

HOUSE BILL NO. 4256

February 16, 2021, Introduced by Reps. Brann, Hertel, Sowerby and Allor and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 502c (MCL 750.502c), as amended by 2015 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502c. (1) Except as ~~otherwise~~ provided in subsection ~~(2)~~,
2 **(3)**, a public accommodation shall modify its policies, practices,
3 and procedures to permit the use of a service animal by a person
4 with a disability. If the service animal is a miniature horse, a
5 public accommodation may use the following assessment factors to

1 determine whether the miniature horse can be accommodated in its
2 facility:

3 (a) The type, size, and weight of the miniature horse and
4 whether the facility can accommodate these features.

5 (b) Whether the handler has sufficient control of the
6 miniature horse.

7 (c) Whether the miniature horse is housebroken.

8 (d) Whether the miniature horse's presence in a specific
9 facility compromises legitimate safety requirements that are
10 necessary for safe operation.

11 **(2) Except as provided in subsection (3), a public**
12 **accommodation shall modify its policies, practices, and procedures**
13 **to permit the use of a service animal by a trainer or animal**
14 **raiser, if the trainer or animal raiser is being accompanied by the**
15 **service animal for the purpose of training or socializing the**
16 **service animal.**

17 **(3) ~~(2)~~**A public accommodation shall not ask a person with a
18 disability, **trainer, or animal raiser** to remove a service animal
19 from the premises ~~due to~~ **because of** allergies or fear of the
20 animal. A public accommodation may only ask a person with a
21 disability, **trainer, or animal raiser** to remove his or her service
22 animal from the premises if either of the following applies:

23 (a) The service animal is out of control and its handler,
24 **trainer, or animal raiser** does not take effective action to control
25 ~~it.~~ **the service animal.**

26 (b) The service animal is not housebroken.

27 **(4) ~~(3)~~**If a public accommodation properly excludes a service
28 animal under subsection ~~(2)~~, ~~it~~ **(3), the public accommodation** shall
29 give the person with a disability, **trainer, or animal raiser** the

1 opportunity to obtain goods, services, or accommodations without
2 having the service animal on the premises.

3 (5) ~~(4)~~ A service animal ~~shall~~**must** be under the control of
4 its handler, **trainer, or animal raiser**, and ~~shall~~**must** have a
5 harness, leash, or other tether. ~~, unless~~**If** the handler is unable
6 because of a disability to use a harness, leash, or other tether or
7 the use of a harness, leash, or other tether would interfere with
8 the service animal's safe and effective performance of work or
9 tasks, ~~in which case~~ the service animal ~~shall~~**must** be otherwise
10 under the handler's control. As used in this subsection, "otherwise
11 under the handler's control" includes, but is not limited to, voice
12 control or signals.

13 (6) ~~(5)~~ A public accommodation is not responsible for the care
14 or supervision of a service animal.

15 (7) ~~(6)~~ If it is not obvious what service a service animal
16 provides, staff of a public accommodation shall not ask about a
17 person with a disability's disability, require medical
18 documentation, require a special identification card or, **except as**
19 **provided in subsection (9)**, training documentation for the service
20 animal, or ask that the service animal demonstrate its ability to
21 perform work or a task. Subject to subsection ~~(7)~~, **(8)**, staff may
22 make the following 2 inquiries to determine whether an animal
23 qualifies as a service animal:

24 (a) Whether the service animal is required because of a
25 disability.

26 (b) What work or task the service animal has been trained, **is**
27 **being trained, or is being socialized** to perform.

28 (8) ~~(7)~~ ~~A~~ **Except as provided in subsection (9)**, a public
29 accommodation shall not do either of the following:

1 (a) Require documentation when making an inquiry under
2 subsection ~~(6)-(7)~~.

3 (b) Make an inquiry under subsection ~~(6)-(7)~~ if it is readily
4 apparent that the service animal is trained, **is being trained, or**
5 **is being socialized** to ~~do~~ work or perform tasks for ~~an individual~~ **a**
6 **person** with a disability.

7 (9) **If a person is an animal raiser, a public accommodation**
8 **may request documentation that shows that the animal is being**
9 **socialized to later work or perform tasks as a service animal.**

10 (10) ~~(8)-~~ **A public accommodation shall permit a person with a**
11 **disability, shall be permitted trainer, or animal raiser** to be
12 accompanied by his or her service animal in all areas of a place of
13 public accommodation where members of the public, program
14 participants, clients, customers, patrons, or invitees are
15 permitted to go, including public areas of establishments that sell
16 or prepare food, even if state or local health codes prohibit
17 animals on the premises. A public accommodation may exclude a
18 service animal from a facility if the service animal's presence
19 interferes with legitimate safety requirements of the facility such
20 as a surgery or burn unit in a hospital in which a sterile field is
21 required.

22 (11) ~~(9)-~~ **A public accommodation shall not isolate a person**
23 **with a disability, trainer, or animal raiser** accompanied by his or
24 her service animal, treat a person with a disability, **trainer, or**
25 **animal raiser** accompanied by his or her service animal less
26 favorably than other patrons, or charge a fee to a person with a
27 disability, **trainer, or animal raiser** accompanied by his or her
28 service animal that is not charged to other patrons ~~without that~~
29 **are not accompanied by** service animals. A public accommodation

shall not ask or require a person with a disability, **trainer, or animal raiser** to pay a surcharge, regardless of whether people accompanied by pets are required to pay a surcharge, or to comply with other requirements that are not applicable to people ~~without~~ **that are not accompanied by** pets. If a public accommodation normally charges people for damage caused, the public accommodation may charge a person with a disability, **trainer, or animal raiser** for damage caused by his or her service animal.

(12) ~~(10)~~ A public accommodation that violates subsections (1), ~~(3), or (6) to (9)~~ **(2), (4), (7), (8), (10), or (11)** is guilty of a misdemeanor.

(13) ~~(11)~~ As used in this section:

(a) **"Animal raiser" means 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.**

(b) ~~(a)~~ "Facility" means that term as defined in 28 CFR 36.104.

(c) ~~(b)~~ "Person with a disability" means ~~a person an~~ **individual** who has a disability as **that term is** defined in section ~~12102-3~~ of the Americans with disabilities act of 1990, 42 USC 12102, and 28 CFR ~~36.104~~ **36.105**.

(d) ~~(e)~~ As used in subdivision ~~(b)~~, **(c)**, "person with a disability" includes a veteran who has been diagnosed with 1 or more of the following:

(i) Post-traumatic stress disorder.

(ii) Traumatic brain injury.

(iii) Other service-related disabilities.

(e) ~~(d)~~ "Place of public accommodation" means that term as

1 defined in 28 CFR 36.104.

2 **(f)** ~~(e)~~ "Public accommodation" means that term as defined in
3 section ~~42181-301~~ **301** of the Americans with disabilities act of 1990,
4 42 USC 12181, and 28 CFR 36.104.

5 **(g)** ~~(f)~~ "Service animal" means all of the following:

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

7 (ii) A miniature horse that has been individually trained to do
8 work or perform tasks as described in 28 CFR 36.104 for the benefit
9 of a person with a disability.

10 **(h) "Trainer" means an individual who is employed by a service**
11 **animal agency that is accredited by Assistance Dogs International**
12 **or the International Guide Dog Federation.**

13 **(i)** ~~(g)~~ "Veteran" means any of the following:

14 (i) ~~A person~~ **An individual** who performed military service in
15 the armed forces for a period of more than 90 days and separated
16 from the armed forces in a manner other than a dishonorable
17 discharge.

18 (ii) ~~A person~~ **An individual** discharged or released from
19 military service because of a service-related disability.

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