

Senate Bill 1608

Senate Bill 1608 is a Bill which gives Public Agencies and Businesses alike, a method to guard against meritless ADA Lawsuits.

Senate Bill 1608 focuses on the real purpose of the ADA and Construction Accessibility Laws: assuring access to the disabled as opposed to being a windfall for the Lawyers who bring these suits. **Senate Bill 1608 is designed to accomplish several goals:**

- Promote and increase compliance with State and Federal Civil Rights Laws which provide for equal access for individuals with disabilities in public accommodations.
- Clarify the law to help reduce unwarranted litigation and resulting damages and attorney's fees.
- Create a new court procedure to encourage early resolution of Disability Access Lawsuits.
- Offer incentives to building owners to use a State Certified Access Specialist, or CASp, to ensure compliance.

Senate Bill 1608 also established important reforms which:

- Are meant to reduce inappropriate attorney monetary demands.
- Provide significant clarifications in the law for both plaintiffs and defendants concerning recoverable damages and settlement offers.
- Require that written demands for money by an attorney be accompanied by an explanation of the legal rights of the building owner/tenant.
- Do not allow multiple damages to be recovered at a single facility.
- Ensure damages may be claimed only when a plaintiff personally encountered a violation or was deterred from gaining access on a particular occasion.
- Encourage all parties involved to consider reasonable settlement offers.

What is a Certified Access Specialist?

A Certified Access Specialist (CASp) is an individual which a business owner can be assured has been tested and Certified by the State as an expert in Disability Access Laws.

SB 1608 sets up a process whereby businesses can voluntarily hire a CASp to inspect their building to accomplish several goals:

- 1) Ensure compliance- One of the best ways to avoid being sued under the Disability Access Laws is to ensure that buildings are in compliance.
- 2) Promote Access- A CASp can inspect a facility and ensure that access is available to all who wish to have it.
- 3) Deliver a CASp Inspection Report- An inspection by a CASp that includes the CASp Inspection Report allows the client to take advantage of a 90-day stay of lawsuits and forces an Early Evaluation Conference (EEC).

However...

Even when a business has reduced their chances of a lawsuit by hiring a CASp to ensure their building is in compliance and posting a CASp window sign, there is never a 100% guarantee of avoiding litigation.

It is important to consider that there are various levels of protection which a CASp report can offer. There are several features to consider when choosing a CASp and ordering a report. When considering a CASp report, it is recommended that one takes time to evaluate the qualifications of the Certified Access Specialist, look at price and assess the level of protection the report will include.

To find a local CASp Go to: https://www.apps.dgs.ca.gov/casp/casp_certified_list.aspx. There, you will find the list of State Certified Access Specialists, their phone number and their Certification Number.

For additional information, please feel free to contact Rebecca Hellwig,
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