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

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

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

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

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

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

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

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

(a)  In this section, “health care practitioner” means an individual issued a license, certificate, registration, title, permit, or other authorization to engage in a health care profession.

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

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

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

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

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

(1)  revoke the health care practitioner’s license or other certification; or

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

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

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