

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; providing that a housing accommodation  
 12 may request proof of compliance with  
 13 vaccination requirements; amending s. 413.081,  
 14 F.S.; conforming provisions to changes made by  
 15 the act; providing an effective date.

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

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

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

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

27 (a) "Direct threat" means a determination that the  
 28 person poses a significant risk to the health and safety of  
 29 others which cannot be eliminated or reduced to an acceptable  
 30 level. A direct threat cannot be based on generalizations or  
 31 stereotypes about the effects of a particular disability; it

1 must be based on an individual assessment that considers the  
2 particular activity and the actual abilities and disabilities  
3 of the individual. The assessment of a direct threat must be  
4 based on reasonable judgment that relies on current medical  
5 evidence, or on the best available objective evidence, to  
6 determine the nature, duration, and severity of the risk; the  
7 probability that the potential injury will actually occur; and  
8 whether reasonable modifications of policies, practices, or  
9 procedures will mitigate or eliminate the risk.

10 (b) "Housing accommodation" means any real property or  
11 portion thereof which is used or occupied, or intended,  
12 arranged, or designed to be used or occupied, as a home,  
13 residence, or sleeping place of one or more human beings. The  
14 term does not include a single-family residence if the  
15 occupants rent or lease to others for compensation not more  
16 than one room in the residence.

17 (c) "Individual with a disability" means a person who  
18 has a physical or mental impairment that substantially limits  
19 one or more of his or her major life activities, has a record  
20 of such an impairment, or is regarded as having such an  
21 impairment. The term does not include an individual who has  
22 any of the following conditions: homosexuality, bisexuality,  
23 transvestism, transsexualism, pedophilia, exhibitionism,  
24 voyeurism, a gender-identity disorder not resulting from  
25 physical impairments, any other sexual-behavior disorder,  
26 compulsive gambling, kleptomania, pyromania, or a psychoactive  
27 substance abuse disorder resulting from the current illegal  
28 use of drugs, or an individual who currently engages in the  
29 use of illegal drugs.

30 (d) "Major life activities" means activities that an  
31 average person can perform with little or no difficulty,

1 including, but not limited to, walking, speaking, breathing,  
2 performing manual tasks, seeing, hearing, learning, caring for  
3 oneself, working, standing, lifting, and reading.

4 (e) "Mental impairment" means any mental or  
5 psychological disorder, such as mental retardation, organic  
6 brain syndrome, emotional or mental illness, and specific  
7 learning disabilities.

8 (f) "Physical impairment" means a physiological  
9 disorder or condition, cosmetic disfigurement, or anatomical  
10 loss affecting one or more of the following body systems:  
11 neurological; musculoskeletal; sensory organs; respiratory,  
12 including speech organs; cardiovascular; reproductive;  
13 digestive; genitourinary; hemic and lymphatic; skin; and  
14 endocrine.

15 (g) "Place of public accommodation" means a facility,  
16 operated by a private person, whose operations affect commerce  
17 and fall within at least one of the following categories:

18 1. An inn, hotel, motel, or other place of lodging,  
19 except for an establishment located within a building that  
20 contains not more than five rooms for rent or hire and that is  
21 actually occupied by the proprietor of the establishment as  
22 the residence of the proprietor;

23 2. A restaurant, bar, or other establishment serving  
24 food or drink;

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

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

29 5. A bakery, grocery store, clothing store, hardware  
30 store, shopping center, or other sales or rental  
31 establishment;

1           6. A laundromat, dry cleaner, bank, barber shop,  
2 beauty shop, travel service, shoe repair service, funeral  
3 parlor, gas station, office of a health care provider,  
4 hospital, or other service establishment;

5           7. A terminal, depot, or other station used for  
6 specified public transportation;

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

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

11           10. A day care center, senior citizen center, homeless  
12 shelter, food bank, adoption agency, or other social services  
13 establishment; and

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

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

24           (i) "Substantially limits" means the impact of the  
25 condition renders the individual unable to perform an activity  
26 compared to an average person in the general population.  
27 Factors to consider in determining whether an impairment  
28 substantially limits a major life activity include the nature  
29 and severity of the impairment, how long it will last or is  
30 expected to last, and its permanent or long-term impact or  
31 expected impact.

1            (j) "Undue burden" means a significant difficulty or  
2 expense that is determined by considering:

3            1. The nature and costs of the action needed under  
4 this part;

5            2. The overall financial resources of the site  
6 involved in the action, the number of persons employed at the  
7 site; the effect on expenses and resources; safety  
8 requirements that are necessary for safe operation, including  
9 crime-prevention measures, and the impact of the action upon  
10 the operation of the site;

11           3. The geographic separation and the administrative or  
12 fiscal relationship of the site in question to a parent  
13 corporation or entity;

14           4. If applicable, the overall financial resources of a  
15 parent corporation or entity; the overall size of the parent  
16 corporation or entity with respect to its number of employees;  
17 and the number, type, and location of its facilities; and

18           5. If applicable, the type of operations of a parent  
19 corporation or entity, including the composition, structure,  
20 and functions of the workforce of the parent corporation or  
21 entity.

22           ~~(2)(1)(a) An individual with a disability is The deaf,~~  
23 ~~hard of hearing, blind, visually handicapped, and otherwise~~  
24 ~~physically disabled are entitled to full and equal~~  
25 accommodations, advantages, benefits, facilities, and  
26 privileges on all common carriers, airplanes, motor vehicles,  
27 railroad trains, motor buses, streetcars, boats, and other  
28 public conveyances or modes of transportation; in all state  
29 and local government facilities, programs, services, and  
30 activities; and at ~~hotels, lodging places,~~ places of public  
31 accommodations accommodation, amusement, or resort, and other

1 places to which the general public is invited, subject only to  
2 the conditions and limitations established by law and  
3 applicable alike to all persons. ~~This section does not require~~  
4 ~~any person, firm, or corporation, or any agent thereof, to~~  
5 ~~modify or provide any vehicle, premises, facility, or service~~  
6 ~~to a higher degree of accommodation than is required for a~~  
7 ~~person not so disabled.~~

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

23 (4) State and local governmental entities and public  
24 accommodations must accommodate service animals that assist  
25 individuals with disabilities unless doing so would result in  
26 an undue burden or fundamental alteration to the nature of the  
27 program, activity, service, facility, or business.

28 (5) Documentation that the service animal is trained  
29 is not a precondition for providing service to an individual  
30 accompanied by a service animal. A public accommodation or  
31 government entity may ask if an animal is a service animal or

1 what tasks the animal has been trained to perform in order to  
2 determine the difference between a service animal and a pet.

3 (6) A service animal may accompany the individual with  
4 a disability to all areas of a government facility or public  
5 accommodation that the public or customers are normally  
6 permitted to occupy. An individual with a service animal may  
7 not be segregated or treated in a manner that is unequal to  
8 that extended to other customers or the public.

9 (7)(a) A public accommodation may not impose a deposit  
10 or surcharge on an individual with a disability as a  
11 precondition to permitting a service animal to accompany the  
12 individual with a disability, even if a deposit is routinely  
13 required for pets.

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

18 (8) The care or supervision of a service animal is the  
19 responsibility of the individual owner. A public accommodation  
20 or government entity is not required to provide care or food  
21 or a special location for the service animal or assistance  
22 with removing animal excrement.

23 (9)(a) A public accommodation or government entity may  
24 exclude or remove any animal from the premises, including a  
25 service animal, if the animal's behavior poses a direct threat  
26 to the health and safety of others. Allergies and fear of  
27 animals are not valid reasons for denying access or refusing  
28 service to an individual with a service animal. The perception  
29 of a threat or fear based on past experience does not  
30 constitute a direct threat.

31



1           **(b)** ~~If a service animal is excluded or removed as~~  
 2 ~~being a direct threat to others, the public accommodation or~~  
 3 ~~government entity must provide the individual with a~~  
 4 ~~disability the option of continuing access to the public~~  
 5 ~~accommodation or government entity without having the service~~  
 6 ~~animal on the premises.~~

7           ~~(c) Every person with paraplegia or quadriplegia has~~  
 8 ~~the right to be accompanied by a nonhuman primate of the genus~~  
 9 ~~Cebus, specially trained for the purpose of providing personal~~  
 10 ~~care services, in any of the places listed in paragraph (a)~~  
 11 ~~without being required to pay an extra charge for the nonhuman~~  
 12 ~~primate; however, such a person is liable for any damage done~~  
 13 ~~to the premises or facilities by such nonhuman primate.~~

14           ~~(10)(2)~~ Any person, firm, business, or corporation, or  
 15 the agent of any person, firm, business, or corporation, who  
 16 denies or interferes with admittance to, or enjoyment of, the  
 17 public accommodation of, ~~facilities enumerated in subsection~~  
 18 ~~(1)~~ or otherwise interferes with the rights of, an individual  
 19 with a disability ~~a deaf person, a hard of hearing person, a~~  
 20 ~~totally or partially blind person, a person who is subject to~~  
 21 ~~epilepsy or other such seizure disorders, or an otherwise~~  
 22 ~~physically disabled person~~ under this section, or the trainer  
 23 of a ~~dog guide or service animal dog~~ animal ~~dog~~ while engaged in the  
 24 training of the animal under ~~such a dog pursuant to~~ subsection  
 25 ~~(14)(7)~~, commits is guilty of a misdemeanor of the second  
 26 degree for the first offense and a misdemeanor of the first  
 27 degree for each subsequent offense, punishable as provided in  
 28 s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

29           ~~(11)(3)~~ It is the policy of this state that  
 30 individuals with disabilities ~~the deaf, hard of hearing,~~  
 31 ~~blind, visually handicapped, and otherwise physically disabled~~

1 ~~shall~~ be employed in the service of the state or political  
2 subdivisions of the state, in the public schools, and in all  
3 other employment supported in whole or in part by public  
4 funds, and an employer may not refuse employment to an  
5 individual with a disability ~~the deaf, the hard of hearing,~~  
6 ~~the blind, the visually handicapped, or the otherwise~~  
7 ~~physically disabled~~ on the basis of the disability alone,  
8 ~~unless it is shown that the particular disability prevents the~~  
9 ~~satisfactory performance of the work involved.~~

10 (12)(4) Each individual with a disability is Deaf  
11 persons, hard of hearing persons, blind persons, visually  
12 handicapped persons, and otherwise physically disabled persons  
13 ~~are~~ entitled to rent, lease, or purchase, as other members of  
14 the general public, any housing accommodations offered for  
15 rent, lease, or other compensation in this state, subject to  
16 the conditions and limitations established by law and  
17 applicable alike to all persons.

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

25 ~~(b) This section does not require any person renting,~~  
26 ~~leasing, or otherwise providing real property for compensation~~  
27 ~~to modify her or his property in any way or provide a higher~~  
28 ~~degree of care for a deaf person, hard of hearing person,~~  
29 ~~blind person, visually handicapped person, or otherwise~~  
30 ~~physically disabled person than for a person who is not so~~  
31 ~~handicapped.~~

1           (13)(c) Each individual with a disability ~~deaf person,~~  
 2 ~~hard of hearing person, totally or partially blind person, or~~  
 3 ~~otherwise physically disabled person~~ who has a service animal  
 4 ~~dog guide,~~ or who obtains a service animal ~~dog guide,~~ is  
 5 entitled to full and equal access to all housing  
 6 accommodations provided for in this section, and ~~the such a~~  
 7 person ~~may shall~~ not be required to pay extra compensation for  
 8 the service animal ~~dog guide~~. However, an individual with a  
 9 disability ~~such a person~~ is liable for any damage done to the  
 10 premises or to another person on the premises by the service  
 11 animal ~~such a dog guide~~. A housing accommodation may request  
 12 proof of compliance with vaccination requirements.

13           ~~(d) Each person with paraplegia or quadriplegia who~~  
 14 ~~has or obtains a nonhuman primate of the genus Cebus,~~  
 15 ~~specially trained for the purpose of providing personal care~~  
 16 ~~services, is entitled to full and equal access to all housing~~  
 17 ~~accommodations provided for in this section, and she or he~~  
 18 ~~shall not be required to pay extra compensation for such a~~  
 19 ~~nonhuman primate. However, the person is liable for any damage~~  
 20 ~~done to the premises by such a nonhuman primate.~~

21           ~~(14)(5) An Any~~ employer covered under subsection (11)  
 22 ~~(3)~~ who discriminates against an individual with a disability  
 23 ~~the deaf, hard of hearing, blind, visually handicapped, or~~  
 24 ~~otherwise physically disabled in employment, unless it is~~  
 25 ~~shown that the particular disability prevents the satisfactory~~  
 26 ~~performance of the work involved, or any person, firm, or~~  
 27 ~~corporation,~~ or the agent of any person, firm, business, or  
 28 corporation, providing housing accommodations as provided in  
 29 subsection ~~(12)(4)~~ who discriminates against an individual  
 30 with a disability ~~commits the deaf, hard of hearing, blind,~~  
 31 ~~visually handicapped, or otherwise physically disabled is~~

1 ~~guilty of~~ a misdemeanor of the second degree for the first  
2 offense and a misdemeanor of the first degree for each  
3 subsequent offense, punishable as provided in s. 775.082, ~~or~~  
4 s. 775.083, or s. 755.084.

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

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

14 ~~(15)(7) Any trainer of a dog guide or service animal~~  
15 ~~dog~~, while engaged in the training of the service animal such  
16 ~~a dog~~, has the same rights and privileges with respect to  
17 access to public facilities and the same liability for damage  
18 as is provided for individuals with a disability ~~those persons~~  
19 ~~described in paragraph (1)(b) accompanied by a service animal~~  
20 ~~dog guides or service dogs.~~

21 ~~(8) Any trainer of a nonhuman primate of the genus~~  
22 ~~Cebus, while engaged in training such a nonhuman primate to~~  
23 ~~provide personal care services to a person with paraplegia or~~  
24 ~~quadriplegia, has the same rights and privileges with respect~~  
25 ~~to access to public facilities and the same liability for~~  
26 ~~damage as is provided for a person with paraplegia or~~  
27 ~~quadriplegia who is accompanied by nonhuman primates of the~~  
28 ~~genus Cebus. As used in this subsection, the term "trainer of~~  
29 ~~a nonhuman primate of the genus Cebus" means a paid employee~~  
30 ~~of a training organization, and does not include volunteers~~  
31 ~~chosen to raise the animals.~~

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

3 413.081 Interference with or injury to ~~a guide dog or~~  
4 service animal; penalties; restitution.--

5 (1) ~~A Any~~ A person who, with reckless disregard,  
6 interferes with, or permits any animal ~~a dog~~ that he or she  
7 owns or is in the immediate control of to interfere~~r~~ with the  
8 use of a ~~guide dog or~~ service animal by obstructing,  
9 intimidating, or otherwise jeopardizing the safety of the  
10 service animal or its user commits is guilty of a misdemeanor  
11 of the second degree for the first offense and a misdemeanor  
12 of the first degree for each subsequent offense, punishable as  
13 provided in s. 775.082 or s. 775.083.

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

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

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

29 (b) Restitution includes the value of the service  
30 animal; replacement and training or retraining expenses for  
31 the service animal and the user; veterinary and other medical

1 and boarding expenses for the service animal; medical expenses  
2 for the user; and lost wages or income incurred by the user  
3 during any period that the user is without the services of the  
4 service ~~such an~~ animal.

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

14 ~~(a) "Guide dog" means a dog that is trained for the~~  
15 ~~purpose of guiding blind persons or a dog trained for the~~  
16 ~~purpose of assisting hearing impaired persons.~~

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

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