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2015 Legislature

1  
 2 An act relating to service animals; amending s.  
 3 413.08, F.S.; providing and revising definitions;  
 4 requiring a public accommodation to permit use of a  
 5 service animal by an individual with a disability  
 6 under certain circumstances; providing conditions for  
 7 a public accommodation to exclude or remove a service  
 8 animal; revising penalties for certain persons or  
 9 entities who interfere with use of a service animal in  
 10 specified circumstances; providing a penalty for  
 11 knowing and willful misrepresentation with respect to  
 12 use or training of a service animal; providing an  
 13 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 amended to  
 18 read:

19 413.08 Rights and responsibilities of an individual with a  
 20 disability; use of a service animal; prohibited discrimination  
 21 in public employment, public accommodations, and ~~or~~ housing  
 22 accommodations; penalties.-

23 (1) As used in this section and s. 413.081, the term:

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

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27 residence, or sleeping place of one or more persons, but does  
 28 not include any single-family residence, the occupants of which  
 29 rent, lease, or furnish for compensation not more than one room  
 30 therein.

31 (b) "Individual with a disability" means a person who has  
 32 a physical or mental impairment that substantially limits one or  
 33 more major life activities of the individual ~~is deaf, hard of~~  
 34 ~~hearing, blind, visually impaired, or otherwise physically~~  
 35 ~~disabled~~. As used in this paragraph, the term:

36 1. "Major life activity" means a function such as caring  
 37 for one's self, performing manual tasks, walking, seeing,  
 38 hearing, speaking, breathing, learning, and working ~~"Hard of~~  
 39 ~~hearing" means an individual who has suffered a permanent~~  
 40 ~~hearing impairment that is severe enough to necessitate the use~~  
 41 ~~of amplification devices to discriminate speech sounds in verbal~~  
 42 ~~communication.~~

43 2. "Physical or mental impairment" means:

44 a. A physiological disorder or condition, disfigurement,  
 45 or anatomical loss that affects one or more bodily functions; or

46 b. A mental or psychological disorder that meets one of  
 47 the diagnostic categories specified in the most recent edition  
 48 of the Diagnostic and Statistical Manual of Mental Disorders  
 49 published by the American Psychiatric Association, such as an  
 50 intellectual or developmental disability, organic brain  
 51 syndrome, traumatic brain injury, posttraumatic stress disorder,  
 52 or an emotional or mental illness ~~"Physically disabled" means~~

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53 ~~any person who has a physical impairment that substantially~~  
54 ~~limits one or more major life activities.~~

55 (c) "Public accommodation" means a common carrier,  
56 airplane, motor vehicle, railroad train, motor bus, streetcar,  
57 boat, or other public conveyance or mode of transportation;  
58 hotel; a timeshare that is a transient public lodging  
59 establishment as defined in s. 509.013; lodging place; place of  
60 public accommodation, amusement, or resort; and other places to  
61 which the general public is invited, subject only to the  
62 conditions and limitations established by law and applicable  
63 alike to all persons. The term does not include air carriers  
64 covered by the Air Carrier Access Act of 1986, 49 U.S.C. s.  
65 41705, and by regulations adopted by the United States  
66 Department of Transportation to implement such act.

67 (d) "Service animal" means an animal that is trained to do  
68 work or perform tasks for an individual with a disability,  
69 including a physical, sensory, psychiatric, intellectual, or  
70 other mental disability. The work done or tasks performed must  
71 be directly related to the individual's disability and may  
72 include, but are not limited to, guiding an individual ~~a person~~  
73 who is visually impaired or blind, alerting an individual ~~a~~  
74 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,  
75 assisting with mobility or balance, alerting and protecting an  
76 individual ~~a person~~ who is having a seizure, retrieving objects,  
77 alerting an individual to the presence of allergens, providing  
78 physical support and assistance with balance and stability to an

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79 individual with a mobility disability, helping an individual  
80 with a psychiatric or neurological disability by preventing or  
81 interrupting impulsive or destructive behaviors, reminding an  
82 individual with mental illness to take prescribed medications,  
83 calming an individual with posttraumatic stress disorder during  
84 an anxiety attack, or doing other specific work or performing  
85 other special tasks. A service animal is not a pet. For purposes  
86 of subsections (2), (3), and (4), the term "service animal" is  
87 limited to a dog or miniature horse. The crime-deterrent effect  
88 of an animal's presence and the provision of emotional support,  
89 well-being, comfort, or companionship do not constitute work or  
90 tasks for purposes of this definition.

91 (2) An individual with a disability is entitled to full  
92 and equal accommodations, advantages, facilities, and privileges  
93 in all public accommodations. A public accommodation must modify  
94 its policies, practices, and procedures to permit use of a  
95 service animal by an individual with a disability. This section  
96 does not require any person, firm, business, or corporation, or  
97 any agent thereof, to modify or provide any vehicle, premises,  
98 facility, or service to a higher degree of accommodation than is  
99 required for a person not so disabled.

100 (3) An individual with a disability has the right to be  
101 accompanied by a service animal in all areas of a public  
102 accommodation that the public or customers are normally  
103 permitted to occupy.

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104        (a) The service animal must be under the control of its  
 105 handler and must have a harness, leash, or other tether, unless  
 106 either the handler is unable because of a disability to use a  
 107 harness, leash, or other tether, or the use of a harness, leash,  
 108 or other tether would interfere with the service animal's safe,  
 109 effective performance of work or tasks, in which case the  
 110 service animal must be otherwise under the handler's control by  
 111 means of voice control, signals, or other effective means.

112        (b)~~(a)~~ Documentation that the service animal is trained is  
 113 not a precondition for providing service to an individual  
 114 accompanied by a service animal. A public accommodation may not  
 115 ask about the nature or extent of an individual's disability. To  
 116 determine the difference between a service animal and a pet, a  
 117 public accommodation may ask if an animal is a service animal  
 118 required because of a disability and what work or ~~what~~ tasks the  
 119 animal has been trained to perform ~~in order to determine the~~  
 120 ~~difference between a service animal and a pet.~~

121        (c)~~(b)~~ A public accommodation may not impose a deposit or  
 122 surcharge on an individual with a disability as a precondition  
 123 to permitting a service animal to accompany the individual with  
 124 a disability, even if a deposit is routinely required for pets.

125        (d)~~(e)~~ An individual with a disability is liable for  
 126 damage caused by a service animal if it is the regular policy  
 127 and practice of the public accommodation to charge nondisabled  
 128 persons for damages caused by their pets.

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129        (e)~~(d)~~ The care or supervision of a service animal is the  
130 responsibility of the individual owner. A public accommodation  
131 is not required to provide care or food or a special location  
132 for the service animal or assistance with removing animal  
133 excrement.

134        (f)~~(e)~~ A public accommodation may exclude or remove any  
135 animal from the premises, including a service animal, if the  
136 animal is out of control and the animal's handler does not take  
137 effective action to control it, the animal is not housebroken,  
138 or the animal's behavior poses a direct threat to the health and  
139 safety of others. Allergies and fear of animals are not valid  
140 reasons for denying access or refusing service to an individual  
141 with a service animal. If a service animal is excluded or  
142 removed for being a direct threat to others, the public  
143 accommodation must provide the individual with a disability the  
144 option of continuing access to the public accommodation without  
145 having the service animal on the premises.

146        (4) Any person, firm, or corporation, or the agent of any  
147 person, firm, or corporation, who denies or interferes with  
148 admittance to, or enjoyment of, a public accommodation or, with  
149 regard to a public accommodation, otherwise interferes with the  
150 rights of an individual with a disability or the trainer of a  
151 service animal while engaged in the training of such an animal  
152 pursuant to subsection (8), commits a misdemeanor of the second  
153 degree, punishable as provided in s. 775.082 or s. 775.083 and  
154 must perform 30 hours of community service for an organization

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155 that serves individuals with disabilities, or for another entity  
156 or organization at the discretion of the court, to be completed  
157 in not more than 6 months.

158 (5) It is the policy of this state that an individual with  
159 a disability be employed in the service of the state or  
160 political subdivisions of the state, in the public schools, and  
161 in all other employment supported in whole or in part by public  
162 funds, and an employer may not refuse employment to such a  
163 person on the basis of the disability alone, unless it is shown  
164 that the particular disability prevents the satisfactory  
165 performance of the work involved.

166 (6) An individual with a disability is entitled to rent,  
167 lease, or purchase, as other members of the general public, any  
168 housing accommodations offered for rent, lease, or other  
169 compensation in this state, subject to the conditions and  
170 limitations established by law and applicable alike to all  
171 persons.

172 (a) This section does not require any person renting,  
173 leasing, or otherwise providing real property for compensation  
174 to modify her or his property in any way or provide a higher  
175 degree of care for an individual with a disability than for a  
176 person who is not disabled.

177 (b) An individual with a disability who has a service  
178 animal or who obtains a service animal is entitled to full and  
179 equal access to all housing accommodations provided for in this  
180 section, and such a person may not be required to pay extra

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181 compensation for such ~~the~~ service animal. However, such a person  
 182 is liable for any damage done to the premises or to another  
 183 person on the premises by the ~~such an~~ animal. A housing  
 184 accommodation may request proof of compliance with vaccination  
 185 requirements.

186 (c) This subsection does not limit the rights or remedies  
 187 of a housing accommodation or an individual with a disability  
 188 that are granted by federal law or another law of this state  
 189 with regard to other assistance animals.

190 (7) An employer covered under subsection (5) who  
 191 discriminates against an individual with a disability in  
 192 employment, unless it is shown that the particular disability  
 193 prevents the satisfactory performance of the work involved, or  
 194 any person, firm, or corporation, or the agent of any person,  
 195 firm, or corporation, providing housing accommodations as  
 196 provided in subsection (6) who discriminates against an  
 197 individual with a disability, commits a misdemeanor of the  
 198 second degree, punishable as provided in s. 775.082 or s.  
 199 775.083.

200 (8) Any trainer of a service animal, while engaged in the  
 201 training of such an animal, has the same rights and privileges  
 202 with respect to access to public facilities and the same  
 203 liability for damage as is provided for those persons described  
 204 in subsection (3) accompanied by service animals.

205 (9) A person who knowingly and willfully misrepresents  
 206 herself or himself, through conduct or verbal or written notice,



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207 as using a service animal and being qualified to use a service  
208 animal or as a trainer of a service animal commits a misdemeanor  
209 of the second degree, punishable as provided in s. 775.082 or s.  
210 775.083 and must perform 30 hours of community service for an  
211 organization that serves individuals with disabilities, or for  
212 another entity or organization at the discretion of the court,  
213 to be completed in not more than 6 months.

214 Section 2. This act shall take effect July 1, 2015.