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House Bill 4256 (as passed by the House)
Sponsor: Representative Tommy Brann
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 9-14-21

CONTENT

The bill would amend the Michigan Penal Code to modify provisions requiring a public accommodation to accommodate a person with a disability's service animal to require a public accommodation also to accommodate a trainer or animal raiser.

Generally, under the Penal Code, a public accommodation (as defined under Federal law) must modify its policies, practices, and procedures to allow the use of a service animal by a person with a disability. ("Service animal" means all of the following: a) that term as defined in 28 CFR 36.104, or b) a miniature horse that has been individually trained to do work or perform tasks as described in 28 CFR 36.104 for the benefit of a person with a disability. Title 28 CFR 36.104 generally defines "service animal" as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.)

The bill would require a public accommodation to modify its policies, practices, and procedures to permit the use of a service animal by a trainer or animal raiser, if the trainer or animal raiser were being accompanied by the service animal for the purpose of training or socializing the service animal.

"Trainer" would mean an individual who is 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.

A public accommodation may not ask a person with a disability to remove a service animal from the premises because of allergies or fear of the animal. A public accommodation may ask a person with a disability only to remove his or her service animal if the animal is out of control and its handler does not take effective action to control the animal or if the animal is not housebroken. Under the bill, these provisions would apply to a public accommodation with respect to a trainer or animal raiser.

If a public accommodation properly excludes a service animal, the accommodation must give the person with a disability the opportunity to obtain goods, services or accommodations without having the service animal on the premises. Under the bill, a public accommodation would have to do the same for a trainer or animal raiser.

The Code requires a service animal to be under the control of its handler. Under the bill, this requirement also would apply to a trainer or animal raiser.

If it is not obvious what service a service animal provides, staff of a public accommodation may not ask about a person with a disability's disability, require medical documentation, require a special identification card or for training documentation for the service animal, or that the service animal demonstrate its ability to perform work or a task. Staff may ask whether the animal is required because of a disability and what work or task the animal has been trained to perform. Under the bill, this latter inquiry could include what work or task the service animal was being trained or was being socialized to do. Also, if a person were an animal raiser, a public accommodation could request documentation that showed the animal was being socialized to later work or perform tasks as a service animal.

A public accommodation must allow a person with a disability to be accompanied by his or her service animal in all areas of a place of public accommodation where members of the public, program participants, clients, patrons, or invitees are allowed to go, unless the service animal's presence interferes with legitimate safety requirements of the facility. Under the bill, this would extend to a trainer or animal raiser.

A public accommodation may not isolate a person with a disability accompanied by his or her service animal, treat the person less favorably than other patrons, or charge a fee it would not charge other patrons unaccompanied by service animals. A public accommodation also may not require a person with a disability to pay a surcharge or to comply with other requirements not applicable to people that are not accompanied by pets. Under the bill, these prohibitions would apply to a public accommodation with respect to a trainer or animal raiser.

A public accommodation that violates the provisions pertaining to a public accommodation's requirements to accommodate a person with disability's service is guilty of a misdemeanor. Under the bill, this would apply to the bill's provisions. (Under Section 504 of the Code, if a person is convicted of a crime designated by State law to be a misdemeanor for which no punishment is specially prescribed, he or she is guilty of a misdemeanor punishable by up to 90 days' imprisonment or a fine of not more than \$500, or both.)

MCL 750.502c

Legislative Analyst: Christian Schmidt

FISCAL IMPACT

The bill could have an indeterminate fiscal impact on the State and local units of government. The bill could result in an increase in misdemeanor convictions that would have a negative fiscal impact on State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.