



## SERVICE DOGS AND THE LAW

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### AMERICANS WITH DISABILITIES ACT

The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability. Under the ADA, businesses, state and local governments, 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 to go.

### QUESTIONS

Does Connecticut law or the federal Americans with Disabilities Act (ADA) require proof that a dog is being used to help a person with disabilities to be afforded the protections allowed service dogs and their owners? Is there any Connecticut law on falsely claiming that an animal is a service dog? Do other states have such laws? Has there been any Connecticut legislation on registering service dogs?

This report addresses only the ADA and not other federal laws, notably the Fair Housing Act, that have provisions regarding the use of service dogs.

### SUMMARY

Connecticut law requires public accommodations to permit people who are blind, deaf, or mobility impaired to use service dogs to help them. The ADA has similar provisions but covers a wider range of disabilities, including mental and psychiatric disabilities.

Connecticut law does not require a person using a service dog to prove that the dog is being used to help with disabilities in order to be afforded the protections allowed to people using service dogs. Like other dogs, the service dog must be licensed and have a tag. If the dog has not been previously licensed, the owner must present documentation that the dog has been appropriately trained as a service dog to get a license. The ADA likewise does not require such proof and its implementing regulations limit the types of questions that people working in the private and public facilities it covers can ask about the dog or its owner.

There is no Connecticut law on falsely claiming that a dog is a service dog. California, Idaho, Kansas, Maine, Michigan, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Texas, Utah, and Washington have such laws. In most cases, the offense is a misdemeanor. In some cases, these laws appear to conflict with the ADA, for example by limiting the use of service dogs to people with physical disabilities. To the extent there is a conflict, it would appear that the ADA would supersede the state law.

We have found no Connecticut legislation on establishing a service dog registry.

## **PROTECTIONS FOR SERVICE DOGS**

### ***Connecticut***

Connecticut law has two provisions ([CGS §§ 46a-44](#) and [46a-64](#)) protecting people with specified disabilities who use guide or assistance dogs to help them, as well as people who train dogs for these purposes. (Generally, in Connecticut law, guide dogs help blind people, while assistance dogs help deaf or mobility-impaired people.)

[CGS § 46a-44](#) entitles any blind, deaf, or mobility-impaired person using, or any person training, a guide or assistance dog to:

1. enter any public building or place of public accommodation that caters or offers its services or facilities or goods to the general public (e.g., a restaurant or hotel);
2. keep the dog with him or her at all times at no extra charge;
3. travel on a train or on any other mode of public transportation; and
4. visit, with his or her dog, (a) any place of public accommodation or (b) a dwelling as a guest of a lawful occupant.

[CGS § 46a-64](#) prohibits public accommodations from denying full and equal access to any blind, deaf, or mobility-impaired person or any person training a guide or assistance dog, accompanied by his or her dog. The facility must post a sign saying that anyone with these disabilities may enter with a dog wearing a harness or an orange-colored leash and collar. The person with disabilities or who is training the dog is liable for any damage the dog does to the premises or facilities.

To be covered by these provisions, a person training the dog must be employed and authorized to engage in training activities by a guide or assistance dog organization that complies with criteria for membership in a professional association of guide dog

or assistance dog schools. The trainer also must carry photographic identification indicating this employment and authorization.

For both provisions, the dog must (1) be in the direct custody of the person with disabilities or the trainer and (2) wear a harness or an orange-colored leash and collar. [CGS § 46a-44](#) additionally covers a person who volunteers for such organizations that authorizes volunteers to raise such dogs and appropriately identifies the dog with:

1. tags,
2. ear tattoos,
3. identifying bandanas (on puppies),
4. identifying coats (on adult dogs), or
5. leashes and collars.

## **ADA**

The ADA prohibits discrimination against, and ensures equal opportunity for, persons with disabilities in public accommodations, commercial facilities, transportation, and state and local government services. Under the act, a person with a disability is someone who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a history or record of such an impairment, or (3) is perceived by others as having such an impairment. Public accommodations are businesses that are generally open to the public, such as stores, restaurants, theaters, schools, and day care and recreation facilities.

U.S. Department of Justice regulations implementing the ADA require public accommodations to modify their policies, practices, or procedures to permit an individual with a disability to use a service animal (28 CFR § 36.302(c)(1)). The regulations define a service animal as a dog that is individually trained to do work or perform tasks for people with disabilities (28 CFR § 35.104, 28 CFR § 36.104). The disability can be physical, sensory, psychiatric, intellectual, or mental. In addition to guiding people who are blind, service animals can alert a person who is deaf, pull a wheelchair, alert and protect a person who is having a seizure, remind a person with mental illness to take prescribed medications, calm a person with Post Traumatic Stress Disorder during an anxiety attack, or perform other duties. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

Under the ADA, service dogs must be harnessed, leashed, or tethered, unless these devices interfere with the dog's work or the individual's disability prevents using

these devices. A person with a disability cannot be asked to remove his or her service dog from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken.

## **PROVING THAT A DOG IS BEING USED TO HELP PEOPLE WITH DISABILITIES**

### ***Connecticut Law***

Connecticut law does not require proof that a dog is being used to help a person with disabilities in order for it and its owner to be afforded the protections allowed under the law. However, [CGS § 22-345](#) requires a blind or deaf person or person with mobility impairments who owns or keeps a guide dog to obtain a dog license and tag from the town clerk where the dog is owned or kept. If the clerk has not previously licensed the dog, the owner must present written evidence that the dog is trained and educated and intended in fact to perform guide service for the owner. Any person who has a dog placed with him or her temporarily by a nonprofit organization that trains or educates guide dogs must obtain a dog license and tag from the town clerk where the dog is owned. The person who temporarily cares for the dog must present written evidence that the organization placed the dog with him or her.

### ***Federal Law***

Under the ADA regulations, staff at facilities subject to the ADA can ask only two questions: (1) is the dog a service animal required because of a disability and (2) what work or task has the dog been trained to perform? Staff cannot ask about the person's disability, require medical documentation, or ask that the dog demonstrate its ability to perform the work or task. Nor can they require documentation, such as proof that the dog has been certified, trained, or licensed as a service dog (28 CFR § 35.136, 28 CFR § 36.302). With regard to facilities covered by the ADA, it appears that, under the Supremacy Clause of the U.S. Constitution, these provisions would supersede state laws requiring dog owners to provide such documentation.

Further information on the ADA regulations is available at [http://www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm).

## **MAKING FALSE CLAIMS**

There is no Connecticut law on making claims that an animal is a service dog, but 14 other states have such laws.

## **California**

Anyone who knowingly and fraudulently represents himself or herself, through verbal or written notice, to be the owner or trainer of dog licensed as, to be qualified as, or identified as, a guide, signal, or service dog is guilty of a misdemeanor punishable by imprisonment in the county jail for up to six months, by a fine of up to \$1,000, or both ([Cal. Penal Code § 365.7](#)).

## **Idaho**

Any person who does not have a disability or is not being trained to assist disabled persons who uses an assistance dog in an attempt to gain treatment or benefits as a disabled person is guilty of a misdemeanor ([Idaho Code § 18-5811A](#)).

## **Kansas**

It is a class A misdemeanor for any person to represent that he or she (1) has the right to be accompanied by an assistance or therapy dog or (2) has a disability for the purpose of acquiring an assistance dog unless he or she has a disability ([Kan. Stat. Ann. § 39-1112](#)).

## **Maine**

A person who fits a dog with a harness, collar, vest, or sign of the type commonly used by blind or disabled persons to represent that the dog is a service dog when the dog (1) has not received the type of training that guide dogs normally receive or (2) does not meet the definition of "service dog" can be fined up to \$500 ([17 Me. Rev. Stat. Ann. § 1314-A](#)).

## **Michigan**

A person who is not deaf, audibly impaired, or otherwise physically limited may not use or possess a dog that is wearing a blaze orange leash and collar or harness in any public place. Violation is a misdemeanor, punishable by a fine of not more than \$10 ([Mich. Code § 752.61 - 63](#)).

## **Missouri**

Any person who knowingly impersonates a person with a disability for the purpose of receiving the accommodations regarding service dogs under the ADA is guilty of a class C misdemeanor and is also civilly liable for the amount of any actual

damages resulting from the impersonation. Any second or subsequent violation of this section is a class B misdemeanor ([V. A. M. S. § 209.204](#)).

### ***Nebraska***

The use of a guide dog by someone who is not blind is a Class III misdemeanor ([Neb. Rev. St. § 28-1313](#)).

### ***Nevada***

Any person who is not blind or deaf, or has no other type of physical disability who uses a service animal is guilty of a misdemeanor ([Nev. Rev. Stat. § 426.510](#)). In addition, it is a misdemeanor punishable by a fine of up to \$500 for a person to fraudulently misrepresent an animal as a service animal or service animal-in-training ([Nev. Rev. Stat. § 426.805](#)).

### ***New Hampshire***

It is unlawful for any person to fit an animal with a (1) collar, leash, or harness of the type which represents that the animal is a service animal or (2) service animal tag if in fact the animal is not and to thus use it to misrepresent the person's physical status ([N.H. Rev. Stat. § 167-D:8](#)). Violation of these provisions is a misdemeanor ([N.H. Rev. Stat. § 167-D:10](#)).

### ***New Jersey***

Anyone who fits a dog with a harness of the type commonly used by blind persons to represent that their dog is a guide dog when in fact it is not trained as a guide dog is subject to a \$100 to \$500 fine ([N.J. Stat. Ann. §10:5-29.5](#)).

### ***New Mexico***

New Mexico passed legislation in 2013 making it a misdemeanor to knowingly falsely claim that a dog is a "qualified service dog." A qualified service dog is one that has been trained or is being trained to work or perform tasks to benefit an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities. The definition excludes emotional support, comfort, and therapy dogs, which do not work or perform tasks for an individual with a disability and does not accompany the individual at all times ([N.M. Stat § 28-11-6](#)).

## ***New York***

It is a violation for anyone to knowingly affix to any dog any false or improper special tag for identifying guide, service, or hearing dogs. A first offense is punishable by a fine of not less than \$25. A second offense within five years is punishable by a fine of not less than \$50 and a third offense within five years is punishable by a fine of not less than \$100, imprisonment for not more than 15 days, or both ([N.Y. Agric. & Mkts. Law § 118](#)).

## ***North Carolina***

It is a class 3 misdemeanor to disguise a dog as an assistance dog ([N.C. Gen. Stat. § 168-4.5](#)).

## ***Texas***

A person who uses an assistance animal with the type of harness or leash commonly used by persons with disabilities to represent that his or her animal is a specially trained assistance animal when not trained as such is guilty of a misdemeanor punishable by a fine of up to \$200 ([Tex. Human Resources Code § 121.006](#)).

## ***Utah***

A person is guilty of a class B misdemeanor if he or she intentionally and knowingly (1) falsely represents to another person that an animal is a service animal or (2) misrepresents a material fact to a health care provider to obtain the documentation from the provider required to designate an animal as a service animal ([Utah Code Ann. 1953 § 62A-5b-106](#)).

## ***Washington***

It is a misdemeanor for any pedestrian who is not totally or partially blind, hearing impaired, or otherwise physically disabled to use a guide dog or other service animal in any public accommodation or means of transportation to secure the rights and privileges afforded to physically disabled people ([West's Rev. Code Wash. § 70.84.060](#)).

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