

State of Misconsin 2005 - 2006 LEGISLATURE

LRB-509 RLR&GMM:

PRELIMINARY DRAFT NOT READY FOR INTRODUCTION

SOON

RMR D-Note

LPS: Please. proof amended <tats. W Folio.

AN ACT ...; relating to: definition of service animal for purposes of discrimination

against a person using a service animal in a public accommodation and harassment of a service animal

Analysis by the Legislative Reference Bureau

Discrimination against a person using a service animal in a public accommodation an

Under current law, a person with a disability may not be refused entrance into or use of a public place of accommodation or amusement (public accommodation) because the person is being led by a service animal. For proses of dscrimination against a person using a service animal in a public accomodation, "service animal" is defined as animal that is individually trained or being 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 makes the following changes to the definition of service animal that is applicable to discrimination in a public accommodation:

- 1. A service animal must perform tasks to mitigate a person's disability rather than doing work or performing tasks for the benefit of a person with a disability.
 - 2. The tasks performed must be physical tasks.
- 3. The example of guiding a person with impaired vision is changed to guiding a person who is blind.

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	106, 139, 359; 1991 a. 295, 315; 1993 a. 27	7; 1995 a. 27 s. 3687; Stats. 1995 s. 10	06.04; 1995 a. 225; 1995 a. 448 ss.	66, 68; 1997 a. 112, 237, 31	2; 1999 a. 82 ss. 75 to 92, 102
	to 105; Stats, 1999 s. 106.52; 1999 a. 186;	2003 a. 23; 2005 a. 155; 2005 a. 354	ss. 1 to 4, 6.		<u> </u>
V	105; Sas. 1999 s. 106.52; 1999 a. 186; Please SECTION 2.	951.01 (5) of the st	atutes, as created	by 2005 Act 3	53, is amended
	ATA.		And in contrast of the contras		**************************************
>	to read:				
~	w read.				

951.01 (5) "Service dog" means a dog that is trained for the purpose of assisting

a person with a sensory, mental, or physical disability or accommodating such a

disability animal" has the meaning given in s. 106.52 (1) (fm).

History: 1973 c. 314; 1983 a. 189; 1987 a. 248; 1987 a. 332 s. 54; Stats. 1987 s. 951.01; 1989 a. 223; 1997 a. 27, 192; 1999 a. 83; 2001 a. 56; 2005 a. 353.

SECTION 3. 951.097 of the statutes, as created by 2005 Act 353) is amended to read:

951.097 Harassment of service dogs animals. (1) (a) Any person may provide notice to another person in any manner that the latter person's behavior is interfering with the use of a service dog animal and may request that the latter person stop engaging in that behavior.

- (b) No person, after receiving a notice and request under par. (a) regarding a service dog animal, may do any of the following:
- 1. Recklessly interfere with the use of the service dog <u>animal</u> by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- 2. Intentionally interfere with the use of the service dog <u>animal</u> by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- (2) (a) No person may recklessly allow his or her dog to interfere with the use of a service dog animal by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- (b) No person may intentionally allow his or her dog to interfere with the use of a service dog animal by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.

(3) (a) No person may recklessly injure a service dog animal or recklessly allow
his or her dog to injure a service dog animal.

- (b) No person may intentionally injure a service dog <u>animal</u> or intentionally allow his or her dog to injure a service <u>dog animal</u>.
 - (4) (a) No person may recklessly cause the death of a service dog animal.
 - (b) No person may intentionally cause the death of a service dog animal.
- (5) No person may take possession of or exert control over a service dog animal without the consent of its owner or user and with the intent to deprive another of the use of the service dog animal.

10 please SECTION 4. 951.18 (2s) of the statutes as created by 2005 Act 353, is amended to read:

951.18 (2s) Any person who violates s. 951.097 (1) (b) 1. or (2) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class B misdemeanor. Any person who violates s. 951.097 (1) (b) 2., (2) (b), or (3) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class A misdemeanor. Any person who violates s. 951.097 (3) (b) or (4) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class I felony. Any person who violates s. 951.097 (4) (b) or (5), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class H felony.

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192; 2001 a. 56, 109; 2005 a. 353.

SECTION 5. 951.18 (4) (a) 1. d. of the statutes; as created by 2005 Act 353) is amended to read:

951.18 (4) (a) 1. d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The

- 1 court shall base any determination of the value of a replacement service dog animal
- 2 on the value of the service dog animal to the user and not on its cost or fair market
- 3 value.

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History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192; 2001 a. 56, 109; 2005 a. 353. **SECTION 6. Initial applicability.**

- (1) This act first applies to acts or omissions that occur on the effective date of
- 6 this subsection.

(END)



DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-5092/1dn RLR&GMM:./....

Dianne ?

The current definition of "service animal" in s. 106.52 (1) (fm) refers to the task of guiding a person with "impaired vision." We changed this to guiding a person who is "blind," to conform to the definition of "service animal" provided by International Association of Assistance Dog Partners (IAADP). (Actually, IAADP uses the term "legally blind," but "legally blind" is not used in the Wisconsin Statutes.) The term "blind" is defined in the Wisconsin Statutes under s. 47.01 (1). "Visually impaired" is defined under s. 47.01 (5). Do you want to make this change from "visually impaired" to "blind?" And do you want to specifically incorporate the s. 47.01 definition of either "blind" or "visually impaired," depending on which term you use, into the definition of "service animal"?

Similarly, this bill changes alerting "a person with impaired hearing" to alerting "a person who is deaf or hard of hearing," again for the purpose of conforming to the IAADP definition. None of the relevant terms — deaf, hard of hearing, or hearing impaired— are defined in the Wisconsin Statutes. Do you want to keep this change?

Section 174.055 of the Wisconsin Statutes exempts dogs specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons from the dog license tax. For consistency, do you want to use the definition of "service animal" in this section, i.e. apply the tax exemption to every dog that is a service animal as defined under s. 106.52 (1) (fm)?

Robin Ryan Legislative Attorney Phone: (608) 261–6927

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Gordon M. Malaise Senior Legislative Attorney Phone: (608) 266–9738

E-mail: gordon.malaise@legis.state.wi.us

(Jen)

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-0031/1dn RLR&GMM:wlj:pg

September 12, 2006

Dianne:

The current definition of "service animal" in s. 106.52 (1) (fm) refers to the task of guiding a person with "impaired vision." We changed this to guiding a person who is "blind," to conform to the definition of "service animal" provided by International Association of Assistance Dog Partners (IAADP). (Actually, IAADP uses the term "legally blind," but "legally blind" is not used in the Wisconsin Statutes.) The term "blind" is defined in the Wisconsin Statutes under s. 47.01 (1). "Visually impaired" is defined under s. 47.01 (5). Do you want to make this change from "visually impaired" to "blind?" And do you want to specifically incorporate the s. 47.01 definition of either "blind" or "visually impaired," depending on which term you use, into the definition of "service animal"?

Similarly, this bill changes alerting "a person with impaired hearing" to alerting "a person who is deaf or hard of hearing," again for the purpose of conforming to the IAADP definition. None of the relevant terms — deaf, hard of hearing, or hearing impaired — are defined in the Wisconsin Statutes. Do you want to keep this change?

Section 174.055 of the Wisconsin Statutes exempts dogs specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons from the dog license tax. For consistency, do you want to use the definition of "service animal" in this section, i.e., apply the tax exemption to every dog that is a service animal as defined under s. 106.52 (1) (fm)?

Robin Ryan Legislative Attorney Phone: (608) 261–6927

E-mail: robin.ryan@legis.state.wi.us

Gordon M. Malaise Senior Legislative Attorney Phone: (608) 266-9738

E-mail: gordon.malaise@legis.state.wi.us

Ryan, Robin

From:

Ryan, Robin

Sent:

Thursday, January 11, 2007 2:39 PM

To: Cieslewicz, Dianne

Subject:

FW: proposed definition of service animal bill

Dianne, please let me know if you would like a redraft.

Robin

----Original Message----

From: mmjc [mailto:mmjc@tds.net]

Sent: Thursday, January 11, 2007 12:54 AM

To: Cieslewicz, Dianne; Ryan, Robin; Malaise, Gordon Subject: proposed definition of service animal bill

Dianne, Robin and Gordon,

I think the wording is accurate and what we want, with the exceptions listed below, which are in response to the questions raised by Robin and Gordon. The numbers refer to the number of the question as given to me:

- 1) referring to blind yes, please use blind as defined by 47.01 (1) or visually impaired as defined by 47.01 (5) please use both terms, blind and visually impaired
- 2) terms relating to hearing loss I couldn't find a definition for "impaired hearing, either" in my search of statutes, the terms deaf and hard of hearing are used significantly more frequently than "impaired hearing" I suspect that there had been disagreement in the past as to the definition of "deaf" and "hard of hearing"/"hearing loss"
- please keep the wording in this bill as "deaf or hard of hearing" these are the terms commonly used by everyone; the hoh (hard of hearing) community has been using "hoh" for many, many years now to describe themselves. I don't think anyone will be mislead by the terms. However, it might be a good idea for the legislature to further define deaf and hoh for statutory purposes. I can envision someone claiming to be hoh when they in fact are not. Use of hearing aids is not an indicator, as studies show that the majority of people who would benefit from the use of hearing aids do not use them (and totally deaf people don't use them because they are useless to them). That's another potentially contentious subject that I don't want to bring up here, in conjunction with this bill, but it does raise the question of where there might be benefits to having an official definition or is it better to leave well enough alone? (musing here for the record, I have to bring up the condition of central auditory processing disorder, in which a person has normal, functional hearing but in the presence of other (background) noise, loses the functionality of hearing and is as if deaf some of these folks use hearing dogs). nuff said
- 3) dog license tax exemption yes, do apply the tax exemption as you've suggested. Marcia Carlson

Ryan, Robin

From:

Cieslewicz, Dianne

Sent:

Monday, February 05, 2007 2:58 PM

To:

Ryan, Robin

Cc: Subject: Cieslewicz, Dianne RE: service animal bill

Hi Robin,

Please incorporate Marcia Carlson's recommendations into the bill. She sent an e-mail on January 11, 2007 responding to the e-mail you sent me on Sept. 12, 2006.

Thank you, Dianne

From:

Ryan, Robin

Sent:

Thursday, October 26, 2006 2:45 PM Cieslewicz, Dianne

To:

Subject:

service animal bill

<< File: 07-0031/1 >> << File: 07-0031/1dn >>



State of Misconsin 2007 - 2008 LEGISLATURE

In 2/6/07

2007 BILL

LRB-0031/4
RLR&GMM:wlj:pg

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AN ACT to amen

AN ACT to amend 106.52 (1) (fm), 951.01 (5), 951.097, 951.18 (2s) and 951.18 (4)

2 (a) 1. d. of the statutes; **relating to:** the definition of service animal for purposes of discrimination against a person using a service animal in a public

of discrimination against a person using a service animal in a public accommodation and harassment of a service animal and providing a penalty.

Analysis by the Legislative Reference Bureau

Discrimination against a person using a service animal in a public accommodation

Under current law, a person with a disability may not be refused entrance into or use of a public place of accommodation or amusement (public accommodation) because the person is being led by a service animal. For purposes of discrimination against a person using a service animal in a public accommodation, "service animal" is defined as an animal that is individually trained or being 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 makes the following changes to the definition of "service animal" that is applicable to discrimination in a public accommodation:

- 1. A service animal must perform tasks to mitigate a person's disability rather than do work or perform tasks for the benefit of a person with a disability.
 - 2. The tasks performed must be physical tasks.



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- or visually impaired

The example of guiding a person with impaired vision is changed to guiding a person who is blind.

The example of alerting a person with impaired hearing to intruders or sound is changed to alerting a person who is deaf or hard of hearing to specific sounds.

The example of providing minimal protection or rescue work is deleted.

4.6) Lending balance support and providing assistance in a medical crisis are added as examples of tasks performed for a person with a disability other than blindness, deafness, or hardness of hearing.

The bill specifies that an animal's presence for comfort, protection, or defense of an individual does not constitute performing a task to mitigate an individual's Prohibition against harassing a service dog and exemption from by tax disability.

Under current law, it is a crime to harass a service dog by injuring, killing, or interfering with the service dog. For this crime, "service dog" is defined as, "a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability."

This bill prohibits harassing any service animal, not just a service dog, and applies the definition of "service animal" that is applicable to discrimination in a public accommodation, as amended by this bill, to the crime of harassing a service

animal.

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

Section 1. 106.52 (1) (fm) of the statutes is amended to read:

106.52 (1) (fm) "Service animal" means a guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform physical tasks for the benefit of a person with a to mitigate a person's disability, including the work or task of guiding a person with impaired vision, who is blind, the task of alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, who is deaf or hard of hearing to specific sounds, and such tasks as pulling a wheelchair, or fetching lending balance support, picking up dropped items, or providing assistance in a medical crisis for a person with a disability other than blindness, deafness, or hardness of hearing. An animal's presence for comfort,

Visual Impairmen

mpaireds as defined in soft coils of

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	1	protection, or defense of a person does not constitute performing a physical task to							
and the second	$\int 2$	mitigate a person's disability.							
J1	2	SECTION 2. 951.01 (5) of the statutes is amended to read:							
	1/4	951.01 (5) "Service dog" means a dog that is trained for the purpose of assisting							
	5	a person with a sensory, mental, or physical disability or accommodating such a							
	6	disability animal" has the meaning given in s. 106.52 (1) (fm).							
	7	SECTION 3. 951.097 of the statutes is amended to read:							
	8	951.097 Harassment of service dogs animals. (1) (a) Any person may							
	9	provide notice to another person in any manner that the latter person's behavior							
	10	interfering with the use of a service dog animal and may request that the latter							
	11	person stop engaging in that behavior.							
	12	(b) No person, after receiving a notice and request under par. (a) regarding a							
	13	service dog animal, may do any of the following:							
	14	1. Recklessly interfere with the use of the service dog animal by obstructing or							
	15	intimidating it or otherwise jeopardizing its safety or the safety of its user.							
	16	2. Intentionally interfere with the use of the service dog animal by obstructing							
	17	or intimidating it or otherwise jeopardizing its safety or the safety of its user.							
	18	(2) (a) No person may recklessly allow his or her dog to interfere with the use							
	19	of a service dog animal by obstructing or intimidating it or otherwise jeopardizing							
	20	its safety or the safety of its user.							
	21	(b) No person may intentionally allow his or her dog to interfere with the use							
	22	of a service dog animal by obstructing or intimidating it or otherwise jeopardizing							
	23	its safety or the safety of its user.							
	24	(3) (a) No person may recklessly injure a service dog animal or recklessly allow							

his or her dog to injure a service dog animal.

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	(b)	No per	son r	may	intenti	onally	injure	a	service	dog	<u>animal</u>	or	intentio	onally
allov	v his	s or her	dog t	to in	jure a s	ervice	dog <u>ar</u>	iin	<u>nal</u> .					

- (4) (a) No person may recklessly cause the death of a service dog animal.
- (b) No person may intentionally cause the death of a service dog animal.
- (5) No person may take possession of or exert control over a service dog animal without the consent of its owner or user and with the intent to deprive another of the use of the service dog animal.

Section 4. 951.18 (2s) of the statutes is amended to read:

951.18 (2s) Any person who violates s. 951.097 (1) (b) 1. or (2) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class B misdemeanor. Any person who violates s. 951.097 (1) (b) 2., (2) (b), or (3) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class A misdemeanor. Any person who violates s. 951.097 (3) (b) or (4) (a), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class I felony. Any person who violates s. 951.097 (4) (b) or (5), knowing that the dog animal that is the victim is a service dog animal, is guilty of a Class I felony.

Section 5. 951.18 (4) (a) 1. d. of the statutes is amended to read:

951.18 (4) (a) 1. d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog animal on the value of the service dog animal to the user and not on its cost or fair market value.

SECTION 6. Initial applicability.

1 (1) This act first applies to acts or omissions that occur on the effective date of this subsection.

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(END)

$\begin{array}{c} LRB\text{--}0031/2ins \\ RLR:...:...\end{array}$

2007-2008 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

 $1 \qquad \qquad Ins A:$

the

Also under current law, dog owners must pay a tax for their dogs, except a dog owner is not required to pay the tax for a service dog. The bill adopts to definition of service animal that is applicable to discrimination in a public accommodation for purposes of the service dog exemption from the dog tax.

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6 Ins 3-2:

7 SECTION 174.055 of the statutes is amended to read:

mobility-impaired. Every dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons that is a service animal, as defined in s. 106.52(1)(fm), is exempt from the dog license tax and every person owning such a dog shall receive annually a free dog license from the local collecting officer upon application.

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



State of Misconsin

LEGISLATIVE REFERENCE BUREAU

ONE EAST MAIN STREET

SUITE 200
STEPHEN R. MILLER MADISON, WI 53701-2037

FEB 0 7 2007

LEGAL SECTION: LEGAL FAX:

(608) 266-3561 (608) 264-6948

February 7, 2007

MEMORANDUM

To:

Senator Risser

2-13-07

From:

Robin L. Ryan, Legislative Attorney

Re:

LRB-0031/2 Definition of service animal for discrimination in public accommodation

and harassment of an animal

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____JACKET FOR ASSEMBLY _____JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6927 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.