



4 February 2009

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100 Parliament House
Canberra ACT 2600

Dear Committee

**Re: Senate into the Disability Discrimination & Other Human Rights
Legislation Amendment Bill 2008**

Assistance Dogs Australia makes this submission to the Legal and Constitutional Affairs Committee in its inquiry into the Disability Discrimination & Other Human Rights Legislation Amendment Bill 2008. This submission is concerned with proposed changes to legislation in regard to assistance dogs.

Background of Assistance Dogs Australia

Assistance Dogs Australia was established in 1996. Its mission is to increase the independence of people with disabilities.

Assistance Dogs Australia is a non-profit organisation that trains Labradors and Golden Retrievers that gives them away at no charge to help enhance the quality of life and improve the level of independence for people with physical disabilities. As a result of the Assistance Dogs Australia program, these highly trained dogs allow recipients to have greater mobility, gain confidence and have higher self-esteem.

A relatively new and small charity Assistance Dogs Australia has placed over 95 dogs around Australia. Each dog takes a full two years to train at a cost of \$25000 each.

Puppies are trained through the assistance of volunteer puppy raisers or through innovative programs such as the Pups in Prison a training programs in the Kirkconnell, Junee and Darling Downs Correctional facilities and our new Justice Pups program at the Frank Baxter Juvenile Justice Centre in NSW.

Assistance Dogs Australia does not only provide assistance dogs for adults with disabilities but also provides companion dogs to children with disabilities and institution dogs to respite care facilities like Bear Cottage at Manly.

Trainee assistance dogs are also used as diversional therapy in nursing home and retirement villages and to assist children with reading difficulties in our Reading Labs Program.

During the training process many volunteers are given the opportunities to participate as puppy raisers and puppy minders. We currently have over 300 volunteers who assist the organisation in many ways.

Our volunteers, on a weekly basis, carry out demonstrations that enlighten school children, members of community groups and company employees to the marvelous work that the dogs can be trained to do.

Assistance Dogs Australia maintains a respected position in the community and enjoys the support of Patron Her Excellency Quentin Bryce AC Governor General of Australia and Ambassadors Louise Sauvage OAM, Dr Chris Brown and Dr Katrina Warren and Tamsyn Lewis.

Assistance Dogs Australia is the only organisation in the Southern Hemisphere that has been accredited by Assistance Dogs International.

Richard Lord CEO of Assistance Dogs Australia was voted onto the board of Assistance Dogs International in January 2007. He is Australia's first representative on the international board and is currently the chair of the membership committee.

Proposed Changes

Assistance Dogs Australia welcomes the changes proposed by the Bill to the provisions relating to assistance animals. However, we do have some concerns listed below that need addressing.

- The term assistance animal rather than assistance dog
- Accreditation of assistance dogs
- Private or home trained assistance dogs
- Section 54A (2)

The proposed definition still includes assistance animals where it should realistically be assistance dogs as there are no other forms of animals in Australia specifically trained to help people with disabilities.

Assistance Dogs Australia agrees with the recommendation of the Victorian Law Reform Commission final report on Assistance Animals launched on Thursday 29th February that stated

The term 'guide dogs' should be omitted from the Equal Opportunity Act 1995 and all other

relevant Victorian Acts, Regulations and policies and replaced with the terms 'assistance dog' and 'trainee assistance dog'. (This is the commission's preferred option).

The American Department of Justice is also currently looking at the definition of service animals. Although Assistance Dogs Australia does not agree with service animals being other than dogs we think that the proposed definition is positive. Their current and proposed definitions are set out below.

Department of Justice Current definition of a Service Animal;

"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."

New Proposed Service Animal Definition

PART 36 – NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES. Subpart A-General PROPOSED DEFINITION

Service animal means any dog or other common domestic 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 who are blind or have low vision, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing minimal protection or rescue work, pulling a wheelchair, fetching items, assisting an individual during a seizure, retrieving medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and assisting individuals, including those with cognitive disabilities, with navigation. The term service animal includes individually trained animals that do work or perform tasks for the benefit of individuals with disabilities, including psychiatric, cognitive, and mental disabilities. The term service animal does not include wild animals (including nonhuman primates born in captivity), reptiles, rabbits, farm animals (including any breed of horse, miniature horse, pony, pig or goat), ferrets, amphibians, and rodents. Animals whose sole function is to provide emotional support, comfort, therapy, companionship, therapeutic benefits, or to promote emotional well-being are not service animals.

Accreditation of assistance dogs

Section 9 paragraph (2) subsection (c) of the proposed amendment indicates that assistance animals are to meet standards of hygiene and behaviour appropriate for an animal in a public place. Currently any assistance dog accredited by Assistance Dogs Australia passes the Assistance Dogs International public access test. This test is reapplied to all our dogs each year of

their working lives to ensure the team is working at its optimum level. A copy of the public access test is attached. (appendix1) All assistance dogs should be tested using a standardized test annually.

Privately trained assistance dogs

Assistance Dogs Australia as well as guide dog schools and the Lions hearing dog offer training and support to handlers and have a duty of care to ensure the "team" is working to its optimum capacity in the community.

Assistance Dogs Australia believes only organisations that have accreditation from Assistance Dogs International or the International Guide Dog Federation should be eligible for accreditation under a law of State and Territory

Assistance Dogs International has decreed that by the end of 2010 only organisations that have achieved accreditation can be members.

One can only receive a guide dog from an internationally accredited charitable organisation. Why would government allow assistance dogs to be trained by anyone? Government has a duty of care to recipients of assistance dogs and to the general public as assistance dogs have full public access.

The criteria for assistance dogs should not be compromised by allowing non professional trainers to train assistance dogs.

While it is commendable that a person with a disability may wish to train their dog to assist in their day-to-day routine – there needs to be appropriate standards and qualifications to preserve the integrity of the suggested legislation.

A major issue is the training required – most organisations will not release a dog until it is at least 2 years of age. Much of the early training requires access to public environments and socialisation. By opening the door to self-trained dogs there becomes an issue of anyone taking their 'untrained' dog to places where dogs are generally not allowed under the premise of training it as an assistance dog.

A dog that has been trained for instance to press a lift button does not necessarily mean that it has appropriate social skills or lack of aggression/fear/anxiety. An assistance dog requires the whole-package and not just some elements.

Section 54A (2)

Section 54A (2) of the proposed amendment suggests that it is not unlawful for a person to request or require that the assistance animal remain under the control of another person on behalf of the person with a disability. This amendment is unclear and open to abuse.

Assistance dogs are all about giving people with disabilities mobility and independence. It is unjust that it is lawful for another person to request or require the assistance animal be under the control of another person.

Appendix 1

Public Access Test

WARNING

This test is here as information only. This test was designed to be administered by professional Assistance Dog Trainers.

Administering this test by non members of Assistance Dogs International is not authorized by Assistance Dogs International nor would completion of this test be considered certification by Assistance Dogs International.

Assistance Dogs International accepts no liability for use of this test.

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9/95

ASSISTANCE DOG PUBLIC ACCESS CERTIFICATION TEST

NAME OF DOG AND RECIPIENT: _____

NAME OF TESTER: _____

DATE OF TEST: _____ **DATE OF PLACEMENT:** _____

TESTED ON (PLEASE CIRCLE ONE): PLACEMENT FOLLOW-UP

PURPOSE: The purpose of this Public Access Test is to ensure that dogs who have public access are stable, well-behaved, and unobtrusive to the public. It is to ensure that the client has control over the dog and the team is not a public hazard. This test is NOT intended as a substitute for the skill/task test that should be given by the program. It is to be used in addition to those skill/task tests. It is expected that the test will be adhered to as closely as possible. If modifications are necessary, they should be noted in the space provided at the end of the test.

DISMISSAL: Any dog that displays any aggressive behavior (growling, biting, raising hackles, showing teeth, etc.) will be eliminated from the test. Any dog that eliminates in a building or shows uncontrollable behavior will be eliminated from the test.

BOTTOM LINE: The bottom line of this test is that the dog demonstrates that he/she is safe to be in public and that the person demonstrates that he/she has control of the dog at all times.

TESTING EQUIPMENT: All testing shall be done with equipment appropriate to the needs and abilities of the team. All dogs shall be on-lead at all times except in the vehicle at which time it is optional.

This test is to take place in a public setting such as a mall where there are a lot of people and natural distractions. The individual will handle the dog and

can use any reasonable/humane equipment necessary to ensure his/her control over the dog.

The evaluator will explain the test thoroughly before the actual testing, during which he/she will follow discreetly to observe when not directly interacting with the individual on a test related matter. The only things an evaluator needs are a clip board, an assistant, another dog, a plate with food, and access to a shopping cart.

COMMANDS: Commands may be given to the dog in either hand signals or verbal signals or both.

1. **CONTROLLED UNLOAD OUT OF VEHICLE:** After a suitable place has been found, the individual will unload the dog and any necessary equipment (wheelchair, walker, crutches, etc.) out of the vehicle. The dog must wait until released before coming out of the vehicle. Once outside, it must wait quietly unless otherwise instructed by the Individual. The dog may not run around, be off lead, or ignore commands given by the individual. Once the team is out of the vehicle and settled, the assistant should walk past with another dog. They should walk within six (6) feet of the team. The Assistance Dog must remain calm and under control, not pulling or trying to get to the other dog. The emphasis on this is that the Assistance Dog remain unobtrusive and is unloaded in the safest manner possible for everyone.
2. **APPROACHING THE BUILDING:** After unloading, the team must maneuver through the parking lot to approach the building. The dog must stay in a relative heel position and may not forge ahead or lag behind. The dog must not display a fear of cars or traffic noises and must display a relaxed attitude. When the individual stops for any reason, the dog must stop also.
3. **CONTROLLED ENTRY THROUGH A DOORWAY:** Once at the doors of the building, the individual may enter however he/she chooses to negotiate the entry safely. Upon entering the building; however, the dog may not wander off or solicit attention from the public. The dog should wait quietly until the team is fully inside then should calmly walk beside the individual. The dog must not pull or strain against the lead or try to push its way past the individual but must wait patiently while entry is completed.
4. **HEELING THROUGH THE BUILDING:** Once inside the building, the individual and the dog must walk through the area in a controlled manner. The dog should always be within touching distance where applicable or no greater than a foot away from the individual. The dog should not solicit public attention or strain against the lead (except in cases where the dog may be pulling the individual's wheelchair). The dog must readily adjust to speed changes, turn corners promptly, and travel through a crowded area without interacting with the public. In tight quarters, the dog must be able to get out of the way of obstacles and not destroy merchandise by knocking it over or by playing with it.
5. **SIX FOOT RECALL ON LEAD:** A large, open area should be found for the six foot recall. Once found, the individual will perform a six foot recall with the dog remaining on lead. The individual will sit the dog, leave it, travel six feet, then turn and call the dog to him/her. The dog should respond promptly and not stop to solicit attention from the public or ignore the command. The dog should come close enough to the individual to be readily touched. For Guide Dogs, they must actually touch the person to indicate location. The recall should be smooth and deliberate without the dog trudging to the individual or taking any detours along the way.

6. **SITS ON COMMAND:** The team will be asked to demonstrate the Individual's ability to have the dog sit three different times. The dog must respond promptly each time with no more than two commands. There should not be any extraordinary gestures on the part of the people approaching the dog. Normal, reasonable behavior on the part of the people is expected. The first sit will be next to a plate of food placed upon the ground. The dog must not attempt to eat or sniff the food. The individual may correct the dog verbally or physically away from the food, but then the dog must maintain a sit while ignoring the food. The dog should not be taunted or teased with the food. This situation should be made as realistic as possible. The second sit will be executed, and the assistant with a shopping cart will approach within three feet of the dog and continue on past. The dog should maintain the sit and not show any fear of the shopping cart. If the dog starts to move, the individual may correct the dog to maintain the sit. The last sit will be a sit with a stay as a person walks up behind the team, talks to the person and then pets the dog. The dog must hold position. The dog may not break the stay to solicit attention. The individual may repeat the stay command along with reasonable physical corrections.
7. **DOWN ON COMMAND:** The down exercises will be performed in the same sequence as the sits with the same basic stipulations. The first down will be at a table where food will be dropped on the floor. The dog should not break the down to go for the food or sniff at the food. The individual may give verbal and physical corrections to maintain the down. There should not be any extraordinary gestures on the part of the people approaching the dog. Normal, reasonable behavior from the people is expected. The second down will be executed, and then an adult and child should approach the dog. The dog should maintain the down and not solicit attention. If the child pets the dog, the dog must behave appropriately and not break the stay. The individual may give verbal and physical corrections if the dog begins to break the stay. The third down will be accomplished, and then either a stranger or the assistant will be asked to step over the dog. The dog may not break the stay to solicit from the stranger. The individual may give corrections as indicated above.
8. **NOISE DISTRACTION:** The team will be heeling along and the tester will drop a clipboard to the ground behind the team. The dog may acknowledge the noise, but may not in any way show aggression or fear. A normal startle reaction is fine--the dog may jump and or turn--but the dog should quickly recover and continue along on the heel. The dog should not become aggressive, begin shaking, etc.
9. **RESTAURANT:** The team and tester should enter a restaurant and be seated at a table. The dog should go under the table or, if size prevents that, stay close by the individual. The dog must sit or lie down and may move a bit for comfort during the meal, but should not be up and down a lot or need a lot of correction or reminding. This would be a logical place to do the food drop during a down. (See #7)
10. **OFF LEAD:** Sometime during the test, where appropriate, the person will be instructed to drop the leash while moving so it is apparent to the dog. The individual must show the ability to maintain control of the dog and get the leash back in its appropriate position. This exercise will vary greatly depending on the person's disabilities. The main concern is that the dog be aware that the leash is dropped and that the person is able to maintain control of the dog and get the leash back into proper position.

11. **CONTROLLED UNIT:** The team will leave the building in a similar manner to entering, with safety and control being of prime importance. The team will proceed across the parking lot and back to the vehicle. The dog must be in appropriate heel position and not display any fear of vehicle or traffic sounds.
12. **CONTROLLED LOAD into VEHICLE:** The individual will load the dog into the vehicle, with either entering first. The dog must not wander around the parking lot but must wait patiently for instructions. Emphasis is on safety and control.

Scoring Factors of the Public Access Certification Test

A= Always

M= Most of the time (more than half of time)

S= Some of the time (half or less of the time)

N= Never

1. **CONTROLLED UNLOAD OUT OF VEHICLE** Dog did not try to leave vehicle until given release command.

___YES* ___NO The dog waited in the vehicle until released.*
___YES ___NO The dog waited outside the vehicle under control.
___YES ___NO The dog remained under control while another dog was walked past.
2. **APPROACHING THE BUILDING** Relative heel position, not straining or forging.

___A ___M ___S ___N The dog stayed in relative heel position.
___YES* ___NO The dog was calm around traffic.*
___A ___M ___S ___N The dog stopped when the individual came to a halt.
3. **CONTROLLED ENTRY THROUGH A DOORWAY**

___YES* ___NO The dog waited quietly at the door until commanded to enter.*
___YES* ___NO The dog waited on the inside until able to return to heel position.*
4. **HEELING THROUGH THE BUILDING**

___A ___M ___S ___N The dog was within the prescribed distance of the individual.
___A ___M ___S ___N The dog ignored the public, remaining focused on the individual.
___A ___M ___S ___N The dog readily adjusted to speed changes.
___A ___M ___S ___N The dog readily turned corners--did not have to be tugged or jerked to change direction.
___A ___M ___S ___N The dog readily maneuvered through tight quarters.

5. **SIX FOOT RECALL ON LEAD**

☐ YES* ☐ NO The dog responded readily to the recall command--did not stray away, seek attention from others, or trudge slowly.*

☐ YES* ☐ NO The dog remained under control and focused on the individual.*

☐ YES* ☐ NO The dog came within the prescribed distance of the individual.*

☐ YES* ☐ NO The dog came directly to the individual.*

6. **SITS ON COMMAND**

☐ A ☐ M ☐ S ☐ N The dog responded promptly to the command to sit.

☐ YES* ☐ NO The dog remained under control around food--not trying to get food and not needing repeated corrections.*

☐ YES* ☐ NO The dog remained composed while the shopping cart passed--did not shy away, show signs of fear, etc. shopping cart should be pushed normally and reasonable, not dramatically.*

☐ YES* ☐ NO The dog maintained a sit-stay while being petted by a stranger.*

7. **DOWNS ON COMMAND**

☐ A ☐ M ☐ S ☐ N The dog responded promptly to the command to down.

☐ YES* ☐ NO The dog remained under control around the food--not trying to get food and not needing repeated corrections.*

☐ YES ☐ NO The dog remained in control while the child approached--child should not taunt dog or be overly dramatic.

☐ YES* ☐ NO The dog maintained a down-stay while being stepped over by a stranger.*

8. **NOISE DISTRACTIONS** If the dog jumps, turns, or shows a quick startle type reaction, that is fine. The dog should not show fear, aggression, or continue to be affected by the noise.

☐ YES* ☐ NO The dog remained composed during the noise distraction.*

9. **RESTAURANT**

☐ YES* ☐ NO The dog is unobtrusive and out of the way of patrons and employees as much as possible.*

☐ YES* ☐ NO The dog maintained proper behavior, ignoring food and being quiet.*

10. **OFF LEAD**

☐ YES* ☐ NO When told to drop the leash, the team maintained control and the individual got the leash back in position.*

11. **DOG TAKEN BY ANOTHER PERSON** To show that the dog can be handled by another person without aggression or excessive stress or whining, someone else will take the dog's leash and passively hold the dog (not giving any commands) while the dog's partner moves 20' away.

☐ YES ☐ NO Another person can take the dog's leash and the dog's partner can move away without aggression or undue stress on the part of the dog.

12. **CONTROLLED EXIT**

☐ A ☐ M ☐ S ☐ N The dog stayed in relative heel position.

☐ YES* ☐ NO The dog was calm around traffic.*

☐ A ☐ M ☐ S ☐ N The dog stopped when the individual came to a halt.

13. **CONTROLLED LOAD INTO VEHICLE**

☐ YES ☐ NO The dog waited until commanded to enter the vehicle.

☐ YES ☐ NO The dog readily entered the vehicle upon command.

14. **TEAM RELATIONSHIP**

☐ A ☐ M ☐ S ☐ N When the dog did well, the person praised the dog.

☐ A ☐ M ☐ S ☐ N The dog is relaxed, confident, and friendly.

☐ A ☐ M ☐ S ☐ N The person kept the dog under control.

Scoring:

The team must score all 'Always' or 'Most of the time' responses on the A-M-S-N parts of the test.

The team must score at least 80% "yes" answers on the "yes" "no" portion of the test

All questions marked by an asterisk must be answered by a "YES" response.

Were there any unique situations that made any portion of this test not applicable?

Approved organisations that are accredited by Assistance Dogs International should test and sign off on their own dogs