

SECOND REGULAR SESSION

HOUSE BILL NO. 1093

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEEKEN (Sponsor), SKAGGS, ENGLER, SMITH (118),
RIBACK WILSON (25), GRAHAM, CARNAHAN, YOUNG, LUETKEMEYER, HANAWAY, ZWEIFEL,
DARROUGH, WALKER, BISHOP, WALLACE, SHOEMYER,
DAVIS (122) AND HARRIS (110) (Co-sponsors).

Read 1st time January 14, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3268L.02I

AN ACT

To amend chapter 209, RSMo, by adding thereto ten new sections relating to rights of persons with service dogs, with penalty provisions.

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

Section A. Chapter 209, RSMo, is amended by adding thereto ten new sections, to be
2 known as sections 209.200, 209.202, 209.204, 209.206, 209.208, 209.210, 209.212, 209.214,
3 209.216, and 209.218, to read as follows:

209.200. 1. As used in sections 209.200 to 209.218, the following terms shall mean:

- 2 (1) "Commission", the Missouri commission on human rights;
- 3 (2) "Disability", as defined in section 213.010, RSMo;
- 4 (3) "Discrimination", any unfair treatment based on use of a service dog in
5 housing, employment, or public accommodations;
- 6 (4) "Dog", all domesticated animals of the canine species (*canis familiaris*), both
7 male and female;
- 8 (5) "Dwelling", as defined in section 213.010, RSMo;
- 9 (6) "Employer", as defined in section 213.010, RSMo;
- 10 (7) "Employment agency", as defined in section 213.010, RSMo;
- 11 (8) "Labor organization", as defined in section 213.010, RSMo;
- 12 (9) "Major life activity", those basic activities that the average person in the
13 general population can perform with little or no difficulty. Major life activities include but
14 are not limited to caring for oneself, performing manual tasks, walking, sight, hearing,
15 speech, breathing, learning, and employment. Major life activities may include sitting,

16 **standing, lifting, and reaching;**

17 **(10) "Person", as defined in section 213.010, RSMo;**

18 **(11) "Physical or mental impairment":**

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

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

25

26 **Minor temporary illnesses, such as broken bones, sprains, or colds, are not physical or**
27 **mental impairments;**

28 **(12) "Places of public accommodation", as defined in section 213.010, RSMo.**
29 **Places of public accommodation shall include those facilities set forth in sections 209.150**
30 **and 209.160;**

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

34 **(14) "Regarded as having an impairment", when a respondent determines a**
35 **person:**

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

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

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

41 **(16) "Service dog", a dog that is being or has been specially trained to do work or**
42 **perform tasks which benefit a particular person with a disability or a physical or mental**
43 **condition. Service dog includes, but is not limited to:**

44 **(a) "Emotional support dog", a dog that is being or has been specially trained to**
45 **assist a person with a disability caused by mental or emotional impairments;**

46 **(b) "Guide dog", a dog that is being or has been specially trained to assist a**
47 **particular blind or visually impaired person;**

48 **(c) "Hearing dog", a dog that is being or has been specially trained to assist a**
49 **particular deaf or hearing-impaired person;**

50 **(d) "Medical alert/respond dog", a dog that is being or has been trained to alert a**
51 **person with a disability that a particular medical event is about to occur and/or to respond**

52 to a medical event that has occurred;

53 (e) "Mobility dog", a dog that is being or has been specially trained to assist a
54 person with a disability caused by physical impairments.

209.202. 1. No person shall discriminate in the sale or rental or otherwise make
2 unavailable or deny, a dwelling to any buyer or renter because: that buyer or renter has
3 a service dog; a person residing or intending to reside in that dwelling has a service dog;
4 or any person associated with that buyer or renter has a service dog.

5 2. No person shall refuse to make reasonable accommodations in rules, practices,
6 or services, when such accommodation may be necessary to afford a person with the
7 service dog equal opportunity to use and enjoy a dwelling.

8 3. A person may require proof that a tenant has a disability or physical or mental
9 impairment and that a dog is, or is being trained as, a service dog. However, the landlord
10 may not ask the nature of the disability or physical or mental impairment, but only
11 whether or not the tenant is impaired.

12 4. Any restriction, reservation, condition, exception, or covenant in any subdivision,
13 plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of
14 property that would permit residential use of such property but prohibit the use of such
15 property as housing for a service dog shall, to the extent of such prohibition, not be given
16 legal or equitable force and effect.

17 5. Any rules relating to pets that limit or restrict a dog's size or access to housing
18 areas available to tenants shall not apply to service dogs.

19 6. No residential property owner, person engaging in a residential real estate
20 transaction, residential real estate broker, or residential real estate salesperson shall refuse
21 to engage in a residential real estate transaction, including the inspection of the property
22 by the prospective renter or buyer, or deny equal opportunity to use and enjoy a dwelling
23 or housing accommodation because of a person's use of a service dog.

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

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

11 **the dog is a service dog for such employee. The employee may submit any of the following**
12 **as evidence that a dog is a service dog:**

- 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 dog 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 or physical or mental impairment and the service dog is necessary**
21 **for such employee's health.**

22 **3. No employer shall directly or indirectly refuse to allow an employee with a**
23 **disability or physical or mental impairment to keep such employee's service dog with him**
24 **or her at all times in the employee's place of employment, unless the presence or behavior**
25 **of the service dog creates a demonstrable direct threat or fundamental alteration to the**
26 **nature of the business, including but not limited to:**

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

209.206. 1. No person shall require an additional charge for, or no place of public
2 **accommodation shall deny equal service to any person with a disability or physical or**
3 **mental impairment because of the use of a service dog.**

4 **2. The owner or trainer of such service dog may submit any one of the following**
5 **as evidence that the owner has a disability or physical or mental impairment and that a dog**
6 **is a service dog:**

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

13 **3. A service dog's access may be restricted or denied only when such dog**
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 dog displays aggressive behavior;**

17 **(2) The service dog urinates or defecates in unapproved locations;**

18 **(3) The service dog damages property; or**

19 **(4) The service dog creates a disturbance beyond that which is tolerated by human**
20 **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 209.200 to 209.218, any**
23 **person who believes a violation of this section has occurred may seek criminal prosecution**
24 **pursuant to section 209.160 or file a verified complaint with the commission pursuant to**
25 **section 213.075, RSMo, but not both. A prosecutor may withdraw such criminal**
26 **prosecution upon proof that a complaint has been filed with the commission.**

209.208. 1. No common carrier of passengers or other means of public conveyance
2 **or transportation operating in this state, including but not limited to motor vehicles, taxis,**
3 **airplanes, railroad trains, motor buses, streetcars, boats, buses, or other modes of**
4 **transportation shall refuse service or charge an additional fee to any person with a**
5 **disability, any person with a physical or mental impairment, or any trainer of service dogs**
6 **who is accompanied by a service dog.**

7 **2. In addition to any other remedies provided by sections 209.200 to 209.218, any**
8 **person who believes a violation of this section has occurred may seek criminal prosecution**
9 **pursuant to section 209.160 or file a verified complaint with the commission pursuant to**
10 **section 213.075, RSMo, but not both. A prosecutor may withdraw such criminal**
11 **prosecution upon proof that a complaint has been filed with the commission.**

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

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

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

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

10 **3. Any person who negligently or maliciously kills or injures a service dog shall be**
11 **civily liable to the user of the service dog in the amount of one thousand dollars in addition**
12 **to and not in lieu of any other remedies provided by law.**

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

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

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

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

209.214. Any person who disguises a dog as a service dog or falsely uses a dog with

2 a harness, leash, or other device identifying it as a service dog to represent that such
3 person's dog is necessary due to disability or physical or mental impairment, or is being
4 trained as a service dog is guilty of a class B misdemeanor and shall be civilly liable for the
5 amount of actual damages or five thousand dollars, whichever is greater.

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

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

10 3. Service dogs shall be identifiable as service dogs if such dogs are wearing a
11 harness, leash, collar, backpack, vest, or cape that is recognized as appropriate for a
12 service dog or service dog in training.

209.218. 1. Any violation of section 209.202, 209.204, or 209.206, or subsection 1
2 of section 209.208 is an unlawful discriminatory practice. The commission, upon the filing
3 of a complaint pursuant to section 213.075, RSMo, shall have jurisdiction over all unlawful
4 discriminatory practice proceedings initiated pursuant to sections 209.200 to 209.218. Such
5 proceedings shall be subject to the provisions of chapter 213, RSMo.

6 2. Upon a showing that a complaint has been filed with the commission alleging a
7 violation of sections 209.202, 209.204, 209.206, or subsection 1 of section 209.208, a
8 prosecuting attorney may withdraw any pending criminal action regarding the same
9 violations. Nothing in this section shall preclude a prosecuting attorney from prosecuting
10 any violation of sections 209.200 to 209.218.

11 3. Nothing in sections 209.200 to 209.218 shall exclude or impair any existing civil
12 or criminal remedy, whether statutory or common law, for any violations of sections
13 209.200 to 209.218.

14 4. In addition to any other civil or criminal remedies provided for in sections
15 209.200 to 209.218, any person who violates section 209.202, 209.204, 209.206, or subsection
16 1 of section 209.208 may be assessed a civil penalty by the commission of not less than five
17 hundred dollars nor more than five thousand dollars for each violation. Each such
18 violation shall constitute a separate offense.