

Chapter 5b Rights and Privileges of a Person with a Disability

62A-5b-101 Title.

This chapter is known as "Rights and Privileges of a Person with a Disability."

Enacted by Chapter 22, 2007 General Session

62A-5b-102 Definitions.

As used in this chapter:

- (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the Code of Federal Regulations, as may be amended in the future.
- (2) "Restaurant":
 - (a) includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or fast-food service where food is prepared or served for immediate consumption; and
 - (b) does not include:
 - (i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and
 - (ii) except for a dinner theater, a theater that sells food items.
- (3)
 - (a) "Service animal" includes any dog that:
 - (i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability;
 - (ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:
 - (A) assisting an individual who is blind or has low vision with navigation or other tasks;
 - (B) alerting an individual who is deaf or hard of hearing to the presence of people or sounds;
 - (C) providing non-violent protection or rescue work;
 - (D) pulling a wheelchair;
 - (E) assisting an individual during a seizure;
 - (F) alerting an individual to the presence of an allergen;
 - (G) retrieving an item for the individual;
 - (H) providing physical support and assistance with balance and stability to an individual with a mobility disability; or
 - (I) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.
 - (b) "Service animal" does not include:
 - (i) an animal other than a dog, whether wild or domestic, trained or untrained; or
 - (ii) an animal used solely to provide:
 - (A) a crime deterrent;
 - (B) emotional support;
 - (C) well-being;
 - (D) comfort; or
 - (E) companionship.

Amended by Chapter 94, 2011 General Session

62A-5b-103 Rights and privileges of a person with a disability.

- (1) A person with a disability has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as a person who is not a person with a disability.
- (2) A person with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.
- (3) A person with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.
- (4)
 - (a) A person with a disability has equal rights and access to public and private housing accommodations offered for rent, lease, or other compensation in this state.
 - (b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate a person with a disability or to provide a higher degree of care for that person than for someone who is not a person with a disability.
 - (c) A person renting, leasing, or selling private housing or real property to a person with a disability shall comply with the provisions of Section 62A-5b-104, regarding the right of the person to be accompanied by a service animal specially trained for that purpose.

Renumbered and Amended by Chapter 22, 2007 General Session

62A-5b-104 Right to be accompanied by service animal -- Security deposits -- Discrimination -- Liability -- Identification.

- (1)
 - (a) A person with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:
 - (i) in any of the places specified in Section 62A-5b-103; and
 - (ii) without additional charge for the service animal.
 - (b) This section does not prohibit an owner or lessor of private housing accommodations from charging a person, including a person with a disability, a reasonable deposit as security for any damage or wear and tear that might be caused by a service animal if the owner or lessor would charge a similar deposit to other persons for potential wear and tear.
 - (c) An owner or lessor of private housing accommodations may not, in any manner, discriminate against a person with a disability on the basis of the person's possession of a service animal.
- (2) A person who is not a person with a disability has the right to be accompanied by an animal that is in training to become a service animal or a police service canine, as defined in Section 53-16-102:
 - (a) in any of the places specified in Section 62A-5b-103; and
 - (b) without additional charge for the animal.
- (3) A person with a disability is liable for any loss or damage caused or inflicted to the premises by the person's service animal.
- (4) A person accompanied by a service animal is encouraged to identify the animal by exhibiting one or more of the following:
 - (a) the animal's laminated identification card;

- (b) the animal's service vest; or
- (c) another form of identification.

Amended by Chapter 389, 2012 General Session

62A-5b-105 Policy of state to employ persons with a disability.

It is the policy of this state that a person with a disability shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as a person who is not a person with a disability, unless it is shown that the particular disability prevents the performance of the work involved.

Renumbered and Amended by Chapter 22, 2007 General Session

62A-5b-106 Interference with rights provided in this chapter -- Misrepresentation of rights under this chapter.

- (1) Any person, or agent of any person, who denies or interferes with the rights provided in this chapter is guilty of a class C misdemeanor.
- (2) A person is guilty of a class B misdemeanor if:
 - (a) the person intentionally and knowingly falsely represents to another person that an animal is a service animal as defined in Section 62A-5b-102; or
 - (b) the person knowingly and intentionally misrepresents a material fact to a health care provider for the purpose of obtaining documentation from the health care provider necessary to designate an animal as a service animal as defined in Section 62A-5b-102.

Renumbered and Amended by Chapter 22, 2007 General Session

62A-5b-107 Annual "White Cane Safety Day" proclaimed.

Each year the governor shall take notice of October 15 as White Cane Safety Day.

Renumbered and Amended by Chapter 22, 2007 General Session