

Regular Session, 2014

SENATE BILL NO. 432

BY SENATORS BUFFINGTON AND ADLEY

HEALTH SERVICES. Provides relative to disabled persons and assistance dogs. (8/1/14)

1 AN ACT

2 To amend and reenact Chapter 23 of Title 46 of the Louisiana Revised Statutes of 1950,

3 comprised of R.S. 46:1951 through 1959, relative to assistance dogs for disabled

4 persons; to provide for definitions; to provide relative to the full and equal use of

5 public and commercial facilities by disabled persons and their assistance dogs; to

6 provide relative to full and equal use of housing accommodations by disabled

7 persons and their assistance dogs; to provide relative to assistance dog trainers and

8 their rights and liabilities; to provide relative to penalties for the injury or

9 interference with an assistance dog; to provide relative to unlawful representation;

10 and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 23 of Title 46 of the Louisiana Revised Statutes of 1950,

13 comprised of R.S. 46:1951 through 1959, is hereby amended and reenacted to read as

14 follows:

15 CHAPTER 23. ~~LOUISIANA WHITE CANE LAW~~ **RIGHTS OF PERSONS WITH**

16 **DISABILITIES**

17 §1951. Statement of policy

1           A. It is the policy of this state to encourage and enable a ~~physically~~ disabled  
2 person to participate fully in the social and economic life of the state, **to achieve**  
3 **maximum personal independence, to otherwise fully enjoy and use all public**  
4 **facilities available in the state,** and to engage in remunerative employment.

5           B. **No person with a disability may be denied admittance to any public**  
6 **facility because of the person's disability. No person with a disability shall be**  
7 **denied the use of a white cane, assistance animal, wheelchair, crutches or other**  
8 **device of assistance. The discrimination prohibited by this Chapter includes a**  
9 **refusal to allow a person with a disability to use or be admitted to any public**  
10 **facility to which the general public is invited or using a ruse or subterfuge**  
11 **calculated to prevent or discourage a person with a disability from using or**  
12 **being admitted to a facility that is open to the public.**

13           C. In addition, it is the policy of this state that a ~~physically~~ disabled person  
14 shall be employed by the state, political subdivisions of the state, public schools, and  
15 all other employment supported in whole or in part by public funds on the same  
16 terms and conditions as an able-bodied person, unless it is shown that the particular  
17 disability prevents the performance of the work involved.

18 §1952. Definitions

19           As used in this Chapter,

20           (1) "Assistance dog" means a dog who has been trained or is being trained  
21 **by a licensed or certified person, organization, or agency generally recognized**  
22 **by agencies involved in the rehabilitation of persons with disabilities as**  
23 **reputable and competent to provide animals with such training** to aid a particular  
24 ~~physically~~ disabled person **and such disabled person has satisfactorily completed**  
25 **a specific course of training in the use of such animal. An assistance dog shall**  
26 **wear a leash, collar, cape, harness, backpack, or other such signage that**  
27 **identifies in writing that such dog is an assistance dog. The written**  
28 **identification shall be visible and legible from a distance of a minimum of**  
29 **twenty feet. "Assistance dog" refers to a dog trained as:**

- 1                    (a) A hearing dog.
- 2                    (b) A guide dog.
- 3                    (c) A seizure alert dog.
- 4                    (d) A mobility dog.
- 5                    (e) An autism service dog.
- 6                    (f) A dog providing assistance during a medical crisis.
- 7                    (g) A psychiatric service dog providing assistance to persons, including
- 8                    veterans with traumatic brain injury or post traumatic stress disorder.

9                    (2) "Housing accommodations" means any real property, or portion thereof,  
 10                    which is used or occupied or is intended, arranged, or designed to be used or  
 11                    occupied as the home, residence, or sleeping place of one or more human beings, but  
 12                    shall not include any single family residence the occupants of which rent, lease, or  
 13                    furnish for compensation not more than one room therein.

14                    (3) "~~Physically disabled~~ **Disabled** person" means a person ~~who is blind,~~  
 15                    ~~visually handicapped, deaf, hearing impaired, or otherwise physically disabled~~ **who**  
 16                    **has a physical or mental impairment that substantially limits one or more of**  
 17                    **such person's major life activities and who has a record of such impairment or**  
 18                    **who is regarded as having such an impairment.**

19                    §1953. Use of public facilities; equal accommodations; assistance dogs

20                    A. Every ~~physically~~ disabled person shall have the same right as an able-  
 21                    bodied person to the full and free use of the streets, highways, sidewalks, walkways,  
 22                    public buildings, public facilities, and other public places.

23                    B. Every ~~physically~~ disabled person shall be entitled to full and equal  
 24                    accommodations, advantages, facilities, and privileges in the following, subject only  
 25                    to the conditions and limitations established by law and applicable alike to all  
 26                    persons:

27                    (1) Common carriers, including taxis, airplanes, motor vehicles, railroad  
 28                    trains, motor buses, streetcars, boats, or any other public conveyances or modes of  
 29                    transportation operated on land or water, in the air, or any stations and terminals

1           thereof.

2                   (2) Educational institutions, including but not limited to kindergartens,  
3           primary and secondary schools, trade or business schools, high schools, academies,  
4           colleges, and universities.

5                   (3) Hotels, lodging places, restaurants, theaters, places of public  
6           accommodation, amusement, or resort.

7                   (4) Other places to which the general public is invited.

8                   C. Every ~~physically~~ disabled person may be accompanied by an assistance  
9           dog, especially trained to aid such person, in any of the places provided in  
10          Subsection B of this Section without being required to pay an extra charge for such  
11          dog. However, he shall be liable for any damage done to the premises, facilities,  
12          operators, or occupants by such dog.

13                   D. **Every disabled person shall be allowed to keep his assistance animal**  
14          **with him at all times in his place of employment and shall be allowed to bring**  
15          **an assistance dog who is in training to his place of employment.**

16                   E. Nothing in this Section shall require any person who owns, leases, or  
17          operates any public conveyance or modes of transportation, educational institutions,  
18          hotels, restaurants, theaters, lodging places, places of public accommodation,  
19          amusement, or resort, and other places to which the general public is invited, to  
20          modify his property or facility in any way or provide a higher degree of care for a  
21          ~~physically~~ disabled person than for a person who is not ~~physically~~ disabled.

22          §1954. Housing accommodations; full and equal access; degree of care; assistance  
23          dogs

24                   A. Every disabled person shall be entitled to full and equal access, as other  
25          members of the general public, to all housing accommodations offered for rent,  
26          lease, or compensation in this state, subject to the conditions and limitations  
27          established by law and applicable alike to all persons.

28                   B. Nothing in this Section shall require any person renting, leasing, or  
29          providing for compensation real property to modify his property in any way or to

1 provide a higher degree of care for a ~~physically~~ disabled person than for a person  
2 who is not ~~physically~~ disabled.

3 C. Each ~~physically~~ disabled person who has an assistance dog, especially  
4 trained to aid such person or who obtains such a dog, shall be entitled to full and  
5 equal access to all housing accommodations as defined in R.S. 46:1952(2), and he  
6 shall not be required to pay extra compensation for such dog but shall be liable for  
7 any damage done to the premises or any person on the premises by such dog.

8 **D. A landlord may require proof that an animal assists, supports, or**  
9 **provides service to the disabled person. This requirement may be satisfied,**  
10 **without limitation, by a statement from a provider of mental or physical health**  
11 **care that the animal performs a function that ameliorates the effects of the**  
12 **person's disability.**

13 §1955. Assistance dog trainers and puppy raisers; rights; liability

14 During the training of an assistance dog, any trainer or puppy raiser of such  
15 dog shall have the same rights and privileges as a ~~physically~~ disabled person to be  
16 accompanied by an assistance dog in any place or facility provided in this Chapter  
17 without being required to pay an extra charge for such dog. However, during the  
18 training of an assistance dog, he shall be liable for any damages done to any person,  
19 premises, or facility by the assistance dog.

20 §1956. Violation of rights; injury or interference with an assistance dog; penalties;  
21 civil action; damages; cost and attorney fees

22 A. **(1)** Any person, firm, or corporation, or the agent, representative, or  
23 employee of any person, firm, or corporation who: withholds, denies, deprives, or  
24 attempts to withhold, deny, or deprive; intimidates, threatens, coerces, or attempts  
25 to threaten, intimidate, or coerce; punishes or attempts to punish a ~~physically~~  
26 disabled person or a trainer or puppy raiser of an assistance dog, during the training  
27 of such dog, or for exercising his right to be admitted to or enjoy the places and  
28 facilities provided in this Chapter; or otherwise interferes with the rights of a  
29 ~~physically~~ disabled person under this Chapter shall be guilty of a misdemeanor and

1            fined not less than one hundred dollars nor more than five hundred dollars or  
2            imprisoned for not more than six months, or both.

3            **(2) A place of public accommodation may require a person to remove**  
4            **an assistance dog if such dog:**

5            **(a) Is out of control and the person accompanying the dog fails to take**  
6            **effective action to control it.**

7            **(b) Poses a direct threat to the health or safety of others.**

8            **(3) A disabled person or a person who trains an assistance dog shall not**  
9            **be relieved from liability for damage caused by the assistance dog.**

10           **(4) Disabled persons who are accompanied by an assistance dog are**  
11           **subject to the same conditions and limitations that apply to persons who are not**  
12           **so disabled and accompanied.**

13           B.(1) Any person who purposely or negligently injures an assistance dog or  
14           any owner of a dog who allows that dog to injure an assistance dog because he fails  
15           to control or leash the dog shall also be guilty of a misdemeanor and fined not less  
16           than one hundred dollars nor more than five hundred dollars or imprisoned for not  
17           more than six months, or both. Such person shall also be liable for any injuries to  
18           the assistance dog and, if necessary, the replacement and compensation for the loss  
19           of the assistance dog.

20           **(2) A person with a disability who uses an assistance dog shall keep the**  
21           **dog properly harnessed, leashed, or restrained while in public. A person who**  
22           **abuses, neglects, or does not care or feed his assistance dog is subject to seizure**  
23           **of the dog and penalties provided in R.S. 14:102.1.**

24           C. For every offense, such person shall pay for actual damages for any  
25           economic loss to any person aggrieved thereby, to be recovered in any court of  
26           competent jurisdiction in the parish where such offense was committed or where the  
27           aggrieved person resides.

28           D. In an action brought under this Section, the court may award costs and  
29           reasonable attorney's fee to the prevailing party.

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**§1956.1. Unlawful misrepresentations**

**No person shall represent that a person has the right to be accompanied by an assistance dog in or upon any place listed in R.S. 46:1953, unless such person has the right to be accompanied in or upon such place by such dog pursuant to this Chapter, or represent that such person has a disability for the purpose of acquiring an assistance dog unless such person has such disability.**

§1957. Precautions for operators of motor vehicles approaching ~~physically~~ disabled pedestrians

A. Operators of motor vehicles approaching a ~~physically~~ disabled pedestrian who is carrying a cane predominantly white in color, with or without a red tip, or a ~~physically~~ disabled pedestrian using an assistance dog shall take all necessary precautions to avoid injury to such pedestrian.

B. Any such operator who fails to take all necessary precautions to avoid injury to a ~~physically~~ disabled pedestrian shall be liable in damages for any injury caused to the pedestrian and any injury caused to the pedestrian's assistance dog.

C. No operator of a motor vehicle shall drive into or upon any crosswalk while a ~~physically~~ disabled pedestrian is on the crosswalk or crossing or attempting to cross the crosswalk if such pedestrian indicates his intention to cross or to continue to cross the crosswalk. Failure by the pedestrian to signal his intention to cross the crossway shall not deprive him of the right of way given to him by other applicable law or regulation.

§1958. Exemption from license fee; assistance dog

Assistance dogs, **as defined in R.S. 46:1952,** shall be exempt from any state or local license fee.

§1959. Scope of Chapter

Nothing in this Chapter shall be construed to amend, repeal, conflict with, or supersede any federal or state law, rule, or regulation or local ordinance mandating full and equal access in the use of public facilities or places, common carriers, public conveyances, or other modes of transportation, or housing accommodations for a

1                    ~~physically~~ disabled person.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cathy Wells.

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#### DIGEST

Buffington (SB 432)

Present law provides relative to the Louisiana White Cane Law which provides for the policy of the state for those with only physical disabilities.

Proposed law creates and provides for the policy of the state for those with all disabilities, both physical and mental.

Proposed law prohibits any person with a disability from being denied admittance to any public facility because of such person's disability. Proposed law prohibits the disabled from being denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance. Proposed law further prohibits refusing or allowing a person with a disability to use or to be admitted to any public facility to which the general public is invited or using a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a facility that is open to the public.

Present law does not require any person who owns, leases, or operates any facility that is open to the public or public conveyance or modes of transportation to modify his property or facility in any way or provide a higher degree of care for a physically disabled person than for a person who is not physically disabled.

Proposed law extends present law to all disabled persons.

Proposed law defines "assistance dog" as one trained or is being trained to provide assistance to any disabled person and includes a dog trained as:

- (1) A hearing dog.
- (2) A guide dog.
- (3) A seizure alert dog.
- (4) A mobility dog.
- (5) An autism service dog.
- (6) A dog providing assistance during a medical crisis.
- (7) A psychiatric service dog providing assistance to persons, including veterans with traumatic brain injury or post traumatic stress disorder.

Present law limits the definition of an "assistance dog" to one trained or being trained to aid a physically disabled person.

Proposed law requires an assistance dog to wear a leash, collar, cape, harness, backpack, or other such signage that identifies in writing that such dog is an assistance dog. Proposed law further requires the written identification to be visible and legible from a distance of a minimum of 20 feet.

Proposed law defines "disabled person" as a person who has a physical or mental impairment that substantially limits one of more of such person's major life activities and who has a

record of such impairment or who is regarded as having such an impairment.

Present law authorizes persons with physical disabilities accompanied by an assistance dog to have the full and free use of public buildings and facilities, streets, highways, sidewalks, and all other public places. Present law prohibits an extra fee being charged for the assistance dog.

Proposed law retains present law and extends such authorization to all disabled persons accompanied by an assistance dog to have the full and free use of public buildings and facilities, streets, highways, sidewalks, and all other public places. Proposed law continues prohibition on an extra fee being charged for the assistance dog.

Present law authorizes a person with physical disabilities accompanied by an assistance dog to full and equal accommodation on common carriers or other modes of transportation or public conveyances, or in educational institutions, hotels, lodging places, restaurants, places of public amusements, resorts, housing accommodations, and all other places to which the general public is invited. Present law prohibits an extra fee being charged for the assistance dog.

Proposed law retains present law and authorizes all disabled persons accompanied by an assistance dog to full and equal accommodation on common carriers or other modes of transportation or public conveyances, or in educational institutions, hotels, lodging places, restaurants, places of public amusements, resorts, housing accommodations, and all other places to which the general public is invited. Proposed law continues prohibition on an extra fee being charged for the assistance dog.

Present law provides that every physically disabled person is allowed to keep his assistance animal with him at all times in his place of employment and is allowed to bring an assistance dog who is training to his place of employment.

Proposed law provides that every disabled person is allowed to keep his assistance animal with him at all times in his place of employment and is allowed to bring an assistance dog who is training to his place of employment.

Present law provides that every disabled person shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

Proposed law retains present law.

Present law provides that any person renting, leasing, or providing for compensation real property shall not be required to modify his property in any way or to provide a higher degree of care for a physically disabled person than for a person who is not physically disabled.

Proposed law retains present law and provides that any person renting, leasing, or providing for compensation real property shall not be required to modify his property in any way or to provide a higher degree of care for a disabled person than for a person who is not disabled.

Present law authorizes each physically disabled person who has an assistance dog, especially trained to aid such person or who obtains such a dog, to be entitled to full and equal access to all housing accommodations as defined by law. Present law prohibits such physically disabled person from being required to pay extra compensation for such dog but such physically disabled person shall be liable for any damage done to the premises or any person on the premises by such dog.

Proposed law retains present law and extends same authorizations and prohibitions to all disabled persons, not just physically disabled persons.

Proposed law provides that a landlord may require proof that an animal assists, supports, or provides service to the disabled person and that this requirement may be satisfied, without limitation, by a statement from a provider of mental or physical health care that the animal performs a function that ameliorates the effects of the person's disability.

Present law provides for the training of assistance dogs and puppies for physically disabled persons.

Proposed law retains present law and extends same provisions to dogs and puppies trained for all disabled persons, not just physically disabled persons.

Present law provides that any person, firm, or corporation, or the agent, representative, or employee of any person, firm, or corporation who: withholds, denies, deprives, or attempts to withhold, deny, or deprive; intimidates, threatens, coerces, or attempts to threaten, intimidate, or coerce; punishes or attempts to punish a physically disabled person or a trainer or puppy raiser of an assistance dog, during the training of such dog, or for exercising his right to be admitted to or enjoy the places and facilities provided in present law; or otherwise interferes with the rights of a physically disabled person under present law shall be guilty of a misdemeanor and fined not less than \$100 nor more than \$500 or imprisoned for not more than six months, or both.

Proposed law retains present law and extends same prohibition and penalty to all disabled persons and their assistance dogs, and to all trainers and puppy raisers for assistance dogs, not just physically disabled persons.

Proposed law authorizes a place of public accommodation to require a person to remove an assistance dog if such dog:

- (1) Is out of control and the person accompanying the dog fails to take effective action to control it.
- (2) Poses a direct threat to the health or safety of others.

Proposed law does not relieve a disabled person or a person who trains an assistance dog or puppy trainer from liability for damage caused by the assistance dog.

Proposed law provides that disabled persons who are accompanied by an assistance dog are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

Present law requires that any person who purposely or negligently injures an assistance dog or any owner of a dog who allows that dog to injure an assistance dog because he fails to control or leash the dog is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than six months, or both. Such person shall also be liable for any injuries to the assistance dog and, if necessary, the replacement and compensation for the loss of the assistance dog.

Proposed law retains present law.

Proposed law requires a person with a disability who uses an assistance dog to keep the dog properly harnessed, leashed, or restrained while in public.

Proposed law provides that any person who abuses, neglects, or does not care or feed his assistance dog is subject to seizure of the dog and penalties provided in law for animal cruelty offenses.

Present law provides that for every offense, a person shall pay for actual damages for any economic loss to any person aggrieved thereby, to be recovered in any court of competent jurisdiction in the parish where such offense was committed or where the aggrieved person resides. Present law authorizes the court may award costs and reasonable attorney's fee to the prevailing party.

Proposed law retains present law.

Proposed law prohibits any person from representing that a person has the right to be accompanied by an assistance dog in or upon any place listed in present law, unless such person has the right to be accompanied in or upon such place by such dog pursuant to proposed law, or represent that such person has a disability for the purpose of acquiring an assistance dog unless such person has such disability.

Present law provides for precautions for operators of motor vehicles approaching a physically disabled pedestrian. Present law further provides that any motor vehicle operator who fails to take necessary precautions to avoid injury to a physically disabled person shall be liable in damages for any injury caused to the pedestrian and any injury caused to the pedestrian's assistance dog.

Proposed law retains present law and makes provisions applicable to all disabled persons, not just physically disabled.

Effective August 1, 2014.

(Amends R.S. 46:1951-1959)