

SECOND REGULAR SESSION

SENATE BILL NO. 835

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLAND.

Pre-filed December 17, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3323S.011

AN ACT

To amend chapter 209, RSMo, by adding thereto ten new sections relating to rights of persons with service animals, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 209, RSMo, is amended by adding thereto ten new sections, to be known as sections 209.200, 209.202, 209.204, 209.206, 209.208, 209.210, 209.212, 209.214, 209.216, and 209.218, to read as follows:

209.200. 1. As used in sections 209.200 to 209.218, the following terms shall mean:

- (1) "Commission", the Missouri commission on human rights;**
- (2) "Disability", a physical or mental impairment that substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question;**
- (3) "Discrimination", any unfair treatment based on use of a service animal in housing, employment, or public accommodations;**
- (4) "Dwelling", as defined in section 213.010, RSMo;**
- (5) "Employer", the state of Missouri, or any political subdivision of the state, any person employing persons within this state, and any person acting directly in the interest of an employer;**
- (6) "Employment agency", as defined in section 213.010, RSMo;**
- (7) "Labor organization", as defined in section 213.010, RSMo;**

(8) "Major life activity", those basic activities that the average person in the general population can perform with little or no difficulty. Major life activities include but are limited to caring for oneself, performing manual tasks, walking, sight, hearing, speech, breathing, learning, and employment. Major life activities may include sitting, standing, lifting, and reaching;

(9) "Person", an individual, corporation, partnership, association, organization, labor organization, legal representative, mutual company, joint stock company, trust, trustee, trustee in bankruptcy, receiver, fiduciary, or any other organized group of individuals;

(10) "Physical or mental impairment":

(a) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities.

Minor temporary illnesses, such as broken bones, sprains, or colds, are not physical or mental impairments;

(11) "Place of employment", any office, factory, store, warehouse, or other type of business setting in which employees participate in work;

(12) "Places of public accommodation", as defined in section 213.010, RSMo. Places of public accommodation shall include those facilities set forth in sections 209.150 and 209.160;

(13) "Record of having an impairment", a history of or having been improperly classified as having a physical or mental impairment that does not substantially limit major life activities but is treated by a respondent as constituting such a limitation;

(14) "Regarded as having an impairment", when a respondent determines a person:

(a) Has a physical or mental impairment that does not substantially limit major life activities but is treated by others as constituting such a limitation; or

(b) Has no disability as defined in this section but is treated by the respondent or by others as having an impairment which substantially limits a major life activity;

(15) "Rent", as defined in section 213.010, RSMo;

(16) "Service animal", an animal that is being or has been specially trained to assist a particular person with a disability. Service animal includes:

(a) "Guide animal", an animal that is being or has been specially trained to

assist a particular blind or visually impaired person;

(b) "Hearing animal", an animal that is being or has been specially trained to assist a particular deaf or hearing-impaired person;

(c) "Signal animal", an animal that has been or has the ability to signal to a disabled person that a particular event is about to occur.

209.202. 1. No person shall refuse to rent, lease, or sublet any dwelling because a service animal will be residing with the prospective tenant of the dwelling.

2. Any person providing dwellings for rent, lease, or sublease shall make reasonable modifications in policies, practices, and procedures, including but not limited to allowing a person with a disability to be accompanied by a service animal that is specially trained or being trained by such person without being required to pay an extra charge for such service animal.

3. A landlord may require proof that an animal is a service animal. The owner or trainer of such service animal may submit any one of the following as evidence that an animal is a service animal:

(1) Identification cards;

(2) Other written documentation;

(3) Presence of harness or markings on harnesses;

(4) Tags; or

(5) Credible verbal assurances of the disabled person using the service animal.

4. Nothing in this section shall require an owner of any dwelling to make any physical modifications to any property for the purpose of accommodating a service animal.

5. Any restriction, reservation, condition, exception, or covenant in any subdivision, plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property that would permit residential use of such property but prohibit the use of such property as housing for a service animal shall, to the extent of such prohibition, not be given legal or equitable force and effect.

6. No residential property owner, person engaging in a residential real estate transaction, residential real estate broker, or residential real estate salesperson shall refuse to engage in a residential real estate transaction or deny equal opportunity to use and enjoy a dwelling or housing accommodation because of a person's disability or use of a service animal.

209.204. 1. No employer, employment agency, or labor organization shall discriminate against any person with a physical or mental impairment by directly or indirectly interfering with such person's use of a service animal.

2. No employer, employment agency, labor organization, or joint labor-

management committee shall discriminate against any person with a physical or mental impairment by directly or indirectly interfering with such person's use of an aid or appliance, including a service animal.

3. No employer shall directly or indirectly refuse to allow an employee with a physical or mental impairment to keep such employee's service animal with him or her at all times in the employee's place of employment.

209.206. 1. No person shall require an additional charge for or no place of public accommodation shall deny equal service to:

(1) A person with a physical or mental impairment because of the use of a service animal; or

(2) A person with a physical or mental impairment or trainer of a service animal because of a service animal or service animal in training accompanying such person in the facility; provided that, such service animal or service animal in training that is led or accompanied by a person with a physical or mental impairment is wearing a harness or leash held or otherwise controlled by such person.

2. No inn, hotel, motel, or other establishment that provides lodging to transient guests shall require an additional fee or deposit from a person with a physical or mental impairment or a trainer of a service animal because such person or trainer is accompanied by a service animal or service animal in training.

3. The owner or trainer of such service animal may submit any one of the following as evidence that an animal is a service animal:

(1) Identification cards;

(2) Other written documentation;

(3) Presence of harness or markings on harnesses;

(4) Tags; or

(5) Credible verbal assurances of the disabled person using the service animal.

4. In addition to any other remedies provided by sections 209.200 to 209.218, any person who believes a violation of this section has occurred may seek criminal prosecution pursuant to section 209.160 or file a verified complaint with the commission pursuant to section 213.075, RSMo, but not both. A prosecutor may withdraw such criminal prosecution upon proof that a complaint has been filed with the commission.

209.208. 1. No common carrier of passengers or other means of public conveyance or transportation operating in this state, including but not limited to motor vehicles, taxis, airplanes, railroad trains, motor buses, streetcars, boats, buses, or other modes of transportation shall refuse service or charge an additional fee to

any person with a disability, any person with a physical or mental impairment, or any trainer of service animals who is accompanied by a service animal.

2. In addition to any other remedies provided by sections 209.200 to 209.218, any person who believes a violation of this section has occurred may seek criminal prosecution pursuant to section 209.160 or file a verified complaint with the commission pursuant to section 213.075, RSMo, but not both. A prosecutor may withdraw such criminal prosecution upon proof that a complaint has been filed with the commission.

209.210. 1. The driver of a motor vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominately white in color, or a blind, visually impaired, deaf, hard-of-hearing, or otherwise physically disabled person or person with a physical or mental impairment using a service animal shall take all necessary precautions to avoid injury to such pedestrian. Any driver who fails to take such precautions shall be liable for the actual damages for injury caused to such pedestrian or the pedestrian's service animal. No operator of a motor vehicle shall drive into or upon any crosswalk while such a pedestrian is on a crosswalk, crossing or attempting to cross a roadway if such pedestrian indicates his or her intention to cross or continue. Failure of any such pedestrian to so signal shall not deprive him or her the right-of-way accorded to the pedestrian by other laws.

2. No person, either pedestrian or operator of a motor vehicle, who approaches an individual that appears to be a disabled person or a person with a physical or mental impairment using an assistive device or service animal shall intentionally fail to stop, change course, speak, or take any other necessary action as is necessary to avoid an accident or injury to such individuals, or intentionally startle or frighten such individual's service animal. Any person who violates the provisions of this section is guilty of a class B misdemeanor.

209.212. 1. Any person who knowingly and intentionally destroys or causes serious physical injury to a service animal is guilty of a class C felony. The provisions of this subsection shall not apply to the destruction of a service animal for humane purposes.

2. Any person who, with intent to deprive or defraud the owner takes, leads away, confines, secretes, or converts any service animal, or conceals the identity of a service animal or its owner by obscuring, altering, or removing any collar, tag, license, tattoo, or other identifying device or mark from the service animal is guilty of a class A misdemeanor. Nothing in this subsection shall prohibit a person from being charged with offenses for theft or possession of stolen property.

3. Any person who negligently or maliciously kills or injures a service animal

shall be civilly liable to the user of the service animal in the amount of one thousand dollars plus reasonable attorney's fees and court costs. Such civil liability shall be in addition to and not in lieu of any other remedies provided by law.

4. Any person who willfully and maliciously assaults, beats, harasses, injures, or attempts to assault, beat, harass, or injure an animal that such person knows or has reason to believe is a service animal or service animal in training is guilty of a class C felony.

5. Any person who sells or otherwise transfers an animal such person knows or has reason to know is a service animal that has been stolen or fraudulently obtained is guilty of a class C felony. For purposes of this subsection, such sale, receipt, or transfer of each service animal constitutes a separate violation of this subsection.

6. Any person who willfully or negligently injures or destroys a service animal or deprives the owner of a service animal from the use of such animal is subject to civil liability for damages, including the value of the service animal, the cost of training, and reasonable compensation for the period of time for which the owner is denied use of the animal. If such actions are proven to be willful, the owner shall be entitled to attorney's fees.

7. The provisions of this section shall not apply to the lawful acts of any employee, agent, or director of any humane society, animal control agency, or animal shelter operated by or on behalf of any state or political subdivision department or agency.

209.214. Any person who disguises an animal as a service animal or falsely uses an animal with a harness, leash, or other device identifying it as a service animal to represent that such person's animal is necessary due to disability or is being trained as a service animal is guilty of a class B misdemeanor.

209.216. 1. The owner of a service animal shall be liable for the actual damages caused by such service animal to persons, premises, or facilities, including places of public accommodation, public conveyances or transportation services, common carriers of passengers, places of housing accommodations, and places of employment.

2. A person with a physical or mental impairment who uses a service animal shall keep such animal harnessed or leashed when such animal is being used as a service animal. Any person who violates the provisions of this subsection shall be subject to civil liability for any damages caused as a result of the failure to properly restrain such animal.

3. Service animals shall be identifiable as service animals if such animals are wearing a harness, leash, collar, backpack, vest, or cape that is recognized as

appropriate for a service animal or service animal in training.

209.218. 1. The commission shall not have jurisdiction or authority regarding violations of sections 209.160 and 209.212.

2. Any violation of section 209.202, 209.204, or 209.206, or subsection 1 of section 209.208 is an unlawful discriminatory practice. The commission, upon the filing of a complaint pursuant to section 213.075, RSMo, shall have jurisdiction over all unlawful discriminatory practice proceedings initiated pursuant to sections 209.200 to 209.218. Such proceedings shall be subject to the provisions of chapter 213, RSMo.

3. Upon a showing that a complaint has been filed with the commission pursuant to sections 209.200 to 209.218, a prosecuting attorney may withdraw any pending criminal action regarding the same violations. Nothing in this section shall preclude a prosecuting attorney from prosecuting any violation of sections 209.200 to 209.218.

Unofficial

Bill

Copy