

Why is it beneficial to hire a CASp?

A CASp has passed an examination and has been certified by the State of California to have specialized knowledge of the applicability of state and federal construction-related accessibility standards.

A CASp will know which standards apply to your property based on the age of your facility and its history of improvements. While a licensed design professional, such as an architect or engineer, can provide you an access compliance evaluation of your facility, only a CASp can provide services that offer you "qualified defendant" status in a construction-related accessibility lawsuit.

You can retain the services of a CASp at any time, however, "qualified defendant" status is only provided if you receive an inspection of your existing facility and a report from a CASp, and abide to a schedule of improvements toward compliance before a construction-related accessibility claim is filed against you.

What is my potential liability if I am not in compliance?

Civil Code 55.56, as enacted by SB 1608 legislation, provides for statutory damages of \$4,000 if the plaintiff is denied full and equal access to a place of public accommodation on a particular occasion or visit, not \$4,000 per each violation as previously allowed under the Unruh Act, Civil Code 52(a). According to Civil Code 55.56, a person is denied full and equal access only if the individual personally encountered the violation on a particular occasion, or the individual was deterred from accessing a place of public accommodation on a particular occasion. A violation personally encountered by an individual may be sufficient to cause a denial of full an equal access if the person experienced difficulty, discomfort, or embarrassment because of the violation.

How do I find a CASp?

The Division of the State Architect provides a [list of Certified Access Specialists](#) on its website. If you are inquiring about the compliance of an existing facility, an independent CASp will be able to determine your compliance to both state and federal standards. You can find an independent CASp on the list by looking for the CASp in your geographic region that states he/she performs inspections. You may also consult with a CASp by contacting your local city or county building department, however, a CASp employed or retained by a local building department is only authorized to offer information regarding compliance to California construction-related accessibility standards, and not the ADA, and will usually only provide these services for new construction, additions, or alterations submitted for approval for permit.

Sutter County Development Services Building Department CASp Requirements



Certified Access

Specialist



Development Services Department
[1130 Civic Center Blvd Ste. A](#)
[Yuba City CA 95993](#)

http://www.co.sutter.ca.us/doc/government/depts/cs/bis/cs_bis_home

What are SB1608 and SB1186?

SB 1608 and SB 1186 are two legislative bills that were passed in California aimed to encourage accessibility compliance by business and property owners and also to curb excessive accessibility-related litigation.

California Senate Bill 1608

(SB 1608-Corbett, Chapter 549, Statutes of 2008) was passed in 2008 and created the Construction-Related Accessibility Standards Compliance Act (CRASCA, Civil Code 55.51-55.545). This law states that if a business or property owner authorizes the inspection of a facility by a CASp and receives a CASp inspection report prior to being served a lawsuit for violation of a construction-related accessibility standard, and makes accessibility improvements to come into compliance according to the schedule provided with the CASp inspection report, that individual receives "qualified defendant" status in California Court.

California Senate Bill 1186 (SB 1186-Steinberg, Chapter 383, Statutes of 2012) was passed in 2012 and reduced statutory damages for certain violations. Included among its many provisions is that a commercial property owner or lessor shall state on every lease form or rental agreement executed on or after July 1, 2013, whether the property being leased or rented has undergone inspection by a CASp, and, if so, whether the property has or has not been determined to meet all applicable construction-related accessibility standards. Additionally, SB 1186 requires cities and counties to collect an additional \$1 fee for issuance or renewal of a business license to establish programs on disability access education for the business community.

If I receive demand letter prior to a lawsuit regarding an access violation can a CASp still help me?

In the event you receive a demand letter prior to a lawsuit, a review by a CASp of the alleged violations can help determine the validity of the violations and the best way to correct them. In order for you to be considered a "qualified defendant", however, the CASp must provide the inspection and report to you prior to a construction-related lawsuit is filed against you, and it must include a schedule of improvements for the correction of any identified violations.

Ultimately, a CASp can inspect your property for compliance issues at any time. Time is of the essence between the receipt of a demand letter and the filing of a lawsuit, and such timing may not be sufficient for you to hire a CASp to complete the inspection and reporting process in order to receiving "qualified defendant" status for any pending litigation, however, having a CASp Inspection and possession of a CASp Inspection Report prepared according to CRASCA will offer you the legal benefit of "qualified defendant" and reduced statutory damages in any future claims that may be filed against you.



What is the ADA and how does it apply to my business or facility?

The Americans with Disabilities Act of 1990 (ADA) is federal civil rights law that prohibits discrimination of individuals with disabilities and requires all public accommodations and commercial facilities to be accessible to individuals with disabilities.

Since January 26, 1992, all new construction and all additions and alterations to existing buildings are required to comply with the ADA. The ADA contains no "grandfathering" provisions, therefore, places of public accommodation constructed before January 26, 1992 are required to remove barriers if it is "readily achievable to do so." Existing facilities that built between January 26, 1992 and March 14, 2012 are required to be in compliance with the 1991 Americans with Disabilities Act Accessibility Guidelines (1991 ADAAG) have safe harbor for most provisions of the current 2010 Americans with Disabilities Act Standards (2010 ADAS) which became effective for facilities built after March 15, 2012. In addition, accessible features are required to be maintained at your facility.

Failure to come into compliance or maintain compliance leaves you vulnerable to having a discrimination claim filed against you by an individual that is denied access to your business or facility due to physical access barriers.