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## Civil Rights & Judiciary Committee

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### ESSB 5788

**Brief Description:** Concerning service animal training.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Wagoner, Kuderer, Mullet and Saldaña).

#### Brief Summary of Engrossed Substitute Bill

- Prohibits places of public accommodation from denying a service animal trainer the right to be accompanied by a service animal trainee in any area that is open to the public or to business invitees.
- Requires service animal trainers to maintain control of service animal trainees.
- Establishes rights and requirements for places of public accommodation regarding service animals and service animal trainees.
- Prohibits misrepresentation of an animal as a service animal trainee.

**Hearing Date:** 2/20/24

**Staff:** John Burzynski (786-7133).

#### **Background:**

##### Washington's Law Against Discrimination.

Washington law protects, among other rights, the right to be free from discrimination because of the use of a trained dog guide or service animal by a person with a disability, including the right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement.

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

### Places of Public Resort, Accommodation, Assemblage, or Amusement.

Places of public resort, accommodation, assemblage, or amusement include, but are not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps.

Places of public resort, accommodation, assemblage, or amusement do not include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered. Places of public resort, accommodation, assemblage, or amusement do not include or apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

### Service Animals.

A service animal is any dog or miniature horse 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. The work or tasks performed by the service animal must be directly related to the individual's disability.

It is a civil infraction for any person to misrepresent an animal as a service animal. A violation occurs when a person expressly represents or implies that an animal is a service animal and the person knew or should have known that the animal in question did not meet the definition of a service animal. A violation is punishable by a maximum penalty of \$500.

### **Summary of Bill:**

#### Trainer's Right of Access.

A place of public accommodation may not deny a service animal trainer the right to be accompanied by a service animal trainee in any area of the place that is open to the public or to business invitees. However, a place of public accommodation may require a service animal trainer to remove a service animal trainee if the animal is not trained to urinate and defecate outside of the facility or only in an appropriate place, or if the animal is out of control and effective action is not taken to control the animal.

### Trainer's Obligation to Maintain Control.

A service animal trainer must maintain control of a service animal trainee. Control must be exerted by means of a harness, leash, or other tether, unless such means would interfere with the ability of the animal to do the work or perform the tasks for which it is being trained, in which case control may be exerted by the effective use of voice commands, signals, or other means.

### Places of Public Resort, Accommodation, Assemblage, or Amusement.

The definition of a place of public resort, accommodation, assemblage, or amusement, as it relates to service animal trainers and service animal trainees, does not include those places of public accommodation conducted for housing or lodging of transient guests.

### Public Accommodation Rights and Requirements.

A place of public accommodation:

- may impose legitimate requirements necessary for the safe operation of the place of public accommodation, but safety requirements must be based on actual risks, not on speculation, stereotypes, or generalizations about persons with disabilities;
- may post signage indicating the misrepresentation of an animal as a service animal or service animal trainee may result in a civil infraction of up to \$500;
- is not required to provide care or supervision for a service animal or service animal trainee;
- may charge a service animal trainer for damages that a service animal trainee causes to the place, if the place of public accommodation customarily charges a person for damages that the person causes to the place; and
- must make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of a dog guide or service animal to obtain goods, services, and the use of the advantages, facilities, and privileges of the place.

### Misrepresentation.

It is a civil infraction for any person to misrepresent an animal as a service animal trainee. A violation occurs when a person expressly represents or implies that an animal is a service animal trainee and the person knew or should have known that the animal in question did not meet the definition of service animal trainee.

### Defined Terms.

"Service animal trainee" means any dog or miniature horse that is undergoing training to become a service animal.

"Service animal trainer" means an individual exercising care, custody, and control over a service animal trainee during a course of training designed to develop the service animal trainee into a service animal.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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