

1 HOUSE BILL NO. 439

2 INTRODUCED BY D. LOGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SERVICE ANIMALS;
5 DEFINING THE TYPES OF ANIMALS ALLOWED AS SERVICE ANIMALS; ALLOWING FOR CERTAIN
6 QUESTIONS TO BE ASKED OF A PERSON WHO REPRESENTS THAT THE PERSON HAS A DISABILITY
7 AND IS ACCOMPANIED BY A SERVICE ANIMAL; REQUIRING THAT THE ANIMAL BE UNDER THE
8 HANDLER'S CONTROL; REQUIRING CERTAIN POSTING PROVISIONS; CREATING PROCEDURES FOR
9 IDENTIFYING AND EXCUSING A MISREPRESENTED SERVICE ANIMAL; ALLOWING COMPLAINTS OF A
10 MISREPRESENTED SERVICE ANIMAL TO BE FILED WITH THE COMMISSION FOR HUMAN RIGHTS;
11 CREATING A MISDEMEANOR OFFENSE FOR THE MISREPRESENTATION OF A SERVICE ANIMAL; AND
12 AMENDING 49-4-203 AND 49-4-214, MCA."

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14 WHEREAS, instances of misrepresenting an animal as a service animal have increased, which puts at
15 risk those around the misrepresented service animal and also risks further discrimination against those with
16 disabilities; and

17 WHEREAS, the use of a misrepresented service animal erodes the public's trust of service animals that
18 are well trained, adequately equipped, and fully serving the person with a disability they are entrusted to guide,
19 aid, or protect.

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

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

24 **"49-4-203. Definitions.** (1) "Housing accommodation" means any real property or portion of real
25 property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home,
26 residence, or sleeping place of one or more human beings. The term does not include any single-family residence
27 the occupants of which furnish for compensation not more than one room within the residence.

28 (2) "Service animal" means a dog or ~~other animal~~ miniature horse individually trained to provide
29 assistance to an individual with a disability. The term does not include an emotional support animal.

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

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

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

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

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

17 (5) If a person has a service animal that provides assistance and the person wishes to access the places
18 and accommodations mentioned in 49-4-211 accompanied by the animal in its capacity as a service animal:

19 (a) the animal must be under the handler's control as required under 28 CFR 35.136 that is in effect as
20 of [the effective date of this act]; and

21 (b) the person may be asked by a representative of the place or accommodation:

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

23 (ii) to describe the work or task the animal is trained to perform.

24 (6) If the animal described in subsection (5) is not under the handler's control or the handler is unable
25 to answer the allowed questions adequately, the handler may be asked to remove the animal from the place or
26 accommodation.

27 (7) If a place or accommodation mentioned in 49-4-211 posts a notice that dogs or other animals are
28 prohibited on the premises, the place or accommodation must also indicate that a person may be accompanied
29 by a service animal subject to the provisions of this chapter."

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1 **NEW SECTION. Section 3. Misrepresentation of a service animal -- complaint -- investigation.** (1)

2 A person who knowingly and willfully represents that an animal is a trained service animal by fitting the animal
3 with a leash, collar, cape, harness, backpack, or sign that identifies the animal as a service animal or claims
4 verbally or in writing that the animal is a service animal in order to access the places and accommodations
5 mentioned in 49-4-211 with the animal, and it is found that the animal is not properly trained to provide services
6 required of a service animal, the person may be asked to remove the animal from a place or accommodation as
7 mentioned in 49-4-211 and a complaint may be filed against the person as provided in subsection (3).

8 (2) An animal may be determined to lack the proper training required of a service animal if the animal
9 exhibits unwanted behaviors including:

10 (a) barking inappropriately;

11 (b) urinating or defecating inappropriately;

12 (c) displaying unwanted attention toward other patrons;

13 (d) eating off a floor, table, or other surface; or

14 (e) displaying disruptive behavior that requires excessive efforts from the handler to control.

15 (3) (a) A representative of a place or accommodation mentioned in 49-4-211 who suspects that an animal
16 is being misrepresented as a service animal to gain entry to the place or accommodation may file a complaint
17 with the commission for human rights established under 2-15-1706. The complaint must be written and verified
18 and must state the particulars of the alleged misrepresentation.

19 (b) The commission shall investigate the complaint within 30 days of receipt of the complaint.

20 (c) If the commission concludes that a misrepresentation has not occurred, the commission shall dismiss
21 the complaint.

22 (d) If the commission concludes that a misrepresentation has occurred, the commission shall either
23 provide the results of its investigation to the local law enforcement entity having jurisdiction or may certify the
24 complaint for hearing pursuant to 49-2-505.

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26 **NEW SECTION. Section 4. Misrepresentation of a service animal -- misdemeanor -- penalty.** (1)

27 A person who misrepresents a service animal as provided in [section 3] may be found guilty of a misdemeanor
28 and upon conviction shall be punished by a fine of not more than \$100.

29 (2) In addition to the penalty provided in subsection (1), a person convicted of the offense of fraudulent
30 representation of a service animal under subsection (1) may be required to perform community service for an

1 organization that advocates on the behalf of persons with disabilities.

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3 NEW SECTION. **Section 5. Codification instruction.** [Sections 3 and 4] are intended to be codified
4 as an integral part of Title 49, chapter 4, part 2, and the provisions of Title 49, chapter 4, part 2, apply to [sections
5 3 and 4].

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