

ACCOMMODATIONS FOR ANIMAL RAISERS AND TRAINERS OF SERVICE ANIMALS

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House Bill 4256 as reported from committee
Sponsor: Rep. Tommy Brann
Committee: Regulatory Reform
Complete to 5-26-21

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4256 would amend the Michigan Penal Code to provide similar protections regarding access to places of public accommodation by service animals in training as is provided to fully trained service animals.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on the judiciary and local corrections. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

Service dogs provide a wide range of assistance to people with disabilities, and their owners rely on that assistance to maintain mobility and a higher quality of life. However, the dogs must be trained, which entails basic training and socialization by animal raisers before the custom training begins. To do the training, animal raisers and animal trainers must take the dogs into the types of businesses that an owner would frequent. A service dog must be trained not to react to dishes being dropped in a restaurant, its tail being stepped on in a busy store, or being poked or stared at by passersby or other patrons. However, language giving trainers that access to places of public accommodations was inadvertently removed when that section of law was amended several years ago. This has resulted in confusion on the part of shop and restaurant owners as to which dogs have lawful standing to be admitted and which dogs must be denied access under health laws. Unfortunately, not only have dogs in training been turned away, but some dogs in service, such as those assisting military veterans suffering from post-traumatic stress, have also been refused access. Legislation has been offered to address the concern.

THE CONTENT OF THE BILL:

House Bill 4256 would amend the Michigan Penal Code to apply provisions of law to a **trainer** or **animal raiser** of a service animal that now apply only to the use of a service animal by a person with a disability in a public accommodation.

Trainer would mean an individual employed by a service animal agency that is accredited by Assistance Dogs International or the International Guide Dog Federation.

Animal raiser would mean an individual who raises and socializes a young animal that may later be trained by a service animal agency accredited by Assistance Dogs International or the International Guide Dog Federation.

2015 PA 144 revised requirements in the code for conduct by a public accommodation regarding the use of a service animal in, and access to, the public accommodation by a person with a disability. However, the legislation deleted language that had extended the previous requirements to those who were training the service animals.

The bill would specifically require a public accommodation to modify its policies, practices, and procedures to allow the use of a service animal by a trainer or animal raiser who was accompanied by the service animal for the purpose of training or socializing it. All current provisions regarding the conduct by a public accommodation or responsibilities of a person with a disability would be modified to also apply to a trainer or animal raiser accompanied by a service animal. This would include provisions that do the following:

- Allow staff of a public accommodation to ask what work or task the service animal has been trained, is being trained, or is being socialized to perform.
- Prohibit a public accommodation from isolating a handler when accompanied by the service animal or treating the handler less favorably than other patrons or charging a fee or surcharge not charged to others.
- Prohibit a public accommodation from requiring payment of a surcharge even if other pet owners are required to pay it.
- Require a public accommodation to allow the service animal to accompany the handler in all areas where members of the public, customers, and so on are allowed to go.
- Prohibit a public accommodation from asking the service animal to be removed from the premises due to allergies or fear.
- Require the service animal to be under the control of the handler and, with some exceptions, to have a harness, leash, or other tether.
- Allow a public accommodation to ask for the service animal to be removed if it is out of control and the handler does not take effective action to control it.
- Require a public accommodation that properly excludes a service animal to give the handler the opportunity to obtain goods, services, or accommodations without having the service animal on the premises.
- Allow handlers to be charged for damages caused by the service animal.

The bill would allow a public accommodation to request documentation from an animal raiser showing that the animal is being socialized to later perform tasks or work as a service animal.

MCL 750.502c

BACKGROUND INFORMATION:

The bill is identical to House Bill 5486 of the 2019-20 legislative session as referred from the House Regulatory Reform committee to the House Ways and Means committee.

FISCAL INFORMATION:

House Bill 4256 would have an indeterminate fiscal impact on the state and on local units of government. The bill would require public accommodations to modify their policies to allow service for the trainers and animal raisers of service animals. An increase in misdemeanor convictions could result due to noncompliance with the new requirements. There is no way to know how many convictions would result under the provisions of the bill. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

ARGUMENTS:

For:

Service dogs can be specially trained to meet a wide range of their owners' needs. Like guide dogs, which assist sight-impaired individuals, service animals accompany their people everywhere and need the proper socialization and training to handle such challenges as crowded public places, sudden and loud noises, strangers who want to interact with them, having their tails stepped on, and interference from pets. Early socialization by animal raisers and training for the specific needs of a future owner are thus crucial, and they can only be done in the types of stores, restaurants, doctor's offices, and other places the future owner will frequent. Currently, service dogs accompanying a person with a disability must be treated similarly to guide dogs, but there is no guarantee that a service dog in training will be allowed entry to a public accommodation.

The bill, which is crafted to comply with the Americans with Disabilities Act (ADA), would address the problem by providing that service dogs in both early and custom training sessions (not just guide dogs and fully trained service dogs) have a lawful right to access all public accommodations. However, a proprietor could refuse access and ask a trainer or animal raiser to leave if the trainer or raiser did not have an animal under control. It is also important to note that the bill does not confuse service animals with "emotional support animals" and would not apply to such animals. Enacting the bill should enable animal raisers and trainers to provide the type of training necessary to fill the growing need for service animals.

Against:

Under federal law, a service dog in training is not considered to be a service dog and therefore can be denied entry into retail stores, hotels, bars and restaurants, and other places of public accommodation. In addition, the ADA does not require certification to train a service dog, although such certification for trainers is available from Assistance Dogs International. It is one thing to require entry to a fully trained service dog that has been trained by a certified trainer, it is another to require a business to allow entry to any person claiming that his or her dog is a "service dog in training." If the bill is intended to clear up confusion business owners face when determining whether they have a legal obligation to allow access to a person with a dog, perhaps the bill should limit applicability to only those trainers who are properly certified or allow business owners to have the discretion to allow entry if the trainer contacts the business beforehand and obtains permission. After all, it can be difficult for an employee or business owner to make a quick judgment, when a person with a dog enters their establishment on a busy day, as to whether it is someone with a true service dog in training, for whom entry is required, or just someone who doesn't want to leave their dog outside, where allowing entry would be a violation of health laws. Limiting applicability to certified trainers or requiring trainers to obtain permission beforehand could achieve the same goals.

Response:

The bill's definition of "trainer" would limit applicability to persons who are employees of an accredited service animal agency. The definition of "animal raiser" would similarly limit applicability to persons who are part of the supply chain of animals suitable for further training by accredited service animal agencies and would allow a business to ask for documentation showing that the animal is being socialized to later work or perform tasks as a service animal. This should address the concerns raised above. In short, the bill's provisions provide greater parity with fully trained service animals while not running afoul ADA provisions.

POSITIONS:

A representative of Paws with a Cause testified in support of the bill. (4-27-21)

Attorneys for Animals indicated support for the bill. (4-27-21)

The Michigan Association for Pure Bred Dogs (MAPBD) indicated opposition to the bill. (3-22-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.