

Service Animal – A Legal Overview

Overview

Since March 15, 2011, only dogs and miniature horses are recognized as service animals under Title II and III of the ADA, access to public entities and private businesses. However, under the employment provisions of Title I and the transportation provisions of Title II of the ADA, along with other laws, including the Fair Housing Act and the Air Carrier Access Act, a broader definition of service animal stands that is not restricted to dogs and miniature horses.

Service Animal Defined

A service animal is an animal that is INDIVIDUALLY trained to do work or perform tasks for a person with a disability.

Where Service Animals are allowed

Service animals are to accompany an individual in all areas where members of the public are allowed to go.

What Can You Ask

When it is not obvious what service an animal provides, only limited inquiries are allowed.

You can ask two questions:

1. Is the dog a service animal required because of a disability? AND
2. What work or task has the animal been trained to perform?

You CANNOT ask:

1. Ask the animal to demonstrate its ability to perform the work or task;
2. Require medical documentation;
3. Inquire into the nature of the individual's disability;
4. Require a special identification card or vest.

What can you expect from the Individual who has the Service Animal?

An individual who has a service animal is expected to

- (1) Keep the animal in control at all times; and
- (2) Ensure the animal is toilet trained.

Under the ADA, service animals must be harnessed, leashed or tethered, unless these devices interfere with the service animal's work or task or the individual's disability prevents using these devices. In this case, the individual must maintain control of the animal through voice, signal or other effective controls.

Other Things to Consider

Miniature Horse

Again, must be INDIVIDUALLY trained to do work or perform tasks. Miniature horses generally range in height from 24 inches to 34 inches measured from the shoulders and weigh between 70 & 100 pounds.

In addition to keeping the horse under control and ensuring it is toilet trained, when determining access, two additional considerations can be made:

1. Whether the facility can accommodate the miniature horse's type, size and weight; and
2. Whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

Companion Animals & Therapy Animals

There are certain animals that are considered Companion and Therapy animals, including dogs that do NOT qualify as Service Animals. Companion Animals are those animals in which an individual receives some benefit from the animal absent specific training. Therapy Animals are those animals who have been trained but not individually to provide therapeutic support in certain settings, hospitals & long-term care settings.

Charging for the Animal's Access

Surcharges and Fees are to be handled as follows:

1. Don't ask or require a fee or surcharge unless you do so for all of your patrons. A service animal is not a pet, so no pet fees should be charged;
2. Can charge for any damage caused by the animals while in your facility;
3. Care and supervision is ALWAYS the responsibility of the individual or handler.

MICHIGAN LAW – MCL 750.502c addresses Duties of Private Businesses & Service Animals

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