

HOUSE BILL No. 5281

November 28, 2017, Introduced by Rep. Lucido and referred to the Committee on
Agriculture.

A bill to provide for the training and instruction of assistance animals and assistance animal handlers in the standards of basic obedience and care; to prescribe certain instructor and provider qualifications and curriculum requirements; to prescribe a fee for the certification of basic obedience training instructors; to provide for the issuance of a basic obedience program certificate of completion; to provide for a public registry of certified basic obedience training instructors and providers; to establish the assistance animal and safety fund; to provide for the powers and duties of certain state departments and agencies; to prescribe sanctions and penalties; and to authorize the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "assistance animal basic obedience training and instruction act".

3 Sec. 2. As used in this act:

4 (a) "Assistance animal" means a service animal, emotional
5 support animal, or therapy animal.

6 (b) "Assistance animal handler" or "handler" means an owner or
7 user of an assistance animal.

8 (c) "Basic obedience instructor certificate" means a written
9 or electronic authorization issued by the department to indicate
10 that an instructor or provider and the curriculum of training and
11 instruction provided by that instructor or provider meet the
12 qualifications and standards required by this act.

13 (d) "Basic obedience program certificate of completion" means
14 a written or electronic authorization issued by a basic obedience
15 training instructor or provider to an assistance animal handler who
16 has successfully completed a basic obedience program.

17 (e) "Basic obedience training and instruction for assistance
18 animals" means the training of an assistance animal and the
19 instruction of an assistance animal handler in the knowledge,
20 skills, and attitude necessary to control and care for an
21 assistance animal in a manner that ensures the public health and
22 safety when assistance animals are granted access to a place of
23 public accommodation. Basic obedience training and instruction for
24 assistance animals does not include the training of an assistance
25 animal in a specific disability-related task that is intended to
26 assist a person with his or her specific disability.

27 (f) "Basic obedience training instructor" or "instructor"

1 means an individual who provides or who engages in the business of
2 providing basic obedience training and instruction for assistance
3 animals and assistance animal handlers. Basic obedience training
4 instructor does not include an individual who provides training and
5 instruction on an unpaid, casual basis to a relative or friend.

6 (g) "Basic obedience training provider" or "provider" means a
7 person that maintains or obtains facilities and a staff of
8 certified basic obedience training instructors to provide basic
9 obedience training and instruction for assistance animals and
10 assistance animal handlers. Basic obedience training provider does
11 not include a person that provides training and instruction only
12 for the benefit of employees if that instruction is not open to the
13 public or on an unpaid, casual basis to a relative or friend.

14 (h) "Curriculum" means a written plan that states and
15 describes the training and instruction provided by a basic
16 obedience training instructor or provider.

17 (i) "Department" means the department of agriculture and rural
18 development.

19 (j) "Director" means the director of the department.

20 (k) "Disability" means that term as defined in section 12102
21 of the Americans with disabilities act of 1990, 42 USC 12102, and
22 28 CFR 36.104.

23 (l) "Emotional support animal" means an animal that a medical
24 professional has determined provides emotional or therapeutic
25 benefit for a person with a disability or that alleviates 1 or more
26 identified symptoms or effects of an individual's disability. An
27 emotional support animal is not a service animal.

1 (m) "Person with a disability" means an individual who has a
2 disability. As used in this subdivision, "person with a disability"
3 includes a veteran who has been diagnosed with 1 or more of the
4 following:

5 (i) Post-traumatic stress disorder.

6 (ii) Traumatic brain injury.

7 (iii) Other military service-related disabilities.

8 (n) "Place of public accommodation" means that term as defined
9 in 28 CFR 36.104.

10 (o) "Public accommodation" means that term as defined in
11 section 12181 of the Americans with disabilities act of 1990, 42
12 USC 12181, and 28 CFR 36.104.

13 (p) "Service animal" means any of the following:

14 (i) That term as defined in 28 CFR 36.104.

15 (ii) Any other animal individually trained to do work or
16 perform tasks for the benefit of a person with a disability.

17 (iii) An animal in training to become an animal described in
18 subparagraph (i) or (ii).

19 (q) "Therapy animal" means an animal that provides an
20 emotional or therapeutic benefit to an individual who is not the
21 assistance animal handler in a hospital, or other care-giving
22 facility, or under the direction of a member of a care-giving
23 organization. A therapy animal is not a service animal.

24 (r) "Veteran" means any of the following:

25 (i) An individual who performed military service in the armed
26 forces for a period of more than 90 days and separated from the
27 armed forces in a manner other than a dishonorable discharge.

1 (ii) An individual discharged or released from military
2 service because of a service-related disability.

3 (iii) A member of a reserve branch of the armed forces at the
4 time he or she was ordered to military service during a period of
5 war, or in a campaign or expedition for which a campaign badge is
6 authorized, and was released from military service in a manner
7 other than a dishonorable discharge.

8 Sec. 3. (1) An individual shall not engage in the business or
9 occupation of providing basic obedience training and instruction
10 for assistance animals unless he or she holds a valid basic
11 obedience instructor certificate issued under this act.

12 (2) An individual who engages or offers to engage in basic
13 obedience training and instruction for assistance animals if not
14 certified by the department is guilty of a misdemeanor punishable
15 by imprisonment for not more than 93 days or a fine of not more
16 than \$500.00, or both.

17 Sec. 4. (1) An individual shall apply to the department for a
18 basic obedience instructor certificate and the department shall
19 issue the certificate if the individual does all of the following:

20 (a) Submits a properly completed application signed by the
21 applicant on a form prescribed by the department.

22 (b) Submits a nonrefundable application fee of \$100.00.

23 (c) Provides other information and documents prescribed by the
24 department to determine an applicant's qualifications under
25 subsection (2) and to evaluate the curriculum submitted by the
26 applicant under section 7(1).

27 (2) To be eligible for a basic obedience instructor

1 certificate under this act, an individual must satisfy all of the
2 following:

3 (a) Have a knowledge of the special problems of persons with
4 disabilities and how to provide appropriate instruction.

5 (b) Be able to demonstrate by written evidence his or her
6 ability to effectively train assistance animals in basic obedience.
7 This subdivision does not require the applicant to demonstrate his
8 or her ability to train an assistance animal to do work or perform
9 tasks for the benefit of a person with a disability.

10 (3) An applicant shall file with the department, on a form
11 prescribed by the department, an irrevocable written or electronic
12 stipulation before the department may issue a basic obedience
13 instructor certificate to the applicant. The stipulation shall be
14 signed by the applicant and state that the applicant agrees that
15 legal process affecting the applicant, served on the department
16 against the applicant or the applicant's successor in interest for
17 a violation of this act, a rule promulgated under this act, or an
18 order issued under this act, has the same effect as if personally
19 served on the applicant. This appointment remains in force as long
20 as the provider has any outstanding liability within this state
21 under this act.

22 (4) The nonrefundable application processing fee collected
23 under this section shall be deposited by the department into the
24 assistance animal health and safety fund created in section 17.

25 Sec. 5. (1) A holder of a basic obedience instructor
26 certificate shall apply to the department for renewal of his or her
27 certificate every 3 years. The department shall issue a renewal of

1 a basic obedience instructor certificate if the applicant meets the
2 following requirements:

3 (a) Submits a properly completed renewal application signed by
4 the applicant on a form prescribed by the department.

5 (b) Submits evidence that the applicant has completed the
6 continuing professional development requirements under subsection
7 (2).

8 (c) Submits a nonrefundable renewal application processing fee
9 of \$100.00.

10 (d) Provides other information and documents prescribed by the
11 department to determine an applicant's continuing qualifications
12 for certification under section 4(2).

13 (2) As a condition of renewal of a basic obedience instructor
14 certificate, the instructor shall provide evidence of continuing
15 professional development. The department shall determine the form
16 and proof of continuing professional development. The continuing
17 professional development required under this subsection shall
18 include 1 or more of the following subject matter areas:

19 (a) Instructing persons with disabilities.

20 (b) Care and training of assistance animals.

21 (c) Standards and maintenance of a healthy and safe assistance
22 animal.

23 (d) Public health and safety concerns regarding the use of
24 assistance animals.

25 (e) Laws and regulations related to the use of assistance
26 animals in places of public accommodation.

27 (3) The nonrefundable renewal application processing fee

1 collected under this section shall be deposited into the assistance
2 animal health and safety fund created in section 17.

3 Sec. 6. (1) Upon issuing an original or renewal basic
4 obedience instructor certificate, the department shall issue an
5 instructor identification card to the certificate holder. The
6 instructor identification card shall include all of the following:

7 (a) The name of the instructor.

8 (b) A photographic image of the instructor.

9 (c) An identification number assigned to the instructor by
10 the department.

11 (d) Other information determined necessary by the department.

12 (2) A basic obedience training instructor shall display the
13 instructor identification card issued by the department to that
14 instructor at all times while providing basic obedience training
15 and instruction. A basic obedience training instructor shall
16 provide a copy of the instructor identification card to a basic
17 obedience training provider who utilizes the instructor's services,
18 and the provider shall keep and maintain a copy of the instructor
19 identification card.

20 Sec. 7. (1) The department shall not issue a certificate under
21 this act unless the applicant has submitted and the department has
22 approved the curriculum of the basic obedience program offered by
23 the applicant.

24 (2) The curriculum submitted for approval under subsection (1)
25 shall include performance objectives, a content outline, detailed
26 learning activities, and assessment tools, including specific
27 assessment criteria, that incorporate the care and obedience

1 standards described in subdivisions (a) and (b). The curriculum
2 shall indicate that these standards guide both training and
3 instruction and that upon completion of the basic obedience
4 program, the assistance animal will successfully demonstrate these
5 standards through the care and control of its handler. As used in
6 this subsection, "care and obedience standards" includes all of the
7 following:

8 (a) Public presentability, including both of the following:

9 (i) Being clean and not having an offensive odor.

10 (ii) Not relieving itself in inappropriate locations.

11 (b) Appropriate public behavior, including all of the
12 following:

13 (i) Not bothering or annoying any member of the general
14 public.

15 (ii) Not disrupting the normal course of business.

16 (iii) Responding to basic obedience commands without
17 unnecessary vocalization.

18 (iv) Not displaying aggression toward people or other animals.

19 (v) Not begging for or taking food or other items from the
20 general public.

21 (3) The specific assessment criteria required under subsection
22 (2) shall include all of the following, if appropriate:

23 (a) Controlled unload out of a vehicle.

24 (b) Approaching a building.

25 (c) Controlled entry through a doorway.

26 (d) Heeling through a building.

27 (e) Six-foot recall on a lead.

- 1 (f) Sits on command.
- 2 (g) Downs on command.
- 3 (h) Noise distraction.
- 4 (i) Restaurant behavior.
- 5 (j) Off a lead.
- 6 (k) Dog taken by another person.
- 7 (l) Controlled exit.
- 8 (m) Controlled load into a vehicle.
- 9 (n) Team relationship.

10 (4) A basic obedience training instructor or provider shall
11 not train an assistance animal, provide an assistance animal to an
12 assistance animal handler for basic obedience training, or provide
13 an assistance animal trained in basic obedience to an assistance
14 animal handler unless the animal has been examined by a licensed
15 veterinarian and found to be in good health.

16 Sec. 8. (1) A basic obedience training instructor or provider
17 shall have a written agreement with a client. If the client is a
18 minor, the written agreement shall be with a parent or legal
19 guardian of the minor. An instructor or provider shall not give
20 instruction to a client until after the instructor or provider and
21 the client, or the client's parent or legal guardian, have entered
22 into the written agreement. The written agreement shall be dated
23 and signed by both the instructor or provider and the client, or
24 the client's parent or legal guardian. The written agreement shall
25 contain all the terms of the agreement between the instructor or
26 provider and the client, or the client's parent or legal guardian,
27 and include all of the following:

1 (a) The client's name, address, and telephone number.

2 (b) If the client is a minor, the parent's or legal guardian's
3 name, address, and telephone number.

4 (c) A description of the instruction to be given by the
5 instructor or provider that is consistent with the curriculum
6 submitted by the instructor or provider to the department under
7 section 7(1).

8 (d) The amount of the fee or tuition charged for the
9 instruction. If the fee or tuition is to be paid by a source other
10 than the client, or the client's parent or legal guardian,
11 including a charitable organization or any form of government-
12 provided assistance, it shall be noted in the agreement.

13 (e) A notice statement prescribed by the department.

14 (f) Other information considered necessary by the department
15 to protect the interests of the client and the public health and
16 safety.

17 (2) Before any basic obedience training or instruction begins,
18 an instructor or provider shall give the client, or the client's
19 parent or legal guardian, a signed copy of the written agreement,
20 accompanied by a copy of all of the instructor's or provider's
21 applicable policies.

22 Sec. 9. (1) An instructor or provider shall issue a basic
23 obedience program certificate of completion to an assistance animal
24 handler who has completed the program by successfully passing the
25 assessment criteria submitted to the department by the instructor
26 or provider under section 7(2).

27 (2) A certificate of completion issued under subsection (1)

1 shall include all of the following:

2 (a) A certifying statement that the assistance animal and its
3 handler have successfully demonstrated the care and obedience
4 standards described in section 7(2).

5 (b) A list of the skills, commands, and instruction that have
6 been provided by the instructor or provider.

7 (c) A statement that the assistance animal has demonstrated
8 the ability to comply with the commands listed in the certificate
9 in places of public accommodation.

10 (d) A statement that the assistance animal handler has
11 demonstrated a successful level of command over the assistance
12 animal in places of public accommodation.

13 Sec. 10. (1) The department shall prepare and maintain a list
14 of basic obedience training instructors in this state. Registration
15 for inclusion on the list is voluntary.

16 (2) An instructor who wishes to be included on the list of
17 certified basic obedience training instructors in subsection (1)
18 shall submit a registration form prescribed by the department. The
19 registration form shall include all of the following:

20 (a) A place to provide the name by which the instructor
21 prefers to be listed and the location or geographic area served by
22 the instructor.

23 (b) A place to provide the identification number assigned to
24 the instructor by the department under section 6(1).

25 (c) A place for an individual to certify with his or her
26 signature that he or she meets the qualification requirements under
27 section 4(2).

1 (d) A place to designate whether the individual is submitting
2 a new registration or a renewal registration.

3 (3) An individual may update his or her registration at any
4 time by submitting a renewal registration.

5 (4) The department shall publish the list of certified
6 instructors on the department's website.

7 (5) An individual who no longer meets the requirements to be a
8 certified basic obedience training instructor shall notify the
9 department in writing, and the department shall remove the
10 individual from the list of certified instructors.

11 (6) An instructor whose basic obedience instructor certificate
12 has been revoked or suspended under section 11, who has been found
13 to be in violation of section 12, or who is subject to a sanction
14 under section 13 may be removed from the list.

15 Sec. 11. The department may suspend or revoke a basic
16 obedience instructor certificate issued under this act if it
17 determines that the certificate holder has done any of the
18 following:

19 (a) Made a false statement or given false information in
20 connection with an application for a certificate or a renewal or
21 reinstatement of a certificate.

22 (b) Violated a provision of this act.

23 (c) Violated a rule promulgated under this act.

24 (d) Been convicted of a felony or of a crime involving moral
25 turpitude, or has been convicted of an offense involving cruelty to
26 animals. The record of conviction, or a certified copy of a
27 conviction, is conclusive evidence of the conviction.

1 (e) Committed an act that would be grounds for denial of a
2 certificate.

3 Sec. 12. A basic obedience training instructor or provider
4 shall not engage in a deceptive or unconscionable method, act, or
5 practice that includes, but is not limited to, any of the
6 following:

7 (a) Using, adopting, or conducting business under a name that
8 is the same as, like, or deceptively similar to, the name of
9 another basic obedience training instructor or provider.

10 (b) Using the word "state", "government", "municipal", "city",
11 or "county" as part of the business name of the basic obedience
12 training instructor or provider.

13 (c) Advertising, representing, or implying that a basic
14 obedience training instructor or provider is supervised,
15 recommended, or endorsed by, or affiliated or associated with, or
16 employed by, or an agent or representative of this state, or the
17 department.

18 (d) Advertising that the instructor or provider is open for
19 business before the department issues a basic obedience instructor
20 certificate to an individual instructor or an instructor employed
21 by a provider.

22 (e) Soliciting business on the premises of a facility rented,
23 leased, owned, or used by the department.

24 (f) Misrepresenting the quantity or quality of the instruction
25 provided, or the requirements of this act regarding curriculum or
26 the qualifications for a basic obedience instructor.

27 (g) Failing to promptly restore a deposit, down payment, or

1 other payment that a person is entitled to after an agreement is
2 rescinded, canceled, or otherwise terminated as required under the
3 agreement or applicable law.

4 (h) Taking advantage of a client's or potential client's
5 inability to reasonably protect his or her interest because of a
6 disability, illiteracy, or inability to understand the language of
7 an agreement, if a basic obedience training instructor or provider
8 knows or reasonably should have known of the client's or potential
9 client's inability.

10 (i) Failing to honor a term of a basic obedience training and
11 instruction agreement.

12 (j) Falsifying a document, agreement, record, or certificate
13 required under this act or a rule promulgated under this act.

14 (k) Causing or allowing a client to sign a document in blank.

15 Sec. 13. (1) Except as otherwise provided in this act, the
16 department may impose 1 or more of the sanctions described in
17 subsection (2) after providing notice and opportunity for a hearing
18 if the department determines that a person, a basic obedience
19 training instructor or provider, or an applicant for a basic
20 obedience instructor certificate did 1 or more of the following:

21 (a) Failed to meet a requirement under this act or a rule
22 promulgated under this act.

23 (b) Violated this act or a rule promulgated under this act.

24 (c) Made an untrue or misleading statement of a material fact
25 to the department or concealed a material fact in connection with
26 an application for a basic obedience instructor certificate.

27 (d) Permitted fraud or engaged in a fraudulent method, act, or

1 practice in connection with a basic obedience instructor
2 certificate application submitted to the department, or induced or
3 countenanced fraud or a fraudulent method, act, or practice on the
4 part of an applicant for a basic obedience instructor certificate.

5 (e) Engaged in an unfair or deceptive method, act, or practice
6 or made an untrue statement of a material fact.

7 (f) Violated a condition of suspension or an order issued
8 under this act.

9 (g) Failed to maintain good moral character as defined and
10 determined under 1974 PA 381, MCL 338.41 to 338.47, in connection
11 with business operations.

12 (2) After the department determines that a person, an
13 instructor, a provider, or an applicant for a basic obedience
14 instructor certificate committed a violation listed in subsection
15 (1), the department may impose upon the person, instructor,
16 provider, or applicant 1 or more of the following sanctions:

17 (a) Denial of an application for a basic obedience instructor
18 certificate.

19 (b) Suspension or revocation of a basic obedience instructor
20 certificate.

21 (c) An administrative fine paid to the department in an amount
22 not to exceed \$500.00 for each violation.

23 (d) A requirement to take affirmative action determined
24 necessary by the department, including payment of restitution to a
25 client or to an injured person.

26 (3) A sanction may be imposed under subsection (2) in addition
27 to criminal penalties otherwise imposed for the same violation

1 under this act or by law. The remedies and sanctions under this act
2 are independent and cumulative.

3 Sec. 14. (1) If the department determines after notice and
4 opportunity for a hearing that a person has committed a violation
5 listed in section 13(1), the department may issue an order
6 requiring the person to cease and desist from the unlawful method,
7 act, or practice or to take an affirmative action that in the
8 judgment of the department will carry out the purposes of this act,
9 including, but not limited to, payment of restitution to a client.

10 (2) If the department makes a finding of fact in writing that
11 the public interest will be irreparably harmed by a delay in
12 issuing an order, the department may issue a temporary cease and
13 desist order. Before issuing a temporary cease and desist order,
14 the department, when possible by telephone or otherwise, shall
15 notify the person, or the basic obedience training instructor or
16 provider of the department's intention to issue a temporary cease
17 and desist order. A temporary cease and desist order shall include
18 a provision stating that upon request a hearing shall be held
19 within 30 days to determine whether or not the order will become
20 permanent.

21 Sec. 15. (1) The department may order a summary suspension of
22 a basic obedience instructor certificate pursuant to the
23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
24 24.328, upon an affidavit by a person familiar with the facts set
25 forth in the affidavit alleging a violation or attempted violation
26 of this act, a rule promulgated under this act, or a deceptive or
27 unconscionable method, act, or practice.

1 (2) The basic obedience training instructor to whom the order
2 is directed may apply to the department and shall be granted a
3 hearing within 30 days of application pursuant to the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328.

6 (3) At the hearing, the order of summary suspension shall be
7 set aside, continued, or modified by the department.

8 Sec. 16. The expiration or absence of a basic obedience
9 instructor certificate does not prevent the department from
10 proceeding with an investigation, disciplinary proceeding, or other
11 action authorized by this act against a person, or a basic
12 obedience training instructor or provider.

13 Sec. 17. (1) The assistance animal health and safety fund is
14 created as a separate fund in the department of treasury. The fund
15 shall be expended only as provided in this section. The state
16 treasurer may receive money or other assets from any source for
17 deposit into the fund. The state treasurer shall direct the
18 investment of the fund. The state treasurer shall annually present
19 to the department an accounting of the amount of money in the fund.
20 Any unexpended and unencumbered money in the fund at the close of a
21 fiscal year shall remain in the fund and shall not lapse or be
22 transferred to the general fund.

23 (2) A nonrefundable original or renewal application processing
24 fee and an administrative fine collected under this act shall be
25 transferred by the department to the state treasurer, who shall
26 credit the money to the fund created under this section.

27 (3) The department shall expend money in the fund to

1 administer this act. The department may deduct money from the fund
2 to develop the basic obedience training instructor certification
3 materials and procedures authorized under this act. The department
4 may deduct from the fund the actual administrative costs to
5 administer this act.

6 Sec. 18. The department may promulgate rules pursuant to the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328, to carry out this act.