

By Senator Wise

5-1718A-04

1 A bill to be entitled
2 An act relating to rights of individuals with
3 disabilities; amending s. 413.08, F.S.;
4 providing definitions; providing that an
5 individual with a disability has full and equal
6 access to and enjoyment of public
7 accommodations and state and local facilities,
8 programs, services, and activities; providing
9 that an individual with a disability may be
10 accompanied by a service animal in places of
11 public accommodation and in state and local
12 facilities; directing that documentation that a
13 service animal is trained may not be a
14 precondition for providing service to an
15 individual accompanied by a service animal;
16 providing that a service animal has access to
17 all areas of a government facility or public
18 accommodation that the public or customers are
19 normally permitted to occupy; directing that an
20 individual with a service animal may not be
21 segregated from other customers or the public;
22 directing that a public accommodation may not
23 impose a deposit or surcharge on an individual
24 with a disability as a precondition to
25 permitting a service animal to accompany the
26 individual; providing that an individual with a
27 disability may be liable for damage caused by a
28 service animal; providing that the animal's
29 owner is responsible for the care and
30 supervision of a service animal; providing that
31 the public accommodation or government entity

1 is not required to provide care or food or a
2 special location for a service animal;
3 providing that a public accommodation or
4 government entity may exclude or remove any
5 animal from the premises if the animal's
6 behavior poses a direct threat to the health
7 and safety of others; increasing certain
8 penalties for violations of the act; providing
9 that the trainer of a service animal has the
10 same rights and privileges as a person with a
11 disability while training the service animal;
12 amending s. 413.081, F.S.; conforming
13 provisions to changes made by the act;
14 providing an effective date.

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

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

20 413.08 Rights of individuals with disabilities who
21 ~~physically disabled persons~~ ~~use of dog guides or service~~
22 ~~animals dogs or nonhuman primates of the genus Cebus~~;
23 discrimination in public employment or housing accommodations;
24 penalties.--

25 (1) As used in this section the term:

26 (a) "Housing accommodation" means any real property or
27 portion thereof which is used or occupied, or intended,
28 arranged, or designed to be used or occupied, as a home,
29 residence, or sleeping place of one or more human beings. The
30 term does not include a single-family residence if the

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1 occupants rent or lease to others for compensation not more
2 than one room in the residence.

3 (b) "Individual with a disability" means a person with
4 a physical or mental impairment that severally limits the
5 person's ability to perform one or more daily life living
6 skills.

7 (c) "Place of public accommodation" means a facility,
8 operated by a private person, whose operations affect commerce
9 and fall within at least one of the following categories:

10 1. An inn, hotel, motel, or other place of lodging,
11 except for an establishment located within a building that
12 contains not more than five rooms for rent or hire and that is
13 actually occupied by the proprietor of the establishment as
14 the residence of the proprietor;

15 2. A restaurant, bar, or other establishment serving
16 food or drink;

17 3. A motion picture house, theater, concert hall,
18 stadium, or other place of gathering;

19 4. An auditorium, convention center, lecture hall, or
20 other place of exhibition or entertainment;

21 5. A bakery, grocery store, clothing store, hardware
22 store, shopping center, or other sales or rental
23 establishment;

24 6. A laundromat, dry cleaner, bank, barber shop,
25 beauty shop, travel service, shoe repair service, funeral
26 parlor, gas station, office of a health care provider,
27 hospital, or other service establishment;

28 7. A terminal, depot, or other station used for
29 specified public transportation;

30 8. A museum, library, gallery, or other place of
31 public display or collection;

1 9. A park, zoo, amusement park, or other place of
2 recreation;

3 10. A day care center, senior citizen center, homeless
4 shelter, food bank, adoption agency, or other social services
5 establishment; and

6 11. A gymnasium, health spa, bowling alley, golf
7 course, or other place of exercise or recreation.

8 (d) "Service animal" means an animal that is trained
9 to perform tasks for an individual with a disability. The
10 tasks may include, but are not limited to, guiding a person
11 who is visually impaired or blind, alerting a person who is
12 deaf or hard of hearing, pulling a wheelchair, assisting with
13 mobility or balance, alerting and protecting a person who is
14 having a seizure, retrieving objects, providing psychological
15 therapeutic support, or performing other special tasks. A
16 service animal is not a pet.

17 (2)(1)(a) An individual with a disability is ~~The deaf,~~
18 ~~hard of hearing, blind, visually handicapped, and otherwise~~
19 ~~physically disabled~~ are entitled to full and equal
20 accommodations, advantages, facilities, and privileges on all
21 common carriers, airplanes, motor vehicles, railroad trains,
22 motor buses, streetcars, boats, and other public conveyances
23 or modes of transportation; in all state and local government
24 facilities, programs, services, and activities; ~~and at hotels,~~
25 ~~lodging places,~~ places of public accommodations ~~accommodation,~~
26 ~~amusement, or resort,~~ and other places to which the general
27 public is invited, subject only to the conditions and
28 limitations established by law and applicable alike to all
29 persons. This section does not require any person, firm, or
30 corporation, or any agent thereof, to modify or provide any

1 ~~vehicle, premises, facility, or service to a higher degree of~~
2 ~~accommodation than is required for a person not so disabled.~~

3 (3)(b) Every individual with a disability ~~deaf or hard~~
4 ~~of hearing person, totally or partially blind person, person~~
5 ~~who is subject to epilepsy or other such seizure disorders, or~~
6 ~~physically disabled person~~ has the right to be accompanied by
7 a ~~dog guide or service~~ animal dog, specially trained for the
8 purpose, in any place of public accommodation or state or
9 local government facility, program, service, or activity ~~the~~
10 ~~places listed in paragraph (a) without being required to pay~~
11 ~~an extra charge for the dog guide or service dog; however,~~
12 ~~such a person is liable for any damage done to the premises or~~
13 ~~facilities by such a dog. The dog guide or service dog must be~~
14 ~~capable of being properly identified as being from a~~
15 ~~recognized school for seeing-eye dogs, hearing-ear dogs,~~
16 ~~service dogs, including, but not limited to, seizure-alert and~~
17 ~~seizure-response dogs, or guide dogs.~~

18 (4) Documentation that the service animal is trained
19 is not a precondition for providing service to an individual
20 accompanied by a service animal. A public accommodation or
21 government entity may ask if an animal is a service animal or
22 what tasks the animal has been trained to perform in order to
23 determine the difference between a service animal and a pet.

24 (5) A service animal may accompany the individual with
25 a disability to all areas of a government facility or public
26 accommodation that the public or customers are normally
27 permitted to occupy. An individual with a service animal may
28 not be segregated from other customers or the public.

29 (6)(a) A public accommodation may not impose a deposit
30 or surcharge on an individual with a disability as a
31 precondition to permitting a service animal to accompany the

1 individual with a disability, even if a deposit is routinely
2 required for pets.

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

7 (7) The care or supervision of a service animal is the
8 responsibility of the individual owner. A public accommodation
9 or government entity is not required to provide care or food
10 or a special location for the service animal.

11 (8)(a) A public accommodation or government entity may
12 exclude or remove any animal from the premises, including a
13 service animal, if the animal's behavior poses a direct threat
14 to the health and safety of others. Allergies and fear of
15 animals are not valid reasons for denying access or refusing
16 service to an individual with a service animal. The perception
17 of a threat or fear based on past experience does not
18 constitute a direct threat.

19 (b) If a service animal is excluded or removed as
20 being a direct threat to others, the public accommodation or
21 government entity must provide the individual with a
22 disability the option of continuing access to the public
23 accommodation or government entity without having the service
24 animal on the premises.

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

1 ~~(9)(2)~~ Any person, firm, business, or corporation, or
2 the agent of any person, firm, business, or corporation, who
3 denies or interferes with admittance to, or enjoyment of, the
4 public accommodation of, ~~facilities enumerated in subsection~~
5 ~~(1)~~ or otherwise interferes with the rights of, an individual
6 with a disability ~~a deaf person, a hard of hearing person, a~~
7 ~~totally or partially blind person, a person who is subject to~~
8 ~~epilepsy or other such seizure disorders, or an otherwise~~
9 ~~physically disabled person~~ under this section, or the trainer
10 of a ~~dog guide or service animal dog~~ while engaged in the
11 training of the animal under ~~such a dog pursuant to~~ subsection
12 ~~(14)(7)~~, commits is guilty of a misdemeanor of the first
13 second degree, punishable as provided in s. 775.082 or s.
14 775.083.

15 ~~(10)(3)~~ It is the policy of this state that
16 individuals with disabilities ~~the deaf, hard of hearing,~~
17 ~~blind, visually handicapped, and otherwise physically disabled~~
18 ~~shall~~ be employed in the service of the state or political
19 subdivisions of the state, in the public schools, and in all
20 other employment supported in whole or in part by public
21 funds, and an employer may not refuse employment to an
22 individual with a disability ~~the deaf, the hard of hearing,~~
23 ~~the blind, the visually handicapped, or the otherwise~~
24 ~~physically disabled~~ on the basis of the disability alone,
25 unless it is shown that the particular disability prevents the
26 ~~satisfactory performance of the work involved.~~

27 ~~(11)(4)~~ Each individual with a disability is Deaf
28 ~~persons, hard of hearing persons, blind persons, visually~~
29 ~~handicapped persons, and otherwise physically disabled persons~~
30 ~~are~~ entitled to rent, lease, or purchase, as other members of
31 the general public, any housing accommodations offered for

1 rent, lease, or other compensation in this state, subject to
2 the conditions and limitations established by law and
3 applicable alike to all persons.

4 ~~(a) As used in this subsection, the term "housing~~
5 ~~accommodations" means any real property or portion thereof~~
6 ~~which is used or occupied, or intended, arranged, or designed~~
7 ~~to be used or occupied, as the home, residence, or sleeping~~
8 ~~place of one or more human beings, but does not include any~~
9 ~~single-family residence the occupants of which rent, lease, or~~
10 ~~furnish for compensation not more than one room therein.~~

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

18 (12)(c) ~~Each individual with a disability deaf person,~~
19 ~~hard of hearing person, totally or partially blind person, or~~
20 ~~otherwise physically disabled person who has a service animal~~
21 ~~dog guide, or who obtains a service animal dog guide, is~~
22 ~~entitled to full and equal access to all housing~~
23 ~~accommodations provided for in this section, and the ~~such a~~~~
24 ~~person may ~~shall~~ not be required to pay extra compensation for~~
25 ~~the service animal dog guide. However, an individual with a~~
26 ~~disability ~~such a person~~ is liable for any damage done to the~~
27 ~~premises by ~~such a~~ service animal dog guide.~~

28 ~~(d) Each person with paraplegia or quadriplegia who~~
29 ~~has or obtains a nonhuman primate of the genus Cebus,~~
30 ~~specially trained for the purpose of providing personal care~~
31 ~~services, is entitled to full and equal access to all housing~~

1 ~~accommodations provided for in this section, and she or he~~
2 ~~shall not be required to pay extra compensation for such a~~
3 ~~nonhuman primate. However, the person is liable for any damage~~
4 ~~done to the premises by such a nonhuman primate.~~

5 ~~(13)(5)~~ An Any employer covered under subsection (10)
6 ~~(3)~~ who discriminates against an individual with a disability
7 ~~the deaf, hard of hearing, blind, visually handicapped, or~~
8 ~~otherwise physically disabled in employment, unless it is~~
9 ~~shown that the particular disability prevents the satisfactory~~
10 ~~performance of the work involved, or any person, firm, or~~
11 ~~corporation, or the agent of any person, firm, business, or~~
12 ~~corporation, providing housing accommodations as provided in~~
13 ~~subsection (11)(4) who discriminates against an individual~~
14 ~~with a disability commits the deaf, hard of hearing, blind,~~
15 ~~visually handicapped, or otherwise physically disabled is~~
16 ~~guilty of a misdemeanor of the first ~~second~~ degree, punishable~~
17 ~~as provided in s. 775.082 or s. 775.083.~~

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

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

27 ~~(14)(7)~~ Any trainer of a ~~dog guide or service animal~~
28 ~~dog~~, while engaged in the training of the service animal ~~such~~
29 ~~a dog~~, has the same rights and privileges with respect to
30 access to public facilities and the same liability for damage
31 as is provided for individuals with a disability ~~those persons~~

1 ~~described in paragraph (1)(b)~~ accompanied by a service animal
2 ~~dog guides or service dogs.~~

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

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

16 413.081 Interference with or injury to a guide dog or
17 ~~service animal~~; penalties; restitution.--

18 (1) A ~~Any~~ person who, with reckless disregard,
19 interferes with, or permits a dog that he or she owns or is in
20 the immediate control of to interfere ~~with~~, the use of a
21 ~~guide dog or~~ service animal by obstructing, intimidating, or
22 otherwise jeopardizing the safety of the service animal or its
23 user commits ~~is guilty of~~ a misdemeanor of the second degree
24 for the first offense and a misdemeanor of the first degree
25 for each subsequent offense, punishable as provided in s.
26 775.082 or s. 775.083.

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

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

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

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

18 (5) As used in this section, the term "service animal"
19 means an animal that is trained to perform tasks for an
20 individual with a disability. The tasks may include, but are
21 not limited to, guiding a person who is visually impaired or
22 blind, alerting a person who is deaf or hard of hearing,
23 pulling a wheelchair, assisting with mobility or balance,
24 alerting and protecting a person who is having a seizure,
25 retrieving objects, providing psychological therapeutic
26 support, or performing other special tasks. A service animal
27 is not a pet.+

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

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

4 Section 3. This act shall take effect July 1, 2004.

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7 SENATE SUMMARY

8 Provides that an individual with a disability has full
9 and equal access and enjoyment of public accommodations
10 and state and local facilities, programs, services, and
11 activities. Provides that an individual with a disability
12 may be accompanied by a service animal in places of
13 public accommodation and state and local facilities.
14 Directs that documentation that a service animal is
15 trained is not a precondition for providing service to an
16 individual accompanied by a service animal. Provides that
17 a service animal has access to all areas of a government
18 facility or public accommodation that the public or
19 customers are normally permitted to occupy. Prohibits
20 segregating an individual with a service animal from
21 other customers or the public. Directs that a public
22 accommodation may not impose a deposit or surcharge on an
23 individual with a disability as a precondition to
24 permitting a service animal to accompany the individual.
25 Provides that an individual with a disability may be
26 liable for damage caused by a service animal. Provides
27 that an animal's owner is responsible for the care and
28 supervision of a service animal. Provides that the public
29 accommodation or government entity is not required to
30 provide care or food or a special location for a service
31 animal. Provides that a public accommodation or
 government entity 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. Provides that
 the trainer of a service animal has the same rights and
 privileges as a person with a disability while training
 the service animal.