

Committee Substitute for
Committee Substitute for Senate Bill No. 434

An act relating to individuals with disabilities; amending s. 413.08, F.S.; providing definitions; providing that an individual with a disability has full and equal access to and enjoyment of public accommodations; providing that an individual with a disability may be accompanied by a service animal in places of public accommodation; requiring that a service animal be given access to all areas of a public accommodation that the public or customers are normally permitted to occupy; directing that documentation that a service animal is trained may not be a precondition for providing service to an individual accompanied by a service animal; prohibiting a public accommodation from imposing a deposit or surcharge on an individual with a disability as a precondition to permitting a service animal to accompany the individual; providing that an individual with a disability may be liable for damage caused by a service animal; providing that the animal's owner is responsible for the care and supervision of a service animal; providing that the public accommodation is not required to provide care or food or a special location for a service animal; providing that a public accommodation may exclude or remove any animal from the premises if the animal's behavior poses a direct threat to the health and safety of others; providing that the trainer of a service animal has the same rights and privileges as a person with a disability while training the service animal; providing that a housing accommodation may request proof of compliance with vaccination requirements; amending s. 413.081, F.S.; conforming provisions to changes made by the act; directing the Florida Americans with Disabilities Act Working Group and the Commission on Human Relations to provide recommendations to the Executive Office of the Governor; 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 of an individual with a disability; physically disabled persons; use of a dog guides or service animal dogs or nonhuman primates of the genus Cebus; discrimination in public employment or housing accommodations; penalties.—~~

(1) As used in ss. 413.08 and 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, residence, or sleeping place of one or more persons, but does not include any single-family residence, the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(b) “Individual with a disability” means a person who is deaf, hard of hearing, blind, visually impaired, or otherwise physically disabled. As used in this paragraph, the term:

1. “Hard of hearing” means an individual who has suffered a permanent hearing impairment that is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

2. “Physically disabled” means any person who has a physical impairment that substantially limits one or more major life activities.

(c) “Public accommodation” means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation; hotel; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(d) “Service animal” means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

~~(2)(1)(a) An individual with a disability is The deaf, hard of hearing, blind, visually handicapped, and otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges in on all public accommodations common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, and other public conveyances or modes of transportation and at hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. This section does not require any person, firm, business, or corporation, or any agent thereof, to modify or provide any vehicle, premises, facility, or service to a higher degree of accommodation than is required for a person not so disabled.~~

~~(3)(b) An individual with a disability Every deaf or hard of hearing person, totally or partially blind person, person who is subject to epilepsy or other such seizure disorders, or physically disabled person has the right to be accompanied by a dog guide or service animal dog, specially trained for the purpose, in all areas of a public accommodation that the public or customers are normally permitted to occupy any of the places listed in paragraph (a) without being required to pay an extra charge for the dog guide or service dog; however, such a person is liable for any damage done to the premises or facilities by such a dog. The dog guide or service dog must be capable of being properly identified as being from a recognized school for seeing-eye dogs, hearing-ear dogs, service dogs, including, but not limited to, seizure-alert and seizure-response dogs, or guide dogs.~~

(a) Documentation that the service animal is trained is not a precondition for providing service to an individual accompanied by a service animal.

A public accommodation may ask if an animal is a service animal or what tasks the animal has been trained to perform in order to determine the difference between a service animal and a pet.

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

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

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

(e) A public accommodation may exclude or remove any animal from the premises, including a service animal, if the animal's behavior poses a direct threat to the health and safety of others. Allergies and fear of animals are not valid reasons for denying access or refusing service to an individual with a service animal. If a service animal is excluded or removed for being a direct threat to others, the public accommodation must provide the individual with a disability the option of continuing access to the public accommodation without having the service animal on the premises.

~~(c) Every person with paraplegia or quadriplegia has the right to be accompanied by a nonhuman primate of the genus Cebus, specially trained for the purpose of providing personal care services, in any of the places listed in paragraph (a) without being required to pay an extra charge for the nonhuman primate; however, such a person is liable for any damage done to the premises or facilities by such nonhuman primate.~~

~~(4)(2) Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with admittance to, or enjoyment of, a the public accommodation facilities enumerated in subsection (1) or otherwise interferes with the rights of an individual with a disability a deaf person, a hard of hearing person, a totally or partially blind person, a person who is subject to epilepsy or other such seizure disorders, or an otherwise physically disabled person under this section, or the trainer of a dog guide or service animal dog while engaged in the training of such an animal such a dog pursuant to subsection (8) (7), commits is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(5)(3) It is the policy of this state that an individual with a disability the deaf, hard of hearing, blind, visually handicapped, and otherwise physically disabled shall be employed in the service of the state or political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds, and an employer may not refuse employment to such a person the deaf, the hard of hearing, the blind, the visually handicapped, or the otherwise physically disabled on the basis of the disabil-~~

ity alone, unless it is shown that the particular disability prevents the satisfactory performance of the work involved.

~~(6)(4) An individual with a disability is Deaf persons, hard of hearing persons, blind persons, visually handicapped persons, and otherwise physically disabled persons are entitled to rent, lease, or purchase, as other members of the general public, any housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.~~

~~(a) As used in this subsection, the term "housing accommodations" 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, residence, or sleeping place of one or more human beings, but does not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.~~

~~(a)(b) This section does not require any person renting, leasing, or otherwise providing real property for compensation to modify her or his property in any way or provide a higher degree of care for an individual with a disability a deaf person, hard of hearing person, blind person, visually handicapped person, or otherwise physically disabled person than for a person who is not disabled so handicapped.~~

~~(b)(c) An individual with a disability Each deaf person, hard of hearing person, totally or partially blind person, or otherwise physically disabled person who has a service animal dog guide, or who obtains a service animal dog guide, is entitled to full and equal access to all housing accommodations provided for in this section, and such a person may shall not be required to pay extra compensation for the service animal dog guide. However, such a person is liable for any damage done to the premises or to another person on the premises by such an animal a dog guide. A housing accommodation may request proof of compliance with vaccination requirements.~~

~~(d) Each person with paraplegia or quadriplegia who has or obtains a nonhuman primate of the genus Cebus, specially trained for the purpose of providing personal care services, is entitled to full and equal access to all housing accommodations provided for in this section, and she or he shall not be required to pay extra compensation for such a nonhuman primate. However, the person is liable for any damage done to the premises by such a nonhuman primate.~~

~~(7)(5) An Any employer covered under subsection (5) (3) who discriminates against an individual with a disability the deaf, hard of hearing, blind, visually handicapped, or otherwise physically disabled in employment, unless it is shown that the particular disability prevents the satisfactory performance of the work involved, or any person, firm, or corporation, or the agent of any person, firm, or corporation, providing housing accommodations as provided in subsection (6)(4) who discriminates against an individual with a disability commits the deaf, hard of hearing, blind, visually handicapped, or otherwise physically disabled is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(6)(a) As used in this section, the term “physically disabled person” means any person who has a physical impairment that substantially limits one or more major life activities.~~

~~(b) As used in this section, the term “hard of hearing person” means an individual who has suffered a permanent hearing impairment that is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.~~

~~(8)(7) Any trainer of a dog guide or service animal dog, while engaged in the training of such an animal a dog, has the same rights and privileges with respect to access to public facilities and the same liability for damage as is provided for those persons described in subsection (3) paragraph (1)(b) accompanied by service animals dog guides or service dogs.~~

~~(8) Any trainer of a nonhuman primate of the genus Cebus, while engaged in training such a nonhuman primate to provide personal care services to a person with paraplegia or quadriplegia, has the same rights and privileges with respect to access to public facilities and the same liability for damage as is provided for a person with paraplegia or quadriplegia who is accompanied by nonhuman primates of the genus Cebus. As used in this subsection, the term “trainer of a nonhuman primate of the genus Cebus” means a paid employee of a training organization, and does not include volunteers chosen to raise the animals.~~

Section 2. Section 413.081, Florida Statutes, is amended to read:

413.081 Interference with or injury to a guide dog or service animal; penalties; restitution.—

(1) A Any person who, with reckless disregard, interferes with, or permits a dog that he or she owns or is in the immediate control of to interfere, with, the use of a guide dog or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or its user commits is guilty of a misdemeanor of the second degree for the first offense and a misdemeanor of the first degree for each subsequent offense, punishable as provided in s. 775.082 or s. 775.083.

(2) A Any person who, with reckless disregard, injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a guide dog or service animal commits is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A Any person who intentionally injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a guide dog or service animal commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

(4)(a) A person who is convicted of a violation of this section, in addition to any other penalty, must make full restitution for all damages that arise out of or are related to the offense, including incidental and consequential damages incurred by the guide dog or service animal’s user.

(b) Restitution includes the value of the service animal; replacement and training or retraining expenses for the service animal and the user; veterinary and other medical and boarding expenses for the service animal; medical expenses for the user; and lost wages or income incurred by the user during any period that the user is without the services of the service such an animal.

~~(5) As used in this section, the term:~~

~~(a) "Guide dog" means a dog that is trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons.~~

~~(b) "Service animal" means an animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.~~

Section 3. The Florida Americans with Disabilities Act Working Group and the Commission on Human Relations, jointly, are directed to provide to the Executive Office of the Governor recommendations that identify specific policies that the state can implement to ensure the effectiveness of this act and improve access for individuals with disabilities who are accompanied by service animals.

Section 4. This act shall take effect July 1, 2005.

Approved by the Governor May 26, 2005.

Filed in Office Secretary of State May 26, 2005.