MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1601

H.P. 1092

House of Representatives, February 23, 2016

An Act To Implement the Recommendations of the Task Force To Ensure Integrity in the Use of Service Animals

Reported by Representative HICKMAN of Winthrop for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 2015, chapter 36, section 3. Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

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

- Sec. 1. 5 MRSA §4553, sub-§1-H is enacted to read:
- 3 <u>1-H. Assistance animal.</u> "Assistance animal" means, for the purposes of subchapter 4:
 - A. An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner or licensed social worker; or
 - B. 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.
 - **Sec. 2. 5 MRSA §4553, sub-§9-E, ¶A,** as enacted by PL 2011, c. 369, §2, is repealed.
 - Sec. 3. 5 MRSA §4582-A, sub-§3, as amended by PL 2011, c. 613, §13 and affected by §29, is further amended to read:
 - **3. Assistance animals.** For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of a service an assistance animal or otherwise discriminate against an individual with a physical or mental disability who uses a service an assistance animal at the housing accommodation unless it is shown by defense that the service assistance animal poses a direct threat to the health or safety of others or the use of the service assistance animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of a service an assistance animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service an assistance animal.
 - **Sec. 4. 5 MRSA §4592, sub-§8,** as enacted by PL 2007, c. 664, §7, is amended to read:
 - **8. Service animals.** For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for

6 7 8	24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, paragraph A or B or "assistance animal" set forth in Title 5, section 4553, subsection 1-H.
9 10	Sec. 6. 7 MRSA §3961-A, as amended by PL 2011, c. 369, §4, is further amended to read:
11	§3961-A. Attack on service animal or assistance animal
12 13 14 15	A person who owns or keeps a dog that attacks, injures or kills a service animal <u>or assistance animal</u> while the service animal <u>or assistance animal</u> is in discharge of its duties commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.
16 17 18 19	When a person is adjudicated of a violation of this section, the court shall order the person to make restitution to the owner of the service animal <u>or assistance animal</u> for any veterinary bills and necessary retraining costs or replacement costs of the service animal <u>or assistance animal</u> if it is disabled or killed.
20 21 22 23	For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-E, paragraph A or B. For the purposes of this section, "assistance animal" has the same meaning as set forth in Title 5, section 4553, subsection 1-H.
24 25	Sec. 7. 17 MRSA §1011, sub-§24-A, as amended by PL 2011, c. 369, §5, is further amended to read:
26 27 28	24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, paragraph A or B or "assistance animal" set forth in Title 5, section 4553, subsection 1-H.
29 30	Sec. 8. 17 MRSA §1312, sub-§7, as amended by PL 2011, c. 369, §6, is further amended to read:
31 32 33	7. Service dog; definition. As used in this section, "service dog" means a dog that meets the definition of "service animal" in Title 5, section 4553, subsection 9-E ₅ paragraph B.

any damage done to the premises or facilities by such a service animal. <u>This subsection</u> does not apply to an assistance animal as defined in section 4553, subsection 1-H unless

Sec. 5. 7 MRSA §3907, sub-§24-A, as amended by PL 2011, c. 369, §3, is

the assistance animal also qualifies as a service animal.

further amended to read:

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the following enacted in its place:

Sec. 9. 17 MRSA §1314-A, as amended by PL 2011, c. 369, §8, is repealed and

§1314-A. Misrepresentation as service dog or assistance animal

2.5

A person who knowingly misrepresents as a service dog or an assistance animal any dog that does not meet the definition of "service dog" pursuant to section 1312, subsection 7 or "assistance animal," as defined in Title 5, section 4553, subsection 1-H, commits a civil violation. Misrepresentation as a service dog or an assistance animal includes, but is not limited to:

- 1. False documents. Knowingly creating documents that falsely represent that a dog is a service dog or an assistance animal;
- **2. Providing false documents.** Knowingly providing to another person documents falsely stating that a dog is a service dog or an assistance animal;
- 3. Harness, collar, vest or sign. Knowingly fitting a dog, when the dog is not a service dog, with a harness, collar, vest or sign of the type commonly used by a person with a disability to indicate a dog is a service dog; or
- 4. Falsely representing dog as service dog. Knowingly representing that a dog is a service dog, when the dog has not completed training to perform disability-related tasks or do disability-related work for a person with a disability.
- For a civil violation under this section a fine of not more than \$1,000 may be adjudged.

19 SUMMARY

This bill implements the recommendations of the task force to ensure integrity in the use of service animals established pursuant to Resolve 2015, chapter 36.

The committee has not taken a position on the substance of the recommendations or this bill and by reporting this bill out the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of the task force's recommendations or this bill. The committee is reporting the bill out for the sole purpose of turning the task force's proposal into a printed bill that can be referred to the committee for an appropriate public hearing and subsequent processing in the normal course. The committee is taking this action to ensure clarity and transparency in the legislative review of the task force's proposal.

The bill creates a definition for "assistance animal," which distinguishes assistance animals from service animals, and amends the definition of "service animal" to achieve this distinction. It amends the provisions in the Maine Human Rights Act related to fair housing and public accommodations to provide clarity regarding their application to service animals compared to assistance animals. It also amends provisions in the Maine Revised Statutes, Title 7 to align with the new definitions. Finally, it increases the penalty for misrepresentation as a service dog or assistance animal.