

Substitute for HOUSE BILL No. 2197

AN ACT concerning persons with disabilities; relating to assistance dogs and certain other dogs; prohibiting certain acts and providing penalties for violations; amending K.S.A. 39-1101, 39-1102, 39-1103, 39-1107, 39-1108 and 39-1109 and K.S.A. 2002 Supp. 21-4318 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act and in K.S.A. 39-1101 through 39-1109, and amendments thereto:

(a) "Assistance dog" means any guide dog, hearing assistance dog or service dog.

(b) "Guide dog" means a dog which has been specially selected, trained and tested for the purpose of guiding a person who is legally blind.

(c) "Hearing assistance dog" means a dog which is specially selected, trained and tested to alert or warn individuals who are deaf or hard of hearing to specific sounds.

(d) "Professional therapy dog" means a dog which is selected, trained and tested to provide specific physical or therapeutic functions, under the direction and control of a qualified handler who works with the dog as a team, and as a part of the handler's occupation or profession. Such dogs, with their handlers, perform such functions in institutional settings, community based group settings, or when providing services to specific persons who have disabilities. "Professional therapy dog" does not include dogs, certified or not, which are used by volunteers for pet visitation therapy.

(e) "Service dog" means a dog which has been specially selected, trained and tested to perform a variety of tasks for persons with disabilities. These tasks include, but are not limited to: Pulling wheelchairs, lending balance support, picking up dropped objects or providing assistance in, or to avoid, a medical crisis, or to otherwise mitigate the effects of a disability.

(f) The presence of a dog for comfort, protection or personal defense does not qualify a dog as being trained to mitigate an individual's disability and therefore does not qualify the dog as an assistance dog covered under the provisions of this act.

Sec. 2. K.S.A. 39-1101 is hereby amended to read as follows: 39-1101. It is hereby declared to be the policy of this state to encourage and enable the blind, the visually ~~handicapped~~ *disabled* and persons who are otherwise ~~physically~~ disabled to participate fully in the social and economic life of the state and to engage in remunerative employment. ~~Said~~ *Such* persons shall have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places; and ~~said~~ *such* persons are entitled to full and equal accommodations, advantages, facilities and privileges of: (a) All common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation; (b) hotels, lodging places and places of public accommodation, amusement or resort, including food service establishments and establishments for sale of food; and (c) other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

Sec. 3. K.S.A. 39-1102 is hereby amended to read as follows: 39-1102. Every ~~totally or partially~~ *legally* blind person shall have the right to be accompanied by a guide dog, ~~especially~~ *specially selected*, trained and tested for the purpose, in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, in the acquisition and use of rental, residential housing and in the purchase and use of residential housing without being required to pay an extra charge for the guide dog, except that such person shall be liable for any damage done to the premises or facilities by such dog.

Sec. 4. K.S.A. 39-1103 is hereby amended to read as follows: 39-1103. Any person, firm, corporation, or the agent of any person, firm or corporation, who denies or interferes with ~~admittance to or enjoyment of the public facilities enumerated in K.S.A. 39-1101 and 39-1102, and amendments thereto, or otherwise interferes with the rights of a totally or partially blind person, otherwise disabled person or trainer of a guide dog under K.S.A. 39-1101, 39-1102, 39-1108 and 39-1110, and amendments thereto,~~ *shall be the exercise of the rights recognized in K.S.A. 39-*

1101, 39-1102, 39-1107, 39-1108 or 39-1109, and amendments thereto, is guilty of a misdemeanor.

Sec. 5. K.S.A. 39-1107 is hereby amended to read as follows: 39-1107. Every hearing impaired person has the right to be accompanied by a hearing assistance dog, ~~especially specially selected, trained and tested~~ for the purpose of hearing assistance, ~~in all hotels, motels and other places of lodging and housing in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, in the acquisition and use of rental, residential housing and in the purchase and use of residential housing~~ without being required to pay an extra charge for the hearing assistance dog. The hearing impaired person shall be liable for any damage done to the premises or facilities by such dog.

Sec. 6. K.S.A. 39-1108 is hereby amended to read as follows: 39-1108. Every person with a ~~physical~~ disability shall have the right to be accompanied by a service dog, ~~especially specially selected, trained and certified tested~~ for the purpose which shall include, but not be limited to, pulling a wheelchair, opening doors and picking up objects, in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, ~~in the acquisition and use of rental, residential housing and in the purchase and use of residential housing~~ without being required to pay an extra charge for the service dog. Such person shall be liable for any damage done to the premises by such dog.

Sec. 7. K.S.A. 39-1109 is hereby amended to read as follows: 39-1109. Any *professional* trainer, from a recognized training center, of ~~a guide dog, hearing assistance dog or service~~ an *assistance* dog, while engaged in the training of such dog, shall have the right to be accompanied by such dog in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, without being required to pay an extra charge for such dog. Such trainer shall be liable for any damage done to the premises of facilities by such dog.

New Sec. 8. Any qualified handler of a professional therapy dog when accompanied by such dog and when using any conveyance of public transportation available to all members of the general public, and when renting and using accommodations in motels, hotels and other temporary lodging places shall have the right to be accompanied by such dog in such places. Any owner or employee of a business or retail establishment to which the public is invited, including establishments which serve or sell food, shall admit a professional therapy dog, accompanied by its qualified handler, to the business. The qualified handler shall be liable for any damage done by the dog to any such conveyance or facility.

New Sec. 9. (a) If a question arises as to whether an assistance dog qualifies under this act to accompany a person with a disability in or upon any place set forth in K.S.A. 39-1101, and amendments thereto, the person with a disability may produce for the employee or person responsible for such place an identification card or letter conforming to the requirements of this subsection. Upon production of such identification card or letter, the assistance dog shall be allowed to accompany the person with a disability in or upon such place.

(1) If the assistance dog has been trained by a training facility, school or trainer, the identification card or letter shall be provided by the training facility, school or trainer that trained the dog and shall contain the following information: (A) The legal name of the dog's user; (B) the name, address and telephone number of the facility, school or trainer who trained the dog; (C) whether the dog is designated as a guide, hearing assistance or service dog; and (D) a picture or digital photographic likeness of the dog user and the dog. If a card is used, the picture or digital photographic likeness shall be on the card. If a letter is used, the picture or digital photographic likeness shall either be printed as a part of the letter or be affixed to the letter.

(2) If the assistance dog has been trained by the person using the dog, the identification card or letter shall contain the following information: (A) The legal name of the dog's user; (B) the dog user's address; (C) a statement that the dog has been trained to mitigate the dog user's disability; and (D) a picture or digital photographic likeness of the dog user and the dog. If a card is used, the picture or digital photographic likeness shall be on the card. If a letter is used, the picture or digital

photographic likeness shall either be printed as a part of the letter or be affixed to the letter.

(b) If a question arises as to whether a dog handler is qualified, or whether the dog accompanying the handler is qualified as a professional therapy dog, to enter in or upon the places set forth in section 8, and amendments thereto, an employee or person responsible for such places may request, and the qualified handler shall produce, an identification card or letter, provided by the training facility, school or trainer who trained the dog. Such card or letter shall contain the following information: (1) The legal name of the qualified dog handler; (2) the name, address and telephone number of the facility, school or trainer who trained the dog; (3) information documenting that the dog is trained to provide therapeutic supports; and (4) a picture or digital photographic likeness of the qualified handler and the dog. If a card is used, the picture or digital photographic likeness shall be on the card. If a letter is used, the picture or digital photographic likeness shall either be printed as a part of the letter or be affixed to the letter.

(c) If a question arises as to whether an individual accompanied by a dog is a professional trainer, from a recognized training center, of an assistance dog, in order to enter in or upon a place set forth in K.S.A. 39-1101, and amendments thereto, an employee or person responsible for such place may request, and the trainer shall produce, an identification card provided by the recognized training center containing the following information: (1) The legal name of the trainer; (2) the name of the training center; (3) the address and telephone number of the training center; (4) the types of functions for which dogs are trained by the center; and (5) a picture or digital photographic likeness of the trainer.

(d) An identification card or letter produced for inspection pursuant to this section shall be promptly returned to the person with a disability, the qualified handler or the professional trainer after inspection.

New Sec. 10. It is a class A nonperson misdemeanor for any person to:

(a) Represent that such person has the right to be accompanied by an assistance dog in or upon any place listed in K.S.A. 39-1101, and amendments thereto, or that such person has a right to be accompanied by a professional therapy dog in or upon any place listed in section 8, and amendments thereto, unless such person has the right to be accompanied in or upon such place by such dog pursuant to this act; or

(b) represent that such person has a disability for the purpose of acquiring an assistance dog unless such person has such disability.

Sec. 11. K.S.A. 2002 Supp. 21-4318 is hereby amended to read as follows: 21-4318. (a) Inflicting harm, disability or death to a police dog, arson dog, *assistance dog* or search and rescue dog is knowingly and intentionally, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, *assistance dog* or search and rescue dog.

(b) As used in this section:

(1) “Arson dog” means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires.

(2) “*Assistance dog*” has the meaning provided by section 1, and amendments thereto.

(3) “Fire department” means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

~~(4)~~ (4) “Police dog” means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

~~(5)~~ (5) “Search and rescue dog” means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

(c) Inflicting harm, disability or death to a police dog, arson dog, assistance dog or search and rescue dog is a class A nonperson misdemeanor.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 12. K.S.A. 39-1101, 39-1102, 39-1103, 39-1107, 39-1108 and 39-1109 and K.S.A. 2002 Supp. 21-4318 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.