

**2003 DRAFTING REQUEST**

**Bill**

Received: **12/26/2002**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-5342**

By/Representing: **Connor Sabatino**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Miller@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Service animals; conformity with American with Disabilities Act

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**Instructions:**

See Attached--apply s. 174.056 to all service animals, not just dogs, in conformity with American with Disabilities Act.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 02/28/2003	kfollett 03/04/2003		_____			State
/1			rschluet 03/07/2003	_____	amentkow 03/07/2003		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gmalaise 03/24/2003	kfollett 03/25/2003 kfollett 03/28/2003	jfrantze 03/31/2003	_____	amentkow 03/31/2003	lemery 04/21/2003	

FE Sent For:

*At intro.*

<END>

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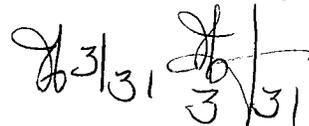
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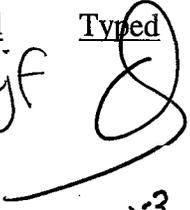
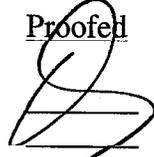
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1?	gmalaise	1/1/02 3/4			CPA		

3-4-3

FE Sent For:

<END>

## Malaise, Gordon

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**From:** Sabatino, Connor  
**Sent:** Wednesday, December 18, 2002 12:32 PM  
**To:** Malaise, Gordon  
**Subject:** Service Animals

Here is the information I've gathered. The state statutes we're looking at are 174.055 and 174.056. These statutes are in conflict with the ADA, which does have power over any state statutes. Some of the conflicts include:

- It only recognizes dogs as service animals while the ADA recognizes any animal
- It requires the dog to wear a special harness etc., the ADA does not require any sort of identification on the animal
- It requires the owner to present credentials for the dog, the ADA does not require credentials but simply allows people to ask if the animal is a service animal and nothing more, if the response is "yes" then the animal and owner must be treated accordingly regardless of whether or not a disability is apparent or the animal's job is apparent.

These are just some of the conflicts between state statutes and the ADA. We do not want to simply resolve the conflicts above, but adopt all of the ADA regulations regarding service animals. The regulations can be found in Title III of ADA law and I have attached a Word file of all the relevant ADA information I have compiled.

Thanks,  
Connor Sabatino

28 CFR 36



ADA and  
Service Animals.doc

ADA and Service Animals  
Title III

36.104 definitions

- ✓ Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, ~~but not limited to,~~ guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. *e.g. person having seizure*

36.302

- ✓ (c) Service animals -- (1) General. Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.
- (2) Care or supervision of service animals. Nothing in this part requires a public accommodation to supervise or care for a service animal.

Appendix B  
Subpart C

"Service animal." The term "service animal" encompasses any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. The term is used in Sec.36.302(c), which requires public accommodations generally to modify policies, practices, and procedures to accommodate the use of service animals in places of public accommodation.

...

Some commenters suggested that the rule should allocate responsibilities for areas other than removal of barriers and auxiliary aids. The final rule leaves allocation of all areas to the lease negotiations. However, in general landlords should not be given responsibility for policies a tenant applies in operating its business, if such policies are solely those of the tenant. Thus, if a restaurant tenant discriminates by refusing to seat a patron, it would be the tenant, and not the landlord, who would be responsible, because the discriminatory policy is imposed solely by the tenant and not by the landlord. If, however, a tenant refuses to modify a "no pets" rule to allow service animals in its restaurant because the landlord mandates such a rule, then both the landlord and the tenant would be liable for violation of the ADA when a person with a service dog is refused entrance. The

Department wishes to emphasize, however, that the parties are free to allocate responsibilities in any way they choose.

Section 36.302(c)(1) requires that a public accommodation modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability in any area open to the general public. The term "service animal" is defined in Sec.36.104 to include guide dogs, signal dogs, or any other animal individually trained to provide assistance to an individual with a disability.

A number of commenters pointed to the difficulty of making the distinction required by the proposed rule between areas open to the general public and those that are not. The ambiguity and uncertainty surrounding these provisions has led the Department to adopt a single standard for all public accommodations.

Section 36.302(c)(1) of the final rule now provides that "[g]enerally, a public accommodation shall modify policies, practices, and procedures to permit the use of a service animal by an individual with a disability." This formulation reflects the general intent of Congress that public accommodations take the necessary steps to accommodate service animals and to ensure that individuals with disabilities are not separated from their service animals. It is intended that the broadest feasible access be provided to service animals in all places of public accommodation, including movie theaters, restaurants, hotels, retail stores, hospitals, and nursing homes (see Education and Labor report at 106; Judiciary report at 59). The section also acknowledges, however, that, in rare circumstances, accommodation of service animals may not be required because a fundamental alteration would result in the nature of the goods, services, facilities, privileges, or accommodations offered or provided, or the safe operation of the public accommodation would be jeopardized.

As specified in Sec.36.302(c)(2), the rule does not require a public accommodation to supervise or care for any service animal. If a service animal must be separated from an individual with a disability in order to avoid a fundamental alteration or a threat to safety, it is the responsibility of the individual with the disability to arrange for the care and supervision of the animal during the period of separation.

A museum would not be required by Sec.36.302 to modify a policy barring the touching of delicate works of art in order to enhance the participation of individuals who are blind, if the touching threatened the integrity of the work. Damage to a museum piece would clearly be a fundamental alteration that is not required by this section.

- ① Accommodate service animal
  - ② Do not separate permit to accompany may not segregate
- But may separate if - fundamental alteration e.g. dog barks at movie  
- safety e.g. vicious dog

individual responsible for arranging care if separated

## COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS

### 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

May not ask  
 May not request  
 documentation  
 of disability  
 May not  
 request  
 certification  
 of  
 animal

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?**

*Accompany to all areas  
May not segregate*

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.

*May prohibit  
pets, but not  
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.

*But may charge  
for 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.

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).

**DUPLICATION OF THIS DOCUMENT IS ENCOURAGED.**

# 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 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.
- 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.



SOON

Gen

1 AN ACT ...; relating to: the full and equal enjoyment of a public place of  
2 accommodation or amusement by a person with a disability who is accompanied  
3 by a service animal.

***Analysis by the Legislative Reference Bureau***

Under current law, a public place of accommodation or amusement (public accommodation) may not refuse to permit entrance into, or use of, the public accommodation by a blind, deaf, or mobility-impaired person because that person is being led by a dog specially trained, or being specially trained, to lead blind or deaf persons or to provide support for mobility-impaired persons (guide dog), or to the trainer of a guide dog because the trainer is accompanied by a guide dog, if the guide dog is wearing a harness or leash and special cape and if the person has presented, for inspection, credentials issued by a school for training guide dogs.

Current federal regulations promulgated under the American with Disabilities Act, however, require a public accommodation to modify its policies, practices, or procedures to permit the use of *any* service animal by a person with a disability in a public accommodation. Those regulations define a "service animal" as a guide dog, signal dog, or other animal that is individually trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

This bill conforms current law to those federal regulations by extending the Public Accommodations Law to cover *any* type of service animal, not just guide dogs, and by eliminating the requirements that a guide dog must wear a harness or leash

and special cape and that the person who is accompanied by a guide dog must present credentials issued by a guide dog training school.

a Specifically, the bill prohibits a public accommodation from refusing to permit entrance into, or use of, or from otherwise denying the full and equal enjoyment of the public accommodation to a person with a disability or to a service animal trainer because he or she is accompanied by a service animal, from charging a person with a disability or service animal trainer a higher price than the regular rate, including a deposit or surcharge, for the full and equal enjoyment of the public accommodation because he or she is accompanied by a service animal, and from communicating that entrance into, or use of, or the full and equal enjoyment of the public accommodation will be denied to a person with a disability or service animal trainer because he or she is accompanied by a service animal or that the patronage of such a person is unwelcome, objectionable, or unacceptable because he or she is accompanied by a service animal.

The bill, however, permits a service animal to be excluded from a public accommodation if accommodation of the service animal would result in a fundamental alteration in the nature of the accommodations, amusement, goods, or services provided or would jeopardize the safe operation of the public accommodation.

Finally, the bill requires a public accommodation to modify its policies, practices, and procedures to permit the full and equal enjoyment of the public accommodation by a person with a disability or service animal trainer who is accompanied by a service animal. The bill requires those policies, practices, and procedures to ensure that a person with a disability or a service animal trainer who is accompanied by a service animal is not separated from the service animal, that the service animal is permitted to accompany the person with a disability or service animal trainer to all areas of the public accommodation that are open to the general public, and that the person with a disability or service animal trainer is not segregated from other patrons of the public accommodation. The bill allows those policies, practices, and procedures to permit a person accompanied by an animal to be asked whether the animal is a service animal or is being trained to be a service animal, but does not permit that person to be required to produce documentation of his or her disability or a certification or other credential that the animal is trained as or is being trained to be a service animal.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1 SECTION 1. 106.52 (1) (fm) of the statutes is created to read:
- 2 106.52 (1) (fm) "Service animal" means a guide dog, signal dog, or other animal
- 3 that is individually trained or is being trained to do work or perform tasks for the

X  
X  
X  
use twice  
the

1 benefit of a person with a disability, including the work or task of guiding a person  
2 with impaired vision, alerting a person with impaired hearing to intruders or sound,  
3 providing minimal protection or rescue work, pulling a wheelchair, or fetching  
4 dropped items.

5 SECTION 2. 106.52 (3) (am) 2. of the statutes is created to read:

6 106.52 (3) (am) 2. A person may exclude a service animal from a public place  
7 of accommodation or amusement if accommodation of the service animal would  
8 result in a fundamental alteration in the nature of the accommodations, amusement,  
9 goods, or services provided or would jeopardize the safe operation of the public place  
10 of accommodation or amusement. If a service animal must be separated from the  
11 person whom the service animal is accompanying, it is the responsibility of that  
12 person to arrange for the care and supervision of the service animal during the period  
13 of separation.

14 SECTION 3. 106.52 (3) (am) 3. of the statutes is created to read:

15 106.52 (3) (am) 3. A public place of accommodation or amusement shall modify  
16 its policies, practices, and procedures to permit the full and equal enjoyment of the  
17 public place of accommodation or amusement by a person with a disability or a  
18 service animal trainer who is accompanied by a service animal. Those policies,  
19 practices, and procedures shall ensure that a person with a disability or a service  
20 animal trainer who is accompanied by a service animal is not separated from the  
21 service animal, that the service animal is permitted to accompany the person with  
22 a disability or <sup>the</sup> service animal trainer to all areas of the public place of accommodation  
23 or amusement that are open to the general public, and that the person with a  
24 disability or <sup>the</sup> service animal trainer is not segregated from other patrons of the public  
25 place of accommodation or amusement. Those policies, practices, and procedures

1 may permit a person accompanied by an animal to be asked whether the animal is  
2 a service animal that is required because of a disability or is an animal that is being  
3 trained to assist persons with disabilities, but may not require that person to produce  
4 documentation of his or her disability or a certification or other credential that the  
5 animal is trained as or <sup>is</sup> being trained to be a service animal.

6 SECTION 4. 174.056 (title) of the statutes is repealed.

7 SECTION 5. 174.056 <sup>x</sup> (1) (intro.) of the statutes is renumbered 106.52 (3) (am) 1.  
8 and amended to read:

9 106.52 (3) (am) 1. No person ~~who is an owner, lessee, proprietor, manager,~~  
10 ~~superintendent, agent or employee of any place of public accommodation,~~  
11 ~~amusement or recreation, including any inn, hotel, restaurant, eating place,~~  
12 ~~barbershop, billiard parlor, store, public conveyance on land or water, theater,~~  
13 ~~motion picture house, public educational institution or elevator,~~ may refuse to permit  
14 entrance into, or use of, any such accommodations, if the accommodations are  
15 available, to a blind, deaf or mobility impaired person for the reason that the person  
16 is being led by a dog specially trained, or being specially trained, to lead blind or deaf  
17 persons or to provide support for mobility impaired persons, or to the trainer of that  
18 kind of dog for the reason that the trainer is accompanied by that kind of dog if: or  
19 otherwise deny the full and equal enjoyment of any public place of accommodation  
20 or amusement to a person with a disability or to a service animal trainer because the  
21 person with a disability or <sup>the</sup> trainer is accompanied by a service animal, charge a  
22 person with a disability or a service animal trainer a higher price than the regular  
23 rate, including a deposit or surcharge, for the full and equal enjoyment of any public  
24 place of accommodation or amusement because the person with a disability or <sup>the</sup> trainer  
25 is accompanied by a service animal, or directly or indirectly publish, circulate,

1 display, or mail any written communication that the communicator knows is to the  
 2 effect that entrance into, or use of, or the full and equal enjoyment of any of the  
 3 facilities of the public place of accommodation or amusement will be denied to a  
 4 person with a disability or<sup>a</sup> service animal trainer because the person with a disability  
 5 or <sup>the</sup> trainer is accompanied by a service animal or that the patronage of a person with  
 6 a disability or<sup>a</sup> service animal trainer is unwelcome, objectionable, or unacceptable  
 7 because the person with a disability or <sup>the</sup> trainer is accompanied by a service animal.

History: 1979 c. 247; 1985 a. 67; 1989 a. 27.

8 **SECTION 6.** 174.056 (1) (a) of the statutes is repealed. <sup>x</sup>

9 **SECTION 7.** 174.056 (1) (b) of the statutes is repealed. <sup>x</sup>

10 **SECTION 8.** 174.056 (2) of the statutes is repealed. <sup>x</sup>

11 **SECTION 9.** 346.26 (1) of the statutes is amended to read: <sup>✓</sup>

12 346.26 (1) An operator of a vehicle shall stop the vehicle before approaching  
 13 closer than 10 feet to a pedestrian who is carrying a cane or walking stick which is  
 14 white in color or white trimmed with red and which is held in an extended or raised  
 15 position or who is using a dog-guide service animal, as defined in s. 106.52 (1) (fm), <sup>✓</sup>  
 16 and shall take such precautions as may be necessary to avoid accident or injury to  
 17 the pedestrian. The fact that the pedestrian may be violating any of the laws  
 18 applicable to pedestrians does not relieve the operator of a vehicle from the duties  
 19 imposed by this subsection.

History: 1977 c. 302.

20 **SECTION 10.** 346.26 (2) of the statutes is amended to read: <sup>✓</sup>

21 346.26 (2) Nothing in this section shall be construed to deprive any totally or  
 22 partially blind person not carrying the white or the red and white cane or walking  
 23 stick or not using a dog-guide service animal, as defined in s. 106.52 (1) (fm), <sup>✓</sup> of the  
 24 rights of other pedestrians crossing highways, nor shall the failure of such totally or

1 partially blind pedestrian to carry such cane or walking stick or to use a dog guide  
2 service animal be evidence of any negligence.

3 History: 1977 c. 302.

(END)

3/24/03

Connor Sabatino

12

Retain current law (actually extend to all service animals) regarding trainers, i.e., require cage & harness & require to produce documentation that animal is being trained to be service animals. (so people don't bring their pets & say they are training them to be service animals)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1274/1  
GMM:kjf:rs

Soon

2  
RMR

2003 BILL

Regent

1 **AN ACT** *to repeal* 174.056 (title), 174.056 (1) (a), 174.056 (1) (b) and 174.056 (2);  
2 *to renumber and amend* 174.056 (1) (intro.); *to amend* 346.26 (1) and 346.26  
3 (2); and *to create* 106.52 (1) (fm), 106.52 (3) (am) 2. and 106.52 (3) (am) 3. of  
4 the statutes, **relating to:** the full and equal enjoyment of a public place of  
5 accommodation or amusement by a person with a disability who is accompanied  
6 by a service animal.

***Analysis by the Legislative Reference Bureau***

Under current law, a public place of accommodation or amusement (public accommodation) may not refuse to permit entrance into, or use of, the public accommodation by a blind, deaf, or mobility-impaired person because that person is being led by a dog specially trained, or being specially trained, to lead blind or deaf persons or to provide support for mobility-impaired persons (guide dog), or to the trainer of a guide dog because the trainer is accompanied by a guide dog, if the guide dog is wearing a harness or leash and special cape and if the person has presented, for inspection, credentials issued by a school for training guide dogs.

Current federal regulations promulgated under the American with Disabilities Act, however, require a public accommodation to modify its policies, practices, or procedures to permit the use of *any* service animal by a person with a disability in a public accommodation. Those regulations define a "service animal" as a guide dog, signal dog, or other animal that is individually trained to do work or perform tasks

**BILL**

with a disability

accompanying a person with a disability

for the benefit of a person with a disability, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

This bill conforms current law to those federal regulations by extending the Public Accommodations Law to cover *any* type of service animal, not just guide dogs, and by eliminating the requirements that a guide dog must wear a harness or leash and special cape and that the person who is accompanied by a guide dog must present credentials issued by a guide dog training school.

Specifically, the bill prohibits a public accommodation from refusing to permit entrance into, or use of, or from otherwise denying the full and equal enjoyment of the public accommodation to a person with a disability or to a service animal trainer because he or she is accompanied by a service animal, from charging a person with a disability or a service animal trainer a higher price than the regular rate, including a deposit or surcharge, for the full and equal enjoyment of the public accommodation because he or she is accompanied by a service animal, and from communicating that entrance into, or use of, or the full and equal enjoyment of the public accommodation will be denied to a person with a disability or a service animal trainer because he or she is accompanied by a service animal or that the patronage of such a person is unwelcome, objectionable, or unacceptable because he or she is accompanied by a service animal.

Insert  
A

The bill, ~~however,~~ permits a service animal to be excluded from a public accommodation if accommodation of the service animal would result in a fundamental alteration in the nature of the accommodations, amusement, goods, or services provided or would jeopardize the safe operation of the public accommodation.

Finally, the bill requires a public accommodation to modify its policies, practices, and procedures to permit the full and equal enjoyment of the public accommodation by a person with a disability or a service animal trainer who is accompanied by a service animal. The bill requires those policies, practices, and procedures to ensure that a person with a disability or the service animal trainer who is accompanied by a service animal is not separated from the service animal, that the service animal is permitted to accompany the person with a disability or the service animal trainer to all areas of the public accommodation that are open to the general public, and that the person with a disability or the service animal trainer is not segregated from other patrons of the public accommodation. ~~The bill allows those policies, practices, and procedures to permit a person accompanied by an animal to be asked whether the animal is a service animal or is being trained to be a service animal, but does not permit that person to be required to produce documentation of his or her disability or a certification or other credential that the animal is trained as or is being trained to be a service animal.~~

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 106.52 (1) (fm) of the statutes is created to read:

2 106.52 (1) (fm) "Service animal" means a guide dog, signal dog, or other animal  
3 that is individually trained or is being trained to do work or perform tasks for the  
4 benefit of a person with a disability, including the work or task of guiding a person  
5 with impaired vision, alerting a person with impaired hearing to intruders or sound,  
6 providing minimal protection or rescue work, pulling a wheelchair, or fetching  
7 dropped items.

Handwritten note in a box: "Insert 3-1" with an arrow pointing to line 8.

8 SECTION 2. 106.52 (3) (am) 2. of the statutes is created to read:

9 106.52 (3) (am) 2. A person may exclude a service animal from a public place  
10 of accommodation or amusement if accommodation of the service animal would  
11 result in a fundamental alteration in the nature of the accommodations, amusement,  
12 goods, or services provided or would jeopardize the safe operation of the public place  
13 of accommodation or amusement. If a service animal must be separated from the  
14 person whom the service animal is accompanying, it is the responsibility of that  
15 person to arrange for the care and supervision of the service animal during the period  
16 of separation.

17 SECTION 3. 106.52 (3) (am) 3. of the statutes is created to read:

18 106.52 (3) (am) 3. A public place of accommodation or amusement shall modify  
19 its policies, practices, and procedures to permit the full and equal enjoyment of the  
20 public place of accommodation or amusement by a person with a disability or a  
21 service animal trainer who is accompanied by a service animal. Those policies,

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*with a disability who is accompanied by a service animal*

1 practices, and procedures shall ensure that a person with a disability or a service  
2 animal trainer who is accompanied by a service animal is not separated from the  
3 service animal, that the service animal is permitted to accompany the person with  
4 a disability or the service animal trainer to all areas of the public place of  
5 accommodation or amusement that are open to the general public, and that the  
6 person with a disability or the service animal trainer is not segregated from other  
7 patrons of the public place of accommodation or amusement. ~~Those policies,~~

8 ~~practices, and procedures may permit a person accompanied by an animal to be~~  
9 ~~asked whether the animal is a service animal that is required because of a disability~~  
10 ~~or is an animal that is being trained to assist persons with disabilities, but may not~~  
11 ~~require that person to produce documentation of his or her disability or a certification~~  
12 ~~or other credential that the animal is trained as or is being trained to be a service~~  
13 ~~animal.~~

14 SECTION 4. 174.056 (title) of the statutes is repealed. *3,*

15 SECTION 5. 174.056 (1) (intro.) of the statutes is renumbered 106.52 (3) (am) 1.

16 and amended to read:

*Subject to subs. 2. and 4., no person*

17 106.52 (3) (am) 1. ~~No person who is an owner, lessee, proprietor, manager,~~  
18 ~~superintendent, agent or employee of any place of public accommodation,~~  
19 ~~amusement or recreation, including any inn, hotel, restaurant, eating place,~~  
20 ~~barbershop, billiard parlor, store, public conveyance on land or water, theater,~~  
21 ~~motion picture house, public educational institution or elevator, may refuse to permit~~  
22 ~~entrance into, or use of, any such accommodations, if the accommodations are~~  
23 ~~available, to a blind, deaf or mobility-impaired person for the reason that the person~~  
24 ~~is being led by a dog specially trained, or being specially trained, to lead blind or deaf~~  
25 ~~persons or to provide support for mobility-impaired persons, or to the trainer of that~~

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1 ~~kind of dog for the reason that the trainer is accompanied by that kind of dog if: or~~  
2 ~~otherwise deny the full and equal enjoyment of any public place of accommodation~~  
3 ~~or amusement to a person with a disability or to a service animal trainer because the~~  
4 ~~person with a disability or the trainer is accompanied by a service animal, charge a~~  
5 ~~person with a disability or a service animal trainer a higher price than the regular~~  
6 ~~rate, including a deposit or surcharge, for the full and equal enjoyment of any public~~  
7 ~~place of accommodation or amusement because the person with a disability or the~~  
8 ~~trainer is accompanied by a service animal, or directly or indirectly publish,~~  
9 ~~circulate, display, or mail any written communication that the communicator knows~~  
10 ~~is to the effect that entrance into, or use of, or the full and equal enjoyment of any~~  
11 ~~of the facilities of the public place of accommodation or amusement will be denied to~~  
12 ~~a person with a disability or a service animal trainer because the person with a~~  
13 ~~disability or the trainer is accompanied by a service animal or that the patronage of~~  
14 ~~a person with a disability or a service animal trainer is unwelcome, objectionable, or~~  
15 ~~unacceptable because the person with a disability or the trainer is accompanied by~~  
16 ~~a service animal.~~

17 **SECTION 6.** 174.056 (1) (a) of the statutes is repealed. ✓

18 **SECTION 7.** 174.056 (1) (b) of the statutes is repealed. ✓

19 **SECTION 8.** 174.056 (2) of the statutes is repealed. ✓

20 **SECTION 9.** 346.26 (1) of the statutes is amended to read: ✓

21 346.26 (1) An operator of a vehicle shall stop the vehicle before approaching  
22 closer than 10 feet to a pedestrian who is carrying a cane or walking stick which is  
23 white in color or white trimmed with red and which is held in an extended or raised  
24 position or who is using a dog-guide service animal, as defined in s. 106.52 (1) (fm),  
25 and shall take such precautions as may be necessary to avoid accident or injury to

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1 the pedestrian. The fact that the pedestrian may be violating any of the laws  
2 applicable to pedestrians does not relieve the operator of a vehicle from the duties  
3 imposed by this subsection.

4 **SECTION 10.** 346.26 (2) of the statutes is amended to read:

5 346.26 (2) Nothing in this section shall be construed to deprive any totally or  
6 partially blind person not carrying the white or the red and white cane or walking  
7 stick or not using a ~~dog guide~~ service animal, as defined in s. 106.52 (1) (fm), of the  
8 rights of other pedestrians crossing highways, nor shall the failure of such totally or  
9 partially blind pedestrian to carry such cane or walking stick or to use a ~~dog guide~~  
10 service animal be evidence of any negligence.

11 (END)

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¶ The bill applies to a service animal trainer only if the animal accompanying the service animal trainer is wearing a harness or a leash and special cape. ~~and the~~

~~service animal trainer produces, for inspection, a certification or other credential issued by a school for training service animals that the animal is being trained to be a service animal. Also, the bill permits a person with a disability,~~

Not

Also, the bill does not prohibit a person who is accompanied by an animal from being asked whether the animal is a service animal that is required because of a disability or is an animal that is being trained to ~~assist~~ be a service animal

~~persons with disabilities~~ and does not prohibit a service animal trainer from being required to produce a certification or other credential issued by a school for training service animals, that the animal is being



Insert A

trained to be a service animal. The bill does, however,  
prohibit a person with a disability from being asked  
to produce documentation of his or her disability or  
a certification or other credential that the animal is  
trained as <sup>or</sup> is being trained to be a service animal.

(continued)

Inset 3-7

SEC. CR; 106.52 (3) (am) 2.

B) 2.

106.52 (3) (am) 2. The prohibitions specified

in subd. 1. apply to a service animal trainer only

if the animal accompanying the service animal

trainer is wearing a harness or a leash and

special cape. Subdivision 1. does not prohibit a

person who is accompanied by an animal from

being asked whether the animal is a service

animal that is required because of a disability

or is an animal that is being trained to ~~assist~~  
be a service animal

~~persons with disabilities~~ and does not prohibit a

service animal trainer from being required to produce

a certification or other credential issued by a

school for training service animals that the animal

is being trained to be a service animal. Subdivision

1. prohibits a person with a disability from

~~Insert 3-7~~

being required to produce documentation of his or her  
disability or a certification or other credential that  
is  
the animal is trained as or is being trained to be  
a service animal.

(ed & met)

**Emery, Lynn**

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**From:** Kuhn, Jamie  
**Sent:** Monday, April 21, 2003 10:00 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-1274/2 Topic: Service animals; conformity with American with Disabilities Act

It has been requested by <Kuhn, Jamie> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-1274/2 Topic: Service animals; conformity with American with Disabilities Act