

By: Goodwin

H.B. No. 5206

A BILL TO BE ENTITLED

AN ACT

relating to falsely representing that an animal is a service animal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.002, Human Resources Code, is amended by adding Subdivision (7) to read as follows:

(7) "Emotional support animal" means a canine that does not possess training to do work or perform tasks for a person with a disability.

SECTION 2. Section 121.006, Human Resources Code is amended to read as follows:

Sec. 121.006. PENALTIES FOR FALSE REPRESENTATION OF ANIMALS AS SERVICE ~~[IMPROPER USE OF ASSISTANCE]~~ ANIMALS. (a) A person who intentionally or knowingly represents ~~[uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent]~~ that an ~~[his or her]~~ animal is an assistance or ~~[a]~~ specially trained service animal when the animal is not specially trained or equipped to help a person with a disability ~~[training has not in fact been provided]~~, is guilty of a misdemeanor and on conviction shall be punished by:

(1) a fine of not more than \$1,000 ~~[\$300]~~; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily

1 serves persons with visual impairments or other disabilities, or
2 for another entity or organization at the discretion of the court,
3 to be completed in not more than one year.

4 (b) A person or business that sells or provides a
5 certificate, identification, tag, vest, leash, or harness for pet
6 or an emotional support animal shall provide a written notice in at
7 least 14 point bold type to the buyer or recipient that states all
8 of the following:

9 (1) The item does not entitle the owner of an animal to
10 the rights and privileges accorded by Texas or Federal law to the
11 owner of an assistance or service animal.

12 (2) Intentionally or knowingly representing that an
13 animal is an assistance or service animal when the animal is not
14 specially trained to assist a person with a disability is a
15 misdemeanor.

16 (c) A person or business that fails to provide the written
17 notice as required by this subsection is guilty of a misdemeanor and
18 on conviction shall result in a fine of not more than \$2,500.

19 (d) A person who habitually abuses or neglects to feed or
20 otherwise neglects to properly care for his or her assistance or
21 service animal is subject to seizure of the animal under Subchapter
22 B, Chapter 821, Health and Safety Code.

23 SECTION 3. Chapter 121, Human Resources Code is amended by
24 adding Section 121.007 to read as follows:

25 Sec. 121.007. EVALUATION AND NOTICE REQUIREMENT FOR
26 EMOTIONAL SUPPORT ANIMALS.

27 (a) In this section, "health care practitioner" means an

1 individual issued a license, certificate, registration, title,
2 permit, or other authorization to engage in a health care
3 profession.

4 (b) A health care practitioner may not provide
5 recommendations relating to an individual's need for an emotional
6 support animal unless the health care practitioner complies with
7 all of the following criteria:

8 (1) Establishes a patient-provider relationship with
9 the patient for at least 30 days prior to providing the
10 recommendation requested regarding the patient's need for an
11 emotional support animal.

12 (2) Completes a clinical evaluation of the patient
13 regarding the need for an emotional support animal.

14 (3) Provides a verbal or written notice to the
15 individual that knowingly and fraudulently representing oneself to
16 be the owner of any canine licensed as, to be qualified as, or
17 identified as, an assistance or service dog is a misdemeanor
18 violation.

19 (c) A violation of this chapter by a health care
20 practitioner who is licensed, certified, registered, titled,
21 permitted, or otherwise authorized by an agency of this state is
22 subject to investigation and disciplinary proceedings, including
23 warnings, probation or suspension by the licensing agency. If there
24 is evidence that the violations of this chapter constitute a
25 pattern, the agency may:

26 (1) revoke the health care practitioner's license or
27 other certification; or

1 (2) refer the health care practitioner's case to the
2 attorney general, a district attorney, a county attorney, or a city
3 attorney.

4 (d) Nothing in this section shall be construed to restrict
5 or change existing federal and state law related to a person's
6 rights for reasonable accommodation and equal access to housing.

7 SECTION 4. This Act takes effect September 1, 2023.