

Laws Affecting the Use of Assistance Animals Copied from GDUA

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Despite the fact that the use of service animals has improved the quality of life for people with sensory and physical disabilities for over 65 years, Federal legislation concerning access and training rights of persons with disabilities had been virtually nonexistent until the mid-1980's. In its absence, many individual States did address rights for service animals through laws providing disabled people access to public facilities and housing. To date, all States and the District of Columbia have to some extent legislated such access rights. However, the extent of coverage varies considerably State to State.

Without consideration to the use of dog guides in accessing housing, public transportation and other public accommodations, which are addressed by the Federal laws discussed below, State laws which deal with dog guides most frequently address the issues of pedestrian safety. Approximately 35 of the 50 States currently have laws dealing with pedestrian safety, all of which grant the right-of-way over vehicular traffic to any guide dog user who enters an intersection.

The other guide dog issue which laws in some States address is the protection of dog guides from interference, obstruction, injury or death by persons or other dogs. Currently, very few States are known to have laws which specifically deal with any or all of these occurrences. Given the significant cost of raising, training and maintaining a guide dog, the loss of such a valuable resource places a tremendous burden on the person whose dog is disabled or killed. Even without injury, harassment of a guide dog by another dog or by humans can make it impossible for some dog guides to continue to perform their tasks.

Clearly, State laws do not yet consistently protect the rights of blind individuals and their dog guides to safely travel within their communities without being obstructed, harmed or killed due to a vehicular traffic accidents or harassment or attack by humans or other animals.

Laws by State: <http://www.acb.org/arizona/gduaslaw.html>

ARIZONA STATE LAWS EFECTING THE USE OF DOG GUIDES

ARIZONA REVISED STATUTE

11-1024. Service animals; rights of individuals with disabilities; violation; classification; definitions

Laws Affecting the Use of Assistance Animals

Continued

A. Any person or entity that operates a public place shall not discriminate against individuals with disabilities who use service animals.

B. It is not discriminatory to exclude a service animal from a public place if one or more of the following apply:

1. The animal poses a direct threat to the health or safety of others.
2. The animal fundamentally alters the nature of the public place or the goods, services or activities provided.
3. The animal poses an undue burden.

C. Public places may maintain a general no pets policy if it is not used to exclude service animals and if it does not grant rights to any person to bring the person's pet into a public place that otherwise does not permit pets.

D. A service animal handler is liable for any damage done to a public place by the service animal or service animal in training.

E. Any trainer or individual with a disability may take an animal being trained as a service animal to a public place for purposes of training it to the same extent as provided in subsections A, B and C of this section.

F. A zoo or wild animal park may prohibit a service animal, including a dog guide or service dog, from any area of the zoo or wild animal park where the service animal may come into direct contact with the animals contained in the zoo or wild animal park. Service animals shall not be excluded from public walkways or sidewalks or from any area that allows for physical barriers between the service animals, dog guides or service dogs and the animals in the zoo or wild animal park. Any zoo or wild animal park that prohibits dog guides and service dogs shall provide without cost adequate facilities for the temporary confinement of dog guides and service dogs. The facilities shall be adequate to accommodate the anticipated attendance of legally blind, deaf or physically disabled persons, shall be in an area not accessible to the general public, shall provide water for the dog guides and service dogs and shall otherwise be safe, clean and comfortable. The zoo or wild animal park on request by a legally blind person who is required to leave that person's dog guide or service dog pursuant to this subsection shall provide a sighted escort if the legally blind person is unaccompanied by a sighted person.

G. The driver of a vehicle approaching a legally blind pedestrian who is carrying a cane that is predominately white or metallic in color, who is using a service animal or who is assisted by a sighted person shall yield the right-of-way and take reasonable precautions to avoid injury to the pedestrian and the service animal. The pedestrian has the same rights as any other person whether or not the pedestrian is carrying the cane, using a service animal or being assisted by a sighted person. Drivers shall take the same precautions with respect to pedestrians who have a disability other than blindness and their service animals. A driver who violates this subsection is liable for damages for any injury caused to the pedestrian or the service animal.

H. Any person or entity that violates subsections A through G of this section is guilty of a class 2 misdemeanor.

I. This section is not intended to affect any civil remedies available for a violation of this section.

J. For the purposes of this section:

1. "Direct threat to the health or safety of others" means that a significant risk to the health or safety of others exists and cannot be eliminated by modification of policies, practices or procedures or by the provision of auxiliary aids or services.
2. "Discriminate" means discriminatory actions prescribed in section 41-1492.02 and includes:
 - (a) Refusing to permit an individual with a disability to enter a public place with a service animal or interfering with the individual's right to enter or use the public place.
 - (b) Failing to provide an individual with a disability the same services and access to the same areas of the premises as afforded to others.
 - (c) Attempting to impose a charge, fee or deposit because an individual with a disability is accompanied by a service animal.
 - (d) Requiring an individual with a disability to disclose disability related information. However, a public accommodation may ask if the animal is a service animal being used because of a disability.
 - (e) Requiring provision of identification for the service animal.
3. "Individual with a disability" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual.
4. "Public place" means any office or place of business or recreation to which the general public is invited, whether operated by a public or private entity and includes all forms of conveyance, including taxis, tow trucks and ambulances.
5. "Service animal" means any guide dog, signal dog or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing assistance in a medical crisis, pulling a wheelchair or fetching dropped items.
6. "Wild animal park" means an entity that is open to the public on a regular basis, that is licensed by the United States department of agriculture as an exhibit and that is operating primarily to conserve, propagate and exhibit wild and exotic animals.

FEDERAL LEGISLATION AFFECTING THE USE OF DOG GUIDES

As of the beginning of 2001, three Federal laws identify the rights and obligations of persons who use dog guides. Generally, the Federal laws supersede any of the state laws in any case where both the Federal and a State law apply but State law is more restrictive.

These three laws, the Air Carrier Access Act (ACAA), the Americans with Disabilities Act (ADA) and the Fair Housing Act affect the areas of access to air travel, employment, public accommodations, and housing. While people with disabilities in America still confront barriers erected by ignorance and misinformation, the three major Federal laws reviewed above work to defeat such discrimination by guaranteeing access and accommodation rights to people with disabilities who use service animals.

Air Carrier Access Act

The first Federal legislation to directly address public access rights of people with disabilities who have service animals was the Air Carrier Access Act of 1986. The Air Carrier Access Act protects people with disabilities from discriminatory practices by commercial airlines. The ACAA addresses a wide range of issues including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities. It also permits individuals with disabilities to be accompanied by their service animals on air carriers and when accessing services owned or operated by air carriers. It applies only to air carriers that provide regularly scheduled services for hire to the public.

Specifically, the ACAA requires that:

- (1) Carriers shall accept as evidence that an animal is a service animal by identification cards, other written documentation, presence of harnesses or markings on harnesses, tags, or the credible verbal assurances of the qualified handicapped person using the animal.
- (2) Carriers shall permit a service animal to accompany a qualified handicapped individual in any seat which the person sits, unless the animal obstructs an aisle or other area that must remain unobstructed in order to facilitate an emergency evacuation.
- (3) In the event that special information concerning the transportation of animals outside the continental United States is either required to be or is provided by the carrier, the information shall be provided to all passengers traveling outside the continental United States with the carrier, including those traveling with service animals.

Service animals are also referenced in the act's regulations regarding seat assignments and clarifies that in case the service animal cannot be accommodated in the seat location of his/her human companion, the carrier must offer the passenger the opportunity to move with the animal to another seat as an alternative to requiring the animal to travel with checked baggage.

New Horizons Information for the Air Traveler with a Disability:

<http://www.dot.gov/airconsumer/horizons.htm>

Americans with Disabilities Act

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. National access rights for service animals (28 CFR 36.104 defines the term "service animal" as "any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.") across settings became a reality with the passage of the ADA.

Title I of the Act prohibits employment discrimination against qualified individuals with disabilities. Under Title I, discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee unless such covered entity can demonstrate that accommodation would impose an undue hardship on the operations of the business of such covered entity. The use of a guide dog to at the place of employment would often fall within the scope of a reasonable accommodation.

Title II of the ADA prohibits discrimination against qualified disabled people in public services including public transportation. Though the Title II regulations do require "reasonable modifications" to avoid discrimination, they do not directly acknowledge access rights of service animals.

Of all sections of the ADA, Title III references service animals most directly. Title III prohibits privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities from discriminating against individuals with disabilities. The ADA specifically requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed unless the business can demonstrate that making such modifications would fundamentally alter the nature of its goods, services, facilities, privileges, advantages, or accommodations.

A public accommodation may not require an individual with a disability to post a deposit as a condition of permitting a service animal to accompany its owner in a place of public accommodation, even if such deposits are required of pets. The regulations for Title III clarify that public accommodations are not required to supervise or care for a service animal, however. Such care and supervision is the responsibility of his or her owner.

Americans with Disabilities Act ADA Home Page: <http://www.ada.gov/>

Information on how to file a complaint under title III of the Americans with Disabilities Act: <http://www.ada.gov/t3compfm.htm>

COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS: <http://www.ada.gov/qasrvc.htm>

Fair Housing Act

The Fair Housing Act prohibits discrimination in the sale or rental of a dwelling based on handicap. The Act covers most housing types with the exception of single family residences sold or rented by a private, individual owner.

The Act allows a person with a disability to, at the expense of the handicapped person, make reasonable modifications of existing premises occupied or to be occupied by such person if modifications may be necessary to afford such person full enjoyment of the premises. It also assures that a landlord must make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person with equal opportunity to use and enjoy a dwelling.

The implementing regulations contribute an illustration by example: A blind applicant for rental housing wants to live in a dwelling unit with a seeing eye dog. The building has a no pets policy. It is a violation of Section 100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because without the seeing eye dog, the blind person will have an equal opportunity to use and enjoy a dwelling.

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The illustration does make clear that at least in the case of a guide dog for the blind, reasonable accommodation in rules, policies, practices, or services include special consideration for housing of service animals.

Individuals with disabilities are solely responsible for the conduct of their service animals, and housing providers may have recourse available if the tenant fails to satisfy this obligation. However, a housing provider may first be obligated to attempt resolution of the problem before eviction proceedings are initiated.

Assistance Dogs International's Guide to Assistance Dog Laws

<http://www.assistedogsinternational.org/>

Arizona

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

Applies to Guide, Hearing, and Service Dogs Accessibility “. . . any office or place of business or recreation to which the general public is invited, whether operated by a public or private entity and includes all forms of conveyance, including taxis, tow trucks and ambulances.”

¹ Interference Class 1 misdemeanor.

Housing not mentioned

Licenses/Fees not mentioned

Identification not mentioned

Misrepresentation not mentioned

Trainers “Any trainer or individual with a disability may take an animal being trained as a service animal to a public place for purposes of training it to the same extent as provided in subsections A, B and C of this section.”

² White Cane statute for necessary precaution; no proclamation

Injury to Dog “A person who is convicted of a violation . . . [is liable] for the replacement and training costs of the working or service animal and for any veterinary bills.”

³ Penalties not mentioned

Zoo or Wild “A zoo or wild animal park may prohibit a service animal, including a dog guide Animal Park or service dog, from any area of the zoo or wild animal park where the service

animal may come into direct contact with the animals contained in the zoo or wild animal park . . . Any zoo or wild animal park that prohibits dog guides and service dogs shall provide without cost adequate facilities for the temporary confinement of dog guides and service dogs . . . The zoo or wild animal park on request by a legally blind person who is required to leave that person’s dog guide or service dog pursuant to this subsection shall provide a sighted escort if the legally blind person is unaccompanied by a sighted person.”

⁴ Summary Arizona law requires that a specially trained Assistance Dog be allowed to accompany a blind, deaf, mentally or physically disabled person to all public accommodations and on all common carriers. Extra charges, fees, or deposits cannot be made due to the presence of the dog, but if the dog causes damage to the premises, the dog user is liable.

Accessibility 11-1024 A-G, J(4)(1994)

Interference 11-1024(J2a)(1994); 13-2910(6)(2002)

Trainers 11-1024(E)(1994)

White Cane 11-1024(G)(1994)

Injury to Dog 13-2910(2002); 11-1024G(1994)

Zoo/Animal Park 11-1024F

¹ Arizona Revised Statutes, Title 11, Section 11-1024J(4).

² Arizona Revised Statutes, Title 11, Section 11-1024E.

³ Arizona Revised Statutes, Title 13, Section 13-2910(E1).

⁴ Arizona Revised Statutes, Title 11, Section 11-1