

SENATE BILL NO. 300

INTRODUCED BY D. LOGE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTIONS FOR SERVICE ANIMALS AND HANDLERS; PROVIDING THE OFFENSE OF HARASSMENT OR HARM OF A SERVICE ANIMAL; PROVIDING THE OFFENSE OF UNAUTHORIZED CONTROL OF A SERVICE ANIMAL; PROVIDING RESTITUTION; PROVIDING FOR PENALTIES WHEN A SERVICE ANIMAL IS ATTACKED; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 7-23-2109, 27-1-715, AND 49-4-214, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Notice" means a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior.

(2) "Service animal" has the same meaning as provided in 49-4-203.

(3) "Value" means the valuation of a service animal, including but not limited to the initial cost to purchase the animal and other expenses incurred, such as the cost of training, licensing, and hardware necessary for the use of the service animal.

NEW SECTION. Section 2. Harassment or harm of service animal. (1) A person commits the offense of harassment or harm of a service animal if the person:

(a) continues behavior that interferes with the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or the service animal's handler after the person has received notice on the behavior;

(b) negligently causes the harm, disability, or death of a service animal; or

(c) is the owner of a dog or other animal and negligently allows the dog or other animal to interfere with the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of or causing

1 harm to a service animal or the service animal's handler.

2 (2) A person convicted of the offense of harassment or harm of a service animal is guilty of a
3 misdemeanor and shall be fined no more than \$1,000.

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5 NEW SECTION. **Section 3. Unauthorized control of service animal.** (1) A person commits the
6 offense of unauthorized control of a service animal if the person purposely or knowingly obtains or exerts
7 unauthorized control over a service animal with the intent to deprive the service animal's handler of the service
8 animal.

9 (2) A person convicted of the offense of unauthorized control of a service animal is guilty of
10 misdemeanor theft and shall be punished as provided in 45-6-301.

11
12 NEW SECTION. **Section 4. Restitution for harassment, harm, or unauthorized control of service**
13 **animal.** (1) A person convicted of a violation of [section 2 or 3] must be ordered to make full restitution of all
14 damages, including incidental and consequential expenses incurred by the service animal handler, arising from
15 or related to the violation.

16 (2) Restitution for applicable expenses may include but is not limited to:

17 (a) the value of an incapacitated or deceased service animal and the training of a replacement
18 service animal;

19 (b) the retraining of an affected service animal;

20 (c) related veterinary and care expenses; and

21 (d) medical expenses of the service animal handler, training of the service animal handler, and
22 compensation for wages or earned income lost by the service animal handler.

23 (3) Nothing in this section affects any civil remedies available for a violation of [sections 2 and 3]
24 and this section.

25

26 **Section 5.** Section 7-23-2109, MCA, is amended to read:

27 **"7-23-2109. Vicious dog control.** (1) The county governing body may regulate, restrain, control, kill,
28 or quarantine any vicious dog, whether ~~such~~the dog is licensed or unlicensed, by the adoption of an ordinance

1 ~~which~~that substantially complies with the provisions of 7-5-103 through 7-5-107.

2 (2) A violation of any ordinance established as provided in subsection (1) is a misdemeanor.

3 (3) For the purposes of this section, a "vicious dog" is defined as one ~~which~~that bites or attempts
4 to bite any human being without provocation or ~~which~~that harasses, chases, bites, or attempts to bite any other
5 animal. The term "animal" includes all livestock, service animals, and any domestic pet."

6

7 **Section 6.** Section 27-1-715, MCA, is amended to read:

8 **"27-1-715. Liability of owner of vicious dog.** (1) The owner of a dog that without provocation bites a
9 person or service animal while the person or service animal is on or in a public place or lawfully on or in a
10 private place, ~~including the property of the owner of the dog,~~ located within an incorporated city or town is liable
11 for damages that may be suffered by the person or service animal bitten, regardless of the former viciousness
12 of the dog or the owner's knowledge of the viciousness.

13 (2) A person or service animal is lawfully ~~upon the~~ in a private property of the owner place within
14 the meaning of this section when the person or service animal is on the property in the performance of any duty
15 imposed ~~upon~~ on the person or service animal by the laws of this state or by the laws or postal regulations of
16 the United States of America or when the person or service animal is on the property as an invitee or licensee
17 of the person lawfully in possession of the property."

18

19 **Section 7.** Section 49-4-214, MCA, is amended to read:

20 **"49-4-214. Right to be accompanied by service animal -- identification for service animals in**
21 **training.** (1) A person with a disability has the right to be accompanied by a service animal or a service animal
22 in training with identification complying with subsection (4) in any of the places mentioned in 49-4-211(2)
23 without being charged extra for the service animal. The person with a disability is liable for any damage done to
24 the property by the service animal.

25 (2) A person with a disability who has a service animal or who obtains a service animal is entitled
26 to full and equal access to all housing accommodations as provided in 49-2-305 and 49-4-212. The person with
27 a disability may not be required to pay extra compensation for the service animal but is liable for any damage
28 done to the premises by the service animal.

(3) A person who is training a service animal is entitled to the same rights and assumes the same responsibilities granted to a person with a disability in this section.

(4) For the purposes of this section, a service animal in training shall wear a leash, collar, cape, harness, or backpack that identifies in writing that the animal is a service animal in training. The written identification for service animals in training must be visible and legible from a distance of at least 20 feet.

(5) If a person has a service animal that provides assistance and the person wishes to access the places and accommodations mentioned in 49-4-211 accompanied by the animal in its capacity as a service animal:

(a) the service animal must be under the handler's control as required under 28 CFR 35.136 that is in effect as of October 1, 2019; and

(b) the person may be asked by a representative of the place or accommodation:

(i) whether the animal is a service animal that is required because of a disability; and

(ii) to describe the work or task the service animal is trained to perform.

(6) (a) If the service animal described in subsection (5) is not under the handler's control and the handler has not taken effective action to control the service animal or the service animal is not housebroken, the handler may be asked to remove the service animal from the place or accommodation.

(b) A place or accommodation that asks that ~~an~~ a service animal be removed from the place or accommodation as provided in subsection (6)(a) shall give the service animal's handler the opportunity to participate in the service, program, or activity without having the service animal on the premises.

(7) If a place or accommodation mentioned in 49-4-211 posts a notice that dogs or other animals are prohibited on the premises, the place or accommodation must also indicate that a person may be accompanied by a service animal subject to the provisions of this chapter."

NEW SECTION. Section 8. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 45, chapter 8, part 2, and the provisions of Title 45, chapter 8, part 2, apply to [sections 1 through 4].

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