

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 551, L.D. 744, Bill, "An Act To Amend the Definition of "Service Animal" To Conform with Federal Law"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 5 MRSA §4553, sub-§9-D, as enacted by PL 2007, c. 664, §1, is repealed.

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

9-E. Service animal. "Service animal" means:

A. For the purposes of subchapter 4:

(1) An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician's assistant, nurse practitioner or licensed social worker; or

(2) An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items; and

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the

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1 presence of allergens, retrieving items such as medicine or a telephone, providing
2 physical support and assistance with balance and stability to an individual with a
3 mobility disability and helping a person with a psychiatric or neurological disability
4 by preventing or interrupting impulsive or destructive behaviors. The crime deterrent
5 effects of an animal's presence and the provision of emotional support, well-being,
6 comfort or companionship do not constitute work or tasks for the purposes of this
7 definition.

8 **Sec. 3. 7 MRSA §3907, sub-§24-A**, as enacted by PL 2007, c. 664, §10, is
9 amended to read:

10 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service
11 animal" set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

12 **Sec. 4. 7 MRSA §3961-A, last ¶**, as amended by PL 2007, c. 664, §13, is further
13 amended to read:

14 For the purposes of this section, "service animal" has the same meaning as set forth in
15 Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

16 **Sec. 5. 17 MRSA §1011, sub-§24-A**, as enacted by PL 2007, c. 664, §16, is
17 amended to read:

18 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service
19 animal" set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

20 **Sec. 6. 17 MRSA §1312, sub-§7**, as amended by PL 2007, c. 664, §20, is further
21 amended to read:

22 **7. Service dog; definition.** As used in this section, "service dog" means a dog that
23 meets the definition of "service animal" in Title 5, section 4553, subsection ~~9-D~~ 9-E,
24 paragraph B.

25 **Sec. 7. 17 MRSA §1313**, as amended by PL 2007, c. 664, §21, is further amended
26 to read:

27 **§1313. Motor vehicle drivers**

28 The driver of a vehicle approaching a totally or partially blind or otherwise physically
29 disabled pedestrian who is carrying a cane predominantly white or metallic in color, with
30 or without a red tip, or using a service dog as defined in section 1312, subsection 7 shall
31 take all necessary precautions to avoid injury to that blind or otherwise physically
32 disabled pedestrian, and any driver who fails to take such precautions is liable in damages
33 for any injury caused the pedestrian. A totally or partially blind or otherwise physically
34 disabled pedestrian, not carrying such a cane or using a service dog in any of the places,
35 accommodations or conveyances listed in section 1312, has all of the rights and privileges
36 conferred by law upon other persons, and the failure of a totally or partially blind or
37 otherwise physically disabled pedestrian to carry such a cane or to use a service dog in
38 any such places, accommodations or conveyances may not be held to constitute nor be
39 evidence of contributory negligence.

40 **Sec. 8. 17 MRSA §1314-A**, as amended by PL 2007, c. 664, §22, is further
41 amended to read:

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§1314-A. Misrepresentation of service dog

A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of "service dog" as defined in section 1312, subsection 7 commits a civil violation for which a fine of not more than \$500 may be adjudged.

Sec. 9. 17 MRSA §3966, last ¶, as amended by PL 2007, c. 664, §23, is further amended to read:

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

SUMMARY

This amendment replaces the bill.

The bill contains the definition of "service animal" as adopted by the United States Department of Justice in regulations to implement the Americans with Disabilities Act of 1990. This definition is inconsistent with the definition of "service animal" adopted in regulations by the United States Department of Housing and Urban Development.

This amendment retains the current definition of "service animal" in the Maine Human Rights Act, which applies in fair housing circumstances, and adds the definition of "service animal" from the bill, which is specific to dogs in public accommodations circumstances.

This amendment updates cross-references in the animal welfare laws in the Maine Revised Statutes, Title 7 and Title 17, the model white cane law in Title 17 and the miscellaneous crimes chapter in Title 17.