



GOV. MSG. NO. 1279

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 1, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

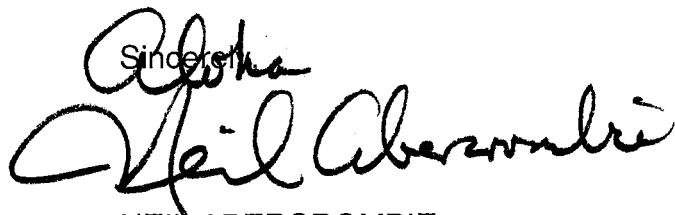
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 1, 2011, the following bill was signed into law:

SB892 SD2 HD2

RELATING TO SERVICE ANIMALS
Act 175 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

JUL 1 2011

on _____

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 175
S.B. NO. 892
S.D. 2
H.D. 2

A BILL FOR AN ACT

RELATING TO SERVICE ANIMALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that certain references
2 to service animals in state law are either obsolete or
3 inconsistent with federal law. Accordingly, the purpose of this
4 Act is to:

5 (1) Conform section 142-5.5, Hawaii Revised Statutes,
6 regarding quarantine, to the definition of "service
7 dog" established in chapter 347, Hawaii Revised
8 Statutes;

9 (2) Clarify section 143-4, Hawaii Revised Statutes,
10 regarding dog licensing, to appropriately conform
11 provisions applicable to service dogs with the
12 Americans with Disabilities Act, Public Law 101-336;

13 (3) Conform section 347-13, Hawaii Revised Statutes,
14 relating to public conveyances, to Titles II and III
15 of the Americans with Disabilities Act, codified as
16 Title 42 United States Code, Sections 12131 through
17 12165, and Sections 12181 through 12189, respectively;



- 1 (4) Conform section 347-19, Hawaii Revised Statutes,
2 regarding the rights and liability of blind or
3 partially blind, to the definition of "service dog"
4 established in chapter 347, Hawaii Revised Statutes;
- 5 (5) Conform section 515-3, Hawaii Revised Statutes,
6 regarding discriminatory practices in real estate
7 transactions, to the federal Fair Housing Act, Public
8 Law 100-430; and
- 9 (6) Conform sections 711-1109.4 and 711-1009.5, Hawaii
10 Revised Statutes, regarding criminal offenses against
11 service dogs, to the definition of "service dog"
12 established in chapter 347, Hawaii Revised Statutes.

13 SECTION 2. Chapter 347, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§347- Service dog, defined. As used in this chapter,
17 "service dog" means any dog that is individually trained to do
18 work or perform tasks for the benefit of an individual with a
19 disability, including a physical, sensory, intellectual, or
20 other mental disability. A companion or comfort animal is not a
21 service dog unless it meets the requirements of this definition



1 and it accompanies a person for the purpose of performing the
2 work or tasks for which it has been trained."

3 SECTION 3. Section 142-5.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§142-5.5[] Guide, signal, or service]~~ Service dogs.

6 Any person with a disability who uses the services of a [~~guide,~~
7 ~~signal, or~~] service dog, as defined in section [~~515-37~~] 347- ,
8 shall be permitted to reside on site for the duration of
9 quarantine, if housing is available."

10 SECTION 4. Section 143-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§143-4 Issuance of license and tags. Upon the receipt of
13 the license fee, the director of finance shall issue to the
14 person paying the fee a license stating the following:

- 15 (1) The name and address of the person to whom the license
16 is issued;
- 17 (2) The year for which the license is paid;
- 18 (3) The date of payment;
- 19 (4) A description of the dog for which the license is
20 issued; and
- 21 (5) The number of the metal tag issued for the dog[~~;~~and



1 ~~(6) Any dog approved by the director of finance pursuant~~
2 ~~to rules established by the director to be a guide,~~
3 ~~signal, or service dog shall be so designated on the~~
4 ~~license].~~

5 The director of finance shall at the same time issue and
6 deliver to the person a metal tag [~~of such~~] in the form and
7 design as the director of finance may designate with a serial
8 number and the year for which it is issued plainly inscribed
9 thereon[~~, which~~]. The tag shall be attached to a collar around
10 the neck of the dog for which the license has been issued. The
11 fee for the tag shall be set by each county council; provided
12 that, until and unless provided by ordinance, the fee shall be
13 10 cents.

14 [~~The director of finance, pursuant to chapter 91, shall~~
15 ~~adopt rules for the licensing of guide, signal, and service~~
16 ~~dogs.] "~~

17 SECTION 5. Section 347, Hawaii Revised Statutes, is
18 amended by amending its title to read as follows:

19 "CHAPTER 347

20 BLIND [AND], VISUALLY HANDICAPPED, AND OTHER DISABLED PERSONS"

21 SECTION 6. Section 347-13, Hawaii Revised Statutes, is
22 amended to read as follows:

SB892 HD2 HMS 2011-3722



1 "§347-13 ~~[Blind, partially blind, physically handicapped,]~~
2 Persons who are blind, visually handicapped, disabled; public
3 places; public conveyances. (a) ~~[The blind, visually~~
4 ~~handicapped, and]~~ Persons who are blind, visually handicapped,
5 or otherwise ~~[physically]~~ disabled are entitled to full and
6 equal accommodations, advantages, facilities, and privileges of
7 all common carriers, airplanes, motor vehicles, railroad trains,
8 motor buses, street cars, boats, or any other public conveyances
9 or modes of transportation, hotels, lodging places, places of
10 public accommodation, amusement, or resort, and other places to
11 which the general public is invited, subject only to the
12 conditions and limitations established by law and applicable
13 ~~[alike]~~ to all persons.

14 (b) Every person who is blind, deaf, [or] visually
15 handicapped, or [physically handicapped person] otherwise
16 disabled shall have the right to be accompanied by a ~~[guide,~~
17 ~~signal, or]~~ service dog, especially trained for the purpose~~[r]~~
18 of assisting the person in any of the places listed in
19 subsection (a) without being required to pay an extra charge for
20 the ~~[guide, signal, or]~~ service dog; provided that the ~~[blind,~~
21 ~~deaf, or visually or physically handicapped]~~ person shall be
22 liable for any damage done to the premises or facilities by



1 ~~[such]~~ the service dog. No ~~[such]~~ service dog shall be
2 considered dangerous merely because it is unmuzzled.

3 (c) Every ~~[physically handicapped]~~ disabled person shall
4 have the right to use a life jacket or other flotation device in
5 a public swimming pool; provided that:

6 (1) The ~~[handicapped]~~ person suffers from a physical
7 disability or condition ~~[which]~~ that requires the use
8 of a life jacket or other flotation device; and

9 (2) The ~~[handicapped]~~ person obtains a statement signed by
10 a licensed physician or physician assistant attesting
11 to the ~~[handicapped]~~ person's need to use a life
12 jacket or other flotation device.

13 (d) The director of human services shall adopt rules
14 pursuant to chapter 91 necessary for the purposes of this
15 section."

16 SECTION 7. Section 347-19, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[§]~~**§347-19**~~[§]~~ **Rights of blind; partially blind.** A blind
19 or visually handicapped person not carrying a cane or using a
20 ~~[guide]~~ service dog in any of the places, accommodations or
21 conveyances listed in section 347-13, shall have all of the
22 rights and privileges conferred by law upon other persons, and



1 the failure of a blind or visually handicapped person to carry a
2 cane or to use a [~~guide~~] service dog in any such places,
3 accommodations, or conveyances shall not constitute nor be
4 evidence of negligence."

5 SECTION 8. Section 515-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§515-3 Discriminatory practices.** It is a discriminatory
8 practice for an owner or any other person engaging in a real
9 estate transaction, or for a real estate broker or salesperson,
10 because of race, sex, including gender identity or expression,
11 sexual orientation, color, religion, marital status, familial
12 status, ancestry, disability, age, or human immunodeficiency
13 virus infection:

14 (1) To refuse to engage in a real estate transaction with
15 a person;

16 (2) To discriminate against a person in the terms,
17 conditions, or privileges of a real estate transaction
18 or in the furnishing of facilities or services in
19 connection [~~therewith,~~] with a real estate
20 transaction;



- 1 (3) To refuse to receive or to fail to transmit a bona
2 fide offer to engage in a real estate transaction from
3 a person;
- 4 (4) To refuse to negotiate for a real estate transaction
5 with a person;
- 6 (5) To represent to a person that real property is not
7 available for inspection, sale, rental, or lease when
8 in fact it is available, or to fail to bring a
9 property listing to the person's attention, or to
10 refuse to permit the person to inspect real property,
11 or to steer a person seeking to engage in a real
12 estate transaction;
- 13 (6) To print, circulate, post, or mail, or cause to be
14 published a statement, advertisement, or sign, [~~ex~~] to
15 use a form of application for a real estate
16 transaction, or to make a record or inquiry in
17 connection with a prospective real estate transaction,
18 that indicates, directly or indirectly, an intent to
19 make a limitation, specification, or discrimination
20 with respect [~~thereto,~~] to a real estate transaction;
- 21 (7) To offer, solicit, accept, use, or retain a listing of
22 real property with the understanding that a person may



1 be discriminated against in a real estate transaction
2 or in the furnishing of facilities or services in
3 connection [~~therewith,~~] with a real estate
4 transaction;

5 [~~(8)~~] ~~To refuse to engage in a real estate transaction with~~
6 ~~a person or to deny equal opportunity to use and enjoy~~
7 ~~a housing accommodation due to a disability because~~
8 ~~the person uses the services of a guide dog, signal~~
9 ~~dog, or service animal; provided that reasonable~~
10 ~~restrictions or prohibitions may be imposed regarding~~
11 ~~excessive noise or other problems caused by those~~
12 ~~animals. For the purposes of this paragraph:~~

13 ~~"Blind" shall be as defined in section 235 1;~~

14 ~~"Deaf" shall be as defined in section 235 1;~~

15 ~~"Guide dog" means any dog individually trained by~~
16 ~~a licensed guide dog trainer for guiding a blind~~
17 ~~person by means of a harness attached to the dog and a~~
18 ~~rigid handle grasped by the person;~~

19 ~~"Reasonable restriction" shall not include any~~
20 ~~restriction that allows any owner or person to refuse~~
21 ~~to negotiate or refuse to engage in a real estate~~
22 ~~transaction; provided that as used in this paragraph,~~



1 ~~the "reasonableness" of a restriction shall be~~
2 ~~examined by giving due consideration to the needs of a~~
3 ~~reasonable prudent person in the same or similar~~
4 ~~circumstances. Depending on the circumstances, a~~
5 ~~"reasonable restriction" may require the owner of the~~
6 ~~service animal, guide dog, or signal dog to comply~~
7 ~~with one or more of the following:~~

8 ~~(A) Observe applicable laws including leash laws and~~
9 ~~pick-up laws;~~

10 ~~(B) Assume responsibility for damage caused by the~~
11 ~~dog, or~~

12 ~~(C) Have the housing unit cleaned upon vacating by~~
13 ~~fumigation, deodorizing, professional carpet~~
14 ~~cleaning, or other method appropriate under the~~
15 ~~circumstances.~~

16 ~~The foregoing list is illustrative only, and neither~~
17 ~~exhaustive nor mandatory;~~

18 ~~"Service animal" means any animal that is trained~~
19 ~~to provide those life activities limited by the~~
20 ~~disability of the person;~~

21 ~~"Signal dog" means any dog that is trained to~~
22 ~~alert a deaf person to intruders or sounds;]~~



- 1 ~~[(9)]~~ (8) To solicit or require as a condition of engaging
2 in a real estate transaction that the buyer, renter,
3 or lessee be tested for human immunodeficiency virus
4 infection, the causative agent of acquired
5 immunodeficiency syndrome;
- 6 ~~[(10)]~~ (9) To refuse to permit, at the expense of a person
7 with a disability, reasonable modifications to
8 existing premises occupied or to be occupied by the
9 person if modifications may be necessary to afford the
10 person full enjoyment of the premises~~[-—A]~~; provided
11 that a real estate broker or salesperson, where it is
12 reasonable to do so, may condition permission for a
13 modification on the person agreeing to restore the
14 interior of the premises to the condition that existed
15 before the modification, reasonable wear and tear
16 excepted;
- 17 ~~[(11)]~~ (10) To refuse to make reasonable accommodations in
18 rules, policies, practices, or services, when the
19 accommodations may be necessary to afford a person
20 with a disability equal opportunity to use and enjoy a
21 housing accommodation; provided that if reasonable



1 accommodations include the use of an animal,
2 reasonable restrictions may be imposed;

3 [~~12~~] (11) In connection with the design and construction
4 of covered multifamily housing accommodations for
5 first occupancy after March 13, 1991, to fail to
6 design and construct housing accommodations in such a
7 manner that:

8 (A) The housing accommodations have at least one
9 accessible entrance, unless it is impractical to
10 do so because of the terrain or unusual
11 characteristics of the site; and

12 (B) With respect to housing accommodations with an
13 accessible building entrance:

14 (i) The public use and common use portions of
15 the housing accommodations are accessible to
16 and usable by [~~disabled~~] persons[+] with
17 disabilities;

18 (ii) Doors allow passage by persons in
19 wheelchairs; and

20 (iii) All premises within covered multifamily
21 housing accommodations contain an accessible
22 route into and through the housing



1 accommodations; light switches, electrical
2 outlets, thermostats, and other
3 environmental controls are in accessible
4 locations; reinforcements in the bathroom
5 walls allow installation of grab bars; and
6 kitchens and bathrooms are accessible by
7 wheelchair; or

8 ~~[(13)]~~ (12) To discriminate against or deny a person access
9 to, or membership or participation in any multiple
10 listing service, real estate broker's organization, or
11 other service, organization, or facility involved
12 either directly or indirectly in real estate
13 transactions, or to discriminate against any person in
14 the terms or conditions of such access, membership, or
15 participation."

16 SECTION 9. Section 711-1109.4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§711-1109.4[+] Causing injury or death to a [guide
19 ~~dog, signal dog, or service animal.~~] service dog. (1) A person
20 commits the offense of causing injury or death to a [~~guide dog,~~
21 ~~signal dog, or service animal~~] service dog if:



1 (a) The person recklessly causes injury to or the death of
2 any [~~guide dog, signal dog, or service animal,~~
3 service dog while the service dog is in the discharge
4 of its duties; or

5 (b) The person is the owner of a dog and recklessly
6 permits that dog to attack a [~~guide dog, signal dog,~~
7 ~~or service animal~~] service dog while [~~that~~] the
8 service dog is in the discharge of its duties,
9 resulting in the injury or death of the [~~guide dog,~~
10 ~~signal dog, or service animal.~~] service dog.

11 (2) Any person who commits the offense of causing injury
12 or death to a [~~guide dog, signal dog, or service animal~~] service
13 dog shall be punished as follows:

14 (a) For a first offense by a fine of not more than \$2,000,
15 imprisonment of not more than thirty days, or both;
16 and

17 (b) For a second or subsequent offense by a fine of not
18 more than \$5,000, imprisonment of not more than thirty
19 days, or both.

20 (3) Any person who is convicted of a violation of this
21 section shall be ordered to make restitution to:



1 (a) The person with a disability who has custody or
2 ownership of the [~~guide dog, signal dog, or service~~
3 ~~animal,~~] service dog, for any veterinary bills and
4 out-of-pocket costs incurred as a result of the injury
5 to the service dog; and

6 (b) The person or organization that incurs the cost of
7 retraining or replacing the [~~animal,~~] service dog, for
8 the cost of retraining or replacing the [~~animal~~]
9 service dog if it is disabled or killed.

10 (4) As used in this section, [~~"guide dog", "signal dog",~~
11 ~~and "service animal"~~] "service dog" shall have the same meaning
12 as in section [~~515-3(8).~~] 347- ."

13 SECTION 10. Section 711-1109.5, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "[~~§~~711-1109.5[~~]~~] **Intentional interference with the use**
16 **of a [~~guide dog, signal dog, or service animal.~~] service dog.**

17 (1) A person commits the offense of intentional interference
18 with the use of a [~~guide dog, signal dog, or service animal~~]
19 service dog if the person, with no legal justification,
20 intentionally or knowingly:

21 (a) Harms a [~~guide dog, signal dog, or service animal,~~]
22 service dog; or



1 (b) Strikes or kicks a [~~guide dog, signal dog, or service~~
2 ~~animal,~~] service dog;
3 while the [~~guide dog, signal dog, or service animal~~] service dog
4 is in the discharge of its duties.

5 (2) Intentional interference with the use of a [~~guide dog,~~
6 ~~signal dog, or service animal~~] service dog is a misdemeanor.

7 (3) Nothing in this section is intended to affect any
8 civil remedies available for a violation of this section.

9 (4) As used in this section, [~~"guide dog", "signal dog",~~
10 ~~and "service animal"~~] "service dog" shall have the same meaning
11 as in section [~~515-3(8)-~~] 347-."

12 SECTION 11. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

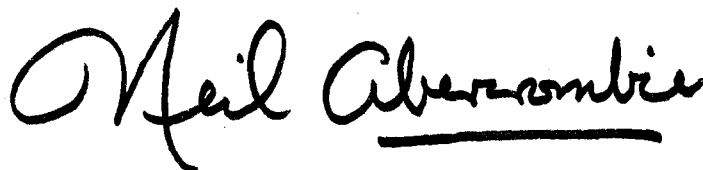
15 SECTION 12. If any provision of this Act, or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act, which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 13. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect upon its approval.

APPROVED this 1 day of JUL, 2011

A handwritten signature in black ink that reads "Neil Abernethy". The signature is written in a cursive style. The name "Abernethy" is underlined with a single horizontal line.

GOVERNOR OF THE STATE OF HAWAII