



COMMITTEE FOR EQUITY IN WOMEN'S SURFING

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Wednesday, April 17, 2019

The Honorable Lorena Gonzalez
California State Assembly
Committee on Appropriations
California State Capitol
10th and L Streets, Room 2114
Sacramento, CA 95814

Assembly Bill 467 — Oppose Unless Amended #EqualPlayEqualPay

Dear Assemblymember Gonzalez,

The Committee for Equity in Women's Surfing (CEWS) opposes Assembly Bill 467 unless it's amended. Please amend AB 467 to protect athletes from gender-based discrimination in athletic competitions held on state lands.

Increasing the number of events and the number of awards for women, as well as offering equal prize money, is the only way to achieve meaningful equity in competitive sports.

We urge the Committee to address concerns regarding any potential unintended consequences. Please close the loopholes in AB 467 that may incentivize event businesses and athletic organizations to exclude female categories from athletic competitions in an effort to thwart equal pay requirements.

We recommend the following AB 467 Amendment:

(A) "Competition" means competition or tournament on lands owned by the state and managed by the department.

(B) "Prize compensation" includes purse money, other awards, honors, gifts, rewards, goods, or other payment.

(C) "Event" means a segment of a competition such as a heat, race, or match, or game.

(2) The department/commission, shall require compliance with California non-discriminatory practices for individuals or groups protected by the California Unruh Civil Rights Act as a condition of a permit/lease, for a competition that awards prize compensation to competitors. Prize compensation shall be identical for all categories at each participant level. Event playing time shall be identical for each category, for a competition that awards prize compensation to competitors. The department/commission shall not approve a permit/lease for an event that does not comply with this condition.

Recent news coverage about AB 467:

- The Atlantic magazine: <https://bit.ly/2v9AbU7>
- Orange County Register: <https://bit.ly/2I2xR9S>
- CALmatters: <https://bit.ly/2TYWQwn>
- HuffPost: <https://bit.ly/2VJJntT>

Here's the Problem: Gender-based discrimination results in the systematic exclusion of women from athletic competitions. Female athletes have fewer competitive opportunities than male athletes and working conditions for women are subpar. Discrimination is the biggest challenge facing women professional surfers in California and globally and this is found in other sports as well.

Actual Damages: Gender-based discrimination results in less playing time for women athletes, loss of income, smaller marketing budgets, loss of sponsorship opportunities, substandard facilities, sports arenas and stadiums for women's leagues are located further from densely populated areas, lack of coaching or no coaching, less training or no training, limited safety training or no safety training, second-rate equipment, inadequate healthcare, injuries and prolonged injury recovery. The list goes on...

Women Want To Compete in California!

On March 22-24, 2019, women were excluded from the Jack's Surfboards Pro competition, a World Surf League 1,500 Qualifying Series event with **prize money and points**, held in Huntington Beach, CA.

On March 20, 2019, CEWS sent an email to the mayor of Huntington Beach and asked the city council to prohibit gender-based discrimination. We requested that the city change their event permits to require that ALL surfing competitions include a women's division and a men's division in compliance with the Unruh Civil Rights Act. Huntington Beach City Manager Fred Wilson said in a statement to the Orange County Register that there have been no requests from promoters to host a women's qualifying series event in the city. Mr. Wilson also said, "We are not in the practice of dictating amount of prize money/pay distributed by outside promoters for these events." To-date, CEWS has not received a response from the Mayor or the City Manager.

We Fight Gender Discrimination

The Mavericks big-wave surf competition was founded in 1998. Jeff Clark titled the inaugural event "Men Who Ride Mountains." On Feb 17, 1999, the first Mavericks surf

competition was held near Half Moon Bay, San Mateo County. Now it's two decades later, and women athletes have still **not** had an opportunity to compete in Mavericks.

Next time the contest is held women athletes will compete for equal prize money in a multi-heat women's division.

How we got here: Starting in 2015, Sabrina Brennan advocated for the inclusion of women in the Mavericks competition. She persuaded the California Coastal Commission to require that women athletes be included. Building on that success, Brennan co-founded the Committee for Equity in Women's Surfing with Bianca Valenti, Paige Alms, Keala Kennelly, Andrea Moller and founding counsel Karen Tynan. Since 2016, CEWS has led the charge for equal access, inclusion and equality in pro surfing.

In 2018, CEWS won the battle for global equal pay in professional surfing. Our work is the subject of two documentary films, and hundreds of news stories including the New York Times Magazine feature published Feb 10, 2019, "The Fight for Gender Equality, In One of the Most Dangerous Sports on Earth."

We asked for equal pay: Last July, CEWS met with the World Surf League (WSL) at a hotel in Redwood City and presented a proposal for equal prize money. We told the WSL to end gender-based discrimination. CEO Sophie Goldschmidt said NO, and threatened to cancel Mavericks rather than pay women equally.

What did we do? Back down? Accept less? No! We stood our ground and went back to the Coastal Commission and demanded equal access and equal pay at Mavericks. We also got help from Betty Yee and Gavin Newsom and the California State Lands Commission.

Here's what happened next: Last Sept, the WSL announced global equal prize money for every WSL event, including the Mavericks Challenge, which may be held next season depending on surf conditions.

Four women surfers, an activist, a lawyer and our supporters stood together, united in our demand for equality and pay equity.

And here we are today: We're pleased that Assemblymembers Tasha Boerner Horvath and Lorena Gonzalez have taken an interest in the precedent our work has set. Together, they co-authored AB 467 and we applaud their efforts to address the pay gap in athletic events held on state lands and we respectfully request that the bill be carefully considered to protect athletes from gender-based discrimination in competitions held on state lands.

Equal Pay is Only Part Of The Problem

It's impossible to achieve equal pay in athletic competitions that exclude women OR in competitions that provide unequal playing time, unequal awards, unequal honors and unequal logistical support.

We ask the Committee to carefully consider how best to insure that female categories, male categories and open/nonbinary categories are included in athletic competitions held on California state lands.

It's difficult and sometimes impossible for women professional athletes to earn a living without opportunities to compete to earn equal money. The lack of opportunity, inclusion and equal pay is a complex system of problems rooted in discrimination.

The best strategy for sorting out this mess of interlocking civil rights violations is to address them simultaneously.

Please require that all state agency permits and leases prohibit discrimination. Please amend AB 467 to require businesses and organizations that manage and promote athletic competitions on California state lands comply with the Unruh Civil Rights Act.

Unfair business practices prevent women professional surfers from utilizing public resources and coastal access. **Please take action to prohibit gender-based discrimination.**

Please ensure that AB 467 provides the oversight necessary to stop decades of gender-based discrimination.

Please read our attached paper on California civil rights law and see the attached photos that depict gender-based discrimination.

Thank you,

Bianca Valenti, Co-Founder & Professional Big Wave Surfer
Keala Kennelly, Co-Founder & Professional Big Wave Surfer
Andrea Moller, Co-Founder & Professional Big Wave Surfer
Paige Alms, Co-Founder & Professional Big Wave Surfer
Sabrina Brennan, Co-Founder

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COMMITTEE FOR EQUITY IN WOMEN'S SURFING

Karen Tynan | July 9, 2018

The World Surf League's Discrimination Against Women Athletes Violates Civil Rights Law

California's Unruh Civil Rights Act provides harsh penalties, including attorney's fees, for any California business that discriminates against individuals based on a broad list of protected categories including gender. California Civil Code Sections 51 through 52.1 provide broad protections and severe penalties for those businesses that discriminate in the accommodations, advantages, facilities, privileges, or services of the business establishment.

Below is a compendium of important California civil rights cases:

- The Department of Alcoholic Beverage Control properly determined to revoke the license of a business establishment licensed to sell liquor on public premises based on a finding that the licensee had engaged in a sexually discriminatory admittance policy. Apart from testimony of the licensee's own personnel which chronicled their conceded attempts to dissuade potential male customers, the testimony of the department investigators and the licensee's advertisements placed in a newspaper clearly constituted substantial evidence upon which to base a finding of a sexually discriminatory admittance policy. Such discrimination having been established, the department's authority to revoke the liquor license was clear. The apposite public policy is set forth in CC §51 (the Unruh Civil Rights Act), which provides that "all persons within the jurisdiction of this state are free and equal, and no matter what their sex ... are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." *Easebe Enterprises, Inc. v. Alcoholic Bev. etc. Appeals Bd. (Cal. App. 2d Dist. Apr. 18, 1983), 141 Cal. App. 3d 981.*
- "Ladies Day" and "Ladies Night" discounts offered by various car wash facilities and nightclubs violate the provisions of the Unruh Civil Rights Act (CC §§51, 51.5). The Legislature established that arbitrary sex discrimination by business is per se injurious and that differential pricing based on sex may be generally detrimental to both men and women, because it reinforces harmful stereotypes. *Reese v. Wal-Mart Stores, Inc. (Cal. App. 3d Dist. Aug. 3, 1999), 73 Cal. App. 4th 1225.*
- Text of the Unruh Civil Rights Act, CC §51 et seq., does not support the assertion that, in order to recover under the Act, plaintiffs who are discriminated against when they present themselves at a business establishment and pay the price of admission also must demand equal treatment and be refused. It is not consistent with the policy of the Act, or with California case law, to read such a requirement into the language of the Act. *Angelucci v. Century Supper Club (Cal. May 31, 2007), 41 Cal. 4th 160.*

- By passing the Unruh Civil Rights Act (CC §§51, 52) the Legislature established that arbitrary sex discrimination by businesses is per se injurious: §51 provides that all patrons are entitled to equal treatment, and § 52 provides for minimum statutory damages of \$250 for every violation of §51, regardless of the plaintiff's actual damages. *Koire v. Metro Car Wash (Cal. Oct. 17, 1985), 40 Cal. 3d 24, 219.*
- The Unruh Civil Rights Act (CC §51, prohibiting arbitrary discrimination by business establishments) proscribed not only the direct discrimination against women by an international organization of local professional and businessmen's clubs but also discrimination by the organization against a local member club on account of its having admitted women to its membership. *Rotary Club of Duarte v. Board of Directors (Cal. App. 2d Dist. Mar. 17, 1986), 178 Cal. App. 3d 1035.*
- In an action by a woman who was in the business of procuring and selling scrap metal to scrap metal processing and distribution centers against the owners and operators of a scrap metal processing and distribution facility, in which plaintiff alleged defendants retaliated against her by denying her access to their property due to her previous gender discrimination lawsuit against them (which was settled), the trial court erred in sustaining defendants' general demurrer to her cause of action for violation of the Unruh Civil Rights Act (CC §§51 et seq.). The act is not restricted to persons who have been identified as members of a particular class; an individual has the right to be free from discrimination by business establishments. The act must be liberally construed with a view to effecting its object and to promote justice, and allowing defendants to discriminate against plaintiff because of her gender discrimination suit would be contrary to the primary purpose of the act, which is to compel recognition of the equality of all persons and the right to the particular service offered by an organization or entity covered by the act. Further, permitting defendants to discriminate against plaintiff in retaliation for exercising a statutory right would be contrary to public policy. *Vaughn v. Hugo Neu Proler International (Cal. App. 2d Dist. Sept. 25, 1990), 223 Cal. App. 3d 1612.*
- Defendants' motion to dismiss plaintiff student's claim under Civ C §§51, 51.5, and 52(a) was denied, in an action against the school district, superintendent, and principal for sex discrimination after plaintiff, a female junior high school student, was harassed by male students. Public schools are business establishments under the Unruh Act. Allegations of inadequate action on the part of a school district and its officials can rise to the level of intentional discrimination. *Nicole M. v. Martinez Unified Sch. Dist. (N.D. Cal. Apr. 14, 1997), 964 F. Supp. 1369.*
- In a case alleging sexual orientation discrimination in violation of the Unruh Civil Rights Act, physicians at a medical clinic who refused to perform an intra-uterine insemination for a lesbian patient could not assert affirmative defense based on the free exercise of religion and free speech. *North Coast Women's Care Medical Group, Inc. v. Superior Court (Cal. Aug. 18, 2008), 44 Cal. 4th 1145.*

Women Are Not Invited To Compete In The Jack's Pro in Huntington Beach



sabrina brennan @

Sent - sa...a@dfm.com

March 20, 2019 at 1:24 PM



Jack's Pro: March 22-24 2019 Huntington Beach Pier

[Details](#)

To: erik.peterson@surfcity-hb.org, Cc: Lyn.Semeta@surfcity-hb.org & 10 more

Hello Mayor Peterson,

I'm co-founder of the Committee for Equity in Women's Surfing. This morning, we learned that the Jack's Pro surfing competition held near the Huntington Beach Pier does not include women. After checking with City staff it's my understanding that your agency is responsible for permitting the event.

We would greatly appreciate it if the City Council would consider adding language to your permits that prohibits gender-based discrimination. We support the inclusion of gendered categories (a women's division and men's division) at all surfing competitions. We also support requiring equal pay/prize parity in all professional surfing competitions.

Here's a couple stories about our work:

New York Times Magazine: <https://nyti.ms/2VvJ5Gi>

New York Times Newspaper: <https://nyti.ms/2UilykB>

Please let me know if we can provide additional information. Thank you for considering our request.

Sabrina Brennan
Co-Founder, Committee for Equity in Women's Surfing
Cell 415-816-6111

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Before 2019, The World Surf League Routinely Paid Women Less Than Men

In Nov 2016, Paige Alms made history as the first Woman Big Wave Champion at the Pe'ahi Challenge and in Oct 2017 Alms successfully defended her title. The WSL paid Alms **\$15,000** in prize money per event. Her counterpart in the men's division received **\$25,000** per event. The female winner earned 40% less than the male winner at the past two Pe'ahi competitions.

This summer, the Puerto Escondido Cup first place winner, Bianca Valenti earned **\$1,750** while her counterpart in the men's division took home **\$7,000**. We've done the math. Valenti earned **75% less** than her male counterpart surfing the same wave.

The World Surf League (WSL) has a history of gender-based discrimination.

On June 26, 2018, the San Francisco Chronicle published an article on the Puerto Escondido Cup that included an interview with WSL Big Wave Tour Organizer Gary Linden and remarks by women competitors:

"This is the best event that's ever happened for women...Even better than the two events we had at Pe'ahi" Hawaii in 2016 and '17. The women really stepped it up. The surfing level was so good, we didn't have to change the criteria; we judged them equally as the men. The winner (Valenti) surfed well enough to have gotten through a men's heat. This is a huge step in the right direction."

—Gary Linden, WSL Big Wave Tour Organizer, 2018

*"The risks are the same so why aren't the prizes the same?
I think we deserve it."*

—Emily Erickson, Professional Surfer, 2018

"All the athletes, male and female crushed it and put on a great show. It was rad! The entire town was stoked, the men, the women, the boys, the girls, everyone! We're all in this together. Women-up!"

—Bianca Valenti, Professional Surfer, 2018

"The chicks showed up and blowed up. So how about that equal pay?"

—Keala Kennelly, Professional Surfer, 2018

Puerto Escondido Cup first place winner, Bianca Valenti earned \$1,750 while her counterpart in the men's division took home \$7,000.



Bianca Valenti earned 75% less than Lucas (Chumbo) Chianca.

Meet the 2018 Billabong Junior Series Ballito Pro Junior winners, Rio Waida (Indonesia) and Zoe Steyn (East London, SA) who claimed their victory on June 24, 2018 in medium sized onshore conditions at Willard Beach, Ballito.

Zoe Steyn earned 50% less than Rio Waida. The WSL paid the top male athlete double what they paid the top female athlete. This is gender-based discrimination.



SURFER | The WSL's Gender Prize Money Gap Sparks Controversy and Donations

The event organizers and sponsor, Billabong, were quick to realize the public relations issue they had on their hands-and they were equally quick to toss that hot potato squarely into the WSL's hands.

"Billabong has always been actively invested in and supportive of women's surfing in South Africa," wrote Chad D Arcy, event license holder of the Billabong Junior Series in a statement. "We've proudly watched women's surfing grow over the years, in part thanks to the host of women's events we've run. For many years, we've sponsored a team of female athletes, nurturing their careers in surfing from an early age....In order for any professional surf event to be internationally accredited, it has to be sanctioned by the WSL. The WSL also determines the allocation of prize money and points for each event."