



Legislative Briefs

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SERVICE ANIMALS

2005 Wisconsin Acts 353 and 354, passed by the legislature and signed by Governor Jim Doyle on May 2, 2006, both concern the treatment of service animals and their owners in Wisconsin. Act 353 makes it a crime to harass a service dog and provides penalties. Act 354 amends the Wisconsin public accommodations law to conform to the federal Americans with Disabilities Act and provide for the full and equal enjoyment of places of public accommodation by persons using or training service animals.

2005 WISCONSIN ACT 353

Act 353 was introduced as 2005 Senate Bill 181 by Senator Fred Risser and co-sponsored by Representative Terese Berceau. It is known as "Casey's Law" in recognition of the unfortunate experience of a service dog and her owner. Casey, a boxer who assisted a woman with impaired vision, was attacked by loose dogs three separate times during a walk. Her owner had no legal recourse to keep dogs from interfering with Casey's work.

Act 353, Casey's Law, creates new crimes related to the harassment of service dogs and requires a person convicted of harassing a service dog to pay restitution for any pecuniary loss, as defined in the act, suffered as a result of the crime. The act defines a "service dog" as a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability (Section 951.01 (5), Wisconsin Statutes).

The new law allows any person to provide notice to another person that his or her behavior is interfering with the use of a service dog and to request that the behavior stop. The

notice may be given in any manner. After receiving that notice and request, a person may not recklessly or intentionally interfere with the use of the service dog by obstructing or intimidating the dog or otherwise jeopardizing the safety of the dog or its user. In addition, the act prohibits recklessly or intentionally allowing one's dog to interfere with the use of a service dog. Recklessly interfering is a Class B misdemeanor, which is punishable by a fine of \$1,000 or imprisonment for 90 days or both. Intentionally interfering is a Class A misdemeanor, which is punishable by a maximum fine of \$10,000 or imprisonment for 9 months or both. If a person recklessly injures a service dog or recklessly allows his or her dog to injure a service dog, he or she is also guilty of a Class A misdemeanor.

Under the act, a person who intentionally injures a service dog or intentionally allows his or her dog to injure a service dog is guilty of a Class I felony, which is punishable by a fine of \$10,000 or a sentence of imprisonment and extended supervision for 3.5 years or both. Recklessly causing the death of a service dog is also a Class I felony.

Finally, the act makes it a Class H felony to intentionally cause the death of a service dog, which is punishable by a fine of \$10,000 or imprisonment and extended supervision for 6 years or both. A person who unlawfully takes possession of or exerts control over a service dog with the intent to deprive someone of the use of the dog is also guilty of a Class H felony.

In addition to imposing criminal penalties, Act 353 directs a sentencing court to require a violator to pay restitution for any pecuniary loss suffered as a result of the crime.

The act defines "pecuniary loss" to mean any of the following:

- all special damages, including the loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses such as medical expenses;
- reasonable out-of-pocket expenses resulting from the filing of charges or cooperating in the investigation and prosecution of an offense;
- expenses in keeping any animal involved in the crime;
- the value of a replacement animal, the cost of training a replacement animal, or the cost of retraining the affected animal;
- all related veterinary and care expenses; and
- the medical expenses of the animal's user, the cost of training the user, and compensation for income lost by the user.

2005 WISCONSIN ACT 354

Act 354 was introduced as 2005 Senate Bill 157 by Senator Mark Miller. Act 354 conforms the state public accommodations law to the federal Americans with Disabilities Act by providing for equal access to a public accommodation by a person with a disability who is accompanied by a service animal. A "service animal" is defined in the act as a guide dog, signal dog, or other animal that is individually trained or being trained to do work or perform tasks for the benefit of a person with a disability. Public accommodations are places such as lodging establishments, restaurants, and other places of business or recreation.

Previous law prohibited a public accommodation from refusing to permit entrance into, or use of, the accommodation by a person with a disability who is accompanied by a specially trained dog or by a trainer of such a dog if the dog is wearing a harness or leash and special cape, and if the person presents credentials issued by a school for training dogs. Act 354, in addition, prohibits a public accommodation from otherwise denying the full and

equal enjoyment of the accommodation to a person with a disability or to a service animal trainer because he or she is accompanied by a service animal, charging a higher price for the enjoyment of the accommodation, and distributing written communications to make it known that patronage by a person with a disability or a trainer who is accompanied by a service animal is unwelcome or will be denied.

The act also provides that, while a person accompanied by an animal may be asked whether the animal is a service animal, a person with a disability is not required to produce documentation on him- or herself or the animal. Under the act, a service animal is required to wear a harness or leash and special cape only when accompanied by a trainer and only a trainer may be required to produce documentation for a service animal.

The only time a service animal may be excluded from a public accommodation is when accommodation of the animal would result in a "fundamental alteration" in the nature of the accommodation or would jeopardize its safe operation. If the animal must be separated from its user, the user is responsible for arranging care and supervision for the animal during the separation.

Finally, Act 354 requires a public accommodation to modify its policies, practices, and procedures to ensure that a person using a service animal is not separated from the animal, that the animal may accompany the person to all areas that are open to the general public, and that the person is not segregated from other patrons.

EFFECTIVE DATE

2005 Wisconsin Acts 353 and 354 took effect May 3, 2006.

FOR FURTHER INFORMATION

View a copy of 2005 Wisconsin Acts 353 and 354 at www.legis.state.wi.us.