

West Virginia

SUMMARY

The following statutes comprise West Virginia's pertinent service animal laws. These statutes provide misdemeanor penalties for discriminating against a disabled individual accompanied by a service animal. It is also a misdemeanor offense to misrepresent an untrained dog as a service animal.

Date Last Checked: October 2021

5-15-1. Short title

This article shall be known as the "White Cane Law."

Acts 1969, c. 150.

§ 5-15-2. Policy

It is the policy of this state to encourage and enable persons who are blind or otherwise visually impaired or who have a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-3. Definitions

For the purpose of this article:

(a) A "person who is blind" means a person whose central visual acuity does not exceed twenty/two hundred in the better eye with correcting lenses, or whose visual acuity is greater than twenty/two hundred but is occasioned by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

(b) A "person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual; who has a record of such an impairment or who is regarded as having such an impairment.

(c) A "service animal" means any guide dog, signal dog or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or fetching dropped items.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-4. Equal right to use public facilities; service animals and trainers

(a) A person who is blind or is a person with a disability shall have the same rights as other persons to the full and free use of the highways, roads, streets, sidewalks, walkways, public buildings, public facilities and other public places.

(b) Any person who is blind and any person with a disability is 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, restaurants, professional offices for health or legal services, hospitals, other places of public accommodation, amusement or resort, and other places, including places of employment, 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 person who is blind, every person with a hearing impairment and every person with a disability shall have the right to be accompanied by a service animal in any of the places, accommodations or conveyances specified in subsection (b) of this section without being required to pay an extra charge for the admission of the service animal. The person who is blind, deaf or has a disability shall be liable for any damage done by the service animal to the premises or facilities or to persons using such premises or facilities: Provided, That the person who is blind, deaf or has a disability shall not be liable for any damage done by the service animal to any person or the property of a person who has contributed to or caused the service animal's behavior by inciting or provoking such behavior. A service animal shall not occupy a seat in any public conveyance and shall be upon a leash while using the facilities of a common carrier.

(d) The rights, privileges and responsibilities provided by this section also apply to any person who is certified as a trainer of a service animal while he or she is engaged in the training.

(e) A service animal as defined by section three of this article is not required to be licensed or certified by a state or local government, nor shall there be any requirement for the specific signage or labeling of a service animal.

CREDIT(S)

Acts 1969, c. 150; Acts 1982, c. 131; Acts 1984, c. 24; Acts 1994, c. 12; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-5. Standard of care to be exercised by and with respect to persons who are blind or who have a disability

(a) A person who is blind or who has a disability shall exercise that degree of care for his or her own safety in any of the places, accommodations or conveyances specified in section four of this article which an ordinarily prudent person would exercise under similar circumstances.

(b) The driver of a vehicle approaching a pedestrian who is blind or who has a disability and who knows, or in the exercise of reasonable care should know, that the pedestrian is blind because the pedestrian is carrying a cane predominantly white or metallic in color, with or without a red tip, or is using a service animal or otherwise, shall exercise care commensurate with the situation to avoid injuring the pedestrian or the service animal.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-6. Annual proclamation of white cane day

Each year the governor shall take suitable public notice of the fifteenth day of October as white cane day. The governor shall issue a proclamation that:

(a) Comments upon the significance of the white cane;

(b) Calls upon the citizens of the state to observe the provisions of the white cane law and to take precautions necessary for the safety of persons who are blind;

(c) Reminds the citizens of the state of the policies with respect to persons who are blind herein declared and urges the citizens to cooperate in giving effect to them;

(d) Emphasizes the need of the citizens to be aware of the presence of persons who are blind or visually impaired in the community and to keep safe for persons who are blind or visually impaired the highways, roads, streets, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort and other places to which the public is invited, and to offer assistance to persons who are blind upon appropriate occasions.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-7. Policy of the state on employment of persons who are blind or persons with disabilities

It is the policy of this state that persons who are blind or visually impaired and persons with disabilities shall be employed in the state service, the service of the political subdivisions of the state, in the public schools and in all other employment supported, in whole or in part, by public funds on the same terms and conditions as any other person, unless it is shown that the blindness or disability prevents the performance of the work involved.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-8. Interference with rights hereunder; penalties

Any person, firm or corporation, or the agent of any person, firm or corporation, who denies or interferes with admittance to or enjoyment of the places, accommodations or conveyances specified in section four of this article or otherwise interferes with the rights of a person who is blind or visually impaired or a person with a disability under the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount not to exceed fifty dollars.

CREDIT(S)

Acts 1969, c. 150; Acts 2002, c. 323, eff. 90 days after March 9, 2002.

§ 5-15-9. Fraudulent representation; penalties

(a) Any person who falsely represents to another that he or she is a person who is blind or a person with a disability with the intent to obtain any right or privilege protected by the provisions of § 5-15-4 of this code is guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$200 or confined in jail for not more than 10 days, or both fined and confined.

(b) Any person who falsely represents that an animal is a service animal in order to obtain any right or privilege protected by the provisions of § 5-15-4 of this code is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$200 or confined in jail for not more than 10 days, or both fined and confined.

(c) Notwithstanding the penalty provisions of § 5-15-9(a) or § 5-15-9(b) of this code, any person convicted of a second or subsequent violation of § 5-15-9(a) or § 5-15-9(b) of this code shall be fined not more than \$1,000 or confined in jail for not more than 30 days, or both fined and confined.

(d) A right or privilege protected by the provisions of § 5-15-4 of this code includes but is not limited to use of a service animal for assistance purposes.

Credits

Acts 2018, c. 58, eff. June 3, 2018.

West's Annotated Code of West Virginia. Chapter 5. General Powers and Authority of the Governor, Secretary of State and Attorney General; Board of Public Works; Miscellaneous Agencies, Commissions, Offices, Programs, Etc. Article 11a. West Virginia Fair Housing Act

§ 5-11A-3. Definitions

As used in this article:

(a) "Commission" means the West Virginia Human Rights Commission;

(b) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence or sleeping place by one or more persons or families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

(c) "Family" includes a single individual;

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries;

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant;

(f) "Discriminatory housing practice" means an act that is unlawful under section five, six, seven or nineteen of this article;

(g) "Disability" means, with respect to a person:

(1) A physical or mental impairment which substantially limits one or more of the person's major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment, but the term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substances Act, Title 21, United States Code, Section 802;

(h) "Aggrieved person" includes any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that the person will be injured by a discriminatory housing practice that is about to occur;

(i) "Complainant" means the person, including the commission, who files a complaint under section eleven of this article;

(j) "Familial status" means:

(1) One or more individuals who have not attained the age of eighteen years being domiciled with:

(A) A parent or another person having legal custody of the individual or individuals; or

(B) The designee of the parent or other person having custody of the individual with the written permission of the parent or other person; or

(2) Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(k) "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the respondent and the commission;

(l) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation;

(m) "Respondent" means:

(1) The person or other entity accused in a complaint of an unfair housing practice; and

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents identified under subsection (a), section eleven of this article;

(n) The term "rooming house" means a house or building where there are one or more bedrooms which the proprietor can spare for the purpose of giving lodgings to persons he or she chooses to receive; and

(o) The term "basic universal design" means the design of products and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialization.

(p) "Assistance animal" means any service, therapy or support animal, weighing less than one hundred fifty pounds, with or without specific training or certification, that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviate one or more identified symptoms or effects of a person's disability.

Credits

Acts 1992, c. 81; Acts 2007, c. 143, eff. June 7, 2007; Acts 2014, c. 87, eff. June 6, 2014.

§ 5-11A-5. Discrimination in sale or rental of housing and other prohibited practices

As made applicable by section four of this article and except as exempted by sections four and eight of this article, it is unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, ancestry, sex, familial status, blindness, disability or national origin;

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, ancestry, sex, familial status, blindness, disability or national origin;

(c) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, blindness, disability, familial status, ancestry or national origin, or an intention to make any such preference, limitation or discrimination;

(d) To represent to any person because of race, color, religion, sex, blindness, disability, familial status, ancestry or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact available;

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, blindness, disability, familial status, ancestry or national origin; or

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of: (A) That buyer or renter; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of: (A) That person; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (C) any person associated with that person.

(3) For purposes of this subdivision, discrimination includes:

(A) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the

person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(B) A refusal to make reasonable accommodations in rules, policies, practices or services when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(C) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the West Virginia Fair Housing Act, a failure to design and construct those dwellings in a manner that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;

(ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(iii) All premises within the dwellings contain the following features of adaptive design: (I) An accessible route into and through the dwelling; (II) light switches, electrical outlets, thermostats and other environmental controls in accessible locations; (III) reinforcements in bathroom walls to allow later installation of grab bars; and (IV) usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People, commonly cited as ANSI A117.1, suffices to satisfy the requirements of subparagraph (3)(C)(iii) of this subdivision.

(5)(A) If a unit of general local government has incorporated into its laws the requirements set forth in subparagraph (3)(C) of this subdivision, compliance with those laws satisfy the requirements of that subparagraph.

(B) The commission or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subparagraph (3)(C) of this subdivision are met.

(C) The commission shall encourage, but may not require, units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with subparagraph (3)(C) of this subdivision, and may provide technical assistance to units of local government and other persons to implement the requirements of that subparagraph.

(D) Nothing in this article requires the commission to review or approve the plans, designs or construction of all covered multifamily dwellings to determine whether the design and construction of the dwellings are consistent with the requirements of subparagraph (3)(C) of this subdivision.

(6)(A) Nothing in paragraph (5) of this subdivision affects the authority and responsibility of the commission or a local public agency to receive and process complaints or otherwise engage in enforcement activities under this article.

(B) Determinations by a unit of general local government under subparagraphs (5)(A) and (B) of this subdivision are not conclusive in enforcement proceedings under this article.

(7) As used in this section, the term “covered multifamily dwellings” means: (A) Buildings consisting of four or more units if the buildings have one or more elevators; and (B) ground floor units in other buildings consisting of four or more units.

(8) Nothing in this article invalidates or limits any law of this state or any political subdivision of this state that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this article.

(9) This section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. The burden of proving such threat to health or safety or the likelihood of such damage is upon the respondent.

(10) For the purposes of this subdivision, rules, policies, practices or services regarding animals are subject to the reasonable accommodation requirements of subparagraph (B), paragraph (3) of this subdivision and the following provisions:

(A) In connection with a request for reasonable accommodation to the rules, policies or services, a person with a disability may be required to submit documentation, from a professional treatment provider, of the disability related need for the assistance animal.

(i) Such documentation is sufficient if it establishes that the assistive animal will provide some type of disability-related assistance or emotional support.

(ii) A person with a disability may not be required to submit or provide access to medical records or medical providers, or to provide detailed or extensive information or documentation of a person's physical or mental impairments.

(B) A person with a disability may be denied the accommodation of an assistance animal if there is credible evidence that:

(i) The assistance animal poses a direct threat to the health or safety of others that cannot be eliminated by another reasonable accommodation; or

(ii) The assistance animal would cause substantial physical damage to the property of other that cannot be reduced or eliminated by another reasonable accommodation.

(C) A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct.

(D) A request for a reasonable accommodation may not be unreasonably denied, conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or residents with pets, and a response may not be unreasonably delayed.

Credits

Acts 1992, c. 81; Acts 2014, c. 87, eff. June 6, 2014.

West's Annotated Code of West Virginia. Chapter 17. Roads and Highways. Article 29. Transportation Network Companies

§ 17-29-17. No discrimination; accessibility

(a) The transportation network company shall adopt a policy of nondiscrimination with respect to riders and potential riders and notify transportation network company drivers of such policy: Provided, That no provision of this article may be construed to require that the policy of nondiscrimination with respect to riders and potential riders be more stringent than state law governing unlawful discriminatory practices.

(b) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders.

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

(d) A transportation network company may not impose additional charges for providing services to persons with physical disabilities due to those disabilities.

Credits

Acts 2016, c. 159, eff. July 1, 2016.