

(A44, R64, S281)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 47-3-980 AND 47-3-990 SO AS TO PROVIDE THAT INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL IS UNLAWFUL, TO ESTABLISH PENALTIES, AND FOR OTHER PURPOSES; TO AMEND SECTION 56-7-10, RELATING TO OFFENSES FOR WHICH UNIFORM TRAFFIC TICKETS MUST BE USED, SO AS TO ADD THE OFFENSE OF MISREPRESENTING SERVICE ANIMALS; TO AMEND SECTIONS 47-3-920 AND 47-3-970, RELATING TO TERMS DEFINED IN LAYLA'S LAW AND RESTITUTION REQUIREMENTS, RESPECTIVELY, SO AS TO MAKE CONFORMING CHANGES; AND TO AMEND SECTION 31-21-70, RELATING TO FAIR HOUSING APPLICATIONS, SO AS TO ALLOW LANDLORDS TO ASK CERTAIN QUESTIONS REGARDING A TENANT'S OR PROSPECTIVE TENANT'S ANIMAL FOR PURPOSES OF REASONABLE ACCOMMODATIONS.**

Whereas, service animals that are properly trained to assist persons with disabilities play a vital role in establishing independence for such persons; and

Whereas, the term "service animal" has a distinct meaning in the law. A service animal means an animal that is trained for the purposes of assisting or accommodating the sensory, mental, or physical disability of a disabled person. Under the law, the provision of emotional support, well-being, comfort, or companionship does not constitute the work or tasks of a service animal; and

Whereas, no vest, other marking, or documentation is required for an animal to qualify as a service animal, nor are such vests, markings, or documentation a reliable indication of whether an animal is, by law, a service animal. People sometimes erroneously think that a therapy animal, an emotional support animal, or any animal wearing a vest or having any other type of marking is a service animal as defined by law; and

Whereas, there is an increasing number of occurrences in which people exploit the confusion related to service animals and attempt to bring an animal into a place that it would otherwise not be allowed to enter by passing off the pet, therapy animal, or emotional support animal as a service animal, either by oral misrepresentation, placement of a vest or other marking on the animal, or presentation of a "certificate", despite knowing that it is not a service animal; and

Whereas, some companies mislead individuals into believing that they will be entitled to the rights or privileges for individuals with disabilities with service animals if they buy the company's vests or obtain some type of certificate. These misrepresentations, in some cases, are unlawful deceptive trade practices and compound the confusion around service animals; and

Whereas, commendably, federal and state laws require places of public accommodation, including airports, restaurants, theaters, stores, hospitals, and more, to allow any animal that is presented as a service animal into the place of public accommodation. These same places of public accommodation face a dilemma if someone enters the premises and intentionally misrepresents his animal as a service animal; and

Whereas, when people try to falsely represent a nonservice animal as a service animal, business owners and other places of public accommodation become increasingly distrustful that the animals being represented to them as service animals are, in fact, service animals. Misrepresentation of service animals delegitimizes the program and makes it harder for persons with disabilities to gain unquestioned acceptance of their legitimate, properly trained, and essential service animals. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

### **Intentional misrepresentation of a service animal**

SECTION 1. Article 15, Chapter 3, Title 47 of the 1976 Code is amended by adding:

"Section 47-3-980. (A) It is unlawful for a person to intentionally misrepresent an animal in his possession as a service animal or service animal-in-training for the purpose of obtaining any right or privilege provided to a disabled person if the person knows that the animal in his possession is not a service animal or service animal-in-training.

(B) A person who is adjudicated to be in violation of the provisions of subsection (A) must be fined:

(1) for a first offense, an amount not more than two hundred fifty dollars;

(2) for a second offense, an amount not more than five hundred dollars; and

(3) for a third or subsequent offense, an amount not more than one thousand dollars.

(C) Inquiries made in order to investigate and enforce the provisions of this section are limited to those inquiries allowed by the Department of Justice pursuant to 28 C.F.R. Section 36.302.

(D) A custodial arrest for a violation of subsection (A) must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of subsection (A) does not constitute a criminal offense.

Section 47-3-990. Places of public accommodation may establish rules and regulations related to access to such facilities by nonservice animals, including emotional support animals."

### **Use of uniform traffic tickets**

SECTION 2. Section 56-7-10(A) of the 1976 Code is amended to read:

"(A) There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:

- (1) Interfering with Police Officer Serving Process Section 16-5-50;
- (2) Dumping Trash on Highway/Private Property Section 16-11-700;
- (3) Indecent Exposure Section 16-15-130;
- (4) Disorderly Conduct Section 16-17-530;
- (5) Damaging Highway Section 57-7-10;
- (6) Place Glass, Nails, etc. on Highway Section 57-7-20;
- (7) Obstruction of Highway by Railroad Cars, etc. Section 57-7-240;
- (8) Signs Permitted on Interstate Section 57-25-140;
- (9) Brown Bagging Section 61-5-20;
- (10) Drinking Liquors in Public Conveyance Section 61-13-360;
- (11) Poles Dragging on Highway Section 57-7-80;
- (12) Open Container Section 61-9-87;
- (13) Purchase or Possession of Beer or Wine by a Person Under Age Section 63-19-2440;
- (14) Purchase or Possession of Alcoholic Liquor by a Person Under Age Twenty-One Section 63-19-2450;
- (15) Unlawful Possession and Consumption of Alcoholic Liquors Section 61-5-30;
- (16) Sale of Beer or Wine on Which Tax Has Not Been Paid Section 61-9-20;
- (17) Falsification of Age to Purchase Beer or Wine Section 61-9-50;
- (18) Unlawful Purchase of Beer or Wine for a Person Who Cannot Legally Buy Section 61-9-60;

- (19) Unlawful Sale or Purchase of Beer or Wine, Giving False Information as to Age, Buying Beer or Wine Unlawfully for Another Section 61-9-85;
- (20) Employment of a Person Under the Age of Twenty-One as an Employee in Retail or Wholesale or Manufacturing Liquor Business Section 61-13-340;
- (21) Failure to Remove Doors from Abandoned Refrigerators Section 16-3-1010;
- (22) Malicious Injury to Animals or Personal Property Section 16-11-510;
- (23) Timber, Logs, or Lumber Cutting, Removing, Transporting Without Permission, Valued at Less Than Fifty Dollars Section 16-11-580;
- (24) Littering Section 16-11-700;
- (25) Larceny of a Bicycle Valued at Less Than One Hundred Dollars Section 16-13-80;
- (26) Shoplifting Section 16-13-110;
- (27) Cock Fighting Section 16-17-650;
- (28) Ticket Scalping Section 16-17-710;
- (29) Domestic Violence, second and third degree Section 16-25-20;
- (30) Glue Sniffing Section 44-53-1110;
- (31) Trespassing Section 16-11-755;
- (32) Trespassing Section 16-11-600;
- (33) Trespassing Section 16-11-610;
- (34) Trespassing Section 16-11-620;
- (35) Negligent Operation of Watercraft; Operation of Watercraft While Under Influence of Alcohol or Drugs Section 50-21-110;
- (36) Negligence of Boat Livery to Provide Proper Equipment and Registration Section 50-21-120;
- (37) Interference with Aids to Navigation or Regulatory Markers or Operation of Watercraft in Prohibited Area Section 50-21-170;
- (38) Operation of Watercraft Without a Certificate of Title Section 50-23-190;
- (39) Parking on Private Property without Permission Section 16-11-760;
- (40) Certificate of Veterinary Inspection; Requirement for Out-of-State Livestock or Poultry Section 47-4-60;
- (41) Inhibition of Livestock Inspection Section 47-4-120;
- (42) Imported Swine Section 47-6-50;
- (43) Operating Equine Sales Facility or Livestock Market Without Permit Section 47-11-20;
- (44) Liability of Person Removing Livestock for Slaughter Section 47-11-120;
- (45) Notice to Disinfect Section 47-13-310;

- (46) Quarantine of Livestock or Poultry Section 47-4-70;
- (47) Unlawful for Horse to Enter State Unless Tested Section 47-13-1350;
- (48) Quarantine of Exposed Horses Section 47-13-1360;
- (49) Proof of Test Required for Public Assembly of Horses Section 47-13-1370;
- (50) False Certificates Section 47-13-1390;
- (51) Unlawful to Feed Garbage to Swine Section 47-15-20;
- (52) Notification Required from Certain Persons Disposing of Garbage Section 47-15-40;
- (53) Sale of Uninspected Meat and Meat Products Section 47-17-60;
- (54) Sale of Uninspected Poultry and Poultry Product Section 47-19-70;
- (55) Misrepresenting Service Animals Section 47-3-980."

**Definition, service animal-in-training**

SECTION 3. Section 47-3-920(4) of the 1976 Code is amended to read:

"(4)(a) 'Service animal' or 'service animal-in-training' means an animal that is trained or that is being trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. A service animal is not a pet and is limited to a dog or a miniature horse. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to:

- (i) guiding an individual who is visually impaired or blind;
  - (ii) alerting an individual who is deaf or hard of hearing;
  - (iii) pulling a wheelchair;
  - (iv) assisting with mobility or balance;
  - (v) alerting others and protecting an individual if the individual is having a seizure;
  - (vi) retrieving objects;
  - (vii) alerting an individual to the presence of allergens;
  - (viii) providing physical support and assistance with balance and stability to an individual with a mobility disability;
  - (ix) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors;
  - (x) reminding an individual with a mental illness to take his prescribed medications;
  - (xi) calming an individual with post-traumatic stress disorder during an anxiety attack; or
  - (xii) doing other specific work or performing other special tasks.
- (b) The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."

**Definitions**

SECTION 4. Section 47-3-920 of the 1976 Code is amended by adding appropriately numbered items to read:

"( ) 'Emotional support animal' means an animal intended to provide companionship and reassurance.

( ) 'Places of public accommodation' means airports, train stations, bus stations, and establishments defined in Section 45-9-10."

### Restitution

SECTION 5. Section 47-3-970 of the 1976 Code is amended to read:

"Section 47-3-970. (A) A defendant convicted of a violation of Sections 47-3-930, 47-3-940, 47-3-950, or 47-3-960 may be ordered to make full restitution for damages including incidental and consequential expenses incurred by the guide dog or service animal and its user, which arise out of or are related to the criminal offense.

(B) Restitution ordered pursuant to this section includes, but is not limited to:

(1) the value of the replacement of an incapacitated or deceased guide dog or service animal, the training of a replacement guide dog or service animal, or retraining of the affected guide dog or service animal and related veterinary and care expenses; and

(2) medical expenses of the guide dog or service animal user, training of the guide dog or service animal user, and compensation for wages or earned income lost by the guide dog or service animal user.

(C) This article does not affect civil remedies available for conduct punishable under this article. Restitution paid pursuant to this article must be set off against damages awarded in a civil action arising out of the same conduct that resulted in the restitution payment."

### Fair housing applications

SECTION 6. Section 31-21-70 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) (1) A landlord may ask a tenant or prospective tenant the following questions to determine whether an animal that is not a service animal should be deemed a reasonable accommodation:

(a) 'Does the person seeking to use and live with the animal have a disability that is a physical or mental impairment that substantially limits one or more major life activities?'

(b) 'Does the person seeking to use and live with the animal have a disability-related need for the animal?'

(2) Landlords may request documentation to verify the tenant's responses to the above questions. Such documentation shall be deemed sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support." (A44, R64, S281)

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(C) This article does not affect civil remedies available for conduct punishable under this article. Restitution paid pursuant to this article must be set off against damages awarded in a civil action arising out of the same conduct that resulted in the restitution payment."

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### **Time effective**

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2019.

Approved the 16th day of May, 2019.

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