
Judiciary Committee

HB 1728

Title: An act relating to requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises.

Brief Description: Requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises.

Sponsors: Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney.

Brief Summary of Bill

- Amends the definition of "service animal" under Washington's Law Against Discrimination and Layla's Law (crimes relating to service animals).
- Creates a new crime, which is committed when a person prevents a service animal user and his or her service animal from entering a business where food for human consumption is sold or served.

Hearing Date: 2/16/11

Staff: Kelly Pfundheller (786-7289).

Background:

Under both Washington's Law Against Discrimination and Layla's Law, "service animal" means an animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

Washington's Law Against Discrimination.

Washington's Law Against Discrimination establishes that it is a civil right to be free from discrimination based on race, color, creed, national origin, sexual orientation, sex, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained

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dog guide or service animal. This right applies to: employment; places of public resort, accommodation, or amusement; commerce; and real estate, credit, and insurance transactions.

The prohibition against discriminating in providing public accommodations applies to "any place of public resort, accommodation, assemblage, or amusement" and includes restaurants, hotels, motels, inns, stores, markets, shopping malls, theaters, cinemas, concert halls, arenas, parks, fairs, arcades, libraries, schools, government offices, and hospitals.

Layla's Law.

In 2001 the Legislature passed Layla's Law, which created crimes relating to dog guides and service animals.

It is a misdemeanor offense for a person who has received notice that his or her behavior is interfering with the use of a dog guide or a service animal to continue, with reckless disregard, interfering with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing: (1) the safety of the dog guide or service animal user, or (2) the safety of the dog guide or service animal. A second or subsequent offense is a gross misdemeanor.

It is also a misdemeanor offense for a person, with reckless disregard, to allow his or her dog to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing: (1) the safety of the dog guide or service animal user, or (2) the safety of the dog guide or service animal. A second or subsequent offense is a gross misdemeanor.

It is a gross misdemeanor offense for a person, with reckless disregard, to allow his or her dog to injure, disable, or cause the death of a dog guide or service animal. It is also a gross misdemeanor offense for a person, with reckless disregard, to injure, disable, or cause the death of a dog guide or service animal. Additionally, it is an unranked class C felony for a person to intentionally injure, disable, or cause the death of a dog guide or service animal.

It is theft in the first degree for a person to wrongfully obtain or exert unauthorized control over a dog guide or service animal with the intent to deprive the dog guide or service animal user of his or her dog guide or service animal.

When a person is convicted of any of the above crimes, the person must make full restitution for all damages, including incidental and consequential expenses incurred by the dog guide or service animal user and the dog guide or service animal, which arise out of or are related to the criminal offense. The criminal penalties and the restitution do not preclude civil remedies available for these violations.

Federal Law and Regulations Related to Service Animals.

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. Under the U.S. Department of Justice's regulations implementing the ADA, the term "service animal" contains a different meaning than under Washington Law. "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory,

psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. There is an exception for miniature horses, which may be considered service animals in some circumstances.

The ADA requires privately owned businesses that serve the public to allow people with disabilities to bring their service animals into the public areas of the business premises unless the business can demonstrate that making such modifications would fundamentally alter the nature of its goods, services, facilities, privileges, advantages, or accommodations.

Summary of Bill:

Under both Washington's Law Against Discrimination and Layla's Law, the definition of "service animal" is amended to mean any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. The bill lists examples of beneficial work or tasks performed by a service animal.

Washington's Law Against Discrimination.

The bill adds a new definition to the section related to discrimination in providing public accommodations. "Public resort, accommodation, assemblage, or amusement" includes, but is not limited to, businesses where food for human consumption is sold or served.

Layla's Law.

A new crime is created. It is a misdemeanor offense for a person to prevent a service animal user and his or her service animal from entering a business where food for human consumption is sold or served. A subsequent offense is a gross misdemeanor.

Appropriation: None.

Fiscal Note: Requested on February 11, 2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.