SENATE FILE 2365
BY COMMITTEE ON VETERANS AFFAIRS

(SUCCESSOR TO SSB 3148)

A BILL FOR

1 An Act relating to assistance animals, assistive animals, and
2 service dogs and providing penalties for misrepresenting
3 oneself as entitled to an assistance animal or an assistive
4 animal in housing and for misrepresenting an animal
5 as an assistive animal or a service dog and including
6 applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 216.8B Assistance animals, assistive animals, and service dogs in housing.

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


b. "Assistive animal" means an animal specially trained or in the process of being trained to assist a person with a disability.

c. "Service dog" means a dog specially trained to assist a person with a disability, whether described as a service dog, a support dog, an independence dog, or otherwise.

2. A landlord shall waive lease restrictions on the keeping of animals for the assistance animal, service dog, or assistive animal of a person with a disability.

3. A tenant is liable for damage done to any dwelling by an assistance animal, a service dog, or an assistive animal.

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

5. a. A person who intentionally misrepresents oneself as entitled to an assistance animal or an assistive animal as a reasonable accommodation in housing is, upon determination by the commission, subject to a civil penalty of one hundred dollars.

b. A person commits the violation of intentional misrepresentation of entitlement to an assistance animal or an assistive animal as a reasonable accommodation in housing, if all of the following elements are established:

(1) The person intentionally misrepresents the person's entitlement to an animal in one's possession as an assistance animal or an assistive animal for the purpose of obtaining any of the rights or privileges set forth in state or federal law
for a person with a disability as a reasonable accommodation in housing.

(2) The owner, the landlord, or the landlord's agent previously gave the person a written or verbal warning regarding the fact that it is illegal for a person to intentionally misrepresent oneself as entitled to an assistance animal or an assistive animal.

(3) The person knows that at least one of the following is true:

(a) The animal is not an assistance animal or an assistive animal with regard to the person.

(b) The person does not have a disability.

(c) A written finding made by a licensee pursuant to section 216.8C is an affirmative defense to the violation of this subsection. However, the lack of such a finding is not proof of a violation of this subsection, and nothing in this subsection or in section 216.8C limits the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability or that the person has a disability-related need for an assistance animal or an assistive animal.

(d) Funds collected under this subsection shall be paid to the treasurer of state for deposit in the general fund of the state.

Sec. 2. NEW SECTION. 216.8C Finding of disability and need for an assistance or assistive animal in housing.

1. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D whose assistance is requested by a patient seeking a finding that an assistance animal or an assistive animal as defined in section 216.8B, subsection 1, is a reasonable accommodation in housing shall do either of the following:

(a) Make a written finding regarding whether the patient has a disability and, if a disability is found, a separate written finding regarding whether the need for an assistance animal or an assistive animal is related to the disability.
b. Make a written finding that insufficient information is available to make a finding regarding disability or the disability-related need for an assistance animal or an assistive animal.

2. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D shall not make a finding under subsection 1 unless all of the following circumstances are present:
   a. The licensee has met with the patient in person or by telemedicine.
   b. The licensee is sufficiently familiar with the patient and the disability.
   c. The licensee is legally and professionally qualified to make the finding.

3. The commission shall adopt rules regarding the making of a written finding by licensees under this section. The rules shall include a form for licensees to document the licensees’ written finding. The form shall recite this section’s requirements and comply with the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, and section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

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

216C.11 Service dogs and assistive animals **Assistive animals and service dogs.**

1. For purposes of this section, unless context otherwise requires:
   a. "Assistive animal" means an animal specially trained or in the process of being trained to assist a person with a disability.
   b. "Disability" means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to
acquired immune deficiency syndrome. The inclusion of a
condition related to a positive human immunodeficiency virus
test result in the meaning of "disability" under the provisions
of this section does not preclude the application of the
provisions of this section to conditions resulting from other
contagious or infectious diseases.

Service dog" means a dog specially trained
to assist a person with a disability, whether described as a
service dog, a support dog, an independence dog, or otherwise.
"Assistive animal" means a simian or other animal specially
trained or in the process of being trained to assist a person
with a disability.

2. A person with a disability, a person assisting a person
with a disability by controlling a service dog or an assistive
animal, or a person training a service dog or an assistive
animal has the right to be accompanied by a service dog or an
assistive animal, under control, in any of the places listed
in sections 216C.3 and 216C.4 without being required to make
additional payment for the service dog or assistive animal.

A landlord shall waive lease restrictions on the keeping of
animals for the service dog or assistive animal of a person
with a disability. The person is liable for damage done to any
premises or facility by a service dog or assistive animal.

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

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

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

(1) The person intentionally misrepresents an animal in
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one's possession as one's assistive animal, service dog, or service-dog-in-training, or a person with a disability's assistive animal or service dog whom the person is assisting by controlling, or a service-dog-in-training for the purpose of obtaining any of the rights or privileges set forth in state or federal law.

(2) The person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent an animal as an assistive animal or a service dog.

(3) The person knows that the animal in question is not an assistive animal, a service dog, or a service-dog-in-training.

Sec. 4. EMERGENCY RULES. The Iowa civil rights commission may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the section of this Act enacting section 216.8C and the rules shall be effective immediately upon filing. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 5. APPLICABILITY. The section of this Act enacting section 216.8C applies once rules are adopted. Prior to the adoption of the rules and creation of a licensees' written finding form, a tenant seeking an assistance animal or an assistive animal as a reasonable accommodation in housing shall otherwise demonstrate pursuant to state or federal law that the person has a disability and that the person has a disability-related need for an assistance animal or an assistive animal.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to assistance animals, assistive animals, and service dogs and provides penalties for misrepresenting oneself as entitled to an assistance animal or an assistive animal in housing and for misrepresenting an animal as an assistive animal or a service dog.
The bill creates new Code section 216.8B, titled "assistance animals, assistive animals, and service dogs in housing".

The new Code section provides definitions for assistance animal, assistive animal, and service dog, and provides that a landlord shall waive lease restrictions on the keeping of animals for the assistance animal, service dog, or assistive animal of a person with a disability. It also provides that a tenant is liable for damage done to any dwelling by an assistance animal, a service dog, or an assistive animal.

It provides that a person commits a simple misdemeanor if a person knowingly denies or interferes with the right of a person with a disability under this Code section. Finally, the new Code section provides that a person is subject to a civil penalty of $100 if a person intentionally misrepresents oneself as entitled to an assistance animal or an assistive animal as a reasonable accommodation in housing. The bill sets forth the elements of the civil violation. The bill provides that a written finding made by a licensee pursuant to new Code section 216.8C is an affirmative defense to this civil violation. However, the lack of such a finding is not proof of a violation of this civil violation. The bill provides that nothing in this civil violation or in new Code section 216.8C limits the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability-related need for an assistance animal or an assistive animal.

The bill creates new Code section 216.8C, titled "finding of disability and need for an assistance or assistive animal in housing". The bill provides a process for a patient to request the assistance of a professional licensed under certain chapters of the Code in finding that the individual is a person with a disability who needs an assistance animal or an assistive animal as a reasonable accommodation in housing. The bill provides that the licensee shall not make a finding unless the licensee has met with the patient.
1 in person or by telemedicine; the licensee is sufficiently
2 familiar with the patient and the disability; and the licensee
3 is legally and professionally qualified to make the finding.
4 The bill provides the licensee shall either make a written
5 finding regarding whether the patient has a disability
6 and, if a disability is found, a separate written finding
7 regarding whether the need for the animal is related to that
8 disability or make a written finding that there is insufficient
9 information available to make a finding regarding disability or
10 the disability-related need for the assistance animal or the
11 assistive animal.
12 The bill requires the Iowa civil rights commission to adopt
13 rules regarding the making of a written finding by licensees.
14 The rules shall include a form for licensees to document the
15 licensee's written finding; the form must recite new Code
16 section 216.8C requirements and comply with the federal Fair
17 Housing Act and the federal Rehabilitation Act of 1973. The
18 bill provides that the commission may adopt emergency rules.
19 New Code section 216.8C applies once rules are adopted. The
20 bill provides that prior to the adoption of the rules and
21 creation of a licensees' written finding form, a tenant seeking
22 an assistance animal or an assistive animal as a reasonable
23 accommodation in housing shall otherwise demonstrate pursuant
24 to state or federal law that the person has a disability and
25 that the person has a disability-related need for an assistance
26 or assistive animal.
27 The bill amends Code section 216C.11. The bill moves housing
28 provisions relating to landlords and tenants from Code section
29 216C.11 to new Code section 216.8B. The bill adds a definition
30 of disability to Code section 216C.11 that is the same as the
31 definition in Code section 216.2(5).
32 In Code section 216C.11, the bill criminalizes the
33 intentional misrepresentation of an animal as an assistive
34 animal, a service dog, or service-dog-in-training. A person
35 commits this public offense if all of the following elements
are established: the person intentionally misrepresents an animal in one’s possession as one’s assistive animal or service dog, or a person with a disability’s assistive animal or service dog whom the person is assisting by controlling, or a service-dog-in-training for the purpose of obtaining any of the rights or privileges set forth in state or federal law; the person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent an animal as an assistive animal or a service dog; and the person knows that the animal in question is not an assistive animal, a service dog, or a service-dog-in-training. The new public offense is established as a simple misdemeanor. A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least $65 but not more than $625 or by both.