Judiciary Committee

HB 2822

Title: An act relating to the definition and misrepresentation of service animals.

Brief Description: Concerning service animals.

Sponsors: Representatives Steele, McBride, Muri, Johnson, Caldier, Valdez, Eslick and Gregerson.

Brief Summary of Bill

- Adopts the federal definition of service animal.

- Creates a civil infraction for the misrepresentation of a service animal.

Hearing Date: 1/31/18

Staff: Ingrid Lewis (786-7289).

Background:

Under Washington's Law Against Discrimination (WLAD), it is an unfair practice to discriminate in places of public accommodation on the basis of 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 dog guide or service animal. "Service animal" means any animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability. The prohibition against discrimination in places of public accommodation 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. Washington court cases interpreting provisions of the WLAD relating to service animals have held that an animal is not a "service animal" under the WLAD unless the animal has been specifically trained for the purpose of providing assistance to or accommodating a person with a disability.

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.

Under federal law, the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of a person's disability. The ADA applies to covered entities, including state and local government services, public accommodations, commercial facilities, transportation, and telecommunications. The United States Department of Justice's regulations implementing the ADA defines "service animal" 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. There is an exception for miniature horses, which may be considered service animals in some circumstances. Emotional support animals are excluded from the definition of service animal under the ADA.

Summary of Bill:

"Service animal" has the same meaning as it does under the American with Disabilities Act.

Misrepresentation of a service animal is a civil infraction. An enforcement officer may issue a citation if a person expressly or impliedly represents that a dog is a service animal in order to secure rights afforded to persons with a disability, and knew or should have known that the dog did not meet the definition of service animal.

If a person's disability or the work performed by the service animal is not readily apparent, an enforcement officer may ask only two questions in order to verify that the animal is a service animal: 1) whether the service animal is required because of a disability; and 2) what work or tasks the service animal has been trained to perform.

Misrepresentation of a service animal carries a penalty of $500 and a requirement to remove the service animal from the place of public accommodation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2019.