



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1601

H.P. 1092

House of Representatives, February 23, 2016

**An Act To Implement the Recommendations of the Task Force To
Ensure Integrity in the Use of Service Animals**

Reported by Representative HICKMAN of Winthrop for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 2015, chapter 36, section 3.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §4553, sub-§1-H** is enacted to read:

3 **1-H. Assistance animal.** "Assistance animal" means, for the purposes of subchapter
4 4:

5 A. An animal that has been determined necessary to mitigate the effects of a physical
6 or mental disability by a physician, psychologist, physician assistant, nurse
7 practitioner or licensed social worker; or

8 B. An animal individually trained to do work or perform tasks for the benefit of an
9 individual with a physical or mental disability, including, but not limited to, guiding
10 individuals with impaired vision, alerting individuals who are deaf or hard of hearing
11 to intruders or sounds, providing reasonable protection or rescue work, pulling a
12 wheelchair or retrieving dropped items.

13 **Sec. 2. 5 MRSA §4553, sub-§9-E, ¶A,** as enacted by PL 2011, c. 369, §2, is
14 repealed.

15 **Sec. 3. 5 MRSA §4582-A, sub-§3,** as amended by PL 2011, c. 613, §13 and
16 affected by §29, is further amended to read:

17 **3. Assistance animals.** For any owner, lessor, sublessor, managing agent or other
18 person having the right to sell, rent, lease or manage a housing accommodation or any of
19 their agents to refuse to permit the use of ~~a service~~ an assistance animal or otherwise
20 discriminate against an individual with a physical or mental disability who uses ~~a service~~
21 an assistance animal at the housing accommodation unless it is shown by defense that the
22 ~~service~~ assistance animal poses a direct threat to the health or safety of others or the use
23 of the ~~service~~ assistance animal would result in substantial physical damage to the
24 property of others or would substantially interfere with the reasonable enjoyment of the
25 housing accommodation by others. The use of ~~a service~~ an assistance animal may not be
26 conditioned on the payment of a fee or security deposit, although the individual with a
27 physical or mental disability is liable for any damage done to the premises or facilities by
28 such ~~a service~~ an assistance animal.

29 **Sec. 4. 5 MRSA §4592, sub-§8,** as enacted by PL 2007, c. 664, §7, is amended to
30 read:

31 **8. Service animals.** For any public accommodation or any person who is the owner,
32 lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any
33 place of public accommodation to refuse to permit the use of a service animal or
34 otherwise discriminate against an individual with a physical or mental disability who uses
35 a service animal at the public accommodation unless it is shown by defense that the
36 service animal poses a direct threat to the health or safety of others or the use of the
37 service animal would result in substantial physical damage to the property of others or
38 would substantially interfere with the reasonable enjoyment of the public accommodation
39 by others. The use of a service animal may not be conditioned on the payment of a fee or
40 security deposit, although the individual with a physical or mental disability is liable for

1 any damage done to the premises or facilities by such a service animal. This subsection
2 does not apply to an assistance animal as defined in section 4553, subsection 1-H unless
3 the assistance animal also qualifies as a service animal.

4 **Sec. 5. 7 MRSA §3907, sub-§24-A**, as amended by PL 2011, c. 369, §3, is
5 further amended to read:

6 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service
7 animal" set forth in Title 5, section 4553, subsection 9-E, ~~paragraph A or B~~ or "assistance
8 animal" set forth in Title 5, section 4553, subsection 1-H.

9 **Sec. 6. 7 MRSA §3961-A**, as amended by PL 2011, c. 369, §4, is further amended
10 to read:

11 **§3961-A. Attack on service animal or assistance animal**

12 A person who owns or keeps a dog that attacks, injures or kills a service animal or
13 assistance animal while the service animal or assistance animal is in discharge of its
14 duties commits a civil violation for which a forfeiture of not more than \$1,000 may be
15 adjudged.

16 When a person is adjudicated of a violation of this section, the court shall order the
17 person to make restitution to the owner of the service animal or assistance animal for any
18 veterinary bills and necessary retraining costs or replacement costs of the service animal
19 or assistance animal if it is disabled or killed.

20 For the purposes of this section, "service animal" has the same meaning as set forth in
21 Title 5, section 4553, subsection 9-E, ~~paragraph A or B~~. For the purposes of this section,
22 "assistance animal" has the same meaning as set forth in Title 5, section 4553, subsection
23 1-H.

24 **Sec. 7. 17 MRSA §1011, sub-§24-A**, as amended by PL 2011, c. 369, §5, is
25 further amended to read:

26 **24-A. Service dog.** "Service dog" means a dog that meets the definition of "service
27 animal" set forth in Title 5, section 4553, subsection 9-E, ~~paragraph A or B~~ or "assistance
28 animal" set forth in Title 5, section 4553, subsection 1-H.

29 **Sec. 8. 17 MRSA §1312, sub-§7**, as amended by PL 2011, c. 369, §6, is further
30 amended to read:

31 **7. Service dog; definition.** As used in this section, "service dog" means a dog that
32 meets the definition of "service animal" in Title 5, section 4553, subsection 9-E;
33 ~~paragraph B~~.

34 **Sec. 9. 17 MRSA §1314-A**, as amended by PL 2011, c. 369, §8, is repealed and
35 the following enacted in its place:

1 **§1314-A. Misrepresentation as service dog or assistance animal**

2 A person who knowingly misrepresents as a service dog or an assistance animal any
3 dog that does not meet the definition of "service dog" pursuant to section 1312,
4 subsection 7 or "assistance animal," as defined in Title 5, section 4553, subsection 1-H,
5 commits a civil violation. Misrepresentation as a service dog or an assistance animal
6 includes, but is not limited to:

7 **1. False documents.** Knowingly creating documents that falsely represent that a dog
8 is a service dog or an assistance animal;

9 **2. Providing false documents.** Knowingly providing to another person documents
10 falsely stating that a dog is a service dog or an assistance animal;

11 **3. Harness, collar, vest or sign.** Knowingly fitting a dog, when the dog is not a
12 service dog, with a harness, collar, vest or sign of the type commonly used by a person
13 with a disability to indicate a dog is a service dog; or

14 **4. Falsely representing dog as service dog.** Knowingly representing that a dog is a
15 service dog, when the dog has not completed training to perform disability-related tasks
16 or do disability-related work for a person with a disability.

17 For a civil violation under this section a fine of not more than \$1,000 may be
18 adjudged.

19 **SUMMARY**

20 This bill implements the recommendations of the task force to ensure integrity in the
21 use of service animals established pursuant to Resolve 2015, chapter 36.

22 The committee has not taken a position on the substance of the recommendations or
23 this bill and by reporting this bill out the committee is not suggesting and does not intend
24 to suggest that it agrees or disagrees with any aspect of the task force's recommendations
25 or this bill. The committee is reporting the bill out for the sole purpose of turning the task
26 force's proposal into a printed bill that can be referred to the committee for an appropriate
27 public hearing and subsequent processing in the normal course. The committee is taking
28 this action to ensure clarity and transparency in the legislative review of the task force's
29 proposal.

30 The bill creates a definition for "assistance animal," which distinguishes assistance
31 animals from service animals, and amends the definition of "service animal" to achieve
32 this distinction. It amends the provisions in the Maine Human Rights Act related to fair
33 housing and public accommodations to provide clarity regarding their application to
34 service animals compared to assistance animals. It also amends provisions in the Maine
35 Revised Statutes, Title 7 to align with the new definitions. Finally, it increases the
36 penalty for misrepresentation as a service dog or assistance animal.