

HB 71

2015

A bill to be entitled

An act relating to service animals; amending s. 413.08, F.S.; providing and revising definitions; requiring a public accommodation to permit use of a service animal by an individual with a disability under certain circumstances; providing conditions for a public accommodation to exclude or remove a service animal; revising penalties for certain persons or entities who interfere with use of a service animal in specified circumstances; providing a penalty for knowing and willful misrepresentation with respect to use or training of a service animal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 413.08, Florida Statutes, is amended to read:

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and ~~or~~ housing accommodations; penalties.-

(1) As used in this section and s. 413.081, the term:

(a) "Housing accommodation" means any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as the home,

27 residence, or sleeping place of one or more persons, but does
 28 not include any single-family residence, the occupants of which
 29 rent, lease, or furnish for compensation not more than one room
 30 therein.

31 (b) "Individual with a disability" means a person who has
 32 a physical or mental impairment that substantially limits one or
 33 more major life activities of the individual ~~is deaf, hard of~~
 34 ~~hearing, blind, visually impaired, or otherwise physically~~
 35 ~~disabled~~. As used in this paragraph, the term:

36 1. "Major life activity" means a function such as caring
 37 for one's self, performing manual tasks, walking, seeing,
 38 hearing, speaking, breathing, learning, and working ~~"Hard of~~
 39 ~~hearing" means an individual who has suffered a permanent~~
 40 ~~hearing impairment that is severe enough to necessitate the use~~
 41 ~~of amplification devices to discriminate speech sounds in verbal~~
 42 ~~communication.~~

43 2. "Physical or mental impairment" means:

44 a. A physiological disorder or condition, disfigurement,
 45 or anatomical loss that affects one or more bodily functions; or

46 b. A mental or psychological disorder that meets one of
 47 the diagnostic categories specified in the most recent edition
 48 of the Diagnostic and Statistical Manual of Mental Disorders
 49 published by the American Psychiatric Association, such as an
 50 intellectual or developmental disability, organic brain
 51 syndrome, traumatic brain injury, posttraumatic stress disorder,
 52 or an emotional or mental illness ~~"Physically disabled" means~~

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53 ~~any person who has a physical impairment that substantially~~
54 ~~limits one or more major life activities.~~

55 (c) "Public accommodation" means a common carrier,
56 airplane, motor vehicle, railroad train, motor bus, streetcar,
57 boat, or other public conveyance or mode of transportation;
58 hotel; a timeshare that is a transient public lodging
59 establishment as defined in s. 509.013; lodging place; place of
60 public accommodation, amusement, or resort; and other places to
61 which the general public is invited, subject only to the
62 conditions and limitations established by law and applicable
63 alike to all persons.

64 (d) "Service animal" means an animal that is trained to do
65 work or perform tasks for an individual with a disability,
66 including a physical, sensory, psychiatric, intellectual, or
67 other mental disability. The work done or tasks performed must
68 be directly related to the individual's disability and may
69 include, but are not limited to, guiding an individual ~~a person~~
70 who is visually impaired or blind, alerting an individual ~~a~~
71 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,
72 assisting with mobility or balance, alerting and protecting an
73 individual ~~a person~~ who is having a seizure, retrieving objects,
74 alerting an individual to the presence of allergens, providing
75 physical support and assistance with balance and stability to an
76 individual with a mobility disability, helping an individual
77 with a psychiatric or neurological disability by preventing or
78 interrupting impulsive or destructive behaviors, reminding an

79 individual with mental illness to take prescribed medications,
80 calming an individual with posttraumatic stress disorder during
81 an anxiety attack, or doing other specific work or performing
82 other special tasks. A service animal is not a pet. For purposes
83 of subsections (2), (3), and (4), the term "service animal" is
84 limited to a dog or miniature horse, except that the term, as
85 applied to an air carrier covered by the Air Carrier Access Act
86 of 1986, 49 U.S.C. s. 41705, shall be as provided in the act and
87 by regulations adopted by the United States Department of
88 Transportation that implement the act. The crime-deterrent
89 effect of an animal's presence and the provision of emotional
90 support, well-being, comfort, or companionship do not constitute
91 work or tasks for purposes of this definition.

92 (2) An individual with a disability is entitled to full
93 and equal accommodations, advantages, facilities, and privileges
94 in all public accommodations. A public accommodation must modify
95 its policies, practices, and procedures to permit use of a
96 service animal by an individual with a disability. This section
97 does not require any person, firm, business, or corporation, or
98 any agent thereof, to modify or provide any vehicle, premises,
99 facility, or service to a higher degree of accommodation than is
100 required for a person not so disabled.

101 (3) An individual with a disability has the right to be
102 accompanied by a service animal in all areas of a public
103 accommodation that the public or customers are normally
104 permitted to occupy.

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105 (a) The service animal must be under the control of its
106 handler and must have a harness, leash, or other tether, unless
107 either the handler is unable because of a disability to use a
108 harness, leash, or other tether, or the use of a harness, leash,
109 or other tether would interfere with the service animal's safe,
110 effective performance of work or tasks, in which case the
111 service animal must be otherwise under the handler's control by
112 means of voice control, signals, or other effective means.

113 (b)-(a) Documentation that the service animal is trained is
114 not a precondition for providing service to an individual
115 accompanied by a service animal. A public accommodation may not
116 ask about the nature or extent of an individual's disability. To
117 determine the difference between a service animal and a pet, a
118 public accommodation may ask if an animal is a service animal
119 required because of a disability and what work or what tasks the
120 animal has been trained to perform ~~in order to determine the~~
121 ~~difference between a service animal and a pet.~~

122 (c)-(b) A public accommodation may not impose a deposit or
123 surcharge on an individual with a disability as a precondition
124 to permitting a service animal to accompany the individual with
125 a disability, even if a deposit is routinely required for pets.

126 (d)-(e) An individual with a disability is liable for
127 damage caused by a service animal if it is the regular policy
128 and practice of the public accommodation to charge nondisabled
129 persons for damages caused by their pets.

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130 ~~(e)(d)~~ The care or supervision of a service animal is the
131 responsibility of the individual owner. A public accommodation
132 is not required to provide care or food or a special location
133 for the service animal or assistance with removing animal
134 excrement.

135 (f)(e) A public accommodation may exclude or remove any
136 animal from the premises, including a service animal, if the
137 animal is out of control and the animal's handler does not take
138 effective action to control it, the animal is not housebroken,
139 or the animal's behavior poses a direct threat to the health and
140 safety of others. Allergies and fear of animals are not valid
141 reasons for denying access or refusing service to an individual
142 with a service animal. If a service animal is excluded or
143 removed for being a direct threat to others, the public
144 accommodation must provide the individual with a disability the
145 option of continuing access to the public accommodation without
146 having the service animal on the premises.

147 (4) Any person, firm, or corporation, or the agent of any
148 person, firm, or corporation, who denies or interferes with
149 admittance to, or enjoyment of, a public accommodation or, with
150 regard to a public accommodation, otherwise interferes with the
151 rights of an individual with a disability or the trainer of a
152 service animal while engaged in the training of such an animal
153 pursuant to subsection (8), commits a misdemeanor of the second
154 degree, punishable as provided in s. 775.082 or s. 775.083 and
155 must perform 30 hours of community service for an organization

156 that serves individuals with disabilities, or for another entity
157 or organization at the discretion of the court, to be completed
158 in not more than 6 months.

159 (5) It is the policy of this state that an individual with
160 a disability be employed in the service of the state or
161 political subdivisions of the state, in the public schools, and
162 in all other employment supported in whole or in part by public
163 funds, and an employer may not refuse employment to such a
164 person on the basis of the disability alone, unless it is shown
165 that the particular disability prevents the satisfactory
166 performance of the work involved.

167 (6) An individual with a disability is entitled to rent,
168 lease, or purchase, as other members of the general public, any
169 housing accommodations offered for rent, lease, or other
170 compensation in this state, subject to the conditions and
171 limitations established by law and applicable alike to all
172 persons.

173 (a) This section does not require any person renting,
174 leasing, or otherwise providing real property for compensation
175 to modify her or his property in any way or provide a higher
176 degree of care for an individual with a disability than for a
177 person who is not disabled.

178 (b) An individual with a disability who has a service
179 animal or who obtains a service animal is entitled to full and
180 equal access to all housing accommodations provided for in this
181 section, and such a person may not be required to pay extra

182 compensation for such ~~the service~~ animal. However, such a person
183 is liable for any damage done to the premises or to another
184 person on the premises by the ~~such an~~ animal. A housing
185 accommodation may request proof of compliance with vaccination
186 requirements.

187 (c) This subsection does not limit the rights or remedies
188 of a housing accommodation or an individual with a disability
189 that are granted by federal law or another law of this state
190 with regard to other assistance animals.

191 (7) An employer covered under subsection (5) who
192 discriminates against an individual with a disability in
193 employment, unless it is shown that the particular disability
194 prevents the satisfactory performance of the work involved, or
195 any person, firm, or corporation, or the agent of any person,
196 firm, or corporation, providing housing accommodations as
197 provided in subsection (6) who discriminates against an
198 individual with a disability, commits a misdemeanor of the
199 second degree, punishable as provided in s. 775.082 or s.
200 775.083.

201 (8) Any trainer of a service animal, while engaged in the
202 training of such an animal, has the same rights and privileges
203 with respect to access to public facilities and the same
204 liability for damage as is provided for those persons described
205 in subsection (3) accompanied by service animals.

206 (9) A person who knowingly and willfully misrepresents
207 herself or himself, through conduct or verbal or written notice,

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208 as using a service animal and being qualified to use a service
209 animal or as a trainer of a service animal commits a misdemeanor
210 of the second degree, punishable as provided in s. 775.082 or s.
211 775.083 and must perform 30 hours of community service for an
212 organization that serves individuals with disabilities, or for
213 another entity or organization at the discretion of the court,
214 to be completed in not more than 6 months.

215 Section 2. This act shall take effect July 1, 2015.