

1 HB398
2 128080-1
3 By Representative DeMarco
4 RFD: Agriculture and Forestry
5 First Read: 31-MAR-11

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8 SYNOPSIS: Under existing law, cruelty to animals and
9 killing a dog used by a peace officer are specific
10 crimes.

11 This bill would make it a crime to harass,
12 injure, or cause the death of a service dog under
13 certain conditions and would provide penalties.

14 This bill would provide for restitution of
15 certain expenses.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 Relating to service dogs; to make it a crime to
16 harass, injure, or cause the death of a service dog under
17 certain conditions; to provide penalties; to provide for
18 restitution of certain expenses; and in connection therewith
19 would have as its purpose or effect the requirement of a new
20 or increased expenditure of local funds within the meaning of
21 Amendment 621 of the Constitution of Alabama of 1901, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. It is the policy of this state to
26 recognize the special role and value of service dogs, not only
27 in the lives of those persons who use them but also in society

1 at large, and to encourage the use of service dogs by persons
2 with disabilities and to recognize that those persons have a
3 right to use service dogs without any interference with or
4 injury to the service dog.

5 Section 2. For the purposes of this act, the
6 following terms have the following meanings:

7 (1) HARASS. To engage in any conduct directed toward
8 a service dog or handler that is likely to impede or interfere
9 with the performance of a service dog in its duties or places
10 the health and safety of the service dog or its handler in
11 jeopardy. Such conduct includes actions which distract,
12 obstruct, or intimidate the service dog, such as taunting,
13 teasing, or striking.

14 (2) INJURY. Physical or emotional injury to the
15 service dog.

16 (3) NOTICE. An actual verbal or other communication
17 warning that the behavior of the person or the dog of the
18 person is harassing toward the performance of a service dog in
19 its duty or endangering the health and safety of the service
20 dog.

21 (4) SERVICE DOG. A dog that has been individually
22 trained for the purpose of assisting or accommodating a
23 physician-diagnosed physical or mental disability or medical
24 condition of a person. Service dogs include, but are not
25 limited to, guide or leader dogs for persons who are blind;
26 dogs that assist persons with physical disabilities by
27 providing balance support, pulling a wheelchair, or performing

1 other tasks; dogs that provide hearing assistance by alerting
2 individuals who are deaf to specific sounds; and dogs who
3 alert persons to an impending potential medical crisis.

4 (5) VALUE. The value of the service dog to the
5 service dog user as demonstrated by any of the following
6 elements:

7 a. Cost of the service dog.

8 b. Replacement and training or retraining expenses
9 for the service dog and the user.

10 c. Veterinary and other medical and boarding
11 expenses for the service dog during a period of treatment for
12 injury.

13 d. Lost wages or income incurred by the service dog
14 user during any period the user is without the services of the
15 service dog.

16 e. Any additional expenses incurred by the service
17 dog user directly because of the loss of the use of the
18 service dog.

19 Section 3. (a) It is unlawful for a person who has
20 received notice that his or her behavior is harassing to a dog
21 the person knows or has reason to believe is a service dog to
22 continue that behavior with malice or reckless disregard.

23 (b) It is unlawful for a person with reckless
24 disregard to allow his or her dog that is not contained by a
25 fence, a leash, or other containment system to harass a
26 service dog.

1 (c) A person who violates subsection (a) or (b) is
2 guilty of a Class C misdemeanor.

3 Section 4. (a) It is unlawful for any person without
4 legal justification or authority to cause injury to a service
5 dog, or to allow his or her dog to cause injury to a service
6 dog.

7 (b) A person who violates subsection (a) with
8 reckless disregard is guilty of a Class B misdemeanor.

9 (c) A person who intentionally or willfully violates
10 subsection (a) is guilty of a Class A misdemeanor.

11 Section 5. (a) It is unlawful for any person without
12 legal justification or authority to cause the death of a
13 service dog or cause an injury resulting in disability to the
14 service dog such that it is no longer able to function in that
15 role, or for that person to allow his or her dog to cause the
16 same.

17 (b) A person who violates subsection (a) with
18 reckless disregard is guilty of a felony punishable by a
19 period of imprisonment of at least one year and up to two
20 years.

21 (c) A person who intentionally or willfully violates
22 subsection (a) is guilty of a felony punishable by a period of
23 imprisonment of at least one year and up to five years.

24 Section 6. (a) A person convicted of a violation of
25 this act shall be ordered to make full restitution for
26 damages, including incidental and consequential expenses,

1 incurred by the service dog and its user, which arise out of
2 or are related to the violation.

3 (b) Restitution for a conviction under this act
4 includes, but is not limited to, any of the following:

5 (1) The medical expenses of the service dog and its
6 user, and the value of the service dog to its user for the
7 period in which the dog is unable to perform its duties due to
8 injuries suffered as a proximate cause of the violation, or if
9 the violation resulted in the death or permanent disability of
10 the service dog, the value of the service dog to its user.

11 (2) The cost of any retraining of the service dog
12 needed as a result of the violation.

13 (3) Compensation for wages or earned income lost by
14 the service dog user as a proximate cause of the violation.

15 (4) Any other economic loss suffered by the service
16 dog user as a proximate result of the violation.

17 (c) This section does not affect the civil remedy
18 that is available for violations of this act. Restitution paid
19 pursuant to this act shall be set off against damages awarded
20 in a civil action arising out of the same conduct that
21 resulted in the restitution payment.

22 (d) The user of a service dog may bring a civil
23 cause of action for violation of any of the provisions of this
24 act in a court of competent jurisdiction in the county where
25 the service animal user resides or where the violation
26 occurred.

1 (e) In any action brought under this act, the court
2 may award costs and reasonable attorney fees to the prevailing
3 party.

4 Section 7. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.