

3
4 **Substitute for HOUSE BILL No. 2197**

5
6 By Committee on Environment

7
8 2-21
9

10 AN ACT concerning persons with disabilities; relating to assistance dogs
11 and certain other dogs; prohibiting certain acts and providing penalties
12 for violations; amending K.S.A. 39-1101, 39-1102, 39-1103, 39-1107,
13 39-1108 and 39-1109 [and K.S.A. 2002 Supp. 21-4318] and repeal-
14 ing the existing sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. As used in this act and in K.S.A. 39-1101 through
18 39-1109, and amendments thereto:

19 (a) "Assistance dog" means any guide dog, hearing assistance dog or
20 service dog.

21 (b) "Guide dog" means a dog which has been specially selected,
22 trained and tested for the purpose of guiding a person who is legally blind.

23 (c) "Hearing assistance dog" means a dog which is specially selected,
24 trained and tested to alert or warn individuals who are deaf or hard of
25 hearing to specific sounds.

26 (d) "Professional therapy dog" means a dog which is selected, trained
27 and tested to provide specific physical or therapeutic functions, under the
28 direction and control of a qualified handler who works with the dog as a
29 team, and as a part of the handler's occupation or profession. Such dogs,
30 with their handlers, perform such functions in institutional settings, com-
31 munity based group settings, or when providing services to specific per-
32 sons who have disabilities. "Professional therapy dog" does not include
33 dogs, certified or not, which are used by volunteers for pet visitation
34 therapy.

35 (e) "Service dog" means a dog which has been specially selected,
36 trained and tested to perform a variety of tasks for persons with disabil-
37 ities. These tasks include, but are not limited to: Pulling wheelchairs,
38 lending balance support, picking up dropped objects or providing assis-
39 tance in, or to avoid, a medical crisis, or to otherwise mitigate the effects
40 of a disability.

41 (f) The presence of a dog for comfort, protection or personal defense
42 does not qualify a dog as being trained to mitigate an individual's disability
43 and therefor does not qualify the dog as an assistance dog covered under

1 the provisions of this act.

2 Sec. 2. K.S.A. 39-1101 is hereby amended to read as follows: 39-
3 1101. It is hereby declared to be the policy of this state to encourage and
4 enable the blind, the visually ~~handicapped~~ *disabled* and persons who are
5 otherwise ~~physically~~ disabled to participate fully in the social and eco-
6 nomic life of the state and to engage in remunerative employment. ~~Said~~
7 *Such* persons shall have the same right as the able-bodied to the full and
8 free use of the streets, highways, sidewalks, walkways, public buildings,
9 public facilities and other public places; and ~~said such~~ persons are entitled
10 to full and equal accommodations, advantages, facilities and privileges of:
11 (a) All common carriers, airplanes, motor vehicles, railroad trains, motor
12 buses, street cars, boats or any other public conveyances or modes of
13 transportation; (b) hotels, lodging places and places of public accommo-
14 dation, amusement or resort, including food service establishments and
15 establishments for sale of food; and (c) other places to which the general
16 public is invited, subject only to the conditions and limitations established
17 by law and applicable alike to all persons.

18 Sec. 3. K.S.A. 39-1102 is hereby amended to read as follows: 39-
19 1102. Every ~~totally or partially~~ *legally* blind person shall have the right to
20 be accompanied by a guide dog, ~~especially~~ *specially selected*, trained and
21 *tested* for the purpose, in or upon any of the places listed in K.S.A. 39-
22 1101, and amendments thereto, in the acquisition and use of rental, res-
23 idential housing and in the purchase and use of residential housing with-
24 out being required to pay an extra charge for the guide dog, except that
25 such person shall be liable for any damage done to the premises or facil-
26 ities by such dog.

27 Sec. 4. K.S.A. 39-1103 is hereby amended to read as follows: 39-
28 1103. *(a) Any person, firm, corporation, or the agent of any person, firm*
29 *or corporation, who denies or interferes with admittance to or enjoyment*
30 *of the public facilities enumerated in K.S.A. 39-1101 and 39-1102, and*
31 *amendments thereto, or otherwise interferes with the rights of a totally*
32 *or partially blind person, otherwise disabled person or trainer of a guide*
33 *dog under K.S.A. 39-1101, 39-1102, 39-1108 and 39-1110, and amend-*
34 *ments thereto, shall be the exercise of the rights recognized in K.S.A. 39-*
35 *1101, 39-1102, 39-1107, 39-1108 or 39-1109, and amendments thereto,*
36 *is guilty of a misdemeanor.*

37 *(b) (1) Any person who has received notice that such person's be-*
38 *havior is interfering with the use of an assistance dog, and who continues*
39 *with reckless disregard to interfere with the use of such dog by obstruct-*
40 *ing, intimidating or otherwise jeopardizing the safety of such dog, or the*
41 *person with a disability who is using such dog, is guilty of a misdemeanor,*
42 *except that for a second or subsequent offense such person is guilty of a*
43 *severity level 10, nonperson felony.*

1 ~~—(2) Any person who, with reckless disregard, allows such person's dog~~
2 ~~to interfere with the use of an assistance dog, by obstructing, intimidating~~
3 ~~or otherwise jeopardizing the safety of the user of such dog, or the safety~~
4 ~~of such dog, is guilty of a misdemeanor, except that for a second or sub-~~
5 ~~sequent offense, such person is guilty of a severity level 10, nonperson~~
6 ~~felony.~~

7 ~~—(3) Any person who, with reckless disregard, injures, disables or~~
8 ~~causes the death of an assistance dog is guilty of a severity level 10, non-~~
9 ~~person felony.~~

10 ~~—(4) Any person who, with reckless disregard, allows such person's dog~~
11 ~~to injure, disable or cause the death of an assistance dog is guilty of a~~
12 ~~severity level 10, nonperson felony.~~

13 ~~—(5) Any person who intentionally injures, disables or causes the death~~
14 ~~of an assistance dog is guilty of a severity level 10, nonperson felony.~~

15 ~~—(6) Any person who wrongfully obtains or exerts unauthorized control~~
16 ~~over an assistance dog with the intent to deprive the dog's user of such~~
17 ~~dog is guilty of theft and shall be subject to the felony penalties established~~
18 ~~for theft under K.S.A. 21-3701, and amendments thereto.~~

19 ~~—(c) (1) In any case in which a person is convicted of a violation of~~
20 ~~this section, such person shall also be ordered to make full restitution for~~
21 ~~all damages, including incidental and consequential expenses incurred by~~
22 ~~the user of the assistance dog, which arise out of, or are related to, the~~
23 ~~criminal offense.~~

24 ~~—(2) Restitution for a conviction under this section shall include, but~~
25 ~~is not limited to:~~

26 ~~—(A) The value of the replacement of an incapacitated or deceased as-~~
27 ~~sistance dog, the training of a replacement assistance dog, or retraining~~
28 ~~of the affected assistance dog, and all related veterinary and care expenses,~~
29 ~~and~~

30 ~~—(B) medical expenses of the assistance dog user, training of the assis-~~
31 ~~tance dog user and compensation for wages or earned income lost by the~~
32 ~~assistance dog user.~~

33 Sec. 5. K.S.A. 39-1107 is hereby amended to read as follows: 39-
34 1107. Every hearing impaired person has the right to be accompanied by
35 a hearing assistance dog, ~~especially specially selected~~, trained and tested
36 for the purpose of hearing assistance, ~~in all hotels, motels and other places~~
37 ~~of lodging and housing in or upon any of the places listed in K.S.A. 39-~~
38 ~~1101, and amendments thereto, in the acquisition and use of rental, res-~~
39 ~~idential housing and in the purchase and use of residential housing with-~~
40 ~~out being required to pay an extra charge for the hearing assistance dog.~~
41 The hearing impaired person shall be liable for any damage done to the
42 premises or facilities by such dog.

43 Sec. 6. K.S.A. 39-1108 is hereby amended to read as follows: 39-

1 1108. Every person with a ~~physical~~ disability shall have the right to be
2 accompanied by a service dog, ~~especially~~ *specially selected*, trained and
3 ~~certified~~ *tested* for the purpose which shall include, but not be limited to,
4 pulling a wheelchair, opening doors and picking up objects, in or upon
5 any of the places listed in K.S.A. 39-1101, and amendments thereto, *in*
6 *the acquisition and use of rental, residential housing and in the purchase*
7 *and use of residential housing* without being required to pay an extra
8 charge for the service dog. Such person shall be liable for any damage
9 done to the premises by such dog.

10 Sec. 7. K.S.A. 39-1109 is hereby amended to read as follows: 39-
11 1109. Any *professional* trainer, from a recognized training center, of a
12 ~~guide dog, hearing assistance dog or service~~ *an assistance* dog, while en-
13 gaged in the training of such dog, shall have the right to be accompanied
14 by such dog in or upon any of the places listed in K.S.A. 39-1101, and
15 amendments thereto, without being required to pay an extra charge for
16 such dog. Such trainer shall be liable for any damage done to the premises
17 of facilities by such dog.

18 New Sec. 8. Any qualified handler of a professional therapy dog
19 when accompanied by such dog and when using any conveyance of public
20 transportation available to all members of the general public, and when
21 renting and using accommodations in motels, hotels and other temporary
22 lodging places shall have the right to be accompanied by such dog in such
23 places. Any owner or employee of a business or retail establishment to
24 which the public is invited, including establishments which serve or sell
25 food, shall admit a professional therapy dog, accompanied by its qualified
26 handler, to the business. The qualified handler shall be liable for any
27 damage done by the dog to any such conveyance or facility.

28 New Sec. 9. (a) If a question arises as to whether an assistance dog
29 qualifies under this act to accompany a person with a disability in or upon
30 any place set forth in K.S.A. 39-1101, and amendments thereto, the per-
31 son with a disability may produce for the employee or person responsible
32 for such place an identification card or letter conforming to the require-
33 ments of this subsection. Upon production of such identification card or
34 letter, the assistance dog shall be allowed to accompany the person with
35 a disability in or upon such place.

36 (1) If the assistance dog has been trained by a training facility, school
37 or trainer, the identification card or letter shall be provided by the training
38 facility, school or trainer that trained the dog and shall contain the fol-
39 lowing information: (A) The legal name of the dog's user; (B) the name,
40 address and telephone number of the facility, school or trainer who
41 trained the dog; (C) whether the dog is designated as a guide, hearing
42 assistance or service dog; and (D) a picture or digital photographic like-
43 ness of the dog user and the dog. If a card is used, the picture or digital

1 photographic likeness shall be on the card. If a letter is used, the picture
2 or digital photographic likeness shall either be printed as a part of the
3 letter or be affixed to the letter.

4 (2) If the assistance dog has been trained by the person using the
5 dog, the identification card or letter shall contain the following informa-
6 tion: (A) The legal name of the dog's user; (B) the dog user's address; (C)
7 a statement that the dog has been trained to mitigate the dog user's
8 disability; and (D) a picture or digital photographic likeness of the dog
9 user and the dog. If a card is used, the picture or digital photographic
10 likeness shall be on the card. If a letter is used, the picture or digital
11 photographic likeness shall either be printed as a part of the letter or be
12 affixed to the letter.

13 (b) If a question arises as to whether a dog handler is qualified, or
14 whether the dog accompanying the handler is qualified as a professional
15 therapy dog, to enter in or upon the places set forth in section 8, and
16 amendments thereto, an employee or person responsible for such places
17 may request, and the qualified handler shall produce, an identification
18 card or letter, provided by the training facility, school or trainer who
19 trained the dog. Such card or letter shall contain the following informa-
20 tion: (1) The legal name of the qualified dog handler; (2) the name, ad-
21 dress and telephone number of the facility, school or trainer who trained
22 the dog; (3) information documenting that the dog is trained to provide
23 therapeutic supports; and (4) a picture or digital photographic likeness of
24 the qualified handler and the dog. If a card is used, the picture or digital
25 photographic likeness shall be on the card. If a letter is used, the picture
26 or digital photographic likeness shall either be printed as a part of the
27 letter or be affixed to the letter.

28 (c) If a question arises as to whether an individual accompanied by a
29 dog is a professional trainer, from a recognized training center, of an
30 assistance dog, in order to enter in or upon a place set forth in K.S.A. 39-
31 1101, and amendments thereto, an employee or person responsible for
32 such place may request, and the trainer shall produce, an identification
33 card provided by the recognized training center containing the following
34 information: (1) The legal name of the trainer; (2) the name of the training
35 center; (3) the address and telephone number of the training center; (4)
36 the types of functions for which dogs are trained by the center; and (5) a
37 picture or digital photographic likeness of the trainer.

38 (d) An identification card or letter produced for inspection pursuant
39 to this section shall be promptly returned to the person with a disability,
40 the qualified handler or the professional trainer after inspection.

41 New Sec. 10. It is a class A nonperson misdemeanor for any person
42 to:

43 (a) Represent that such person has the right to be accompanied by

1 an assistance dog in or upon any place listed in K.S.A. 39-1101, and
2 amendments thereto, or that such person has a right to be accompanied
3 by a professional therapy dog in or upon any place listed in section 8, and
4 amendments thereto, unless such person has the right to be accompanied
5 in or upon such place by such dog pursuant to this act; or

6 (b) represent that such person has a disability for the purpose of ac-
7 quiring an assistance dog unless such person has such disability.

8 **[Sec. 11. K.S.A. 2002 Supp. 21-4318 is hereby amended to**
9 **read as follows: 21-4318. (a) Inflicting harm, disability or death to**
10 **a police dog, arson dog, assistance dog or search and rescue dog is**
11 **knowingly and intentionally, and without lawful cause or justifi-**
12 **cation poisoning, inflicting great bodily harm, permanent disabil-**
13 **ity or death, upon a police dog, arson dog, assistance dog or search**
14 **and rescue dog.**

15 [(b) As used in this section:

16 [(1) “Arson dog” means any dog which is owned, or the service
17 of which is employed, by the state fire marshal or a fire department
18 for the principal purpose of aiding in the detection of liquid ac-
19 celerants in the investigation of fires.

20 [(2) “Assistance dog” has the meaning provided by section 1, and
21 amendments thereto.

22 [(3) “Fire department” means a public fire department under
23 the control of the governing body of a city, township, county, fire
24 district or benefit district or a private fire department operated by
25 a nonprofit corporation providing fire protection services for a
26 city, township, county, fire district or benefit district under con-
27 tract with the governing body of the city, township, county or
28 district.

29 [~~(3)~~ (4) “Police dog” means any dog which is owned, or the
30 service of which is employed, by a law enforcement agency for the
31 principal purpose of aiding in the detection of criminal activity,
32 enforcement of laws or apprehension of offenders.

33 [~~(4)~~ (5) “Search and rescue dog” means any dog which is owned
34 or the service of which is employed, by a law enforcement or emer-
35 gency response agency for the purpose of aiding in the location of
36 persons missing in disasters or other times of need.

37 [(c) Inflicting harm, disability or death to a police dog, arson
38 dog, assistance dog or search and rescue dog is a class A nonperson
39 misdemeanor.

40 [(d) This section shall be part of and supplemental to the Kan-
41 sas criminal code.]

42 Sec. ~~12.~~ [12.] K.S.A. 39-1101, 39-1102, 39-1103, 39-1107, 39-1108
43 and 39-1109 [and K.S.A. 2002 Supp. 21-4318] are hereby repealed.

1 Sec. ~~12~~ **13.** This act shall take effect and be in force from and after
2 its publication in the statute book.
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