

AN ACT

relating to rights and responsibilities of persons with disabilities, including with respect to the use of service animals that provide assistance to those persons; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 437, Health and Safety Code, is amended by adding Section 437.023 to read as follows:

Sec. 437.023. SERVICE ANIMALS. (a) A food service establishment, retail food store, or other entity regulated under this chapter may not deny a service animal admittance into an area of the establishment or store or of the physical space occupied by the entity that is open to customers and is not used to prepare food if:

(1) the service animal is accompanied and controlled by a person with a disability; or

(2) the service animal is in training and is accompanied and controlled by an approved trainer.

(b) If a service animal is accompanied by a person whose disability is not readily apparent, for purposes of admittance to a food service establishment, retail food store, or physical space occupied by another entity regulated under this chapter, a staff member of the establishment, store, or entity may only inquire about:

(1) whether the service animal is required because the

1 person has a disability; and

2 (2) what type of work the service animal is trained to
3 perform.

4 (c) In this section, "service animal" means a canine that is
5 specially trained or equipped to help a person with a disability.
6 An animal that provides only comfort or emotional support to a
7 person is not a service animal under this section. The tasks that a
8 service animal may perform in order to help a person with a
9 disability must be directly related to the person's disability and
10 may include:

11 (1) guiding a person who has a visual impairment;

12 (2) alerting a person who has a hearing impairment or
13 who is deaf;

14 (3) pulling a wheelchair;

15 (4) alerting and protecting a person who has a seizure
16 disorder;

17 (5) reminding a person who has a mental illness to take
18 prescribed medication; and

19 (6) calming a person who has post-traumatic stress
20 disorder.

21 SECTION 2. Sections 121.002(1), (4), and (5), Human
22 Resources Code, are amended to read as follows:

23 (1) "Assistance animal" and "service animal" mean a
24 canine [~~means an animal~~] that is specially trained or equipped to
25 help a person with a disability and that [+]

26 [~~(A)~~] is used by a person with a disability [~~who~~
27 ~~has satisfactorily completed a specific course of training in the~~

1 ~~use of the animal; and~~

2 ~~[(B) has been trained by an organization~~
3 ~~generally recognized by agencies involved in the rehabilitation of~~
4 ~~persons with disabilities as reputable and competent to provide~~
5 ~~animals with training of this type].~~

6 (4) "Person with a disability" means a person who has:

7 (A) a mental or physical disability;

8 (B) an intellectual or developmental disability;

9 (C) a [~~including mental retardation~~] hearing
10 impairment;

11 (D) [~~]~~ deafness;

12 (E) a [~~]~~ speech impairment;

13 (F) a [~~]~~ visual impairment;

14 (G) post-traumatic stress disorder; [~~]~~ or

15 (H) any health impairment that requires special
16 ambulatory devices or services.

17 (5) "Public facility [~~facilities~~]" includes a street,
18 highway, sidewalk, walkway, common carrier, airplane, motor
19 vehicle, railroad train, motor bus, streetcar, boat, or any other
20 public conveyance or mode of transportation; a hotel, motel, or
21 other place of lodging; a public building maintained by any unit or
22 subdivision of government; a retail business, commercial
23 establishment, or office building to which the general public is
24 invited; a college dormitory or other educational facility; a
25 restaurant or other place where food is offered for sale to the
26 public; and any other place of public accommodation, amusement,
27 convenience, or resort to which the general public or any

1 classification of persons from the general public is regularly,
2 normally, or customarily invited.

3 SECTION 3. Section 121.003, Human Resources Code, is
4 amended by amending Subsections (b), (d), (h), and (i) and adding
5 Subsections (k) and (l) to read as follows:

6 (b) No common carrier, airplane, railroad train, motor bus,
7 streetcar, boat, or other public conveyance or mode of
8 transportation operating within the state may refuse to accept as a
9 passenger a person with a disability [~~solely~~] because of the
10 person's disability, nor may a person with a disability be required
11 to pay an additional fare because of his or her use of a service [~~an~~
12 ~~assistance~~] animal, wheelchair, crutches, or other device used to
13 assist a person with a disability in travel.

14 (d) The discrimination prohibited by this section includes
15 a refusal to allow a person with a disability to use or be admitted
16 to any public facility, a ruse or subterfuge calculated to prevent
17 or discourage a person with a disability from using or being
18 admitted to a public facility, and a failure to:

19 (1) comply with Chapter 469, Government Code [~~Article~~
20 ~~9102, Revised Statutes~~];

21 (2) make reasonable accommodations in policies,
22 practices, and procedures; or

23 (3) provide auxiliary aids and services necessary to
24 allow the full use and enjoyment of the public facility.

25 (h) A person with a total or partial disability who has or
26 obtains a service [~~an assistance~~] animal is entitled to full and
27 equal access to all housing accommodations provided for in this

1 section, and may not be required to pay extra compensation or make a
2 deposit for the animal but is liable for damages done to the
3 premises by the animal except for reasonable wear and tear.

4 (i) A service [~~An assistance~~] animal in training shall not
5 be denied admittance to any public facility when accompanied by an
6 approved trainer [~~who is an agent of an organization generally~~
7 ~~recognized by agencies involved in the rehabilitation of persons~~
8 ~~who are disabled as reputable and competent to provide training for~~
9 ~~assistance animals, and/or their handlers~~].

10 (k) Except as provided by Subsection (l), a person is not
11 entitled to make demands or inquiries relating to the
12 qualifications or certifications of a service animal for purposes
13 of admittance to a public facility except to determine the basic
14 type of assistance provided by the service animal to a person with a
15 disability.

16 (l) If a person's disability is not readily apparent, for
17 purposes of admittance to a public facility with a service animal, a
18 staff member or manager of the facility may inquire about:

19 (1) whether the service animal is required because the
20 person has a disability; and

21 (2) what type of work or task the service animal is
22 trained to perform.

23 SECTION 4. Section 121.004, Human Resources Code, is
24 amended to read as follows:

25 Sec. 121.004. PENALTIES FOR AND DAMAGES RESULTING FROM
26 DISCRIMINATION. (a) A person, including a firm, association,
27 corporation, or other public or private organization, or the agent

1 of the [~~a~~] person, [~~firm, association, corporation, or other~~
2 ~~organization~~] who violates a provision of Section 121.003 commits
3 an offense. An offense under this subsection is a misdemeanor
4 punishable by:

5 (1) a fine of not [~~less than \$300 or~~] more than \$300;
6 and

7 (2) 30 hours of community service to be performed for a
8 governmental entity or nonprofit organization that primarily
9 serves persons with visual impairments or other disabilities, or
10 for another entity or organization at the discretion of the court,
11 to be completed in not more than one year [~~\$1,000~~].

12 (b) In addition to the penalty provided in Subsection (a)
13 [~~of this section~~], a person, including a firm, association,
14 corporation, or other public or private organization, or the agent
15 of the [~~a~~] person, [~~firm, association, corporation, or other~~
16 ~~organization~~], who violates the provisions of Section 121.003 [~~of~~
17 ~~this chapter~~] is deemed to have deprived a person with a disability
18 of his or her civil liberties. The person with a disability
19 deprived of his or her civil liberties may maintain a cause of
20 action for damages in a court of competent jurisdiction, and there
21 is a conclusive presumption of damages in the amount of at least
22 \$300 [~~\$100~~] to the person with a disability.

23 SECTION 5. Section 121.006(a), Human Resources Code, is
24 amended to read as follows:

25 (a) A person who uses a service [~~an assistance~~] animal with
26 a harness or leash of the type commonly used by persons with
27 disabilities who use trained animals, in order to represent that

1 his or her animal is a specially trained service [~~assistance~~]
2 animal when training [~~of the type described in Section~~
3 ~~121.002(1)(B) of this chapter~~] has not in fact been provided, is
4 guilty of a misdemeanor and on conviction shall be punished by:

5 (1) a fine of not more than \$300; and

6 (2) 30 hours of community service to be performed for a
7 governmental entity or nonprofit organization that primarily
8 serves persons with visual impairments or other disabilities, or
9 for another entity or organization at the discretion of the court,
10 to be completed in not more than one year [~~\$200~~].

11 SECTION 6. Section 121.008, Human Resources Code, is
12 amended to read as follows:

13 Sec. 121.008. DISSEMINATION OF INFORMATION RELATING TO
14 PERSONS WITH DISABILITIES. (a) To ensure maximum public awareness
15 of the policies set forth in this chapter, the governor shall [~~may~~]
16 issue a proclamation each year taking suitable public notice of
17 October 15 as White Cane Safety and Service Animal Recognition Day.
18 The proclamation must contain appropriate comment about the
19 significance of various devices and animals used by persons with
20 disabilities to assist them in traveling, and must call to the
21 attention of the public the provisions of this chapter and of other
22 laws relating to the safety and well-being of this state's citizens
23 with disabilities.

24 (b) The comptroller, the secretary of state, and other state
25 [~~state~~] agencies that regularly mail [~~mailing~~] forms or information
26 to significant numbers of public facilities and businesses
27 operating within the state shall cooperate with state agencies

1 responsible for the rehabilitation of persons with disabilities by
2 sending information about this chapter to those to whom regular
3 mailings are sent. The information, which must be sent at [~~only on~~]
4 the request of state agencies responsible for the rehabilitation of
5 persons with disabilities and at least [~~not more than~~] once each
6 year, may be included in regular mailings or sent separately. If
7 sent separately, the cost of mailing is borne by the state
8 rehabilitation agency or agencies requesting the mailing and,
9 regardless of whether sent separately or as part of a regular
10 mailing, the cost of preparing information about this chapter is
11 borne by the state rehabilitation agency or agencies requesting
12 distribution of this information.

13 SECTION 7. The changes in law made by this Act to Sections
14 121.004 and 121.006, Human Resources Code, apply only to an offense
15 committed on or after the effective date of this Act. An offense
16 committed before the effective date of this Act is governed by the
17 law in effect when the offense was committed, and the former law is
18 continued in effect for that purpose. For purposes of this section,
19 an offense was committed before the effective date of this Act if
20 any element of the offense occurred before that date.

21 SECTION 8. This Act takes effect January 1, 2014.

President of the Senate

Speaker of the House

I certify that H.B. No. 489 was passed by the House on May 1, 2013, by the following vote: Yeas 120, Nays 21, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 489 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 489 on May 26, 2013, by the following vote: Yeas 140, Nays 5, 1 present, not voting.

Chief Clerk of the House

H.B. No. 489

I certify that H.B. No. 489 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 489 on May 26, 2013, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor