

CHAPTER 107

GOVERNMENT - STATE

SENATE BILL 95-029

BY SENATORS Feeley, R. Powers, Casey, Gallagher, Hopper, Johnson, Mares, Martinez, Pascoe, Perlmutter, L. Powers, Thiebaut, and Weissman;
also REPRESENTATIVES Dean, Armstrong, Chavez, Friednash, Hernandez, Knox, Lamm, Lyle, and Saliman.

AN ACT

CONCERNING THE RIGHTS OF PERSONS WITH ASSISTANCE DOGS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 24-34-801 (1) (e), (1) (f), and (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are repealed.

SECTION 2. 24-34-802, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-802. Violation - penalty. Any person, firm, or corporation or the agent of any person, firm, or corporation ~~which~~ THAT denies or interferes with the rights and the admittance to or enjoyment of the public facilities enumerated in section 24-34-801 (1) (b) to ~~(+)(e)~~ (1) (d) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment.

SECTION 3. Part 8 of article 34 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-34-803. Rights of persons with assistance dogs. (1) A PERSON WITH A DISABILITY, INCLUDING BUT NOT LIMITED TO A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR OTHERWISE PHYSICALLY DISABLED PERSON, HAS THE RIGHT TO BE ACCOMPANIED BY AN ASSISTANCE DOG SPECIALLY TRAINED FOR THAT PERSON WITHOUT BEING REQUIRED TO PAY AN EXTRA CHARGE FOR THE ASSISTANCE DOG IN OR ON THE FOLLOWING PLACES AND SUBJECT TO THE CONDITIONS AND LIMITATIONS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ESTABLISHED BY LAW AND APPLICABLE ALIKE TO ALL PERSONS:

(a) PUBLIC STREETS, HIGHWAYS, WALKWAYS, PUBLIC BUILDINGS, PUBLIC FACILITIES AND SERVICES, AND OTHER PUBLIC PLACES;

(b) ANY PLACE OF PUBLIC ACCOMMODATION OR ON PUBLIC TRANSPORTATION SERVICES; AND

(c) ANY HOUSING ACCOMMODATION OFFERED FOR RENT, LEASE, OR OTHER COMPENSATION IN THE STATE.

(2) A TRAINER OF AN ASSISTANCE DOG HAS THE RIGHT TO BE ACCOMPANIED BY AN ASSISTANCE DOG THAT THE TRAINER IS IN THE PROCESS OF TRAINING WITHOUT BEING REQUIRED TO PAY AN EXTRA CHARGE FOR THE ASSISTANCE DOG IN OR ON THE FOLLOWING PLACES:

(a) PUBLIC STREETS, HIGHWAYS, WALKWAYS, PUBLIC BUILDINGS, PUBLIC FACILITIES AND SERVICES, AND OTHER PUBLIC PLACES; AND

(b) ANY PLACE OF PUBLIC ACCOMMODATION OR ON PUBLIC TRANSPORTATION SERVICES.

(3) (a) AN EMPLOYER SHALL NOT REFUSE TO PERMIT AN EMPLOYEE WITH A DISABILITY WHO IS ACCOMPANIED BY AN ASSISTANCE DOG TO KEEP THE EMPLOYEE'S ASSISTANCE DOG WITH THE EMPLOYEE AT ALL TIMES IN THE PLACE OF EMPLOYMENT. AN EMPLOYER SHALL NOT FAIL OR REFUSE TO HIRE OR DISCHARGE ANY PERSON WITH A DISABILITY, OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON WITH A DISABILITY, WITH RESPECT TO COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT BECAUSE THAT PERSON WITH A DISABILITY IS ACCOMPANIED BY AN ASSISTANCE DOG SPECIALLY TRAINED FOR THAT PERSON.

(b) AN EMPLOYER SHALL MAKE REASONABLE ACCOMMODATION TO MAKE THE WORKPLACE ACCESSIBLE FOR AN OTHERWISE QUALIFIED PERSON WITH A DISABILITY WHO IS AN APPLICANT OR EMPLOYEE AND WHO IS ACCOMPANIED BY AN ASSISTANCE DOG SPECIALLY TRAINED FOR THAT PERSON UNLESS THE EMPLOYER CAN SHOW THAT THE ACCOMMODATION WOULD IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYER'S BUSINESS. FOR PURPOSES OF THIS PARAGRAPH (b), "UNDUE HARDSHIP" MEANS AN ACTION REQUIRING SIGNIFICANT DIFFICULTY OR EXPENSE.

(4) THE OWNER OR THE PERSON HAVING CONTROL OR CUSTODY OF AN ASSISTANCE DOG OR AN ASSISTANCE DOG IN TRAINING IS LIABLE FOR ANY DAMAGE TO PERSONS, PREMISES, OR FACILITIES, INCLUDING PLACES OF HOUSING ACCOMMODATION AND PLACES OF EMPLOYMENT, CAUSED BY THAT PERSON'S ASSISTANCE DOG OR ASSISTANCE DOG IN TRAINING. THE PERSON HAVING CONTROL OR CUSTODY OF AN ASSISTANCE DOG OR AN ASSISTANCE DOG IN TRAINING SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 18-9-204.5, C.R.S.

(5) A PERSON WITH A DISABILITY IS EXEMPT FROM ANY STATE OR LOCAL LICENSING FEES OR CHARGES THAT MIGHT OTHERWISE APPLY IN CONNECTION WITH OWNING AN ASSISTANCE DOG.

(6) THE MERE PRESENCE OF AN ASSISTANCE DOG IN A PLACE OF PUBLIC ACCOMMODATION SHALL NOT BE GROUNDS FOR ANY VIOLATION OF A SANITARY STANDARD, RULE, OR REGULATION PROMULGATED PURSUANT TO SECTION 25-4-1604, C.R.S.

(7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ASSISTANCE DOG" MEANS A DOG THAT HAS BEEN OR IS BEING TRAINED AS A GUIDE DOG, HEARING DOG, OR SERVICE DOG. SUCH TERMS ARE FURTHER DEFINED AS FOLLOWS:

(I) "GUIDE DOG" MEANS A DOG THAT HAS BEEN OR IS BEING SPECIALLY TRAINED TO AID A PARTICULAR BLIND OR VISUALLY IMPAIRED PERSON.

(II) "HEARING DOG" MEANS A DOG THAT HAS BEEN OR IS BEING SPECIALLY TRAINED TO AID A PARTICULAR DEAF OR HEARING IMPAIRED PERSON.

(III) "SERVICE DOG" MEANS A DOG THAT HAS BEEN OR IS BEING SPECIALLY TRAINED TO AID A PARTICULAR PHYSICALLY DISABLED PERSON WITH A PHYSICAL DISABILITY OTHER THAN SIGHT OR HEARING IMPAIRMENT.

(b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12102 (2), AS AMENDED.

(c) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12111 (5), AS AMENDED.

(d) "HOUSING ACCOMMODATIONS" MEANS ANY REAL PROPERTY OR PORTION THEREOF THAT IS USED OR OCCUPIED, OR INTENDED, ARRANGED, OR DESIGNED TO BE USED OR OCCUPIED, AS THE HOME, RESIDENCE, OR SLEEPING PLACE OF ONE OR MORE PERSONS BUT DOES NOT INCLUDE ANY SINGLE FAMILY RESIDENCE, THE OCCUPANTS OF WHICH RENT, LEASE, OR FURNISH FOR COMPENSATION NOT MORE THAN ONE ROOM IN THAT RESIDENCE.

(e) "PLACES OF PUBLIC ACCOMMODATION" MEANS THE FOLLOWING CATEGORIES OF PRIVATE ENTITIES:

(I) INNS, HOTELS, MOTELS, OR OTHER PLACES OF LODGING, EXCEPT ESTABLISHMENTS LOCATED WITHIN BUILDINGS ACTUALLY OCCUPIED BY THE PROPRIETOR AS THE PROPRIETOR'S RESIDENCE CONTAINING FIVE OR FEWER ROOMS FOR RENT OR HIRE;

(II) RESTAURANTS, BARS, CAFETERIAS, LUNCHROOMS, LUNCH COUNTERS, SODA FOUNTAINS, CASINOS, OR OTHER ESTABLISHMENTS SERVING FOOD OR DRINK, INCLUDING ANY SUCH FACILITY LOCATED ON THE PREMISES OF ANY RETAIL ESTABLISHMENT;

(III) GASOLINE STATIONS OR GARAGES;

(IV) MOTION PICTURE THEATERS, THEATERS, BILLIARD OR POOL HALLS, CONCERT HALLS, STADIUMS, SPORTS ARENAS, AMUSEMENT OR RECREATION PARKS, OR OTHER PLACES OF EXHIBITION OR ENTERTAINMENT;

(V) AUDITORIUMS, CONVENTION CENTERS, LECTURE HALLS, OR OTHER PLACES OF PUBLIC GATHERING;

(VI) BAKERIES, GROCERY STORES, CLOTHING STORES, HARDWARE STORES, SHOPPING CENTERS, OR OTHER SALES OR RETAIL ESTABLISHMENTS;

(VII) LAUNDROMATS, DRY CLEANERS, BANKS, BARBER SHOPS, BEAUTY SHOPS, TRAVEL SERVICES, SHOE REPAIR SERVICES, FUNERAL PARLORS, OFFICES OF ACCOUNTANTS OR ATTORNEYS-AT-LAW, PHARMACIES, INSURANCE OFFICES, PROFESSIONAL OFFICES OF HEALTH CARE PROVIDERS, HOSPITALS, OR OTHER SERVICE ESTABLISHMENTS;

(VIII) TERMINALS, DEPOTS, OR OTHER STATIONS USED FOR SPECIFIED PURPOSES;

(IX) MUSEUMS, LIBRARIES, GALLERIES, OR OTHER PLACES OF PUBLIC DISPLAY OR COLLECTION;

(X) PARKS, ZOOS, OR OTHER PLACES OF RECREATION;

(XI) NURSERY, ELEMENTARY, SECONDARY, UNDERGRADUATE, OR GRADUATE SCHOOLS OR OTHER PLACES OF EDUCATION;

(XII) DAY CARE CENTERS, SENIOR CITIZEN CENTERS, HOMELESS SHELTERS, FOOD BANKS, ADOPTION AGENCIES, OR OTHER SOCIAL SERVICE CENTER ESTABLISHMENTS;

(XIII) GYMNASIUMS, HEALTH SPAS, BOWLING ALLEYS, GOLF COURSES, OR OTHER PLACES OF EXERCISE OR RECREATION;

(XIV) ANY OTHER ESTABLISHMENT OR PLACE TO WHICH THE PUBLIC IS INVITED;
OR

(XV) ANY ESTABLISHMENT PHYSICALLY CONTAINING OR CONTAINED WITHIN ANY OF THE ESTABLISHMENTS DESCRIBED IN THIS PARAGRAPH (e) THAT HOLDS ITSELF OUT AS SERVING PATRONS OF THE DESCRIBED ESTABLISHMENT.

(f) "PUBLIC TRANSPORTATION SERVICES" MEANS COMMON CARRIERS OF PASSENGERS OR ANY OTHER MEANS OF PUBLIC CONVEYANCE OR MODES OF TRANSPORTATION, INCLUDING BUT NOT LIMITED TO AIRPLANES, MOTOR VEHICLES, RAILROAD TRAINS, MOTOR BUSES, STREETCARS, BOATS, OR TAXIS.

(g) "TRAINER OF AN ASSISTANCE DOG" MEANS A PERSON WHO IS QUALIFIED TO TRAIN DOGS TO SERVE AS ASSISTANCE DOGS.

24-34-804. Violations - penalties. (1) IT IS UNLAWFUL FOR ANY PERSON, FIRM, CORPORATION, OR AGENT OF ANY PERSON, FIRM, OR CORPORATION TO:

(a) WITHHOLD, DENY, DEPRIVE, OR ATTEMPT TO WITHHOLD, DENY, OR DEPRIVE

ANY PERSON WITH A DISABILITY OR TRAINER OF ANY OF THE RIGHTS OR PRIVILEGES SECURED IN SECTION 24-34-803;

(b) THREATEN TO INTERFERE WITH ANY OF THE RIGHTS OF PERSONS WITH DISABILITIES OR TRAINERS SECURED IN SECTION 24-34-803;

(c) PUNISH OR ATTEMPT TO PUNISH ANY PERSON WITH A DISABILITY OR TRAINER FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT OR PRIVILEGE SECURED BY SECTION 24-34-803; OR

(d) INTERFERE WITH, INJURE, OR HARM, OR CAUSE ANOTHER DOG TO INTERFERE WITH, INJURE, OR HARM, AN ASSISTANCE DOG.

(2) ANY PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) (a) ANY PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION SHALL BE LIABLE TO THE PERSON WITH A DISABILITY OR TRAINER WHOSE RIGHTS WERE AFFECTED FOR ACTUAL DAMAGES FOR ECONOMIC LOSS, TO BE RECOVERED IN A CIVIL ACTION IN A COURT IN THE COUNTY WHERE THE INFRINGEMENT OF RIGHTS OCCURRED OR WHERE THE DEFENDANT RESIDES.

(b) IN ANY ACTION COMMENCED PURSUANT TO THIS SUBSECTION (3), A COURT MAY AWARD COSTS AND REASONABLE ATTORNEY FEES.

(4) NOTHING IN THIS SECTION IS INTENDED TO INTERFERE WITH REMEDIES OR RELIEF THAT ANY PERSON MIGHT BE ENTITLED TO PURSUANT TO PARTS 3 TO 7 OF THIS ARTICLE.

SECTION 4. 18-13-107 (3) and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-13-107. Interference with persons with disabilities. (3) No person shall beat, harass, intimidate, entice, distract, or otherwise interfere with any dog on a blaze orange leash or accompanying a person carrying a white or white tipped with red or metallic colored cane or walking stick or any ASSISTANCE dog, AS DEFINED IN SECTION 24-34-803 (7), C.R.S., accompanying a person when ~~such~~ THAT dog is being controlled by or wearing a harness normally used for dogs accompanying or leading persons with disabilities.

(4) Violation of the provisions of subsection (1) ~~or (3)~~ of this section is a class 1 petty offense. VIOLATION OF THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION IS A CLASS 3 MISDEMEANOR.

SECTION 5. 42-4-808 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-4-808. Drivers and pedestrians, other than persons in wheelchairs, to yield to persons with disabilities. (1) Any pedestrian, other than a person in a wheelchair, or any driver of a vehicle who approaches a person who has an obviously

apparent disability of blindness, deafness, or mobility impairment shall immediately come to a full stop and take such precautions before proceeding as are necessary to avoid an accident or injury to said person. A disability shall be deemed to be obviously apparent if, by way of example and without limitation, the person is using a cane or crutches, is assisted by ~~a guide dog, service dog, or hearing dog~~ AN ASSISTANCE DOG, AS DEFINED IN SECTION 24-34-803 (7), C.R.S., is being assisted by another person, is in a wheelchair, or is walking with an obvious physical impairment. Any person who violates any provision of this section commits a class A traffic offense.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, the

Approved: April 21, 1995

Editor's note: Since this act does not contain a Safety Clause, it is subject to the referendum provisions of section 1 (3) of article V of the state constitution. See section 6 of this act for the effective date.