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AB-468 Emotional support animals. (2021-2022)

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Assembly Bill No. 468

CHAPTER 168

An act to add Article 4 (commencing with Section 122317) to Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, relating to support animals.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 468, Friedman. Emotional support animals.

Existing law regulates the sale of dogs and cats. Existing law also makes a person who knowingly and fraudulently represents, through verbal or written notice, the person to be the owner or trainer of a canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog, as defined, guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would require a person or business that sells or provides a dog for use as an emotional support dog, as defined, to provide a written notice to the buyer or recipient of the dog stating that the dog does not have the special training required to qualify as a guide, signal, or service dog and is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog, and that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor. The bill would require a person or business that sells or provides a certificate, identification, tag, vest, leash, or harness for an emotional support animal to provide a written notice, as specified, to the buyer or recipient. The bill would also prohibit a health care practitioner from providing documentation relating to an individual's need for an emotional support dog unless the health care practitioner complies with specified requirements, including holding a valid license, establishing a client-provider relationship with the individual for at least 30 days prior to providing the documentation, and completing a clinical evaluation of the individual regarding the need for an emotional support dog. The bill would make a violation of the written notice requirements or knowingly and fraudulently representing, selling, or offering for sale, or attempting to represent, sell, or offer for sale, an emotional support dog as being entitled to the rights and privileges accorded by law to a guide, signal, or service dog, subject to a civil penalty, as specified. The bill would state that this provision is not to 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, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 4 (commencing with Section 122317) is added to Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, to read:

Article 4. Emotional Support Animals

122317. (a) A person or business that sells or provides a dog for use as an emotional support dog shall provide a written notice to the buyer or recipient of the dog that states all of the following:

- (1) The dog does not have the special training required to qualify as a guide, signal, or service dog.
- (2) The dog is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog.
- (3) Knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

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

- (1) The item does not entitle an emotional support animal to the rights and privileges accorded by law to a guide, signal, or service dog.
- (2) Knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(c) The written notices described in subdivisions (a) and (b) shall be made in at least 12-point bold type, and shall be provided on the receipt for the emotional support dog or the product described in subdivision (b), or on a separate piece of paper.

122318. (a) A health care practitioner shall not provide documentation relating to an individual's need for an emotional support dog unless the health care practitioner complies with all of the following criteria:

- (1) Possesses a valid, active license and includes the effective date, license number, jurisdiction, and type of professional license in the documentation.
- (2) Is licensed to provide professional services within the scope of the license in the jurisdiction in which the documentation is provided.
- (3) Establishes a client-provider relationship with the individual for at least 30 days prior to providing the documentation requested regarding the individual's need for an emotional support dog.
- (4) Completes a clinical evaluation of the individual regarding the need for an emotional support dog.
- (5) Provides a verbal or written notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(b) For purposes of this section, "health care practitioner" means a person who is licensed and regulated pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who is acting within the scope of practice of the person's license or certificate.

(c) A health care practitioner may be subject to discipline from the health care practitioner's licensing board for a violation of this section.

122319. (a) (1) A violation of either of the following shall be subject to a civil penalty of five hundred dollars (\$500) for the first violation, one thousand dollars (\$1,000) for the second violation, and two thousand five hundred dollars (\$2,500) for the third and any subsequent violation:

- (A) Knowingly and fraudulently representing, selling, or offering for sale, or attempting to represent, sell, or offer for sale, an emotional support dog as being entitled to the rights and privileges accorded by law to a guide, signal, or service dog.
- (B) Violating the written notice requirements specified in Section 122317.

(2) An action for civil penalties under this section may be brought by the Attorney General, a district attorney, a county counsel, or a city attorney.

(b) 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, including, but not limited to, rights afforded under the California Fair Employment and Housing Act (Chapter 1 (commencing with Section 12900) of Part 2.8 of Division 3 of Title 2 of the Government Code), the Unruh Civil Rights Act (Section 51 of the Civil Code), and the Disabled Persons Act (Part 2.5 (commencing with Section 54) of Division 1 of the Civil Code).

122319.5. For purposes of this article, the following definitions apply:

- (a) "Emotional support animal" means an animal that provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified.
- (b) "Emotional support dog" means a dog that provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified.
- (c) "Guide, signal, or service dog" has the meaning set forth in subdivisions (d), (e), and (f) of Section 365.5 of the Penal Code, and paragraph (6) of subdivision (b) of Section 54.1 of the Civil Code.