

USE OF SERVICE ANIMALS, INCLUDING BY VETERANS WITH CERTAIN CONDITIONS

Phone: (517) 373-8080
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House Bill 4313 (Proposed Substitute H-2)

Sponsor: Rep. Holly Hughes

Committee: Regulatory Reform

Complete to 6-17-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4313 would amend Section 502c of the Michigan Penal Code by revising provisions related to disabled individuals who may bring a guide dog, leader dog, hearing dog, or service dog into a place of public or private housing, accommodation, amusement, or recreation. Notably, the bill would add veterans with service-related disabilities, including post-traumatic stress disorder and traumatic brain injury, to the definition of an individual with a disability.

Currently, it is a misdemeanor for certain establishments to refuse entry or the use of premises to persons with disabilities because they are being led or accompanied by guide dogs or service dogs, if the dogs are wearing identifying equipment and the persons with disabilities have a picture identification certifying the dogs are appropriately trained. (A full description of the act's requirements can be found at the end of the summary.)

Generally speaking, under House Bill 4313, references to how dogs are required to be identified as a service or guide dog are removed, as another package of bills, House Bills 4521 and 4527, and Senate Bills 298 and 299, would revise several acts relating to how service animals are identified in public, among other significant changes to laws governing the use of service animals. References to dogs are replaced in those bills with references to "service animals," a term which includes miniature horses.

Language is added in House Bill 4313 stating that the misdemeanor would be punishable by not more than 90 days imprisonment and/or a fine of up to \$500. The court may also order not more than 30 hours of community service be performed as a condition of probation. The same penalty would apply to those refusing accommodation to a trainer of service animals.

The definitions for the terms "person with disabilities" and "veteran" would be amended and added, respectively, as follows:

"Individual with a disability" means a person who has a physical or mental impairment that substantially limits one or more major life activities of the individual. Individual with a disability includes a veteran who has been diagnosed with one or more of the following:

- Post-traumatic stress disorder
- Traumatic brain injury
- Other service-related disabilities

"Major life activity" would be defined as including, but not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

"Physical or mental impairment" would mean either of the following:

- A physiological disorder or condition, disfigurement, or anatomical loss that affects one or more bodily functions.
- A mental or psychological disorder that meets one of the diagnostic categories specified in the most recent edition of the diagnostic and statistical manual of mental disorders published by The American Psychiatric Association, such as an intellectual or developmental disability, organic brain syndrome, traumatic brain injury, posttraumatic stress disorder, or emotional or mental illness.

"Service Animal" would mean an animal that is trained to do work or perform tasks for an individual with a disability, including a mental disability. The definition would refer only to a dog or miniature horse, except as applied to an air carrier covered by the federal law created by the Air Carrier Access Act of 1986. The work done or tasks performed by the animal must be directly related to the individual's disability, such as guiding the individual or calming the individual during a posttraumatic stress disorder-related anxiety attack. A service animal also would be defined as not being a pet. Having an animal as a crime-deterrent, or for emotional support, well-being, comfort, and/or companionship would not constitute work or tasks for the purposes of this definition.

Under the bill, the term "Veteran" also would be added and would refer to any of the following:

- A person who served on active duty in the armed forces for a period of more than 180 days and separated from the armed forces in a manner other than a dishonorable discharge.
- A person discharged or released from active duty because of a service-related disability.
- A member of a reserve branch of the armed forces at the time of being ordered to active duty during a period of war, or in a campaign or expedition for which a campaign badge is authorized, and was released from active duty in a manner other than a dishonorable discharge.

The bill also adds "on air" (in addition to "land" and "water") to the list of places where persons with disabilities cannot be refused entrance when led or accompanied by such animals.

The bill also would make other technical changes which would not affect the meaning of the act.

(Specifically, the act currently states that a person who is an owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public or private housing, accommodation, amusement, or recreation, including but not limited to any inn, hotel,

motel, apartment building, trailer park, restaurant, barbershop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public or private educational institution, or elevator, who refuses to permit a person with disabilities to enter or use the place when the place is available because the person with disabilities is being led or accompanied by a guide or leader dog, hearing dog, or service dog is guilty of a misdemeanor if the guide or leader dog is wearing a harness or if the hearing dog or service dog is wearing a blaze orange leash and collar, hearing dog cape, or service dog backpack, and the person with disabilities being led or accompanied has in his or her possession a pictured identification card certifying that the dog was trained by a qualified organization or trainer.)

FISCAL IMPACT:

There would be a minimal fiscal impact to the Department of Civil Rights. There would be an increased cost for the department to maintain and post a list of organizations and trainers of service dogs, but this would be absorbed under current funding levels. There would be no fiscal impact on local government.

To the extent that the bill results in a greater number of convictions, it could increase costs on local correctional systems. New misdemeanor convictions resulting in imprisonment would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Perry Zielak

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.