

## New Mexico

Date last checked: October 2020

The following statutes comprise [state's] pertinent service animal laws. These statutes provide misdemeanor penalties for discriminating against a disabled individual accompanied by a service animal. These laws also provide misdemeanor penalties for interfering with, injuring, or killing a service animal. It is also a misdemeanor offense to misrepresent an untrained dog as a service animal.

### § 28-11-3. Admittance of qualified assistance animals

#### A. Notwithstanding any other provision of law:

(1) a person with a disability who is using a qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying to pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified

service animal; provided that persons without disabilities would be liable for similar damage; and

(2) in an emergency requiring transportation or relocation of the owner or trainer of the qualified service animal, to the extent practicable, accommodations shall be made for the qualified service animal to remain or be reunited with the owner, trainer or handler. When accommodations cannot be made for allowing the qualified service animal to remain with the owner, trainer or handler, the qualified service animal shall be placed pursuant to instructions provided by the owner, trainer or handler.

B. This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others.

Credits

L. 1989, Ch. 242, § 2; L. 1999, Ch. 262, § 2; L. 1999, Ch. 288, § 2; L. 2005, Ch. 224, § 3, eff. June 17, 2005; L. 2013, Ch. 57, § 3, eff. June 14, 2013.

#### § 28-11-4. Penalty

A. A person who violates a provision of the Service Animal Act is guilty of a misdemeanor and, upon conviction, shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. Nothing in this section shall be construed to preclude any other remedy otherwise available pursuant to common law or other law of this state.

#### Credits

L. 1989, Ch. 242, § 3; L. 2005, Ch. 224, § 4, eff. June 17, 2005; L. 2013, Ch. 57, § 4, eff. June 14, 2013.

Chapter 77. Livestock Code. Article 1. Dogs and

## Domesticated Animals.

§ 77-1-15.1. Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt

A. Every municipality and each county may provide by ordinance for the mandatory licensure of dogs over the age of three months. License fees shall be fixed by the responsible municipality or county. Proof of vaccination against rabies shall be provided by the owner or keeper before a license is issued. A combined rabies vaccination certificate and license may be provided by ordinance.

B. Every municipality and each county shall provide for the impoundment of rabies-suspect animals and shall designate a part-time or full-time animal control officer who shall be deputized to enforce animal control laws, orders, ordinances and regulations.

C. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

L. 1979, Ch. 194, § 7; L. 1989, Ch. 242, § 4.

Chapter 65. Motor Carriers. Article 7. Transportation  
Network Company Services Act

§ 65-7-16. Nondiscrimination; accessibility

A. A transportation network company shall adopt a written policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity with respect to transportation network company drivers, riders and potential riders and shall notify transportation network company drivers of the policy.

B. Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against transportation network company drivers, riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity.

C. Transportation network company drivers shall comply with all applicable laws relating to

accommodation of service animals.

D. A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

E. A transportation network company shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange a wheelchair-accessible prearranged ride in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

## Credits

Added by L. 2016, Ch. 80, § 16, eff. May 18, 2016.

§ 28-7-4. Driver to take precautions approaching blind; liability for damage

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all necessary precautions to avoid injury to such blind

pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused to such pedestrian; provided that a totally blind or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations or conveyances listed herein, shall have all the rights and privileges conferred by law upon other persons, and the failure of a totally blind pedestrian to carry such a cane or to use a guide dog in any such places, accommodations or conveyances shall not be held to constitute nor be evidence of contributory negligence.

L. 1967, Ch. 232, § 4; L. 1972, Ch. 51, § 9.

#### § 28-7-5. Interference with rights of blind; penalty

A person, firm or corporation or the agent of a person, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in Section 28-7-3 NMSA 1978 or otherwise interferes with the rights of a blind or visually impaired person or a person who has a physical disability enumerated in the White Cane Law

is guilty of a misdemeanor.

CREDIT(S)

L. 1967, Ch. 232, § 5; L. 1972, Ch. 51, § 9; L. 2007, Ch. 46, § 26, eff. June 15, 2007.

Chapter 28. Human Rights. Article 7. Blind and Disabled Persons.

§ 28-7-3. Equal right to use public facilities

A. Persons who are blind, visually impaired or who have another physical disability have the same right as others to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places.

B. Persons who are blind, visually impaired or who have another physical disability are entitled to full and equal accommodations, advantages, facilities and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort and any other places to which the general public is invited, subject



only to the conditions and limitations established by law and applicable alike to all persons.

C. Every totally or partially blind person shall have the right to be accompanied by a guide dog, specially trained for the purpose, in any of the places listed in this section without being required to pay an extra charge for the guide dog; provided that the person shall be liable for any damage done to the property or facilities by the dog.

D. The attorney general, district attorney or any person with a disability may file an action in the judicial district when a building has been built or altered and the work has not been accomplished in accordance with the current uniform building code, other applicable publications and established handicapped standards. The building official shall notify those applying for a permit that they shall comply with established standards. Any interested person may appeal the granting or denial of a waiver to the district court where the building is located. If the court finds that the building owner was required to comply with handicap access standards of the uniform building code and has failed to comply with such standards within a reasonable period of time,

then the party filing action shall recover the court costs, attorney fees and appropriate injunctive relief to remedy the violation.

CREDIT(S)

L. 1967, Ch. 232, § 3; L. 1972, Ch. 51, § 9; L. 1987, Ch. 39, § 1; L. 2007, Ch. 46, § 25, eff. June 15, 2007.

§ 28-7-4. Driver to take precautions approaching blind; liability for damage

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all necessary precautions to avoid injury to such blind pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused to such pedestrian; provided that a totally blind or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations or conveyances listed herein, shall have all the rights and privileges conferred by law

upon other persons, and the failure of a totally blind pedestrian to carry such a cane or to use a guide dog in any such places, accommodations or conveyances shall not be held to constitute nor be evidence of contributory negligence.

L. 1967, Ch. 232, § 4; L. 1972, Ch. 51, § 9.

#### § 28-7-5. Interference with rights of blind; penalty

A person, firm or corporation or the agent of a person, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in Section 28-7-3 NMSA 1978 or otherwise interferes with the rights of a blind or visually impaired person or a person who has a physical disability enumerated in the White Cane Law is guilty of a misdemeanor.

CREDIT(S)

L. 1967, Ch. 232, § 5; L. 1972, Ch. 51, § 9; L. 2007, Ch. 46, § 26, eff. June 15, 2007.

Chapter 28. Human Rights. Article 11. Service Animals.

§ 28-11-1.1. Short title

Chapter 28, Article 11 NMSA 1978 may be cited as the “Service Animal Act”.

Credits

Added by L. 2005, Ch. 224, § 1, eff. June 17, 2005.

Amended by L. 2013, Ch. 57, § 1, eff. June 14, 2013.

§ 28-11-2. Definitions

As used in the Service Animal Act:

A. “emotional support animal”, “comfort animal” or “therapy animal” means an animal selected to accompany an individual with a disability that does not work or perform tasks for the benefit of an individual with a disability and does not accompany at all times an individual with a disability;

B. “qualified service animal” means any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability; but “qualified service animal” does not include a pet, an emotional support animal, a comfort animal or a therapy animal;

C. “qualified service dog” means a dog that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities; and

D. “qualified service miniature horse” means a miniature horse that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities.

## Credits

L. 1989, Ch. 242, § 1; L. 1999, Ch. 262, § 1; L. 1999, Ch. 288, § 1; L. 2005, Ch. 224, § 2, eff. June 17, 2005; L. 2013, Ch. 57, § 2, eff. June 14, 2013.

### § 28-11-3. Admittance of qualified assistance animals

#### A. Notwithstanding any other provision of law:

(1) a person with a disability who is using a qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying to pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified service animal; provided that persons without disabilities would be liable for similar damage; and

(2) in an emergency requiring transportation or

relocation of the owner or trainer of the qualified service animal, to the extent practicable, accommodations shall be made for the qualified service animal to remain or be reunited with the owner, trainer or handler. When accommodations cannot be made for allowing the qualified service animal to remain with the owner, trainer or handler, the qualified service animal shall be placed pursuant to instructions provided by the owner, trainer or handler.

B. This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others.

### Credits

L. 1989, Ch. 242, § 2; L. 1999, Ch. 262, § 2; L. 1999, Ch. 288, § 2; L. 2005, Ch. 224, § 3, eff. June 17, 2005; L. 2013, Ch. 57, § 3, eff. June 14, 2013.

## § 28-11-4. Penalty

A. A person who violates a provision of the Service Animal Act is guilty of a misdemeanor and, upon conviction, shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. Nothing in this section shall be construed to preclude any other remedy otherwise available pursuant to common law or other law of this state.

## Credits

L. 1989, Ch. 242, § 3; L. 2005, Ch. 224, § 4, eff. June 17, 2005; L. 2013, Ch. 57, § 4, eff. June 14, 2013.

## § 28-11-5. Findings and purpose; interference with qualified assistance animals prohibited; criminal and civil penalties

A. The legislature finds that unrestrained animals constitute a danger to qualified service animals and



public safety. The purpose of this section is to protect persons with disabilities and qualified service animals from attack by unrestrained animals.

B. It is unlawful for any person, with no legitimate reason, to:

(1) intentionally interfere with the use of a qualified service animal by harassing or obstructing the owner, trainer or handler of the qualified service animal or the qualified service animal; or

(2) intentionally fail or refuse to control the person's unrestrained animal, which animal interferes with or obstructs the owner, trainer or handler of the qualified service animal.

C. The provisions of this section shall not apply to unrestrained animals on private property not open to the public.

D. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978. A person convicted under this section may be ordered to pay restitution, including, but not limited to,

actual damages.

E. Nothing in this section shall be construed to preclude any other remedies otherwise available pursuant to common law or the NMSA 1978.

## Credits

L. 1999, Ch. 113, § 1; L. 2005, Ch. 224, § 5, eff. June 17, 2005; L. 2013, Ch. 57, § 5, eff. June 14, 2013.

## § 28-11-6. Prohibition of false presentation of animal as a qualified service animal

A. A person shall not knowingly present as a qualified service animal any animal that does not meet a definition of “qualified service animal” pursuant to Section 28-11-2 NMSA 1978. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978.

B. Nothing in this section shall be construed to preclude any other remedies otherwise available

pursuant to common law or the NMSA 1978.

## Credits

Added by L. 2013, Ch. 57, § 6, eff. June 14, 2013.

Chapter 77. Livestock Code. Article 1. Dogs and Domesticated Animals.

§ 77-1-15.1. Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt

A. Every municipality and each county may provide by ordinance for the mandatory licensure of dogs over the age of three months. License fees shall be fixed by the responsible municipality or county. Proof of vaccination against rabies shall be provided by the owner or keeper before a license is issued. A combined rabies vaccination certificate and license may be provided by ordinance.

B. Every municipality and each county shall provide for the impoundment of rabies-suspect animals and shall designate a part-time or full-time animal control

officer who shall be deputized to enforce animal control laws, orders, ordinances and regulations.

C. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

L. 1979, Ch. 194, § 7; L. 1989, Ch. 242, § 4.

Chapter 65. Motor Carriers. Article 7. Transportation Network Company Services Act  
§ 65-7-16. Nondiscrimination; accessibility

A. A transportation network company shall adopt a written policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity with respect to transportation network company drivers, riders and potential riders and shall notify transportation network company drivers of the policy.

B. Transportation network company drivers shall

comply with all applicable laws regarding nondiscrimination against transportation network company drivers, riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity.

C. Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

D. A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

E. A transportation network company shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange a wheelchair-accessible prearranged ride in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

Credits

Added by L. 2016, Ch. 80, § 16, eff. May 18, 2016.