

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

Report on the Recommended Changes to the Statutory Definition of Service Dog

As Authorized by L.D. 289

“Resolve, Directing the Commissioner of Labor To Convene a Task Force
To Evaluate and Recommend Revisions to the Definition of Service Dog”

Maine Department of Labor
Bureau of Rehabilitation Services

January 15, 2008

Table of Contents

1. Introduction

2. Executive Summary

3. Resolve Duties and Findings:

- Proposed changes to the statutory definition of service dog
- Criteria or documentation that town clerks must use to verify a dog as a service animal to qualify for the license fee exemption
- Proposed revisions to the Maine Revised Statutes to clarify the rights of and protections for people with disabilities who use service animals
- Proposed revisions necessary to the Maine Revised Statutes to provide clarification to business owners of their rights and responsibilities concerning service animals
- Proposals for any specific criteria that may be required for consideration by medical practitioners when prescribing the use of a service animal

4. Conclusion

Appendices:

- I. L.D. 289
- II. Maine Statutes Affected
- III. Proposed Service Dog Verification Form

Report prepared by:
Eric Dibner, State ADA Coordinator
John Shattuck, Director, Division of Deafness

1. Introduction

At the conclusion of the first session of the 123rd legislature, L.D. 289 – “Resolve, Directing the Commissioner of Labor to Convene a Task Force To Evaluate and Recommend Revisions to the Definition of Service Dog” – was passed and signed by the Governor on June 20, 2007.

This Resolve authorizes the formation of a task force to review current statutory definitions of “service dog” and to define criteria to be used by town and city clerks when providing license fee exemptions, as well as criteria to be used by medical practitioners when prescribing service animals. The Resolve also requests proposal of statutory revisions to clarify the rights of people with disabilities regarding service animals and the rights and responsibilities of business owners concerning service animals.

The task force is comprised of 13 members representing State agencies, consumers, service dog training schools, the State Chamber of Commerce, and town/city clerks. Staff from the Department of Labor convened and facilitated the task force meetings. The task force met on six occasions to consider responses to issues posed by L.D. 289. The task force also held a public hearing to solicit comments regarding the criteria used in defining “service dog” and issues of accessibility for people who use a service dog. The hearing was held on November 13, 2007 at the Central Maine Commerce Center in Augusta.

Members of the L.D. 289 Task Force

John Shattuck, Department of Labor
Eric Dibner, Department of Labor
Norma Worley, Department of Agriculture
Doug Dunbar, Department of Professional and Financial Regulation
Elsa Larson, My Wonderful Dog
Lynn Boulier, Tail Waggin’ Training Center, Inc.
Lynn Duplessis, Pine Tree Guide Dog Users
Linda Cohen, Town and City Clerks Association
Peter Gore, State Chamber of Commerce
Sean Ocepka, Disability Rights Center
Beth Gallie, Maine Center on Deafness
Cindy Hartwell, Assistance Canine Education and Support
Dr. Stephen S. Greene, Medical Community Representative

2. Executive Summary

The first issue addressed by the task force was the definition of “service dog.” Initial discussion regarding this topic suggested that any definition of service dog had to consider existing federal laws and regulations and fit within the context of how “service animal” is defined. While striving for conformity with federal and State laws and regulations, the task force realized the importance of revising Maine statutes to make them internally consistent in the use of terminology related to service dogs.

The following is the task force’s recommendation regarding service dog definition:

Amend the Human Rights Act, Title 5 MRSA § 4553 by enacting a definition of “service animal.” Reference this definition wherever service dogs or service animals are mentioned throughout Maine statutes. The definition should read as follows:

Service animal means:

- A) Any animal that has been determined necessary for an individual with a physical or mental disability by a physician, psychologist, physician’s assistant, nurse practitioner, or licensed social worker; or
- B) Any 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 fetching dropped items.

The task force’s second recommendation regarding service dog definition recommends changes in language for every State statute concerning service dogs or service animals and similar terms. These recommended changes are described within the “Resolve Duties and Findings” section and detailed in Appendix II.

As to what criteria town clerks should use to determine valid license fee exemptions for service dogs, the task force recommends a Service Dog Verification form to be filled out by applicants for license fee exemption. The form should reflect either a medical practitioner's statement of need, or the name of the training agency where the dog was trained to perform specific functions for the individual with a disability.

Regarding the task of revising Maine statutes to clarify rights and responsibilities of business owners and rights of people with disabilities, it is the opinion of the task force that rights and responsibilities are adequately reflected in current federal and State statutes and regulations. The task force does recommend a training curriculum be developed and made available to consumers and business owners, describing clearly these rights and responsibilities.

Task force discussion on specific criteria for healthcare practitioners to consider when prescribing the use of a service dog focused on what process practitioners use to determine a service dog would be necessary for a consumer as well as what functions the service animal will be performing. The task force recommends that the practitioner first determine that the person does in fact have a disability and then evaluate whether a service animal will be necessary for the patient to access the community. Criteria to be used by the practitioner will consist of the legal definition of disability, definition of service animal, and a list of suggested functions that the service animal will perform.

Although not specifically referenced in the Resolve, the issue of people wrongly identifying their dog as a service animal to gain access for their "pet" into business establishments or to avoid paying a license fee was discussed at length. Members of the task force accept that some amount of service animal falsification is unavoidable; however, it is the hope of the task force that their recommendations may address this problem to a large extent by creating a screen that many service dog owners will use for licensing their dog. To discourage attempts of people to misrepresent their pets as service animals, the task force recommends that the maximum fine for such misrepresentation be increased from \$100 to \$500.

3. Resolve Duties and Findings

Proposed Changes to the Statutory Definitions of Service Dog

In the task force's efforts to propose a definition of service dog, Department of Labor staff did a thorough review of the Americans with Disabilities Act and its regulations, State statutes, the Maine Human Rights Act and its regulations, as well as rulings by the U.S. Department of Justice.

Examination of these laws and regulations established that the term "service animal" is the umbrella term used in federal documents. This term as well as "service dog" and a number of other terms are used interchangeably within Maine law. Both terms are referenced in LD 289.

The task force quickly appreciated that any definition proposed would have to be consistent and inclusive in order to have a practical application. Although many of our recommendations within this report refer solely to "service dog," for the purpose of proposing a universal designation, the task force proposes to define "service animal" and to reference that single definition when service dogs are described.

An oft-repeated concern in task force meetings and at the public hearing was that the current State statutory definitions for "service dog" and related terms only protect persons who have a physical disability. There was immediate and unanimous agreement within the task force that the definition must protect persons with a mental disability as well. Service dogs can provide essential assistance to individuals who have diagnoses such as agoraphobia, post-traumatic stress disorder, autism, bipolar disorder, or major depression, alerting them to symptoms, mitigating their disability, or otherwise facilitating their access to the community. The task force also notes that the federal law and Maine regulations currently include mental as well as physical conditions under their definitions of "disability" and "service animal."

After considering the above issues, the task force adopted the definition that appears in Recommendation #1, below. This definition includes service dogs that are prescribed by a healthcare practitioner. In order to maintain consistency with the Maine Human Rights Commission regulations, the recommended definition is broader than the ADA law, which more narrowly specifies that the service animal is trained to perform specific functions.

Initial discussion within the task force related to possibly establishing a certification structure for service dog training organizations within the state. This would provide a professional standard that all service dogs would have to meet to be recognized as a service animal. Several task force members represent professional service dog training agencies and are experts regarding what qualifies an animal as well-trained.

However, the task force concludes that establishing a certification process for service dog training is not feasible. First, the most compelling argument against requiring certification and a training standard for service dogs is that it would contradict the Americans with Disabilities Act (ADA), which clearly recognizes the legitimacy of owner-trained service animals. In addition, it was pointed out that there is no universally recognized standard for training service dogs. Finally, having all dogs be professionally trained would impose a financial hardship on many service animal users.

Recommendation #1

The task force recommends the following definition for “service animal”:

Service animal means

- A. Any animal that has been determined necessary for an individual with a physical or mental disability by a physician, psychologist, physician’s assistant, nurse practitioner, or licensed social worker; or
- B. Any 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 fetching dropped items.

Recommendation #2

In order to establish consistency for the definition for service dog within Maine statutes the task force recommends the following:

- Replace existing statutory definitions and mentions of “service animals” or “service dogs” and terms “guide dog,” “hearing dog,” “trained dog,” and “personal care dog,” with a reference to a single definition for “service animal” in Title 5 MRSA § 4553

- Add a new section (9-D) to Title 5 MRSA § 4553
- Amend the following sections of MRSA:
 - Title 7 MRSA § 3907 subsection 13 and 14
 - Title 7 MRSA § 3922 subsection 4
 - Title 7 MRSA § 3923-A subsection 3
 - Title 7 MRSA § 3961-A
 - Title 17 MRSA § 1011 subsections 13 and 14
 - Title 17 MRSA § 1312 subsections 3, 4, 5, and 7
 - Title 17 MRSA § 1313
 - Title 17 MRSA § 1314-A
 - Title 17 MRSA § 3966
- Repeal Title 26 MRSA § 1420-A subsections 3, 4, and 5, § 1420-D, which will now be covered under Title 17 MRSA § 1312.

Please refer to Appendix II for exact language changes.

Criteria or Documentation That Town Clerks Must Use to Verify a Dog as a Service Animal For the License Fee Exemption

In designing a document to be used by town/city clerks to verify a service dog, the task force recognized the importance of providing a balanced approach that would offer a standard of validation without compromising the legal rights of a people with disabilities using service dogs. The task force faced many concerns regarding this issue such as whether to allow the fee waiver for “self trained” dogs, what types of practitioners in the medical and healthcare community should be recognized as a signatory on the form, and whether or not a dog in training should be eligible for a fee waiver.

The anchor to our discussion was the intent of the fee waiver, which is the premise that a service dog is an accommodation that enables a person with a disability equitable access to the community. One task force member said, “Getting a fee exemption may not be a civil right, but public access for a person with a disability is.” The same premise was applied when consideration was given to whether or not a dog in training should receive a fee exemption. The task force concluded that the intent of the fee exemption was to offer monetary relief for the person in need of the dog for access, and not to those who breed and/or raise the animal. The task force recommends that the language authorizing a license fee exemption for dogs in training in 7 MRSA § 3923–A be removed.

The task force recommends the State issue a form to be used for applying for a waiver of the license fee. The form will provide the “written evidence” that town/city clerks seek to verify a service dog.

The proposed document has one section to be filled out by the waiver applicant that identifies the dog by name, breed and color, and a statement by the applicant that the dog is a service dog. The statement says the dog meets one of two standards: the dog has been trained by a service dog agency, or the dog provides a function recommended by a healthcare provider. If the dog has been trained by an agency the name and location of the training agency is required. The task force recognizes this will exclude from the fee waiver any dog not trained by an agency, unless a healthcare practitioner has prescribed the dog.

If a healthcare provider recommends the dog, a “Statement of Practitioner” is to be filled out by a physician, psychologist, physician’s assistant, nurse practitioner, or a licensed social worker. This statement identifies the practitioner, his or her license or certification number, a declaration that the waiver applicant is the practitioner’s patient, and a determination that a service dog is necessary to fulfill a specific function for the patient.

To assist people with the form, a summary of Maine laws including the definitions of “disability” and of “service dog” will be provided on the back of the form, as well as the penalties for misrepresentation, and the rights and responsibilities regarding service dogs in public accommodations. It is also recommended that a statement be included that encourages the healthcare practitioner to discuss with the applicant the responsibilities inherent in the caring for and continuous training of a service dog.

Recommendation #3

The Maine Department of Agriculture, in consultation with the Maine Human Rights Commission, should issue a Service Dog Verification form that can serve as written evidence for town and city clerks that a dog is a service animal. The form should include a healthcare practitioner’s statement of need with the type of functions for which the dog is needed, or should include the name of the training agency where the dog was trained.

Please refer to Appendix III for a draft of the form.

Proposed Revisions to the Maine Revised Statutes to Clarify the Rights and Protections for People With Disabilities Who Use Service Animals

&

Proposed Revisions Necessary to the Maine Revised Statutes to Provide Clarification to Business Owners of Their Rights and Responsibilities Concerning Service Animals

Upon a review of federal and state laws, regulations, and a finding by the U.S. Department of Justice, it is the conclusion of the task force that the rights and protections for people with disabilities as well as rights and responsibilities of business owners relating to service animals is adequately addressed. However, there does appear to be a great deal of misunderstanding as to rights and responsibilities by users of service animals as well as business owners. The task force has been informed of instances where people and service dogs have been totally denied their rightful access to businesses, as well as situations where businesses tolerate inappropriate and normally unacceptable service animal behavior on their premises.

The task force notes one area where the Maine statutes are silent about service animals: the Maine Human Rights Act. Even though the regulations promulgated pursuant to the Act do address service animal issues, the Act itself does not. The task force proposes the definition of “service animal” be added to the Act, and the Maine Human Rights Commission also proposes adding language regarding service animals in the housing and in public accommodations sections of the Maine Human Rights Act, (5 MRSA §§ 4582-A and 4592). The task force agrees this addition will help clarify in Maine statutes the rights and responsibilities of service animal owners and of business owners.

The task force is agreed that a concerted information-sharing effort is needed for both users of service animals and for business owners and managers. Responses to a survey assessing what information was currently being provided to the public indicated that as many as 100 trainings were being offered to business and individuals per year by dog training organizations (Tail Waggin’ and My Wonderful Dog), and as many as 2500 brochures have been distributed per year.

The task force suggests that a group representing businesses and consumers develop a brochure about service dogs, for use in training and outreach. The brochure could be distributed to local chambers of commerce, business groups, municipalities, service dog organizations, and agencies servicing people with disabilities. The brochure should illustrate the rights of people with disabilities who use service animals and the rights and responsibilities of business owners regarding the accommodation of service animals.

It was suggested that an appropriate location for this information is State of Maine’s website, which could also provide access to the verification form, the definition of “service animal,” and the Department of Justice’s business brief, explaining those situations where an individual may be asked to remove their service animal. The website could also serve as a conduit for additional information including videos available for businesses and for people with disabilities considering the benefits of a service animal.

Recommendation #4

Amend the Maine Human Rights Act, 5 MRSA §§ 4582-A(3) 5 and 4592(8) by adding language regarding service animals in the housing and in public.

Please refer to Appendix II for exact language changes.

Proposal For Any Specific Criteria That May Be Required For Consideration By Medical Practitioners When Prescribing the Use of Service Animals

When discussing the issue of what criteria medical practitioners will consider when prescribing service animals and filling out the fee exemption form, the task force addressed who are the appropriate “medical practitioners.” It was noted by several members of the task force that for many people their “medical practitioner” is not a physician. The task force concluded that the following be listed for the purposes of the verification form and the statutory definition of “service animal”: physician, nurse practitioner, physician’s assistant, psychologist, or licensed social worker.

The task force discussed the possibility that medical practitioners may be viewed as responsible for verifying the performance of the service animal. There was consensus that the only criteria that practitioner should be

concerned with is that their patient qualifies for a service animal by virtue of being a person with a disability having the need of the animal to gain equitable access to the community.

There was agreement within the task force that a form used by the healthcare practitioner have a statement addressing the importance of the welfare of the animal, and that the owner of the animal is responsible for that welfare.

The task force recommends that medical practitioners consider the following questions when prescribing a service animal:

- Does the individual have a physical or mental disability?
- Is the service animal necessary for the patient to gain equitable access to the community or maintain themselves in their home?
- Does that service animal fulfill one or more of the following functions:
 1. perform tasks for the individual that will mitigate the effects of the individual's disability
 2. provide mobility assistance or alert the individual
 3. improve health and well-being of the individual by mitigating a disabling condition

4. Conclusion

Recommending a definition for service dog/service animal poses several complex questions and issues. Fortunately, it is felt that the composition of the task force adequately represents the diverse interests of the community of business, healthcare providers, public agencies, and users of service animals.

The task force does recognize the emphasis LD 289 places on a standardized validation process for exempting service dogs from license fees and criteria for medical practitioners. However, the task force also is aware that statutory definitions have broad implications for people's rights and responsibilities in the use of service animals. It is with this awareness that the task force was guided by a commitment to provide a standard statutory definition for "service animal" and a validation procedure without compromising rights of people with disabilities to equitable access to their community. The recommendations within this report have the full support of the task force.

We would like to thank John Gause of the Maine Human Rights Commission, Heather and Christian Gerquest, Kathy Charles, and Robert Boulier for lending the task force valuable legal and technical support.

APPENDIX I

LD 289 RESOLVE Chapter 96

Resolve, Directing the Commissioner of Labor To Convene a Task Force To Evaluate and Recommend Revisions to the Definition of Service Dog

Sec. 1. Task force to evaluate and revise the statutory definition of service dog; membership. Resolved: That the Commissioner of Labor shall convene a task force to evaluate and recommend changes to the statutory definition of service dog in the Maine Revised Statutes. The task force must be staffed and coordinated by the Department of Labor and must include the following stakeholders: the director of the animal welfare program within the Department of Agriculture, Food and Rural Resources; a representative from the Department of Professional and Financial Regulation; representatives from both nonprofit and for-profit service dog training schools; a representative from Pine Tree Guide Dog Users, or its successor; a representative from the Maine Town and City Clerks' Association, or its successor; a representative from the Maine State Chamber of Commerce, or its successor; a representative from the Disability Rights Center, or its successor; a representative from the Maine Center on Deafness, or its successor; a representative from the Assistance Canine Educations and Support, Inc., or its successor; and a representative of the medical community; and be it further

Sec. 2. Task force duties. Resolved: That the task force shall review the following issues within the parameters of applicable federal and state laws: proposed changes to the statutory definition of service dog; criteria or documentation that town clerks must use to verify a dog as a service animal to qualify for the license fee exemption; proposed revisions to the Maine Revised Statutes to clarify the rights of and protections for people with disabilities who use service animals; proposed revisions necessary to the Maine Revised Statutes to provide clarification to business owners of their rights and responsibilities concerning service animals; and proposals for any specific criteria that may be required for consideration by medical practitioners when prescribing the use of a service animal; and be it further

Sec. 3. Reporting date established. Resolved: That no later than January 15, 2008 the Commissioner of Labor shall submit a report with findings and recommendations following the review under section 2 including any recommended legislative changes to the Joint Standing Committee on Business, Research and Economic Development. The Joint Standing Committee on Business, Research and Economic Development is authorized to submit legislation on the subject matter of the report to the Second Regular Session of the 123rd Legislature.

APPENDIX II

Statutory Recommendations of the LD 289 Service Dog Task Force

RECOMMENDATION #1 – Adopt a single definition for “Service animal”

Amend the Human Rights Act, **Title 5 MRSA § 4553** by enacting a definition of “service animal.” Reference this definition.

RECOMMENDATION #2 – Reference the definition for consistency wherever “service dogs” or “service animals” are mentioned throughout the Maine statutes.

RECOMMENDATION #4 – Add protections in the Human Rights Act

ADD a new section (9-D) to Title 5 MRSA § 4553

ADD a new section (3) to Title 5 MRSA § 4582-A

ADD a new section (8) to Title 5 MRSA § 4592

AMEND the following sections of MRSA –

Title 7 MRSA § 3907 subsections 13 and 14

Title 7 MRSA § 3922 subsections 4

Title 7 MRSA § 3923-A subsection 3

Title 7 MRSA § 3961-A

Title 17 MRSA § 1011 subsections 13 and 14

Title 17 MRSA § 1312 subsections 3, 4, 5, and 7

Title 17 MRSA § 1313

Title 17 MRSA § 1314-A

Title 17 MRSA § 3966

REPEAL Title 26 MRSA § 1420-A subsections 3, 4, and 5 and § 1420-D, which will now be covered under Title 17 MRSA § 1312.

Maine Human Rights Act

AMEND 5 MRSA § 4553

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

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

B. Any 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 fetching dropped items.

AMEND 5 M.R.S.A. § 4582-A (Housing)

It is unlawful housing discrimination, in violation of this Act: . . .

3. Service Animals. For any owner, lessee, sublessee, 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 animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal unless it is shown by defense that the service animal poses a direct threat to the health or safety of others, 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 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 service animal.

AMEND 5 M.R.S.A. § 4592 (Public Accommodations)

It is unlawful public accommodations discrimination, in violation of this Act: . . .

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 unless it is shown by defense that the service animal poses a direct threat to the health or safety of others, 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 any damage done to the premises or facilities by such service animal.

Maine Animal Welfare Act

AMEND 7 MRSA § 3907

13. ~~Guide dog or hearing~~Service dog kept for breeding purposes. "~~Guide dog or hearing~~Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as ~~guide dogs or hearing-service~~ dogs, meeting the definition of "service animal" in Title 5 MRSA § 4553, and living with a resident of the State.

14. ~~Guide dog or hearing~~Service dog kept prior to training. "~~Guide dog or hearing~~Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a ~~guide dog or hearing~~service dog, meeting the definition of "service animal" in Title 5 MRSA § 4553, and living temporarily with a resident of the State prior to training.

AMEND 17 MRSA § 1011

13. ~~Guide dog or hearing~~Service dog kept for breeding purposes. "~~Guide dog or hearing~~Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as ~~guide dogs or hearing-service~~ dogs, meeting the definition of "service animal" in Title 5 MRSA § 4553, and living with a resident of the State.

14. ~~Guide dog or hearing~~Service dog kept prior to training. "~~Guide dog or hearing~~Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a ~~guide dog or hearing~~service dog, meeting the definition of "service animal" in Title 5 MRSA § 4553, and living temporarily with a resident of the State prior to training.

Dog Licenses

AMEND 7 MRSA § 3922

4. ~~Trained guide~~Service dogs. If a ~~trained service~~ dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk shall not register the dog nor issue to its owner or keeper a license and tag that identifies the dog as a service dog unless the applicant presents written evidence to the municipal clerk ~~is provided~~ that the dog meets the definition of “service animal” in Title 5 MRSA § 4553. For the purpose of dog licensing under this part, “written evidence” shall mean a Service Dog Certification form approved by the Department of Agriculture in consultation with the Maine Human Rights Commission.

AMEND 7 MRSA § 3923–A

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

~~A. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;~~

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

~~C. A trained a service dog, meeting the definition of “service animal” in Title 5 MRSA § 4553, owned or kept by a physically impaired person who has a disability or such a dog awaiting training;~~

AMEND 7 MRSA § 3961-A. Attack on service ~~dog animal~~

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

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 dog animal for any veterinary bills and necessary retraining costs or replacement costs of the dog animal if it is disabled or killed.

For the purposes of this section, "service dog animal" means an animal that meets the definition in Title 5 MRSA § 4553, a guide dog for the visually impaired, a hearing dog trained to alert a person with impaired hearing or a personal care dog as defined in Title 17, section 1312, subsection 7.

Maine Model White Cane Law

AMEND 17 MRSA § 1312

3. Guide and ~~personal care~~service dogs. Every totally or partially blind or otherwise physically or mentally disabled person has the right to be accompanied by a guide or ~~personal care~~service dog, especially trained for the purpose and meeting the definition in Title 5 MRSA § 4553, in any of the places listed in subsection 2 without being required to pay an extra charge for the guide or ~~personal care~~service dog; however, the person is liable for any damage done to the premises or facilities by such dog.

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

5. Housing accommodations; persons with guide or ~~personal care~~service dogs. Every blind or visually handicapped or otherwise physically or mentally disabled individual who has a ~~sight assistance or assistance~~ service animal, such as a guide or ~~personal care~~service dog, is entitled to full and equal access to all housing accommodations provided for in this section....

7. ~~Personal care~~Service dog; definition. As used in this section, "~~personal care~~service dog" means a dog that meets the definition of "service animal" in Title 5 MRSA § 4553~~provides assistance with activities of daily living for a person who is physically disabled.~~

AMEND 17 MRSA § 1313. Motor vehicle drivers

The driver of a vehicle approaching a totally or partially blind or otherwise ~~physically~~ disabled pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide or ~~personal care~~service dog, as defined in ~~section 1312~~ Title 5 MRSA § 4553 as a "service animal," shall take all necessary precautions to avoid injury to that blind or otherwise ~~physically~~ disabled pedestrian, and any driver who fails to take such precautions is liable in damages for any injury caused the pedestrian. A totally or partially blind or otherwise ~~physically~~ disabled pedestrian, not carrying such a cane or using a guide or ~~personal care~~service dog in any of the places, accommodations or conveyances listed in section 1312, has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind or otherwise ~~physically~~ disabled pedestrian to carry such a cane or to use a guide or ~~personal care~~service dog in any such places, accommodations or conveyances may not be held to constitute nor be evidence of contributory negligence.

AMEND 17 MRSA § 1314-A

Misrepresentation of guide dog or 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 guide 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 animal" in Title 5 MRSA § 4553, commits a civil violation for which a fine of not more than ~~\$100~~\$500 may be adjudged.

Animals in Food Stores

AMEND 17 MRSA § 3966

For the purposes of this section, "service animal" means an animal that meets the definition of "service animal" in Title 5 MRSA § 4553, ~~has been prescribed for an individual with a disability by a physician, psychiatrist or psychologist and a 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 items.~~

Department of Labor

REPEAL 26 MRSA § 1420-A subsections 3, 4, and 5

REPEAL 26 MRSA § 1420-D

~~**3. Guide dogs.** Every deaf or hard of hearing person has the right to be accompanied by a guide dog, described and known as a "hearing dog," especially trained for the purpose, and identified by a collar and leash colored hunter orange, as that color is defined in Title 12, section 10001, subsection 32, in a place listed in subsection 2 without being required to pay an extra charge for the guide dog, except that the person is liable for any damage done to the premises or facilities by that dog. When the deaf or hard of hearing person is accompanied by a guide dog, the person must also carry a card, issued by the Bureau of Rehabilitation Services, that states that the dog is an especially trained guide dog and cites section 1420 and this section that allow for access by the person and the person's dog to streets, public places and public conveyances.~~

~~**4. Especially trained guide dog trainer; access to public facilities; responsibilities.** An especially trained hearing dog trainer, while engaged in the actual training of hearing dogs, has the same rights, privileges and responsibilities with respect to access to public facilities as a deaf or hard of hearing person.~~

~~**5. Housing accommodations; persons with hearing assistance animals.** Every hard of hearing person who has a hearing assistance animal is entitled to full and equal access to all housing accommodations provided for in this section. Hard of hearing persons may not be required to pay extra compensation to keep hearing assistance animals. A hard of hearing person is liable for any damage done to the premises by the animal.~~

~~**§1420-D. Misrepresentation of hearing dog**~~

~~—A person who fits a dog with a collar and leash of the type required by section 1420-A, subsection 3 in order to represent that the dog is a hearing dog when training of the type that a hearing dog normally receives has not in fact been provided commits a civil violation for which a fine of not more than \$100 may be adjudged.~~

APPENDIX III

Service Dog Verification Form for Waiver of License Fee

INSTRUCTIONS

How to Use this Form

1. The applicant (owner) for a dog license must fill out the form if the applicant wants the license fee waived for a service dog.
2. The applicant fills out the Part I (Applicant and Dog Information) and, if the dog is prescribed for the owner, the healthcare practitioner prescribing the dog fills out Part II.
3. The applicant submits the completed form to the Municipal Clerk when licensing the dog.
4. A properly filled-out and signed form is verifiable written evidence required by Municipal Clerks licensing a dog as a “service dog.”
5. The form is required for initial verification for waiver of the dog license fee, but not for renewal.
6. The Clerk should keep a copy on file.

IMPORTANT NOTE: This form only serves to verify *for purposes of licensing* that a dog has been prescribed or has been trained by an organization, and thus qualifies for waiver of the license fee. Other dogs, even though they do not qualify for the fee waiver, may legitimately be service dogs and entitled to all the protections of a service animal if they meet the definition of Title 5 MRSA § 4553.

This form was developed by the Maine Department of Agriculture consistent with the Animal Welfare Act and the regulations of the Maine Human Rights Commission.

DISCLAIMER OF LIABILITY: The State of Maine disclaims any responsibility for the accuracy of the information that may be contained on this form and makes no warranties or representations whatsoever regarding the behavior or actions of the animal referred to on this form. The care and supervision of a service animal is solely the responsibility of his or her owner.

For further information about the use of this form, please contact:

_____ or _____.

Service Dog Verification Form for Waiver of License Fee

Part I – Applicant and Dog Information

Applicant’s Name, Address, Telephone Number

Applicant Statement – By signing this form, applicant is saying, “I have read the State laws on both sides of this form, and I understand the definitions of ‘disability’ and of ‘service dog’ and the penalties for misrepresenting a dog as a service dog, which are printed below.”

- Definition of service dog from Maine statute
- Penalties for misrepresentation.

Dog Information –

- Name, breed, color of the specific dog
- Applicant asserts that the specific dog is a service dog, qualifying under the definition of “service dog” because it meets one (or more) of the following standards:
 - The dog fills the function recommended by a Physician, Psychologist, Physician’s Assistant, Nurse Practitioner, or Licensed Social Worker (or other healthcare practitioner approved by the Department); if this box is checked, the applicant must have the practitioner fill out and sign the portion below;
or
 - The dog has been provided or trained by a service dog training agency (name and location of agency:_____).

I understand the penalties for misrepresentation of a dog as a service dog. The information on this form is correct to the best of my knowledge.

- Applicant Signature and Date

Part II – Statement of Practitioner (Physician, Psychologist, Physician’s Assistant, Nurse Practitioner, Licensed Social Worker, or other practitioner approved by the Department)

Practitioner’s Name, Address, Telephone Number, and License or Certification Number

- The applicant is a patient of the practitioner named above.
- I have determined that the applicant has a disability for which a service dog is necessary based on healthcare considerations, consistent with the definitions in Maine law for “disability” and for “service animal.” A service dog will fulfill one or more of the following functions (Check those that apply):

- ❑ Perform tasks that will mitigate the effects of the individual’s disability
- ❑ Provide mobility assistance or alert the individual with a disability
- ❑ Improve health and well-being of the individual by mitigating a disabling condition.

RECOMMENDATION: Because individuals differ in their ability to care for, obtain training for, manage and supervise a dog, it is advised that the healthcare practitioner and the applicant have a conversation about responsibility for the animal.

- Practitioner Signature and Date

On the back of the form:

A summary of Maine statutes, including –

Definition of “disability”

Definition of “service dog”

Penalties for misrepresentation of a service dog

Rights and responsibilities regarding service dogs in public accommodations