Arizona Law Aimed at Curbing Service Dog Fraud May Be All Bark, No Bite (US)

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Under federal and Arizona state law, persons with disabilities can bring service animals—all breeds of dog and miniature horses—into places of public accommodation (businesses open to the public) even if the business otherwise excludes pets. No specific training or certification program is required to qualify as a service animal, nor are such animals required to wear any particular vests, leashes, or other identifying gear. Owners are not required to carry any papers proving that their animals are service animals. In fact, business owners are limited to asking persons with disabilities if (1) the dog or miniature horse is a service animal required because of a disability, and (2) what work or task the animal has been trained to perform.

Because there are so few restrictions on individuals bringing animals into places of public accommodation, many business owners report situations when patrons have brought pets or comfort animals into their businesses trying to pass them off as legitimate service animals. But without the ability to inquire further or any meaningful consequence for persons who try to fraudulently represent their pets as service animals, business owners have been limited to excluding such animals only if they present a current threat to the health or safety of others, are not housebroken, or if the animal’s presence fundamentally alters the business’ service, program, or activity or poses an undue burden.

To try to remedy this, Arizona lawmakers recently passed a bill, which Gov. Ducey signed into law, making it illegal to misrepresent a pet as a service animal or service animal-in-training, and creating civil penalties of up to $250 for each violation. Critics say the law will have little practical impact, as it does not expand the type of questions business owners can ask or require that owners carry papers certifying the animal as a service animal. Business owners must still accept patrons at their word that an animal is a service animal that helps them perform a particular task; it is the rare individual who would volunteer that he or she is trying to falsely represent their pet as a service animal. Disability advocates worry the measure will prompt business owners to ask impermissible questions of disabled patrons—particularly those with non-visible disabilities like post-traumatic stress disorder (PTSD) or epilepsy—in an attempt to get them to admit that the animal is not, in fact, aiding them with their disability needs, and that calls to law enforcement to report suspected abuse of service animal accommodations will escalate.

When the law goes into effect this fall, Arizona business owners can take comfort knowing that abusers of animal accommodations may be subject to significant fines, but should still be sure to adhere to restrictions on what they can and cannot ask of patrons bringing animals into their businesses. The law does not permit business owners to demand proof of the person’s disability, the animal’s training, or any form of certification or identification, and the failure or refusal by patrons to produce such information is not a violation of the law, but business owners insisting that patrons produce such proof is a violation of disability law. Business owners still should exclude patrons with service animals only where the animal’s very presence would fundamentally alter the nature of the business or where the animals pose a safety risk.

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