



## **SUPPORT HB2277 – An Act Relative to the Misrepresentation of a Service Animal [Rep. Kimberly Ferguson (R)]**

Referred to Joint Committee on the Judiciary

### **PROBLEM**

Owners of pet dogs are buying service-dog credentials from Internet vendors and using them to take untrained, pet dogs into restaurants and places of business where only service dogs are allowed. These dogs have attacked legitimate service dogs, and their bad behavior is causing heightened access challenges for genuine service dog teams. This unethical behavior by pet owners is ruining the reputation earned by trainers and handlers of service dogs. Some of these people may be genuinely mistaken about the definition of a service dog; others are simply scamming. They may believe that a dog who is well behaved in his home environment can be taken into places of business, but without the years of conditioning, these dogs urinate in the grocery store, growl at children, and distract working service dogs by trying to play. Legitimate service dog teams have been asked to leave public places when one of these fakers is unable to control his dog.

### **HISTORY**

HB2277 has been proposed by NEADS/Dogs for Deaf and Disabled Americans, which is an accredited service-dog training program in Princeton, Massachusetts. For years, service-dog users adopted a "live and let live" attitude toward people who put a service dog insignia on their pets for the purpose of obtaining the privileges afforded service-dog teams. It has become impossible to ignore the problem, however, since it has grown at an alarming pace. Anecdotal evidence suggests that perpetrators of this fraud believe they are doing no harm; the proponents of this law argue that putting fake credentials on a pet is akin to using a stolen handicapped parking placard.

Public access for service dogs originates in the federal Americans with Disabilities Act, which defines service dogs as those trained to perform tasks that make a disabled person more independent. When the ADA was enacted, it never occurred to the lawmakers that anyone would try to pass off a pet as a service dog, so the ADA does not require a credential or penalize impersonating a service-dog team.

The current "fake service dog" crisis has its roots in two developments: (a) the Internet makes it easy to buy capes and ID cards; (b) people are confused about emotional support dogs. Although the Air Carrier Access Act allows emotional support dogs (untrained pets whose owners are emotionally dependent on them) to travel in the cabin, these dogs may not be taken into restaurants or businesses. The current interest in PTSD dogs (there are legitimate, task-trained PTSD dogs) has caused an increasing number of people to believe that a pet dog becomes a service dog merely by virtue of the owner's disability.

### **WHAT THIS BILL DOES**

This bill provides a civil fine (such as those imposed for violating a leash law) for a person who states or implies that the dog is a service dog in order to obtain privileges reserved to service dogs. The law also requires the state to supply business owners with pamphlets and decals that will help educate the public. Proponents of the law concede that few fines will actually be imposed, but the law will be a great help in deterring violations and allowing the police or animal control officer to handle access disputes more effectively.

### **WHY YOU SHOULD SUPPORT THIS BILL**

- Responsible dog owners do not disguise their dogs as service dogs in order to get special status.
- This law will increase awareness about the legal status of emotional support dogs and dispel some of the disinformation.
- Veterans and other disabled people need protection from unscrupulous vendors who sell them dangerous dogs with fake credentials.
- Businesses will be better prepared to protect the public and legitimate service-dog teams from aggression by untrained, unsound pet dogs.
- The law will be one step in trying to restore the hard-earned reputation earned by service dog programs.
- Removing these untrained dogs from public venues will allow service dog teams to have unrestricted access again.

**FOR MORE INFORMATION:**

**Massachusetts Federation of Dog Clubs and Responsible Dog Owners**

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**HOUSE . . . . . No. 2277**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Kimberly N. Ferguson***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act relative to the misrepresentation of a service animal.**

PETITION OF:

Kimberly N. Ferguson - 1st Worcester; James Arciero - 2nd Middlesex; Cory Atkins - 14th Middlesex; Bruce J. Ayers - 1st Norfolk; Michael J. Barrett - Third Middlesex; F. Jay Barrows - 1st Bristol; Donald R. Berthiaume, Jr. - 5th Worcester; Michael D. Brady - Second Plymouth and Bristol; William N. Brownsberger - Second Suffolk and Middlesex; Thomas J. Calter - 12th Plymouth; Kate D. Campanale - 17th Worcester; Daniel Cullinane - 12th Suffolk; Josh S. Cutler - 6th Plymouth; Julian Cyr - Cape and Islands; David F. DeCoste - 5th Plymouth; Geoff Diehl - 7th Plymouth; Daniel M. Donahue - 16th Worcester; Shawn Dooley - 9th Norfolk; Peter J. Durant - 6th Worcester; Carolyn C. Dykema - 8th Middlesex; Carole A. Fiola - 6th Bristol; Paul K. Frost - 7th Worcester; Denise C. Garlick - 13th Norfolk; Carmine L. Gentile - 13th Middlesex; Susan Williams Gifford 2nd Plymouth; Anne M. Gobi - Worcester, Hampden, Hampshire and Middlesex; Solomon Goldstein-Rose - 3rd Hampshire; Natalie Higgins - 4th Worcester; Bradford R. Hill - 4th Essex; Kate Hogan - 3rd Middlesex; Steven S. Howitt - 4th Bristol; Daniel J. Hunt - 13th Suffolk; Bradley H. Jones, Jr. - 20th Middlesex; Hannah Kane - 11th Worcester; Kevin J. Kuros - 8th Worcester; John J. Lawn, Jr. - 10th Middlesex; David Paul Linsky - 5th Middlesex; Joseph D. McKenna - 18th Worcester; Paul McMurtry - 11th Norfolk; James R. Miceli - 19th Middlesex; Michael O. Moore - Second Worcester; Mathew Muratore - 1st Plymouth; James M. Murphy - 4th Norfolk; Harold P. Naughton, Jr. - 12th Worcester; Patrick M. O'Connor - Plymouth and Norfolk; Alice Hanlon Peisch - 14th Norfolk; Elizabeth A. Poirier - 14th Bristol; David M. Rogers - 24th Middlesex; John H. Rogers - 12th Norfolk; Richard J. Ross - Norfolk, Bristol and Middlesex; Paul A. Schmid, III - 8th Bristol; Todd M. Smola - 1st Hampden; Thomas M. Stanley 9th Middlesex; James E. Timilty - Bristol and Norfolk; Aaron Vega - 5th Hampden; Chris Walsh - 6th Middlesex; Susannah M. Whipps - 2nd Franklin; Jonathan D. Zlotnik - 2nd Worcester; Sean Garballey - 23rd Middlesex

An Act relative to the misrepresentation of a service animal.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 Chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby
- 2 amended by inserting after section 98A the following:-
- 3 Section 98B. (a) As used in this section, the following words shall have the following
- 4 meanings unless the context clearly requires otherwise:
- 5 “Disability” has the same meaning as set forth in the deferral “Americans with
- 6 Disabilities Act of 1990”, 42 U.S.C. Sec. 12101 et seq., and its related amendments
- 7 implementing regulations.
- 8 “Service dog” has the same meaning as set forth in the implementing regulations of Title
- 9 II and Title III of the federal “Americans with Disabilities Act of 1990”, 42 U.S.C. Sec. 12101 et
- 10 seq.
- 11 “Service-dog-in-training” means a dog or puppy that has been selected for service dog
- 12 work and is being handled by a service-dog trainer .
- 13 “Service-dog trainer” means a competent dog trainer who is providing individual training
- 14 of a dog or puppy with the intention of having the dog or puppy become a working service dog
- 15 that will perform tasks for a disabled person.

16 (b) Business owners and individuals will continue to be protected under the Americans  
17 with Disabilities Act of 1990.

18 (c) The Executive Office of Labor and Workforce Development Business shall prepare  
19 and make available to businesses upon request, (i) a decal suitable for posting in a front window  
20 or door, stating that service dogs are welcome and that misrepresentation of a service dog is a  
21 violation of Massachusetts law, (ii) a brochure detailing permissible questions a business owner  
22 may ask in order to determine whether a dog is a service dog, proper answers to those questions,  
23 and guidelines defining unacceptable behavior.

24 (d) It shall be a civil infraction for any individual to misrepresent a pet dog as a service  
25 dog. A violation of this section occurs when:

26 (1) An individual expressly or impliedly represents that a dog in his or her possession  
27 is his or her service dog or a service-dog-in-training for the purpose of obtaining any rights or  
28 privileges afforded disabled persons accompanied by service dogs, but unavailable to people and  
29 their pets, and

30 (2) Said individual knew or should have known that the dog in question did not meet  
31 the definition of a service animal or service-animal-in-training.

32 (3) It is an intentional misrepresentation and a violation of this section for an  
33 individual to take a dog into a place of public accommodation where pets are not permitted, and  
34 the dog is wearing a cape, vest, special leash, or other form of identification that states or implies  
35 that the dog is a service dog entitled to be present, even if the individual makes no affirmative  
36 statements.

37 (e) Any police or animal control officer may investigate and enforce this section by  
38 making inquiry of the individual accompanied by the dog in question and issuing a citation.  
39 Refusal by the individual to answer the permissible questions shall create a presumption that the  
40 dog is not a service dog and the officer may issue the citation and require the individual to  
41 remove the dog from the place of public accommodation.

42 (f) A person who violates this section commits a civil infraction, punishable by 30 hours  
43 of community service for an organization that serves individuals with disabilities, or for another  
44 entity or organization at the discretion of the court, to be completed in not more than 6 months  
45 and/or pay a fine no more than \$500.