

ADA and Title 24 Information

As a business owner, understanding the American with Disabilities Act (ADA) and California Title 24 is critical to the ongoing operation of your business.

What is the Americans with Disabilities Act and how does it affect me?

The Americans with Disabilities Act (ADA) is a Federal civil rights law that prohibits the exclusion of people with disabilities from access to a public accommodation's goods and services. It requires businesses to provide full and equal access to goods and services by their customers with disabilities. To meet the goals of the ADA, the law established architectural standards in the Americans with Disabilities Act Accessibility Guidelines (ADAAG). These requirements first went into effect on January 26, 1992, and continue for both for-profit and non-profit organizations.

What is the Title 24 and how does it affect me?

Title 24 refers to the California Code of Regulations Title 24. It is generally referred to as Title 24 or the California Building Code (CBC). Part 2, Volume 1 of Title 24 contains construction-related accessibility requirements for all new construction, alterations and improvements in California.

California first adopted accessibility requirements in their building codes in 1982. Since then, it has been a violation of a person's state civil rights (Unruh Civil Rights Act and the California Disabled Persons Act) to violate the standards and requirements of Title 24.

What are my responsibilities under the ADA and California Accessibility Laws?

The Americans with Disabilities Act did not "grandfather" any existing businesses regardless of age. What it did do, was to establish different guidelines for businesses built prior to its enactment in 1992. Your responsibilities depend on when the building was constructed and whether or not alterations have taken place.

Facilities built since the enactment of the ADA must fully comply with the requirements of the ADA Accessibility Guidelines (ADAAG) and the version of Title 24 in affect when the facility was constructed. If elements or features of the facility do not conform they must be altered to comply. These non-conforming features are called barriers to access.

Facilities built prior to the enactment of the ADA must conform to the Readily Achievable Barrier Removal Standard set forth in the ADA. The facility is compared to the requirements of the ADAAG and those features which do not comply must be altered if it can be done "easily and without much expense". This is referred to as readily achievable barrier removal.

Facilities undergoing alterations must make the altered space comply with the alteration requirements of the ADA and the current version of Title 24. In addition, both the ADA and Title 24 require improvements to the route to the altered area and to the restrooms and other amenities serving the altered area.

Accessibility Design Associates LLC

710 12th Street Sacramento, Ca 95814 916 806 6263 916 448 1901
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What are my responsibilities if my building was built prior to the ADA enactment?

Buildings and facilities constructed prior to the ADA must remove barriers to access when the removal of the barrier is readily achievable, i.e. easily accomplishable and able to be carried out without much difficulty or expense. This requirement applies to all places of public accommodation regardless of whether they have undergone an alteration or remodel.

If you can demonstrate that fully removing the barrier is not readily achievable, as a business owner you can make your goods and services available through alternative methods.

What are my responsibilities if my building was built after the ADA enactment?

As a business owner you are responsible for making sure that your place of business is accessible to people with disabilities.

If the last application for a building permit was certified complete on or after January 26, 1992 or if the first certificate of occupancy was issued after January 26, 1993, then a facility must fully comply with the requirements of the ADA Standards for Accessible Design (ADAAG).

All buildings and facilities are also required to be in full compliance with the requirements of the California Building Code in effect at the time of the construction.

What if I want to remodel my place of business?

When you remodel the altered area must be readily accessible to and usable by individuals with disabilities to the maximum extent possible. California Title 24 goes a step further and requires the altered area to conform to the current Title 24 requirements. You need to survey your site to determine what areas need to be brought into compliance.

In addition to the improvements made to the altered area, the path of travel, restrooms, telephones and drinking fountains serving the altered area must also be made readily accessible to and usable by individuals with disabilities to the maximum extent feasible. Again California Title 24 exceeds the requirements of the ADA and states that these areas must conform to current Title 24 code.

What if I am occupying a new building?

The architect and contractor should have designed and built to the current standards, however, experience shows that mistakes are frequently made. If they made a mistake, you are still responsible to comply with the ADA and Title 24.

You should conduct a site survey to ensure compliance, and take advantage of the opportunity to require your design and construction team to make the repairs.

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My facility has barriers. What's the next step?

Regardless of when your building was constructed, if you have identified barriers you need to address these issues.

Buildings and facilities constructed prior to the ADA must remove barriers to access when the removal of the barrier is readily achievable, i.e. easily accomplishable and able to be carried out without much difficulty or expense. This requirement applies to all places of public accommodation regardless of whether they have undergone an alteration or remodel.

Buildings and facilities constructed after the ADA must fully comply with the ADA, removing all barriers to access, and must conform to the version of Title 24 in affect on the original date of construction.

Once the barriers have been identified, you need to research solutions, prepare a budget and create a business plan that prioritizes barrier removal. The ADA allows you to prioritize your compliance. If there are barriers that are not readily achievable, you need to determine if there is an alternative way to gain accessibility for your customers. In addition, you may be expected to remove the barrier fully at some time in the future.

What are the priorities for barrier removal?

As a business owner you are basically expected to:

- Provide a way for your customers to get into your place of business
- Make your goods and services accessible to your customers
- Make your amenities accessible to your customers (restrooms, pay phones, ATM's etc)

The priorities for barrier removal, as set by the Department of Justice are:

1. Provide access from public sidewalks, parking or public transportation
2. Provide access to the place where goods and services are made available to the public.
3. Provide access to restroom facilities.
4. Provide access to any other facility elements.

Excerpted from **Senate Bill No. 1608** CHAPTER 549

IMPORTANT INFORMATION FOR BUILDING OWNERS AND TENANTS

This form 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 Internet Web site at <http://www.courtinfo.ca.gov>. Existing law requires that you receive this information because the demand for money or complaint you received with this document claims that your building or property does not comply with one or more existing construction-related accessibility laws or regulations protecting the civil rights of persons with disabilities to access public places **YOU HAVE IMPORTANT LEGAL OBLIGATIONS**. Compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open for business to the public. You may obtain information about your legal obligations and how to comply with disability access laws through the Division of the State Architect. Commencing September 1, 2009, information will also be available from the California Commission on Disability Access Internet Web site.

YOU HAVE IMPORTANT LEGAL RIGHTS. You are not required to pay any money unless and until a court finds you liable. Moreover, **RECEIPT OF THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING**. You may wish to promptly consult an attorney experienced in this area of the law to get helpful legal advice or representation in responding to the demand for money or complaint you received. You may contact the local bar association in your county for information on available attorneys in your area. If you have insurance, you may also wish to contact your insurance provider. You have the right to seek assistance or advice about this demand for money or complaint from any person of your choice, and no one may instruct you otherwise. Your best interest may be served by seeking legal advice or representation from an attorney. If a complaint has been filed and served on you and your property has been inspected by a Certified Access Specialist (CASp; see www.dsa.dgs.ca.gov/casp), you may have the right to a court stay (temporary stoppage) and early evaluation conference to evaluate the merits of the construction-related accessibility claim against you pursuant to Civil Code Section 55.54. At your option, you may be, but need not be, represented by an attorney to file a reply and to file an application for a court stay and early evaluation conference. If you choose not to hire an attorney to represent you, you may obtain additional information about how to represent yourself and how to file a reply without hiring an attorney through the Judicial Council Internet Web site at <http://www.courtinfo.ca.gov/selfhelp/>. You may also obtain a form to file your reply to the lawsuit, as well as the form and information for filing an application to request the court stay and early evaluation conference at that same Web site. If you choose to hire an attorney to represent you, the attorney who sent you the demand for money or complaint is prohibited from contacting you further unless your attorney has given the other attorney permission to contact you. If the other attorney does try to contact you, you should immediately notify your attorney.

PART 2.52. CONSTRUCTION-RELATED ACCESSIBILITY STANDARDS
COMPLIANCE

55.51. This part shall be known, and may be cited, as the Construction-Related Accessibility Standards Compliance Act. Notwithstanding any other provision of law, the provisions of this part shall apply to any construction-related accessibility claim, as defined in this part, including, but not limited to, any claim brought under Section 51, 54, 54.1, or 55.

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

(1) "Construction-related accessibility claim" means any civil claim in a civil action with respect to a place of public accommodation, including, but not limited to, a claim brought under Section 51, 54, 54.1, or 55, based wholly or in part on an alleged violation of any construction-related accessibility standard, as defined in paragraph (6).

(2) "Application for stay and early evaluation conference" means an application to be filed with the court that meets the requirements of subdivision (c) of Section 55.54.

(3) "Certified access specialist" or "CASp" means any person who has been certified pursuant to Section 4459.5 of the Government Code.

(4) "CASp-inspected" means the site was inspected by a CASp and determined to meet all applicable construction-related accessibility standards pursuant to paragraph (1) of subdivision (a) of Section 55.53.

(5) "CASp determination pending" means the site was inspected by a CASp and is pending a determination by the CASp that the site meets applicable construction-related accessibility standards pursuant to paragraph (2) of subdivision (a) of Section 55.53.

(6) "Construction-related accessibility standard" means a provision, standard, or regulation under state or federal law requiring compliance with standards for making new construction and existing facilities accessible to persons with disabilities, including, but not limited to, any such provision, standard, or regulation set forth in Section 51, 54, 54.1, or 55 of this code, Section 19955.5 of the Health and Safety Code, the California Building Standards Code (Title 24 of the California Code of Regulations), the Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), and the Americans with Disabilities Act Accessibility Guidelines (Appendix A to Part 36, Title 28, Code of Federal Regulations). (7) "Place of public accommodation" has the same meaning as "public accommodation," as set forth in Section 12181

(7) of Title 42 of the United States Code and the federal regulations adopted pursuant to that section.

(8) "Qualified defendant" means a defendant in an action that includes a construction-related accessibility claim that is asserted against a place of public accommodation that met the requirements of "CASp-inspected" or "CASp determination pending" prior to the date the defendant was served with the summons and complaint in that action. To be a qualified defendant, the defendant is not required to have been the party who hired any CASp, so long as the basis of the alleged liability of the defendant is a construction-related accessibility claim. To determine whether a defendant is a qualified defendant, the court need not make a finding that the place of public accommodation complies with all

applicable construction-related accessibility standards as a matter of law. The court need only determine that the place of public accommodation has a status of "CASp-inspected" or "CASp determination pending."

(9) "Site" means a place of public accommodation.

(b) Unless otherwise indicated, terms used in this part relating to civil procedure have the same meanings that those terms have in the Code of Civil Procedure.

55.53. (a) For purposes of this part, a certified access specialist shall, upon completion of the inspection of a site, comply with the following:

(1) For a CASp-inspected site, if the CASp determines the site meets all applicable construction-related accessibility standards, the CASp shall provide a written inspection report to the requesting party that includes both of the following:

(A) An identification and description of the inspected structures and areas of the site.

(B) A signed and dated statement of compliance that includes both of the following:

(i) A statement that, in the opinion of the CASp, the inspected structures and areas of the site meet construction-related accessibility standards. The statement shall clearly indicate whether the determination of the CASp includes an assessment of readily achievable barrier removal. (ii) If corrections were made as a result of the CASp inspection, an itemized list of all corrections and dates of completion.

(2) For a CASp determination pending site, if the CASp determines that corrections are needed to the site in order for the site to meet all applicable construction-related accessibility standards, the CASp shall provide a signed and dated written inspection report to the requesting party that includes all of the following:

(A) An identification and description of the inspected structures and areas of the site.

(B) A statement that, in the opinion of the CASp, the inspected structures and areas of the site need correction to meet construction-related accessibility standards. This statement shall clearly indicate whether the determination of the CASp includes an assessment of readily achievable barrier removal.

(C) An identification and description of the structures or areas of the site that need correction and the correction needed.

(D) A schedule of completion for each of the corrections within a reasonable timeframe.

(b) For purposes of this section, in determining whether the site meets applicable construction-related accessibility standards when there is a conflict or difference between a state and federal provision, standard, or regulation, the state provision, standard, or regulation shall apply unless the federal provision, standard, or regulation is more protective of accessibility rights.

(c) Every CASp who conducts an inspection of a place of public accommodation shall, upon completing the inspection of the site, provide the building owner or tenant who requested the inspection with the following notice, which the State Architect shall make available as a form on the State Architect's Internet Web site:

NOTICE TO PRIVATE PROPERTY OWNER/TENANT:

YOU ARE ADVISED TO KEEP IN YOUR RECORDS ANY WRITTEN INSPECTION REPORT AND ANY OTHER DOCUMENTATION CONCERNING YOUR PROPERTY SITE THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS SPECIALIST. IF YOU BECOME A DEFENDANT IN A LAWSUIT THAT INCLUDES A CLAIM CONCERNING A SITE INSPECTED BY A CERTIFIED ACCESS SPECIALIST, YOU MAY BE ENTITLED TO A STAY (TEMPORARY STOPPAGE) OF THE CLAIM AND AN EARLY EVALUATION CONFERENCE. IN ORDER TO REQUEST THE STAY AND EARLY EVALUATION CONFERENCE, YOU WILL NEED TO VERIFY THAT A CERTIFIED ACCESS SPECIALIST HAS INSPECTED THE SITE THAT IS THE SUBJECT OF THE CLAIM. YOU WILL ALSO BE REQUIRED TO PROVIDE THE COURT AND THE PLAINTIFF WITH THE COPY OF A WRITTEN INSPECTION REPORT BY THE CERTIFIED ACCESS SPECIALIST, AS SET FORTH IN CIVIL CODE SECTION 55.54. THE APPLICATION FORM AND INFORMATION ON HOW TO REQUEST A STAY

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YOU ARE ENTITLED TO REQUEST, FROM A CERTIFIED ACCESS SPECIALIST WHO HAS CONDUCTED AN INSPECTION OF YOUR PROPERTY, A WRITTEN INSPECTION REPORT AND OTHER DOCUMENTATION AS SET FORTH IN CIVIL CODE SECTION 55.53. YOU ARE ALSO ENTITLED TO REQUEST THE ISSUANCE OF A DISABILITY ACCESS INSPECTION CERTIFICATE, WHICH YOU MAY POST ON YOUR PROPERTY.



Expanding Your Market



More than fifty million Americans with disabilities make up a huge, nearly untapped market for businesses of all types and sizes. To help businesses welcome customers with disabilities, the IRS offers two tax incentives to remove access barriers.

For more information about these tax incentives and the ADA, call the Department of Justice ADA Information Line at:
800-514-0301 (voice)
800-514-0383 (TTY)
or visit the ADA Business Connection at:
www.ada.gov.

Tax Incentives for Businesses

Businesses can take advantage of two Federal tax incentives available to help cover costs of making access improvements for customers with disabilities:

- **A tax credit for small businesses** who remove access barriers from their facilities, provide accessible services, or take other steps to improve accessibility for customers with disabilities
- **A tax deduction for businesses of all sizes** that remove access barriers in their facilities or vehicles

A business that annually incurs eligible expenses to bring itself into compliance with the ADA may use these tax incentives every year. The incentives may be applied to a variety of expenditures; however, they may not be applied to the costs of new construction. All barrier removal must comply with applicable Federal accessibility standards.

Tax Credit

Small businesses with 30 or fewer employees or total revenues of \$1 million or less can use the Disabled Access Credit (Internal Revenue Code, Section 44). Eligible small businesses may take a credit of up to \$5,000 (half of eligible expenses up to \$10,250, with no credit for the first \$250) to offset their costs for access, including barrier removal from their facilities (e.g., widening a doorway, installing a ramp), provision of accessibility services (e.g., sign language interpreters), provision of printed material in alternate formats (e.g., large-print, audio, Braille), and provision or modification of equipment.

Tax Deduction

Businesses of all sizes may take advantage of this tax deduction. Under Internal Revenue Code, Section 190, businesses can take a business expense deduction of up to \$15,000 per year for costs of removing barriers in facilities or vehicles.

Tax Incentives in Combination

These two incentives can be used together by eligible businesses if the expenditures qualify under both Sections 44 and 190. If a small business' expenses exceed \$10,250 for the maximum \$5,000 tax credit, then the deduction equals the difference between the total spent and the amount of the credit claimed.

Tax Incentives Forms and Publications

Visit the Internal Revenue Service website at www.irs.gov or call 800-829-3676 (voice); 800-829-4059 (TTY) to order the necessary business forms and publications:
Form 8826 (Disabled Access Credit)
and **Publication 535 "Business Expenses"** (tax deduction).



**DIXON PUBLIC LIBRARY DISTRICT
LIBRARY GOVERNING BOARD
230 NORTH FIRST STREET, DIXON, CA 95620**

**Calendar of Scheduled Meetings for 2012/13
*3rd Monday at 6:15 PM***

***Meeting Location:
Council Chambers, City of Dixon
600 East A St., Dixon, CA 95620***

July 16, 2012

August 20, 2012

September 17, 2012

October 15, 2012

November 19, 2012

December 17, 2012

January 28, 2013 (4TH Monday)*

February 25, 2013 (4TH Monday)**

March 18, 2013

April 15, 2013

May 20, 2013

June 17, 2013

*** Shifted due to Martin Luther King Jr. Day**

**** Shifted due to Washington's Birthday Day**

**NOTE: Meetings will be shifted to another meeting location
whenever the City of Dixon exercises its right to priority use
of the City Council chamber.**