

SUPPORT ANIMALS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions related to animals that provide support for individuals with disabilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends housing and criminal provisions relating to the use of a service animal or a support animal;
- ▶ amends provisions related to liability for an individual training an animal to become a service animal or a police service canine; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 62A-5b-101**, as enacted by Laws of Utah 2007, Chapter 22
- 62A-5b-102**, as last amended by Laws of Utah 2011, Chapter 94
- 62A-5b-103**, as renumbered and amended by Laws of Utah 2007, Chapter 22
- 62A-5b-104**, as last amended by Laws of Utah 2012, Chapter 389
- 62A-5b-105**, as renumbered and amended by Laws of Utah 2007, Chapter 22
- 62A-5b-106**, as renumbered and amended by Laws of Utah 2007, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **62A-5b-101** is amended to read:

CHAPTER 5b. RIGHTS AND PRIVILEGES OF AN INDIVIDUAL WITH A

DISABILITY

62A-5b-101. Title.

This chapter is known as "Rights and Privileges of ~~[a Person]~~ an Individual with a Disability."

Section 2. Section **62A-5b-102** is amended to read:

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)]~~ (2) (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; and

(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;

- 64 (G) retrieving an item for the individual;
- 65 (H) providing physical support and assistance with balance and stability [~~to an~~
66 ~~individual with a mobility disability~~]; or
- 67 (I) helping an individual with a psychiatric or neurological disability by preventing or
68 interrupting impulsive or destructive behaviors.

69 (b) "Service animal" does not include:

70 (i) an animal other than a dog, whether wild or domestic, trained or untrained; or

71 (ii) an animal used solely to provide:

72 (A) a crime deterrent;

73 (B) emotional support;

74 (C) well-being;

75 (D) comfort; or

76 (E) companionship.

77 (3) "Support animal" means an animal, other than a service animal, that qualifies as a
78 reasonable accommodation under federal law for an individual with a disability.

79 Section 3. Section **62A-5b-103** is amended to read:

80 **62A-5b-103. Rights and privileges of an individual with a disability.**

81 (1) [~~A person~~] An individual with a disability has the same rights and privileges in the
82 use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other
83 public areas as [~~a person~~] an individual who is not [~~a person~~] an individual with a disability.

84 (2) [~~A person~~] An individual with a disability has equal rights to accommodations,
85 advantages, and facilities offered by common carriers, including air carriers, railroad carriers,
86 motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this
87 state.

88 (3) [~~A person~~] An individual with a disability has equal rights to accommodations,
89 advantages, and facilities offered by hotels, motels, lodges, and all other places of public
90 accommodation in this state, and to places of amusement or resort to which the public is
91 invited.

92 (4) (a) [~~A person~~] An individual with a disability has equal rights and access to public
93 and private housing accommodations offered for rent, lease, or other compensation in this state.

94 (b) This chapter does not require a person renting, leasing, or selling private housing or

95 real property to modify the housing or property in order to accommodate ~~[a person]~~ an
 96 individual with a disability or to provide a higher degree of care for that ~~[person]~~ individual
 97 than for someone who is not ~~[a person]~~ an individual with a disability.

98 (c) A person renting, leasing, or selling private housing or real property to ~~[a person]~~
 99 an individual with a disability shall comply with the provisions of Section 62A-5b-104[;
 100 ~~regarding the right of the person to be accompanied by a service animal specially trained for~~
 101 ~~that purpose~~].

102 Section 4. Section **62A-5b-104** is amended to read:

103 **62A-5b-104. Right to be accompanied by service animal or support animal --**
 104 **Security deposits -- Discrimination -- Liability -- Identification.**

105 (1) (a) ~~[A person]~~ An individual with a disability has the right to be accompanied by a
 106 service animal, unless the service animal is a danger or nuisance to others as interpreted under
 107 the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

108 (i) in any of the places specified in Section 62A-5b-103; and

109 (ii) without additional charge for the service animal.

110 ~~[(b) This section does not prohibit an owner or lessor of private housing~~
 111 ~~accommodations from charging a person, including a person with a disability, a reasonable~~
 112 ~~deposit as security for any damage or wear and tear that might be caused by a service animal if~~
 113 ~~the owner or lessor would charge a similar deposit to other persons for potential wear and tear.]~~

114 ~~[(c)]~~ (b) An owner or lessor of private housing accommodations:

115 (i) may not, in any manner, discriminate against ~~[a person]~~ an individual with a
 116 disability on the basis of the ~~[person's]~~ individual's possession of a service animal[-] or a
 117 support animal, including by charging an extra fee or deposit for a service animal or a support
 118 animal; and

119 (ii) may recover a reasonable cost to repair damage caused by a service animal or a
 120 support animal.

121 (2) ~~[A person]~~ An individual who is not ~~[a person]~~ an individual with a disability has
 122 the right to be accompanied by an animal that is in training to become a service animal or a
 123 police service canine, as defined in Section 53-16-102:

124 (a) in any of the places specified in Section 62A-5b-103; and

125 (b) without additional charge for the animal.

126 ~~[(3) A person with a disability is liable for any loss or damage caused or inflicted to the~~
 127 ~~premises by the person's service animal.]~~

128 ~~[(4) A person accompanied by a service animal is encouraged to identify the animal by~~
 129 ~~exhibiting one or more of the following:]~~

130 ~~[(a) the animal's laminated identification card;]~~

131 ~~[(b) the animal's service vest; or]~~

132 ~~[(c) another form of identification.]~~

133 (3) An individual described in Subsection (1) or (2) is liable for any loss or damage the
 134 individual's accompanying service animal, support animal, or animal described in Subsection
 135 (2) causes or inflicts to the premises of a place specified in Section 62A-5b-103.

136 (4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a
 137 service animal or a support animal from a place described in Section 62A-5b-103.

138 Section 5. Section **62A-5b-105** is amended to read:

139 **62A-5b-105. Policy of state to employ individuals with a disability.**

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

146 Section 6. Section **62A-5b-106** is amended to read:

147 **62A-5b-106. Interference with rights provided in this chapter --**

148 **Misrepresentation of rights under this chapter.**

149 (1) Any ~~[person]~~ individual, or agent of any ~~[person]~~ individual, who denies or
 150 interferes with the rights provided in this chapter is guilty of a class C misdemeanor.

151 (2) ~~[A person]~~ An individual is guilty of a class ~~[B]~~ C misdemeanor if:

152 (a) the ~~[person]~~ individual intentionally and knowingly falsely represents to another
 153 person that an animal is a service animal ~~[as defined in Section 62A-5b-102;]~~ or a support
 154 animal;

155 (b) the ~~[person]~~ individual knowingly and intentionally misrepresents a material fact to
 156 a health care provider for the purpose of obtaining documentation from the health care provider

157 necessary to designate an animal as a service animal [~~as defined in Section 62A-5b-102.~~] or a
158 support animal; or

159 (c) the individual, except for an individual with a disability, uses an animal to gain
160 treatment or benefits only provided for an individual with a disability.

161 (3) This section does not affect the enforceability of any criminal law, including
162 Subsection 76-6-501(2).

163 (4) An agent of a protection and advocacy agency, acting in the agent's professional
164 capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and
165 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).