

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 858

Introduced by Sullivan, 41.

Read first time January 11, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to service animals; to amend sections 20-126,
2 20-131.01, and 28-1009.01, Reissue Revised Statutes of
3 Nebraska, and sections 20-126.01, 20-127, 20-128, 20-129,
4 20-131.02, and 20-131.04, Revised Statutes Cumulative
5 Supplement, 2008; to provide protections and penalties
6 for mobility-impaired and otherwise disabled persons who
7 use service animals as prescribed; to provide additional
8 requirements for service animals and service animals in
9 training; to harmonize provisions; and to repeal the
10 original sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-126, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 20-126 It is the policy of this state to encourage and
4 enable blind, visually handicapped, hearing-impaired, ~~or~~ physically
5 disabled, mobility-impaired, or otherwise disabled persons to
6 participate fully in the social and economic life of the state
7 and to engage in remunerative employment.

8 Sec. 2. Section 20-126.01, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 20-126.01 For purposes of sections 20-126 to 20-131,
11 physically disabled person means a person with a physical
12 disability other than hearing impairment, blindness, ~~or~~ visual
13 handicap, or mobility impairment.

14 Sec. 3. Section 20-127, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 20-127 (1) A blind, visually handicapped, deaf or hard
17 of hearing, ~~or~~ physically disabled, mobility-impaired, or otherwise
18 disabled person has the same right as any other person to the full
19 and free use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) A blind, visually handicapped, deaf or hard of
22 hearing, ~~or~~ physically disabled, mobility-impaired, or otherwise
23 disabled person is entitled to full and equal accommodations,
24 advantages, facilities, and privileges of all common carriers,
25 airplanes, motor vehicles, railroad trains, motor buses,

1 street cars, boats, any other public conveyances or modes
2 of transportation, hotels, lodging places, places of public
3 accommodation, amusement, or resort, and other places to which
4 the general public is invited, subject only to the conditions and
5 limitations established by law and applicable alike to all persons.

6 (3) A totally or partially blind person, deaf or hard of
7 hearing person, ~~or~~ physically disabled person, mobility-impaired
8 person, or otherwise disabled person has the right to be
9 accompanied by a service animal, ~~especially trained for the~~
10 ~~purpose,~~ and a in a harness, backpack, or vest identifying the
11 animal as a service animal in any of the places listed in
12 subsection (2) of this section without being required to pay an
13 extra charge for the service animal. A bona fide trainer of a
14 service animal has the right to be accompanied by such animal
15 in training if the animal is in a harness, backpack, or vest
16 identifying the animal as a service animal or a service animal
17 in training and the trainer is conducting continuing training of
18 the animal or is part of a three-unit service animal team and is
19 conducting continuing training of the animal in any of the places
20 listed in subsection (2) of this section without being required to
21 pay an extra charge for the service animal. Such person shall be
22 liable for any damage done to the premises or facilities or to any
23 person by such animal.

24 (4) A totally or partially blind person has the right to
25 make use of a white cane in any of the places listed in subsection

1 (2) of this section.

2 (5) Three-unit service animal team means a team
3 consisting of a service animal or a service animal in training, a
4 disabled person, and a person who is an adult and has been trained
5 to handle the service animal.

6 Sec. 4. Section 20-128, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 20-128 In addition to the provisions of sections 28-1313
9 and 28-1314, the driver of a vehicle approaching a totally or
10 partially blind pedestrian who is carrying a cane predominantly
11 white or metallic in color or using a service animal or a
12 hearing-impaired, ~~or~~ physically disabled, mobility-impaired, or
13 otherwise disabled pedestrian who is using a service animal
14 shall take all necessary precautions to avoid injury to such
15 pedestrian, and any driver who fails to take such precautions
16 shall be liable in damages for any injury caused such pedestrian.
17 A totally or partially blind pedestrian not carrying such a cane
18 or using a service animal or a hearing-impaired, ~~or~~ physically
19 disabled, mobility-impaired, or otherwise disabled pedestrian not
20 using a service animal in any of the places, accommodations,
21 or conveyances listed in section 20-127 shall have all of the
22 rights and privileges conferred by law upon other persons, and
23 the failure of a totally or partially blind pedestrian to carry
24 such a cane or to use a service animal or the failure of a
25 hearing-impaired, ~~or~~ physically disabled, mobility-impaired, or

1 otherwise disabled pedestrian to use a service animal in any such
2 places, accommodations, or conveyances does not constitute and is
3 not evidence of contributory negligence.

4 Sec. 5. Section 20-129, Revised Statutes Cumulative
5 Supplement, 2008, is amended to read:

6 20-129 (1) Any person or agent of such person who
7 denies or interferes with admittance to or enjoyment of the public
8 facilities enumerated in section 20-127 or otherwise interferes
9 with the rights of a totally or partially blind, deaf or hard of
10 hearing, ~~or physically disabled,~~ mobility-impaired, or otherwise
11 disabled person under section 20-127 or sections 20-131.01 to
12 20-131.04 is guilty of a Class III misdemeanor.

13 (2) Any person or agent of such person who denies or
14 interferes with admittance to or enjoyment of the public facilities
15 enumerated in section 20-127 or otherwise interferes with the
16 rights of a bona fide trainer of a service animal ~~when training~~
17 ~~such animal under~~ as described in section 20-127 is guilty of a
18 Class III misdemeanor.

19 Sec. 6. Section 20-131.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 20-131.01 It is the intent of the Legislature that blind
22 persons, visually handicapped persons, hearing-impaired persons,
23 ~~and other~~ physically disabled persons, mobility-impaired persons,
24 and otherwise disabled persons shall be entitled to full and equal
25 access to all housing accommodations offered for rent, lease, or

1 compensation in this state.

2 Sec. 7. Section 20-131.02, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 20-131.02 For purposes of sections 20-131.01 to
5 20-131.04, unless the context otherwise requires:

6 (1) Housing accommodations means any real property which
7 is used or occupied or is intended, arranged, or designed to be
8 used or occupied as the home, residence, or sleeping place of one
9 or more human beings. Housing accommodations does not include any
10 single-family residence in which the owner lives and in which any
11 room is rented, leased, or provided for compensation to persons
12 other than the owner or primary tenant; and

13 (2) Physically disabled person means a person with a
14 physical disability other than hearing impairment, blindness, ~~or~~
15 visual handicap, or mobility impairment.

16 Sec. 8. Section 20-131.04, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 20-131.04 Every totally or partially blind person,
19 hearing-impaired person, ~~or~~ physically disabled person,
20 mobility-impaired person, or otherwise disabled person who
21 has a service animal or obtains a service animal shall have full
22 and equal access to all housing accommodations with such animal as
23 prescribed in sections 20-131.01 to 20-131.04. Such person shall
24 not be required to pay extra compensation for such animal. Such
25 person shall be liable for any damage done to such premises by

1 such animal. Any person who rents, leases, or provides housing
 2 accommodations for compensation to any totally or partially blind
 3 person, hearing-impaired person, ~~or~~ physically disabled person,
 4 mobility-impaired person, or otherwise disabled person who has or
 5 obtains a service animal shall not charge an additional deposit for
 6 such animal.

7 Sec. 9. Section 28-1009.01, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 28-1009.01 (1) A person commits the offense of violence
 10 on a service animal when he or she (a) intentionally injures,
 11 harasses, or threatens to injure or harass or (b) attempts to
 12 intentionally injure, harass, or threaten an animal that he or she
 13 knows or has reason to believe is a service animal for a blind
 14 or visually impaired person, a deaf or hearing-impaired person,
 15 ~~or~~ a physically limited person, a mobility-impaired person, or an
 16 otherwise disabled person.

17 (2) A person commits the offense of interference with
 18 a service animal when he or she (a) intentionally impedes,
 19 interferes, or threatens to impede or interfere or (b) attempts to
 20 intentionally impede, interfere, or threaten to impede or interfere
 21 with an animal that he or she knows or has reason to believe
 22 is a service animal for a blind or visually impaired person, a
 23 deaf or hearing-impaired person, ~~or~~ a physically limited person, a
 24 mobility-impaired person, or an otherwise disabled person.

25 (3) Evidence that the defendant initiated or continued

1 conduct toward an animal as described in subsection (1) or (2) of
2 this section after being requested to avoid or discontinue such
3 conduct by the blind, visually impaired, deaf, hearing-impaired, ~~or~~
4 physically limited, mobility-impaired, or otherwise disabled person
5 being served or assisted by the animal shall create a rebuttable
6 presumption that the conduct of the defendant was initiated or
7 continued intentionally.

8 (4) For purposes of this section:

9 (a) Blind person means a person with totally impaired
10 vision or with vision, with or without correction, which is so
11 severely impaired that the primary means of receiving information
12 is through other sensory input, including, but not limited to,
13 braille, mechanical reproduction, synthesized speech, or readers;

14 (b) Deaf person means a person with totally impaired
15 hearing or with hearing, with or without amplification, which is
16 so severely impaired that the primary means of receiving spoken
17 language is through other sensory input, including, but not limited
18 to, lip reading, sign language, finger spelling, or reading;

19 (c) Hearing-impaired person means a person who is unable
20 to hear air conduction thresholds at an average of forty decibels
21 or greater in the person's better ear;

22 (d) Mobility-impaired person means a person who is unable
23 to move about without the aid of crutches, a wheelchair, or any
24 other form of support or because of limited functional ability
25 to ambulate, climb, descend, sit, rise, or perform any related

1 function;

2 ~~(d)~~ (e) Physically limited person means a person having
3 limited ambulatory abilities, including, but not limited to, having
4 a permanent impairment or condition that requires the person to use
5 a wheelchair or to walk with difficulty or insecurity to the extent
6 that the person is insecure or exposed to danger; and

7 ~~(e)~~ (f) Visually impaired person means a person having a
8 visual acuity of 20/200 or less in the person's better eye with
9 correction or having a limitation to the person's field of vision
10 so that the widest diameter of the visual field subtends an angular
11 distance not greater than twenty degrees.

12 (5) Violence on a service animal or interference with a
13 service animal is a Class III misdemeanor.

14 Sec. 10. Original sections 20-126, 20-131.01, and
15 28-1009.01, Reissue Revised Statutes of Nebraska, and sections
16 20-126.01, 20-127, 20-128, 20-129, 20-131.02, and 20-131.04,
17 Revised Statutes Cumulative Supplement, 2008, are repealed.