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AB-2917 Disability access: internet websites, parking lots, and exterior paths of travel. (2021-2022)

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Assembly Bill No. 2917

CHAPTER 897

An act to amend Section 55.32 of the Civil Code, and to amend Section 14985.6 of the Government Code, relating to disability access.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2917, Mike Fong. Disability access: internet websites, parking lots, and exterior paths of travel.

Existing law requires an attorney who sends or serves a complaint on the basis of one or more construction-related accessibility claims to satisfy specified requirements, including, among other things, sending a copy of the complaint and submitting information about the complaint to the California Commission on Disability Access.

This bill would also require an attorney who sends or serves a complaint alleging that an internet website is not accessible to satisfy those requirements.

Existing law requires the commission to, among other things, work with other state agencies to develop educational materials and information for use by businesses to understand their obligations to provide disability access and to facilitate compliance with construction-related accessibility standards. Existing law requires the commission to develop and make available on its internet website, or work with another agency to develop, toolkits or educational modules that would educate businesses of the accessibility requirements and to facilitate compliance with those requirements.

This bill would require those educational materials, information, and toolkits or educational modules to also address and facilitate compliance with accessibility standards and requirements for internet websites. The bill would also require the commission to develop toolkits or educational modules that focus on construction-related accessibility violations in parking lots and exterior paths of travel, including a checklist for businesses to recognize the most common construction-related accessibility violations in those areas, by January 1, 2024.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 55.32 of the Civil Code is amended to read:

55.32. (a) An attorney who provides a demand letter, as defined in subdivision (a) of Section 55.3, shall do all of the following:

(1) Include the attorney's State Bar license number in the demand letter.

(2) Within five business days of providing the demand letter, send a copy of the demand letter, and submit information about the demand letter in a standard format specified by the California Commission on Disability Access on the commission's internet website pursuant to Section 14985.8 of the Government Code, to the commission.

(b) An attorney who sends or serves a complaint, as defined in subdivision (a) of Section 55.3, or a complaint alleging that an internet website is not accessible, shall do both of the following:

(1) Send a copy of the complaint and submit information about the complaint in a standard format specified by the California Commission on Disability Access on the commission's internet website pursuant to Section 14985.8 of the Government Code to the commission within five business days of sending or serving the complaint.

(2) Notify the California Commission on Disability Access within five business days of judgment, settlement, or dismissal of the claim or claims alleged in the complaint of the following information in a standard format specified by the commission on the commission's internet website pursuant to Section 14985.8 of the Government Code:

(A) The date of the judgment, settlement, or dismissal.

(B) Whether or not the construction-related accessibility violations or accessibility violations related to an internet website alleged in the complaint were remedied in whole or in part after the plaintiff filed a complaint or provided a demand letter, as defined by Section 55.3.

(C) If the construction-related accessibility violations or accessibility violations related to an internet website alleged in the complaint were not remedied in whole or in part after the plaintiff filed a complaint or provided a demand letter, as defined by Section 55.3, whether or not another favorable result was achieved after the plaintiff filed the complaint or provided the demand letter.

(D) Whether or not the defendant submitted an application for an early evaluation conference and stay pursuant to Section 55.54, whether the defendant requested a site inspection of an alleged construction-related accessibility violation, the date of any early evaluation conference, and the date of any site inspection of an alleged construction-related accessibility violation.

(c) A violation of paragraph (2) of subdivision (a) or subdivision (b) shall constitute cause for the imposition of discipline of an attorney if a copy of the demand letter, complaint, or notification of a case outcome is not sent to the California Commission on Disability Access in the standard format specified on the commission's internet website pursuant to Section 14985.8 of the Government Code within five business days. In the event the State Bar receives information indicating that an attorney has failed to send a copy of the demand letter, complaint, or notification of a case outcome to the California Commission on Disability Access in the standard format specified on the commission's internet website pursuant to Section 14985.8 of the Government Code within five business days, the State Bar shall investigate to determine whether paragraph (2) of subdivision (a) or subdivision (b) has been violated.

(d) Notwithstanding subdivisions (a) and (b), an attorney is not required to send to the California Commission on Disability Access a copy of any subsequent demand letter or amended complaint in the same dispute following the initial demand letter or complaint, unless that subsequent demand letter or amended complaint alleges a new construction-related accessibility claim.

(e) A demand letter or notification of a case outcome sent to the California Commission on Disability Access shall be for the informational purposes of Section 14985.8 of the Government Code. A demand letter received by the State Bar from the recipient of the demand letter shall be reviewed by the State Bar to determine whether subdivision (b) or (c) of Section 55.31 has been violated.

(f) (1) Notwithstanding Section 10231.5 of the Government Code, on or before April 30, 2019, and annually as part of the Annual Discipline Report, no later than April 30 thereafter, the State Bar shall report to the Legislature and the Chairs of the Senate and Assembly Judiciary Committees, both of the following with respect to demand letters received by the State Bar:

(A) The number of investigations opened to date on a suspected violation of subdivision (b) or (c) of Section 55.31.

(B) Whether any disciplinary action resulted from the investigation, and the results of that disciplinary action.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(g) The California Commission on Disability Access shall review and report on the demand letters, complaints, and notifications of case outcomes it receives as provided in Section 14985.8 of the Government Code.

(h) The expiration of any ground for discipline of an attorney shall not affect the imposition of discipline for any act prior to the expiration. An act or omission that constituted cause for imposition of discipline of an attorney when committed or omitted prior to January 1, 2019, shall continue to constitute cause for the imposition of discipline of that attorney on and after January 1, 2019.

(i) Paragraph (2) of subdivision (a) and subdivision (b) shall not apply to a demand letter or complaint sent or filed by an attorney employed or retained by a qualified legal services project or a qualified support center, as defined in Section 6213 of the Business and Professions Code, when acting within the scope of employment in asserting a construction-related accessibility claim. The Legislature finds and declares that qualified legal services projects and support centers are extensively regulated by the State Bar of California, and that there is no evidence of any abusive use of demand letters or complaints by these organizations. The Legislature further finds that, in light of the evidence of the extraordinarily small number of construction-related accessibility cases brought by regulated legal services programs, and given the resources of those programs, exempting regulated legal services programs from the requirements of this section to report to the California Commission on Disability Access will not affect the purpose of the reporting to, and tabulation by, the commission of all other construction-related accessibility claims.

SEC. 2. Section 14985.6 of the Government Code is amended to read:

14985.6. (a) A priority of the commission shall be the development and dissemination of educational materials and information to promote and facilitate disability access compliance.

(b) The commission shall work with other state agencies, including the Division of the State Architect and the Department of Rehabilitation, to develop educational materials and information for use by businesses to understand their obligations to provide disability access and to facilitate compliance with construction-related accessibility standards, including, but not limited to, accessibility standards for internet websites.

(c) (1) The commission shall develop and make available on its internet website, or make available on its internet website if developed by another governmental agency, including Americans with Disabilities Act centers, toolkits or educational modules to assist a California business to understand its obligations under the law and to facilitate compliance with respect to the top 10 alleged construction-related violations, by type, as specified in subdivision (a) of Section 14985.8.

(2) (A) Upon completion of this requirement, the commission shall develop and make available on its internet website, or work with another agency to develop, other toolkits or educational modules that would educate businesses of the accessibility requirements, including, but not limited to, accessibility standards for internet websites, and to facilitate compliance with those requirements.

(B) On or before January 1, 2024, the commission shall develop toolkits or educational modules that focus on construction-related accessibility violations in parking lots and exterior paths of travel, including a checklist for businesses to recognize the most common construction-related accessibility violations in those areas.

(C) The Legislature finds and declares, based upon reports of the commission, that construction-related accessibility violations in parking lots and in exterior paths of travel are consistently in the top 10 alleged construction-related accessibility violations, by type, as specified in subdivision (a) of Section 14985.8.

(d) The commission shall post the following on its internet website:

(1) Educational materials and information that will assist building owners, tenants, building officials, and building inspectors to understand the disability accessibility requirements and to facilitate compliance with disability access laws. The commission shall at least annually review the educational materials and information on disability access requirements and compliance available on the internet website of other local, state, or federal agencies, including Americans with Disabilities Act centers, to augment the educational materials and information developed by the commission.

(2) A link to the internet website of the Division of the State Architect's certified access specialist (CASp) program to assist building owners and tenants in locating or hiring a CASp.

(e) The commission shall, to the extent feasible, coordinate with other state agencies and local building departments to ensure that information provided to the public on disability access requirements is uniform and complete, and make its educational materials and information available to those agencies and departments.