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ROLL NUMBER

DESCRIPTION

1395

2001 HOUSE HUMAN SERVICES

HB 1395

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1395

House Human Services Committee

Conference Committee

Hearing Date January 30, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		0-2415
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: Open hearing on HB 1395.

Rep. Gulleon: Presented Bill. My task is to walk you through this bill. The bill basically provides a uniform set of standards for assistance dogs throughout the state so that as people with disabilities move between states, the standards will be the same. They won't be denied access in one state where they were allowed access in another. That is the goal of this bill.

Chairman Price: The Senate Bill has a Sec. 5 in it that yours does not, is that the amendment you're talking about?

Rep. Gulleon: Yes.

Chairman Price: Do you see any problems if we enact Sec. 4 as far as an employer that may be a food establishment owner or in another case, a medical provider?

Rep. Gulleason: Current law already provides exceptions for these types of situations.

Rep. Porter: On refusal to provide housing - is there a provision for the landlord that he can require more of a security deposit for damages?

Rep. Gulleason: Current law states fees cannot be higher.

Rep. Porter: In Sec. 2 it states the individual is liable for damages done by an assistance dog, but that same language does not appear in the housing portion. This is conflicting. Another question is when you look at Sec. 5 and Sec. 7, vehicles required to yield to the individuals with assistance dogs, there is no provision that they have to have certain markings that will identify them as assistance dogs.

Rep. Gulleason: I am going to let Mike Gehring answer that question.

Rep. Porter: In the employer part of it, what about other employees that have allergies?

Rep. Gulleason: Hopefully, that could be worked out in the work place.

Mike Gehring: Executive Director of Great Plains Assistance Dog Training. I would like to address the question regarding food service establishments - more than likely they would work at a cashier's counter. Hospital settings, of course common sense has to be interjected. As far as the pedestrian issue, the dogs have white lettering and harnesses. The first they need to look at in the entire issue is to stop looking at this as a dog, and start looking at it as an auxiliary device for an individual with a disability.

Chairman Price: Close hearing on HB 1395.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1395

House Human Services Committee

Conference Committee

Hearing Date January 31, 2001

Tape Number	Side A	Side B	Meter #
Tape 3	X		3770 to 5220
Committee Clerk Signature <i>Cornie Easton</i>			

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: The amendments that were passed out make this bill the same as the Senate Bill 2365. That is for the trainer to be able to work with the dog in public. The sponsors are in favor of that.

REP. GALVIN: Did they get around the allergy issue?

CHAIRMAN PRICE: It is the same as for perfume, or hair spray, or smoker. Something that would have to be handled by employee-employer negotiations.

REP. METCALF: I motion a Do Pass on your amendment.

REP. WEILER: Does this mean we have to get rid of Section 5, lines 13 and 14.

CHAIRMAN PRICE: We're not replacing, we're adding. All in favor signify by saying Aye. We have an amended bill.

REP. PORTER: I have two concerns with this bill. Concern number one is Section 4. I think that by putting this kind of verbage into law that we are creating a conflict with the federal ADA standards by mandating an employer and not leaving it up to negotiations. Not everybody has an office big enough. From an ADA standpoint and a medical standpoint we are putting a big burden on the employers that we shouldn't do. My second problem with this bill is Section 5. We're stating that we have to give caution to people with a guide dog, but we aren't saying how are we going to recognize that dog as a guide dog in comparison to me walking my dog down the street.

REP. DOSCH: I agree with Rep. Porter on this. I have several problems with the bill and one is in that section. We're suppose to be extra careful when an individual with a dog is there, but what about a little kid on his bike. Do we need a special law for that? Do we need a special law for a mother pushing a kid across the street in a stroller? Do we need to address that? We're Picking out one little aspect and making a law out of it. I think ADA covers people with disabilities very well, and I just don't see the need for another piece of legislation.

REP. WEISZ: Are we going beyond even what is currently provided for a seeing eye dog?

CHAIRMAN PRICE: Committee, would you like to have the intern to research how this bill sits with the ADA, as far as what is required of the employer and that sort of thing? I still have an amended bill in front of us, but we will let Annette do some of that.

REP. METCALF: On Section 5 it really hasn't changed anything of the law that is currently there except that it changed the verbage a little bit, but added injury to the assistant dog. It is already there.

CHAIRMAN PRICE: We're done for today.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1395 A

House Human Services Committee

Conference Committee

Hearing Date February 6, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		3030 to end
Tape 1		X	0 to 2940
Committee Clerk Signature <i>Connie Easton</i>			

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: Let's go to HB 1395.

REP. CLEARY: I have a note here that says this provides uniform standards between states.

VICE CHAIRMAN DEVLIN: What are the ADA requirements about a dog being marked?

REP. WEISZ: Does Section 4 have to be put in when there is no reference to seeing eye dogs?

CHAIRMAN PRICE: I think it is a case by case basis. It is not a law, but I think most businesses realize they have to allow that.

REP. DOSCH: I don't see the need for this law. Most of these issued are already regulated through ADA.

REP. METCALF: This is a changing from a seeing eye dog to an assistant dog. Secondly, there is a housing area there. I guess as far as Section 4 is concerned that has nothing to do with allowing of patrons into an establishment, it has to do with an employer.

REP. NIEMEIER: I think the benefit of this bill is to get the language "assistant dog" in as it relates to handicap persons who the dog will pick up things for them and perform little tasks. I would like to move the amendment to expand Section 5 - add the trainer.

REP. METCALF: I really don't think this is going to be that big of a problem.

REP. PORTER: In Section 3, we're telling the public that you can't refuse to provide housing, but we're not telling them that the security deposit can be more because of the dog. We're not telling them they are responsible for any damage done by the assistance dog. I think Section 4 should be completely removed from the bill. I think Section 5 should be amended so that after line 19 after the word dog we insert "easily identified by a harness."

CHAIRMAN PRICE: (Committee discussion.)

REP. WEISZ: Motioned a Do Not Pass as amended.

REP. KLEIN: Second.

CHAIRMAN PRICE: (Committee discussion.)

REP. PORTER: Move to amend Sections 3 and 4.

REP. POLLERT: Second.

CHAIRMAN PRICE: We have a motion and a second for an amendment. Discussion on the amendment.

REP. METCALF: I would like to ask a question regarding ADA and Section 3. Is this Section 3 more stringent than the ADA requirement or housing requirements

REP. DOSCH: I do believe it is because it is requiring all landlords to do it.

REP. METCALF: You're saying then that there can be no apartment houses set aside that say "no pets" - that would be completely outlawed?

REP. DOSCH: Yes.

Page 3

House Human Services Committee

Bill/Resolution Number HB 1395

Hearing Date February 6, 2001

REP. NIEMEIER: Isn't an assistance dog classified as a pet - I don't think so?

CHAIRMAN PRICE: I don't have anything the Intern pulled off for me as far as housing goes.

You're right, assistance dogs are not pets. We have a motion in front of us to delete Section 3,

Section 4, and put "special harness" in Section 5. All those in favor signify by saying Aye (11

Yes, 3 No). We have an amended bill in front of us.

REP. PORTER: Motion DO PASS as amended.

REP. WEISZ: Second.

CHAIRMAN PRICE: The clerk will take the roll on a **DO PASS as amended**.

11 YES 3 NO 0 ABSENT CARRIED BY REP. WEISZ

PROPOSED AMENDMENTS TO HB 1395

Page 1, line 1, replace "three" with "four"

Page 2, after line 12, insert:

SECTION 5. A new section to chapter 25-13 of the North Dakota Century Code is created and enacted as follows:

Trainer and assistance dog - Admission to public places. The trainer of an assistance dog, with the assistance dog, may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the assistance dog, provided:

1. The trainer wears a photo identification card issued by assistance dogs international indicating that the trainer is a member of assistance dogs international; and
2. The trainer is liable for any damage done to the premises or facility by the assistance dog.

Renumber accordingly

VR
2/6/01

HOUSE AMENDMENTS TO HB 1395

HOUSE HS

2-7-01

Page 1, line 1, replace "three" with "two"

HOUSE AMENDMENTS TO HB 1395

HOUSE HS

2-7-01

Page 2, replace lines 1 through 12 with:

"Trainer and assistance dog - Admission to public places. The trainer of an assistance dog, with the assistance dog, may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the assistance dog, if:

1. The trainer wears a photo identification card issued by assistance dogs international indicating that the trainer is a member of assistance dogs international; and
2. The trainer is liable for any damage done to the premises or facility by the assistance dog."

Page 2, line 19, after "an" insert "easily identified"

Renumber accordingly

Date: 2-6-01
 Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1395

House Human Services Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS as amended

Motion Made By Rep. Weisz Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman		✓	Rep. Audrey Cleary		✓
Rep. William Devlin, V, Chairman		✓	Rep. Ralph Metcalf		✓
Rep. Mark Dosch	✓		Rep. Carol Niemeier		✓
Rep. Pat Galvin	✓		Rep. Sally Sandvig		✓
Rep. Frank Klein	✓				
Rep. Chet Pollert		✓			
Rep. Todd Porter		✓			
Rep. Wayne Tieman		✓			
Rep. Dave Weiler		✓			
Rep. Robin Weisz	✓				

Total (Yes) 4 No 10

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-6-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1395

House Human Services Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend - Remove Sec. 3 & 4 & add "easily identified" to Sec. 5

Motion Made By Rep. Porter Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary		✓
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Doseh	✓		Rep. Carol Niemeier		✓
Rep. Pat Galvin	✓		Rep. Sally Sandvig		✓
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 11 No 3

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-6-01
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1395

House Human Services Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS as amended

Motion Made By Rep Porter Seconded By Rep Weisz

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary		✓
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Dosch	✓		Rep. Carol Niemeier		✓
Rep. Pat Galvin	✓		Rep. Sally Sandvig		✓
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 11 No 3

Absent _____

Floor Assignment Rep Weisz

if the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1395: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1395 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "three" with "two"

Page 2, replace lines 1 through 12 with:

"Trainer and assistance dog - Admission to public places. The trainer of an assistance dog, with the assistance dog, may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the assistance dog, if:

1. The trainer wears a photo identification card issued by assistance dogs international indicating that the trainer is a member of assistance dogs international; and
2. The trainer is liable for any damage done to the premises or facility by the assistance dog."

Page 2, line 19, after "an" insert "easily identified"

Renumber accordingly

2001 SENATE HUMAN SERVICES

HB 1395

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1395

Senate Human Services Committee

Conference Committee

Hearing Date March 7, 2001

Tape Number	Side A	Side B	Meter #
1		X	45.9
2	X		
March 28, 2001 1	X		
Committee Clerk Signature <i>Mara Koldo, Clerk</i>			

Minutes:

The hearing was opened on HB 1395.

REPRESENTATIVE PAM GULLICKSON, sponsor, recommends a DO NOT PASS. I support SENATOR ERBELE'S bill 2365. There will be an amendment on that bill and am very supportive of the concept. SENATOR MATHERN: If this were the bill that was needed to address this need, would there be any amendments to make it as good as possible? REP.

GULLICKSON: It clarifies the definition of assistance dog. Not just your pet. SENATOR ERBELE: This is the school for dogs in Judd. They need trainer access to public places so the dog can learn the different situations and react. There is a responsibility to identify and notify the public places before bringing the animal in.

No further testimony.

The hearing was closed.

Students from Thompson visited the committee and visited with the Senators.

Page 2

Senate Human Services Committee

Bill/Resolution Number HB 1395

Hearing Date March 7, 2001

March 28, 2001, Tape 1, Side A.

Discussion resumed on HB 1395. SENATOR ERBELE moved to amend to match SB 2365.

SENATOR MATHERN seconded the motion. Discussion. Amendments explain the

difference between assistance dogs and therapy dogs. Voice vote carried. SENATOR

MATHERN moved a DO PASS AS AMENDED. SENATOR ERBELE seconded the motion.

Roll call vote carried 6-0. SENATOR ERBELE will carry the bill.

REPORT OF STANDING COMMITTEE

HB 1395, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1395 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 25-13 of the North Dakota Century Code, relating to assistance dogs; to amend and reenact sections 25-13-02, 25-13-03, 25-13-04, 39-10-33.3, and subsection 22 of section 40-05-02 of the North Dakota Century Code, relating to the rights of individuals with disabilities who are accompanied by assistance dogs and the licensing of assistance dogs; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-13 of the North Dakota Century Code is created and enacted as follows:

Assistance dog - Definition. For purposes of this Act:

1. "Assistance dog" includes a dog that has been specially trained to assist an individual with a disability. The term includes guide dogs that guide individuals who are legally blind, hearing dogs that alert individuals who are hard of hearing to specific sounds, and service dogs for individuals with disabilities other than blindness or deafness. The term does not include a dog that is not trained to mitigate an individual's disability, but the presence of which is to provide for the comfort, protection, or personal defense of an individual.
2. "Service dogs" includes dogs trained to perform a variety of physical tasks, including pulling a wheelchair, lending balance support, retrieving dropped objects, and providing assistance in a medical crisis.

SECTION 2. AMENDMENT. Section 25-13-02 of the North Dakota Century Code is amended and reenacted as follows:

25-13-02. ~~Blind or handicapped person accompanied by guide or service~~ Individual with a disability - Assistance dogs to be admitted to - Admission to public places. ~~Every totally or partially blind person has the right An individual with a disability is entitled to be accompanied by a guide or service dog and every handicapped person has the right to be accompanied by a service dog, especially trained for those purposes,~~ in places of public accommodations, common carriers, facilities of a health care provider, and all places to which the public is generally invited, without being required to pay an extra charge for the ~~guide or service~~ assistance dog; provided, ~~that such persons are the~~ individual is liable for any damage done to the premises or ~~facility~~ facility by the ~~dog~~ assistance dog.

SECTION 3. A new section to chapter 25-13 of the North Dakota Century Code is created and enacted as follows:

Trainer and assistance dog in training - Admission to public places.

1. A trainer with an assistance dog in training may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the assistance dog in training, provided:

- a. The trainer notifies an onsite manager that an assistance dog in training is being brought onto the premises;
 - b. The trainer wears a photo identification card issued by a dog training program holding membership in assistance dogs international, international federation of guide dog schools, or United States council of dog guide schools; and
 - c. The trainer is liable for any damage done to the premises or facility by the assistance dog in training.
2. Upon receiving notice as provided in subsection 1, the onsite manager may not deny admission to the trainer and the assistance dog in training without good cause.

SECTION 4. AMENDMENT. Section 25-13-03 of the North Dakota Century Code is amended and reenacted as follows:

25-13-03. ~~Precautions of driver~~ Driver of motor vehicle when approaching blind persons - Precaution - Individual with assistance dog. If the driver of a motor vehicle approaching a totally or partially approaches an individual who is blind pedestrian or visually impaired and who is carrying a cane predominately white or metallic in color, with or without a red tip, or using a guide who is accompanied by an assistance dog, the driver shall take all reasonable precautions to avoid injury to such blind pedestrian, and any the individual and the assistance dog. Any driver who fails to take such reasonable precautions is liable in damages to the individual for any injury caused such pedestrian; provided that a totally or partially. An individual who is blind pedestrian or visually impaired and not carrying such a cane or using a guide an individual with a disability who is not accompanied by an assistance dog in any of the places, accommodations, or conveyances listed in section 25-13-02, shall have has all of the rights and privileges conferred by law upon other persons, and the individuals. The failure of a totally or partially an individual who is blind pedestrian or visually impaired to carry such a cane or use a guide the failure of an individual with a disability to be accompanied by an assistance dog in any such places, accommodations, or conveyances may not itself be held to constitute nor be is not by itself evidence of contributory negligence fault.

SECTION 5. AMENDMENT. Section 25-13-04 of the North Dakota Century Code is amended and reenacted as follows:

25-13-04. ~~Penalty for interfering or denying use of facilities.~~ Penalty for interfering or denying use of facilities. Any person or ~~the agent of any person~~ who denies or interferes with admittance to or enjoyment of the public places or facilities enumerated in section 25-13-02 or otherwise interferes with the rights of ~~a totally or partially~~ an individual who is blind person or visually impaired, or ~~with the rights of an individual who is accompanied by an assistance dog,~~ is guilty of a class A misdemeanor. This section does not apply to a denial of admission under section 3 of this Act.

SECTION 6. AMENDMENT. Section 39-10-33.3 of the North Dakota Century Code is amended and reenacted as follows:

39-10-33.3. ~~Blind pedestrian right of way.~~ Blind pedestrian right of way. The driver of a vehicle shall yield the right of way to ~~any blind pedestrian~~ an individual who is blind or visually impaired and carrying a clearly visible white cane or to an individual with a disability who is accompanied by a guide an assistance dog.

SECTION 7. AMENDMENT. Subsection 22 of section 40-05-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

22. Dogs. To license dogs, and to regulate the keeping of dogs including authorization for their disposition or destruction in order to protect the health, safety, and general welfare of the public; provided, however, that license fees are waived in the case of an assistance dog."

Renumber accordingly

2001 TESTIMONY

HB 1395

To: Senator Robert Erbele

From: Michael D. Gochring/ Great Plains Assistance Dogs Foundation, Inc.

Date: 3/5/01

RE: Senate Bill 2365

Dear Senator Erbele:

Of the two bills the Senate Bill is most favorable in my opinion. Specifically it more thoroughly addresses the trainers access issue.

There is new verbage being defined and debated within the Dept. of Justice and within a coalition of assistance dog training organizations, guide dog schools and disabled individuals partnered with assistance dogs. The following definition is endorsed by the coalition. It is the hope of this coalition that the DOJ will adopt this verbage. I just received this definition late last week and just learned today that it is being endorsed by all members of the coalition. Assistance Dogs International is a part of the coalition.

CFR 36.104-Definition of Service Animal [proposed]*

Assistance animal means an assistance dog, and may include other animals

specifically trained to perform physical tasks to mitigate an individual's disability.

Assistance dogs include: guide dogs that guide individuals who are legally blind;

hearing dogs that alert individuals who are deaf or hard of hearing to specific sounds;

and, service dogs for individuals with disabilities other than blindness or deafness.

Service dogs are trained to perform a variety of physical tasks including but not limited

to pulling a wheelchair, lending balance support, picking up dropped objects or

providing assistance in a medical crisis. The presence of an animal for comfort,

protection or personal defense does not qualify an animal as being trained to mitigate

an individual's disability and therefore does not qualify said animal as an assistance

animal.

In being absolutely blunt and honest with you I would personally like to see North Dakota adopt this new language. I am not sure if we can. First, this is not the current definition under CFR 36.104. This has been proposed, although it is now (this week) being forwarded to the DOJ for consideration. Representatives from the DOJ already have met with coalition members regarding the proposed change. Secondly, is it too late in our process to even consider this? I do not want North Dakota to adopt something more restrictive than federal law, potentially getting the state into a lawsuit.

The last sentence (underlined) is the language that I find very useful. This language clears some things up for owners of rental properties and business owners. This takes away an individual's assumed

right to claim that their pet is an assistance dog because they are "more comfortable" with it. However, it leaves open the right of someone with mental or emotional illness to acquire a trained and certified Therapeutic Companion.

Would you take a moment to consider whether we could possibly use this definition of Assistance Animal under Section 1? Or could we add that underlined sentence to what you currently have in Section 1. Or is it best to go with what we have, wait to see what the DOJ has to say, and amend things further in the future?

I am sincerely sorry to spring this on you at the last moment. However, as I stated I just learned of the endorsement for the language today. The only potential point of controversy within the proposed language is with the word "comfort" (in the last sentence). Those that would argue will come from the extremely liberal disability rights camp.

My hope is over... see what you think. Should we propose to adopt this language... North Dakota would have the most current language on the books. I simply like the fact that it gives business owners and landlords some protection from having "everyone and their mother" claim that their untrained pet is an assistance dog under the letter of the law.

I thank you so very sincerely for your time, effort and consideration on all of this. When everyone came campaigning through Great Plains last year I really figured it would all just fall by the wayside once again. The fact that Rep Guleson, yourself and others have taken this on is very gratifying to myself and those that use assistance animals as their mode of health intervention.

Thank-You

Michael D. Goehring
Executive Program Dir.
Great Plains Assistance Dogs Foundation, Inc.