

HOUSE BILL NO. 364

INTRODUCED BY D. LOGE, R. COOK, R. FITZGERALD, B. GRUBBS, W. MCKAMEY, W. SALES,  
D. SKEES, S. STAFFANSON, J. TREBAS, B. USHER, P. WEBB, R. WEBB

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING SERVICE ANIMALS; ALLOWING FOR CERTAIN QUESTIONS TO BE ASKED OF A PERSON WHO REPRESENTS THAT THE PERSON HAS A DISABILITY AND IS ACCOMPANIED BY A SERVICE DOG; REQUIRING THAT THE DOG BE UNDER THE HANDLER'S CONTROL; REQUIRING CERTAIN POSTING PROVISIONS; CREATING THE OFFENSE OF FRAUDULENT REPRESENTATION OF A SERVICE DOG; PROVIDING PENALTIES; AND AMENDING SECTION 49-4-214, MCA."

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

**Section 1.** Section 49-4-214, MCA, is amended to read:

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

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

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

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

(5) If a person who has a service animal that is a dog represents that the person has a disability for which

1 the dog provides assistance and the person wishes to access the places and accommodations mentioned in  
 2 49-4-211 accompanied by the dog in its capacity as a service animal:

3 (a) the person may be asked BY A REPRESENTATIVE OF THE PLACE OR ACCOMMODATION:

4 (i) whether the dog is a service animal that is required because of a disability; and

5 (ii) to describe the work or task the dog is trained to perform; and

6 (b) the dog must be under the handler's control as required under 28 CFR 35.136.

7 (6) A notice posted at a place or accommodation mentioned in 49-4-211 that dogs or other animals are  
 8 prohibited on the premises must also indicate that a person may be accompanied by a service animal subject  
 9 to the provisions of this section and [section 2]."

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 11 NEW SECTION. Section 2. Fraudulent representation of service dog -- penalty -- COMPLAINT --

12 INVESTIGATION. (1) A person who knowingly and willfully represents that a dog is a service animal by fitting the  
 13 dog with a leash, collar, cape, harness, backpack, or sign that identifies the dog as a service animal, by using  
 14 an identification card commonly used by a person with a disability, or by claiming verbally or in writing that the  
 15 dog is a service dog in order to fraudulently access the places and accommodations mentioned in 49-4-211 with  
 16 the dog is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50 and not  
 17 more than \$500.

18 (2) In addition to the penalty provided in subsection (1), a person convicted of the offense of fraudulent  
 19 representation of a service dog under subsection (1) may be required to perform community service for an  
 20 organization that advocates on behalf of persons with disabilities.

21 (3) (A) A PERSON REPRESENTATIVE OF A PLACE OR ACCOMMODATION MENTIONED IN 49-4-211 WHO SUSPECTS  
 22 FRAUDULENT REPRESENTATION OF A SERVICE DOG AT THE PLACE OR ACCOMMODATION MAY FILE A COMPLAINT WITH THE  
 23 COMMISSION FOR HUMAN RIGHTS ESTABLISHED UNDER 2-15-1706. THE COMPLAINT MUST BE WRITTEN AND VERIFIED AND  
 24 MUST STATE THE PARTICULARS OF THE ALLEGED FRAUDULENT REPRESENTATION.

25 (B) THE COMMISSION SHALL INVESTIGATE THE COMPLAINT WITHIN 30 DAYS OF RECEIPT OF THE COMPLAINT.

26 (C) IF THE COMMISSION CONCLUDES THAT FRAUDULENT REPRESENTATION HAS NOT OCCURRED, THE  
 27 COMMISSION SHALL DISMISS THE COMPLAINT.

28 (D) IF THE COMMISSION CONCLUDES THAT FRAUDULENT REPRESENTATION HAS OCCURRED, THE DEPARTMENT  
 29 SHALL EITHER COMMENCE AN ACTION FOR A VIOLATION OF THIS SECTION OR PROVIDE THE RESULTS OF ITS INVESTIGATION  
 30 TO THE LOCAL LAW ENFORCEMENT ENTITY HAVING JURISDICTION.

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2 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
3 integral part of Title 49, chapter 4, part 2, and the provisions of Title 49, chapter 4, part 2, apply to [section 2].  
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