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## **State of California Penal and Civil Codes with ADA Penalties**

### **Penalties for preventing a service dog user from exercising rights to access**

#### **PENAL CODE SECTION 365.5**

[a] Any blind person, deaf person, or disabled person, who is a passenger on any common carrier, airplane, motor vehicle, railway train, motorbus, streetcar, boat, or any other public conveyance or mode of transportation operating within this state, shall be entitled to have with him or her a specially trained guide dog, signal dog or service dog.

[b] No blind person, deaf person, or disabled person and his or her specially trained guide dog, signal dog, or service dog shall be denied admittance to accommodations, advantages, facilities, medical facilities, including hospitals, clinics and physician's offices, telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort and other places to which the general public is invited within this state because of the guide dog, signal dog, or service dog.

[c] Any person, firm, association, or corporation, or the agent of any person, firm, association, or corporation, who prevents a disabled person from exercising, or interferes with a disabled person in exercise of, the rights specified in this section is guilty of a misdemeanor punishable by a fine not exceeding \$2,500.

[d] As used in this section, "guide dog" means any guide dog or Seeing Eye dog that was trained by a person licensed under Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or that meets the definitional criteria under federal regulations adopted to implement Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336)

[e] As used in this section, "signal dog" means any dog trained to alert a deaf person or a person whose hearing is impaired, to intruders or sounds.

[f] As used in this section, "service dog" means any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

[g] (I) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(2) This section is intended to provide equal accessibility for all owners or trainers of animals that are trained as guide dogs, signal dogs, or service dogs in a manner that is no less than that provided by the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Air Carrier Access Act of 1986 (Public Law 99-435).

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[h] The exercise of rights specified in subdivisions [a] and [b] by any person may not be conditioned upon payment of any extra charge, provided the person shall be liable for any probable damage done to the premises or facilities by his or her dog.

[I] Any trainer or individual with a disability may take dogs in any of the places specified in subdivisions (a) and (b) for the purpose of training the dogs as guide dogs, signal dogs, or service dog. The person shall ensure that the dog is on leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk or animal control department as authorized by Chapter 3.5 (commencing with Section 30850) of Division 14 of the Food and Agricultural Code. In addition, the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

### **Fraudulent representation as owner or trainer of service dog is misdemeanor**

#### **PENAL CODE SECTION 365.7**

[a] Any person who, knowingly and fraudulently represents himself or herself, through verbal or written notice, to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog, as defined in subdivisions (d), (e), and (f) of Section 365.5 and paragraph (6) of subdivision (b) of Section 54.1 of the Civil Code, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000) or by both that fine and imprisonment.

[b] As used in this section, "owner" means any person who owns a guide, signal, or service dog, or who is authorized by the owner to use the guide, signal, or service dog.

### **Protecting service dogs from attack**

#### **PENAL CODE SECTION 600.2**

[a] It is unlawful and constitutes an infraction for any person to permit any dog which is owned, harbored, or controlled by him or her to cause injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the guide, signal or service dog is in discharge of its duties.

[b] In any case in which the defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the disabled person who has custody or ownership of the guide, signal or service dog for any veterinary bills and replacement costs of the dog if it is disabled or killed.

#### **PENAL CODE SECTION 600.5**

[a] Any person who intentionally causes injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the dog is in discharge of its duties, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding \$5,000 or both a fine and imprisonment.

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[b] In any case in which the defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the disabled person who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed.

**It is not legal to charge a deposit or make an extra charge for service dogs**

**CIVIL CODE SECTION 54.1**

[b] [1] Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

[6] [A] It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that individual uses the services of a signal dog, or an individual with any other disability to keep a service dog on the premises.

[B] Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement which reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

**CIVIL CODE SECTION 54.3**

[a] Every individual with a disability shall have the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the individual shall be liable for any damage done to the premises or facilities by his or her dog.

[b] Individuals who are blind or otherwise visually impaired and persons licensed to train guide dogs for individuals who are blind or visually impaired pursuant to Chapter 9.5 (commencing with Section 7200) of Division t of the Business and Professions Code or as defined in regulations implementing Title III of the American with Disabilities Act of 1990 (public Law 101-336), and individuals who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and individuals with a disability and persons who are authorized to train dogs for the individuals with a disability may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the person shall be liable for any damage done to the premises or

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facilities by his or her dog. These persons shall ensure the dog is on a leash and tagged as a guide dog, signal dog, or service dog by identification tag issued by the county clerk, animal control department or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Title 14 of the Food and Agricultural Code.

Nothing in this subdivision shall be construed to impose limitation to access to any person in violation of the Americans with Disabilities Act of 1990 (Public Law 101-336).

### **Penalties for violating Civil Codes**

Section 54.3.[a] Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities as specified in Sections 54 or 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages and any amount as may be determined by a jury, or the court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than \$750, and such attorney's fees as may be determined by the court in addition thereto, suffered by any person denied any of the rights provided in Sections 54, 54.1, and 54.2. "Interfere," for the purposes of this section, includes but not limited to, preventing or causing the prevention of a guide, signal, or service dog from carrying out its functions in assisting a disabled person.

[b] The remedies in this section are nonexclusive and are in addition to any other remedy provided by law, including, but not limited to, any action for injunctive or other equitable relief available to the aggrieved party or brought in the name of the people of this state or of the United States.

### **CIVIL CODE SECTION 52.2**

This law specifies that the jurisdiction of the small claims court includes actions for damages, not to exceed \$5,000, for specified acts of discrimination, boycotting, or blacklisting, or the refusal to buy or sell to a person; for violence, threat of violence, or intimidation based on specific characteristics of a person; for denial of interference with the right of access of a disabled person to specific public accommodations; and related civil rights actions as specified.

Section 52.2 added to the Civil Code reads: An action pursuant to Section 52 or 54.3 may be brought in any court of competent jurisdiction. A "court of competent jurisdiction" shall include small claims court if the amount of the damages sought in the action does not exceed five thousand dollars (\$5,000).

### **Penalties for ADA violations**

#### **Service Dog Coverage**

Violations under the Americans with Disabilities Act (ADA) may include penal and civil damages, depending on the nature of the complaint. Damages can be as much as \$55,000 for the first offense and \$110,000 for subsequent offenses. See [www.ada.gov/enforce.htm](http://www.ada.gov/enforce.htm)

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Under the ADA and its implementing regulations, the right of a disabled person to be accompanied by a service dog in places which serve the public is guaranteed. Section 36.104 of Title 3 specifies that "service animals," are covered by the statute. The right of a disabled person to be accompanied by a service dog is guaranteed and the term "public accommodation" is also defined under this provision.