

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on
Public Health
(AC-PH)**

(Form Updated: 11/20/2008)

COMMITTEE NOTICES ...

➤ Committee Reports ... CR
**

➤ Executive Sessions ... ES
**

➤ Public Hearings ... PH
**

➤ Record of Comm. Proceedings ... RCP
**

**INFORMATION COLLECTED BY COMMITTEE
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt
**

Name:

➤ Clearinghouse Rules ... CRule
**

➤ Hearing Records ... HR (bills and resolutions)

****03hr_ab0332_AC-PH_pt01**

➤ Miscellaneous ... Misc
**

Vote Record Committee on Public Health

Date: 10/8/03

Moved by: Schneider

Seconded by: Underheim

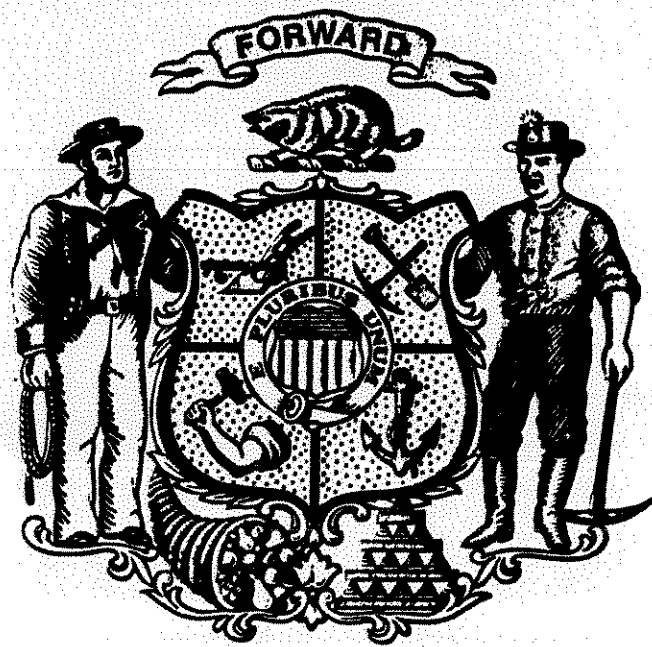
AB 332 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrency

Committee Member	Aye	No	Absent	Not Voting
Representative J.A. Hines, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Stephen Freese	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Terri McCormick	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sheldon Wasserman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Johnnie Morris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Marlin Schneider	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 7 0 1 _____





REPRESENTATIVE MARK MILLER

ASSEMBLY COMMITTEE ON PUBLIC HEALTH ASSEMBLY BILL 332 TESTIMONY WEDNESDAY, SEPTEMBER 10, 2003

Under current law, a public place must accommodate a blind, deaf, or mobility-impaired person being led by a dog specifically trained or being trained to lead blind or deaf person or to provide support for mobility impaired persons, or a trainer accompanied by a guide dog. This accommodation requires that the dog wears a harness or leash and a special cape, and that the person has presented for inspection credentials issued by a school for training guide dogs.

Assembly Bill 332 conforms this current law to federal regulations promulgated under the Americans with Disabilities Act. These regulations require public places to permit the use of any service animal and eliminate the requirement that a service animal must wear a harness or leash and a special cape and that the person with a disability must present credentials for their service animal.

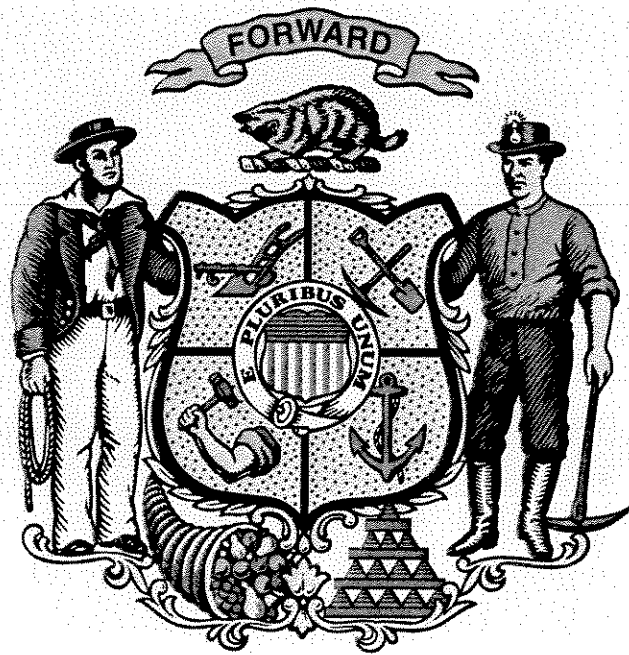
The United State Department of Justice publication of frequently asked questions regarding service animals asks: "My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?" The answer to this question is yes. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations. This question highlights the need for this legislation.

Wisconsin's current law is a potential source for confrontation and confusion, with the victims being both persons with disabilities and the owners of public venues. A business man or woman looking to state law for guidance might refuse entrance to a patron with a service animal because the animal is not wearing a harness or the patron cannot present credentials for the animal. In this situation, the patron has been refused a service they are fully entitled to. We must change state law so that it will not mislead business owners in such a way as to prohibit citizens from their ability to enjoy public places. Furthermore, we must prevent an honest business looking toward state laws as a guide from becoming involved in a civil suit for unknowingly violating federal law.

Some business owners have expressed concern regarding the provision for service animal trainers in this bill. Under current law, service animal trainers are given the same protection as persons with disabilities. The animals must be in a cape and the trainer must provide credentials. This bill makes absolutely no change to current law regarding

trainers. Earlier drafts loosened the law on training but this was removed at the request of trainers to assure quality control and prevent abuse of the law by imitating trainers.

Persons with disabilities and businesses providing public accommodation should not face conflicting information from state and federal government. This bill is simple and straightforward. It changes the law pertaining to persons with disabilities so that it is in line with the Americans with Disabilities Act. It makes no changes to the law regarding service animal trainers. This bill has strong bipartisan support in the capitol as well as strong organizational support. The Wisconsin Academy of Graduate Service Dogs provided a wealth of information to help in drafting this bill. Their spokesperson is here today to provide information, to answer questions and to provide a demonstration. Other organizations supporting this bill include: Wisconsin Council of the Blind, Wisconsin Coalition for Advocacy, Disability Advocates Resources, Access to Independence, Wisconsin Coalition of Independent Living, Department of Workforce Development, Wisconsin Division of Vocational Rehabilitation and Wisconsin First Step.





Wisconsin Speaker Pro Tempore
Representative Stephen J. Freese

October 7, 2003

J.A. Hines, Chairman
Assembly Committee on Public Health
Room 10W, State Capitol
Madison, WI 53702

Dear Chairman Hines:

Since I am unable to be present for the October 8th executive session of the Assembly Committee on Public Health, I would like to submit my voting intentions for the committee record.

Let it be known for the record that I would have voted "aye" on passage of Assembly Bill 108, Assembly Bill 332, Assembly Bill 351 and Assembly Bill 441.

Sincerely,

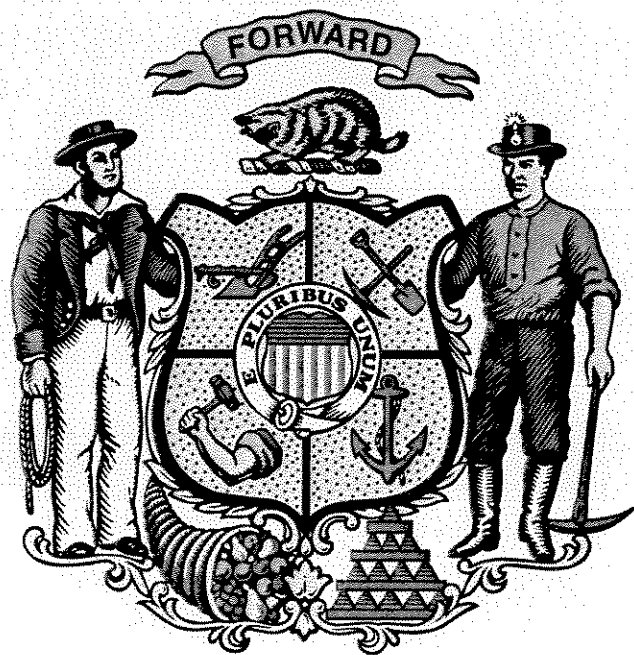
A handwritten signature in black ink that reads "Steve Freese".

Stephen J. Freese
State Representative

Fifty-First Assembly District

Office: Post Office Box 8952 • Madison, Wisconsin 53708-8952 • (608) 266-7502 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us
District: 1121 Professional Drive • Dodgeville, Wisconsin 53533 • (608) 935-3789

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U.S. Department of Justice

COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS

If you have further questions about service animals or other requirements of the ADA, you may call the U.S. Department of Justice's toll-free ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TDD) or visit www.ada.gov

1. Q: What are the laws that apply to my business?

A: Under the Americans with Disabilities Act (ADA), privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

2. Q: What is a service animal?

A: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.

A service animal is not a pet.

3. Q: How can I tell if an animal is really a service animal and not just a pet?

A: Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an

individual accompanied by a service animal. Although a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

4. Q: What must I do when an individual with a service animal comes to my business?

A: The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

5. Q: I have always had a clearly posted "no pets" policy at my establishment. Do I still have to allow service animals in?

A: Yes. A service animal is not a pet. The ADA requires you to modify your "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean you must abandon your "no pets" policy altogether but simply that you must make an exception to your general rule for service animals.

6. Q: My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?

A: Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations.

7. Q: Can I charge a maintenance or cleaning fee for customers who bring service animals into my business?

A: No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages. For example, a hotel can charge a guest with a disability for the cost of repairing or cleaning furniture damaged by a service animal if it is the hotel's policy to charge when non-disabled guests cause such damage.

8. Q: I operate a private taxicab and I don't want animals in my taxi; they smell, shed hair and sometimes have "accidents." Am I violating the ADA if I refuse to pick up someone with a service animal?

A: Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

9. Q: Am I responsible for the animal while the person with a disability is in my business?

A: No. The care or supervision of a service animal is solely the responsibility of his or her owner. You are not required to provide care or food or a special location for the animal.

10. Q: What if a service animal barks or growls at other people, or otherwise acts out of control?

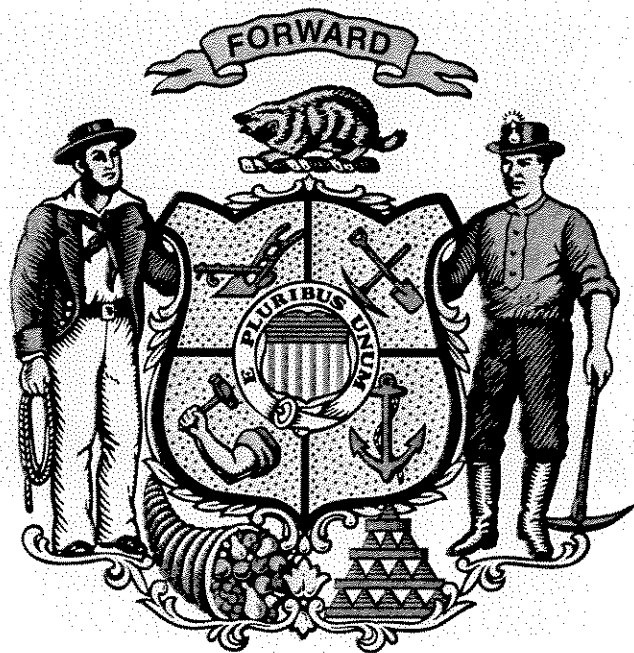
A: You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

11. Q: Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?

A: There may be a few circumstances when a public accommodation is not required to accommodate a service animal--that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal can be excluded.

DUPLICATION OF THIS DOCUMENT IS ENCOURAGED.



Americans with Disabilities Act **ADA Business BRIEF:**

Service Animals

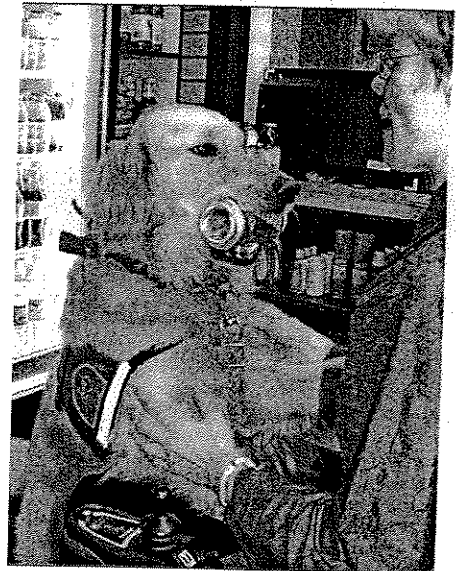
Service animals are animals that are individually trained to perform tasks for people with disabilities – such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.

Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This federal law applies to all businesses open to the public, including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos.



Businesses that serve the public must allow people with disabilities to enter with their service animal

- Businesses that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
 - A business is not required to provide care or food for a service animal or provide a special location for it to relieve itself.
 - Allergies and fear of animals are generally not valid reasons for denying access or refusing service to people with service animals.
 - Violators of the ADA can be required to pay money damages and penalties.
- Businesses may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but cannot require special ID cards for the animal or ask about the person's disability.
 - People with disabilities who use service animals cannot be charged extra fees, isolated from other patrons, or treated less favorably than other patrons. However, if a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may be charged for damage caused by his or her service animal.
 - A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the animal is out of control and the animal's owner does not take effective action to control it (for example, a dog that barks repeatedly during a movie) or (2) the animal poses a direct threat to the health or safety of others.
 - In these cases, the business should give the person with the disability the option to obtain goods and services without having the animal on the premises.



Service animals are individually trained to perform tasks for people with disabilities

If you have additional questions concerning the ADA and service animals, please call the Department's ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY) or visit the **ADA Business Connection** at www.ada.gov