

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2285

H.P. 1648

House of Representatives, March 31, 2008

**An Act To Implement the Recommendations of a Task Force  
Convened To Evaluate and Recommend Revisions Regarding the  
Statutory Definition of "Service Dog"**

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Reported by Representative SMITH of Monmouth for the Joint Standing Committee on  
Business, Research and Economic Development pursuant to Resolve 2007, chapter 96.

Reference to the Committee on Labor suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §4553, sub-§9-D** is enacted to read:

3 **9-D. Service animal.** "Service animal" means:

4 A. Any animal that has been determined necessary for an individual with a physical  
5 or mental disability by a physician, psychologist, physician's assistant, nurse  
6 practitioner or licensed social worker; or

7 B. Any animal individually trained to do work or perform tasks for the benefit of an  
8 individual with a physical or mental disability, including, but not limited to, guiding  
9 individuals with impaired vision, alerting individuals who are deaf or hard of hearing  
10 to intruders or sounds, providing reasonable protection or rescue work, pulling a  
11 wheelchair or fetching dropped items.

12 **Sec. 2. 5 MRSA §4582-A, sub-§1**, as amended by PL 2007, c. 243, §2, is further  
13 amended to read:

14 **1. Modifications.** For any owner, lessee, sublessee, managing agent or other person  
15 having the right to sell, rent, lease or manage a housing accommodation or any of their  
16 agents to refuse to permit, at the expense of a person with physical or mental disability,  
17 reasonable modifications of existing premises occupied or to be occupied by that person  
18 if the modifications may be necessary to give that person full enjoyment of the premises,  
19 except that, with a rental, the landlord, when it is reasonable to do so, may condition  
20 permission for a modification on the renter's agreeing to restore the interior of the  
21 premises to the condition that existed before the modification, reasonable wear and tear  
22 excepted; or

23 **Sec. 3. 5 MRSA §4582-A, sub-§2**, as amended by PL 2007, c. 243, §3, is further  
24 amended to read:

25 **2. Accommodations.** For any owner, lessee, sublessee, managing agent or other  
26 person having the right to sell, rent, lease or manage a housing accommodation or any of  
27 their agents to refuse to make reasonable accommodations in rules, policies, practices or  
28 services when those accommodations are necessary to give a person with physical or  
29 mental disability equal opportunity to use and enjoy the housing; or

30 **Sec. 4. 5 MRSA §4582-A, sub-§3** is enacted to read:

31 **3. Service animals.** For any owner, lessee, sublessee, managing agent or other  
32 person having the right to sell, rent, lease or manage a housing accommodation or any of  
33 their agents to refuse to permit the use of a service animal or otherwise discriminate  
34 against an individual with a physical or mental disability who uses a service animal at the  
35 housing accommodation unless it is shown by defense that the service animal poses a  
36 direct threat to the health or safety of others or the use of the service animal would result  
37 in substantial physical damage to the property of others or would substantially interfere  
38 with the reasonable enjoyment of the housing accommodation by others. The use of a  
39 service animal may not be conditioned on the payment of a fee or security deposit,

1 although the individual with a physical or mental disability is liable for any damage done  
2 to the premises or facilities by such a service animal.

3 **Sec. 5. 5 MRSA §4592, sub-§6**, as enacted by PL 1995, c. 393, §24, is amended  
4 to read:

5 **6. Association.** For a covered entity to exclude or otherwise deny equal goods,  
6 services, facilities, privileges, advantages, accommodations or other opportunities to an  
7 individual or entity because of the known disability of an individual with whom the  
8 individual or entity is known to have a relationship or association; ~~and~~

9 **Sec. 6. 5 MRSA §4592, sub-§7**, as enacted by PL 1995, c. 393, §24, is amended  
10 to read:

11 **7. Administrative methods.** For an individual or an entity, directly or through  
12 contractual or other arrangements, to utilize standards or criteria or methods of  
13 administration:

- 14 A. That have the effect of discrimination on the basis of disability; or  
15 B. That perpetuate the discrimination of others who are subject to common  
16 administrative control; and

17 **Sec. 7. 5 MRSA §4592, sub-§8** is enacted to read:

18 **8. Service animals.** For any public accommodation or any person who is the owner,  
19 lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any  
20 place of public accommodation to refuse to permit the use of a service animal or  
21 otherwise discriminate against an individual with a physical or mental disability who uses  
22 a service animal at the public accommodation unless it is shown by defense that the  
23 service animal poses a direct threat to the health or safety of others or the use of the  
24 service animal would result in substantial physical damage to the property of others or  
25 would substantially interfere with the reasonable enjoyment of the public accommodation  
26 by others. The use of a service animal may not be conditioned on the payment of a fee or  
27 security deposit, although the individual with a physical or mental disability is liable for  
28 any damage done to the premises or facilities by such a service animal.

29 **Sec. 8. 7 MRSA §3907, sub-§13**, as enacted by PL 1987, c. 383, §3, is amended  
30 to read:

31 **13. Service dog kept for breeding purposes.** ~~"Guide Service dog or hearing dog~~  
32 ~~kept for breeding purposes"~~ means a male or female dog owned by a nonprofit  
33 organization for the purpose of producing puppies to be trained as ~~guide service dogs or~~  
34 ~~hearing dogs~~ and living with a resident of the State.

35 **Sec. 9. 7 MRSA §3907, sub-§14**, as enacted by PL 1987, c. 383, §3, is amended  
36 to read:

37 **14. Service dog kept prior to training.** ~~"Guide Service dog or hearing dog kept~~  
38 ~~prior to training"~~ means a dog under 18 months of age, owned by a nonprofit organization

1 for the purpose of training as a guide service dog ~~or hearing dog~~ and living temporarily  
2 with a resident of the State prior to training.

3 **Sec. 10. 7 MRSA §3907, sub-§24-A** is enacted to read:

4 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service  
5 animal" set forth in Title 5, section 4553, subsection 9-D.

6 **Sec. 11. 7 MRSA §3922, sub-§4**, as amended by PL 1995, c. 409, §4, is further  
7 amended to read:

8 **4. Service dogs.** If a trained service dog has not been previously registered or  
9 licensed by the municipal clerk to whom the application is being made, the clerk ~~shall~~  
10 may not register the dog nor issue to its owner or keeper a license and tag that identifies  
11 the dog as a service dog unless the applicant presents written evidence is provided to the  
12 municipal clerk that the dog is trained and educated and intended to perform guide  
13 service for the applicant. meets the definition of "service dog." For the purpose of this  
14 subsection "written evidence" means a service dog certification form approved by the  
15 department in consultation with the Maine Human Rights Commission.

16 **Sec. 12. 7 MRSA §3923-A, sub-§3**, as amended by PL 2001, c. 422, §9, is  
17 further amended to read:

18 **3. Exemption from fees.** A municipal clerk or a veterinary licensing agent shall  
19 issue a license upon application and without payment of a license fee required under this  
20 section for:

21 A. ~~A trained guide service dog owned or kept by a visually impaired person or such~~  
22 ~~a dog awaiting training with a physical or mental disability;~~

23 ~~B.—A trained hearing dog owned or kept by a hearing impaired person or such a dog~~  
24 ~~awaiting training;~~

25 ~~C.—A trained service dog owned or kept by a physically impaired person or such a~~  
26 ~~dog awaiting training;~~

27 D. A trained search and rescue dog recognized by the Department of Inland  
28 Fisheries and Wildlife or by the statewide association of search and rescue that  
29 cooperates with the Department of Inland Fisheries and Wildlife in developing  
30 standards for search and rescue or such a dog awaiting training; and

31 E. A dog certified by the State and used for law enforcement purposes.

32 **Sec. 13. 7 MRSA §3961-A**, as enacted by PL 2001, c. 220, §2, is amended to  
33 read:

34 **§3961-A. Attack on service animal**

35 A person who owns or keeps a dog that attacks, injures or kills a service ~~dog~~ animal  
36 while the service ~~dog~~ animal is in discharge of its duties commits a civil violation for  
37 which a forfeiture of not more than \$1,000 may be adjudged.

1 When a person is adjudicated of a violation of this section, the court shall order the  
2 person to make restitution to the owner of the service ~~dog~~ animal for any veterinary bills  
3 and necessary retraining costs or replacement costs of the ~~dog~~ service animal if it is  
4 disabled or killed.

5 For the purposes of this section, "service ~~dog~~ animal" means ~~a guide dog for the~~  
6 ~~visually impaired, a hearing dog trained to alert a person with impaired hearing or a~~  
7 ~~personal care dog as defined in Title 17, section 1312, subsection 7~~ has the same meaning  
8 as set forth in Title 5, section 4553, subsection 9-D.

9 **Sec. 14. 17 MRSA §1011, sub-§13**, as enacted by PL 1987, c. 383, §4, is  
10 amended to read:

11 **13. Service dog kept for breeding purposes.** "~~Guide Service dog or hearing dog~~  
12 kept for breeding purposes" means a male or female dog owned by a nonprofit  
13 organization for the purpose of producing puppies to be trained as guide service dogs ~~or~~  
14 ~~hearing dogs~~ and living with a resident of the State.

15 **Sec. 15. 17 MRSA §1011, sub-§14**, as enacted by PL 1987, c. 383, §4, is  
16 amended to read:

17 **14. Service dog kept prior to training.** "~~Guide Service dog or hearing dog~~ kept  
18 prior to training" means a dog under 18 months of age, owned by a nonprofit organization  
19 for the purpose of training as a guide service dog ~~or hearing dog~~ and living temporarily  
20 with a resident of the State prior to training.

21 **Sec. 16. 17 MRSA §1011, sub-§24-A** is enacted to read:

22 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service  
23 animal" set forth in Title 5, section 4553, subsection 9-D.

24 **Sec. 17. 17 MRSA §1312, sub-§3**, as amended by PL 1997, c. 611, §1, is further  
25 amended to read:

26 **3. Service dogs.** Every totally or partially blind or otherwise physically or mentally  
27 disabled person has the right to be accompanied by a guide ~~or personal care~~ service dog,  
28 especially trained for the purpose, in any of the places listed in subsection 2 without being  
29 required to pay an extra charge for the ~~guide or personal care~~ service dog; however, the  
30 person is liable for any damage done to the premises or facilities by such a dog.

31 **Sec. 18. 17 MRSA §1312, sub-§4**, as amended by PL 1997, c. 611, §2, is further  
32 amended to read:

33 **4. Especially trained service dog trainer; access to public facilities;**  
34 **responsibilities.** An especially trained ~~guide dog trainer or personal care~~ service dog  
35 trainer, while engaged in the actual training process and activities of ~~guide or personal~~  
36 ~~care~~ service dogs, has the same rights, privileges and responsibilities described in this  
37 section with respect to access to and use of public facilities as are applicable to a blind,  
38 visually handicapped or otherwise physically or mentally disabled person.

1       **Sec. 19. 17 MRSA §1312, sub-§5**, as amended by PL 1997, c. 611, §3, is further  
2 amended to read:

3       **5. Housing accommodations; persons with service dogs.** Every blind or visually  
4 handicapped or otherwise physically or mentally disabled individual who has a ~~sight-~~  
5 ~~assistance or assistance~~ service animal, such as a ~~guide or personal care~~ service dog, is  
6 entitled to full and equal access to all housing accommodations provided for in this  
7 section. Blind or visually impaired or otherwise physically or mentally disabled  
8 individuals may not be required to pay extra compensation to keep ~~sight assistance or~~  
9 ~~personal care~~ service animals. A blind or visually impaired or otherwise physically or  
10 mentally disabled person is liable for any damages done to the premises by the service  
11 animal.

12       **Sec. 20. 17 MRSA §1312, sub-§7**, as enacted by PL 1997, c. 611, §4, is amended  
13 to read:

14       **7. Service dog; definition.** As used in this section, "personal care service dog"  
15 means a dog that ~~provides assistance with activities of daily living for a person who is~~  
16 ~~physically disabled~~ meets the definition of "service animal" in Title 5, section 4553,  
17 subsection 9-D.

18       **Sec. 21. 17 MRSA §1313**, as amended by PL 1997, c. 611, §5, is further amended  
19 to read:

20       **§1313. Motor vehicle drivers**

21       The driver of a vehicle approaching a totally or partially blind or otherwise physically  
22 or mentally disabled pedestrian who is carrying a cane predominantly white or metallic in  
23 color, with or without a red tip, or using a ~~guide or personal care~~ service dog as defined in  
24 section 1312 shall take all necessary precautions to avoid injury to that blind or otherwise  
25 physically or mentally disabled pedestrian, and any driver who fails to take such  
26 precautions is liable in damages for any injury caused the pedestrian. A totally or partially  
27 blind or otherwise physically or mentally disabled pedestrian, not carrying such a cane or  
28 using a ~~guide or personal care~~ service dog in any of the places, accommodations or  
29 conveyances listed in section 1312, has all of the rights and privileges conferred by law  
30 upon other persons, and the failure of a totally or partially blind or otherwise physically  
31 or mentally disabled pedestrian to carry such a cane or to use a ~~guide or personal care~~  
32 service dog in any such places, accommodations or conveyances may not be held to  
33 constitute nor be evidence of contributory negligence.

34       **Sec. 22. 17 MRSA §1314-A**, as enacted by PL 2003, c. 452, Pt. I, §28 and  
35 affected by Pt. X, §2, is amended to read:

36       **§1314-A. Misrepresentation of service dog**

37       A person who fits a dog with a harness, collar, vest or sign of the type commonly  
38 used by blind persons in order to represent that the dog is a ~~guide~~ service dog; or  
39 commonly used by persons with disabilities to represent that the dog is a service dog  
40 when training of the type that guide dogs normally receive has not been provided; or

1 when the dog does not meet the definition of "service dog" as defined in section 1312  
2 commits a civil violation for which a fine of not more than \$100 \$500 may be adjudged.

3 **Sec. 23. 17 MRSA §3966, 2nd ¶**, as enacted by PL 2005, c. 318, §1, is amended  
4 to read:

5 For the purposes of this section, "service animal" ~~means an animal that has been~~  
6 ~~prescribed for an individual with a disability by a physician, psychiatrist or psychologist~~  
7 ~~and a guide dog, signal dog or other animal individually trained to do work or perform~~  
8 ~~tasks for the benefit of an individual with a disability, including, but not limited to,~~  
9 ~~guiding individuals with impaired vision, alerting individuals with impaired hearing to~~  
10 ~~intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or~~  
11 ~~fetching items~~ has the same meaning as set forth in Title 5, section 4553, subsection 9-D.

12 **Sec. 24. 26 MRSA §1420-A, sub-§3**, as amended by PL 2003, c. 414, Pt. B, §6  
13 and affected by c. 614, §9, is repealed.

14 **Sec. 25. 26 MRSA §1420-A, sub-§4**, as enacted by PL 1995, c. 560, Pt. F, §13,  
15 is repealed.

16 **Sec. 26. 26 MRSA §1420-A, sub-§5**, as enacted by PL 1995, c. 560, Pt. F, §13,  
17 is repealed.

18 **Sec. 27. 26 MRSA §1420-D**, as enacted by PL 2003, c. 452, Pt. O, §7 and  
19 affected by Pt. X, §2, is repealed.

20 **SUMMARY**

21 This bill implements the recommendations of the task force convened by the  
22 Commissioner of Labor to evaluate and recommend, among other things, revisions to the  
23 definition of "service dog" pursuant to Resolve 2007, chapter 96. The bill defines  
24 "service animal" as animals determined necessary for individuals with both physical and  
25 mental disabilities. The bill replaces the current statutory terms "guide dog," "trained  
26 dog" and "personal care dog" with the new term "service animal."

27 The bill also amends the Maine Human Rights Act by adding language protecting the  
28 use of service animals in housing and in public. It also increases the maximum fine for  
29 misrepresentation of a service animal from \$100 to \$500.