

HOUSE BILL NO. 446

INTRODUCED BY M. DUNWELL

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A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT A MISDEMEANOR TO INTENTIONALLY MISREPRESENT A SERVICE ANIMAL; REVISING THE DEFINITION OF SERVICE ANIMAL; AND AMENDING SECTIONS 49-4-203 AND 49-4-214, MCA."

WHEREAS, under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., dogs that have been trained to do work or perform a task for the benefit of a person with a disability and whose work or task is directly related to the individual's disability meet the definition of a service animal; and

WHEREAS, properly trained service animals play a vital role in helping individuals with disabilities achieve and maintain independence, and the status of service animals is therefore protected by federal and state laws requiring places of public accommodation, including restaurants, theaters, stores, hospitals, and more to allow any animal that is presented as a service animal or a service animal in training into the place of public accommodation; and

WHEREAS, no vest, marking, certification, or other documentation is required for an animal to qualify as a service animal, and in order to protect the privacy of individuals with disabilities, federal law permits business owners and other members of the public to ask only two specific questions to attempt to ascertain the legitimacy of an animal being presented as a service animal:

- (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?"; and

WHEREAS, there is an increasing number of occurrences of people bringing pets, therapy animals, and emotional support animals into a place where the animal would otherwise not be allowed to enter by passing the animal off as a service animal or service animal in training, either by oral misrepresentation, placing a misleading vest or other article on the animal, or presenting a falsified certificate despite knowing that the animal is not a service animal; and

WHEREAS, when people exploit the confusion regarding service animals in order to bring animals that are not properly trained into places of public accommodation, it can create disruption and destruction in businesses and other places, it undermines the legitimacy of the service animal program, and it interferes with the ability of persons with disabilities to utilize their properly trained, necessary service animals; and



1 THEREFORE, the Legislature finds that in order to deter and punish the practice of bringing an animal
2 into places where it would not otherwise be allowed by passing the animal off as a service animal, it is necessary
3 to make the intentional misrepresentation of a service animal a criminal offense.

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5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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7 **Section 1.** Section 49-4-203, MCA, is amended to read:

8 **"49-4-203. Definitions.** (1) "Housing accommodation" means any real property or portion of real
9 property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home,
10 residence, or sleeping place of one or more human beings. The term does not include any single-family residence
11 the occupants of which furnish for compensation not more than one room within the residence.

12 (2) "Service animal" means a dog ~~or other animal individually trained to provide assistance to~~ that has
13 been individually trained to do work or perform a task for an individual with a disability."

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15 **Section 2.** Section 49-4-214, MCA, is amended to read:

16 **"49-4-214. Right to be accompanied by service animal -- identification for service animals in**
17 **training.** (1) A person with a disability has the right to be accompanied by a service animal or a service animal
18 in training with identification complying with subsection (4) in any of the places mentioned in 49-4-211(2) without
19 being charged extra for the service animal. The person with a disability is liable for any damage done to the
20 property by the animal.

21 (2) A person with a disability who has a service animal or who obtains a service animal is entitled to full
22 and equal access to all housing accommodations as provided in 49-2-305 and 49-4-212. The person with a
23 disability may not be required to pay extra compensation for the service animal but is liable for any damage done
24 to the premises by the service animal.

25 (3) A person who is training a service animal is entitled to the same rights and assumes the same
26 responsibilities granted to a person with a disability in this section.

27 (4) For the purposes of this section, a service animal in training ~~that is a dog~~ shall wear a leash, collar,
28 cape, harness, or backpack that identifies in writing that the dog is a service animal in training. ~~Other service~~
29 ~~animals in training must also be identifiable by written identification as a service animal in training.~~ The written
30 identification for service animals in training must be visible and legible from a distance of at least 20 feet.

