

1 A bill to be entitled

2 An act relating to individuals with disabilities; amending
3 s. 413.08, F.S.; providing definitions; providing that an
4 individual with a disability has full and equal access to
5 and enjoyment of public accommodations and state and local
6 facilities, programs, services, and activities; providing
7 that an individual with a disability may be accompanied by
8 a service animal in places of public accommodation and in
9 state and local facilities; directing that documentation
10 that a service animal is trained may not be a precondition
11 for providing service to an individual accompanied by a
12 service animal; requiring that a service animal be given
13 access to all areas of a government facility or public
14 accommodation that the public or customers are normally
15 permitted to occupy; prohibiting segregating an individual
16 with a service animal from other customers or the public;
17 prohibiting a public accommodation from imposing a deposit
18 or surcharge on an individual with a disability as a
19 precondition to permitting a service animal to accompany
20 the individual; providing that an individual with a
21 disability may be liable for damage caused by a service
22 animal; providing that the animal's owner is responsible
23 for the care and supervision of a service animal; providing
24 that the public accommodation or governmental entity is not
25 required to provide care or food or a special location for
26 a service animal; providing that a public accommodation or
27 government entity may exclude or remove any animal from the
28 premises if the animal's behavior poses a direct threat to

29 the health and safety of others; increasing certain
 30 penalties for violations of the act; providing that the
 31 trainer of a service animal has the same rights and
 32 privileges as a person with a disability while training the
 33 service animal; amending s. 413.081, F.S.; conforming
 34 provisions to changes made by the act; providing an
 35 effective date.

36

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

38

39 Section 1. Section 413.08, Florida Statutes, is amended to
 40 read:

41 413.08 Rights of individuals with disabilities who
 42 ~~physically disabled persons; use of dog guides or service~~
 43 ~~animals dogs or nonhuman primates of the genus Cebus;~~
 44 discrimination in public employment or housing accommodations;
 45 penalties.--

46 (1) As used in this section, the term:

47 (a) "Housing accommodation" means any real property or
 48 portion thereof which is used or occupied, or intended,
 49 arranged, or designed to be used or occupied, as a home,
 50 residence, or sleeping place of one or more human beings. The
 51 term does not include a single-family residence if the occupants
 52 rent or lease to others for compensation not more than one room
 53 in the residence.

54 (b) "Individual with a disability" means a person with a
 55 physical or mental impairment that severely limits the person's
 56 ability to perform one or more daily life skills.

57 (c) "Place of public accommodation" means a facility
58 operated by a private person at which operations affect commerce
59 and fall within at least one of the following categories:

60 1. An inn, hotel, motel, or other place of lodging, except
61 for an establishment located within a building that contains not
62 more than five rooms for rent or hire and is actually occupied
63 by the proprietor of the establishment as the residence of the
64 proprietor.

65 2. A restaurant, bar, or other establishment serving food
66 or drink.

67 3. A motion picture house, theater, concert hall, stadium,
68 or other place of gathering.

69 4. An auditorium, convention center, lecture hall, or
70 other place of exhibition or entertainment.

71 5. A bakery, grocery store, clothing store, hardware
72 store, shopping center, or other sales or rental establishment.

73 6. A laundromat, dry cleaner, bank, barber shop, beauty
74 shop, travel service, shoe repair service, funeral parlor, gas
75 station, office of a health care provider, hospital, or other
76 service establishment.

77 7. A terminal, depot, or other station used for specified
78 public transportation.

79 8. A museum, library, gallery, or other place of public
80 display or collection.

81 9. A park, zoo, amusement park, or other place of
82 recreation.

83 10. A day care center, senior citizen center, homeless
84 shelter, food bank, adoption agency, or other social services

85 establishment.

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

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

96 (2)(1)(a) An individual with a disability is ~~The deaf,~~
 97 ~~hard of hearing, blind, visually handicapped, and otherwise~~
 98 ~~physically disabled~~ are entitled to full and equal
 99 accommodations, advantages, facilities, and privileges on all
 100 common carriers, airplanes, motor vehicles, railroad trains,
 101 motor buses, streetcars, boats, and other public conveyances or
 102 modes of transportation; in all state and local governmental
 103 facilities, programs, services, and activities; and at hotels,
 104 ~~lodging places, places of public accommodation, amusement, or~~
 105 ~~resort,~~ and other places to which the general public is invited,
 106 subject only to the conditions and limitations established by
 107 law and applicable alike to all persons. This section does not
 108 ~~require any person, firm, or corporation, or any agent thereof,~~
 109 ~~to modify or provide any vehicle, premises, facility, or service~~
 110 ~~to a higher degree of accommodation than is required for a~~
 111 ~~person not so disabled.~~

112 (3)(b) Every individual with a disability ~~deaf or hard of~~

113 ~~hearing person, totally or partially blind person, person who is~~
 114 ~~subject to epilepsy or other such seizure disorders, or~~
 115 ~~physically disabled person~~ has the right to be accompanied by a
 116 ~~dog guide or service animal dog~~, specially trained for the
 117 purpose, in any place of public accommodation or state or local
 118 governmental facility, program, service, or activity ~~the places~~
 119 ~~listed in paragraph (a) without being required to pay an extra~~
 120 ~~charge for the dog guide or service dog; however, such a person~~
 121 ~~is liable for any damage done to the premises or facilities by~~
 122 ~~such a dog. The dog guide or service dog must be capable of~~
 123 ~~being properly identified as being from a recognized school for~~
 124 ~~seeing-eye dogs, hearing ear dogs, service dogs, including, but~~
 125 ~~not limited to, seizure alert and seizure-response dogs, or~~
 126 ~~guide dogs.~~

127 (4) Documentation that the service animal is trained is
 128 not a precondition for providing service to an individual
 129 accompanied by a service animal. A public accommodation or
 130 governmental entity may ask if an animal is a service animal or
 131 what tasks the animal has been trained to perform in order to
 132 determine the difference between a service animal and a pet.

133 (5) A service animal may accompany an individual with a
 134 disability to all areas of a governmental facility or public
 135 accommodation that the public or customers are normally
 136 permitted to occupy. An individual with a service animal may not
 137 be segregated from other customers or the public.

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

141 a disability, even if a deposit is routinely required for pets.

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

146 (7) The care or supervision of a service animal is the
 147 responsibility of the individual owner. A public accommodation
 148 or governmental entity is not required to provide care or food
 149 or a special location for the service animal.

150 (8)(a) A public accommodation or governmental entity may
 151 exclude or remove any animal, including a service animal, from
 152 the premises if the animal's behavior poses a direct threat to
 153 the health and safety of others. Allergies and fear of animals
 154 are not valid reasons for denying access or refusing service to
 155 an individual with a service animal. The perception of a threat
 156 or fear based on past experience does not constitute a direct
 157 threat.

158 (b) If a service animal is excluded or removed as being a
 159 direct threat to others, the public accommodation or
 160 governmental entity must provide the individual with a
 161 disability the option of continuing access to the public
 162 accommodation or governmental entity without having the service
 163 animal on the premises.

164 ~~(c) Every person with paraplegia or quadriplegia has the~~
 165 ~~right to be accompanied by a nonhuman primate of the genus~~
 166 ~~Cebus, specially trained for the purpose of providing personal~~
 167 ~~care services, in any of the places listed in paragraph (a)~~
 168 ~~without being required to pay an extra charge for the nonhuman~~

169 ~~primate; however, such a person is liable for any damage done to~~
 170 ~~the premises or facilities by such nonhuman primate.~~

171 (9)(2) Any person, firm, business, or corporation, or the
 172 agent of any person, firm, business, or corporation, who denies
 173 or interferes with admittance to, or enjoyment of, the public
 174 accommodation of, facilities enumerated in subsection (1) or
 175 otherwise interferes with the rights of, an individual with a
 176 disability ~~a deaf person, a hard of hearing person, a totally or~~
 177 ~~partially blind person, a person who is subject to epilepsy or~~
 178 ~~other such seizure disorders, or an otherwise physically~~
 179 ~~disabled person~~ under this section, or the trainer of a ~~dog~~
 180 ~~guide or service~~ animal ~~dog~~ while engaged in the training of the
 181 animal under such a dog pursuant to subsection (14) ~~(7)~~, commits
 182 ~~is guilty of~~ a misdemeanor of the first ~~second~~ degree,
 183 punishable as provided in s. 775.082 or s. 775.083.

184 (10)(3) It is the policy of this state that an individual
 185 with a disability ~~the deaf, hard of hearing, blind, visually~~
 186 ~~handicapped, and otherwise physically disabled~~ shall be employed
 187 in the service of the state or political subdivisions of the
 188 state, in the public schools, and in all other employment
 189 supported in whole or in part by public funds, and an employer
 190 may not refuse employment to an individual with a disability ~~the~~
 191 ~~deaf, the hard of hearing, the blind, the visually handicapped,~~
 192 ~~or the otherwise physically disabled~~ on the basis of the
 193 disability alone, ~~unless it is shown that the particular~~
 194 ~~disability prevents the satisfactory performance of the work~~
 195 ~~involved.~~

196 (11)(4) Each individual with a disability is ~~Deaf persons,~~

197 ~~hard of hearing persons, blind persons, visually handicapped~~
 198 ~~persons, and otherwise physically disabled persons~~ are entitled
 199 to rent, lease, or purchase, as other members of the general
 200 public, any housing accommodations offered for rent, lease, or
 201 other compensation in this state, subject to the conditions and
 202 limitations established by law and applicable alike to all
 203 persons.

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

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

217 ~~(12)(e)~~ Each individual with a disability ~~deaf person,~~
 218 ~~hard of hearing person, totally or partially blind person, or~~
 219 ~~otherwise physically disabled person~~ who has a service animal
 220 ~~dog guide, or who obtains a service animal dog guide,~~ is
 221 entitled to full and equal access to all housing accommodations
 222 provided for in this section, and the ~~such a person may shall~~
 223 not be required to pay extra compensation for the service animal
 224 ~~dog guide.~~ However, an individual with a disability ~~such a~~

225 ~~person~~ is liable for any damage done to the premises by ~~such a~~
 226 service animal ~~dog guide~~.

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

235 ~~(13)(5)~~ An ~~Any~~ employer covered under subsection ~~(10)~~ (3)
 236 who discriminates against an individual with a disability ~~the~~
 237 ~~deaf, hard of hearing, blind, visually handicapped, or otherwise~~
 238 ~~physically disabled in employment, unless it is shown that the~~
 239 ~~particular disability prevents the satisfactory performance of~~
 240 ~~the work involved, or any person, firm, or corporation, or the~~
 241 ~~agent of any person, firm, business, or corporation,~~ providing
 242 housing accommodations as provided in subsection ~~(11)~~ (4) who
 243 discriminates against an individual with a disability ~~commits~~
 244 ~~the deaf, hard of hearing, blind, visually handicapped, or~~
 245 ~~otherwise physically disabled is guilty of a misdemeanor of the~~
 246 first ~~second~~ degree, punishable as provided in s. 775.082 or s.
 247 775.083.

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

251 ~~(b)~~ ~~As used in this section, the term "hard of hearing~~
 252 ~~person" means an individual who has suffered a permanent hearing~~

253 ~~impairment that is severe enough to necessitate the use of~~
 254 ~~amplification devices to discriminate speech sounds in verbal~~
 255 ~~communication.~~

256 (14)~~(7)~~ Any trainer of a ~~dog guide or service~~ animal dog,
 257 while engaged in the training of the service animal ~~such a dog~~,
 258 has the same rights and privileges with respect to access to
 259 public facilities and the same liability for damage as is
 260 provided for individuals with a disability ~~those persons~~
 261 ~~described in paragraph (1)(b)~~ accompanied by a service animal
 262 ~~dog guides or service dogs.~~

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

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

275 413.081 Interference with or injury to a ~~guide dog or~~
 276 ~~service animal; penalties; restitution.--~~

277 (1) A ~~Any~~ person who, with reckless disregard, interferes
 278 with, or permits a dog that he or she owns or is in the
 279 immediate control of to interfere, with, ~~the use of a guide dog~~
 280 ~~or~~ service animal by obstructing, intimidating, or otherwise

281 jeopardizing the safety of the service animal or its user
 282 commits ~~is guilty of~~ a misdemeanor of the second degree for the
 283 first offense and a misdemeanor of the first degree for each
 284 subsequent offense, punishable as provided in s. 775.082 or s.
 285 775.083.

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

291 (3) A ~~Any~~ person who intentionally injures or kills, or
 292 permits an animal ~~a dog~~ that he or she owns or is in the
 293 immediate control of to injure or kill, a ~~guide dog or~~ service
 294 animal commits ~~is guilty of~~ a felony of the third degree,
 295 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 296 775.084.

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

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

HB 0153

2005

309 (5) As used in this section, the term "service animal"
310 means an animal that is trained to perform tasks for an
311 individual with a disability. The tasks may include, but are not
312 limited to, guiding a person who is visually impaired or blind,
313 alerting a person who is deaf or hard of hearing, pulling a
314 wheelchair, assisting with mobility or balance, alerting and
315 protecting a person who is having a seizure, retrieving objects,
316 or performing other special tasks. A service animal is not a
317 pet.÷

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

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

324 Section 3. This act shall take effect July 1, 2005.