

2019 HOUSE JUDICIARY

HB 1259

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1259
1/16/2019
30898

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

Relating to the misrepresentation of a pet as a service animal; and to provide a penalty.

Minutes:

1,2,3,4

Chairman K. Koppelman: Opened the hearing on HB 1259.

Representative Satrom: Introduced the bill. (Attachment #1)

Rep. Hanson: Do we define service animal in that section?

Rep. Satrom: I don't know the answer to that question.

Rep. Magrum: How do people check on whether they are a service dog?

Representative Satrom: We have some experts that can answer that question, as to certification, training and credentials that they have.

Jenny BrodKorb, Executive Director Service Dogs for America: (Attachment #2)

Rep. Magrum: If a business asks that the dog is a real service dog, do you have a license or something to show that it is a service dog?

Jenny BrodKorb: From an education standpoint how that affects us being accredited but I would encourage to ask the other persons providing testimony today. A restaurant can ask the individual if that dog is required for a disability not what is wrong with you, why do you need a dog? Is that dog required for a disability and what task can that dog perform to mitigate the disability? That is it. They cannot ask for an ID card. Under the American Disabilities Act the dog doesn't even have to be vested in public. It has to be leashed, clean, under control and perform its task.

Rep. Magrum: So if you have a penalty you would need some kind of card.

Jenny BrodKorb: You can self-train your dog and they do not require any documentation. Canada has established guidelines to all service dogs and the country issues a card.

Chairman K. Koppelman: Is there any other term out there, like therapy animal or along those lines. What are the differences?

Jenny BrodKorb: A service animal is a dog trained to perform specific tasks to mitigate one persons' disability. They have full access under the accessibility laws and they can go anywhere and do anything that someone without a service dog can do with some minor exceptions. An emotional support animal is simply a pet with a prescription. There is no training required, no test required, it is just something you would go to your physician for a prescription for a pet so that you can have it in a residence that doesn't allow pets. A therapy team is a team of human and canine or human and iguana, it doesn't really matter what the animal is, trained and certified by pet partners to perform therapeutic benefits to someone else. There is no prescription for a service dog.

Rep. Vetter: How do you enforce this law? Is the peace officer just supposed to know? How do you see this being enforced?

Jenny BrodKorb: Quoted Florida cases.

Rep. Rick Becker: If we deleted the aspect of maximum of \$100 and just said it is an infraction as I don't think \$100 is not going to thwart many people that are trying to fake their way into housing circumstances?

Jenny BrodKorb: I would personally like North Dakota to do what California is doing. They are up to \$1000 fine and six months in jail.

Rep. Rick Becker: If we just left it as an infraction it would be discretionary up to \$1000 and no jail time.

Jenny BrodKorb: I think that California is doing the right thing.

Chairman K. Koppelman: Discussed the bill last session of HB 1272 that dealt with this. Discussed the bill.

Jason Cook & Nicole Cook with a service dog: In support of this bill. Because of the training I have been through with a service dog or not. Discussed an incident that happened in Denver with another dog that was supposed to be a service dog. Discussed how the service dog helps him in crowds.

Nicole Cook: Prior to getting a service animal two years ago Jason would not leave the house. Worried when there is a conflict with kids around and worried about Jason.

Jason Cook: I am hoping that the bill will people stop being able to buy a vest and claiming that their dog is a service animal. It will make me feel safer going out with my dog and doing the task that she was trained to do.

Vice Chairman Karls: I have noticed a lot of support animal. Is there a way to educate stores and their employees?

Jason Cook: The education is a big step there. A lot of people would like to ask questions but don't know how to approach this.

Rep. Paur: Home Depot encourages bringing their dogs. I think Lowe's also encourages it. Would his effect or discourage those practices?

Jason Cook: I believe it would. I stay clear of Lowe's if I see another dog.

Rep. Paur: These are not service dogs, people are encouraged to bring their dogs.

Nicole Cook: Jason has to have a dog with him. It limits his access to stores.

Representative Simons: What is your disability and what service does he apply.

Jason Cook: I have PTSD and a traumatic brain injury. Two different tours to Iraq and what does she do? My dog provides safety for me. She calms me when I have bad nightmare. She will wake me up and breaks me from the nightmare.

Chairman K. Koppelman: The intent of the bill was to insure that service animals are protected. What can be requested? Do you have documentation available?

Jason Cook: I do have the plaque on the wall and I carry the card showing the service dog certification.

Jeremiah Erickson, Service Dog Team: Passed out his card. A service dog's task should never be to protect or to guard. To guard is another realm of training. She is trained to be watching the breathing and heart rate.

Chairman K. Koppelman: How would it be determined if someone is fraudulent. We would like to get a handle on it.

Jeremiah Erickson: Let us work together to get this right. Two groups mostly affected by this is the service dog and the business owner. Discussed the behavior of a true service dog.

Gaylynn Becker, Bismarck Citizen: I am not against service animals, but for those who bring pets into stores I have asthma. Discussed incident that happened at stores with service animals and pets that happened and lack of businesses checking.

Don Redmann: I have a few rental properties and I support this bill and I think the penalty would help with people that are not using service dogs as such. It would help landlords and business owners to put something in front of them saying that you are claiming this to be a service dog however, if it is not there is a penalty and you need to be aware of that.

I think that would be a great help to the private sector and to help educate the public.

Rep. Vetter: Are most of the service dogs a particular breed?

Don Redmann: Most service dogs are labs and golden retrievers. I do not think it is a bad intent, but it is causing a problem.

Representative Jones: Do we really want to solve this problem?

Don Redmann: It doesn't solve the problem but it gives power to people. Can relate to lease termination. Need legal recourse.

Rep. Jones: That was not a fair question and I apologize, if we really want to solve this problem we can have the discussion on the \$1000 penalty and not legitimately representing what their pets are. That they may have a penalty including having to put the animal down. That would stop the people that are wrongful, if they knew that that would jeopardize their pets' life I think they would think twice before they did that. That is extreme.

Don Redmann: I think that there would be a public outcry to that. There could be a penalty like a lease, it would be a valid reason for termination. The business owner could honestly and legally ask someone to leave the store. By having this law, it gives you something to put in front of them saying that you don't want to do this but if you push it, I have legal recourse.

Darrel Pfaff: Chairman, Board of Director of Service Dogs of America: We have a lot of money invested in these dogs. We need to protect these dogs. In support of the bill.

Rep. Magrum: Service dogs never get aggressive to another dog?

Darrel Pfaff: They are trained not to get aggressive.

Jeremiah Erickson: We have to hold our dog to a higher standard. We have to provide veterinarian records and have to report to our accrediting agency that our dogs are maintaining vaccinations.

Royce Schultze, Executive Director of Dakota Center for Independent Living, Inc: (Attachment #3) Education is very important. The staff at the library was having an issue with service dogs and therapy animals. I explained the differences to them.

Chairman K. Koppelman: Any questions? Any further testimony in support of HB1259? Any testimony in opposition to HB1259?

Recess the hearing.

Chairman K. Koppelman: Reopen hearing on HB1259.

Julie Wagendorf, Director of Food and Lodging with the North Dakota Department of Health: There are allowances for service animals in those listed under the ADA. Comfort animals and emotional animals that are not service animals that are prohibited by the code to be allowed into the store unless there is a waiver requested from the business owner to the regulatory authority. (Attachment #4)

Chairman K. Koppelman: How is that enforced?

Julie Wagendorf: Discussed a situation. Through education.

Chairman K. Koppelman: How did you advise them?

Julie Wagendorf: We educated the business owner.

Chairman K. Koppelman: Can you provide the committee with that information.

Rep. Paur: Walmart if privately owned; they could ask the individual to leave.

Julie Wagendorf: I understand Walmart is a public building so the point is that you don't discriminate an individual.

Rep. Paur: Malls are private property.

Chairman K. Koppelman: Recessed the hearing on HB1259.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1259
1/21/2019
31156

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

Relating to the misrepresentation of a pet as a service animal; and to provide a penalty.

Minutes:

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Chairman K. Koppelman: Reopened the hearing on HB 1259.

Chairman K. Koppelman: Anyone wishing to testify in support of HB 1259?
Anyone wishing to testify in opposition to HB1259? Any neutral or informational
testimony on HB 1259?

Chairman K. Koppelman: We will close the hearing on HB 1259.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB1259
2/11/2019
32545

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Relating to the misrepresentation of a pet as a service animal; and to provide a penalty.

Minutes:

1

Chairman Koppelman: Opened the meeting on HB 1259.

Rep. Satrom: (Attachment #1) Moved amendment.

Representative Karls: Seconded.

Rep. Vetter: Overall I like the bill, but I think the penalty is a little extreme. The \$1,000 fine might be hard to get once they are already evicting them.

Chairman K. Koppelman: Nothing in the bill allows you to evict the residents, it would be in the amendment. I think the intent there is if you look at pet damage, \$1000 doesn't go too far.

Rep. McWilliams: I like the \$1000 because I think if someone is fraudulent, I think it will prevent them from doing it again.

Rep. Paur: If I had the \$100 certificate from California are they going to be able to evict me and fine me?

Chairman K. Koppelman: the key to the bill is under current law there is no other recourse. Federal law states a qualified professional. An additional law says that the certificate has to be signed by a qualified health care professional in the state of ND. And federal government said that they will take back funding because that would be more restrictive than the federal government. The bill will be more restrictive about having a service dog.

Voice vote: motion carries, amendment is adopted.

Rep. Becker: I would like to add another amendment on top of this. I think that the eviction, the \$1,000, and the \$100 in the bill already might be too extreme.

Chairman K. Koppelman: I believe that under law, you cannot refuse people to live there, but you can only charge so much for a security pet deposit. Those pet deposits I don't think can be charged for legitimate service animals. Part of the reason for the original bill here is that they got into a unit where they shouldn't have been able to and they also weren't able to charge for the deposit, so they should have to pay some money for the possible damages.

Rep. Jones: We don't have definitions. There is service, companion, and therapy animals.

Representative Roers Jones: The definition of a service animal was read. It doesn't say certified about this organization so I have concerns about this. We need further clarification what a service animal is not before this could be useful.

Chairman K. Koppelman: Is it the desire of the committee to get an additional amendment on that?

Representative Roers Jones: I don't know, I'm not sure if I have a clear path as far as this could be done.

Chairman Koppelman: Representative Satrom do you want to work on that, and we can move this forward?

Rep. Paur: I was wondering if we take out line 8's maximum fine of \$100 and if they falsely claim they can be evicted and just leave it at that?

Chairman Koppelman: Then the fine would go to the city vs. the landlord.

Rep. McWilliams: The definition that Representative Roers Jones got, did that come from the century code, or did you pull it from somewhere else?

Rep. Roers Jones: It comes from the definition in chapter 25-13.

Representative Jones: After hearing the definition, everything in the bill points to a service animal and the amendment points to a service animal so I think that it may work as it is. However, there will be people that will confuse service animals with therapy animals. I move the bill as amended.

Representative McWilliams: Seconded.

Rep. Hanson: I am wondering about our ability to prove if someone has falsely claimed. You can only ask 2 questions (1) is that animal for a service? (2) how has that animal been trained to be a service animal? So I'm wondering then how can one prove they are falsely claiming they have a disability?

Rep. Vetter: I think \$1000 is a lot. I think that it can still be accomplished and collect the money still with it being a little bit lower.

Chairman K. Koppelman: I think the bill from a couple years ago didn't have a criminal charge with it, it was just a fee from the landlord.

Rep. Vetter: Well they would be able to get their full deposit if they were evicted, and then have the damages from the animals, plus the additional \$10000.

Chairman Koppelman: I think that this would give them the ability to keep the security deposit. Say it was \$1000, the landlord would be able to say I'm keep the \$1000 security deposit plus you are now evicted.

Representative Vetter: What I'm saying though is that there will be other things out there that will be additional to the \$1000. Maybe if the amount was less, it would be easier to get it.

Chairman Koppelman: The \$100 fine would go to the law enforcement side.

Representative Vetter: We also aren't sure on the definition of what the service animal is.

Rep. Jones: People can only ask specific questions when you are going into an establishment; when you are renting an apartment there should be many different questions asked. The \$100 fine would be if they were just lying about taking the animal into a store with them, the \$1000 fine would be if they were having it live in their apartment with them. Those are two very different things.

Rep. Magrum: I think it is a mess and I can't support it. If we want to impose a fine, then we should have a certification card that they can show to prove that can legally have the service animal.

Representative Simons: Wouldn't it be nice where we could just say no dogs.

Rep. Roers Jones: Section 47-16-07.6 from the code was read.

Representative Jones: Withdrawn do pass.

Representative McWilliams: Withdrawn second.

Representative Satrom: Does this cover the situation where someone says it's a service animal and they bring it into a store, and it attacks a real service animal.

Chairman Koppelman: I believe what Representative Roers Jones just read deals with housing.

Representative Roers Jones: It does, and that is what the amendment deals with.

Chairman Koppelman: We could remove the amendment and then deal with the bill.

Representative Becker: Move to remove amendment 19.0273.01001.

Representative Hanson: Seconded.

Voice Vote: Motion carries.

Representative Satrom: Move a do pass.

Representative Hanson: Seconded.

Roll Call Vote: 12 yes, 2 no, 0 absent.

Motion carries.

Floor assignment: **Representative Vetter.**

Hearing closed.

19.0273.01001
Title.

Prepared by the Legislative Council staff for
Representative Satrom
February 6, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 1, line 11, after the underscored period insert "If the lessee falsely claims to have a disability requiring the use of a service animal, a lessor may evict a lessee and the lessor is entitled to a damage fee of one thousand dollars from a lessee."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1259**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.0273.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Satrom Seconded By Representative Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote . **Motion Carries.**

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1259**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Jones Seconded By Representative McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Withdrawn.

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1259

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Remove amendment 19.0273.01001

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ Remove amendment

Motion Made By Representative Becker Seconded By Representative Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote: Motion carries.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1259**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Satrom Seconded By Representative Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum		X			
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Representative Vetter

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

Motion carries.

REPORT OF STANDING COMMITTEE

HB 1259: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1259 was placed on the
Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1259

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1259
3/20/2019
#34025 (53:40)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel/ Florence Mayer

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 25-13 of the North Dakota Century Code, relating to the misrepresentation of a pet as a service animal; and to provide a penalty.

Minutes:

2 Attachments

Chair Larson: Opened the hearing on HB 1259.

Representative Bernie Satrom, District 12: Testified in favor of HB 1259 (see attachment #1).

Senator Bakke: How do companion pets fit into this scenario?

Representative Satrom: I believe that's a different category, and that would be better answered by someone following me.

Vice Chairman Dwyer: How big of a problem is this?

Representative Satrom: You'll get some good answers coming up after me. I think it's more serious for these people and they might share individual stories which will be more meaningful than my anecdotes.

(3:55) Jenny BrodKorb, Executive Director for Service Dogs for America: Testified in favor of HB 1259 (see attachment #2). You had asked if this is a problem and how big that problem is. In my testimony, I included a news story about a woman who has a quote-unquote "service dog" that attacked 5 people. Obviously, that is not a fully trained or appropriate service dog. I did want to submit that as evidence of an issue. Another question that came up was what the difference is between a companion animal and service animal. On pages 15-17 of attachment #2, it describes the difference between a therapy animal, assistance animal, and an emotional support animal, which is also referred to as a companion animal.

To summarize that, a therapy animal is an animal trained with a human as a team. My personal dog and I are a certified therapy animal team. We went through accreditation and certification to provide therapeutic benefit for someone else. A service animal team is a team that is fully trained in tasks specific to a disability. That dog cannot provide therapeutic benefit for anyone other than his or her primary handler. An emotional support animal/companion animal is simply a pet. Under the Fair Housing Act, it is a pet with a prescription. You can get that prescription from a medical provider that states you are prescribed a pet because it makes you feel better. That is not a service animal, it is not trained, and it has no public access rights. We have had 2 accredited service dog teams where the service animal has been attacked by another claimed to be service animal. One had to have 14 stitches in it's throat. Continued on page 2 of her testimony with fraudulent representation of service animal certification. I would like to open this up to questions.

Senator Myrdal: It seems to me you can just go on the internet and get a fake certification. Is that a problem for you? You can get all kinds of "certifications" on the internet.

BrodKorb: It is a huge problem. We would consider those websites predatory. It takes someone who may or may not know that there is no such thing as a national service dog registry, charges them anywhere from \$150-\$250 for an ID and a vest and they provide no verification that the dog is specifically trained in tasks.

Senator Myrdal: How long does it take to train one of these dogs?

BrodKorb: As part of our accreditation standards, we don't place dogs under the age of 24 months. It takes upwards to 24-36 months to train a dog. We allow the dog to choose the human. We take fully trained, task specific dogs, and allow the dog to choose the human so that we have an incredible bond. That training is ongoing for the life of that team. If that human develops another disability, we can go back and train the dog for additional tasks. That's important in the service dog world, once you teach a dog to learn it wants to continue to learn. As that person develops or has a disability that gets worse over time, the dog can be trained for additional tasks. A good example is M.S.

Senator Myrdal: Can you list what kind of disabilities? Most of us are used to an eye dog or detect certain things. What kind of disabilities are you seeing most prevalent now?

BrodKorb: It's important to define what a disability is. There's a diagnosis and a disability, and they're not the same. The Americans with Disabilities Act gives us a very good definition of what a disability is. The only dogs we train in Judd are mobility assistance, seizure response, diabetes detection and PTSD assistance. There are other types of service dogs as well. We're the only ADI accredited in North Dakota. There are organizations that can train hearing assist, autism assist or any of those types of disabilities.

Senator Bakke: As I was looking at this piece of legislation, the one thing that's missing is a very clear definition of what a service animal is. Do you have the legal definition of a service animal?

BrodKorb: To find that answer you can look through the federal law for the Americans with Disabilities Act. That definition is very clear and luckily the federal act has laid that out for us.

A service dog is a fully trained dog, trained to mitigate the disabilities of a specific human. Tasks must be specific to the disability of that human. The other thing is that there are only two animals permitted to act as service animals under the federal law. That is a dog and miniature horse. You cannot have a service parakeet, cat, or goldfish. The miniature horses are specific to the guide world of a visual disability.

Chair Larson: In the examples that you showed, someone's name was on a certificate fraudulently. How can the judge determine that someone has a dog that is fraudulently being used? Do those particular "bad actors" come to the attention of anyone, so that this law could be applied to them?

BrodKorb: Yes, there are some working teams that will provide their experience with that. If you ask any retailer or public business, they're going to tell you the ones they can pick out at any given point. If someone is throwing their Chihuahua into a shopping cart, not a service dog. The exception is that some organizations have a harness that the dog can be mounted on the chest of the human if they had a diabetic event. We know from science that is not necessary. A dog can detect that level from the floor. It would be very easy to spot a dog that is not an authentic service dog. Under the American's with Disabilities Act, any person can ask a person with a dog, 2 questions; is that dog required for a disability and what task does that dog perform to mitigate that disability?

Chair Larson: You are well versed and you know this. How many people or business owners would know so that others would be able to recognize? Is there are training for people?

BrodKorb: We offer free education to all businesses. They call us, we go in and do staff training, and we take in real service dogs and provide questions they can ask. We provide that education already and have been for years. This legislation has pushed me to get this in place, so that we can protect our working teams and the rights of individuals who need assistance. I believe they know it's a problem and they know where to reach out for the answers. That accrediting body to educate as to what a service dog is. ADI (Assistance Dogs International) as a whole, has an entire committee committed to education the public on what a service dog is.

Vice Chairman Dwyer: Our state code does have a definition of a service animal. We passed a bill that increased the penalty for running through a stop sign from 20 to 40 dollars. On the floor, it was suggested that it should be at least \$300, otherwise it doesn't mean anything. It is a class A misdemeanor to prevent someone with a service dog from entering a public place. It seems like \$100 won't even do anything. It should be either a class B misdemeanor or a \$500 fine. This is a serious problem.

Representative Satrom: During the discussion, the comment was we should raise this. In the final motion, no amendment occurred. There was discussion and a consensus that it should have been higher. That would be a matter of your discretion. I wholeheartedly agree. I think it should be at least \$500, maybe even \$1,000. My personal perspective is, these are incredibly valuable creatures and should be taken seriously. I didn't want to get greedy and lose the whole deal.

Vice Chairman Dwyer: An infraction is a penalty from \$0 - \$1,000. If we took out \$100 then the court could decide on the amount.

Representative Satrom: Good point, thank you.

BrodKorb: One of the service dogs cost \$20,000. Eide Bailey audits us every year as a non-profit 501c3. They do an average cost analysis of what it costs us to train a service dog. With our last financial audit, it is \$23,873 to train one service dog. An infraction, yes. Does it mean life-changing experiences for the human with a disability? Absolutely. California's minimum fee is \$1,000 plus jail time. Minnesota did the \$100 fine. When I look at something like that, it has no bite. It won't prevent this from happening.

(24:24) Chair Larson: My daughter trained a therapy dog that she took to hospitals. Someone in a rocking chair, rocked over the dogs tail and he didn't even move.

Vice Chairman Dwyer: Since we're dealing with service dogs, I'm assuming you would agree that the penalty should have some bite.

BrodKorb: It should have some substantial bite. I have a degree in criminology, but our laws are never a deterrent for those who are going to break them anyway. If it's known that it could be a significant fine, maybe it would protect our people who need the dogs.

Senator Myrdal: Several things could happen with this. If we removed the specific amount and left it an infraction, it would leave it to the judge. Is that an agreeable solution?

BrodKorb: That is not a question that I can answer without an emotional attachment. You could ask that question to the service dog teams here. They're the ones that are out there every day. A service dog should be no more visible then the eyeglasses everyone wears. They serve the exact purpose. They allow us to experience the world freely and more clearly then we could without them. For someone to have no penalty for walking up and removing your glasses, that would be a violation of your person. It needs to be looked at in that regard. Also passed out an in favor, email testimony from Captain Jared Bollom (attachment #2 page 21).

We are happy to educate at any time. Come visit us in Judd, we're south of Jamestown.

Senator Luick: What's the lifespan of a service dog?

BrodKorb: It depends on the breed. On average, we expect 10-12 working years out of a Labrador. If you had a Great Dane, it's 5-6 years. Smaller dogs you can get 12-14 working years. Some breeds are not appropriate temperament wise for the work. There will always be an anomaly, does the dog want the job. That is not to give Pit Bulls a bad name, They're an amazing family dog and I love them. They don't transfer bonds well, so they don't make a good service dog, unless they are well trained and socialized.

Senator Luick: You start training between 8-12 months old?

BrodKorb: For us as an ADI accredited organization, when whelp our own on campus, we start training at 3 days old, before their eyes are even open. These dogs are constantly

handled and socialized. Just like humans, there are development stages in dogs. Each of those stages have critical development periods where they become confident. We do work with shelters and rescues for a dog that missed it's calling. In those circumstances, we do extensive temperament testing. We learn everything we can about the dog. We put it through all types of circumstances and experiences.

Senator Bakke: If I have, a pet and I bring it to you, and ask you to make it a service animal for me. Can you do something like that?

BrodKorb: We are not accredited to do that, but it is a program that ADI offers. Because we have to guarantee the health and temperament of the dog, we did not opt for that. We're too small for that liability. It is possible from other facilities.

Senator Bakke: Is there a breed that just doesn't work to be a service animal?

BrodKorb: Dogs were all bred for a specific purpose. Those bonds are incredible to humans and it doesn't exist in any other human to animal relationship. There is no dog breed that is absolutely forbidden, though there are some highly unlikely. Yorkies, Dobermans, Chihuahuas aren't great for service dogs. German Shepherds make great guide dogs. Sometimes with the right handler, they make a good service dog. You have to have a very strong handler for that breed. If the human can't be decisive, the dog will be. Around the age of 20 months, dogs develop something called learned disobedience. Someone who has no vision wants to proceed out into traffic and that dog makes the "no" decision. That learned disobedience is stronger in some breeds more than others are. Those are more specifically, for where the human couldn't make that decision.

(35:29) Jeramiah Erickson, service dog team with dog Ida: I can't add additional information except my personal experience. Other fake service dogs have personally affected me. Walking through the airport a man had to jump between his dog and mine. The statement out of his mouth was "oh, my service dog doesn't like other dogs". I've never met these other teams here today, there is no barking or growling, it speaks for itself. The silver lining of business owners not being able to ask, is when Ida and myself have been in the store you can see the look on his face when he sees this is a real service dog.

Chair Larson: Do you carry a card with you that specifies?

Erickson: We do. Service Dogs for America provides identification. It has my pictures and Ida's picture on it. Our service dog teams wouldn't be offended if you ask for our proof. Because of these rights and privacy, you can't ask us for it. When they come with their own sense and realize it's a service dog, then they're more comfortable to come up and visit with you. It's the teams that aren't certified are the ones that get offended when you ask them about it. If I have to go out in public, I am held to a higher standard. I have to guarantee that my dog is current on vaccinations and training. I am held accountable for that.

Chair Larson: What service does your dog provide for you?

Erickson: She provides a passive barrier when in public. She'll wake me up at night if I'm getting nightmares. She will get in my face if I start to harm myself. You never want to draw too much attention. I trust her judgement, even more so than my own. If she's okay with everybody in the room, she is calm, which takes so much off myself.

Senator Myrdal: When you came in she was watching me, but after a while, she thought I was okay. How important is this companion to you?

Erickson: Without her, I wouldn't be here. My life has dark. I would have been 1 of the 22. I would of committed suicide. That's where I was going. I had no reason to live because nothing ever changes. One of my brothers introduced me to the idea of a dog, I snapped at him. I'm the baby of the family, when my big brother who's a Marine, takes a step back from me, which says something isn't right. That opened my eyes. She's a lifesaver and she continues to be.

(43:40) Matt Helm, service dog team with Noel: I don't have much to add. I haven't run into another service dog team that has been a problem for me. However, I've gone into businesses and gotten a judgmental glance. In restaurants, she sits under the table. Most people have no idea I have a dog with me. That is the way a true service dog is supposed to be. I've been to the Fargo V.A. many times; there are many vets that come with fake service dogs. They can't do anything about it until something bad happens. The best example I can give, if you've gone to Petco or Pet Smart people bring their pets and they are going crazy. Those are the same dogs that people get a service vest online. We are tired of that. I travel a lot, I've had to show my I.D. Businesses are tired of people coming in with supposed service dogs and causing problems.

Senator Bakke: Are most service dogs female?

Helm: No, she was just the one that chose me. The first day I was there, they brought in eight dogs and half of them were male. It just happens that she was the one that clicked with me.

Chair Larson: These dogs are obviously very well trained dogs. Are there some people that are registered with ADI, that aren't as good at training their dogs?

BrodKorb: Assistant Dogs International is an accreditor for service dog training programs. Any dog coming from an ADI accredited program will produce the same quality. Anyone can train a service dog. The temperament and behavior need to be looked at. As an ADI program, we're not required to, but I require them to have an I.D. card. Sometimes when you have a disability and someone is ignorant of the law, it's just easier for my clients to present their card. There is no industry standard card; a person can buy one online if they want. We have secrets built in our cards that allow us to work with international places. We do that as a convenience for our clients. I do know that the Fargo V.A. has issues with another non-accredited program in Minnesota. That program will never be eligible for ADI accreditation because they have so many complaints. Those dogs are also not from an accredited program.

(51:52) Darrell Pfaff, President of Service Dogs for America: We also work with 3 prisons in the state. They help us socialize our dogs and train some basic things. It's one of the lowest paid and highest sought jobs in the prisons. We work with James River Correctional Center, Missouri River Correction Center, and the State Penitentiary. It is a win for the service dogs, the inmates, and the team.

Chair Larson: Called for further testimony. Closed the hearing on HB 1259.

Senator Luick: Motioned to Adopt an Amendment to remove the words "for which a maximum fine of one hundred dollars may be imposed" on lines 8 and 9.

Senator Myrdal: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 0 absent.

Amendment is adopted.

Senator Luick: Motioned for a Do Pass as Amended.

Senator Myrdal: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 0 absent.

Motion carries.

Senator Luick will carry the bill.

March 20, 2019

OK
1001
3/25

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 1, line 8, remove ", for which a maximum fine of one hundred dollars may"

Page 1, line 9, remove "be imposed,"

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1259**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Luick Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

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

to remove the words “for which a maximum fine of one hundred dollars may be imposed” on lines 8 and 9.

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1259**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Luick Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

HB 1259: Judiciary Committee (Sen. D. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1259 was placed on the Sixth order on the calendar.

Page 1, line 8, remove ", for which a maximum fine of one hundred dollars may"

Page 1, line 9, remove "be imposed."

Renumber accordingly

2019 TESTIMONY

HB 1259

#1
HB1259
1-16-19
pg 1

Good Morning Chairman Koppelman and committee

For the record My name is Bernie Satrom and I am honored to serve as a State Representative for District 12 in Jamestown.

If you are like me you have a great appreciation for Service Animals. Animals which are specially trained to provide invaluable services to people with special needs and because of that Owners of service animals are allowed additional access and provisions of where they can go.

A service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Emotional support animals, comfort animals and therapy dogs are not service animals under Title 2 and Title 3 of the ADA Other species of animals, whether wild or domestic, trained or untrained are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individuals disability. It does not matter if a person has a note from a doctor that states that the person has a disability and needs to have an animal for emotional support. A doctors note does not turn an animal into a service animal.

Unfortunately there has become an increasing national trend of people misrepresenting common pets as service animals in order to gain special access and accommodations. Some websites advertise: No more unfair pet deposits, No more unfair airline fees and Take your dog anywhere.

This bill is designed to help alieviate the problem.

In a moment we have an expert who will testify further about this issue.

I am open to questions

EDUCATIONAL TESTIMONY PROVIDED BY:
JENNY M. BRODKORB
EXECUTIVE DIRECTOR
SERVICE DOGS FOR AMERICA



#2
HB1259
1-12-19
page 1
GREAT PLAINS ASSISTANCE DOGS FOUNDATION DBA
SERVICE DOGS FOR AMERICA
PO Box 513
JUD, ND 58454
EMAIL: INFO@SERVICEDOGSFORAMERICA.ORG
WEB: WWW.SERVICEDOGSFORAMERICA.ORG

Thank you for considering HB 1259. My intention for providing this testimony is for education purposes. It is my hope to put important language at your fingertips for easy reference.

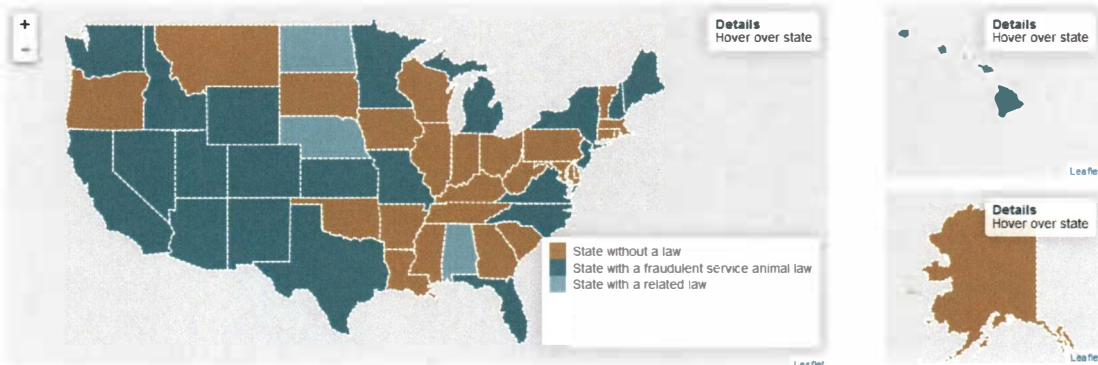
In my testimony I will provide education regarding specific language that identifies service dogs from other classes of animals providing support for others. I will also share a list of US states who have enacted misrepresentation laws. To demonstrate need for this bill, I will share some actual fraudulent documents which individuals created (using our organization's logo, reputation, and accreditation) to gain access and medical preference.

The language which defines a **service dog** is clear under the American's with Disabilities Act. "...a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability." The law further clarifies "do work and perform tasks" as "...dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure. See documents attached "Frequently Asked Questions about Service Animals and the ADA" (source: https://www.ada.gov/regs2010/service_animal_qa.html) and "Service Animals" (source: https://www.ada.gov/service_animals_2010.htm) and "Service (Dog) Animal, Emotional Support Animal, Therapy Animal Team". For a quick, at a glance distinction between a Service Dog, Emotional Support Animal, and Therapy Animal see the matrix provided by Pet Partners (attached), "What Makes a Therapy Animal Different?" (source: www.petpartners.org)

To complicate matters further, there are websites which offer "certification" of an animal as a "Service Animal." It is very important to note there is no valid, required registry or certification of a service animal/dog. Websites offering certification in this manner typically require no documentation to ensure the dog is trained in a manner consistent with the American's with Disabilities Act.

There are, however, accredited organizations which provide trained service dogs for individuals with disabilities. The two accrediting bodies are Assistance Dogs International (ADI) and International Guide Dog Federation (IGDF). Assistance Dogs International (ADI) is the accrediting body for all service dog (including guide) organizations around the world (www.assistedogsinternational.org). International Guide Dog Federation is strictly for the accreditation of guide dog training programs (<https://www.igdf.org.uk/>). These accrediting bodies require very specific practices to ensure the quality of the service/guide dog training and the health of the canine. Service Dogs for America (SDA) has been accredited by Assistance Dogs International since 2010.

Other states have taken action and passed similar bills into law to protect those who have a genuine and authentic need for a service dog. These laws protect the guaranteed accessibility to those who have appropriately trained service dogs which mitigate their disability and reestablish independence. **"As of December 2018, there are 22 states with what can be termed true bans on the fraudulent representation of pets as service animals."** The following graphic shows an at-a-glance of such states. The same website has an interactive graphic showing which states have misrepresentation of a service dog laws and which states have some type of related law (typically accessibility related): Source: <https://www.animallaw.info/content/fraudulent-service-dogs> If you click on a state (website), you will be taken to the current law, century code, etc.



Often, SDA is contacted by an airline partner or an animal reception center to verify a dog in transport as a service dog from our organization. There are many benefits from receiving a service dog from an accredited program. One benefit is the human and dog can travel (without additional questioning and cost) across the United States and into other ADI recognized countries without being subject to things like international quarantine.

Here are a few examples of what someone will go through to fly with their pet or emotional support animal. The images in the documents below are ACTUAL fraudulent documents and fraudulent patches created by persons who knowingly and willfully lied to get their canine access.

Below is a fake certificated created by a person which included a fake "embossed seal". The issues with this certificate are: the dates of accreditation are incorrect (on the seal), we do not use such a seal, and the signer of the certificate is invalid but close (Duden versus Dryden). Notice they stole our (SDA) logo and ADI's logo, also.



Below is a fake vest for which the person went through the trouble of having an ADI patch and our SDA patch created. ADI does not issue patches and our logo's are embroidered directly onto the fabric and not issued as a patch.



In the document below, you can see the individual stole our header from our preliminary application (located on our website) and cut/paste some language about medical response dogs to create a completely fraudulent document. They changed the phone number on the bottom, in hopes the person validating the documents would not be able to reach us. They attempted to use this document to receive medical preference as well as present their fraudulent service dog for air travel into the UK. The person committing this fraud is a Minor Magistrate in the UK, who also resides in Florida (United States) part-time.



GREAT PLAINS ASSISTANCE DOGS FOUNDATION DBA
SERVICE DOGS FOR AMERICA
PO Box 513
JUD, ND 58454

This confirms registration of the following team with Service Dogs For America.

Handler/Partner: Stephanie Morgan-Harris (Hoffer)

Animal: Ten

Breed: Comfort Retriever- Miniature Golden Retriever

Date: April, 21st, 2017

Registration #: 5843897270

As an EMRD Ten is trained to respond to a medical event such as a seizure or diabetes-related fluctuations in blood sugar. While Service Dogs for America does not guarantee that a dog will sound an alert prior to the onset of a seizure, it's our experience that most EMRD dogs detect the subtle changes in a person's odor, respiration rates, and behavior before the average human's ability to do so.

Regardless, our EMRD dogs are trained to nudge their human partner when they notice something different, which allows the person to either take preventative medicine or get themselves in a safe place. The dog may also bring medicine to their partner or perhaps a bottle of juice to a diabetic person.

Service Dogs For America is a fully accredited member of Assistance Dogs International.

Service Dogs for America
920 Short Street | Jud, ND 58454
Phone: 701-685-2042 | Fax: 877-783-6853
Website: www.servicedogsforamerica.org

As you can see from the documents and examples above, individuals are willing to go to great lengths to misrepresent their pets as service dogs to gain access for which they do not medically qualify. This fraud impacts authentic service dog teams directly, making it difficult to have the full access they are ensured under the American's with Disabilities Act.



Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication ADA Revised Requirements: Service Animals.

DEFINITION OF SERVICE ANIMAL

Q1: What is a service animal?

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Q2: What does "do work or perform tasks" mean?

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

Q4: If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Q5: Does the ADA require service animals to be professionally trained?

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q6: Are service-animals-in-training considered service animals under the ADA?

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

GENERAL RULES

Q7: What questions can a covered entity's employees ask to determine if a dog is a service animal?

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Q9: Who is responsible for the care and supervision of a service animal?

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

Q12: Can hotels charge a cleaning fee for guests who have service animals?

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Q13: Can people bring more than one service animal into a public place?

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog's care before taking such steps.

Q16: Must a service animal be allowed to ride in an ambulance with its handler?

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

CERTIFICATION AND REGISTRATION

Q17: Does the ADA require that service animals be certified as service animals?

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A: Yes. Service animals are subject to local dog licensing and registration requirements.

Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q21: My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q22: Can service animals be any breed of dog?

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

EXCLUSION OF SERVICE ANIMALS

Q25: When can service animals be excluded?

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

Q26: When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

Q28: What can my staff do when a service animal is being disruptive?

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A: No, the dog must be under the handler's control at all times.

Q30: What happens if a person thinks a covered entity's staff has discriminated against him or her?

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

Q31: Are stores required to allow service animals to be placed in a shopping cart?

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

Q36: Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

Q37: Do commercial airlines have to comply with the ADA?

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

For more information about the ADA, please visit our website or call our toll-free number.

ADA Website

www.ADA.gov

To receive e-mail notifications when new ADA information is available, visit the ADA Website's home page and click the link near the bottom of the right-hand column.

ADA Information Line

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m. ,Th 12:30 p.m. – 5:30 p.m. (Eastern Time)
to speak with an ADA Specialist. Calls are confidential.

For people with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged.

July 20, 2015

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ADA

2010 Revised
Requirements

Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

Overview

This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s revised regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

How “Service Animal” Is Defined

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from that State's attorney general's office.

Where Service Animals Are Allowed

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.

Service Animals Must Be Under Control

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

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- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

Miniature Horses

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

**For more information about the ADA,
please visit our website or call our toll-free number.**

ADA Website
www.ADA.gov

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to speak with an ADA Specialist. All calls are confidential.

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Published on ADA National Network (<https://adata.org>)

HOW CAN I TELL IF AN ANIMAL IS REALLY A SERVICE ANIMAL AND NOT JUST A PET? [1]

To determine if an animal is a service animal, you may ask two questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

You may not ask these questions if the need for the service animal is obvious. Examples include when a dog is guiding an individual who is blind or is pulling a person's wheelchair. You also may not:

- ask about the nature or extent of an individual's disability
- require proof that the animal has been certified, trained or licensed as a service animal
- require the animal to wear an identifying vest or tag
- ask that the dog demonstrate its ability to perform the task or work

Under the ADA, it is training that distinguishes a service animal from other animals. Some service animals may be professionally trained; others may have been trained by their owners. However, the task that the service animal is trained to do must be directly related to the owner's disability.

The handler is responsible for the care and supervision of his or her service animal. If a service animal behaves in an unacceptable way and the person with a disability does not control the animal, a business or other entity has the right to ask that the dog be removed. A business also has the right to deny access to a dog that disrupts their business or poses a direct threat to the health and safety of others. For example, if a service dog barks repeatedly or growls at customers, it could be asked to leave.

Service animals in-training are not specifically addressed in the ADA. However, some state laws may afford service animals in-training the same protections as service animals that have completed their training.

Source URL: <https://adata.org/faq/how-can-i-tell-if-animal-really-service-animal-and-not-just-pet>

Links:

[1] <https://adata.org/faq/how-can-i-tell-if-animal-really-service-animal-and-not-just-pet>



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Housing Protection Provided Within Existing Federal Law by Each Class

Service [Dog] Animal

Rights protected under The Americans with Disabilities Act and the Fair Housing Act; public access granted in all public areas

Emotional Support Animal

Rights Protected under the Fair Housing Act in certain circumstances; no public access granted

Therapy Animal Teams

No rights, no protection provided, public access granted by invitation only

Working Animal Definitions

Service [Dog] Animal Defined, Sourced

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. **Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.**

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act. (Source: www.ada.gov)

*There is an exception (albeit uncommon), which is a miniature horse which can only be used as a guide animal (for someone who is blind). This class of animal is required to have specific training.

Emotional Support (Comfort) Animal Defined, Sourced

While **Emotional Support Animals** or **Comfort Animals** are often used as part of a medical treatment plan as therapy animals, they **are not considered service animals under the ADA.** These support animals provide companionship, relieve loneliness, sometimes help with depression, anxiety, and certain phobias but do not have special training to perform tasks that assist people with disabilities. (Source: <https://adata.org/publication/service-animals-booklet>)

*Emotional Support (Comfort) Animal is not species specific. It can be a dog, cat, iguana, bird, rat, etc. This class does not require any type of training or obedience.

Therapy Animal [Team] Defined, Sourced

...Some states have laws defining therapy animals; these animals are not limited to working with people with disabilities and therefore are not covered by federal laws protecting the use of service animals. Therapy animals [team] provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning. (Source: <https://adata.org/publication/service-animals-booklet>)

Therapy animals, like those who participate in the Pet Partners Therapy Animal Program, provide affection and comfort to various members of the public, typically in facility settings such as hospitals, retirement homes, and schools. These pets have a special aptitude for interacting with members of the public and enjoy doing so. Therapy animal owners volunteer their time to visit with their animal in the community. **A therapy animal has no special rights of access, except in those facilities where they are welcomed.** They may not enter businesses with "no pets" policies or accompany their handler in the cabin of an airplane regardless of their therapy animal designation. (Source: <https://petpartners.org/learn/terminology/>)

*Therapy Animal [Team] is not species specific. It can be a dog, cat, iguana, bird, rat, etc. The team must consist of an animal and a human who received necessary training to provide services.

Disability Defined, Sourced

An individual with a **disability** is **defined by the ADA** as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. (Source: www.ada.gov)



Pet Partners
Touching Lives, Improving Health

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What makes a therapy animal different?

	Therapy Animal	Assistance Animal	Emotional Support Animal
Primary role is to benefit many people.			
Primary role is to support one individual.			
Okay to approach and pet in public places.			
Has been evaluated to be tolerant of a wide variety of environments.			
Able to live in housing with "No Pets" policies.			
Special rights of access in public establishments such as stores and restaurants.			
May fly in the cabin of an airplane.			

* Assistance animals include service, hearing and guide dogs.

House Bill 1259
House Judiciary Committee
~~Senate Judiciary Committee~~
Rep. Koppleman
~~Senator Diane Larson, Chair~~

#3
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1-16-19
page 1

Chairman Koppleman

House

Good morning, ~~Madam Chair~~ and Members of the ~~Senate~~ Judiciary Committee. My name is Royce

Schultze, Executive Director of Dakota Center for Independent Living, Inc. I am here in support of House Bill 1259. I am pleased to see that you are taking an interest in this issue. Individuals who are trying to pass their animals off as service animals are making it extremely difficult for those who have a legitimate service animal. It is especially difficult when a person with a disability is looking for housing, because so many people are saying their pet is a therapy animal. They get a doctor's note just so they can keep their pet, and this rolls over into service dogs. That makes landlords think they are getting bamboozled again.

Recently, I was asked to give a presentation to the Bismarck Library Staff on the difference between a service animal and a therapy animal. They requested this because so many people are bringing dogs into the Library, and Staff don't know if they are really service dogs or not, and they are nervous about approaching them. If it is not obvious what service the animal is providing, there are two questions to ask: Is the dog a service animal that is required because of a disability, and what work, or task, has the dog been trained to perform.

You cannot ask about the person's disability, require proof of medical documentation or special identification card, or training documentation for the dog. Lastly, you cannot ask that the dog demonstrate its ability to perform the work or task it has been trained to do.

If there is one thing I would change in this bill, it would be to increase the maximum fine to five hundred dollars, because this would get the attention of a lot of people.

Thank you, and I am available for questions.

Royce Schultze
Executive Director
Dakota Center for Independent Living
71-222-3636

NDLA, Intern 10 - Cummings, Beau

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1-16-19
pg 1

From: Koppelman, Kim A.
Sent: Wednesday, January 16, 2019 2:15 PM
To: NDLA, Intern 10 - Cummings, Beau
Subject: Fwd: Service Animals in Food Establishments such as retail food stores and restaurants
Attachments: image001.png; ATT00001.htm; image002.png; ATT00002.htm; image003.png; ATT00003.htm; image004.png; ATT00004.htm; service_animals_2010.pdf; ATT00005.htm; Frequently Asked Questions_Service Animals.pdf; ATT00006.htm

Rep. Kim Koppelman
North Dakota
West Fargo, ND -- District 13
Chairman, Judiciary Committee
Co-Chairman, Shared State Legislation Committee of the Council of State Governments
Past Chairman, Administrative Rules Committee, Constitutional Revision Committee
Past National Chairman, The Council of State Governments (CSG)
Business Office: 701-492-7317; Capitol: 701-328-2916
Email: KKoppelman@nd.gov

Begin forwarded message:

From: "Wagendorf, Julie L." <jwagendorf@nd.gov>
Date: January 16, 2019 at 1:15:12 PM CST
To: "Koppelman, Kim A." <kkoppelman@nd.gov>
Subject: **Service Animals in Food Establishments such as retail food stores and restaurants**

Representative Koppelman

The ND Food Code (NDAC 33-33-04.1) allows for service animals, as defined by the federal Americans with Disabilities Act (ADA), to enter a food establishment open to the public. Section 6-501.115 references the prohibition of animals in a food establishment and provides for exclusions under subsections (B) and (C). Food Code 2-403.11, a food employee that is a handler of a service animal, is allowed to work in food preparation.

Also, attached are two ADA fact sheets linked on Food and Lodging's website <http://www.ndhealth.gov/FoodLodging/> that aid in business owners to distinguish service animals from pets. This information is provided along with code review as education when licensed food operators contact our office with question.

A food establishment can request a waiver from the state or local food regulatory authority and be granted approval for food businesses that choose to be pet friendly.

Animals
2-403.11 Handling Prohibition.

(A) Except as specified in ¶ (B) of this section, FOOD EMPLOYEES may not care for or handle animals that may be present such as patrol dogs, SERVICE ANIMALS, or pets that are allowed as specified in Subparagraphs 6-501.115(B)(2)-(5).^{Pf}

(B) FOOD EMPLOYEES with SERVICE ANIMALS may handle or care for their SERVICE ANIMALS and FOOD EMPLOYEES may handle or care for FISH in aquariums or MOLLUSCAN SHELLFISH or crustacea in display tanks if they wash their hands as specified under § 2-301.12 and ¶ 2-301.14(C).

6-501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT. ^{Pf}

(B) *Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES can not result:*

(1) *Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;*

(2) *Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;*

(3) *In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by the disabled EMPLOYEE or PERSON, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;*

(4) *Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:*

(a) *Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas,*

(b) *Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present, and*

(c) *Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and*

(5) *In areas that are not used for FOOD preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.*

(C) *Live or dead FISH bait may be stored if contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES can not result.*

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Page 3

Sincerely,

Julie Wagendorf

Director

Division of Food and Lodging

701.328.2523 • 701.328.1890 (f) • jwagendorf@nd.gov • health.nd.gov

19.0273.01001
Title.

Prepared by the Legislative Council staff for
Representative Satrom
February 6, 2019

#1
HB1259
2-11-19
P.1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 1, line 11, after the underscored period insert "If the lessee falsely claims to have a disability requiring the use of a service animal, a lessor may evict a lessee and the lessor is entitled to a damage fee of one thousand dollars from a lessee."

Renumber accordingly

NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Bernie Satrom

District 12
P.O. Box 950
Jamestown, ND 58402-0950
B: 701-252-4058
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blsatrom@nd.gov

1
HB 1259
3.20.19

COMMITTEES:

Judiciary
Agriculture

March 20, 2019

Good morning Chair and members of the Judiciary Committee,

My name is Bernie Satrom and I am honored to serve the people of District 12 in Jamestown.

Today I bring before you HB1259 which makes it an infraction to fraudulently misrepresent a pet as a service animal. Service animals are a tremendous blessing to many people,

With your permission I would like to read a paragraph from an article I read recently

Specially trained dogs can help people with physical and mental disabilities live more normal lives. Access for those people who need dogs to guide them, alert them to health problems, or assist them with essential tasks is written into federal law. Those laws mandate a compromise in which we determine that giving the disabled equal access merits a small amount of effort and inconvenience for the rest of us. We build ramps, write signs in braille, and accept service dogs in restaurants and on flights to enable that equal access.

But that compromise crumbles when the system gets overrun with fake service dogs, who give the real ones a bad rep. Every time Froufrou piddles in the aisle, it erodes public support for the real deal. Every time Froufrou snaps at a child, someone who legitimately needs their dog to survive may be turned away from a restaurant or hotel. In any case, they'll have to deal with your fake service dog distracting their real service dog from its potentially life-saving duties.

Specially trained dogs can help people with physical or mental disabilities live more normal lives. Fraudulent behavior by some has created problems for the truly disabled as well as annoyances for many others. As mentioned this bill would make this fraudulent behavior an infraction.

There are others who are experts in this field will be following my testimony.

Thank you Chair and Committee

EDUCATIONAL TESTIMONY PROVIDED BY:
JENNY M. BRODKORB
EXECUTIVE DIRECTOR
SERVICE DOGS FOR AMERICA



#2 HB 1259 3.20.19

GREAT PLAINS ASSISTANCE DOGS FOUNDATION DBA
SERVICE DOGS FOR AMERICA
PO BOX 513
JUD, ND 58454
EMAIL: INFO@SERVICEDOGSFORAMERICA.ORG
WEB: WWW.SERVICEDOGSFORAMERICA.ORG

Thank you for considering HB 1259. My intention for providing this testimony is for education purposes. It is my hope to put important language at your fingertips for easy reference.

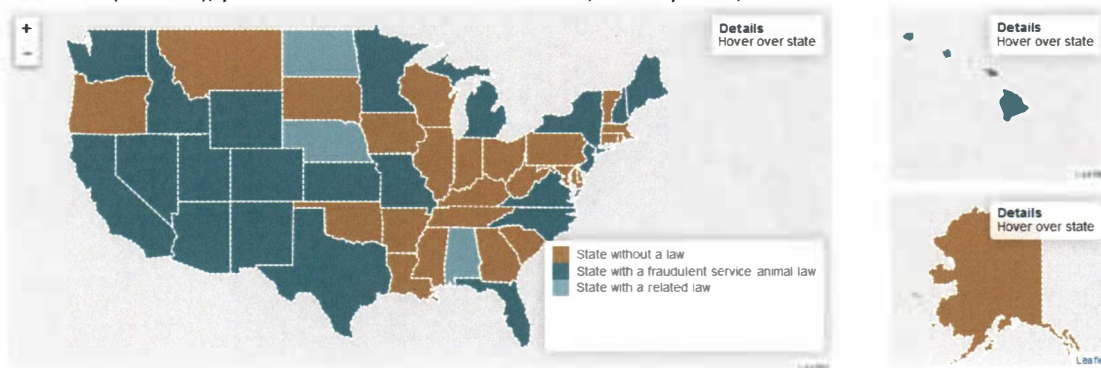
In my testimony I will provide education regarding specific language that identifies service dogs from other classes of animals providing support for others. I will also share a list of US states who have enacted misrepresentation laws. To demonstrate need for this bill, I will share some actual fraudulent documents which individuals created (using our organization's logo, reputation, and accreditation) to gain access and medical preference.

The language which defines a service dog is clear under the American's with Disabilities Act. "...a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability." The law further clarifies "do work and perform tasks" as "...dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure. See documents attached "Frequently Asked Questions about Service Animals and the ADA" (source; https://www.ada.gov/regs2010/service_animal_ga.html) and "Service Animals" (source: https://www.ada.gov/service_animals_2010.htm) and "Service (Dog) Animal, Emotional Support Animal, Therapy Animal Team". For a quick, at a glance distinction between a Service Dog, Emotional Support Animal, and Therapy Animal see the matrix provided by Pet Partners (attached), "What Makes a Therapy Animal Different?" (source: www.petpartners.org)

To complicate matters further, there are websites which offer "certification" of an animal as a "Service Animal." It is very important to note there is no valid, required registry or certification of a service animal/dog. Websites offering certification in this manner typically require no documentation to ensure the dog is trained in a manner consistent with the American's with Disabilities Act.

There are, however, accredited organizations which provide trained service dogs for individuals with disabilities. The two accrediting bodies are Assistance Dogs International (ADI) and International Guide Dog Federation (IGDF). Assistance Dogs International (ADI) is the accrediting body for all service dog (including guide) organizations around the world (www.assistedogsinternational.org). International Guide Dog Federation is strictly for the accreditation of guide dog training programs (<https://www.igdf.org.uk/>). These accrediting bodies require very specific practices to ensure the quality of the service/guide dog training and the health of the canine. Service Dogs for America (SDA) has been accredited by Assistance Dogs International since 2010.

Other states have taken action and passed similar bills into law to protect those who have a genuine and authentic need for a service dog. These laws protect the guaranteed accessibility to those who have appropriately trained service dogs which mitigate their disability and reestablish independence. **"As of December 2018, there are 22 states with what can be termed true bans on the fraudulent representation of pets as service animals."** The following graphic shows an at-a-glance of such states. The same website has an interactive graphic showing which states have misrepresentation of a service dog laws and which states have some type of related law (typically accessibility related): Source: <https://www.animallaw.info/content/fraudulent-service-dogs> If you click on a state (website), you will be taken to the current law, century code, etc.



Often, SDA is contacted by an airline partner or an animal reception center to verify a dog in transport as a service dog from our organization. There are many benefits from receiving a service dog from an accredited program. One benefit is the human and dog can travel (without additional questioning and cost) across the United States and into other ADI recognized countries without being subject to things like international quarantine.

Here are a few examples of what someone will go through to fly with their pet or emotional support animal. The images in the documents below are ACTUAL fraudulent documents and fraudulent patches created by persons who knowingly and willfully lied to get their canine access.

Below is a fake certificated created by a person which included a fake "embossed seal". The issues with this certificate are: the dates of accreditation are incorrect (on the seal), we do not use such a seal, and the signer of the certificate is invalid but close (Duden versus Dryden). Notice they stole our (SDA) logo and ADI's logo, also.



Below is a fake vest for which the person went through the trouble of having an ADI patch and our SDA patch created. ADI does not issue patches and our logo's are embroidered directly onto the fabric and not issued as a patch.



In the document below, you can see the individual stole our header from our preliminary application (located on our website) and cut/paste some language about medical response dogs to create a completely fraudulent document. They changed the phone number on the bottom, in hopes the person validating the documents would not be able to reach us. They attempted to use this document to receive medical preference as well as present their fraudulent service dog for air travel into the UK. The person committing this fraud is a Minor Magistrate in the UK, who also resides in Florida (United States) part-time.



GREAT PLAINS ASSISTANCE DOGS FOUNDATION DBA
SERVICE DOGS FOR AMERICA
PO BOX 513
JUD, ND 58454

This confirms registration of the following team with Service Dogs For America.

Handler/Partner: Stephanie Morgan-Harris (Hoffer)

Animal: Ten

Breed: Comfort Retriever- Miniature Golden Retriever

Date: April, 21st, 2017

Registration #: 5843897270

As an EMRD Ten is trained to respond to a medical event such as a seizure or diabetes-related fluctuations in blood sugar. While Service Dogs for America does not guarantee that a dog will sound an alert prior to the onset of a seizure, it's our experience that most EMRD dogs detect the subtle changes in a person's odor, respiration rates, and behavior before the average human's ability to do so.

Regardless, our EMRD dogs are trained to nudge their human partner when they notice something different, which allows the person to either take preventative medicine or get themselves in a safe place. The dog may also bring medicine to their partner or perhaps a bottle of juice to a diabetic person.

Service Dogs For America is a fully accredited member of Assistance Dogs International.

Service Dogs for America
920 Short Street | Jud, ND 58454
Phone: 701-685-2042 | Fax: 877-783-6853
Website: www.servicedogsforamerica.org

As you can see from the documents and examples above, individuals are willing to go to great lengths to misrepresent their pets as service dogs to gain access for which they do not medically qualify. This fraud impacts authentic service dog teams directly, making it difficult to have the full access they are ensured under the American's with Disabilities Act.



Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication [ADA Revised Requirements: Service Animals](#).

DEFINITION OF SERVICE ANIMAL

Q1: What is a service animal?

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Q2: What does "do work or perform tasks" mean?

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

Q4: If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Q5: Does the ADA require service animals to be professionally trained?

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q6: Are service-animals-in-training considered service animals under the ADA?

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

GENERAL RULES

Q7: What questions can a covered entity's employees ask to determine if a dog is a service animal?

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Q9: Who is responsible for the care and supervision of a service animal?

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

Q12: Can hotels charge a cleaning fee for guests who have service animals?

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Q13: Can people bring more than one service animal into a public place?

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog's care before taking such steps.

Q16: Must a service animal be allowed to ride in an ambulance with its handler?

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

CERTIFICATION AND REGISTRATION

Q17: Does the ADA require that service animals be certified as service animals?

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A: Yes. Service animals are subject to local dog licensing and registration requirements.

Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q21: My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q22: Can service animals be any breed of dog?

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

EXCLUSION OF SERVICE ANIMALS

Q25: When can service animals be excluded?

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

Q26: When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

Q28: What can my staff do when a service animal is being disruptive?

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A: No, the dog must be under the handler's control at all times.

Q30: What happens if a person thinks a covered entity's staff has discriminated against him or her?

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

Q31: Are stores required to allow service animals to be placed in a shopping cart?

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

Q36: Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

Q37: Do commercial airlines have to comply with the ADA?

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

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July 20, 2015



ADA

2010 Revised
Requirements

Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

Overview

This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s revised regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

How “Service Animal” Is Defined

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

(continued, page 2)

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from that State's attorney general's office.

Where Service Animals Are Allowed

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.

Service Animals Must Be Under Control

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Revised ADA Requirements: Service Animals

- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

Miniature Horses

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

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HOW CAN I TELL IF AN ANIMAL IS REALLY A SERVICE ANIMAL AND NOT JUST A PET? [1]

To determine if an animal is a service animal, you may ask two questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

You may not ask these questions if the need for the service animal is obvious. Examples include when a dog is guiding an individual who is blind or is pulling a person's wheelchair. You also may not:

- ask about the nature or extent of an individual's disability
- require proof that the animal has been certified, trained or licensed as a service animal
- require the animal to wear an identifying vest or tag
- ask that the dog demonstrate its ability to perform the task or work

Under the ADA, it is training that distinguishes a service animal from other animals. Some service animals may be professionally trained; others may have been trained by their owners. However, the task that the service animal is trained to do must be directly related to the owner's disability.

The handler is responsible for the care and supervision of his or her service animal. If a service animal behaves in an unacceptable way and the person with a disability does not control the animal, a business or other entity has the right to ask that the dog be removed. A business also has the right to deny access to a dog that disrupts their business or poses a direct threat to the health and safety of others. For example, if a service dog barks repeatedly or growls at customers, it could be asked to leave.

Service animals in-training are not specifically addressed in the ADA. However, some state laws may afford service animals in-training the same protections as service animals that have completed their training.

Source URL: <https://adata.org/faq/how-can-i-tell-if-animal-really-service-animal-and-not-just-pet>

Links:

[1] <https://adata.org/faq/how-can-i-tell-if-animal-really-service-animal-and-not-just-pet>



Housing Protection Provided Within Existing Federal Law by Each Class

Service [Dog] Animal

Rights protected under The Americans with Disabilities Act and the Fair Housing Act; public access granted in all public areas

Emotional Support Animal

Rights Protected under the Fair Housing Act in certain circumstances; no public access granted

Therapy Animal Teams

No rights, no protection provided, public access granted by invitation only

Working Animal Definitions

Service [Dog] Animal Defined, Sourced

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. **Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.**

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act. (Source: www.ada.gov)

*There is an exception (albeit uncommon), which is a miniature horse which can only be used as a guide animal (for someone who is blind). This class of animal is required to have specific training.

Emotional Support (Comfort) Animal Defined, Sourced

While **Emotional Support Animals** or **Comfort Animals** are often used as part of a medical treatment plan as therapy animals, they **are not considered service animals under the ADA.** These support animals provide companionship, relieve loneliness, sometimes help with depression, anxiety, and certain phobias but do not have special training to perform tasks that assist people with disabilities. (Source: <https://adata.org/publication/service-animals-booklet>)

*Emotional Support (Comfort) Animal is not species specific. It can be a dog, cat, iguana, bird, rat, etc. This class does not require any type of training or obedience.

Therapy Animal [Team] Defined, Sourced

...Some states have laws defining therapy animals; these animals are not limited to working with people with disabilities and therefore are not covered by federal laws protecting the use of service animals. Therapy animals [team] provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning. (Source: <https://adata.org/publication/service-animals-booklet>)

Therapy animals, like those who participate in the Pet Partners Therapy Animal Program, provide affection and comfort to various members of the public, typically in facility settings such as hospitals, retirement homes, and schools. These pets have a special aptitude for interacting with members of the public and enjoy doing so. Therapy animal owners volunteer their time to visit with their animal in the community. **A therapy animal has no special rights of access, except in those facilities where they are welcomed.** They may not enter businesses with "no pets" policies or accompany their handler in the cabin of an airplane regardless of their therapy animal designation. (Source: <https://petpartners.org/learn/terminology/>)

*Therapy Animal [Team] is not species specific. It can be a dog, cat, iguana, bird, rat, etc. The team must consist of an animal and a human who received necessary training to provide services.

Disability Defined, Sourced

An individual with a **disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.** (Source: www.ada.gov)



Pet Partners
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What makes a therapy animal different?

	Therapy Animal	Assistance Animal	Emotional Support Animal
Primary role is to benefit many people.	✓	✗	✗
Primary role is to support one individual.	✗	✓	✓
Okay to approach and pet in public places.	✓	✗	✗
Has been evaluated to be tolerant of a wide variety of environments.	✓	✓	✗
Able to live in housing with "No Pets" policies.	✗	✓	✓
Special rights of access in public establishments such as stores and restaurants.	✗	✓	✗
May fly in the cabin of an airplane.	✗	✓	✓

* Assistance animals include service, hearing and guide dogs.

WWW.PETPARTNERS.ORG



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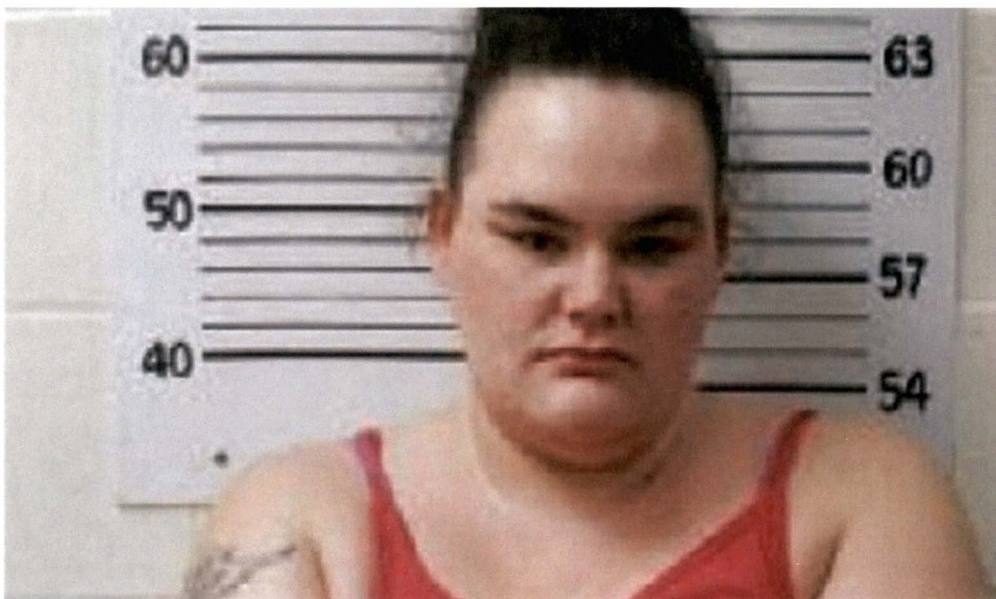
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Woman charged in dog attacks

Tuesday, January 29, 2019 11:40 a.m. CST by Paul Jurgens



Mariah Bermel

JAMESTOWN, N.D - A Jamestown woman is facing charges after police say her dog has bitten or attacked people five times since last September.

Twenty-two-year-old Mariah Bermel is charged with conspiracy to commit aggravated assault, keeping a dangerous dog and failing to vaccinate it for rabies.

Bermel told police her pit bull was a service dog and she wanted to shoot the dog so it would stop biting people. Jamestown police alerted the public Jan. 25 after the dog attacked and seriously injured someone.

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Owner charged for keeping dangerous dog

Posted by [KCSi News](#) in [Uncategorized](#) on January 28, 2019 8:00 pm / [no comments](#)



(CSi) A Jamestown woman faces charges in conjunction with a series of dog attacks in town.

22 year old Mariah Bermel, is charged with keeping a dangerous dog and not vaccinating it for rabies.

Court documents show that she's also charged for conspiracy to commit aggravated assault. It's the fifth time her pit bull has bitten a person since September 2018.

Bermel says pit bull was a service dog, and wanted to shoot the dog so it would stop biting people.

As reported over the weekend, Jamestown Police issued an alert late Friday, after the dog bit a person near the Buffalo Motel, resulting in serious injuries.

Police Chief Scott Edinger said the dog had bitten at least three people in the 10 days leading up to its capture.

Previously...

Jamestown (JPD) — Jamestown Police Lt. Nick Hardy says the dangerous pit bull, "Blaze," was captured after biting a fifth person in Jamestown late Friday evening.

An individual was able to detain the dog in a garage and turn it over to officers and animal control.

About the same, time during an unrelated call for service, the owner of the dog was summoned to court for numerous animal violations, and for conspiracy to commit aggravated assault.

No further information will be released by police, until formal charges are filed.

On Friday, the Jamestown Police Department asked for the public's help in locating "a dangerous red/brown 70-90 pound Pitbull with a white chest and feet." At that time, the dog was last seen in the area of the Buffalo Motel in Jamestown around 2:00pm. Friday.

The police department had information that this animal had bitten at least three people in the last ten days, and four since September of 2018.

At last report, the most serious bite occurred Friday January 25 at approximately 2:00pm at the Buffalo Motel. That victim was treated for serious injuries at the Jamestown Regional Medical Center.

On Friday police had asked anyone with information on the whereabouts of this animal or sees this animal on the loose, to contact police, and not to approach or attempt to apprehend the animal.



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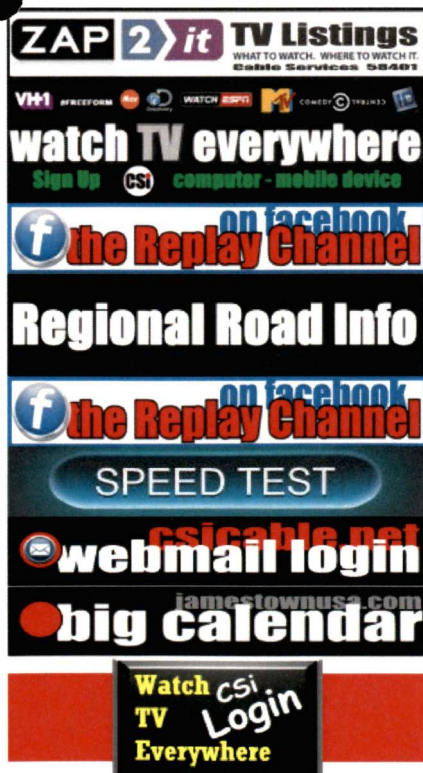
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From: Jared Bollom
Sent: Tuesday, March 19, 2019 11:15 PM
To: Client Services; Service Dogs for America
Subject: HB 1259 Attn, Jeremiah

2
HB 1259
3.20.19

Dear Senators,

I do regret that I cannot be here in person, but my schedule as a K-12 School Counselor did not allow it this day. As a Veteran with a service dog we are an accredited team. Being Accredited means we have to pass standards in proper handling and acceptable public behaviors set forth by Assistance Dogs International. This is part of what defines us as a true team. JJ is here for me and works to help me regain my independence as a disabled veteran using over 40 specific commands. JJ is not a therapy dog (that provides comfort to others), or comfort animal (which provides no required services) neither of which are covered through ADA public access privileges of a service dog.

Unfortunately, I have personally dealt with people claiming their pets are service dogs in stores. I had one dog begin barking and lunging at JJ & myself as we went by a checkout line. That type of behavior is neither acceptable nor safe and that dog was definitely not a trained or accredited service dog and would not pass the public access test. JJ's response during this incident was focusing on me and ignoring the behavior of the other dog. I have also been told by store employees that it is nice to see a real service dog not one that is barking, urinating, or defecating in the store. This is disheartening because it has led to us as a team being second guessed as to our legitimacy by businesses, and other customers.

I ask you to continue the passage of this bill so that those of us who truly are an accredited team that has and must be able to continue to maintain public access certification can begin to work together to regain some version of normalcy in our lives without adding additional anxiety, and stress from having to deal with the aftermath of people misusing the Service Dog label to bring pets into public places that they are not allowed.

Respectfully,

Jared Bollom
CPT(V), NDARNG