

By: Menendez

H.B. No. 489

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the use of assistance animals that provide assistance
3 to persons with disabilities; providing criminal penalties.

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

5 SECTION 1. Sections 121.002(4) and (5), Human Resources
6 Code, are amended to read as follows:

7 (4) "Person with a disability" means a person who has a
8 mental or physical disability, including an intellectual
9 disability [~~mental retardation~~], a hearing impairment, deafness, a
10 speech impairment, a visual impairment, post-traumatic stress
11 disorder, or any health impairment that requires special ambulatory
12 devices or services.

13 (5) "Public facility [~~facilities~~]" includes a street,
14 highway, sidewalk, walkway, common carrier, airplane, motor
15 vehicle, railroad train, motor bus, streetcar, boat, or any other
16 public conveyance or mode of transportation; a hotel, motel, or
17 other place of lodging; a public building maintained by any unit or
18 subdivision of government; a retail business, commercial
19 establishment, or office building to which the general public is
20 invited; a college dormitory or other educational facility; a
21 restaurant or other place where food is offered for sale to the
22 public; and any other place of public accommodation, amusement,
23 convenience, or resort to which the general public or any
24 classification of persons from the general public is regularly,

1 normally, or customarily invited.

2 SECTION 2. Section 121.003, Human Resources Code, is
3 amended by adding Subsection (k) to read as follows:

4 (k) A person is not entitled to make demands or inquiries
5 relating to the qualifications or certifications of an assistance
6 animal for purposes of admittance to a public facility except to
7 determine the basic type of assistance provided by the assistance
8 animal to a person with a disability.

9 SECTION 3. Section 121.004, Human Resources Code, is
10 amended to read as follows:

11 Sec. 121.004. PENALTIES FOR AND DAMAGES RESULTING FROM
12 DISCRIMINATION. (a) A person, including a firm, association,
13 corporation, or other public or private organization, or the agent
14 of the [a] person, [~~firm, association, corporation, or other~~
15 organization] who violates a provision of Section 121.003 commits
16 an offense. An offense under this subsection is a Class B
17 misdemeanor [~~punishable by a fine of not less than \$300 or more than~~
18 \$1,000].

19 (b) In addition to the penalty provided in Subsection (a)
20 [~~of this section~~], a person, including a firm, association,
21 corporation, or other public or private organization, or the agent
22 of the [a] person, [~~firm, association, corporation, or other~~
23 organization,] who violates the provisions of Section 121.003 [~~of~~
24 ~~this chapter~~] is deemed to have deprived a person with a disability
25 of his or her civil liberties. The person with a disability
26 deprived of his or her civil liberties may maintain a cause of
27 action for damages in a court of competent jurisdiction, and there

1 is a conclusive presumption of damages in the amount of at least
2 \$2,000 [~~\$100~~] to the person with a disability.

3 SECTION 4. Section 121.005, Human Resources Code, is
4 amended by adding Subsection (c) to read as follows:

5 (c) In response to a reasonable request by a person in a
6 public facility relating to the type of assistance provided by an
7 assistance animal for purposes of admitting the assistance animal
8 to the facility, the person with a disability using the assistance
9 animal shall provide a brief explanation of the basic type of
10 assistance provided by the assistance animal.

11 SECTION 5. Section 121.006(a), Human Resources Code, is
12 amended to read as follows:

13 (a) A person who uses an assistance animal with a harness or
14 leash of the type commonly used by persons with disabilities who use
15 trained animals, in order to represent that his or her animal is a
16 specially trained assistance animal when training of the type
17 described in Section 121.002(1)(B) [~~of this chapter~~] has not in
18 fact been provided, is guilty of a Class B misdemeanor [~~and on~~
19 ~~conviction shall be punished by a fine of not more than \$200~~].

20 SECTION 6. Section 121.008, Human Resources Code, is
21 amended to read as follows:

22 Sec. 121.008. DISSEMINATION OF INFORMATION RELATING TO
23 PERSONS WITH DISABILITIES. (a) To ensure maximum public awareness
24 of the policies set forth in this chapter, the governor shall [~~may~~]
25 issue a proclamation each year taking suitable public notice of
26 October 15 as White Cane Safety and Assistance Animal Recognition
27 Day. The proclamation must contain appropriate comment about the

1 significance of various devices and animals used by persons with
2 disabilities to assist them in traveling, and must call to the
3 attention of the public the provisions of this chapter and of other
4 laws relating to the safety and well-being of this state's citizens
5 with disabilities.

6 (b) The comptroller, the secretary of state, and other state
7 ~~[State]~~ agencies that regularly mail ~~[mailing]~~ forms or information
8 to significant numbers of public facilities and businesses
9 operating within the state shall cooperate with state agencies
10 responsible for the rehabilitation of persons with disabilities by
11 sending information about this chapter to those to whom regular
12 mailings are sent. The information, which must be sent at ~~[only on]~~
13 the request of state agencies responsible for the rehabilitation of
14 persons with disabilities and at least ~~[not more than]~~ once each
15 year, may be included in regular mailings or sent separately. If
16 sent separately, the cost of mailing is borne by the state
17 rehabilitation agency or agencies requesting the mailing and,
18 regardless of whether sent separately or as part of a regular
19 mailing, the cost of preparing information about this chapter is
20 borne by the state rehabilitation agency or agencies requesting
21 distribution of this information.

22 SECTION 7. The change in law made by this Act applies only
23 to an offense committed on or after the effective date of this Act.
24 An offense committed before the effective date of this Act is
25 governed by the law in effect when the offense was committed, and
26 the former law is continued in effect for that purpose. For
27 purposes of this section, an offense was committed before the

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1 effective date of this Act if any element of the offense occurred
2 before that date.

3 SECTION 8. This Act takes effect September 1, 2013.