

B-Engrossed
Senate Bill 610

Ordered by the House May 30
Including Senate Amendments dated April 24 and House Amendments
dated May 30

Sponsored by Senators KRUSE, MONNES ANDERSON, SHIELDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies definitions pertaining to assistance animals for purposes of accessing places of public accommodation and places of access to state government services, programs or activities and for purposes of cause of action for harm to assistance animal. Requires places of public accommodation or of access to state government services, programs or activities to make reasonable modification of policies, practices and procedures as necessary to accommodate presence of assistance animal or assistance animal trainee. **Allows places of public accommodation and places of access to state government services, programs or activities to establish requirements for assistance animals necessary for safe operations.**

Establishes permissible and prohibited inquiries and requirements regarding animals for places of public accommodation or of access to state government services, programs or activities.

Eliminates redundant provisions addressing assistance animals for persons with visual or hearing impairments.

Modifies definitions for purposes of offense involving interference with assistance animal. Modifies definition of place of public accommodation. Modifies definition for assistance animal exemption from licensing.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to assistance animals; creating new provisions; amending ORS 90.390, 167.352, 346.687,
3 346.991, 609.105 and 659A.400; repealing ORS 346.610, 346.620, 346.630, 346.640, 346.650, 346.660,
4 346.680, 346.685 and 346.690; and declaring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 and 3 of this 2013 Act are added to and made a part of ORS**
7 **659A.103 to 659A.145.**

8 **SECTION 1a. ORS 346.687 is added to and made a part of ORS chapter 659.**

9 **SECTION 2. As used in this section and section 3 of this 2013 Act:**

10 (1) **“Assistance animal” means a dog or other animal designated by administrative rule**
11 **that has been individually trained to do work or perform tasks for the benefit of an individ-**
12 **ual.**

13 (2) **“Assistance animal trainee” means an animal that is undergoing a course of devel-**
14 **opment and training to do work or perform tasks for the benefit of an individual that directly**
15 **relate to the disability of the individual.**

16 (3) **“Assistance animal trainer” means an individual exercising care, custody and control**
17 **over an assistance animal trainee during a course of training designed to develop the trainee**
18 **into an assistance animal.**

19 (4) **“Place of public accommodation” means a place of public accommodation as defined**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 in ORS 659A.400.

2 **SECTION 3.** (1) A place of public accommodation or of access to state government ser-
3 vices, programs or activities may not:

4 (a) Ask an individual about the nature or extent of a disability that the individual has
5 or may have;

6 (b) Require an individual to provide documentation proving that an animal is an assist-
7 ance animal or an assistance animal trainee; or

8 (c) Notwithstanding any fee or admission charge imposed for pets, require that a person
9 with a disability or an assistance animal trainer pay a fee or admission charge for an as-
10 sistance animal or assistance animal trainee.

11 (2) A place of public accommodation or of access to state government services, programs
12 or activities may:

13 (a) Ask whether an animal is required due to a disability; and

14 (b) Ask about the nature of the work or task that an animal is trained to do or perform
15 or is being trained to do or perform, unless it is readily apparent that the animal performs
16 or is being trained to perform work or a task for the benefit of a person with a disability.

17 (3) If a place of public accommodation or of access to state government services, pro-
18 grams or activities customarily charges a person for damages that the person causes to the
19 place, the place may charge a person with a disability or an assistance animal trainer for
20 damages that an assistance animal or assistance animal trainee causes to the place.

21 (4) A person with a disability or an assistance animal trainer must maintain control of
22 an assistance animal or assistance animal trainee. Except as provided in this subsection,
23 control shall be exerted by means of a harness, leash or other tether. If the use of a harness,
24 leash or other tether would interfere with the ability of the animal to do the work or perform
25 the tasks for which the animal is trained or is being trained, control may be exerted by the
26 effective use of voice commands, signals or other means. If an animal is not under control
27 as required in this subsection, a place of public accommodation or of access to state gov-
28 ernment services, programs or activities may consider the animal to be out of control for
29 purposes of subsection (5) of this section.

30 (5)(a) Except as provided in this subsection, a place of public accommodation or of access
31 to state government services, programs or activities may not deny a person with a disability
32 or an assistance animal trainer the right to be accompanied by an assistance animal or as-
33 sistance animal trainee in any area of the place that is open to the public or to business
34 invitees. A place of public accommodation or of access to state government services, pro-
35 grams or activities may require a person with a disability or an assistance animal trainer to
36 remove an assistance animal or assistance animal trainee if:

37 (A) The animal is not housebroken; or

38 (B) The animal is out of control and effective action is not taken to control the animal.

39 (b) A place of public accommodation or of access to state government services, programs
40 or activities may impose legitimate requirements necessary for the safe operations of the
41 place of public accommodation or the services, programs or activities. The place of public
42 accommodation or of access to state government services, programs or activities shall en-
43 sure that the safety requirements are based on actual risks, not on speculation, stereotypes
44 or generalizations about persons with disabilities.

45 (6) A place of public accommodation or of access to state government services, programs

1 or activities shall make reasonable modifications as necessary to allow an opportunity for a
2 person with a disability who is benefited by the use of an assistance animal to obtain goods,
3 services and the use of the advantages, facilities and privileges of the place or the advan-
4 tages, facilities and privileges of the state government services, programs or activities. For
5 purposes of this subsection, except as provided in subsections (5) and (7) of this section, in
6 addition to any other applicable accommodation requirement, allowing the presence of the
7 assistance animal is a reasonable modification.

8 (7) If a place of public accommodation or of access to state government services, pro-
9 grams or activities requires a person with a disability to remove an assistance animal under
10 subsection (5) of this section, the place shall give the person with a disability a reasonable
11 opportunity to obtain goods, services and the use of the advantages, facilities and privileges
12 of the place or the advantages, facilities and privileges of the state government services,
13 programs or activities without the assistance animal's presence.

14 (8) A place of public accommodation or of access to state government services, programs
15 or activities is not required to provide care or supervision for an assistance animal or as-
16 sistance animal trainee.

17 (9) The protection granted under this section to a person with a disability or an assist-
18 ance animal trainer does not invalidate or limit the remedies, rights and procedures of any
19 other federal, state or local laws that provide equal or greater protection of the rights of a
20 person with a disability, an assistance animal trainer or individuals associated with a person
21 with a disability.

22 **SECTION 4.** ORS 659A.400 is amended to read:

23 659A.400. (1) A place of public accommodation, subject to the exclusion in subsection (2) of this
24 section, means any place or service offering to the public accommodations, advantages, facilities or
25 privileges whether in the nature of goods, services, lodgings, amusements, **transportation** or oth-
26 erwise.

27 (2) However, a place of public accommodation does not include any institution, bona fide club
28 or place of accommodation which is in its nature distinctly private.

29 **SECTION 5.** ORS 90.390 is amended to read:

30 90.390. (1) A landlord may not discriminate against a tenant in violation of local, state or federal
31 law, including ORS [346.630, 346.660, 346.690,] 659A.145 and 659A.421.

32 (2) If the tenant can prove that the landlord violated subsection (1) of this section, the tenant
33 has a defense in any discriminatory action brought by the landlord against the tenant for possession,
34 unless the tenant is in default in rent.

35 (3) A tenant may prove a landlord's discrimination in violation of ORS 659A.145 or 659A.421 by
36 demonstrating that a facially neutral housing policy has a disparate adverse impact, as described in
37 ORS 659A.425, on members of a protected class.

38 (4) A landlord may not discriminate against an applicant solely because the applicant was a
39 defendant in an action for possession pursuant to ORS 105.105 to 105.168 that was dismissed or that
40 resulted in general judgment for the defendant prior to the application. This subsection does not
41 apply if the prior action has not resulted in a dismissal or general judgment at the time of the ap-
42 plication. If the landlord knowingly acts in violation of this subsection, the applicant may recover
43 actual damages or \$200, whichever is greater.

44 **SECTION 6.** ORS 167.352 is amended to read:

45 167.352. (1) A person commits the crime of interfering with an assistance, a search and rescue

1 or a therapy animal if the person intentionally or knowingly:

2 (a) Injures or attempts to injure an animal the person knows or reasonably should know is an
3 assistance animal, a search and rescue animal or a therapy animal;

4 (b) Interferes with an assistance animal while the assistance animal is being used to provide
5 assistance to a person with a *[physical impairment]* **disability**; or

6 (c) Interferes with a search and rescue animal or a therapy animal while the animal is being
7 used for search and rescue or therapy purposes.

8 *[(2) As used in this section, "assistance animal" and "person with a physical impairment" have the
9 meanings given those terms in ORS 346.680.]*

10 **(2) As used in this section, "assistance animal" has the meaning given that term in sec-
11 tion 2 of this 2013 Act.**

12 (3) As used in this section and ORS 30.822:

13 (a) "Search and rescue animal" means that the animal has been professionally trained for, and
14 is actively used for, search and rescue purposes.

15 (b) "Therapy animal" means *[that the animal]* **an animal other than an assistance animal that**
16 has been professionally trained for, and is actively used for, therapy purposes.

17 (4) Interfering with an assistance, a search and rescue or a therapy animal is a Class A
18 misdemeanor.

19 **SECTION 7.** ORS 346.687 is amended to read:

20 346.687. (1) In addition to and not in lieu of any other penalty provided by state law, a person
21 with a *[physical impairment]* **disability** who uses an assistance animal or the owner of an assistance
22 animal may bring an action for economic and noneconomic damages against any person who steals
23 or, without provocation, attacks the assistance animal. The person with a *[physical impairment or]*
24 **disability or the** owner may also bring an action for such damages against the owner of any animal
25 that, without provocation, attacks an assistance animal. The action authorized by this subsection
26 may be brought by the person with a *[physical impairment or]* **disability or the** owner even if the
27 assistance animal was in the custody or under the supervision of another person when the theft or
28 attack occurred.

29 (2) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of
30 this section results in the death of the animal or the animal is not returned or if injuries sustained
31 in the theft or attack prevent the animal from returning to service as an assistance animal, the
32 measure of economic damages shall include, but need not be limited to, the replacement value of an
33 equally trained assistance animal, without any differentiation for the age or the experience of the
34 animal. In addition, the person with a *[physical impairment or]* **disability or the** owner may recover
35 any other costs and expenses, including, but not limited to, costs of temporary replacement assist-
36 ance services, whether provided by another assistance animal or a person, incurred as a result of
37 the theft of or injury to the animal.

38 (3) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of
39 this section results in injuries from which the animal recovers and returns to service, or if the an-
40 imal is stolen but is recovered and returns to service, the measure of economic damages shall in-
41 clude, but need not be limited to, the veterinary medical expenses, costs of temporary replacement
42 assistance services, whether provided by another assistance animal or a person, and any other costs
43 and expenses incurred by the person with a *[physical impairment or]* **disability or the** owner as a
44 result of the theft of or injury to the animal.

45 (4) A cause of action does not arise under this section if the person with a *[physical*

1 *impairment,]* **disability, the** owner or the person having custody or supervision of the assistance
2 animal was committing a criminal or civil trespass at the time of the theft of or attack on the as-
3 sistance animal.

4 (5) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under
5 this section. The court may award reasonable attorney fees and expert witness fees incurred by a
6 defendant who prevails in the action if the court determines that the plaintiff had no objectively
7 reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse
8 decision of a trial court.

9 **(6) As used in this section, “assistance animal” has the meaning given that term in sec-**
10 **tion 2 of this 2013 Act.**

11 **SECTION 8.** ORS 609.105 is amended to read:

12 609.105. Notwithstanding ORS 609.015 or 609.100, a county or city shall not charge a fee to li-
13 cense a dog used as an assistance animal as defined in [*ORS 346.680*] **section 2 of this 2013 Act.**

14 **SECTION 9.** ORS 346.991 is amended to read:

15 346.991. Violation of ORS 346.167[, *346.620 (1) or (2), 346.650 or 346.660 or any of the provisions*
16 *of ORS 346.680 to 346.690*] is a Class C misdemeanor.

17 **SECTION 10.** ORS 346.610, 346.620, 346.630, 346.640, 346.650, 346.660, 346.680, 346.685 and
18 346.690 are repealed.

19 **SECTION 11.** (1) Sections 2 and 3 of this 2013 Act, the amendments to ORS 90.390, 167.352,
20 346.687, 346.991, 609.105 and 659A.400 by sections 4 to 9 of this 2013 Act and the repeal of ORS
21 346.610, 346.620, 346.630, 346.640, 346.650, 346.660, 346.680, 346.685 and 346.690 by section 10 of
22 this 2013 Act apply to events occurring on or after the effective date of this 2013 Act.
23 Sections 2 and 3 of this 2013 Act, the amendments to ORS 90.390, 346.687 and 346.991 by
24 sections 5, 7 and 9 of this 2013 Act and the repeal of ORS 346.610, 346.620, 346.630, 346.640,
25 346.650, 346.660, 346.680, 346.685 and 346.690 by section 10 of this 2013 Act do not affect any
26 cause of action for violations of ORS 346.620, 346.630, 346.650, 346.660, 346.685 or 346.690 oc-
27 ccurring prior to the effective date of this 2013 Act or any action to recover damages under
28 ORS 346.687 based on actions occurring prior to the effective date of this 2013 Act.

29 (2) A violation of ORS 167.352 occurring prior to the effective date of this 2013 Act is
30 subject to prosecution to the extent provided under ORS 167.352 as set forth in the 2011
31 Edition of Oregon Revised Statutes.

32 (3) A county or city is not required to refund a license fee charged to a person prior to
33 the effective date of this 2013 Act for an assistance animal that was not exempt from li-
34 censing fees under ORS 609.105 as set forth in the 2011 Edition of Oregon Revised Statutes.

35 **SECTION 12.** This 2013 Act being necessary for the immediate preservation of the public
36 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
37 on its passage.