

# Avoid Lawsuits by Ensuring Your Parking Lot is Compliant with the Americans With Disabilities Act (ADA) and California's Higher Accessibility Standards

I've been made aware that business owners throughout my district are being threatened with lawsuits for minor or even non-existent violations of the ADA and/or California's higher accessibility standards. Typically, the alleged violations occur in parking lots. Some unscrupulous attorneys are demanding thousands of dollars from the businesses to avoid going to court and place little importance on whether the alleged conditions would genuinely limit accessibility for people with disabilities.

To help protect businesses owners from what many have described as "drive by" lawsuits and ensure that people with disabilities have adequate access to local businesses, I've put together this pamphlet that outlines some of the common problems found in parking lots.

Nothing in this document is intended, nor should be relied upon, as legal, tax or design advice for your particular property or business; ask a qualified tax advisor whether tax credits may be available for qualifying accessibility improvements. You are advised to consult a qualified attorney, highly experienced in ADA/access litigation as to any matter of legal significance to you. The information contained herein may not be accurate or applicable to your circumstances. The foregoing is an advisory/update of select new requirements and standards only; most properties open to the public will have other and further considerations than those listed here.

If you have any questions or continue to receive harassing and threatening letters from these attorneys, please feel free to call my District Office at (909) 466-4180; however, please keep in mind that my office cannot provide legal advice, and any contact with my office will most likely not change any obligation you may have to promptly take action as to any legal documents you have received.

## New California Disabled Parking Enforcement Signage, Striping

Effective 1 July 2008, most California businesses which provide parking for customers or visitors needed to make changes to their disabled parking areas. Thousands of lawsuits have now been filed against business which should have made these changes, or made them improperly. Without looking carefully, the new standards will rarely be noticed by the casual observer, but there are groups looking for even small problems, and if they find them, a lawsuit seeking minimum damages of \$4,000, plus attorneys' fees, may be filed without notice per Cal. Civil Code §52(a) and the Americans with Disabilities Act of 1990 (the "ADA"). No business is "grandfathered" or exempt from compliance.

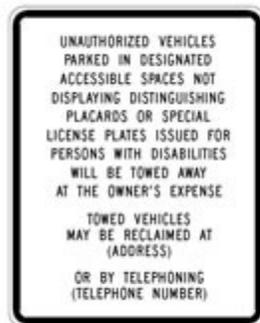


Figure 1



Figure 2

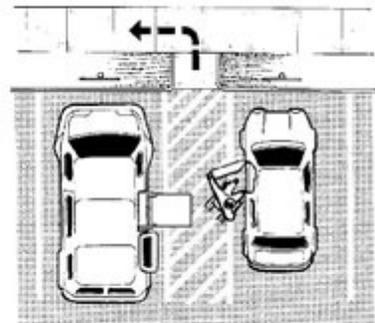


Figure 3

### Summary of the new 2008 requirements

1. **Disabled Parking Enforcement Signage:** If you have (or should have) a parking area reserved for people with disabilities, you should post properly completed signs like the one in Figure 1, above, warning drivers that their vehicles may be towed if not displaying evidence of disabled parking privileges; if appropriate enforcement signage is not posted, many tow truck drivers will not tow improperly parked vehicles. Most existing enforcement signage will not meet the new standards. Ordinary "customers only" tow away signs are not sufficient for this purpose. The blanks in these signs must be properly completed with the address where towed vehicles may be reclaimed and the phone number to call for information about the vehicle.

2. **"MINIMUM FINE \$250" Signage:** If you have (or should have) even one parking space designated for people with disabilities, you almost certainly need to add an appropriate sign which reads "MINIMUM FINE \$250", as shown in Figure 2, above.
3. **Contrasting Striping:** If the pavement in your parking area is black, dark blue paint may not be visible at night; if it is grey, light blue or white paint may not be visible at certain light levels, such as under fluorescent lights. The new law requires that the striping of diagonal lines in the "access aisle(s)"<sup>1</sup> (i.e., the diagonally-striped loading and unloading area immediately adjacent to a wheelchair-accessible parking space, as shown in Figure 3, above) be done in a color which contrasts with the surface of the parking area, blue and white are the preferred colors.

### California Parking Basics

If you have (or should have) even just one wheelchair-accessible parking space (for parking lots with 25 or fewer spaces for customers or visitors), it should meet the following standards to reduce lawsuit risk:

- Each wheelchair-accessible parking space should be 9' x 18', inside the lines
- Every wheelchair-accessible parking space requires an access aisle (Figure 3); if you have just one such space, the access aisle should be 8' x 18', inside lines<sup>2</sup>
- The entire disabled parking area and access aisle should have a slope no greater than 2% in any direction
- Each wheelchair-accessible space should be located on a compliant path to the building entrance; experts suggest that the path should be a minimum of 48" wide and marked with appropriate directional signs (Figure 10); this is especially important if the entrance is not immediately apparent from the parking area or sidewalk
- Each wheelchair-accessible space should be located on the shortest accessible route to the building entrance

- Wheelchair-accessible parking spaces should be appropriately dispersed throughout the complex
- Wheelchair-accessible parking spaces should be located if possible so that users are not required to pass behind parked vehicles other than their own
- If reasonably possible, avoid requiring users to pass through a vehicular path to reach the building entrance or public sidewalk/way
- R99 "[wheelchair] Parking Only" signs (Figure 4) should be posted at each wheelchair-accessible parking space
- "Minimum Fine \$250" sign (Figure 2) should be posted at each wheelchair-accessible parking space
- A sign with the words "van accessible" (Figure 9) should be posted at each wheelchair-accessible parking space<sup>3</sup> which is van accessible – the words "van accessible" should not be combined with any other sign
- Properly completed<sup>4</sup> R100b "tow away" enforcement sign (Figure 1) should be appropriately posted
- The lowest sign on a post should not be lower<sup>5</sup> than 80" above finished surface in any walking area
- Diagonal stripes in access aisle should contrast with pavement, as discussed above
- The words "NO PARKING" should be painted in 12" high letters in the access aisle (Figure 12)
- The word "handicap" or any form of it should not be used on any sign (CVC § 22511.9)
- A wheelstop is required; the edge a vehicle's front wheel will touch should be 24" from the front end of the space
- An ISA<sup>6</sup> (Figure 11) with the wheelchair pictogram of at least 36 inches, should be outlined in white, and painted at the rear of each wheelchair-accessible parking space (Figure 12), so it can be seen under a parked car; with the required 4" borders, the entire image will be larger than 36" x 36" ISA

If you have (or should have) more than one disabled parking space (i.e., for lots with more than 25 spaces which are not clearly marked for employees or inventory only):

- See Figure 8-- after the first "van accessible" space, some of the additional spaces can have the smaller, 5' "regular" access aisles
- 1 in every 6 wheelchair-accessible parking spaces should be the larger "van accessible" variety



Figure 4 ("R99")



Figure 5 ("R99B")



Figure 6 ("R99C")



Figure 7

<b>Total Number Of Spaces For Customers/Visitors In Parking Lot</b>	<b>Minimum Number Of Regular Disabled Parking Spaces</b>	<b>Minimum Number Of "Van Accessible" Parking Spaces</b>
1 to 25	0	1
26 to 50	1	1
51 to 75	2	1
76 to 100	3	1
101 to 150	4	1
151 to 200	5	1
201 to 300	5	2
301 to 400	6	2
401 to 500	7	2
501 to 1000	2% of total 20 plus 1 for each 100 over 1,000	1 in every 6 disabled spaces must be "van accessible"
1001 and over		

### Common questions

1. **Must you provide disabled parking?** If you provide even just a "customers only" parking area – whether it has marked spaces or not – you are almost certainly required to provide a compliant wheelchair-accessible parking area.
2. **Must you provide a larger "van accessible" disabled parking space?** If you are required to provide a parking for people with disabilities – and you probably are, unless each space in your parking area is marked and enforced as "employees only" – you are normally required to provide no fewer than one of the larger "van accessible" disabled parking spaces.
3. **Why are "van accessible" spaces necessary?** A "van accessible" space is larger than most regular disabled parking spaces, because the

diagonally-striped "access aisle" (depicted in Figure 3, above) must be at least 8 feet wide, rather than the 5 foot width of the more common "regular" disabled spaces. The reason the additional width is required for some spaces is that many people use ramp vans (Figure 7), which deploy a power lift or ramp and a larger area is needed for the "no parking" zone (Figures 3 and 11) to prevent another vehicle from parking in a manner which could prevent the lift from deploying, preventing the user from returning to their vehicle.

**IMPORTANT:** A new law was passed in 2008 which can provide important protections if you are sued in an ADA/accessibility lawsuit, but some of the protections are only available if your business/property has already been inspected by a State-certified inspector (a "Certified Access Specialist" or "CASp Inspector") before you are properly served with a lawsuit. A CASp inspection can have many benefits, see [www.CASpInspections.com](http://www.CASpInspections.com) for more information. Many experts think you should retain a CASp Inspector through a lawyer who represents you to protect the findings from possible disclosure; many lawyers will arrange this at no cost for existing clients.

<sup>1</sup> An access aisle provides extra space so that those who use "ramp vans" like the one shown in Figure 7 can deploy their wheelchair lift mechanisms; if another car parks too close to a ramp van, it could prevent them from re-entering their vehicles.

<sup>2</sup> For lots with more than 25 parking spaces, some of the additional wheelchair-accessible spaces may have the smaller, 5' wide "regular" access aisles (see Figure 8 for more information)

<sup>3</sup> This sign may be combined with the R-99 sign as shown in Figures 5 and 6

<sup>4</sup> Signs should be black-on-white, must be completed as discussed herein and should use the words "persons with disabilities" rather than "disabled", "handicapped" or any similar term.

<sup>5</sup> This requirement is for head clearance; if the signs are posted in an area where people do not walk, such as on the side of a building, they should be posted no lower than 36" from the ground and should be conspicuous - to allow them to be seen when a vehicle is parked.

<sup>6</sup> ISA ("International Symbol of Accessibility") - the wheelchair pictogram.