

DOJ AFFIRMS ADA COVERS WEBSITES

**The
Ultimate
Guide to**

**Website
ADA
Compliance**

*Everything about the accessibility,
ADA Title III, Section 508, Colorado's
HB 21-1110 and California Unruh Act
Website Compliance*

Web Accessibility Overview

Everything You Need to Know About Web Accessibility Compliance & Legislation

As the digital world becomes more essential, lawmakers push for new legislation to enforce an inclusive internet for everyone.

What is web accessibility legislation?

Due to the increased internet usage, many countries have incorporated web accessibility into existing civil rights legislation that protects people with disabilities or created new ones.

What you didn't know?

20% Of the population has a disability

98% Of websites are inaccessible

1.5B People with disabilities deserve

equality 300% YoY increase in legal actions

How does legislation impact my website?

DOJ AFFIRMS ADA COVERS WEBSITES

In 2018, the DOJ clarified that websites are considered places of public accommodation and should therefore comply with the ADA Title III. US courts refer to WCAG 2.1 AA as the accessibility standard.



The Honorable Ted Budd

U.S. Department Of Justice
Office Of Legislative Affairs

Office Of The Assistant Attorney General

Washington, D.C. 20530

September 25, 2018

The Department first articulated its interpretation that the ADA applies to public accommodations' websites over 20 years ago. This interpretation is consistent with the ADA's title III requirement that the goods, services, privileges, or activities provided by places of public accommodation be equally accessible to people with disabilities.

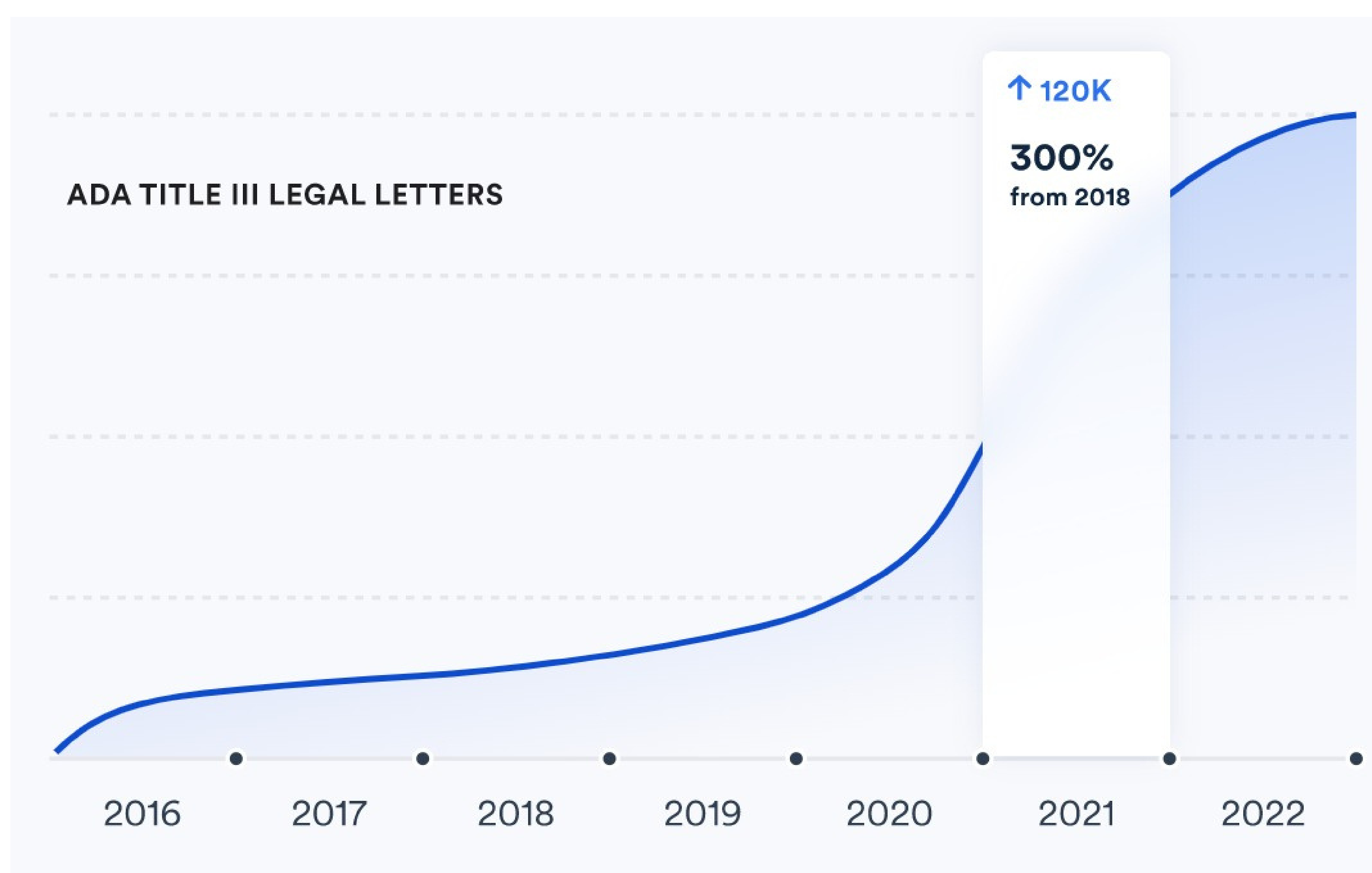
Responding Your Letter.

As You May Know, On December 26, 2017, The Department Of Justice (The Department) Published A Notice Of Withdrawal Of Four Previously Announced Rulemaking Actions In The Federal Register. 82 Fed. Reg. 60932 (Dec. 26, 2017). Two Of The Withdrawn Rulemakings Were Related To The Accessibility Of Web Information And Services Under The ADA. The First Withdrawn Rulemaking (RIN 1190-AA61) Covered Accessibility Of Web Information And Services Of Public Accommodations. The Second Withdrawn Rulemaking (RIN 1190-AA65) Covered Accessibility Of Web Services Of State And Local Governments.

Inaccessible websites face serious legal consequences

With exponential growth in web accessibility, legal actions have a widespread effect across industries, with small and medium businesses in the center.

Lawsuit numbers are estimated to continue to increase as the need to enable accessible digital experiences becomes more prominent.



*“Accessibility is good for business,
and compliance is required of
everyone”*

Why should you be compliant?

The Benefits of an Accessible Website

Extend market reach

The spending power of people with disabilities is more than \$6 trillion

Mitigate legal risk

Mitigate the risk of lawsuits by complying with accessibility legislation

Boost brand perception

Showing that accessibility is important to you will enhance your reputation

Making your website accessible to everybody is the right thing to do!

The internet is where everything happens.

Can you imagine your life without it? Accessing what the internet offers should be a basic right for everybody, regardless of their abilities.

Everything on ADA Compliance

What is the ADA?

[ADA stands for the Americans with Disabilities Act](#). It was signed into law by President George Bush in 1990, and it's America's most important law regarding accessibility and civil rights for people with disabilities, including web accessibility.

Essentially, the ADA prohibits discrimination against anyone based on ability or disability. It came about after a 2-year campaign to advance civil rights to marginalized groups, including Americans with disabilities. Disability activists and advocates [lobbied intensely](#) for laws that would prohibit discrimination, and from 1988 they began to garner cross-partisan support for federal legislation. The ADA draws on the precedent that was set by [Section 504](#) of the much older Rehabilitation Act, which guarantees certain rights to people with disabilities. However, the Rehabilitation Act was very limited and only applied to the government sector.

What does the ADA cover?

ADA is a very broad and wide-ranging piece of legislation that [covers a lot of different aspects](#) of accessibility for people with disabilities. The part of the ADA that affects the way that businesses serve customers is called "Title III," so you'll hear accessibility legislation referred to ["ADA Title III"](#)

ADA Title III covers public areas, like schooling and transportation, and "public accommodations." "Public accommodations" is a legal phrase that [includes](#) businesses, restaurants, hotels, theaters, doctor's offices, pharmacies, retail stores, museums, libraries, parks, daycare centers, and almost every place of work.

ADA requirements are twofold.

1. Employers have to make accommodations for employees with disabilities to be able to do their jobs, including disabled-friendly entrances, disabled-friendly bathrooms, and the right kind of chairs, desks, and office equipment.
2. Businesses of all types have to make it possible for customers with disabilities to access their services. The law requires them to make "reasonable modifications" to their premises when necessary so that they can serve people with disabilities. This includes things like wheelchair ramps for entrance into buildings, accessible bathrooms, American Sign Language (ASL) interpretations, and accommodation for service animals.

Required accommodations at places of business for disabled individuals include:

- Ramp access for wheelchairs and other mobility devices
- Interface mechanisms for visually impaired
- Interpretive devices for the hearing impaired or qualified interpreters
- Accommodations for service animals

2018 Updates to ADA

Eighteen years after President Bush signed the original 1990 bill, his son, President George W. Bush signed major changes to the ADA into law.

Who counts as “disabled”?

The most important change involved the **definition of a disability**. The original ADA defined a person with a disability as someone who has a condition that “substantially limits major life activities.” Courts defined this wording in a very conservative way, which meant that a number of ADA lawsuits, like the famous

Sutton vs. United Airlines case of 1999, and **Toyota vs. Williams** in 2002, were dismissed because the plaintiff wasn't considered to have a disability.

Under the 2018 amendment, "major life activity" was redefined to include daily activities like caring for oneself or performing manual operations. It was also extended to include impairments to major bodily functions like digestive and respiratory functions, and neurological impairments, as legal disabilities.

Who has to be ADA compliant?

There's a common misbelief that ADA only applies to very large corporations, but that's a serious mistake. All types and all sizes of businesses have to comply with ADA legislation, for their customers, and for their employees if there are over 15 employees. That means that ADA affects:

- Places of entertainment like theaters, movie theaters, and concert halls
- Restaurants and eateries
- Small and medium businesses of all types
- Large enterprises
- Retail stores
- Local government offices, employment agencies, and labor unions

Is ADA compliance mandatory for websites?

It was clear from the beginning that ADA affected every kind of business in the physical realm, but it's less obvious that it covers websites and online spaces. The 1990 bill obviously did not predict today's huge breadth of internet use. The past decade brought a range of rulings from the U.S. courts, with **some insisting** that websites do not qualify as a "public place of accommodation."

However, as the internet became more important and websites played a bigger role in the way that consumers interact with businesses, the way that ADA is applied to web accessibility **began to change**. Since 2017, a clear consensus emerged that ADA also covers the online world. **Disability rights activists, legal scholars**, and court rulings have agreed that websites, internet portals, and online stores also need to be accessible for people with disabilities.

In September 2018, Assistant Attorney General Stephen Boyd wrote an official letter to members of Congress that said “The Department first articulated its interpretation that the ADA applies to public accommodations' websites over 20 years ago. This interpretation is consistent with the ADA's...requirement that the goods, services, privileges, or activities provided by places of public accommodation be equally accessible to people with disabilities.”

Today, U.S. courts apply ADA accessibility requirements to the online domain, which means that websites should comply with ADA rules.

The rise of ADA website compliance lawsuits

ADA's relevance to web accessibility isn't just theoretical. Since 2017, the number of ADA title III-related lawsuits has skyrocketed. In 2017, 816 ADA Title III lawsuits were filed, but in 2018 that number rose to over 2,200 cases. That's a **rise of 180%**, and it's only the tip of the iceberg. It doesn't reveal the increasing number of ADA legal complaints and lawyers' demand letters that were filed against businesses with non-accessible websites in the last few years, because they never become part of the public record.

Experts estimate that approximately 40,000 demand letters were sent in 2018, and 2019 has peaked with over 100,000 demand letters and over 10,000 lawsuits.

In 2020, **265,000 demand letters** were sent. This represents a steep incline in legal actions pursued following the notice of non-accessible websites on the internet. The number of Title III ADA lawsuits also climbed in 2021, with at least 11,452 federal filings documented.

Overall, web accessibility lawsuits have seen a **320% increase** over the past eight years.

Why are there so many ADA website compliance lawsuits?

There are a few reasons why ADA web accessibility has become such a hot legal topic in just the last few years.

One element is that commerce has shifted dramatically to the digital sphere. eCommerce boomed, rising from a total market value of \$449 billion in 2017 to \$517 billion in 2018. By 2021, the market value had increased to **\$13 trillion**. Online retail purchases during 2021 spiked at \$870.78 billion, with digital revenue lifting by 50.5% when compared to sales growth in 2019.

What's more, many of our regular activities have transferred to the internet, like ordering a cab, booking a doctor's appointment, or checking on bus times. As web interactions become fundamental to our daily lives, web accessibility has become more important.

The last few years also saw a spread in awareness about web accessibility. High-profile lawsuits and the increasing knowledge about ADA title III means that people with disabilities now know that they have legal recourse when they can't complete activities online. Millennials and Generation Z are also a lot less likely to stay quiet in the face of discrimination and inaccessibility.

At the moment, the legal environment in the US makes it very advantageous for someone with disabilities to sue businesses under ADA Title III. Unlike many other areas of the law, **ADA makes it clear** that the defendant automatically has to pay the plaintiff's legal fees, so a disabled user has nothing to lose by filing a lawsuit.

The vast majority of ADA Title III lawsuits find in favor of the plaintiff. Through a series of findings, settlement agreements, and an **official letter** to lawmakers, the Department of Justice (DOJ) has made it clear that ADA compliance includes web accessibility.

SMBs should take ADA lawsuits seriously

Web accessibility cases against giants like Domino's, Nike, and Beyonce made the headlines, but the majority of lawsuits have been filed against small and

medium businesses. It's estimated that 85% of ADA lawsuits in federal and state courts in 2018 were filed against small and medium retail businesses.

Since it's almost inevitable that the court would find in favor of the plaintiff, small business owners often feel that they have no choice but to settle out of court. The cost of defending a lawsuit would destroy even a medium-sized business, but the average ADA website lawsuit settlement still comes to \$35,000.

The implications are clear: a non-accessible website is a major liability for any company operating on the web today. It's worth remembering that the **market for people with disabilities** is also rising. At **around \$21 billion**, it's worth more than the African-American and the Hispanic markets combined.

In 2019, digital accessibility has become a fundamental principle for all marketers and businesses who understand that users' needs always come first. If you want to keep your business safe from ADA web accessibility lawsuits, appeal to customers with disabilities, and feel that you are upholding the social fabric, you need an accessibility solution for your website.

ADA affects web design and development agencies too

Web agencies need to keep ADA title III requirements in mind too. If a client gets sued for having a non-accessible website, that client will turn to the agency that designed it. The client could insist on getting their money back; ruin that agency's reputation for failing to comply with legislation, or even sue the agency for having created a non-ADA-compliant website.

Hundreds of web agency owners have expressed their fear that their clients would get sued if they don't provide accessible sites, but that any manual solution would take months to implement and cost thousands of dollars. Web

agencies were waiting in trepidation to see if they would get hit with the fallout from an ADA title III lawsuit.

What are the ADA website compliance standards?

Part of what makes ADA title III compliance **so difficult** is that the law doesn't specify what you need to do to make your website accessible. As Assistant Attorney General Boyd wrote to Congress: "Absent the adoption of specific technical requirements for websites through rule making, public accommodations have flexibility in how to comply with the ADA's general requirements of nondiscrimination and effective communication. Accordingly, noncompliance with a voluntary technical standard for website accessibility does not necessarily indicate noncompliance with the ADA."

Although the DOJ has **declined** to adopt any official legal standard for the ADA, it has frequently referenced the Web Content Accessibility Guidelines (WCAG) 2.0. Many rulings set WCAG 2.0 Level AA as the goal for website accessibility, even though this isn't codified into law. At the moment, WCAG 2.1 is the best measure of web accessibility when it comes to federal law, and it's unlikely that a site that's WCAG 2.1 Level AA compliant would be sued for lack of accessibility.

How can you know if your website is ADA compliant?

Free auditing tools are available online to check your website's accessibility and compliance levels with ease. With our free ADA Compliance audit, you're presented a holistic overview of accessibility errors and what needs to be adjusted in order to comply with WCAG 2.1 Level AA guidelines. The scan operates in just a few seconds, providing you with an almost-immediate answer to whether your website is ADA Title III compliant or not.

Everything on Section 508 Compliance

Section 508 of the Rehabilitation Act

Section 508 of the Rehabilitation Act requires that any technology that's used by a federal agency or department has to be accessible to people with disabilities. It applies both to tech used by federal employees, and tech used by members of the public who are interacting with a government agency.

The original Rehabilitation Act

In the early 1970s, American lawmakers started to become more aware of the need for legislation that requires the accommodation of citizens with disabilities. The first piece of law was the **Rehabilitation Act of 1973**.

This law was mainly concerned with the ways that the government would support people with disabilities. It expanded the authorization of grants for state vocational rehabilitation services, established federal responsibility for research and training programs for individuals with disabilities, and gave government agencies such as the Department of Health, Education, and Welfare the task of coordinating programs for people with disabilities. It did not have anything to do with accessibility.

2017: Latest revision of Section 508

In March 2017, the U.S. Access Board published a **final update** for Section 508's accessibility requirements for information and communication technology (ICT). The update was intended to provide a stricter definition of "accessibility," and to bring the requirements in line with the radically-new technology of the 21st century.

There are **4 major changes** in the 2017 revision:

- WCAG compliance. By 2017, the World Wide Web Consortium (W3C) had published the Web Content Accessibility Guidelines (WCAG) 2.0. The 2017 update formally established the WCAG as the accessibility framework that agencies should use. Most federal websites are required to meet WCAG 2.0 Level AA compliance.
- **Content accessibility.** All official agency content that's aimed at the general public has to be accessible in forms that accommodate different disabilities, including visual impairments, hearing difficulties, deafness, and cognitive, language, and learning disabilities.
- **Synchronization.** At the root level of technological design, all software and operating systems must be compatible with assistive technologies that might be used by people with disabilities, such as screen readers.
- **Expanded Marketplace.** Lawmakers wanted to use Section 508 to create a larger market of accessibility solutions by incorporating international standards into US government policy.

What are the differences between Section 508 and ADA?

The [Rehabilitation Act of 1973](#) is America's oldest accessibility-related legislation. Thanks to 2 updates to Section 508, it requires all federal agencies and any bodies that accept federal funding to make their technology accessible to people with disabilities.

The Americans with Disabilities Act (ADA) is a more recent piece of legislation that encompasses many aspects of accessibility. The ADA prohibits discrimination against individuals with disabilities in private entities that are classified as "public accommodations" as well as in federal agencies and bodies.

Both acts relate to accessibility for people with disabilities, but there are important differences between them.

Section 508

Strictly speaking, Section 508 is a set of rules for government entities, although it [includes any organizations](#) that receive federal funding.

That means that government-supported institutions like museums or universities, medical centers that accept Medicaid or Medicare, and programs run by organizations that are partially federally funded all have to abide by Section 508, a requirement that was put to the test by [lawsuits against Harvard University and MIT in 2015](#).

Section 508's accessibility rules also affect contractors or third-party workers that provide services for government bodies or organizations that receive federal funds. That means that any digital platform or website that's in any way connected with a body that receives federal funds and is used by the public, has to comply with Section 508.

Small businesses should keep this in mind if they want to go after government grants or contract work with federal agencies.

ADA

Unlike Section 508, the ADA affects the entire private sector. Businesses and places of work such as restaurants, hotels, theaters, doctor's offices, pharmacies, retail stores, museums, libraries, parks, and daycare centers are just some of the places that have to comply with the ADA.

The ADA requires businesses to make accommodations for their employees, and their customers or users. In the words of the law itself, no person with a disability may be “excluded from participation in or be denied the benefits of the services” of a publicly accessible business. Businesses have to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities.

A steady stream of lawsuits and court rulings over the last few years has confirmed that ADA applies to websites and online portals just as much as to physical stores and offices, stretching to **over 2,000 ADA lawsuits filed in 2018** and **tens of thousands of demand letters**. Through courts of law, it's become clear that in practice, "reasonable modifications" means that if the technology exists to make an online tool or content accessible, the business or organization has to use it.

What do businesses need to do to comply with Section 508?

Section 508 originally did not lay out specific rules for web accessibility compliance, although companies can get clearer guidance from the U.S. Access Board, the federal agency devoted to accessibility issues.

At the beginning of 2018, lawmakers **added a rule** to Section 508 that set the **WCAG 2.0** as the accessibility standard for Section 508 compliance, so most federal organizations and other federally-funded bodies need to meet Level AA compliance.

When it comes to the ADA, the situation is less clear. The Department of Justice and several U.S. courts have frequently referenced the WCAG success criteria

as benchmarks for compliance. However, the DOJ has **declined** to adopt the WCAG as an official legal standard for the ADA, preferring to leave flexibility for companies to decide what compliance looks like for their websites. This flexibility is more of a curse than a blessing because companies aren't sure how to proceed to be sure that their websites won't fall foul of the ADA. But the WCAG seems to be the best measure of web accessibility for both the ADA and Section 508.

How can you know if your website is accessibility compliant?

Free auditing tools are available online to check your website's accessibility and compliance levels with ease. With our ADA Compliance Audit, you're presented a holistic overview of accessibility errors and what needs to be adjusted in order to comply with WCAG 2.1 Level AA guidelines. The scan operates in just a few seconds, providing you with an almost-immediate answer to whether your website is ADA Title III compliant or not.

Section 508 lawsuits

A range of Section 508 lawsuits has been brought against various institutions over the past decade which tests the law in the real world. These lawsuits have revealed a lot about the applicability of Section 508.

NAD vs. Harvard and MIT

In 2015, the National Association of the Deaf (NAD) filed **lawsuits against Harvard University and MIT**, which are both government-funded institutions. The NAD accused them of violating Section 508 of the Rehabilitation Act because they didn't provide accurate and comprehensive captioning for online course materials.

The case is still going on, but a Massachusetts judge already **rejected motions to dismiss the case**. The judge declared that the NAD's claims are both plausible, and in theory in line with the Rehabilitation Act, even though the universities receive government funding but are not government bodies, and even though

adding captions to the huge amount of material on Harvard and MIT's online education platforms would require a massive investment of time and effort.

NFB vs. Department of Education

In 2009, the National Federation of the Blind (NFB) **filed an administrative complaint** with the United States Department of Education. The NFB claims that one of the Department's websites called the U.S.A. Learns violates Section 508 because it's inaccessible to blind people who use text-to-speech technology or Braille displays to access information.

In this case, U.S.A. Learns is a free English-language learning website that happens to be operated by the Department of Education, emphasizing that any online platform that's funded by the government is subject to Section 508.

Leiterman vs. DHS

In May of 2013, a blind attorney working for the Department of Homeland Security (DHS) **sued the department** for failing to equip him with accessibility tools so that he could perform his job. The plaintiff, Michael Leiterman, said that he lost countless hours of work time because system upgrades interfered with his computer reading tools, so he couldn't carry out his other duties and professional development, and was therefore denied promotion.

DHS was forced to **reach a settlement**. This was a government department that was found guilty of failing to provide the integrations that an employee with disabilities needed to make his work easier, even though he was able to do his work eventually.

Everything On Colorado's House Bill 21-1110 Compliance

What Is House-Bill 21-1110?

Colorado is the first state to require both state and local governments to meet web accessibility standards through [House Bill 21-1110](#). On June 30, 2021, Colorado's Democratic governor Jared Polis signed House Bill 21-1110 into law. In brief, the law takes some protections that are already included in the federal ADA act and encodes them in state law. That means people will be able to bring a website accessibility lawsuit to a state court, not just a federal one, thereby making it easier to sue a non-accessible government site.

Although federal legislation is making a difference for website accessibility in the US, real progress is slow, and most government websites still aren't fully accessible. That's why disability rights groups welcome this new law that makes the state a leader in web accessibility requirements.

How did this law come about?

Disability activists and advocates, including the Colorado Cross-Disability Coalition and the National Federation of the Blind, approached rep. David Ortiz (D) of Littleton with the proposal.

Ortiz was injured in a catastrophic helicopter crash while serving in Afghanistan, which left him paralyzed from the waist down. When he was elected to the Colorado General Assembly in 2020, he became the first person in the Assembly to use a wheelchair. He was, therefore, eager to back the effort, stating:

'When it comes to fighting for disability rights, we have plenty of allies, but it's different when it's your community.'

What Does The Law Require?

The new law requires the Chief Information Officer in the Office of Information Technology (OIT) to establish accessibility standards for individuals with a disability using the most recent Web Content Accessibility Guidelines (WCAG). These are the WCAG 2.1 guidelines. The head of each state agency will then establish a written plan to implement these accessibility standards, which must be submitted by July 1st, 2022.

The law also sets aside \$312,922 to pay for conformance efforts during the 2021-22 fiscal year. By July 1st, 2024, each state agency must fully implement its plan to ensure that all its websites are accessible. Any state agency that does not comply with these website accessibility standards will violate the law and be charged with noncompliance by this date.

What are the Consequences of Noncompliance?

By July 1st, 2024, all state agency websites must fully comply with the OIT accessibility standards. To ensure compliance, they must follow the latest version of the WCAG 2.1 guidelines. If they don't fully comply by this time, there are several consequences for noncompliance.

Any government agency website that doesn't meet OIT's web accessibility standards could face:

- A court order
- Monetary damages
- A fine of \$3,500 that's payable to the plaintiff (must be someone from the disability community).

HB-1110 also makes it a state civil rights violation for a government agency to exclude people with disabilities from receiving benefits or services.

What does this law mean for government websites?

Local and state government agencies must begin developing and submitting website accessibility plans to the OIT by July 1, 2022. Once approved by the OIT, they must implement them by July 1, 2024. From that date, any user with disabilities can sue the government agency for running a non-accessible site in the state court instead of just federal court. This means that Colorado's more than **4,000 active local governments** need to start working on web accessibility.

Government websites have to offer perceivable, operable, and understandable digital content that enables individuals with a disability to access the same information. The law doesn't define web accessibility—that will be a task for the OIT. But it does say that the most recent WCAG accessibility guidelines will be used in establishing accessibility standards.

The WCAG guidelines are based on four principles. There is no such checklist to follow. Instead, understanding its principles can help you achieve WCAG compliance:

- **Perceivable** -this refers to how users perceive content online through their senses of sight, sound, and touch. This includes video captions, text that can be adjusted for contrast, color, text size and spacing, font, and similar factors that make it easier to read.
- **Operable** -operability means the ways that someone can use the site. It's particularly relevant to people with motor disabilities, weak muscles, injured limbs, etc. An operable site needs to be navigable entirely by keyboard, sight-assisted navigation, and other alternatives to a classic mouse.
- **Understandable** -understandable sites are accessible for everyone to understand. They don't use many technical terms or complex jargon, don't have complicated instructions that are difficult to follow, and have consistent directions that won't confuse readers.

- **Robust** -there are two factors for a robust site: Using clean HTML and CSS code that meets recognized standards Being compatible with assistive tools that people with disabilities use to browse online.

What does this mean for non-governmental websites?

Right now, the law only affects government websites and does not concern websites that belong to businesses or private individuals. But that doesn't mean that non-government sites can just ignore it. The bill shows that the state government of Colorado is taking web accessibility seriously, so it might not be long before similar laws are passed that affect all websites.

Anyone thinking of building a new website should consider baking in web accessibility from the beginning, so they don't have to make costly changes later.

Why is this law so important?

In an ideal world, government websites should already be fully accessible. But as disability rights activists can tell you, far too many government websites still prevent users with disabilities from accessing their services or benefits.

House Bill 21-1110 makes it much easier for someone to sue a non-accessible site because state courts are more accessible for rural communities than the federal district court in Denver. This is the first state web accessibility law requiring state and local public entities to meet web accessibility standards.

The law is an essential sign that web accessibility is gaining awareness and traction. It shows that lawmakers are taking web accessibility more and more seriously. All website owners in Colorado should learn about web accessibility and find the best ways to make their sites accessible, so they're prepared for House Bill 21-1110 to take action in 2024.

Everything on Unruh Act Compliance

The California Unruh Act: A Simple Web Accessibility Guide

While you may be aware of how the ADA (Americans with Disability Act) can incorporate website accessibility, you may not necessarily be aware of how individual state laws can enforce compliance of website accessibility in businesses. This guide will dive deeper into California's Unruh Civil Rights Act which was a landmark civil rights law protecting people from business discrimination or harassment within the State of California.

What is the Unruh Civil Rights Act?

California's Unruh Civil Rights Act, enacted in 1959, protects people with disabilities from discrimination by most business establishments, including housing and public establishments.

It was originally intended for brick-and-mortar establishments but now includes virtual businesses as well. The **Act requires** "full and equal accommodations, advantages, facilities, privileges or services in all business establishments." This includes, but is not limited to, the following places:

- Hotels and motels
- Nonprofit organizations that have a business purpose or are a public accommodation
- Restaurants
- Theaters
- Hospitals
- Barbershops and beauty salons
- Housing accommodations
- Public agencies
- Retail establishments
- Websites

The Act prohibits discrimination based on race, color, national origin, ancestry, language, immigration status, citizenship, religion, sex, sexual orientation, marital status, disability, medical condition, or genetic information. In 1992, the Unruh Act was amended to include standards created within the ADA (Americans with Disabilities Act) that apply to persons with disabilities. This resulted in any violation of the ADA as a violation of the Unruh Act.

Unruh Act vs ADA

One important difference between the Unruh Act and ADA is that the ADA doesn't allow for plaintiffs to claim damages, only attorney fees. The Unruh Act, on the other hand, allows for plaintiffs to claim up to 3x in damages per incident (damages can include emotional distress), with no less than \$4000 in statutory damages.

Who Can Be Sued Under the Unruh Act?

If your website is managed in a state other than California, you may still be required to follow the Unruh Act. The Unruh Act applies to all websites that sell or promote products or services within the state of California. Overall, the Unruh Act protects all Californians no matter where the business or website is registered.

In August 26, 2020, the Court of Appeals of California determined that a Georgia company's website which created barriers to accessibility would have to comply with California accessibility laws (the Unruh Act) because purposeful availment was shown by evidence that the company's sales to Californians to be equivalent to a physical store in California – *Thurston v. Fairfield Collectibles of Ga., LLC*, 53 Cal. App. 5th 1231, 268 Cal. Rptr. 3d 365 (2020)

To sue a business due to website inaccessibility under the Unruh Act, the affected website user must have concrete evidence which shows clear arbitrary or intentional discrimination in their website.

California Unruh Act and ADA Website Compliance

As previously mentioned, the State of California operates under strict and uniform regulations. The state courts have dealt with several cases revolving around ADA and website accessibility violations.

Historical evidence proves that the California courts have charged many defendants to pay statutory fines and court costs for not being an accessible internet entity. Once the business has been charged, courts will require the business to comply with WCAG 2.0 Level AA compliance.

How can you know if a website is ADA compliant?

As stated, if a website is not ADA compliant then it automatically violates the Unruh Act. Virtual businesses that fall underneath California jurisdiction need to achieve ADA compliance and align with WCAG 2.0 Level AA guidelines, though. This can seem like a daunting and complex undertaking, especially without knowledge of available tools that can help or guide you.

Our ADA compliance audit that offers an immediate answer as to whether a website is compliant. It also enables your accessibility efforts by evaluating its accessibility level and errors. Understanding the barriers that need to be removed on a website to include a wide range of disabilities in varying circumstances online is a strong first step.

Exceptions to the Unruh Act

Many websites are required by law to follow the Unruh Act. Some businesses like public schools and senior housing facilities are exempt, but that is beyond this article's scope. The bottom line is, if you have a website with activity in California, you should be following the Unruh Act. Complying with WCAG 2.0 Level AA guidelines will make your website more accessible and usable for people with disabilities and all of your visitors. The disability community is the most brand-loyal community with tremendous buying power. Making your website compliant is good business and the right thing to do.

Claim Your Free Website

**ADA Compliance Audit Now
by scanning the QR Code below**



or send us your questions at
hello@uxdesignexperts.com