

Regular Session, 2014

SENATE BILL NO. 432

BY SENATORS BUFFINGTON, ADLEY, ALARIO, ALLAIN, AMEDEE, APPEL, BROOME, CLAITOR, CORTEZ, CROWE, DORSEY-COLOMB, ERDEY, GUILLORY, HEITMEIER, JOHNS, KOSTELKA, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, MURRAY, NEVERS, PEACOCK, PETERSON, RISER, GARY SMITH, JOHN SMITH, THOMPSON, WALSWORTH, WARD AND WHITE

HEALTH SERVICES. Provides relative to persons with disabilities and service dogs. (8/1/14)

1 AN ACT

2 To amend and reenact Chapter 23 of Title 46 of the Louisiana Revised Statutes of 1950,

3 comprised of R.S. 46:1951 through 1959, relative to service dogs for persons with

4 disabilities; to provide for definitions; to provide relative to the full and equal use of

5 public and commercial facilities by persons with disabilities and their service dogs;

6 to provide relative to full and equal use of housing accommodations by persons with

7 disabilities and their service dogs; to provide relative to service dog trainers and their

8 rights and liabilities; to provide relative to penalties for the injury or interference

9 with a service dog; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 23 of Title 46 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 46:1951 through 1959, is hereby amended and reenacted to read as
13 follows:

14 CHAPTER 23. ~~LOUISIANA WHITE CANE LAW~~ **RIGHTS OF**
15 **PERSONS WITH DISABILITIES**

16 §1951. Statement of policy

17 A. It is the policy of this state to encourage and enable a ~~physically disabled~~

1 person **with a disability** to participate fully in the social and economic life of the
 2 state, **to achieve maximum personal independence, to otherwise fully enjoy and**
 3 **use all public facilities available in the state,** and to engage in remunerative
 4 employment.

5 **B. No person with a disability may be denied admittance to any public**
 6 **facility because of the person's disability. No person with a disability shall be**
 7 **denied the use of a white cane, service dog, wheelchair, crutches, or other device**
 8 **of assistance.**

9 **C.** In addition, it is the policy of this state that a ~~physically disabled~~ person
 10 **with a disability** shall be employed by the state, political subdivisions of the state,
 11 public schools, and all other employment supported in whole or in part by public
 12 funds on the same terms and conditions as an able-bodied person, unless it is shown
 13 that the particular disability prevents the performance of the work involved.

14 §1952. Definitions

15 As used in this Chapter,

16 (1) "~~Assistance~~ **Service dog**" means a dog who has been trained or is being
 17 trained to aid a particular ~~physically disabled person~~ **to do work or perform a task**
 18 **for a person with a disability. "Service dog" refers to a dog trained as:**

19 **(a) A hearing dog.**

20 **(b) A guide dog.**

21 **(c) A seizure alert dog.**

22 **(d) A mobility dog.**

23 **(e) An autism service dog.**

24 **(f) A dog providing assistance during a medical crisis.**

25 **(g) A service dog providing assistance to persons, including veterans with**
 26 **traumatic brain injury or post traumatic stress disorder.**

27 (2) "Housing accommodations" means any real **immovable** property, or
 28 portion thereof, which is used or occupied or is intended, arranged, or designed to
 29 be used or occupied as the home, residence, or sleeping place of one or more human

1 beings, but shall not include any single family residence the occupants of which rent,
2 lease, or furnish for compensation not more than one room therein.

3 (3) "~~Physically disabled person~~ **Person with a disability**" means a person
4 ~~who is blind, visually handicapped, deaf, hearing impaired, or otherwise physically~~
5 ~~disabled~~ **who has a physical or mental impairment that substantially limits one**
6 **or more of such person's major life activities and who has a record of such**
7 **impairment or who is regarded as having such an impairment, including**
8 **military veterans with traumatic brain injury or post traumatic stress disorder.**

9 §1953. Use of public facilities; equal accommodations; ~~assistance~~ **service** dogs

10 A. Every ~~physically disabled~~ person **with a disability** shall have the same
11 right as an able-bodied person to the full and free use of the streets, highways,
12 sidewalks, walkways, public buildings, public facilities, and other public places.

13 B. Every ~~physically disabled~~ person **with a disability** shall be entitled to full
14 and equal accommodations, advantages, facilities, and privileges in the following,
15 subject only to the conditions and limitations established by law and applicable alike
16 to all persons:

17 (1) Common carriers, including taxis, airplanes, motor vehicles, railroad
18 trains, motor buses, streetcars, boats, or any other public conveyances or modes of
19 transportation operated on land or water, in the air, or any stations and terminals
20 thereof.

21 (2) Educational institutions, including but not limited to kindergartens,
22 primary and secondary schools, trade or business schools, high schools, academies,
23 colleges, and universities.

24 (3) Hotels, lodging places, restaurants, theaters, places of public
25 accommodation, amusement, or resort.

26 (4) Other places to which the general public is invited.

27 C. Every ~~physically disabled~~ person **with a disability** may be accompanied
28 by ~~an assistance~~ **a service** dog, especially trained to aid such person, in any of the
29 places provided in Subsection B of this Section without being required to pay an

1 extra charge for such dog. However, he shall be liable for any damage done to the
2 premises, facilities, operators, or occupants by such dog.

3 **D. (1) A public entity may ask person with a disability to remove his**
4 **service dog from a premises if either of the following is present:**

5 **(a) The service dog is out of control, and the person with the disability**
6 **accompanying the service dog does not take effective action to control it.**

7 **(b) The service dog is not housebroken.**

8 **(2) If the service dog is properly excluded, the public entity shall give the**
9 **person with the disability the opportunity to enter without the service dog.**

10 **E.(1) A public entity shall not ask about the nature or extent of a**
11 **person's disability, but may make two inquiries to determine whether such a**
12 **dog qualifies as a service dog:**

13 **(a) A public entity may ask if the service dog is required because of a**
14 **disability.**

15 **(b) A public entity may ask what work or task the service dog has been**
16 **trained to perform.**

17 **(2) A public entity shall not require documentation for proof the service**
18 **dog has been certified, trained, or licensed as a service dog.**

19 **F.** Nothing in this Section shall require any person who owns, leases, or
20 operates any public conveyance or modes of transportation, educational institutions,
21 hotels, restaurants, theaters, lodging places, places of public accommodation,
22 amusement, or resort, and other places to which the general public is invited, to
23 modify his property or facility in any way or provide a higher degree of care for a
24 ~~physically disabled~~ person **with a disability** than for a person who is not ~~physically~~
25 disabled.

26 §1954. Housing accommodations; full and equal access; degree of care; ~~assistance~~
27 **service** dogs

28 A. Every ~~disabled~~ person **with a disability** shall be entitled to full and equal
29 access, as other members of the general public, to all housing accommodations

1 offered for rent, lease, or compensation in this state, subject to the conditions and
2 limitations established by law and applicable alike to all persons.

3 B. Nothing in this Section shall require any person renting, leasing, or
4 providing for compensation ~~real~~ **immovable** property to modify his property in any
5 way or to provide a higher degree of care for a ~~physically disabled~~ person **with a**
6 **disability** than for a person who is not ~~physically~~ disabled.

7 C. Each ~~physically disabled~~ person **with a disability** who has ~~an assistance~~
8 **a service** dog, especially trained to aid such person or who obtains such a dog, shall
9 be entitled to full and equal access to all housing accommodations as defined in R.S.
10 46:1952(2), and he shall not be required to pay extra compensation for such dog but
11 shall be liable for any damage done to the premises or any person on the premises
12 by such dog.

13 §1955. ~~Assistance~~ **Service** dog trainers and puppy raisers; rights; liability

14 During the training of ~~an assistance~~ **a service** dog, any trainer or puppy raiser
15 of such dog shall have the same rights and privileges as a ~~physically disabled~~ person
16 **with a disability** to be accompanied by ~~an assistance~~ **a service** dog in any place or
17 facility provided in this Chapter without being required to pay an extra charge for
18 such dog. However, during the training of ~~an assistance~~ **a service** dog, he shall be
19 liable for any damages done to any person, premises, or facility by the ~~assistance~~
20 **service** dog.

21 §1956. Violation of rights; injury or interference with ~~an assistance~~ **a service** dog;

22 penalties; civil action; damages; cost and attorney fees

23 A. Any person, firm, or corporation, or the agent, representative, or
24 employee of any person, firm, or corporation who: withholds, denies, deprives, or
25 attempts to withhold, deny, or deprive; intimidates, threatens, coerces, or attempts
26 to threaten, intimidate, or coerce; punishes or attempts to punish a ~~physically~~
27 ~~disabled~~ person **with a disability** or a trainer or puppy raiser of ~~an assistance~~ **a**
28 **service** dog, during the training of such dog, or for exercising his right to be admitted
29 to or enjoy the places and facilities provided in this Chapter; or otherwise interferes

1 with the rights of a ~~physically disabled~~ person **with a disability** under this Chapter
2 shall be guilty of a misdemeanor and fined not less than one hundred dollars nor
3 more than five hundred dollars or imprisoned for not more than six months, or both.

4 B. Any person who purposely or negligently injures ~~an assistance~~ **a service**
5 dog or any owner of a dog who allows that dog to injure ~~an assistance~~ **a service** dog
6 because he fails to control or leash the dog shall also be guilty of a misdemeanor and
7 fined not less than one hundred dollars nor more than five hundred dollars or
8 imprisoned for not more than six months, or both. Such person shall also be liable
9 for any injuries to the ~~assistance~~ **service** dog and, if necessary, the replacement and
10 compensation for the loss of the ~~assistance~~ **service** dog.

11 C. For every offense, such person shall pay for actual damages for any
12 economic loss to any person aggrieved thereby, to be recovered in any court of
13 competent jurisdiction in the parish where such offense was committed or where the
14 aggrieved person resides.

15 D. In an action brought under this Section, the court may award costs and
16 reasonable attorney's fee to the prevailing party.

17 §1957. Precautions for operators of motor vehicles approaching ~~physically disabled~~

18 pedestrians **with disabilities**

19 A. Operators of motor vehicles approaching a ~~physically disabled~~ pedestrian
20 **with a disability** who is carrying a cane predominantly white in color, with or
21 without a red tip, or a ~~physically disabled~~ pedestrian **with a disability** using an
22 ~~assistance~~ **a service** dog shall take all necessary precautions to avoid injury to such
23 pedestrian.

24 B. Any such operator who fails to take all necessary precautions to avoid
25 injury to a ~~physically disabled~~ pedestrian **with a disability** shall be liable in damages
26 for any injury caused to the pedestrian and any injury caused to the pedestrian's
27 ~~assistance~~ **service** dog.

28 C. No operator of a motor vehicle shall drive into or upon any crosswalk
29 while a ~~physically disabled~~ pedestrian **with a disability** is on the crosswalk or

1 crossing or attempting to cross the crosswalk if such pedestrian indicates his
 2 intention to cross or to continue to cross the crosswalk. Failure by the pedestrian to
 3 signal his intention to cross the crossway shall not deprive him of the right of way
 4 given to him by other applicable law or regulation.

5 §1958. Exemption from license fee; ~~assistance~~ service dog

6 ~~Assistance~~ **Service** dogs, **as defined in R.S. 46:1952**, shall be exempt from
 7 any state or local license fee.

8 §1959. Scope of Chapter

9 Nothing in this Chapter shall be construed to amend, repeal, conflict with, or
 10 supersede any federal or state law, rule, or regulation or local ordinance mandating
 11 full and equal access in the use of public facilities or places, common carriers, public
 12 conveyances, or other modes of transportation, or housing accommodations for a
 13 ~~physically disabled~~ person **with a disability**.

The original instrument was prepared by Cathy R. Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by Christopher D. Adams.

DIGEST

Buffington (SB 432)

Present law provides relative to the Louisiana White Cane Law which provides for the policy of the state for those with only physical disabilities.

Proposed law creates and provides for the policy of the state for those with all disabilities, both physical and mental.

Proposed law prohibits any person with a disability from being denied admittance to any public facility because of such person's disability. Proposed law prohibits persons with disabilities from being denied the use of a white cane, service dogs, wheelchair, crutches, or other device of assistance. Proposed law further prohibits refusing or allowing a person with a disability to use or to be admitted to any public facility to which the general public is invited or using a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a facility that is open to the public.

Present law does not require any person who owns, leases, or operates any facility that is open to the public or public conveyance or modes of transportation to modify his property or facility in any way or provide a higher degree of care for a physically disabled person than for a person who is not physically disabled.

Proposed law extends present law to all persons with disabilities.

Proposed law defines "service dog" as one trained or is being trained to do work or perform a task for a person with a disability. "Service dog" refers to a dog trained as:

- (1) A hearing dog.
- (2) A guide dog.
- (3) A seizure alert dog.
- (4) A mobility dog.
- (5) An autism service dog.
- (6) A dog providing assistance during a medical crisis.
- (7) A service dog providing assistance to persons, including veterans with traumatic brain injury or post traumatic stress disorder.

Proposed law defines "person with a disability" as a person who has a physical or mental impairment that substantially limits one or more of such person's major life activities and who has a record of such impairment or who is regarded as having such an impairment, including military veterans with traumatic brain injury or post traumatic stress disorder.

Present law authorizes persons with physical disabilities accompanied by a service dog to have the full and free use of public buildings and facilities, streets, highways, sidewalks, and all other public places. Present law prohibits an extra fee being charged for the service dog.

Present law authorizes a person with disabilities accompanied by a service dog to full and equal accommodation on common carriers or other modes of transportation or public conveyances, or in educational institutions, hotels, lodging places, restaurants, places of public amusements, resorts, housing accommodations, and all other places to which the general public is invited. Present law prohibits an extra fee being charged for the service dog.

Present law provides that every person with a disability is allowed to keep his service dog with him at all times in his place of employment and is allowed to bring a service dog who is training to his place of employment.

Proposed law retains present law.

Proposed law provides a public entity may ask a person with a disability to remove his service dog from a premises if either of the following is present:

- (1) The service dog is out of control, and the person with the disability accompanying the service dog does not take effective action to control it.
- (2) The service dog is not housebroken.

Proposed law provides if the service dog is properly excluded, the public entity shall give the person with the disability the opportunity to enter without the service dog.

Proposed law provides a public entity shall not ask about the nature or extent of a person's disability or require proof through documentation, but may make two inquiries to determine whether such a dog qualifies as a service dog:

- (1) A public entity may ask if the service dog is required because of a disability.
- (2) A public entity may ask what work or task the service dog has been trained to perform.

Present law provides that every person with a disability shall be entitled to full and equal

access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

Present law provides that any person renting, leasing, or providing for compensation immovable property shall not be required to modify his property in any way or to provide a higher degree of care for a person with a disability than for a person who is not disabled.

Proposed law retains present law.

Present law authorizes each person with a disability who has a service dog, especially trained to aid such person or who obtains such a dog, to be entitled to full and equal access to all housing accommodations as defined by law. Present law prohibits such person with a disability from being required to pay extra compensation for such dog but such person with a disability shall be liable for any damage done to the premises or any person on the premises by such dog.

Present law provides for the training of service dogs and puppies for persons with a disabilities.

Present law provides that any person, firm, or corporation, or the agent, representative, or employee of any person, firm, or corporation who: withholds, denies, deprives, or attempts to withhold, deny, or deprive; intimidates, threatens, coerces, or attempts to threaten, intimidate, or coerce; punishes or attempts to punish a person with a disability or a trainer or puppy raiser of a service dog, during the training of such dog, or for exercising his right to be admitted to or enjoy the places and facilities provided in present law; or otherwise interferes with the rights of a person with a disability under present law shall be guilty of a misdemeanor and fined not less than \$100 nor more than \$500 or imprisoned for not more than six months, or both.

Proposed law retains present law.

Present law requires that any person who purposely or negligently injures a service dog or any owner of a dog who allows that dog to injure a service dog because he fails to control or leash the dog is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than six months, or both. Such person shall also be liable for any injuries to the service dog and, if necessary, the replacement and compensation for the loss of the service dog.

Present law provides for precautions for operators of motor vehicles approaching a pedestrian with a disability. Present law further provides that any motor vehicle operator who fails to take necessary precautions to avoid injury to a pedestrian with a disability shall be liable in damages for any injury caused to the pedestrian and any injury caused to the pedestrian's service dog.

Proposed law retains present law.

Effective August 1, 2014.

(Amends R.S. 46:1951-1959)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Changes "disabled person" to "person with a disability".

2. Changes "assistance dog" to "service dog".
3. Provides what questions a public entity may ask a person with a disability regarding his service animal.
4. Provides when a public entity may ask a person with a disability to remove his service dog.
5. Removes the unlawful misrepresentation provision.
6. Makes technical changes.