

1 AN ACT

2 RELATING TO DISABILITY; RENAMING THE ASSISTANCE ANIMAL ACT AS
3 THE "SERVICE ANIMAL ACT"; AMENDING THE SERVICE ANIMAL ACT TO
4 PROVIDE FOR QUALIFIED SERVICE DOGS AND QUALIFIED SERVICE
5 MINIATURE HORSES; ENACTING A NEW SECTION OF THE SERVICE
6 ANIMAL ACT TO PROHIBIT A PERSON FROM KNOWINGLY PRESENTING AS
7 A QUALIFIED SERVICE ANIMAL ANY ANIMAL OTHER THAN A QUALIFIED
8 SERVICE ANIMAL; PRESCRIBING CIVIL AND CRIMINAL PENALTIES.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 28-11-1.1 NMSA 1978 (being Laws
12 2005, Chapter 224, Section 1) is amended to read:

13 "28-11-1.1. SHORT TITLE.--Chapter 28, Article 11 NMSA
14 1978 may be cited as the "Service Animal Act"."

15 SECTION 2. Section 28-11-2 NMSA 1978 (being Laws 1989,
16 Chapter 242, Section 1, as amended) is amended to read:

17 "28-11-2. DEFINITIONS.--As used in the Service Animal
18 Act:

19 A. "emotional support animal", "comfort animal" or
20 "therapy animal" means an animal selected to accompany an
21 individual with a disability that does not work or perform
22 tasks for the benefit of an individual with a disability and
23 does not accompany at all times an individual with a
24 disability;

25 B. "qualified service animal" means any qualified
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1 service dog or qualified service miniature horse that has
2 been or is being trained to provide assistance to an
3 individual with a disability; but "qualified service animal"
4 does not include a pet, an emotional support animal, a
5 comfort animal or a therapy animal;

6 C. "qualified service dog" means a dog that has
7 been trained or is being trained to work or perform tasks for
8 the benefit of an individual with a disability who has a
9 physical or mental impairment that substantially limits one
10 or more major life activities; and

11 D. "qualified service miniature horse" means a
12 miniature horse that has been trained or is being trained to
13 work or perform tasks for the benefit of an individual with a
14 disability who has a physical or mental impairment that
15 substantially limits one or more major life activities."

16 SECTION 3. Section 28-11-3 NMSA 1978 (being Laws 1989,
17 Chapter 242, Section 2, as amended) is amended to read:

18 "28-11-3. ADMITTANCE OF QUALIFIED SERVICE ANIMAL.--

19 A. Notwithstanding any other provision of law:

20 (1) a person with a disability who is using
21 a qualified service animal shall be admitted to any building
22 open to the public and to all other public accommodations and
23 shall be allowed access to all common carriers; provided that
24 the qualified service animal is under the control of an
25 owner, a trainer or a handler of the qualified service

1 animal. A person shall not deny an individual with a
2 qualified service animal entry to a building open to the
3 public or to any public accommodation or deny access to a
4 common carrier, regardless of any policy of denying to pets
5 entry to that building, public accommodation or common
6 carrier. A person shall not be required to pay any
7 additional charges for the qualified service animal, but may
8 be liable for any damage done by the qualified service
9 animal; provided that persons without disabilities would be
10 liable for similar damage; and

11 (2) in an emergency requiring transportation
12 or relocation of the owner or trainer of the qualified
13 service animal, to the extent practicable, accommodations
14 shall be made for the qualified service animal to remain or
15 be reunited with the owner, trainer or handler. When
16 accommodations cannot be made for allowing the qualified
17 service animal to remain with the owner, trainer or handler,
18 the qualified service animal shall be placed pursuant to
19 instructions provided by the owner, trainer or handler.

20 B. This section does not require a public
21 accommodation or common carrier to permit an owner, trainer
22 or handler using a qualified service animal to have access to
23 a public accommodation or common carrier in circumstances in
24 which the individual's use of the qualified service animal
25 poses a direct threat of significant harm to the health or

1 safety of others."

2 SECTION 4. Section 28-11-4 NMSA 1978 (being Laws 1989,
3 Chapter 242, Section 3, as amended) is amended to read:

4 "28-11-4. PENALTY.--

5 A. A person who violates a provision of the
6 Service Animal Act is guilty of a misdemeanor and, upon
7 conviction, shall be sentenced in accordance with the
8 provisions of Section 31-19-1 NMSA 1978.

9 B. Nothing in this section shall be construed to
10 preclude any other remedy otherwise available pursuant to
11 common law or other law of this state."

12 SECTION 5. Section 28-11-5 NMSA 1978 (being Laws 1999,
13 Chapter 113, Section 1, as amended) is amended to read:

14 "28-11-5. FINDINGS AND PURPOSE--INTERFERENCE WITH
15 QUALIFIED SERVICE ANIMALS PROHIBITED--CRIMINAL AND CIVIL
16 PENALTIES.--

17 A. The legislature finds that unrestrained animals
18 constitute a danger to qualified service animals and public
19 safety. The purpose of this section is to protect persons
20 with disabilities and qualified service animals from attack
21 by unrestrained animals.

22 B. It is unlawful for any person, with no
23 legitimate reason, to:

24 (1) intentionally interfere with the use of
25 a qualified service animal by harassing or obstructing the

1 owner, trainer or handler of the qualified service animal or
2 the qualified service animal; or

3 (2) intentionally fail or refuse to control
4 the person's unrestrained animal, which animal interferes
5 with or obstructs the owner, trainer or handler of the
6 qualified service animal.

7 C. The provisions of this section shall not apply
8 to unrestrained animals on private property not open to the
9 public.

10 D. A person who violates the provisions of this
11 section is guilty of a misdemeanor and upon conviction shall
12 be punished pursuant to Section 31-19-1 NMSA 1978. A person
13 convicted under this section may be ordered to pay
14 restitution, including, but not limited to, actual damages.

15 E. Nothing in this section shall be construed to
16 preclude any other remedies otherwise available pursuant to
17 common law or the NMSA 1978."

18 SECTION 6. A new section of the Service Animal Act is
19 enacted to read:

20 "PROHIBITION OF FALSE PRESENTATION OF ANIMAL AS A
21 QUALIFIED SERVICE ANIMAL.--

22 A. A person shall not knowingly present as a
23 qualified service animal any animal that does not meet a
24 definition of "qualified service animal" pursuant to Section
25 28-11-2 NMSA 1978. A person who violates the provisions of

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1 this section is guilty of a misdemeanor and upon conviction
2 shall be punished pursuant to Section 31-19-1 NMSA 1978.

3 B. Nothing in this section shall be construed to
4 preclude any other remedies otherwise available pursuant to
5 common law or the NMSA 1978."

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