

Amendment No. 127

Assembly Amendment to Assembly Bill No. 157 (BDR 38-638)

Proposed by: Assembly Committee on Health and Human Services

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EWR/RBL



Date: 4/3/2015

A.B. No. 157—Revises provisions governing service animals. (BDR 38-638)



ASSEMBLY BILL NO. 157—ASSEMBLYMEN OSCARSON,
ELLISON; ARMSTRONG, TITUS AND WHEELER

FEBRUARY 13, 2015

JOINT SPONSOR: SENATOR GOICOECHEA

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing service animals. (BDR 38-638)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to service animals; making certain provisions relating to service animals and service animals in training applicable only when the animal is a dog or a miniature horse; ***revising provisions governing the use of a service animal by a person with a disability***; allowing an employer to determine whether it is reasonable to allow an employee to keep a service animal that is a miniature horse at the place of employment; allowing a place of public accommodation or common carrier to determine whether it is reasonable to admit a service animal or service animal in training that is a miniature horse; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines: (1) "service animal" as an animal that has been trained to assist or accommodate a person with a disability; and (2) "service animal in training" as an animal that is being trained to assist or accommodate a person with a disability. (NRS 426.097, 426.099) Federal regulations: (1) define "service animal" as a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability; and (2) require a place of public accommodation to make reasonable modifications to allow the use of a miniature horse that is individually trained to do work or perform tasks for the benefit of a person with a disability. (28 C.F.R. §§ 35.104, 35.136, 36.104, 36.302) **Sections 1 and 2** of this bill revise the definition of the terms "service animal" and "service animal in training" to include only dogs and miniature horses trained or being trained to do work or perform tasks for the benefit of a person with a disability. Because those terms are incorporated in other provisions of existing law, only dogs and miniature horses will be considered service animals for the purposes of provisions of existing law that: (1) require certain emergency management plans and plans for emergency operations to address the needs of persons with service animals; (2) authorize only a blind, deaf or physically disabled person to use a service animal; (3) require persons to take precautions to avoid accident or injury to a person using a service animal; (4) prohibit interfering with, beating or killing a service animal; (5) prohibit fraudulently misrepresenting an animal as a service animal; (6) require sterilization of certain pets that are not service animals; (7) require an employer to allow an employee to keep a service animal

with him or her; and (8) require a place of public accommodation or a common carrier to admit a service animal or a service animal in training. (NRS 414.095, 414.097, 426.510, 426.515, 426.695, 426.790, 426.805, 426.810, 484B.290, 574.600-574.660, 613.330, 651.075, 704.145, 706.366)

Existing federal regulations require a public entity or a place of public accommodation to make accommodations to permit the use of a service animal by a person with any disability. (28 C.F.R. §§ 35.136, 36.302) Existing law in Nevada: (1) authorizes a person who is blind, deaf or has a physical disability to use a service animal; and (2) provides that the failure of such a person to use a service animal may be admissible as evidence of contributory negligence in certain personal injury actions. (NRS 426.510, 426.515) Sections 2.3 and 2.7 of this bill revise those provisions of existing law to include a person with any type of disability.

Sections 3-6 of this bill provide that an employer is not required to allow an employee to keep a service animal that is a miniature horse with him or her, and a place of public accommodation or common carrier is not required to admit a service animal or service animal in training that is a miniature horse, if it would be unreasonable to comply, using criteria for determining reasonableness set forth in federal regulations.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 426.097 is hereby amended to read as follows:

426.097 "Service animal" ~~means an animal that has been trained to assist or accommodate a person with a disability.~~ *has the meaning ascribed to it in 28 C.F.R. § 36.104 and includes a miniature horse that has been trained to do work or perform tasks for the benefit of a person with a disability.*

Sec. 2. NRS 426.099 is hereby amended to read as follows:

426.099 "Service animal in training" means ~~an animal~~ *a dog or a miniature horse* that is being trained ~~to assist or accommodate a person with a disability~~ *as a service animal.*

Sec. 2.3. NRS 426.510 is hereby amended to read as follows:

426.510 1. Except as otherwise provided in subsections 2, 3 and 4, a person shall not:

(a) Use a service animal; or

(b) Carry or use on any street or highway or in any other public place a cane or walking stick which is white or metallic in color, or white tipped with red.

2. A person who is blind may use a service animal and a cane or walking stick which is white or metallic in color, or white tipped with red.

3. A person who is deaf may use a service animal.

4. A person with a ~~physical~~ disability not described in subsection 2 or 3 may use a service animal.

5. Any pedestrian who approaches or encounters a person who is blind using a service animal or carrying a cane or walking stick, white or metallic in color, or white tipped with red, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person who is blind.

6. Any person other than a person who is blind who:

(a) Uses a service animal or carries a cane or walking stick such as is described in this section, contrary to the provisions of this section;

(b) Fails to heed the approach of a person using a service animal or carrying such a cane as is described by this section;

(c) Fails to come to a stop upon approaching or coming in contact with a person so using a service animal or so carrying such a cane or walking stick; or

(d) Fails to take precaution against accident or injury to such a person after coming to a stop as provided for in this section,
☞ is guilty of a misdemeanor.

7. This section does not apply to any person who is instructing a person who is blind, person who is deaf or person with ~~[(a physical)]~~ any other disability or training a service animal.

Sec. 2.7. NRS 426.515 is hereby amended to read as follows:

426.515 The failure of a:

1. Person who is blind to carry a white or metallic colored cane or to use a service animal;

2. Person who is deaf to use a service animal; or

3. Person with a ~~[(physical)]~~ disability not described in subsection 1 or 2 to use a service animal,

☞ does not constitute contributory negligence per se, but may be admissible as evidence of contributory negligence in a personal injury action by that person against a common carrier or any other means of public conveyance or transportation or a place of public accommodation as defined by NRS 651.050 when the injury arises from the person who is blind, person who is deaf or person with ~~[(a physical disability's)]~~ any other disability making use of the facilities or services offered by the carrier or place of public accommodation.

Sec. 3. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. ~~HH~~ *Except as otherwise provided in subsection 6, it* is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment ~~HH~~, *except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.*

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 4. NRS 651.075 is hereby amended to read as follows:

651.075 1. ~~HH~~ *Except as otherwise provided in subsection 5, is* unlawful for a place of public accommodation to:

(a) Refuse admittance or service to a person with a disability because the person is accompanied by a service animal.

(b) Refuse admittance or service to a person who is training ~~what a service animal because the person is accompanied by~~ a service animal ~~HH~~ *in training.*

(c) Refuse to permit an employee of the place of public accommodation who is ~~training~~ ~~accompanied by~~ a service animal ~~in training~~ to bring the service animal *in training* into:

(1) The place of public accommodation; or

(2) Any area within the place of public accommodation to which employees of the place of public accommodation have access, regardless of whether the area is open to the public.

(d) Refuse admittance or service to a person because the person is accompanied by a police dog.

(e) Charge an additional fee or deposit for a service animal, service animal in training or a police dog as a condition of access to the place of public accommodation.

(f) Require proof that an animal is a service animal or service animal in training.

2. A place of public accommodation may:

(a) Ask a person accompanied by an animal:

(1) If the animal is a service animal or service animal in training; and

(2) What tasks the animal is trained to perform or is being trained to perform.

(b) Ask a person to remove a service animal or service animal in training if the animal:

(1) Is out of control and the person accompanying the animal fails to take effective action to control it; or

(2) Poses a direct threat to the health or safety of others.

3. A service animal may not be presumed dangerous by reason of the fact it is not muzzled.

4. This section does not relieve:

(a) A person with a disability who is accompanied by a service animal or a person who ~~trans~~ *is accompanied by* a service animal *in training* from liability for damage caused by the service animal ~~H~~ *or service animal in training*.

(b) A person who is accompanied by a police dog from liability for damage caused by the police dog.

5. *A place of public accommodation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if the place of public accommodation determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.*

6. Persons with disabilities who are accompanied by service animals are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

~~6+~~ 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.

~~7+~~ 8. A person who violates paragraph (e) of subsection 1 is civilly liable to the person against whom the violation was committed for:

(a) Actual damages;

(b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

(c) Reasonable attorney's fees as determined by the court.

~~8+~~ 9. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~9+~~ 10. 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 or her duties as a peace officer.

(b) "Service animal" has the meaning ascribed to it in NRS 426.097.

(c) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

Sec. 5. NRS 704.145 is hereby amended to read as follows:

704.145 1. ~~HH~~ *Except as otherwise provided in subsection 2, it is unlawful for a common carrier or other means of public conveyance or transportation operating in this State to:*

(a) Refuse service to a person with a disability because the person is accompanied by a service animal;

(b) Refuse service to a person who is training a service animal because the person is accompanied by the service animal in training; or

(c) Charge an additional fee or a deposit for a service animal or service animal in training.

2. *A common carrier or other means of public conveyance or transportation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if it determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.*

3. This section does not relieve a person with a disability who is accompanied by a service animal or a person who ~~trans~~ *is accompanied by* a service animal *in*

1 **training** from liability for damage which may be caused by the service animal or
2 service animal in training.

3 ~~§ 4.~~ 4. Persons with disabilities accompanied by service animals on common
4 carriers or other means of public conveyance or transportation operating in this
5 State are subject to the same conditions and limitations that apply to persons
6 without disabilities who are not so accompanied.

7 ~~§ 5.~~ 5. A common carrier or other means of public conveyance or
8 transportation operating in this State that violates any of the provisions of
9 subsection 1 is civilly liable to the person against whom the violation was
10 committed for:

11 (a) Actual damages;

12 (b) Such punitive damages as may be determined by a jury, or by a court sitting
13 without a jury, which must not be more than three times the amount of actual
14 damages, except that in no case may the punitive damages be less than \$750; and

15 (c) Reasonable attorney's fees as determined by the court.

16 ~~§ 6.~~ 6. The remedies provided in this section are nonexclusive and are in
17 addition to any other remedy provided by law, including, without limitation, any
18 action for injunctive or other equitable relief available to the aggrieved person or
19 brought in the name of the people of this State or the United States.

20 ~~§ 7.~~ 7. As used in this section:

21 (a) "Service animal" has the meaning ascribed to it in NRS 426.097.

22 (b) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

23 **Sec. 6.** NRS 706.366 is hereby amended to read as follows:

24 706.366 1. ~~§~~ **Except as otherwise provided in subsection 2, it** is unlawful
25 for a common motor carrier of passengers or other means of public conveyance or
26 transportation operating in this State to:

27 (a) Refuse service to a person with a disability because the person is
28 accompanied by a service animal;

29 (b) Refuse service to a person who is training a service animal because the
30 person is accompanied by the service animal in training; or

31 (c) Charge an additional fee or a deposit for a service animal or service animal
32 in training.

33 2. ***A common motor carrier of passengers or other means of public***
34 ***conveyance or transportation is not required to comply with the provisions of***
35 ***subsection 1 with regard to a service animal or service animal in training that is a***
36 ***miniature horse if it determines that it is not reasonable to comply, using the***
37 ***assessment factors set forth in 28 C.F.R. § 36.302.***

38 3. This section does not relieve a person with a disability who is accompanied
39 by a service animal or a person who ~~trains~~ **is accompanied by** a service animal **in**
40 **training** from liability for damage which may be caused by the service animal or
41 service animal in training.

42 ~~§ 4.~~ 4. Persons with disabilities accompanied by service animals on common
43 motor carriers of passengers or other means of public conveyance or transportation
44 operating in this State are subject to the same conditions and limitations that apply
45 to persons without disabilities who are not so accompanied.

46 ~~§ 5.~~ 5. A common motor carrier of passengers or other means of public
47 conveyance or transportation operating in this State that violates any of the
48 provisions of subsection 1 is civilly liable to the person against whom the violation
49 was committed for:

50 (a) Actual damages;

51 (b) Such punitive damages as may be determined by a jury, or by a court sitting
52 without a jury, which must not be more than three times the amount of actual
53 damages, except that in no case may the punitive damages be less than \$750; and

1 (c) Reasonable attorney's fees as determined by the court.
2 ~~5-~~ 6. The remedies provided in this section are nonexclusive and are in
3 addition to any other remedy provided by law, including, without limitation, any
4 action for injunctive or other equitable relief available to the aggrieved person or
5 brought in the name of the people of this State or the United States.

6 ~~6-~~ 7. As used in this section:

7 (a) "Service animal" has the meaning ascribed to it in NRS 426.097.

8 (b) "Service animal in training" has the meaning ascribed to it in NRS 426.099.