

By Senator Wise

5-294-05

1                                   A bill to be entitled  
2           An act relating to 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          requiring that a service animal be given access  
17          to all areas of a government facility or public  
18          accommodation that the public or customers are  
19          normally permitted to occupy; prohibiting  
20          segregating an individual with a service animal  
21          from other customers or the public; prohibiting  
22          a public accommodation from imposing a deposit  
23          or surcharge on an individual with a disability  
24          as a precondition to permitting a service  
25          animal to accompany the individual; providing  
26          that an individual with a disability may be  
27          liable for damage caused by a service animal;  
28          providing that the animal's owner is  
29          responsible for the care and supervision of a  
30          service animal; providing that the public  
31          accommodation or government entity is not

1 required to provide care or food or a special  
2 location for a service animal; providing that a  
3 public accommodation or government entity may  
4 exclude or remove any animal from the premises  
5 if the animal's behavior poses a direct threat  
6 to the health and safety of others; increasing  
7 certain penalties for violations of the act;  
8 providing that the trainer of a service animal  
9 has the same rights and privileges as a person  
10 with a disability while training the service  
11 animal; amending s. 413.081, F.S.; conforming  
12 provisions to changes made by the act;  
13 providing an effective date.  
14

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

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

19 413.08 Rights of individuals with disabilities who  
20 ~~physically disabled persons;~~ use of ~~dog guides or service~~  
21 animals dogs or nonhuman primates of the genus Cebus;  
22 discrimination in public employment or housing accommodations;  
23 penalties.--

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

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

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

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

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

13           **2. A restaurant, bar, or other establishment serving**  
14 **food or drink;**

15           **3. A motion picture house, theater, concert hall,**  
16 **stadium, or other place of gathering;**

17           **4. An auditorium, convention center, lecture hall, or**  
18 **other place of exhibition or entertainment;**

19           **5. A bakery, grocery store, clothing store, hardware**  
20 **store, shopping center, or other sales or rental**  
21 **establishment;**

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

26           **7. A terminal, depot, or other station used for**  
27 **specified public transportation;**

28           **8. A museum, library, gallery, or other place of**  
29 **public display or collection;**

30           **9. A park, zoo, amusement park, or other place of**  
31 **recreation;**

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

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

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

14           ~~(2)(1)(a)~~ An individual with a disability is ~~The deaf,~~  
15 ~~hard of hearing, blind, visually handicapped, and otherwise~~  
16 ~~physically disabled~~ are entitled to full and equal  
17 accommodations, advantages, facilities, and privileges on all  
18 common carriers, airplanes, motor vehicles, railroad trains,  
19 motor buses, streetcars, boats, and other public conveyances  
20 or modes of transportation; in all state and local government  
21 facilities, programs, services, and activities; and at hotels,  
22 ~~lodging places,~~ places of public accommodations ~~accommodation,~~  
23 ~~amusement, or resort,~~ and other places to which the general  
24 public is invited, subject only to the conditions and  
25 limitations established by law and applicable alike to all  
26 persons. This section does not require any person, firm, or  
27 corporation, or any agent thereof, to modify or provide any  
28 vehicle, premises, facility, or service to a higher degree of  
29 accommodation than is required for a person not so disabled.

30           ~~(3)(b)~~ Every individual with a disability ~~deaf or hard~~  
31 ~~of hearing person, totally or partially blind person, person~~

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

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

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

25 (6)(a) A public accommodation may not impose a deposit  
26 or surcharge on an individual with a disability as a  
27 precondition to permitting a service animal to accompany the  
28 individual with a disability, even if a deposit is routinely  
29 required for pets.

30 (b) An individual with a disability is liable for  
31 damage caused by a service animal if it is the regular policy

1 and practice of the public accommodation to charge nondisabled  
2 persons for damages caused by their pets.

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

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

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

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

28 (9)(2) Any person, firm, ~~business,~~ or corporation, or  
29 the agent of any person, firm, ~~business,~~ or corporation, who  
30 denies or interferes with admittance to, or enjoyment of, the  
31 public accommodation of, ~~facilities enumerated in subsection~~

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

11 ~~(10)(3)~~ It is the policy of this state that  
12 individuals with disabilities ~~the deaf, hard of hearing,~~  
13 ~~blind, visually handicapped, and otherwise physically disabled~~  
14 ~~shall~~ be employed in the service of the state or political  
15 subdivisions of the state, in the public schools, and in all  
16 other employment supported in whole or in part by public  
17 funds, and an employer may not refuse employment to an  
18 individual with a disability ~~the deaf, the hard of hearing,~~  
19 ~~the blind, the visually handicapped, or the otherwise~~  
20 ~~physically disabled~~ on the basis of the disability alone,  
21 ~~unless it is shown that the particular disability prevents the~~  
22 ~~satisfactory performance of the work involved.~~

23 ~~(11)(4)~~ Each individual with a disability is ~~Deaf~~  
24 ~~persons, hard of hearing persons, blind persons, visually~~  
25 ~~handicapped persons, and otherwise physically disabled persons~~  
26 ~~are~~ entitled to rent, lease, or purchase, as other members of  
27 the general public, any housing accommodations offered for  
28 rent, lease, or other compensation in this state, subject to  
29 the conditions and limitations established by law and  
30 applicable alike to all persons.

31

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

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

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

25           ~~(d) Each person with paraplegia or quadriplegia who~~  
26 ~~has or obtains a nonhuman primate of the genus Cebus,~~  
27 ~~specially trained for the purpose of providing personal care~~  
28 ~~services, is entitled to full and equal access to all housing~~  
29 ~~accommodations provided for in this section, and she or he~~  
30 ~~shall not be required to pay extra compensation for such a~~  
31



1 ~~nonhuman primate. However, the person is liable for any damage~~  
2 ~~done to the premises by such a nonhuman primate.~~

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

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

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

25 ~~(14)(7)~~ Any trainer of a ~~dog guide or service~~ animal  
26 ~~dog,~~ while engaged in the training of the service animal ~~such~~  
27 ~~a dog,~~ has the same rights and privileges with respect to  
28 access to public facilities and the same liability for damage  
29 as is provided for individuals with a disability ~~those persons~~  
30 ~~described in paragraph (1)(b) accompanied by a service animal~~  
31 ~~dog guides or service dogs.~~

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

12           Section 2. Section 413.081, Florida Statutes, is  
13 amended to read:

14           413.081 Interference with or injury to a ~~guide dog or~~  
15 service animal; penalties; restitution.--

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

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

30           (3) A ~~Any~~ person who intentionally injures or kills,  
31 or permits a dog that he or she owns or is in the immediate

1 control of to injure or kill, a ~~guide dog or~~ service animal  
2 ~~commits is guilty of~~ a felony of the third degree, punishable  
3 as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

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

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

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

25 ~~(a) "Guide dog" means a dog that is trained for the~~  
26 ~~purpose of guiding blind persons or a dog trained for the~~  
27 ~~purpose of assisting hearing impaired persons.~~

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

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

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SENATE SUMMARY

1  
2  
3 Provides that an individual with a disability has full  
4 and equal access to and enjoyment of public  
5 accommodations and state and local facilities, programs,  
6 services, and activities. Provides that an individual  
7 with a disability may be accompanied by a service animal  
8 in places of public accommodation and in state and local  
9 facilities. Directs that documentation that a service  
10 animal is trained may not be a precondition for providing  
11 service to an individual accompanied by a service animal.  
12 Provides that a service animal has access to all areas of  
13 a government facility or public accommodation that the  
14 public or customers are normally permitted to occupy.  
15 Directs that an individual with a service animal may not  
16 be segregated from other customers or the public and that  
17 a public accommodation may not impose a deposit or  
18 surcharge on an individual with a disability as a  
19 precondition to permitting a service animal to accompany  
20 the individual. Provides that an individual with a  
21 disability may be liable for damage caused by a service  
22 animal. Provides that the public accommodation or  
23 government entity is not required to provide care or food  
24 or a special location for a service animal. Provides that  
25 a public accommodation or government entity may exclude  
26 or remove any animal from the premises if the animal's  
27 behavior poses a direct threat to the health and safety  
28 of others. Increases certain penalties for violations of  
29 the act. Declares that the trainer of a service animal  
30 has the same rights and privileges as a person with a  
31 disability while training the service animal.