

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Carroll offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 413.08, Florida Statutes, is amended to  
6 read:

7 413.08 Rights of an individual with a disability;  
8 ~~physically disabled persons;~~ use of a dog guides or service  
9 ~~animal dogs or nonhuman primates of the genus Cebus;~~  
10 discrimination in public employment or housing accommodations;  
11 penalties.--

12 (1) As used in ss. 413.08 and 413.081, the term:

13 (a) "Housing accommodation" means any real property or  
14 portion thereof which is used or occupied, or intended,  
15 arranged, or designed to be used or occupied, as the home,

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16 residence, or sleeping place of one or more persons, but does  
17 not include any single-family residence, the occupants of which  
18 rent, lease, or furnish for compensation not more than one room  
19 therein.

20 (b) "Individual with a disability" means a person who is  
21 deaf, hard of hearing, blind, visually impaired, or otherwise  
22 physically disabled. As used in this paragraph, the term:

23 1. "Hard of hearing" means an individual who has suffered  
24 a permanent hearing impairment that is severe enough to  
25 necessitate the use of amplification devices to discriminate  
26 speech sounds in verbal communication.

27 2. "Physically disabled" means any person who has a  
28 physical impairment that substantially limits one or more major  
29 life activities.

30 (c) "Public accommodation" means a common carrier,  
31 airplane, motor vehicle, railroad train, motor bus, streetcar,  
32 boat, or other public conveyance or mode of transportation;  
33 hotel; lodging place; place of public accommodation, amusement,  
34 or resort; and other places to which the general public is  
35 invited, subject only to the conditions and limitations  
36 established by law and applicable alike to all persons.

37 (d) "Service animal" means an animal that is trained to  
38 perform tasks for an individual with a disability. The tasks may  
39 include, but are not limited to, guiding a person who is  
40 visually impaired or blind, alerting a person who is deaf or  
41 hard of hearing, pulling a wheelchair, assisting with mobility  
42 or balance, alerting and protecting a person who is having a

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43 seizure, retrieving objects, or performing other special tasks.

44 A service animal is not a pet.

45 (2)(1)(a) An individual with a disability is ~~The deaf,~~  
46 ~~hard of hearing, blind, visually handicapped, and otherwise~~  
47 ~~physically disabled~~ are entitled to full and equal  
48 accommodations, advantages, facilities, and privileges in ~~on~~ all  
49 public accommodations ~~common carriers, airplanes, motor~~  
50 ~~vehicles, railroad trains, motor buses, streetcars, boats, and~~  
51 ~~other public conveyances or modes of transportation and at~~  
52 ~~hotels, lodging places, places of public accommodation,~~  
53 ~~amusement, or resort, and other places to which the general~~  
54 ~~public is invited, subject only to the conditions and~~  
55 ~~limitations established by law and applicable alike to all~~  
56 ~~persons.~~ This section does not require any person, firm,  
57 business, or corporation, or any agent thereof, to modify or  
58 provide any vehicle, premises, facility, or service to a higher  
59 degree of accommodation than is required for a person not so  
60 disabled.

61 (3)(b) An individual with a disability ~~Every deaf or hard~~  
62 ~~of hearing person, totally or partially blind person, person who~~  
63 ~~is subject to epilepsy or other such seizure disorders, or~~  
64 ~~physically disabled person~~ has the right to be accompanied by a  
65 ~~dog guide or service~~ animal dog, ~~specially trained for the~~  
66 ~~purpose,~~ in all areas of a public accommodation that the public  
67 or customers are normally permitted to occupy ~~any of the places~~  
68 ~~listed in paragraph (a) without being required to pay an extra~~  
69 ~~charge for the dog guide or service dog; however, such a person~~

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70 ~~is liable for any damage done to the premises or facilities by~~  
71 ~~such a dog. The dog guide or service dog must be capable of~~  
72 ~~being properly identified as being from a recognized school for~~  
73 ~~seeing-eye dogs, hearing ear dogs, service dogs, including, but~~  
74 ~~not limited to, seizure-alert and seizure-response dogs, or~~  
75 ~~guide dogs.~~

76 (a) Documentation that the service animal is trained is  
77 not a precondition for providing service to an individual  
78 accompanied by a service animal. A public accommodation may ask  
79 if an animal is a service animal or what tasks the animal has  
80 been trained to perform in order to determine the difference  
81 between a service animal and a pet.

82 (b) A public accommodation may not impose a deposit or  
83 surcharge on an individual with a disability as a precondition  
84 to permitting a service animal to accompany the individual with  
85 a disability, even if a deposit is routinely required for pets.

86 (c) An individual with a disability is liable for damage  
87 caused by a service animal if it is the regular policy and  
88 practice of the public accommodation to charge nondisabled  
89 persons for damages caused by their pets.

90 (d) The care or supervision of a service animal is the  
91 responsibility of the individual owner. A public accommodation  
92 is not required to provide care or food or a special location  
93 for the service animal or assistance with removing animal  
94 excrement.

95 (e) A public accommodation may exclude or remove any  
96 animal from the premises, including a service animal, if the

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97 animal's behavior poses a direct threat to the health and safety  
98 of others. Allergies and fear of animals are not valid reasons  
99 for denying access or refusing service to an individual with a  
100 service animal. If a service animal is excluded or removed for  
101 being a direct threat to others, the public accommodation must  
102 provide the individual with a disability the option of  
103 continuing access to the public accommodation without having the  
104 service animal on the premises.

105 ~~(c) Every person with paraplegia or quadriplegia has the~~  
106 ~~right to be accompanied by a nonhuman primate of the genus~~  
107 ~~Cebus, specially trained for the purpose of providing personal~~  
108 ~~care services, in any of the places listed in paragraph (a)~~  
109 ~~without being required to pay an extra charge for the nonhuman~~  
110 ~~primate; however, such a person is liable for any damage done to~~  
111 ~~the premises or facilities by such nonhuman primate.~~

112 (4)(2) Any person, firm, or corporation, or the agent of  
113 any person, firm, or corporation, who denies or interferes with  
114 admittance to, or enjoyment of, a the public accommodation  
115 ~~facilities enumerated in subsection (1) or otherwise interferes~~  
116 ~~with the rights of an individual with a disability a deaf~~  
117 ~~person, a hard of hearing person, a totally or partially blind~~  
118 ~~person, a person who is subject to epilepsy or other such~~  
119 ~~seizure disorders, or an otherwise physically disabled person~~  
120 ~~under this section, or the trainer of a ~~dog~~ guide or service~~  
121 ~~animal ~~dog~~ while engaged in the training of such an animal such~~  
122 ~~a ~~dog~~ pursuant to subsection (8) ~~(7)~~, commits ~~is guilty of a~~~~

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123 misdemeanor of the second degree, punishable as provided in s.  
124 775.082 or s. 775.083.

125 ~~(5)(3)~~ It is the policy of this state that an individual  
126 with a disability ~~the deaf, hard of hearing, blind, visually~~  
127 ~~handicapped, and otherwise physically disabled~~ shall be employed  
128 in the service of the state or political subdivisions of the  
129 state, in the public schools, and in all other employment  
130 supported in whole or in part by public funds, and an employer  
131 may not refuse employment to such a person ~~the deaf, the hard of~~  
132 ~~hearing, the blind, the visually handicapped, or the otherwise~~  
133 ~~physically disabled~~ on the basis of the disability alone, unless  
134 it is shown that the particular disability prevents the  
135 satisfactory performance of the work involved.

136 ~~(6)(4)~~ An individual with a disability is ~~Deaf persons,~~  
137 ~~hard of hearing persons, blind persons, visually handicapped~~  
138 ~~persons, and otherwise physically disabled persons~~ are entitled  
139 to rent, lease, or purchase, as other members of the general  
140 public, any housing accommodations offered for rent, lease, or  
141 other compensation in this state, subject to the conditions and  
142 limitations established by law and applicable alike to all  
143 persons.

144 ~~(a)~~ ~~As used in this subsection, the term "housing~~  
145 ~~accommodations" means any real property or portion thereof which~~  
146 ~~is used or occupied, or intended, arranged, or designed to be~~  
147 ~~used or occupied, as the home, residence, or sleeping place of~~  
148 ~~one or more human beings, but does not include any single-family~~

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149 ~~residence the occupants of which rent, lease, or furnish for~~  
150 ~~compensation not more than one room therein.~~

151 ~~(a)(b)~~ This section does not require any person renting,  
152 leasing, or otherwise providing real property for compensation  
153 to modify her or his property in any way or provide a higher  
154 degree of care for an individual with a disability ~~a deaf~~  
155 ~~person, hard of hearing person, blind person, visually~~  
156 ~~handicapped person, or otherwise physically disabled person than~~  
157 ~~for a person who is not disabled so handicapped.~~

158 ~~(b)(e)~~ An individual with a disability ~~Each deaf person,~~  
159 ~~hard of hearing person, totally or partially blind person, or~~  
160 ~~otherwise physically disabled person who has a service animal~~  
161 ~~dog guide, or who obtains a service animal dog guide, is~~  
162 entitled to full and equal access to all housing accommodations  
163 provided for in this section, and such a person may ~~shall~~ not be  
164 required to pay extra compensation for the service animal ~~dog~~  
165 ~~guide~~. However, such a person is liable for any damage done to  
166 the premises or to another person on the premises by such an  
167 animal ~~a dog guide~~. A housing accommodation may request proof of  
168 compliance with vaccination requirements.

169 ~~(d)~~ ~~Each person with paraplegia or quadriplegia who has or~~  
170 ~~obtains a nonhuman primate of the genus Cebus, specially trained~~  
171 ~~for the purpose of providing personal care services, is entitled~~  
172 ~~to full and equal access to all housing accommodations provided~~  
173 ~~for in this section, and she or he shall not be required to pay~~  
174 ~~extra compensation for such a nonhuman primate. However, the~~

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175 ~~person is liable for any damage done to the premises by such a~~  
176 ~~nonhuman primate.~~

177 ~~(7)(5)~~ An ~~Any~~ employer covered under subsection (5) ~~(3)~~  
178 who discriminates against an individual with a disability ~~the~~  
179 ~~deaf, hard of hearing, blind, visually handicapped, or otherwise~~  
180 ~~physically disabled~~ in employment, unless it is shown that the  
181 particular disability prevents the satisfactory performance of  
182 the work involved, or any person, firm, or corporation, or the  
183 agent of any person, firm, or corporation, providing housing  
184 accommodations as provided in subsection (6)~~(4)~~ who  
185 discriminates against an individual with a disability ~~commits~~  
186 ~~the deaf, hard of hearing, blind, visually handicapped, or~~  
187 ~~otherwise physically disabled is guilty of a misdemeanor of the~~  
188 second degree, punishable as provided in s. 775.082 or s.  
189 775.083.

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

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

198 ~~(8)(7)~~ Any trainer of a ~~dog guide or service~~ animal ~~dog,~~  
199 while engaged in the training of such an animal ~~a dog,~~ has the  
200 same rights and privileges with respect to access to public  
201 facilities and the same liability for damage as is provided for

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202 those persons described in subsection (3) ~~paragraph (1)(b)~~  
203 accompanied by service animals ~~dog guides or service dogs~~.

204 ~~(8) Any trainer of a nonhuman primate of the genus Cebus,~~  
205 ~~while engaged in training such a nonhuman primate to provide~~  
206 ~~personal care services to a person with paraplegia or~~  
207 ~~quadriplegia, has the same rights and privileges with respect to~~  
208 ~~access to public facilities and the same liability for damage as~~  
209 ~~is provided for a person with paraplegia or quadriplegia who is~~  
210 ~~accompanied by nonhuman primates of the genus Cebus. As used in~~  
211 ~~this subsection, the term "trainer of a nonhuman primate of the~~  
212 ~~genus Cebus" means a paid employee of a training organization,~~  
213 ~~and does not include volunteers chosen to raise the animals.~~

214 Section 2. Section 413.081, Florida Statutes, is amended  
215 to read:

216 413.081 Interference with or injury to a ~~guide dog or~~  
217 service animal; penalties; restitution.--

218 (1) A ~~Any~~ person who, with reckless disregard, interferes  
219 with, or permits a dog that he or she owns or is in the  
220 immediate control of to interfere, with, the use of a ~~guide dog~~  
221 ~~or~~ service animal by obstructing, intimidating, or otherwise  
222 jeopardizing the safety of the service animal or its user  
223 commits ~~is guilty of~~ a misdemeanor of the second degree for the  
224 first offense and a misdemeanor of the first degree for each  
225 subsequent offense, punishable as provided in s. 775.082 or s.  
226 775.083.

227 (2) A ~~Any~~ person who, with reckless disregard, injures or  
228 kills, or permits a dog that he or she owns or is in the

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229 immediate control of to injure or kill, a ~~guide dog or~~ service  
230 animal commits ~~is guilty of~~ a misdemeanor of the first degree,  
231 punishable as provided in s. 775.082 or s. 775.083.

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

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

242 (b) Restitution includes the value of the service animal;  
243 replacement and training or retraining expenses for the service  
244 animal and the user; veterinary and other medical and boarding  
245 expenses for the service animal; medical expenses for the user;  
246 and lost wages or income incurred by the user during any period  
247 that the user is without the services of the service ~~such an~~  
248 animal.

249 ~~(5) As used in this section, the term:~~

250 ~~(a) "Guide dog" means a dog that is trained for the~~  
251 ~~purpose of guiding blind persons or a dog trained for the~~  
252 ~~purpose of assisting hearing impaired persons.~~

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

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256       Section 3. The Florida Americans with Disabilities Act  
 257 Working Group and the Commission on Human Relations, jointly,  
 258 are directed to provide to the Executive Office of the Governor  
 259 recommendations that identify specific policies that the state  
 260 can implement to ensure the effectiveness of this act and  
 261 improve access for individuals with disabilities who are  
 262 accompanied by service animals.

263       Section 4. This act shall take effect July 1, 2005.

264

265 ===== T I T L E   A M E N D M E N T =====

266       Remove the entire title and insert:

267                       A bill to be entitled

268       An act relating to individuals with disabilities; amending  
 269       s. 413.08, F.S.; providing definitions; providing that an  
 270       individual with a disability has full and equal access to  
 271       and enjoyment of public accommodations; providing that an  
 272       individual with a disability may be accompanied by a  
 273       service animal in places of public accommodation;  
 274       requiring that a service animal be given access to all  
 275       areas of a public accommodation that the public or  
 276       customers are normally permitted to occupy; directing that  
 277       documentation that a service animal is trained may not be  
 278       a precondition for providing service to an individual  
 279       accompanied by a service animal; prohibiting a public  
 280       accommodation from imposing a deposit or surcharge on an  
 281       individual with a disability as a precondition to  
 282       permitting a service animal to accompany the individual;

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HOUSE AMENDMENT

Bill No. CS/CS/SB 434

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283 providing that an individual with a disability may be  
284 liable for damage caused by a service animal; providing  
285 that the animal's owner is responsible for the care and  
286 supervision of a service animal; providing that the public  
287 accommodation is not required to provide care or food or a  
288 special location for a service animal; providing that a  
289 public accommodation may exclude or remove any animal from  
290 the premises if the animal's behavior poses a direct  
291 threat to the health and safety of others; providing that  
292 the trainer of a service animal has the same rights and  
293 privileges as a person with a disability while training  
294 the service animal; providing that a housing accommodation  
295 may request proof of compliance with vaccination  
296 requirements; amending s. 413.081, F.S.; conforming  
297 provisions to changes made by the act; directing the  
298 Florida Americans with Disabilities Act Working Group and  
299 the Commission on Human Relations to provide  
300 recommendations to the Executive Office of the Governor;  
301 providing an effective date.

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