


HB

418

To: Senator Vic Fischer
From: Ginger Balm 
Date: May 17, 1984
Re: HB 418 - relating to the rights of blind and physically disabled persons.

You have asked me to research questions you raised about HB 418 when it came before the HESS Committee last week.

Specifically, whether problems exist in Alaska with use of service animals and, if so, whether legislation is the most appropriate way to address the issue.

In order to define the scope of the problem, I spoke with the following agencies and persons: David Maltman, Protection and Advocacy for the Developmentally Disabled; Mike Morgan, Division of Vocational Rehabilitation; Clyde Farington, Employment and Training Center of Alaska; the Ombudsman's office; Audrey Aanes, Access Alaska; Doug Burton, Alaska Marine Highway System; and Christine Hagmeier, an Alaskan who uses a dog trained to aid the hearing impaired.

Ms. Hagmeier said she has twice been denied access to restaurants in Alaska because of her dog, but otherwise she has encountered no further problems. Audrey Aanes said that a disabled Alaskan she was taking to a restaurant in Anchorage this past summer had also been denied access with their service dog.

Otherwise, none of the above agencies or people had ever heard of a problem with service animals or were aware of any disabled person who had been denied access or accommodations because of their service animals. David Maltman, Audrey Aanes and others, however, felt that we may have a problem soon because of the increased use of service animals other than dogs by disabled people other than the blind.

I called the Alaska Marine Highway system because I had heard a rumor that someone was told they couldn't bring their service animal up to the passenger deck. Mr. Burton said that pursers have the authority to allow service animals above deck upon request of the passenger and have done so in the past.

Restaurants present a special problem. As you know, current law forbids animals in areas where food is served except for seeing-eye dogs. Therefore a restaurant owner does not have the latitude to allow a service animal on the premises as a "policy" call. The consensus, however, is that a simple change in regulations, not legislation, could address this problem.

Ms. Hagmeier is a strong supporter of HB 418 but would like to see some changes in the bill if possible. Specifically, she felt that special penalties should be assessed against anyone who steals a service animal because the training these animals receive is specific to the person they are servicing and is extremely costly. She estimates her dog's value at somewhere near \$10,000. Also, she felt the legislation should require that the service animal be certified in some way to separate well-behaved pets from animals specifically trained as service animals.

"An Act relating to the rights of physically disabled persons."

The effect of the act: As 18.06.020(b) entitles a visually and otherwise physically disabled person full and equal accommodations, advantages, facilities and privileges on all common carriers, airplanes, motor vehicles, trains, buses, street cars, boats or any other public conveyance, hotels, lodging, places of public accommodation, amusement, or resort and other places to which the general public is invited.

Section (c) of AS 18.06.020 provides that a blind person has a right to be accompanied by a guide dog in places listed in Section (b).

HB 418 expands Section (c) to include a service dog in the same way as a guide dog is now allowed to accompany a physically disabled person in places listed in (b) of AS 18.06.020.

The existing law and the amendment proposed by HB 418 each provide that the guide or service dog shall be allowed to accompany the person at no extra charge and that the person with the dog shall be liable for any damage done by the dog.

Discussion:

Guide dogs have for a long period of time, been provided by law with sanctions which allowed them to accompany their master as he conducted his normal living routine. More recently dogs have been trained beyond the seeing eye skill and are being utilized as "hearing dogs" to aid the deaf as well as to retrieve and facilitate for the immobile person. This expanded use of the trained service dog to aid the physically handicapped has presented a legal and financial problem to the owner who must deal with a system which limits itself to the single class of guide dog as a recognized exception and treats all other service dogs as pets.

HB 418 includes services dogs as equal to guide dogs and elevates these animals from the category of being only a pet.

Recommendation:

The Department of Health and Social Services supports HB 418.

Recommended by:

Philip Shapiro
Philip Shapiro, M.D.
Director, Division of
Mental Health and
Developmental Disabilities

Date:

5/25/83

Approved by:

Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date:

5/25/83

I. REQUEST
 Bill/Resolution No.: House Bill 418
 Title: Rights of physically disabled persons
 Sponsor: Lacher, Fritz, and Lindauer
 Requestor: _____

II. FISCAL DETAIL
 Agency Affected: Health & Social Services
 Program Category Affected: Mental Health
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Philip Shapiro, M.D. *ASJ* Phone: 465-3370
 Division: Mental Health & Developmental Disabilities Date: 5/24/83
 Approved by Commissioner: Robert Landon Smith Date: 5/25/83
 Department: Health and Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

MEMORANDUM

State of Alaska

TO: HESS Committee
Alaska State Legislature

DATE: May 24, 1983

FILE NO:

TELEPHONE NO:

mcms
FROM: Michael C. Morgan
Director
Division of Vocational
Rehabilitation

SUBJECT: HB 418

Please find attached a fiscal note from the Department of Education on HB 418, An Act relating to the rights of physically disabled persons."

While the division has not had the opportunity to discuss the content of this bill with the State Board of Education, I can see no reason why the Board would object.

The bill simply includes some provision of rights for the physically disabled in an existing statute.

There will be no cost to the Department of Education.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB418
 Title: Rights of Physically Disabled
 Sponsor: Representative Lacher
 Requestor: Representative Lacher

II. FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: Voc Rehab
 BRU, Program of Subprogram(s) Affected: Vocational Rehabilitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael C. Morgan
 Division: Vocational Rehabilitation
 Approved by Commissioner: Harold Reynolds, Jr.
 Department: Education

Phone: 465-2814
 Date: May 24, 1983
 Date: May 24, 1983

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MAY 04 1983

April 29, 1983

Barbara Lacher, State Representative
Pouch V
Juneau, 99811

Dear Representative Lacher:

I would first like to commend you for the outstanding legislative job you have done to date for the Matanuska-Susitna Valley residents. Your tenacious ability to work hard and represent all of your constituents fairly is a tribute to your office and your personal abilities.

Enclosed you will find a House Bill recently passed in North Dakota to admit handicapped persons accompanied by a service dog to public places. I am not familiar with the Alaska State law regarding this subject but assume it speaks only to guide dogs for the blind. Could you please research the existing legislation and inform me as to the possibilities of amending the law to include service dogs for the handicapped. I plan to be in Juneau May 20, 1983, and would like to meet with you to discuss this matter in depth.

As the Coordinator for Project ACTIVE, a developmental and adapted physical education program in the Mat-Su Schools, I am pleased to state that our District is in compliance with PL-94 142 with regard to physical education for the handicapped child. It disturbs me greatly to know that this is not true in other school districts in our State. Hence, handicapped children, Statewide, are being short changed and indeed their school districts may be in violation of the Federal Law, PL - 94 142. I plan to meet with William Mulnix, Director of the - Office for Exceptional Children, in the Department of Education in Juneau. I would appreciate your assistance in scheduling a meeting with Mr. Mulnix on May 20, 1983.

Representing the Alaska Association of Health, Physical Education, Recreation and Dance (AAHPERD), I plan to meet with Darby Anderson, Office of School Improvement, Dept. of Ed., to determine the role AAHPERD can take to insure quality health and physical education programs through the Effective Schooling Plan.

I plan to write the aforementioned persons to set up meeting times on May 20. However, your accessibility to local phone calls in Juneau will be of great service to me in verification of these meetings.

Thank you for your time and efforts in the above matters. I will be awaiting your confirmation of our possible meeting.

Respectfully yours,

Barbara Cadden

Barbara Cadden

Pl...

Forty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1469

Introduced by

Representative Eagles

1 A BILL for an Act to amend and reenact section 25-13-02 of the North
2 Dakota Century Code, relating to the admittance to public places of
3 blind and physically handicapped persons who are accompanied by a
4 guide or service dog..

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
6 STATE OF NORTH DAKOTA:

7 SECTION 1. AMENDMENT. Section 25-13-02 of the North Dakota
8 Century Code is hereby amended and reenacted to read as follows:

9 25-13-02. Blind person or physically handicapped persons
10 accompanied by guide or service dog to be admitted to public places. Every
11 totally or partially blind person shall have the right to be
12 accompanied by a guide dog and every physically ^{handicapped} disabled person ←
13 shall have the right to be accompanied by a service dog, especially
14 trained for the purpose those purposes, in places of public
15 accommodations, common carriers, and all places in which the public
16 is generally invited, without being required to pay an extra charge
17 for the guide or service dog; provided that he such persons shall be
18 liable for any damage done to the premises or facilities by such dog
19 the dogs. Amended

Sec. 18.05.060. Penalty for violation. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500, or by imprisonment for not more than one year. Each day that a person continues a violation is a separate offense. (§ 40-1-6(c) ACLA 1949)

Revisor's notes. — The words "rule or" were deleted preceding "regulation" and the word "adopted" was substituted for "promulgated" following "regulation" by the revisor of statutes pursuant to AS 01.05.031.

Sec. 18.05.070. Definitions generally. In this chapter

(1) "department" means the Department of Health and Social Services;

(2) "commissioner" means the commissioner of health and social services. (§ 40-1-1 ACIA 1949; am § 2 ch 149 SLA 1968; am § 6 ch 104 SLA 1971)

Revisor's notes. — The text of a former subsection (b), defining "impairment" as used in AS 18.05.044 and 18.05.016, was relocated to those sections by the revisor of statutes under authority of AS 01.05.031. Legislative history reports. — For report on ch. 149 SLA 168 (CSHB 368 am 8), see 1968 House Journal, p. 478.

Chapter 06. Rights of Blind and Otherwise Physically Disabled Persons.

Section
10. State policy
20. Rights
30. Rights as pedestrians

Section
40. Penalty for denying rights
50. Definitions

Collateral references. — 15 Am. Jur. 2d, Civil Rights, §§ 1-4.

11 F.S.S., Civil Rights Supplement, §§ 1-14

Exclusion of person (for reason other than color or race) from place of public entertainment or amusement. 1 ALR2d 1165.

Businesses or establishments falling within state civil rights statute provisions prohibiting discrimination. 67 ALR2d 120.

Municipal corporation's power to enact civil rights ordinance. 83 ALR2d 1028.

Recovery of damages as remedy for wrongful discrimination under state or local civil rights provisions. 85 ALR2d 381.

Construction and effect of state legislation forbidding job discrimination on account of physical handicap. 90 ALR3d 393.

Sec. 18.06.010. State policy. It is the policy of this state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment. (§ 2 ch 19 SLA 1972)

Sec. 18.06.020. Rights. (a) The blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free pedestrian use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(b) The blind, the visually handicapped, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and 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) Totally or partially blind persons have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in (b) of this section without being required to pay an extra charge for the guide dog; however, the person with the guide dog is liable for any damage done to the premises or facilities by the dog. (§ 2 ch 19 SLA 1972)

Sec. 18.06.030. Rights as pedestrians. The driver of a motor 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 the pedestrian, and a driver who fails to take all necessary precautions and causes injury to the pedestrian is liable in damages for the injury caused. A totally blind or partially blind pedestrian not carrying a cane as described in this section or using a guide dog in any of the places, accommodations or conveyances set out under AS 18.06.020 has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry a cane as described in this section or to use a guide dog is not by itself evidence of contributory negligence. (§ 2 ch 19 SLA 1972)

Sec. 18.06.040. Penalty for denying rights. A person who denies or interferes with admittance to or enjoyment of the public facilities set out in AS 18.06.020 or otherwise interferes with the rights of a totally or partially blind or otherwise disabled person is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than 60 days, or by both. (§ 2 ch 19 SLA 1972)

