

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1231
91ST GENERAL ASSEMBLY

Reported from the Committee on Children, Families and Health, April 17, 2002, with recommendation that the House Committee Substitute for House Bill No. 1231 Do Pass.

TED WEDEL, Chief Clerk

3086L.02C

AN ACT

Relating to the rights of persons with service animals, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section 1. 1. As used in sections 1 to 11 of this act, the following terms shall mean:

- 2 **(1) "Commission", the Missouri commission on human rights;**
- 3 **(2) "Disability", a physical or mental impairment that substantially limits one or**
4 **more of a person's major life activities, being regarded as having such an impairment, or**
5 **a record of having such an impairment, which with or without reasonable accommodation**
6 **does not interfere with performing the job, utilizing the place of public accommodation,**
7 **or occupying the dwelling in question;**
- 8 **(3) "Discrimination", any unfair treatment based on use of a service animal in**
9 **housing, employment, or public accommodations;**
- 10 **(4) "Dwelling", as defined in section 213.010, RSMo;**
- 11 **(5) "Employer", the state of Missouri, or any political subdivision of the state, any**
12 **person employing persons within this state, and any person acting directly in the interest**
13 **of an employer;**
- 14 **(6) "Employment agency", as defined in section 213.010, RSMo;**
- 15 **(7) "Labor organization", as defined in section 213.010, RSMo;**
- 16 **(8) "Major life activity", those basic activities that the average person in the**
17 **general population can perform with little or no difficulty. Major life activities include but**
18 **are limited to caring for oneself, performing manual tasks, walking, sight, hearing, speech,**
19 **breathing, learning, and employment. Major life activities may include sitting, standing,**
20 **lifting, and reaching;**
- 21 **(9) "Person", an individual, corporation, partnership, association, organization,**

22 labor organization, legal representative, mutual company, joint stock company, trust,
23 trustee, trustee in bankruptcy, receiver, fiduciary, or any other organized group of
24 individuals;

25 (10) "Physical or mental impairment":

26 (a) Any physiological disorder or condition, cosmetic disfigurement or anatomical
27 loss affecting one or more of the following body systems: neurological; musculoskeletal;
28 special sense organs; respiratory, including speech organs; cardiovascular; reproductive;
29 digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

30 (b) Any mental or psychological disorder, such as mental retardation, organic brain
31 syndrome, emotional or mental illness, and learning disabilities.

32

33 Minor temporary illnesses, such as broken bones, sprains, or colds, are not physical or
34 mental impairments;

35 (11) "Place of employment", any office, factory, store, warehouse, or other type of
36 business setting in which employees participate in work;

37 (12) "Places of public accommodation", as defined in section 213.010, RSMo.
38 Places of public accommodation shall include those facilities set forth in sections 209.150
39 and 209.160, RSMo;

40 (13) "Record of having an impairment", a history of or having been improperly
41 classified as having a physical or mental impairment that does not substantially limit major
42 life activities but is treated as constituting such a limitation;

43 (14) "Regarded as having an impairment", when a respondent determines a
44 person:

45 (a) Has a physical or mental impairment that does not substantially limit major life
46 activities but is treated by others as constituting such a limitation; or

47 (b) Has no disability as defined in this section but is treated by the respondent or
48 by others as having an impairment which substantially limits a major life activity;

49 (15) "Rent", as defined in section 213.010, RSMo;

50 (16) "Service animal", an animal that is being or has been specially trained to do
51 work or perform tasks for the benefit of a person with a disability. Service animal includes
52 but is not limited to:

53 (a) "Emotional support animal", an animal that is being or has been specifically
54 trained to assist a person with a disability caused by a mental or emotional impairment;

55 (b) "Guide animal", an animal that is being or has been specially trained to assist
56 a person with a disability caused by impaired vision;

57 (c) "Hearing animal", an animal that is being or has been specially trained to assist

58 a person with a disability caused by impaired hearing;

59 (d) "Medical alert/respond animal", an animal that is being or has been specifically
60 trained to alert a person with a disability that a particular medical event is about to occur
61 or to respond to a medical event that has occurred, including but not limited to seizures,
62 heart conditions, and other invisible disabilities;

63 (e) "Mobility animal", an animal that is being or has been trained specifically to
64 assist a person with a disability caused by a physical impairment.

Section 2. 1. No person shall refuse to rent, lease, or sublet any dwelling because
2 a service animal will be residing with the prospective tenant of the dwelling or because the
3 tenant will be visited by a person with a disability who is accompanied by a service animal.

4 2. Any person providing dwellings for rent, lease, or sublease shall make reasonable
5 modifications in policies, practices, and procedures, including but not limited to allowing
6 a person with a disability to be accompanied by a service animal that is specially trained
7 or being trained by such person for such person's benefit without being required to pay
8 an extra charge for such service animal.

9 3. A landlord may require proof that a tenant has a disability and that an animal
10 is or is being trained to be a service animal. The owner or trainer of such service animal
11 may be asked to submit any one of the following as evidence that an animal is a service
12 animal:

13 (1) Identification cards;

14 (2) Other written documentation;

15 (3) Presence of harness or markings on harnesses;

16 (4) Tags;

17 (5) Credible verbal assurances of the person with the disability who is or will be
18 using the service animal; or

19 (6) A letter from a health care provider familiar with the tenant's care stating that
20 such tenant has a disability and the service animal is necessary for the tenant's health.

21 4. Nothing in this section shall require an owner of any dwelling to make any
22 physical modifications to any property for the purpose of accommodating a service animal;
23 except that, an owner may be required as a reasonable accommodation for the tenant with
24 a disability to permit on a case-by-case basis an on-premises animal toileting area
25 accessible to the tenant or property modifications by the tenant at the tenant's expense,
26 such as erecting a fence.

27 5. Any restriction, reservation, condition, exception, or covenant in any subdivision,
28 plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of
29 property that would permit residential use of such property but prohibit the use of such

30 property as housing for a service animal shall, to the extent of such prohibition, not be
31 given legal or equitable force and effect.

32 6. Any rules relating to pets that limit or restrict an animal's size or access to
33 housing areas available to tenants shall not apply to service animals.

34 7. Any rule or law that can be demonstrated as necessary to protect public health
35 and safety, or to prevent a fundamental alteration to the nature of housing services may
36 be enforced, such as leash requirements provided such requirements do not interfere with
37 the work of service animals.

38 8. No residential property owner, person engaging in a residential real estate
39 transaction, residential real estate broker, or residential real estate salesperson shall refuse
40 to engage in a residential real estate transaction, including the inspection of the property
41 by the prospective renter or buyer, or deny equal opportunity to use and enjoy a dwelling
42 or housing accommodation because of a person's disability or use of a service animal.

Section 3. 1. No employer, employment agency, or labor organization shall
2 discriminate against any person with a physical or mental disability by directly or
3 indirectly interfering with such person's use of a service animal.

4 2. No employer, employment agency, labor organization, or joint labor-
5 management committee shall discriminate against any person with a physical or mental
6 disability by directly or indirectly interfering with such person's use of a disability-related
7 aid or appliance, including a service animal. Permitting an employee who has a disability
8 to be accompanied by such employee's service animal in the workplace is a type of
9 reasonable accommodation. Employers may require proof that the employee has a
10 disability and that the animal is a service animal for such employee. The employer may
11 ask the employee with the disability who has a service animal to submit any of the
12 following as evidence of such disability and service animal status:

13 (1) Identification cards;

14 (2) Other written documentation;

15 (3) Presence of harness or markings on harnesses;

16 (4) Tags;

17 (5) Credible verbal assurances from the employee, including a description of the
18 tasks the service animal is trained to perform; or

19 (6) A letter from a health care provider familiar with the employee's care that the
20 employee has a disability and the service animal is necessary for such employee's health.

21 3. No employer shall directly or indirectly refuse to allow an employee with a
22 physical or mental impairment to keep such employee's service animal with him or her at
23 all times in the employee's place of employment, unless the presence or behavior of the

24 service animal creates a demonstrable direct threat or fundamental alteration to the nature
25 of the business, including but not limited to:

- 26 (1) A display of aggressive behavior by the service animal;
- 27 (2) A display of behavior by the service animal that is disruptive beyond the level
28 tolerated by humans, such as uncontrollable barking or unwanted contact with coworkers;
- 29 (3) The work area, such as a hospital operating room, requires persons in such area
30 to wear protective garments or equipment, such as gowns, gloves, or masks, which cannot
31 be worn by the service animal; or
- 32 (4) The service animal presents a greater infection risk than posed by other persons
33 in the work environment.

Section 4. 1. No person shall require an additional charge for, or no place of public
2 accommodation shall deny equal access to goods and services to or charge an additional
3 fee or deposit to any person with a physical or mental disability because of the use of a
4 service animal.

5 2. The owner of such service animal may submit any one of the following as
6 evidence that the owner has a disability and that an animal is a service animal:

- 7 (1) Identification cards;
- 8 (2) Other written documentation;
- 9 (3) Presence of harness or markings on harnesses;
- 10 (4) Tags;
- 11 (5) Credible verbal assurances that the person has a disability and the animal is the
12 owner's service animal.

13 3. A service animal's access may be restricted or denied only when such animal
14 demonstrably creates a direct threat or fundamental alteration to the nature of the
15 business, including but not limited to:

- 16 (1) The service animal displays aggressive behavior;
- 17 (2) The service animal urinates or defecates in unapproved locations;
- 18 (3) The service animal damages property; or
- 19 (4) The service animal creates a disturbance beyond that which is tolerated by
20 human customers or employees, such as howling during a theater performance, making
21 unwelcomed contact with other persons, or sitting on the table in a restaurant.

22 4. In addition to any other remedies provided by sections 1 to 11 of this act, any
23 person who believes a violation of this section has occurred may seek criminal prosecution
24 pursuant to section 209.160, RSMo, or file a verified complaint with the commission
25 pursuant to section 213.075, RSMo, but not both. A prosecutor may withdraw such
26 criminal prosecution upon proof that a complaint has been filed with the commission.

Section 5. 1. No common carrier of passengers or other means of public conveyance or transportation operating in this state, including but not limited to motor vehicles, taxis, airplanes, railroad trains, motor buses, streetcars, boats, buses, or other modes of transportation shall refuse service or charge an additional fee to any person with a disability or any person with a physical or mental impairment, because such person is accompanied by a service animal.

2. In addition to any other remedies provided by sections 1 to 10 of this act, any person who believes a violation of this section has occurred may seek criminal prosecution pursuant to section 209.160, RSMo, or file a verified complaint with the commission pursuant to section 213.075, RSMo, but not both. A prosecutor may withdraw such criminal prosecution upon proof that a complaint has been filed with the commission.

Section 6. 1. The driver of a motor vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominately white in color, or a blind, visually impaired, deaf or hard-of-hearing person, or person with another physical or mental disability using a service animal shall take all necessary precautions to avoid injury to such pedestrian. Any driver who fails to take such precautions shall be liable for the actual damages for injury caused to such pedestrian or the pedestrian's service animal. No operator of a motor vehicle shall drive into or upon any crosswalk while such a pedestrian is on a crosswalk, crossing or attempting to cross a roadway if such pedestrian indicates his or her intention to cross or continue. Failure of any such pedestrian to so signal shall not deprive him or her the right-of-way accorded to the pedestrian by other laws.

2. No person, either pedestrian or operator of a motor vehicle, who approaches an individual that appears to be a person with a physical or mental disability using an assistive device or service animal shall intentionally fail to stop, change course, speak, or take any other necessary action as is necessary to avoid an accident or injury to such individuals, or intentionally startle or frighten such individual's service animal. Any person who violates the provisions of this section is guilty of a class B misdemeanor.

Section 7. 1. Any person who knowingly and intentionally destroys or causes serious physical injury to a service animal is guilty of a class C felony. The provisions of this subsection shall not apply to the destruction of a service animal for humane purposes.

2. Any person who, with intent to deprive or defraud the owner takes, leads away, confines, secretes, converts, or in any manner separates from the owner any service animal, or conceals the identity of a service animal or its owner by obscuring, altering, or removing any collar, tag, license, or other identifying device or mark from the service animal is guilty of a class A misdemeanor. Nothing in this subsection shall prohibit a person from being charged with offenses for theft or possession of stolen property.

10 **3. Any person who negligently or maliciously kills or injures a service animal shall**
11 **be civilly liable to the user of the service animal in the amount of one thousand dollars plus**
12 **reasonable attorney's fees and court costs. Such civil liability shall be in addition to and**
13 **not in lieu of any other remedies provided by law.**

14 **4. Any person who willfully and maliciously assaults, beats, harasses, injures, or**
15 **attempts to assault, beat, harass, or injure an animal that such person knows or has reason**
16 **to believe is a service animal or service animal in training is guilty of a class C felony.**

17 **5. Any person who sells or otherwise transfers an animal such person knows or has**
18 **reason to know is a service animal that has been stolen or fraudulently obtained is guilty**
19 **of a class C felony. For purposes of this subsection, such sale, receipt, or transfer of each**
20 **service animal constitutes a separate violation of this subsection.**

21 **6. Any person who willfully or negligently injures or destroys a service animal or**
22 **deprives the owner of a service animal from the use of such animal is subject to civil**
23 **liability for damages, including the value of the service animal, the cost of training, and**
24 **reasonable compensation for the period of time for which the owner is denied use of the**
25 **animal. If such actions are proven to be willful, the owner shall be entitled to attorney's**
26 **fees.**

27 **7. The provisions of this section shall not apply to the lawful acts of any employee,**
28 **agent, or director of any humane society, animal control agency, or animal shelter operated**
29 **by or on behalf of any state or political subdivision department or agency.**

Section 8. Any person who disguises an animal as a service animal or falsely uses
2 **an animal with a harness, leash, or other device identifying it as a service animal to**
3 **represent that such person's animal is necessary due to disability or is being trained as a**
4 **service animal is guilty of a class B misdemeanor.**

Section 9. 1. The owner of a service animal or service animal in training shall be
2 **liable for the actual damages caused by such service animal to persons, premises, or**
3 **facilities, including places of public accommodation, public conveyances or transportation**
4 **services, common carriers of passengers, places of housing accommodations, and places of**
5 **employment.**

6 **2. A person with a physical or mental impairment who uses a service animal shall**
7 **keep such animal harnessed, leashed, or otherwise controlled when such animal is being**
8 **used as a service animal. Any person who violates the provisions of this subsection shall**
9 **be subject to civil liability for any damages caused as a result of the failure to properly**
10 **restrain such animal.**

11 **3. Service animals shall be identifiable as service animals if such animals are**
12 **wearing a harness, leash, collar, backpack, vest, or cape that is recognized as appropriate**

13 for a service animal.

Section 10. 1. The commission shall not have jurisdiction or authority regarding
2 violations of sections 209.160, RSMo, and section 7 of this act.

3 2. Any violation of section 2, 3, or 4 of this act or subsection 1 of section 5 of this act
4 is an unlawful discriminatory practice. The commission, upon the filing of a complaint
5 pursuant to section 213.075, RSMo, shall have jurisdiction over all unlawful discriminatory
6 practice proceedings initiated pursuant to sections 1 to 11 of this act. Such proceedings
7 shall be subject to the provisions of chapter 213, RSMo.

8 3. Upon a showing that a complaint has been filed with the commission pursuant
9 to sections 1 to 11 of this act, a prosecuting attorney may withdraw any pending criminal
10 action regarding the same violations. Nothing in this section shall preclude a prosecuting
11 attorney from prosecuting any violation of sections 1 to 11 of this act.

Section 11. Nothing in sections 1 to 10 of this act shall exclude or impair any
2 existing civil or criminal remedy, whether statutory or common law, for any violation of
3 sections 1 to 10 of this act.