

# What Should We Know about Service Animals in Our Dealership?



September is National Service Dog Month and it serves as a good reminder of your obligations under the Americans With Disabilities Act, and perhaps state and local laws, to allow both your employees and customers to have service animals in your auto dealership(s). Read on below for more information regarding what those obligations are and some best practices.

### What is the law?

Titles II and III of the Americans with Disabilities Act ("ADA") require businesses to permit service animals to accompany people with disabilities in all areas where members of the public traverse. Therefore, you are required to allow service animals in your dealership. Likewise, service animals may be considered a reasonable accommodation for employees who are qualified individuals with disabilities.

### What is a service animal?

Service animals are defined as those that are individually trained to do work or perform tasks for people with disabilities. Examples of some tasks include, but are not limited to: assisting people who are blind, alerting individuals who are deaf or hard of hearing, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, and calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack.

### What types of animals can be service animals?

Dogs are the most common type of service animal, and the ADA does not limit the size or breed. So, you could violate the law if you exclude a service animal based on how you believe the breed might behave.

There is also a provision that allows for individually trained miniature horses, which generally range in height between 24 and 34 inches and weigh between 70 and 100 pounds, and, before you let one into your dealership, you can assess whether:

- 1) you can accommodate the type, size, and weight of the miniature horse;
- 2) the handler has sufficient control over the animal;
- 3) the miniature horse is housebroken; and
- 4) the miniature horse's presence in your facility threatens the legitimate safety requirements that are necessary for safe operation.

While the ADA requires animals to have completed their training to have the benefits of service animals, in most states (with few exceptions), a person who is training a service animal has the same privileges as a person with a disability.

## What about emotional support animals?

The ADA does not require you to allow dogs whose sole function is to provide comfort or emotional support. You will want to confer with your state and/or local law to determine whether you are required to accommodate emotional support pets.

What can you ask customers who attempt to bring a service animal in your dealership?

When the task is not obvious, your employees may only ask the following two (2) questions –

- 1) is the dog a service animal required because of a disability; and
- 2) what work or task has the dog been trained to perform?

**Please note** that your employees cannot inquire regarding the customer's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.

## What if the animal is unruly?

Service animals must be under the control of its handler. This means that the animal must be harnessed, leashed, or tethered, unless the handler's disability prevents using these devices or these devices interfere with the service animal's safe, effective performance of tasks. Under those circumstances, the handler must maintain control of the animal through voice, signal, or other effective controls. Therefore, you may only ask a customer with a disability to remove their service animal if:

- (1) the dog is out of control and the handler does not take effective action to control it, or
- (2) the dog is not housebroken.

If this happens, your employees must offer the customer with the disability the opportunity to enter the dealership without the animal's presence.

## What if an employee requests the use of service animal as an accommodation?

Like any request for a modification in job duties because of a medical condition, you are required to engage in the interactive process with your employee regarding their request. This is a process by which you and the employee would dialogue regarding their request, and you may require supporting medical documentation under certain circumstances. Please note that you can consider alternative accommodations, so long as they are effective. Unless the service dog's presence creates an undue hardship, which would require an individualized assessment of your business and facility and robust evidence demonstrating significant hardship and expense, you may be required to allow the use of a service animal as a reasonable accommodation. If the COVID-19 pandemic did not already encourage you to revisit your interactive process and procedures, we would recommend you doing so, and consulting with trusted counsel if you are faced with a request from an employee to use a service animal as a reasonable accommodation.



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