

Fact Sheet SB 1142

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Bill: SB 1142, ADA Reform: Right to Cure

Bill Summary: Senate Bill 1142 would allow small business owners, many of whom are “mom-and-pop” businesses, a “right to cure” within 120 days any identified non-compliance of the Construction-Related Accessibility Standards Compliance Act or Federal Americans with Disabilities Act (ADA), without penalty and without an expensive lawsuit being filed and attorney’s fees being owed. Additionally, where there is conflict between the federal rule and the California rule, the federal rule will preempt the California rule.

Issue Background: While California’s disabled population is about 2% under the national average, over the past ten years, more disability access lawsuits were filed in California than the next four most populated states combined: Florida, New York, Texas, and Pennsylvania.

Across the state, businesses are being targeted for failing to be in compliance with the ever-changing disability access guidelines, resulting in lawsuits that cost the business thousands, and put money in the pockets of serial plaintiffs and trial attorneys. Amongst the suits filed are those for a bathroom mirror being one and a half inches too high, the handicap sign on a restroom being the wrong shape, and the color of the handicap parking space sign not being the specified shade of blue.

Because California law provides that the plaintiff is entitled to a minimum damages that can start as high as \$4,000 per violation, triple the damages, and may be awarded attorney’s fees, mom-and-pop businesses are finding themselves fixing a \$10 mirror, but owing tens of thousands of dollars to the plaintiff’s attorneys for their fees.

As such, this problem is putting many small businesses out-of-business, and its further adding to the stigma that California is a bad place to open a business and create jobs. Additionally, because California has implemented its own version of the ADA, the Construction-Related Accessibility Standards Compliance Act, there is often confusion as to which standards a business is supposed to adhere to. A plaintiff can sue under a cause of action that is not provided for in the ADA, but is under California law.

A “right to cure” honors the purpose of the ADA – to give access to all Californians for public spaces in the state. There is no point to disability access standards if there are no businesses left to implement them.

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