

AMENDED IN ASSEMBLY MARCH 25, 2003

AMENDED IN ASSEMBLY MARCH 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 209

Introduced by Assembly Member Leslie

January 28, 2003

An act to amend Section 54.3 of the Civil Code, relating to disabled persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 209, as amended, Leslie. Disabled persons: liability.

Under existing law, a person, firm, or corporation that interferes with various specified rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than \$1,000.

This bill would establish notice requirements for a plaintiff to follow before bringing an action against a business for an alleged violation of the Americans with Disabilities Act of 1990 (ADA). The bill would require the plaintiff to provide notice to a business at least 60 days before filing the complaint, and would limit damages to \$2,000 per violation in certain cases in which a plaintiff failed to comply with those notice provisions. The bill would also preclude commencement of an action against a small business for an ADA violation if the small business has made a good *faith* effort to comply with the ADA and other specified conditions are met.

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 54.3 of the Civil Code is amended to
2 read:

3 54.3. (a) Any person or persons, firm or corporation who
4 denies or interferes with admittance to or enjoyment of the public
5 facilities as specified in Sections 54 and 54.1 or otherwise
6 interferes with the rights of an individual with a disability under
7 Sections 54, 54.1 and 54.2 is liable for each offense for the actual
8 damages and any amount as may be determined by a jury, or the
9 court sitting without a jury, up to a maximum of three times the
10 amount of actual damages but in no case less than one thousand
11 dollars (\$1,000), and attorney’s fees as may be determined by the
12 court in addition thereto, suffered by any person denied any of the
13 rights provided in Sections 54, 54.1, and 54.2. “Interfere,” for
14 purposes of this section, includes, but is not limited to, preventing
15 or causing the prevention of a guide dog, signal dog, or service dog
16 from carrying out its functions in assisting a disabled person.

17 (b) Any person who claims to be aggrieved by an alleged
18 unlawful practice in violation of Section 54, 54.1, or 54.2 may also
19 file a verified complaint with the Department of Fair Employment
20 and Housing pursuant to Section 12948 of the Government Code.
21 The remedies in this section are nonexclusive and are in addition
22 to any other remedy provided by law, including, but not limited to,
23 any action for injunctive or other equitable relief available to the
24 aggrieved party or brought in the name of the people of this state
25 or of the United States.

26 (c) A person may not be held liable for damages pursuant to
27 both this section and Section 52 for the same act or failure to act.

28 (d) If a small business has made a good faith effort to comply
29 with the Americans with Disabilities Act of 1990 (Public Law
30 101-336), a plaintiff may not commence an action for damages
31 against that small business for a violation of subdivision (c) of
32 Section 54 or subdivision (d) or Section 54.1 unless all of the
33 following conditions are met:



1 (1) At least 60 days before filing the complaint, the plaintiff
2 provides the small business with notice of the alleged violation of
3 the Americans with Disabilities Act.

4 (2) The notice is sent by certified mail addressed to the owner
5 or manager of the small business. The notice identifies the specific
6 facts that constitute the alleged violation, including the location at
7 which the violation occurred and the date of the violation.

8 (3) The small business fails to correct the alleged violation
9 within 60 days of the date the notice of violation was received.

10 This subdivision does not apply to a small business that cannot
11 demonstrate it has made a good faith effort to comply with the
12 Americans with Disabilities Act.

13 (e) A plaintiff shall make a reasonable effort to provide notice
14 to a ~~small business or a large business~~ of an alleged violation of the
15 Americans with Disabilities Act at least 60 days prior to filing the
16 complaint, in accordance with ~~paragraphs (1) and~~ *paragraph (2)*
17 of subdivision (d). ~~¶~~

18 (f) *If* a plaintiff fails to provide notice to the business, the
19 amount of damages that a plaintiff may recover is limited to two
20 thousand dollars (\$2,000) per violation.

21 (f)

22 (g) For purposes of this section, the following definitions
23 apply:

24 (1) “Small business” is a business that employs fewer than 50
25 full-time employees.

26 (2) “Large business” is a business with 50 or more full-time
27 employees.

