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M E M O R A N D U M

March 10, 2016

TO: Interested Persons

FROM: Conrad Imel, Research Analyst, 303-866-2759

SUBJECT: Fraudulent Use of Pets as Service Animals

Summary

This memorandum provides information regarding state laws penalizing those who misrepresent pets or other animals as service animals. Nine states have laws prohibiting the misrepresentation of pets, and nine states have laws prohibiting people from misrepresenting themselves as disabled in order to gain the use of service animals. Colorado prohibits impersonating an individual with disabilities, without specifying the use of a service animal.

Overview

Under the federal Americans with Disabilities Act of 1990 (ADA),¹ a service animal is any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability, regardless of whether it has been licensed or certified by a state or local government. Service animals are not considered pets.² The ADA definition is incorporated into Colorado law by Section 24-34-301 (5.6), C.R.S.³ Under the ADA, state and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed.⁴

¹42 U.S.C. §§ 12101 *et seq.*

²42 U.S.C. § 12131. U.S Dept. of Justice, Disability Rights Section, *Commonly Asked Questions About Service Animals in Places of Business*, www.ada.gov/qasrvc.htm.

³Colorado law defines service animals differently as it relates to animal cruelty. Section 18-1.3-602, C.R.S.

⁴U.S. Dept. of Justice, Disability Rights Section, *Service Animals*, www.ada.gov/service_animals_2010.htm.

Colorado Law

Under Colorado law, an individual with disabilities or a trainer of a service animal has the right to be accompanied by a service animal without being required to pay an extra charge:

- in any place of employment, housing, or public accommodation;
- during any programs, services, or activities conducted by a public entity;
- for any public transportation service; or
- at any other place open to the public.

Additionally, an employer must allow an employee with a disability to keep the employee's service animal with the employee at all times in the place of employment. An employer is prohibited from discriminating against an individual in hiring, or in respect to compensation, terms, conditions, or privileges of employment, because that individual with a disability is accompanied by a service animal. Finally, an individual with a disability who owns a service animal is exempt from any state or local licensing fees or charges that might otherwise apply in connection with owning a similar animal.⁵

Interfering with, or threatening to interfere with, the rights or privileges described above; punishing a person attempting to exercise such rights or privileges; or interfering with, injuring, or harming a service animal, or causing another dog to do the same, is a class 3 misdemeanor, punishable by up to six months in prison, a \$750 fine, or both.⁶ Colorado law also specifies civil penalties for certain discriminatory practices relating to individuals with disabilities, including an award of attorney's fees for the prevailing party in some situations.⁷

Colorado law does not specifically prohibit people from misrepresenting pets as service animals, but does prohibit a person from impersonating an individual with a disability. Falsey impersonating an individual with a disability is a class 1 petty offense, punishable by up to six months in prison, a \$500 fine, or both.⁸

Misrepresentation Laws in Other States

According to the Animal Legal & Historical Center at the Michigan State University College of Law, 17 states have laws making it a crime to fraudulently represent that a person has the right to be accompanied by a service animal. Nine states prohibit misrepresenting a pet as a service animal, and nine states criminalize misrepresenting a person as an individual with a disability explicitly to use a service animal or other benefits.⁹

Misrepresenting a pet. Nine states criminalize misrepresenting a pet as a service animal, which is generally a misdemeanor offense. Table 1 provides information from each state prohibiting such behavior.

⁵Section 24-34-803, C.R.S. Additional provisions relating to service animals, including liability and health rules, are also included in Section 24-34-803, C.R.S. Additional laws relating to individuals with disabilities, including those with service animals, may be found in Sections 18-13-107 and 42-4-808, C.R.S.

⁶Sections 24-34-804 and 18-1.3-501, C.R.S.

⁷Section 24-34-802, C.R.S.

⁸Sections 18-13-107 and 18-1.3-503, C.R.S.

⁹Nevada criminalizes both misrepresenting a pet as a service animal and impersonating an individual with a disability to use a service animal.

Table 1
State Laws Regarding Misrepresentation of a Pet as a Service Animal

State	Citation	Provisions	Penalty
Maine	Me. Rev. Stat. Ann. tit. 17 § 1314-A.	A person may not fit a dog with a harness, collar, vest, or sign of the type commonly used by blind/disabled persons in order to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of "service dog."	Civil violation punishable by a fine of not more than \$500.
Nevada	Nev. Rev. Stat. § 426.805.	A person may not fraudulently misrepresent an animal as a service animal or service animal in training.	Misdemeanor punishable by a fine of not more than \$500.
New Hampshire	N.H. Rev. Stat. Ann. § 167-D:8.	A person may not fit an animal with a collar, leash, vest, sign, or harness of the type which represents that the animal is a service animal or service animal tag or to request a service animal tag if said animal is not a service animal.	An unclassified misdemeanor, punishable by a maximum \$1,200 fine.*
New Jersey	N.J. Rev. Stat. § 10:5-29.5.	A person may not fit a dog with a harness of the type commonly used by blind persons to represent that such dog is a guide dog when it is not trained as a guide dog.	A fine between \$100 and \$500.
New Mexico	N.M. Stat. § 28-11-6.	A person may not knowingly present as a qualified service animal any animal that does not meet a definition of "qualified service animal."	Misdemeanor punishable by up to one year in county jail, a maximum \$1,000 fine, or both.
New York	N.Y. Agriculture and Markets Law § 7-118(1)(c).	A person may not knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs, or purebred license tag.	First offense is punishable by a minimum \$25 fine, increasing for subsequent offenses within five years; or similar civil penalties.
North Carolina	N.C. Gen. Stat. § 168-4.5.	It is unlawful to disguise a dog as an assistance dog or an assistance dog in training.	Class 3 misdemeanor punishable by one to ten days imprisonment, a maximum \$200 fine, or both, increasing for subsequent offenses.
Texas	Tex. Human Resources Code § 121.006.	A person may not use an assistance animal with a harness or leash of the type commonly used by persons with disabilities to represent that his or her animal is a specially trained service animal when the animal is not trained as such.	Misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service.
Utah	Utah Code § 62A-5b-106.	A person may not intentionally and knowingly falsely represent that an animal is a service animal, or knowingly and intentionally misrepresent a material fact to a health care provider for the purpose of obtaining documentation necessary to designate an animal as a service animal.	Class B misdemeanor punishable by imprisonment not exceeding six months, by a fine not exceeding \$1,000, or both.**

Sources: *Animal Legal & Historical Center at the Michigan State University College of Law, Legislative Council Staff.*

*Classifications in N.H. Rev. Stat. Ann. § 625:9; punishments in N.H. Rev. Stat. Ann. § 651:2.

**Utah Code §§ 76-3-204 and 76-3-301.

Misrepresenting a person. Nine states prohibit persons from impersonating an individual with a disability in order to use a service animal. California, Florida, Idaho, Kansas, Michigan, Missouri, Nebraska, Nevada, and Washington criminalize such impersonation. Generally, violation of these statutes is a misdemeanor or other minor offense, punishable by imprisonment or a fine, or both.