

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2211
(Senators Nelson, Lyson, Oehlke)
(Representatives Hawken, Pinkerton, Potter)

AN ACT to create and enact a new section to chapter 25-13 of the North Dakota Century Code, relating to killing or injuring a service animal; to amend and reenact sections 25-13-01.1, 25-13-02, 25-13-02.1, 25-13-03, 25-13-04, and 25-13-05 of the North Dakota Century Code, relating to service animals; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-13-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-13-01.1. Definitions. For purposes of this chapter:

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

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

25-13-02. Individual with a disability - ~~Assistance dog~~ Service animal - Admission to public places. An individual with a disability is entitled to be accompanied by ~~an assistance dog~~ a service animal in places of public accommodations, common carriers, facilities of a health care provider, and all places to which the public is generally invited, without being required to pay an extra charge for the ~~assistance dog animal~~; provided, that the individual is liable for any damage done to the premises or facility by the ~~assistance dog animal~~.

SECTION 3. AMENDMENT. Section 25-13-02.1 of the North Dakota Century Code is amended and reenacted as follows:

25-13-02.1. Trainer and ~~assistance dog~~ a service animal in training - Admission to public places.

1. A trainer with ~~an assistance dog~~ a service animal in training may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the ~~assistance dog service animal~~ in training, provided:
 - a. The trainer notifies an onsite manager that ~~an assistance dog~~ a service animal in training is being brought onto the premises;

- b. The trainer wears a photo identification card issued by a nationally recognized ~~dog~~ service animal training program; and
 - c. The trainer is liable for any damage done to the premises or facility by the ~~assistance dog~~ service animal in training.
2. Upon receiving notice as provided in subsection 1, the onsite manager may not deny admission to the trainer and the ~~assistance-dog~~ service animal in training without good cause.

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

25-13-03. Driver of motor vehicle - Precaution - Individual with ~~assistance-dog~~ service animal. If the driver of a motor vehicle approaches an individual who is blind or visually impaired and who is carrying a cane predominately white or metallic in color, with or without a red tip, or who is accompanied by ~~an assistance-dog~~ a service animal, the driver shall take all reasonable precautions to avoid injury to the individual and the ~~assistance-dog~~ service animal. Any driver who fails to take reasonable precautions is liable to the individual for any injury caused. An individual who is blind or visually impaired and not carrying a cane or an individual with a disability who is not accompanied by ~~an assistance-dog~~ a service animal has all of the rights and privileges conferred by law upon other individuals. The failure of an individual who is blind or visually impaired to carry a cane or the failure of an individual with a disability to be accompanied by ~~an assistance-dog~~ a service animal is not by itself evidence of fault.

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

25-13-04. Penalty for interfering or denying use of facilities. Any person who denies or interferes with admittance to or enjoyment of the public places or facilities enumerated in section 25-13-02 or otherwise interferes with the rights of an individual who is blind or visually impaired, or with the rights of an individual who is accompanied by ~~an assistance-dog~~ a service animal, is guilty of a class A misdemeanor. This section does not apply to a denial of admission under section 25-13-02.1.

SECTION 6. A new section to chapter 25-13 of the North Dakota Century Code is created and enacted as follows:

Killing or injury of service animal - Penalty.

1. A person is guilty of a class C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a service animal.
2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:
 - a. Harasses, taunts, or provokes a service animal; or
 - b. Interferes with a service animal while the animal is working.
3. This section does not apply to a veterinarian who terminates the life of a service animal to relieve the animal of undue suffering and pain.

SECTION 7. AMENDMENT. Section 25-13-05 of the North Dakota Century Code is amended and reenacted as follows:

25-13-05. State employment of individuals who are blind and or otherwise disabled. It is the policy of this state that ~~the individuals who are blind, the visually handicapped, and the impaired, or otherwise physically disabled~~ shall be employed in the state service, the service of the political

subdivisions of the state, the public schools, and all other employment supported in whole or in part by public funds on the same terms and conditions as ~~the able-bodied~~ individuals who are not disabled, unless the particular disability prevents the performance of the work involved.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2211.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 69 Nays 22 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State