



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4521 (Substitute H-1 as passed by the House)  
House Bill 4527 (Substitute H-1 as passed by the House)  
Sponsor: Representative Tom Barrett (H.B. 4521)  
Representative David Rutledge (H.B. 4527)  
House Committee: Military and Veterans Affairs  
Senate Committee: Veterans, Military Affairs and Homeland Security

Date Completed: 8-20-15

**CONTENT****House Bill 4521 (H-1) would create a new statute to do the following:**

- **Allow a person with a disability to obtain an identification, tag, and vest for a service animal, if the person submitted an affidavit and documentation described in the bill.**
- **Require the Department of Civil Rights to make those items available, upon request.**
- **Require the Department to receive reports of problems encountered by a person with a disability using a service animal and of fraudulent use of a service animal.**
- **Prescribe a misdemeanor penalty for the submission of a false or fraudulent affidavit.**

**House Bill 4527 (H-1) would amend Public Act 82 of 1981, which prohibits the use of certain collars or harnesses on service animals except by people with physical limitations, to do the following:**

- **Delete the current prohibition and instead prohibit a person from falsely representing that he or she was in possession of a service animal or a service animal in training.**
- **Revise the misdemeanor penalty for a violation of the Act.**
- **Require the Department of Civil Rights to receive reports of a person falsely representing that he or she had a service animal or service animal in training.**

The bills would take effect 90 days after their enactment. Each bill is tie-barred to the other and to Senate Bills 298 and 299.

(Senate Bill 298 (S-1), as passed by the Senate, would amend the Michigan Penal Code to require a public accommodation to modify its policies, practices, and procedures to permit the use of a service animal by a person with a disability and require a public accommodation to make reasonable modifications in its policies, practices, and procedures to permit the use of a miniature horse by a person with a disability. Senate Bill 299 (S-1), as passed by the Senate, would amend Public Act 207 of 1970, which exempts certain dogs from license fees, to change various terms and definitions.)

## **House Bill 4521 (H-1)**

### Voluntary ID, Tag, & Vest

The bill would require the Department of Civil Rights to develop and make available upon request a voluntary ID, tag, and vest for a service animal for a person with a disability. To be eligible to receive those items, the person would have to provide both of the following:

- A signed affidavit attesting that the service animal had been trained to be a service animal for use by a person with a disability.
- Documentation from an appropriate health care or rehabilitation professional that the person required the assistance of a service animal due to a disability.

"Person with a disability" would mean a person who has a disability as defined in Section 12102 of the Americans with Disabilities Act and 28 CFR 36.104: a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment; or being regarded as having such an impairment. The term "person with a disability" would include a veteran who has been diagnosed with post-traumatic stress disorder, traumatic brain injury, and/or other service-related disabilities. "Veteran" would mean: a) a person who performed military service in the armed forces for a period of more than 90 days and separated from the armed forces in a manner other than a dishonorable discharge; b) a person discharged or released from military service because of a service-related disability; or c) a member of a reserve branch of the armed forces at the time he or she was ordered to military service during a period of war, or in a campaign or expedition for which a campaign badge is authorized, and was released from military service in a manner other than a dishonorable discharge.

"Service animal" would mean the following: a) that term as defined in 28 CFR 36.104, or b) a miniature horse that has been individually trained to do work or perform tasks as described in 28 CFR 36.104 for the benefit of a person with a disability. (Under the Federal regulation, "service animal" refers to any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The definition excludes other species of animals.)

### Complaint Hotline

The bill would require the Department to use its existing telephone complaint hotline to receive reports of problems encountered by a person with a disability using a service animal, and to receive reports of a person impersonating a person with a disability and using a service animal.

### Penalty

A person who knowingly or willingly submitted a false or fraudulent affidavit would be guilty of a misdemeanor punishable by one or more of the following:

- Up to 90 days' imprisonment.
- A maximum fine of \$500.
- Community service for up to 30 days.

## **House Bill 4527 (H-1)**

### False Representation & Penalty

Public Act 82 of 1981 prohibits a person from using or being in possession of a dog that is wearing a blaze orange leash and collar or harness in any public place, unless the person is

deaf, audibly impaired, or otherwise physically limited. A violation is a misdemeanor punishable by a maximum fine of \$10.

The bill instead would prohibit a person from falsely representing that he or she was in possession of a service animal, or a service animal in training, in any public place. A violation would be a misdemeanor punishable by one or more of the following:

- Up to 90 days' imprisonment.
- A maximum fine of \$500.
- Community service for up to 30 days.

"Service animal", "person with a disability", and "veteran" would have the same meanings as under House Bill 4521 (H-1).

### Complaint Hotline

The bill would require the Department of Civil Rights to use its existing telephone complaint hotline to receive reports of a person falsely representing that he or she was in possession of a service animal or a service animal in training.

MCL 752.61 et al. (H.B. 4527)

### **BACKGROUND**

The Americans with Disabilities Act and its regulations require places of public accommodation to make reasonable modifications in their policies, practices, or procedures in order to grant access to a person with a disability, which may be a physical or mental impairment. The requirements include allowing a person with a disability to use a service animal. In 2010, the United States Department of Justice adopted a final rule that amended portions of the regulation relating to service animals. The final rule also extended to miniature horses many of the reasonable modification provisions pertaining to service animals.

While the rule does not classify miniature horses as service animals, it does indicate that public accommodations must make reasonable modifications to policies, practices, or procedures, with some exceptions, to allow the use of a miniature horse by a person with a disability, provided the miniature horse has been individually trained to do work and perform tasks for a disabled person.

Miniature horses have been trained to complete many of the same tasks as service animals since 1991. In many cases, miniature horses are preferred, or provide an advantage over service animals, i.e., dogs. For those with allergies or religious beliefs that prohibit the use of dogs, for example, miniature horses may be an acceptable substitute. Miniature horses also are generally stronger than dogs of similar sizes (Labradors, Great Danes, or Mastiffs), and are able to provide service for significantly longer periods of time; a miniature horse can provide service for 25 years compared to seven years for a comparably sized dog.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

#### **House Bill 4521 (H-1)**

The bill would create an additional cost for the Department of Civil Rights estimated at \$266,000 in the initial year of compliance and an ongoing cost of approximately \$200,000 annually thereafter.

According to the Department, there are an estimated 1.2 million disabled Michigan residents. Of these, approximately 200,000 are veterans. The Department used the results of an Arizona study and a study by the Wounded Warrior Project to determine that an estimated 1.0% of disabled individuals in both studies used service animals. Based on those estimates, the Department anticipates that it would have to process up to approximately 10,000 requests for IDs, tags, and vests. The exact number of requests the Department anticipates receiving is indeterminate and thus the estimate of 10,000 is on the high end based on the Arizona and Wounded Warrior Project studies.

The anticipated costs to the Department would result from designing and producing ID cards, tags, and vests and receiving reports of fraudulent use of a service animal and problems encountered by disabled people using service animals, as the bill would require, as well as developing an on-line registry to track applicants and provide verification materials, and expanding its current investigative responsibilities to include allegations of false representations of a service animal.

The potential one-time (initial year) costs are as follows:

- Purchase of equipment to design and produce ID tags - \$10,000
- Design of ID/tag - \$1,000
- Design of on-line registry - \$25,000
- Purchase of vests and tags for distribution for service animals (assuming 2,500 requests annually) - \$30,000

TOTAL One-time costs = \$66,000

Ongoing costs would result from the need for two additional full-time equated employees (FTEs) to process the requests at \$100,000 per FTE, and total for ongoing costs of \$200,000 annually.

In addition, the bill includes a misdemeanor penalty for violations of the proposed act. Any increase in misdemeanors could increase demands on local court systems and jails. Any associated fine revenue would be provided to public libraries.

### **House Bill 4527 (H-1)**

The bill would have no fiscal impact on the Department of Civil Rights as the Department already has a reporting system in place

The bill would increase the misdemeanor penalty for violations of Public Act 82 of 1981. Any increase in misdemeanors could increase demands on local court systems and jails. Any associated fine revenue would be provided to public libraries.

Fiscal Analyst: Joe Carrasco  
John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.