

Senate File 2365

S-5124

1 Amend Senate File 2365 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. **216.8B Assistance animals and**
5 **service animals in housing — penalty.**

6 1. For purposes of this section, unless the context
7 otherwise requires:

8 *a. "Assistance animal"* means an animal that qualifies as a
9 reasonable accommodation under the federal Fair Housing Act, 42
10 U.S.C. §3601 et seq., as amended, or section 504 of the federal
11 Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

12 *b. "Service animal"* means a dog or miniature horse as set
13 forth in the implementing regulations of Title II and Title
14 III of the federal Americans with Disabilities Act of 1990, 42
15 U.S.C. §12101 et seq.

16 2. A landlord shall waive lease restrictions and additional
17 payments normally required for pets on the keeping of animals
18 for the assistance animal or service animal of a person with
19 a disability.

20 3. A tenant is liable for damage done to any dwelling by an
21 assistance animal or service animal.

22 4. A person who knowingly denies or interferes with the
23 right of a person with a disability under this section is, upon
24 conviction, guilty of a simple misdemeanor.

25 **Sec. 2. NEW SECTION. 216.8C Finding of disability and need**
26 **for an assistance animal or service animal in housing.**

27 1. A licensee under chapter 148, 148C, 152, 154B, 154C,
28 or 154D whose assistance is requested by a patient or client
29 seeking a finding that an assistance animal or service animal
30 as defined in section 216.8B, subsection 1, is a reasonable
31 accommodation in housing shall make a written finding regarding
32 whether the patient or client has a disability and, if a
33 disability is found, a separate written finding regarding
34 whether the need for an assistance animal or service animal is
35 related to the disability.

1 2. A licensee under chapter 148, 148C, 152, 154B, 154C, or
2 154D shall not make a finding under subsection 1 unless all of
3 the following circumstances are present:

4 a. The licensee has met with the patient or client in person
5 or by telemedicine.

6 b. The licensee is sufficiently familiar with the patient
7 or client and the disability.

8 c. The licensee is legally and professionally qualified to
9 make the finding.

10 3. The commission, in consultation with the consumer
11 protection division of the office of the attorney general,
12 shall adopt rules regarding the making of a written finding
13 by licensees under this section. The rules shall include a
14 form for licensees to document the licensees' written finding.
15 The form shall recite this section's requirements and comply
16 with the federal Fair Housing Act, 42 U.S.C. §3601 et seq.,
17 as amended, and section 504 of the federal Rehabilitation Act
18 of 1973, 29 U.S.C. §794, as amended. The form shall ask only
19 two questions regarding the qualifications of the patient or
20 client. The form shall ask whether a person has a disability
21 and whether the need for an assistance animal or service animal
22 is related to the disability. The form shall indicate that the
23 responses must be limited to "yes" or "no". The form shall not
24 allow for additional detail.

25 4. A person who, in the course of employment, is asked to
26 make a finding of disability and disability-related need for
27 an assistance animal or service animal shall utilize the form
28 created by the commission to document the person's written
29 finding.

30 5. A landlord may deny a request for an exception to a
31 pet policy if a person, who doesn't have a readily apparent
32 disability, or a disability known to the landlord, fails
33 to provide documentation indicating that the person has a
34 disability and the person has a disability-related need for an
35 assistance animal or service animal.

1 6. This section does not limit the means by which a person
2 with a disability may demonstrate, pursuant to state or federal
3 law, that the person has a disability or that the person has
4 a disability-related need for an assistance animal or service
5 animal.

6 Sec. 3. Section 216C.11, Code 2018, is amended to read as
7 follows:

8 **216C.11 ~~Service dogs and assistive animals~~ Service animals**
9 **and service-animals-in-training — penalty.**

10 1. For purposes of this section, unless context otherwise
11 requires:

12 a. "Disability" means the physical or mental condition of
13 a person which constitutes a substantial disability, and the
14 condition of a person with a positive human immunodeficiency
15 virus test result, a diagnosis of acquired immune deficiency
16 syndrome, a diagnosis of acquired immune deficiency
17 syndrome-related complex, or any other condition related to
18 acquired immune deficiency syndrome. The inclusion of a
19 condition related to a positive human immunodeficiency virus
20 test result in the meaning of "disability" under the provisions
21 of this section does not preclude the application of the
22 provisions of this section to conditions resulting from other
23 contagious or infectious diseases.

24 b. ~~"service dog" means a dog specially trained to assist a~~
25 ~~person with a disability, whether described as a service dog,~~
26 ~~a support dog, an independence dog, or otherwise. "Assistive~~
27 ~~animal" means a simian or other animal specially trained or~~
28 ~~in the process of being trained to assist a person with a~~
29 ~~disability. "Service animal" means a dog or miniature horse as~~
30 ~~set forth in the implementing regulations of Title II and Title~~
31 ~~III of the federal Americans with Disabilities Act of 1990, 42~~
32 ~~U.S.C. §12101 et seq.~~

33 2. A person with a disability, a person assisting a
34 person with a disability by controlling a ~~service dog or an~~
35 ~~assistive animal~~ animal or a service-animal-in-training, or

1 a person training a service dog or an assistive animal has
2 the right to be accompanied by a service dog or an assistive
3 animal, under control, in any of the places listed in sections
4 216C.3 and 216C.4 without being required to make additional
5 payment for the service dog or assistive animal animal or
6 service-animal-in-training. A landlord shall waive lease
7 restrictions on the keeping of animals for the service dog or
8 assistive animal of a person with a disability. The person is
9 liable for damage done to any premises or facility by a service
10 dog or assistive animal.

11 3. A person who knowingly denies or interferes with the
12 right of a person under this section is, upon conviction,
13 guilty of a simple misdemeanor.

14 4. a. A person who intentionally misrepresents an animal
15 as a service animal or a service-animal-in-training is, upon
16 conviction, guilty of a simple misdemeanor.

17 b. A person commits the offense of intentional
18 misrepresentation of an animal as a service animal or a
19 service-animal-in-training, if all of the following elements
20 are established:

21 (1) For the purpose of obtaining any of the rights or
22 privileges set forth in state or federal law, the person
23 intentionally misrepresents an animal in one's possession
24 as one's service animal or service-animal-in-training
25 or a person with a disability's service animal or
26 service-animal-in-training whom the person is assisting by
27 controlling.

28 (2) The person was previously given a written or
29 verbal warning regarding the fact that it is illegal to
30 intentionally misrepresent an animal as a service animal or a
31 service-animal-in-training.

32 (3) The person knows that the animal in question is not a
33 service animal or a service-animal-in-training.

34 Sec. 4. EMERGENCY RULES. The Iowa civil rights commission
35 may adopt emergency rules under section 17A.4, subsection 3,

1 and section 17A.5, subsection 2, paragraph "b", to implement
2 the section of this Act enacting section 216.8C and the rules
3 shall be effective immediately upon filing. Any rules adopted
4 in accordance with this section shall also be published as a
5 notice of intended action as provided in section 17A.4.

6 Sec. 5. APPLICABILITY. The section of this Act enacting
7 section 216.8C applies once rules are adopted. Prior to the
8 adoption of the rules and creation of a licensee's written
9 finding form, a tenant seeking an assistance animal or a
10 service animal as a reasonable accommodation in housing
11 shall otherwise demonstrate pursuant to state or federal law
12 that the person has a disability and that the person has a
13 disability-related need for an assistance animal or service
14 animal.>

15 2. Title page, by striking lines 1 through 6 and inserting
16 <An Act relating to assistance animals and service animals in
17 housing and misrepresentation of an animal as a service animal
18 or a service-animal-in-training and providing penalties and
19 including applicability provisions.>

DAN DAWSON