

SENATE BILL REPORT

SHB 1728

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, March 14, 2011

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: House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney).

Brief History: Passed House: 2/26/11, 95-1.

Committee Activity: Labor, Commerce & Consumer Protection: 3/08/11, 3/14/11 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

Staff: Mac Nicholson (786-7445)

Background: It is an unfair practice, under Washington's Law Against Discrimination, to discriminate in places of public resort based on, among other factors, the use of a trained dog guide or service animal by a person with a disability. Service animal is defined as any animal that is trained for the purposes of assisting or accommodating a sensory, mental, or physical disability of a person with a disability.

Under the federal Americans with Disabilities Act (ADA), discrimination on the basis of disability in public accommodation is similarly prohibited. The definition of service animal under ADA regulations recently amended applies to any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. Under the amended definition, other species of animals are not service animals, with the exception of miniature horses, which may be considered service animals in some circumstances.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The existing statute prohibiting discrimination in places of public resort does not apply to food establishments with respect to the use of a trained dog guide or service animal by a person with a disability.

New discrimination language is provided for food establishments, so that discrimination in food establishments is prohibited on the basis of the use of a dog guide or service animal. A food establishment is defined as a business that sells or services food for human consumption. A service animal is defined as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. With the exception of miniature horses, other species of animals are not considered service animals. Additionally, the crime deterrent effects of an animal, and the provision of emotional support or comfort are not considered work or tasks.

A food establishment must make reasonable modifications to permit the use of a miniature horse by an individual with a disability, as long as the horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: For health and safety reasons, the current food code restricts animals from food establishments. The current definition of service animal is unclear, making compliance and enforcement difficult. This bill will provide clarity, protect public health, and reduce the number of complaints received by the state and local health departments. It has been difficult for stores and restaurants to comply with the broad service animal requirements. This would match the state definition of service animals for food establishments with federal ADA requirements. Animals are a risk for food safety purposes, and a clear and consistent law is needed to define what is service animal and what is not.

CON: Many disabled individuals have service animals that are trained. The rights of restaurants are respected. Service animals protect individuals from harm. Washington State should be a center ground for service animal badges. New rules and regulations shouldn't be made.

OTHER: The legislation as it exists addresses concerns raised by certain groups. This bill will make it easier for restaurants and food establishments to identify certain animals as not service animals, but still need to address the training issue. Therapy and companion animals are allowed in the housing context, and this will help provide clarity about what is defined as a service animal for food establishments.

Persons Testifying: PRO: David Gifford, Department of Health; Carolyn Logue, Washington Food Industry Association; Josh McDonald, Washington Restaurant Association; Holly Chisa, NW Grocery Association.

CON: Rev. Daniel Greene.

OTHER: Toby Olson, Governor's Committee on Disability Issues and Employment; David Lord, Disability Rights Washington.