



It's A Zoo in Here!

Insights

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When the Americans with Disabilities Act was enacted in 1990, one of the “reasonable accommodations” contemplated was allowing seeing-eye dogs to accompany blind persons in places where animals were not otherwise allowed. That mandate did not prove problematic, as these dogs are highly-trained to perform their function of guiding a blind person, and to avoid being a nuisance. As the definition of disability under the ADA has broadened, however, more and more people are seeking to have their animals accompany them to work, and to stores, restaurants and other businesses. It’s not just dogs anymore, either. Cats, birds, horses, rodents and even potbellied pigs have been characterized as “service animals” or “comfort animals” needed as an accommodation. The rules differ with respect to whether employees or customers are involved.

Under California law, a disabled employee or applicant for employment must be allowed to bring an “assistive animal” into the workplace as a reasonable accommodation if two conditions are met: (1) the animal is housebroken and free from offensive odors, and (2) the animal does not present a danger to the health or safety of the disabled employee or applicant or others in the workplace. Assistive animals include guide dogs trained to guide a blind or visually impaired person, signal dogs or other animals trained to alert a deaf or hearing impaired person to sounds, service dogs or other animals trained to assist a person with a disability, or support dogs or other animals that provide emotional, cognitive, or similar support to a person with a disability.

An employee who seeks to bring an assistive animal to work may be required to provide a letter from his or her doctor stating that the employee has a disability and explaining why the employee needs the animal as an accommodation. The employee may be required to provide a new letter annually confirming the continued need for the animal. An employer may also require certification from the employee or another source that the animal meets the two conditions stated above. Beyond these requirements, there are no further restrictions. Qualifying animals are not limited to dogs, the animals need not be specifically trained, and they need not wear special vests or other insignia.

A different law, Title III of the ADA, addresses the use of service animals by disabled customers of businesses. Only dogs typically may qualify as service animals under this law, although miniature horses may also have to be accommodated under certain circumstances. A service dog must be individually trained to do work or perform tasks for a person with a disability. Dogs whose sole function is to provide comfort or emotional support do not qualify.

A qualified service dog must be allowed to accompany a customer with a disability wherever members of the public are normally allowed to go. This includes public areas of restaurants. A service dog must ordinarily be leashed unless a leash would interfere with the animal's work or the person's disability prevents the use of a leash.

Businesses are permitted to ask a customer (1) if a dog is a service animal required because of a disability, and (2) what tasks the dog has been trained to perform, but they cannot ask about the customer's disability or require any documentation of the dog's training. Service dogs that are not housebroken may be asked to leave. Persons with disabilities who use service dogs cannot be charged extra fees, isolated from other patrons, or treated less favorably than other patrons.

While keeping track of these rules can be doggone difficult, it's important to keep them straight to avoid a lawsuit.

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