

EMOTIONAL SUPPORT ANIMALS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to emotional support animals.

Highlighted Provisions:

This bill:

▶ amends provisions related to a person with a disability accompanied by a support animal by:

- amending the definition of support animal;
- creating a new section specific to persons with a disability accompanied by an emotional support animal;
- restating that misrepresenting a support or emotional support animal is a class B misdemeanor; and
- including emotional support animals in penalties for injuries to support animals.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

18-1-3, as last amended by Laws of Utah 2007, Chapter 22

62A-5b-102, as enacted by Laws of Utah 2007, Chapter 22



28 **62A-5b-106**, as renumbered and amended by Laws of Utah 2007, Chapter 22

29 **76-9-307**, as last amended by Laws of Utah 2007, Chapter 22

30 **78-20-101**, as last amended by Laws of Utah 2007, Chapter 22

31 ENACTS:

32 **62A-5b-201**, Utah Code Annotated 1953

33 **62A-5b-202**, Utah Code Annotated 1953

34 **62A-5b-203**, Utah Code Annotated 1953

35 **62A-5b-204**, Utah Code Annotated 1953



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

38 Section 1. Section **18-1-3** is amended to read:

39 **18-1-3. Dogs attacking domestic animals, service animals, hoofed protected**
40 **wildlife, or domestic fowls.**

41 Any person may injure or kill a dog while:

42 (1) the dog is attacking, chasing, or worrying:

43 (a) a domestic animal having a commercial value;

44 (b) a service animal, as defined in Section 62A-5b-102; ~~or~~

45 (c) an emotional support animal as defined in Section 62A-5b-201; or

46 ~~[(c)]~~ (d) any species of hoofed protected wildlife;

47 (2) the dog is attacking domestic fowls; or

48 (3) the dog is being pursued for committing an act described in Subsection (1) or (2).

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

50 **Part 1. Rights and privileges of a person with a disability - Service animals**

51 **62A-5b-102. Definitions.**

52 As used in this chapter:

53 (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans

54 With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the

55 Code of Federal Regulations, as may be amended in the future.

56 ~~[(2) "Emotional support animal":]~~

57 ~~[(a) means an animal in the possession of a person:]~~

58 ~~[(i) with a disability; and]~~

59 ~~[(ii) with specific documentation from a mental health therapist that the animal is~~
60 ~~needed in a particular location described in Section 62A-5b-103, other than a restaurant, by the~~
61 ~~person to address a mental health condition; and]~~

62 ~~[(b) does not include an animal in the possession of a person with a disability in any~~
63 ~~other location than the particular location described in Subsection (2)(a)(ii).]~~

64 ~~[(3)] (2) "Mental health therapist" has the same meaning as defined in Title 58, Chapter~~
65 ~~60, Mental Health Professional Practice Act.~~

66 ~~[(4)] (3) "Mental health therapy" has the same meaning as defined in Title 58, Chapter~~
67 ~~60, Mental Health Professional Practice Act.~~

68 ~~[(5)] (4) "Psychiatric therapy animal" means an animal:~~

69 (a) specifically trained for use by a mental health therapist in the course of providing
70 mental health therapy to a person with a disability; and

71 (b) in the possession of a mental health therapist.

72 ~~[(6) "Restaurant":]~~

73 ~~[(a) includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or~~
74 ~~fast-food service where food is prepared or served for immediate consumption; and]~~

75 ~~[(b) does not include:]~~

76 ~~[(i) any retail establishment whose primary business or function is the sale of fuel or~~
77 ~~food items for off-premise, but not immediate, consumption; and]~~

78 ~~[(ii) except for a dinner theater, a theater that sells food items.]~~

79 ~~[(7)] (5) "Service animal" means:~~

80 (a) (i) a guide dog;

81 (ii) a signal dog; or

82 (iii) any other animal individually trained to do work or perform tasks for the benefit of
83 a person with a disability, including:

84 (A) guiding a person with impaired vision;

85 (B) alerting a person with impaired hearing to intruders or sounds;

86 (C) providing minimal protection or rescue work;

87 (D) pulling a wheelchair; or

88 (E) fetching dropped items; or

89 ~~[(b) an emotional support animal; or]~~

90 [↔] (b) an animal in training to become an animal described in Subsection [(7)] (5)(a)
91 [or (b)].

92 Section 3. Section **62A-5b-106** is amended to read:

93 **62A-5b-106. Interference with rights provided in this chapter --**
94 **Misrepresentation of rights under this chapter.**

95 (1) Any person, or agent of any person, who denies or interferes with the rights
96 provided in this chapter is guilty of a class C misdemeanor.

97 (2) A person is guilty of a class B misdemeanor if:

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

100 (i) a service animal as defined in Section 62A-5b-102; or

101 (ii) an emotional support animal as defined in Section 62A-5b-201; or

102 (b) the person knowingly and intentionally misrepresents a material fact to a health
103 care provider for the purpose of obtaining documentation from the health care provider
104 necessary to designate an animal as a service animal as defined in Section 62A-5b-102 or an
105 emotional support animal as defined in Section 62A-5b-201.

106 Section 4. Section **62A-5b-201** is enacted to read:

107 **Part 2. Emotional Support Animals**

108 **62A-5b-201. Definitions.**

109 (1) (a) "Emotional support animal" means an animal in the possession of a person:

110 (i) who has a disability; and

111 (ii) who has the documentation required by Section 62A-5b-202.

112 (b) "Emotional support animal" does not include an animal in the possession of a
113 person with a disability in any location other than the particular location described in the
114 documentation required by Section 62A-6b-202.

115 (2) "Hospital" means any of the following licenced under Title 26, Chapter 21, Health
116 Care Facility Licensing and Inspection Act:

117 (a) a general acute hospital;

118 (b) a specialty hospital; and

119 (c) an ambulatory surgical center.

120 (3) "Restaurant":

121 (a) includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or
 122 fast-food service where food is prepared or served for immediate consumption; and

123 (b) does not include:

124 (i) any retail establishment whose primary business or function is the sale of fuel or
 125 food items for off-premise, but not immediate, consumption; and

126 (ii) except for a dinner theater, a theater that sells food items.

127 **§→ ~~[(4)] "Veterinarian" means a person:~~**

128 ~~—— (a) licensed as a veterinarian in Utah under Title 58, Occupations and Professions; or~~

129 ~~—— (b) licensed and in good standing as a veterinarian in another state.] ←§~~

130 Section 5. Section **62A-5b-202** is enacted to read:

131 **62A-5b-202. Documentation of emotional support animal.**

132 **§→ ~~[(1)] ←§~~ A mental health therapist may provide a person with a disability with**
 133 documentation that:

134 **§→ ~~[(a)] (1) ←§~~) is signed by the mental health therapist;**

135 **§→ ~~[(b)] (2) ←§~~ is dated; and**

136 **§→ ~~[(c)] (3) ←§~~ certifies that in the opinion of the mental health therapist:**

137 **§→ ~~[(i)] (a) ←§~~ the person has a disability as defined in Section 62A-5b-102; and**

138 **§→ ~~[(ii)] (b) ←§~~ the person with the disability:**

139 **§→ ~~[(A)] (i) ←§~~ needs a particular type of emotional support animal; and**

140 **§→ ~~[(B)] (ii) ←§~~ needs the emotional support animal in a particular location identified in**

140a Section

141 62A-5b-103, except for restaurants or hospitals.

142 **§→ ~~[(2) (a)] A veterinarian may provide a person with a disability with documentation that:~~**

143 ~~—— (i) is signed by the veterinarian;~~

144 ~~—— (ii) is dated; and~~

145 ~~—— (iii) states that:~~

146 ~~—— (A) the emotional support animal has received all recommended vaccinations; and~~

147 ~~—— (B) in the opinion of the veterinarian, the emotional support animal is socialized or~~
 148 ~~trained to behave appropriately in the particular locations in which the mental health therapist~~
 149 ~~has certified the emotional support animal is needed.~~

150 ~~—— (b) A veterinarian who provides a statement under Subsection (2)(a) is not liable for~~
 151 ~~the actions of the animal that is the subject of the statement issued under Subsection (2)(a):] ←§~~

152 ~~§→ [(3) The documentation authorized by this section is valid for one year from the date the~~
 153 ~~document is signed.] ←§~~

154 Section 6. Section **62A-5b-203** is enacted to read:

155 **62A-5b-203. Right to be accompanied by emotional support animal -- Security**
 156 **deposits -- Discrimination -- Identification.**

157 (1) A person with a disability has the right to be accompanied by an emotional support
 158 animal, subject to reasonable accommodation under Section 62A-5b-204, unless the emotional
 159 support animal is a danger or nuisance to others as interpreted under the Americans with
 160 Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

161 (a) (i) in any of the places:

162 (A) specified in Section 62A-5b-103, except hospitals and restaurants; and

163 (B) that are identified in the documentation described in Section 62A-5b-202; and

164 (ii) without additional charge for the emotional support animal.

165 (b) This section does not prohibit an owner or lessor of housing accommodations from
 166 charging a person, including a person with a disability, a reasonable deposit as security for any
 167 damage or wear and tear that might be caused by an emotional support animal if the owner or
 168 lessor would charge a similar deposit to other persons for potential wear and tear.

169 (c) An owner or lessor of private housing accommodations may not, in any manner,
 170 discriminate against a person with a disability on the basis of the person's possession of an
 171 emotional support animal.

172 (2) A person with a disability is liable for any loss or damage caused or inflicted to the
 173 premises by the person's emotional support animal.

174 (3) A person accompanied by an emotional support animal shall, upon request, identify
 175 the animal by showing the property owner or the property owner's representative the
 176 documentation described in Section 62A-5b-202.

177 Section 7. Section **62A-5b-204** is enacted to read:

178 **62A-5b-204. Reasonable accommodation.**

179 A person who owns or operates a particular location specified in the mental health
 180 therapist documentation shall provide reasonable accommodation to a person with a disability
 181 accompanied by an emotional support animal.

182 Section 8. Section **76-9-307** is amended to read:

183 **76-9-307. Injury to service animals -- Penalties.**

184 (1) As used in this section:

185 (a) "Disability" has the same meaning as defined in Section 62A-5b-102.

186 (b) "Search and rescue dog" means a dog:

187 (i) with documented training to locate persons who are:

188 (A) lost, missing, or injured; or

189 (B) trapped under debris as the result of a natural or man-made event; and

190 (ii) affiliated with an established search and rescue dog organization.

191 (c) "Service animal" means:

192 (i) a service animal as defined in Section 62A-5b-102;

193 (ii) a psychiatric therapy animal as defined in Section 62A-5b-102; ~~or~~

194 (iii) a search and rescue dog~~[-]; or~~

195 (iv) an emotional support animal, as defined in Section 62A-5b-201.

196 (2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly
197 cause substantial bodily injury or death to a service animal.

198 (3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises
199 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient
200 control over the animal to prevent it from causing:

201 (a) any substantial bodily injury or the death of a service animal; or

202 (b) the service animal's subsequent inability to function as a service animal as a result
203 of the animal's attacking, chasing, or harassing the service animal.

204 (4) It is a class B misdemeanor for a person to chase or harass a service animal.

205 (5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises
206 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient
207 control over the animal to prevent it from chasing or harassing a service animal while it is
208 carrying out its functions as a service animal, to the extent that the animal temporarily
209 interferes with the service animal's ability to carry out its functions.

210 (6) (a) A service animal is exempt from quarantine or other animal control ordinances
211 if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).

212 (b) The owner of the service animal or the person with a disability whom the service
213 animal serves shall make the animal available for examination at any reasonable time and shall

214 notify the local health officer if the animal exhibits any abnormal behavior.

215 (7) In addition to any other penalty, a person convicted of any violation of this section
216 is liable for restitution to the owner of the service animal or the person with a disability whom
217 the service animal serves for the replacement, training, and veterinary costs incurred as a result
218 of the violation of this section.

219 (8) If the act committed under this section amounts to an offense subject to a greater
220 penalty under another provision of Title 76, Utah Criminal Code, than is provided under this
221 section, this section does not prohibit prosecution and sentencing for the more serious offense.

222 Section 9. Section **78-20-101** is amended to read:

223 **78-20-101. Definitions.**

224 As used in this chapter:

225 (1) "Disability" has the same meaning as defined in Section 62A-5b-102.

226 (2) "Search and rescue dog" means a dog:

227 (a) with documented training to locate persons who are:

228 (i) lost, missing, or injured; or

229 (ii) trapped under debris as the result of a natural or man-made event; and

230 (b) affiliated with an established search and rescue dog organization.

231 (3) "Service animal" means:

232 (a) a service animal, as defined in Section 62A-5b-102;

233 (b) a psychiatric therapy animal, as defined in Section 62A-5b-102; [or]

234 (c) a search and rescue dog[-]; or

235 (d) an emotional support animal, as defined in Section 62A-5b-201.

Legislative Review Note
as of 1-17-08 2:54 PM

Office of Legislative Research and General Counsel

S.B. 70 - Emotional Support Animals

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
