

House Bill 3077

Sponsored by Representatives ESQUIVEL, KRIEGER, WITT; Representatives HACK, HAYDEN, KENNEMER, NEARMAN, POST, SMITH

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 **as introduced**.

Creates exemption from pet restriction in food establishments for assistance animal with assistance animal tag issued by local jurisdiction.

Requires Department of Human Services to adopt procedures for issuance of assistance animal certificates. Requires department to make reasonable accommodation for persons with disabilities in application process. Requires waiver of application fee for persons with disabilities who receive disability services provided by or paid for by department and who are eligible for medical assistance.

Requires local jurisdiction to issue assistance animal tag upon presentation of assistance animal certificate. Makes assistance animal tag valid throughout state.

Allows food establishment or restaurant to inquire whether animal present on premises has valid assistance animal tag.

A BILL FOR AN ACT

1
2 Relating to assistance animals; creating new provisions; and amending ORS 616.700 and 659A.143.

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

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Assistance animal" has the meaning given that term in ORS 659A.143.**

6 (b) **"Health care practitioner" means a person licensed or certified to provide health care**
7 **services in this state.**

8 (2) **The Department of Human Services shall adopt by rule procedures for the issuance**
9 **and renewal of assistance animal certificates. The department shall issue an assistance ani-**
10 **mal certificate to any person who:**

11 (a) **Submits an application in the form and manner prescribed by the department;**

12 (b) **Pays the application fee prescribed by the department by rule; and**

13 (c) **Provides a statement signed by the person's treating health care practitioner, dated**
14 **within six months preceding the date of application:**

15 (A) **Stating that the person requires an assistance animal due to a disability; and**

16 (B) **Briefly summarizing the nature of the work or task that the assistance animal per-**
17 **forms or the other assistance provided by the animal.**

18 (3) **The procedures adopted by the department under subsection (2) of this section shall**
19 **ensure that reasonable accommodations are made for the applicant's disability, including, but**
20 **not limited to:**

21 (a) **Permitting the application and the health care practitioner's statement to be sub-**
22 **mitted by mail, in person or electronically; and**

23 (b) **Providing application assistance, including, if appropriate, assisting the person in ob-**
24 **taining the statement from the person's health care practitioner.**

25 (4) **The department shall waive the application fee for any person with a disability who:**

26 (a) **Receives disability services provided by or paid for by the department; and**

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 (b) Is eligible for medical assistance.

2 **SECTION 2.** (1) A person who is issued an assistance animal certificate under section 1
 3 of this 2015 Act may present the certificate at a location described in this subsection and
 4 obtain an assistance animal tag. Each county shall make assistance animal tags available at
 5 the county sheriff's office. If the county has declared a dog control district, the county shall
 6 also make assistance animal tags available at any county office site where a person may
 7 obtain a dog license. If a city has a dog licensing and control program, the city shall make
 8 assistance animal tags available at any city office site where a person may obtain a dog li-
 9 cense.

10 (2) A county or city shall record any information required by Department of Human
 11 Services rules regarding a person presenting an assistance animal certificate, the assistance
 12 animal serving the person and the issued assistance animal tag. The county or city shall
 13 forward a copy of the information to the department. The department, a county or a city
 14 may not charge a fee for an assistance animal tag.

15 (3) An assistance animal tag is valid in all areas of this state. An assistance animal tag
 16 is valid for a specific assistance animal and, except as provided by department rules, may
 17 not be transferred.

18 (4) The department shall provide the assistance animal tags to the issuing counties and
 19 cities without charge. The department shall design assistance animal tags to be suitable for
 20 wearing by a wide variety of assistance animals. The department may make assistance ani-
 21 mal tags available in a form suitable for carrying by a person whose assistance animal is of
 22 a type physically incapable of wearing a tag.

23 **SECTION 3.** ORS 616.700 is amended to read:

24 616.700. The State Department of Agriculture shall enforce the provisions of ORS 616.695 to
 25 616.755 and adopt rules necessary therefor in accordance with the applicable provisions of ORS
 26 chapter 183, to insure and verify that:

27 (1) Food establishments are constructed and maintained in a clean, healthful and sanitary con-
 28 dition. This shall include floors, walls, ceilings, doors, windows, lighting and ventilation, toilet and
 29 lavatory facilities, water supply, separation or partitioning of rooms, health and cleanliness of per-
 30 sonnel, cleanliness and sanitation of surrounding premises, disposal of all waste and sewage mate-
 31 rial, insect and rodent control, construction and sanitation of equipment and utensils, and
 32 prohibition of pets therein. *[However,]* **The department may not prohibit the presence of as-**
 33 **sistance animals that have valid assistance animal tags issued under section 2 of this 2015**
 34 **Act.** ORS 616.695 to 616.755 shall not be applied to prevent licensing and operation of a food es-
 35 tablishment solely because such establishment is in an area which is part of and not separate from
 36 a domestic kitchen if the establishment is upon investigation by the department found to be con-
 37 structed and maintained in a clean, healthful and sanitary condition.

38 (2) Food establishments maintain time and temperature controls, indicating and recording
 39 thermometers and indicating pressure gauges for pressure cookers and retorts, minimum temper-
 40 ature and time period standards for cooking foods, and other facilities necessary to carry out the
 41 intent and purpose of ORS 616.695 to 616.755.

42 (3) Food dispensed, transported, sold, held for sale, stored, salvaged or displayed, is not filthy,
 43 decomposed, putrid, unsafe, contaminated, deleterious to health, unfit, unwholesome, unclean, in-
 44 sanitary or diseased.

45 **SECTION 4.** ORS 659A.143 is amended to read:

1 659A.143. (1) As used in this section:

2 (a) “Assistance animal” means a dog or other animal designated by administrative rule that has
3 been individually trained to do work or perform tasks for the benefit of an individual.

4 (b) “Assistance animal trainee” means an animal that is undergoing a course of development and
5 training to do work or perform tasks for the benefit of an individual that directly relate to the dis-
6 ability of the individual.

7 (c) “Assistance animal trainer” means an individual exercising care, custody and control over
8 an assistance animal trainee during a course of training designed to develop the trainee into an
9 assistance animal.

10 **(d) “Food establishment” has the meaning given that term in ORS 616.695.**

11 [(d)] (e) “Place of public accommodation” means a place of public accommodation as defined in
12 ORS 659A.400.

13 **(f) “Restaurant” has the meaning given that term in ORS 624.010.**

14 (2) A place of public accommodation or of access to state government services, programs or
15 activities may not:

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

18 (b) **Unless the place is a food establishment or restaurant**, require an individual to provide
19 documentation proving that an animal is an assistance animal or an assistance animal trainee; or

20 (c) Notwithstanding any fee or admission charge imposed for pets, require that a person with a
21 disability or an assistance animal trainer pay a fee or admission charge for an assistance animal
22 or assistance animal trainee.

23 (3) A place of public accommodation or of access to state government services, programs or
24 activities may:

25 (a) Ask whether an animal is required due to a disability; [and]

26 (b) Ask about the nature of the work or task that an animal is trained to do or perform or is
27 being trained to do or perform, unless it is readily apparent that the animal performs or is being
28 trained to perform work or a task for the benefit of a person with a disability[.]; **and**

29 **(c) If the place is a food establishment or restaurant, require proof that the animal has
30 a valid assistance animal tag issued under section 2 of this 2015 Act.**

31 (4) If a place of public accommodation or of access to state government services, programs or
32 activities customarily charges a person for damages that the person causes to the place, the place
33 may charge a person with a disability or an assistance animal trainer for damages that an assistance
34 animal or assistance animal trainee causes to the place.

35 (5) A person with a disability or an assistance animal trainer must maintain control of an as-
36 sistance animal or assistance animal trainee. Except as provided in this subsection, control shall be
37 exerted by means of a harness, leash or other tether. If the use of a harness, leash or other tether
38 would interfere with the ability of the animal to do the work or perform the tasks for which the
39 animal is trained or is being trained, control may be exerted by the effective use of voice commands,
40 signals or other means. If an animal is not under control as required in this subsection, a place of
41 public accommodation or of access to state government services, programs or activities may con-
42 sider the animal to be out of control for purposes of subsection (6) of this section.

43 (6)(a) Except as provided in this subsection, a place of public accommodation or of access to
44 state government services, programs or activities may not deny a person with a disability or an
45 assistance animal trainer the right to be accompanied by an assistance animal or assistance animal

1 trainee in any area of the place that is open to the public or to business invitees. A place of public
2 accommodation or of access to state government services, programs or activities may require a
3 person with a disability or an assistance animal trainer to remove an assistance animal or assist-
4 ance animal trainee if:

5 (A) The animal is not housebroken; or

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

7 (b) A place of public accommodation or of access to state government services, programs or
8 activities may impose legitimate requirements necessary for the safe operations of the place of
9 public accommodation or the services, programs or activities. The place of public accommodation
10 or of access to state government services, programs or activities shall ensure that the safety re-
11 quirements are based on actual risks, not on speculation, stereotypes or generalizations about per-
12 sons with disabilities.

13 (7) A place of public accommodation or of access to state government services, programs or
14 activities shall make reasonable modifications as necessary to allow an opportunity for a person
15 with a disability who is benefited by the use of an assistance animal to obtain goods, services and
16 the use of the advantages, facilities and privileges of the place or the advantages, facilities and
17 privileges of the state government services, programs or activities. For purposes of this subsection,
18 except as provided in subsections (6) and (8) of this section, in addition to any other applicable ac-
19 commodation requirement, allowing the presence of the assistance animal is a reasonable modifica-
20 tion.

21 (8) If a place of public accommodation or of access to state government services, programs or
22 activities requires a person with a disability to remove an assistance animal under subsection (6)
23 of this section, the place shall give the person with a disability a reasonable opportunity to obtain
24 goods, services and the use of the advantages, facilities and privileges of the place or the advan-
25 tages, facilities and privileges of the state government services, programs or activities without the
26 assistance animal's presence.

27 (9) A place of public accommodation or of access to state government services, programs or
28 activities is not required to provide care or supervision for an assistance animal or assistance ani-
29 mal trainee.

30 (10) The protection granted under this section to a person with a disability or an assistance
31 animal trainer does not invalidate or limit the remedies, rights and procedures of any other federal,
32 state or local laws that provide equal or greater protection of the rights of a person with a disa-
33 bility, an assistance animal trainer or individuals associated with a person with a disability.

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