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AB-1404 Disability access: internet website-related accessibility claims. (2023-2024)

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Assembly Bill No. 1404

CHAPTER 842

An act to add Section 55.33 to the Civil Code, relating to disability access.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1404, Wendy Carrillo. Disability access: internet website-related accessibility claims.

Existing state law, the Unruh Civil Rights Act, and federal law, the Americans with Disabilities Act of 1990, prohibit discrimination on the basis of various specified personal characteristics, including disability.

Existing law, the Construction-Related Accessibility Standards Compliance Act, requires an attorney to provide a written advisory with each demand letter or complaint, as defined, sent to or served upon a defendant or potential defendant for any construction-related accessibility claim. Existing law also requires an attorney who sends or serves a complaint alleging that an internet website is not accessible 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 require an attorney, with each demand letter or complaint alleging an internet website-related accessibility claim, to provide the defendant with a copy of a written advisory notice pertaining to disability access laws, as specified. The bill would become operative only if AB 1757 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2025.

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

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

SECTION 1. Section 55.33 is added to the Civil Code, to read:

55.33. (a) For purposes of this part, all of the following definitions apply:

- (1) "Complaint" has the same meaning as a complaint alleging that an internet website is not accessible, as described in subdivision (a) of Section 55.565.
- (2) "Demand letter" means a prelitigation written document that is provided to a business alleging an internet website-related accessibility claim, whether or not the attorney intends to file a complaint, or eventually files a complaint, in state court.
- (3) "Internet website-related accessibility claim" means a civil claim in a civil action based wholly or in part on an alleged violation of any internet website-related accessibility standard, including, but not limited to, a claim brought under Section 51, 52, 54.1, 54.3, or 55.

(4) "Internet website-related accessibility standard" has the same meaning as provided in Section 55.565.

(b) An attorney shall provide a copy of the written advisory notice as specified in subdivision (c) with each demand letter or complaint sent to or served upon a defendant alleging an internet website-related accessibility claim. Until the Judicial Council adopts this notice, the attorney shall provide a written statement that replicates the advisory notice described in subdivision (c).

(c) On or before January 1, 2026, the Judicial Council shall adopt a written advisory notice that shall be used by a plaintiff's attorney to comply with the requirements of subdivision (b). The advisory notice shall be available in English, Spanish, Chinese, Vietnamese, and Korean, and shall include a statement that the advisory notice is available in additional languages, and on the Judicial Council's internet website where the different versions of the advisory notice are located. The advisory notice shall state all of the following:

"ADVISORY NOTICE TO DEFENDANT"

STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION

This information is available in English, Spanish, Chinese, Vietnamese, and Korean through the Judicial Council of California. Persons with visual impairments can get assistance in viewing this form through the Judicial Council's internet website at www.courts.ca.gov.

California law requires that you receive this information because the demand letter or court complaint you received with this document claims that your internet website does not comply with one or more existing accessibility laws or regulations protecting the civil rights of persons with disabilities.

YOU HAVE IMPORTANT LEGAL OBLIGATIONS. Compliance with disability access laws is a serious and significant responsibility that applies to all California business owners with places of public accommodation. You may obtain information about your legal obligations and how to comply with disability access laws from the California Commission on Disability Access by accessing the commission's internet website at www.cdda.ca.gov/guide.htm or from the Department of Rehabilitation by accessing its internet website at <https://dor.ca.gov/Home/DAS>.

YOU HAVE IMPORTANT LEGAL RIGHTS. The allegations made in the accompanying demand letter or court complaint do not mean that you are required to pay any money unless and until a court finds you liable. Moreover, RECEIPT OF A DEMAND LETTER OR COURT COMPLAINT AND THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING.

You have the right to seek assistance or advice about this demand letter or complaint from any person of your choice. If you have insurance, you may also wish to contact your insurance provider. Your best interest may be served by seeking legal advice or representation from an attorney, but you may also represent yourself and file the necessary court papers to protect your interests if you are served with a court complaint. If you have hired an attorney to represent you, you should immediately notify your attorney.

ADDITIONAL THINGS YOU SHOULD KNOW

YOU MAY NOT BE LIABLE FOR ANY DAMAGES IF YOUR INTERNET WEBSITE CONFORMS TO SPECIFIED STANDARDS: If you are a small business owner and receive a written notice claiming that your internet website does not comply with one or more existing accessibility laws or regulations protecting the civil rights of persons with disabilities, you should be aware that an internet website is presumed to provide equally effective communication for the purpose of determining whether an award of minimum statutory damages is warranted if the internet website conforms to the internet website-related accessibility standard defined in state law. You may wish to consult an attorney to obtain legal advice. You may also wish to contact the California Commission on Disability Access for additional information about the rights and obligations of business owners."

(d) (1) This section does not apply to an action brought by the Attorney General, the Civil Rights Department, or any district attorney, city attorney, or county counsel.

(2) This section shall apply only to claims filed on or after January 1, 2025.

SEC. 2. This act shall become operative only if Assembly Bill 1757 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2025.