactic is a good reminder to businesses that although there have been legislative efforts such as SB 1186 to try to deter frivolous litigation, the best way to protect a business against such litigation is to have the property inspected by a Certified Access Specialist (CASp) to identify and remedy any potential construction-related accessibility issues.

More information, including a list of CASps, is available from the Division of the State Architect, www.dgs.ca.gov.

Staff Contact: Jennifer Barrera

Top 10 ADA Claims Against Businesses in California



The California Commission on Disability Access (CCDA) recently

released a report that identifies the top 10 construction-related accessibility violations alleged in settlement demand letters and claims.

Four of the top 10 are parking-related, two deal with accessible route and entry, two relate to access within the facility and two are for compliance in toilet rooms/bathrooms.

All business and property owners should review the report—available at www.cdda.ca.gov/Reports.htm—to not only educate and protect themselves from being the target of costly litigation, but to make their businesses accessible to all patrons by removing such accessibility barriers.

The best way to avoid such a lawsuit is to know the law, the building code, and assure your property complies.

The CCDA is authorized by California Government Code Sections 8299–8299.11 to act as an information resource; to research and prepare advisory reports of findings to the

Legislature on issues related to disability access, compliance inspections and continuing education; to increase coordination between stakeholders; to make recommendations to promote compliance with federal and state laws and regulations; and to provide uniform information about programmatic and architectural disability access requirements to the stakeholders.

The industry was supportive of the legislation that created the CCDA and works very closely with commissioners and staff. More information about the CCDA is available at www.cdda.ca.gov.

ALERT

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California companies with 50 or more employees are required to provide two hours of sexual harassment prevention training to all supervisors **within six months of hire or promotion**, and every two years thereafter. CalChamber's online training in English or Spanish makes it easy to educate employees and meet your compliance requirements. Regardless of company size, we recommend training for all supervisors and employees. Learners can start and stop anytime because the system tracks their progress.



Get a **\$5 Starbucks eGift Card** for every California Harassment Prevention training seat you purchase by 12/20/13.

Use priority code HPTST9. Preferred and Executive members receive their 20% discount in addition to this offer.

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Where Advocacy Meets Compliance®



California courses include **new legislation** clarifying that sexually harassing conduct does not need to be motivated by sexual desire.

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