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**DISCUSSION OF SENATE BILL 231
IN RELATION TO ASSEMBLY BILL 332, R1,
INCLUDING POSSIBLE AMENDMENTS**

April 28, 2003

Two measures in the Assembly address the issue of service animals. Senate Bill 231 is currently under consideration by the Assembly Committee on Health and Human Services, and Assembly Bill 332, which was previously heard and amended in the Assembly Committee on Government Affairs, is currently under consideration by the Assembly Committee on Ways and Means.

These two measures have conflicting sections. In addition, Linda Lueck, who indicated that she represents the Governor's Committee on Employment of People with Disabilities, testified in opposition to certain aspects of the bill. In particular, she was opposed to Sections 8 and 11 and to the definition of "service animal" that is contained in the bill. Table 2 describes these issues and identifies the potential conflicts between these two measures.

However, Assembly Bill 332, as amended, addresses more issues than the one contained in S.B. 231, which establishes sanctions for a person when he or his pet injures a service animal. Section 6 of A.B. 332 also includes language that establishes sanctions when a service animal is injured. The following table identifies the relevant sections and key differences concerning this issue.

**TABLE 1
SANCTIONS FOR INJURING A SERVICE ANIMAL
AS DISCUSSED IN SENATE BILL 231 AND ASSEMBLY BILL 332**

S.B. 231	A.B. 332
Subsection 1 of Section 2 <i>1. It is unlawful for a person to injure, disable or cause the death of, or to allow a dog he owns, harbors or controls to injure, disable or cause the death of, a service animal.</i>	Subsection 1 of Section 6 <i>1. It is unlawful for a person to allow any animal that he owns, harbors or controls to cause injury to or the death of any service animal or service animal in training, or to endanger or cause injury to a person who has a disability and is accompanied by a service animal or a person who trains service animals and is accompanied by a service animal in training.</i>
Subsection 2 of Section 2 <i>2. A person who violates the provisions of subsection 1 is guilty of a gross misdemeanor, except that if the violation is willful and malicious the person is guilty of a category C felony and shall be punished as provided in NRS 193.130.</i>	Subsection 2 of Section 6 <i>2. Any person, including, without limitation, any firm, association or corporation, who violates the provisions of subsection 1:</i> <i>(a) Is guilty of a gross misdemeanor and shall be punished:</i> <i>(1) By a fine of not less than \$500 and not more than \$2,500; or</i>

S.B. 231	A.B. 332
	(2) If the violation is intentional, by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$5,000, or by both fine and imprisonment; and (b) In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act.
Section 3 1. It is unlawful for a person to obtain or exert unauthorized control over a service animal with the intent to deprive the person using the service animal of that service animal. 2. A person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.	
Section 4 1. If a person is convicted of a violation of NRS 426.790 or section 2 or 3 of this act, the person shall, in addition to any criminal penalty, pay restitution for all damages resulting from the violation. 2. Restitution payable pursuant to subsection 1 includes, without limitation: (a) Incidental and consequential expenses incurred by the user of the service animal; (b) The cost of all expenses for veterinary and other care of the service animal; (c) The cost of retraining the service animal; (d) The cost of replacing the service animal; (e) The cost of training a replacement service animal; (f) The medical expenses of the user of the service animal; (g) The cost of training the user of the service animal; and (h) Compensation for wages or other earned income lost by the user of the service animal. 3. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law.	Subsection 3 of Section 6 3. In addition to any other penalty, the court shall order a person convicted of a violation of subsection 1 to pay restitution to the person who has the disability or the person who has custody or ownership of the service animal or service animal in training for any veterinary bills, and for the replacement cost of the service animal or service animal in training if it was killed or disabled or has become mentally or physically unable to perform its duties. The restitution must cover all costs for aides, assistance, transportation and other hardships incurred during the absence, and until the replacement, of the service animal or service animal in training.

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TABLE 2
DISCUSSION OF OTHER RELATED ISSUES
CONCERNING SENATE BILL 231 AND ASSEMBLY BILL 332

Issue	SB 231	AB 332
Edited definition of "service animal" based on the two respective measures.	<u>Section 5</u> 426.097 "Service animal" means an animal which has been or is being trained to provide a specialized service to a handicapped person by a school that is approved by the Division to train such an animal <i>and includes, without limitation, a guide dog, hearing dog and helping dog.</i> <u>Discussion</u> This definition appears to be more specific.	<u>Section 10</u> 426.097 "Service animal" means an animal <i>that</i> has been trained to <i>assist or accommodate a person with a disability.</i> <u>Discussion</u> This definition is broader and potentially includes animals other than those that are specifically trained to assist a person who is disabled.
Actual text from measures concerning the definition of "service animal."	NRS 426.097 is hereby amended to read as follows: 426.097 "Service animal" means an animal which has been or is being trained to provide a specialized service to a handicapped person by a school that is approved by the Division to train such an animal [-] <i>and includes, without limitation, a guide dog, hearing dog and helping dog.</i> Section 6 of SB 231 amends this statute by replacing the phrase "guide dog, hearing dog, helping dog or other" with the term "service animal."	NRS 426.097 is hereby amended to read as follows: 426.097 "Service animal" means an animal [which] that has been [or is being] trained to [provide a specialized service to a handicapped person by a school that is approved by the Division to train such an animal.] <i>assist or accommodate a person with a disability.</i>
<i>Nevada Revised Statutes</i> 426.510, "Restrictions on use of white or metallic cane, blaze orange leash, guide dog, hearing dog, helping dog or other service animal; penalty; duties of pedestrian."	This statute has been in effect in some form since at least 1939. The statute appears to give lawful standing to certain persons with disabilities, provides guidance to the public concerning ways to address persons who are disabled, and establishes misdemeanor penalties for persons who fraudulently represent themselves as being disabled.	Section 23 of AB 332 proposes to repeal this statute in its entirety. <u>Discussion</u> It is feasible that the language contained in AB 332, which establishes sanctions and penalties for discriminating against a person who is disabled, suffices to substitute for this statute. However, that measure does not appear to have sanctions for persons who fraudulently represent themselves as being disabled.

Issue	SB 231	AB 332
Subsection 1 of Section 7 is the same language that is contained in Section 12 of AB 332 as it relates to interference with or harming a service animal. The edited version of the different subsections is shown here.	<u>Section 7</u> 2. A person who violates the provisions of subsection 1: (a) For a first violation, is guilty of a misdemeanor. (b) For a second violation, is guilty of a gross misdemeanor.	<u>Section 12</u> 2. A person who violates the provisions of subsection 1: (a) For a first violation, is guilty of a misdemeanor. (b) For a second or subsequent violation, is guilty of a gross misdemeanor. (c) In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act.
Actual text from measures concerning interference with or harming a service animal.	2. A person who violates the provisions of subsection 1: (a) For a first violation, is guilty of a misdemeanor. (b) For a second violation, is guilty of a gross misdemeanor. (c) Paragraph (c) of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130. (d) Paragraph (d) of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.	2. A person who violates the provisions of subsection 1: (a) For a first violation, is guilty of a misdemeanor. (b) For a second or subsequent violation, is guilty of a gross misdemeanor. (c) Paragraph (c) of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130. (d) Paragraph (d) of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act.
Definition of the term "pet." Because of the changes to the term "service animal," it is necessary to amend the definition of the term "pet" in the NRS. The edited version of this definition is shown here. NOTE: The words "for companionship" are deleted from the AB 332 definition.	<u>Section 9</u> NRS 574.615 is hereby amended to read as follows: 574.615 1. "Pet" means an animal that is kept by a person primarily for companionship or personal enjoyment. 2. The term does not include an animal that is kept by a person primarily for: (a) Hunting; (b) Use in connection with farming or agriculture; (c) Breeding; (d) Drawing heavy loads; or (e) Use as a service animal, as that term is defined in NRS 426.097.	<u>Section 14</u> NRS 574.615 is hereby amended to read as follows: 574.615 1. "Pet" means an animal that is kept by a person primarily for personal enjoyment. 2. The term does not include an animal that is kept by a person primarily for: (a) Hunting; (b) Use in connection with farming or agriculture; (c) Breeding; (d) Drawing heavy loads; or (e) Use as a service animal or a service animal in training, as those terms are defined in NRS 426.097 and section 3 of this act, respectively.

Issue	SB 231	AB 332
	NRS 574.615 is hereby amended to read as follows: 574.615 1. "Pet" means an animal that is kept by a person primarily for companionship or personal enjoyment. 2. The term does not include an animal that is kept by a person primarily for: (a) Hunting; (b) Use in connection with farming or agriculture; (c) Breeding; (d) Drawing heavy loads; or (e) Use as a guide dog, hearing dog, helping dog or service animal, as those terms are that term is defined in chapter 426 of NRS NRS 426.097.	NRS 574.615 is hereby amended to read as follows: 574.615 1. "Pet" means an animal that is kept by a person primarily for companionship or personal enjoyment. 2. The term does not include an animal that is kept by a person primarily for: (a) Hunting; (b) Use in connection with farming or agriculture; (c) Breeding; (d) Drawing heavy loads; or (e) Use as a guide dog, hearing dog, helping dog or other service animal in or a service animal in training, as those terms are defined in chapter 426 of NRS in NRS 426.097 and section 3 of this act, respectively.
Requiring proof that a person is an authorized user of a service animal pursuant to NRS 651.075, "Rights, duties and liabilities of persons training or accompanied by service animal or police dog; unlawful acts; place of accommodation may require certain proof; unmuzzled service animal may not be presumed dangerous; person subject to same conditions and limitations as others." Linda Lueck expressed her opinion that it is a violation of the Americans With Disabilities Act to require proof that a person is authorized to use a service animal. Additionally, she testified that the Rehabilitation Division does not issue cards indicating that a specific	The primary elements of Section 11 are that it amends this statute to recognize the term "service animal."	Section 16 (Edited text) NRS 651.075 is hereby amended to read as follows: 651.075 1. It is unlawful to deny admittance or access to a place of public accommodation, or to deny the provision of any goods or services, the use of any facility or accommodation, or the exercise of any privilege or advantage in a place of public accommodation, to a person who: (a) Has a disability; (b) Has a disability and is accompanied by a service animal; (c) Is accompanied by a service animal in training; or (d) Is accompanied by a police dog. 2. It is unlawful in a place of public accommodation to segregate a person who: (a) Has a disability; (b) Has a disability and is accompanied by a service animal; or (c) Is accompanied by a service animal in training, from the general public or from any other person or party by whom he is accompanied in an effort to provide any access, accommodation or service,

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school is approved to train a service animal. NOTE: Members of the committee indicated a desire to discuss this issue with representatives of the Department of Human Resources as it relates to the new disability services office that may be established in the department.		including, without limitation, the provision of segregated seating in specific areas of places to which the general public is invited that provide entertainment or in which a public event is presented. 3. It is unlawful in a place of public accommodation to charge an additional fee for a service animal, service animal in training or police dog. 4. A service animal or service animal in training may not be presumed dangerous by reason of the fact it is not muzzled. 5. This section does not relieve: (a) A person with a disability who is accompanied by a service animal or a person who trains a service animal from liability for damage caused by the service animal or service animal in training. (b) A person who is accompanied by a police dog from liability for damage caused by the police dog. 6. Persons with disabilities who are accompanied by service animals or service animals in training are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied. 7. Persons who are accompanied by police dogs are subject to the same conditions and limitations that apply to persons who are not so accompanied. 8. Any person, including, without limitation, any firm, association or corporation, who violates the provisions of this section: (a) Is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$500 and not more than \$2,500; and (b) In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act. 9. As used in this section: (a) "Police dog" means a dog which is owned by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer. (b) "Service animal" has the meaning ascribed to it in NRS 426.097.

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Amending NRS 704.145, "Unlawful to refuse service of public transportation to visually, aurally or physically handicapped person accompanied by guide dog or other service animal or person training animal or to charge extra fee for animal."		(c) "Service animal in training" has the meaning ascribed to it in section 3 of this act. Discussion NRS 651.075 is significantly rewritten in Section 16 of AB 332. Subsection 2 of this statute is deleted. This subsection allowed a place of public accommodation to require proof that an animal is a service dog, and it implied that the Rehabilitation Division of the Department of Employment, Training and Rehabilitation approve schools that trained service animals. AB 332 adds a new subsection that includes penalties for persons who violate the provisions for public accommodation. Subsection 9 adds the term "service animal in training" to the definition.
Amending NRS 704.145, "Unlawful to refuse service of public transportation to visually, aurally or physically handicapped person accompanied by guide dog or other service animal or person training animal or to charge extra fee for animal."	The primary elements of Section 12 are that it amends this statute to recognize the term "service animal."	Section 21 (Edited text.) NRS 704.145 is hereby amended to read as follows: 704.145 1. It is unlawful to deny admittance or access to a common carrier or other means of public conveyance or transportation operating in this state, or to deny the provision of any goods or services, the use of any facility or accommodation, or the exercise of any privilege or advantage on a common carrier or other means of public conveyance or transportation operating in this state, to a person who: (a) Has a disability; (b) Has a disability and is accompanied by a service animal; or (c) Is accompanied by a service animal in training. 2. It is unlawful on a common carrier or other means of public conveyance or transportation operating in this state to charge an additional fee for a service animal or service animal in training. 3. This section does not relieve a person who has a disability and who is accompanied by a service animal,

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		or a person who trains a service animal from liability for damage which may be caused by the service animal or service animal in training. 4. Persons with disabilities who are accompanied by service animals or service animals in training on common carriers or other means of public conveyance or transportation operating in this state are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied. 5. Any person, including, without limitation, any firm, association or corporation, who violates any provision of this section: (a) Is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$500 and not more than \$2,500; and (b) In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act. 6. As used in this section: (a) "Service animal" has the meaning ascribed to it in NRS 426.097. (b) "Service animal in training" has the meaning ascribed to it in section 3 of this act.
Amending NRS 706.366, "Unlawful to refuse service of public transportation to visually, aurally or physically handicapped person accompanied by guide dog or other service animal or person training animal or to charge extra fee for animal."	The primary elements of Section 13 are that it amends this statute to recognize the term "service animal."	<u>Section 22</u> (Edited text.) NRS 706.366 is hereby amended to read as follows: 706.366 1. It is unlawful to deny admittance or access to a common motor carrier of passengers or other means of public conveyance or transportation operating in this state, or to deny the provision of any goods or services, the use of any facility or accommodation, or the exercise of any privilege or advantage on a common motor carrier of passengers or other means of public conveyance or transportation operating in this state, to a person who: (a) Has a disability; (b) Has a disability and is accompanied by a service animal; or

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		(c) <i>Is accompanied by a service animal in training.</i> 2. <i>It is unlawful on a common motor carrier of passengers or other means of public conveyance or transportation operating in this state to charge an additional fee for a service animal or service animal in training.</i> 3. <i>This section does not relieve a person who has a disability and who is accompanied by a service animal, or a person who trains a service animal from liability for damage which may be caused by the service animal or service animal in training.</i> 4. <i>Persons with disabilities who are accompanied by service animals or service animals in training on common motor carriers of passengers or other means of public conveyance or transportation operating in this state are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.</i> 5. <i>Any person, including, without limitation, any firm, association or corporation, who violates the provisions of this section:</i> (a) <i>Is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$500 and not more than \$2,500; and</i> (b) <i>In addition to any criminal penalty that may be imposed, is civilly liable to the person against whom the violation was committed as provided in section 8 of this act.</i> 6. <i>As used in this section:</i> (a) <i>"Service animal" has the meaning ascribed to it in NRS426.097.</i> (b) <i>"Service animal in training" has the meaning ascribed to it in section 3 of this act.</i>