EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

MAY 12 2017

GL#34-17-513
Speaker Benjamin J.F. Cruz

MAY 12 2017
Time: 505 [ ] AM [ ] PM File No ____
Received By

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

2017 MAY 15 AM 8:17

Dear Mr. Speaker:

Transmitted herewith is Bill No. 17-34 (COR), **"AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 34 OF DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING GUIDELINES FOR ANIMAL ASSISTED INTERVENTIONS; TO BE KNOWN AND CITED AS "SEAVA'S ANIMAL ASSISTED INTERVENTION ACT OF 2017,"** which was signed into law on May 10, 2017, as **Public Law 34-07.**

Senseramente,

RAY TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 17-34 (COR), "AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 34 OF DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING GUIDELINES FOR ANIMAL ASSISTED INTERVENTIONS; TO BE KNOWN AND CITED AS "SEAVA'S ANIMAL ASSISTED INTERVENTION ACT OF 2017,"** was on the 27th day of April 2017, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 28 day of APRIL, 2017, at 6:02 o'clock P.M.

PO1 J. RECHARR #735
Assistant Staff Officer
Maga'låhi's Office

APPROVED:

RAYMOND S. TENORIO
Acting Governor of Guam

Date: MAY 10 2017

Public Law No. 34-07

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 17-34 (COR)
As amended on the Floor.

Introduced by: Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B.J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 34 OF DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING GUIDELINES FOR ANIMAL ASSISTED INTERVENTIONS; TO BE KNOWN AND CITED AS "SEAVA'S ANIMAL ASSISTED INTERVENTION ACT OF 2017."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be known and cited as "Seava's Animal Assisted Intervention Act of 2017."

Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the benefits of Animal Assisted Interventions (AAI) are well established and

would be a benefit to the people of Guam. *I Liheslaturan Guåhan* further recognizes that the human animal bond has existed for thousands of years and this relationship is of significant importance for veterinary medicine and human health and wellbeing. A great deal of empirical evidence exists in many activities from health care, rescue, detection, and mental health; and the list continues to grow as new ways are found to incorporate animals into the human experience. *I Liheslaturan Guåhan* also recognizes the medical and psychological aspects of AAIs. Specifically, the use of therapy dogs shows measureable improvements in the condition of the human patient in cancer treatment, autism spectrum disorders, and post-traumatic stress disorder (PTSD). In addition, the use of search and rescue dogs has saved countless lives during disasters. *I Liheslaturan Guåhan* recognizes that several states are beginning to fund, codify, and formalize animal assisted interventions as a cost-effective measure in many areas of the community. *I Liheslaturan Guåhan* further recognizes the need for a system approach to the success of animal assisted interventions.

I Liheslaturan Guåhan finds that it is important to understand there are different levels of therapeutic dog support. The first level of Animal Assisted Interventions is labeled as "Animal-Assisted Activities" (AAA) and is the "beginner level" for therapy work. The activities are social and relaxed, without specific goals except to brighten the day and encourage the person visited. A common example of this is hospital visitation dogs or reading dogs.

A second level, called "Animal-Assisted Therapy" (AAT), involves specific goals for the patient or client, and by definition includes someone (usually a physical therapist or other medical professional) who defines the goals, and works with the dog's handler to make progress toward reaching the goals, and records the process. The typical therapy visit is about an hour in length, arranged in advance, and often

the handlers and dogs repeat their visits on a regular basis (weekly or monthly), which means the dogs get acclimated to the facility.

Both levels are supported by most of the therapy animal registries, and their training processes and evaluations are geared to identify dogs that can succeed doing this work.

It is, therefore, the intent of *I Liheslaturan Guåhan* to establish in law the framework for the advancement of animal assisted interventions. From this framework is the expectation of future enhancements in therapy as new ways are found to improve the quality of care to our people using animals.

Section 3. A new Article 4 is *added* to Chapter 34 of Division 2, Title 10, Guam Code Annotated, to read:

"**ARTICLE 4**

ANIMAL ASSISTED INTERVENTIONS

§ 34401. Definitions.
§ 34402. Promulgation of Rules Within Government Agencies.
§ 34403. Certification and Licensure.
§ 34404. Access to Public Spaces.
§ 34405. Recognition of Community Organizations.
§ 34406. Penalties and Fines.

§ 34401. Definitions.

For the purpose of this Article and any promulgation of organizational rules, policies and processes, the following definitions of terms *shall* apply:

(a) *Animal assistance* is defined as assistance given to human endeavors by dogs. It is a dog that has been individually trained to do work or perform tasks for the benefit of an individual. This is a broad term that covers therapy dogs, service dogs, and other type of animals, commonly used to describe the utilization of various species of animals in diverse manners

beneficial to humans. Areas include, but are not limited to, search and rescue operations, improvement in cognitive functioning, emotional support, assistance to visual impairment, and similar activities (see specific definitions):

(1) *Animal-assisted activity* (AAA) means an activity that involves a team consisting of a handler and therapy dog interacting with individuals in Guam; this is considered the lowest level of animal assisted intervention and usually consists of visitation type dogs;

(2) *Animal-assistance community* (AAC) means the local or regional entities capable of providing animal-assisted therapy, service dog actions or animal-assisted activities to individuals within Guam; the animal-assistance community is comprised of duly registered Guam based non-profit, private, and government organizations with a mission that supports animal assisted interventions;

(3) *Animal-assisted therapy* (AAT) means goal-directed intervention in which a team consisting of a therapist, as defined in Subsection (h), and a therapy animal, or a therapist handler and a therapy animal, is used as an integral part of the therapy process to aid individuals who have (A) experienced mental, physical or emotional trauma; (B) witnessed, or have been a victim of, an act of violence; or (C) behavioral health care needs;

(4) *Animal-assisted education* (AAE) is a planned and structured intervention directed and/or delivered by educational and related service professional with specific academic or educational goals;

(5) *Assistance animal trainee* means an animal that is undergoing a course of development and training to do work or perform

tasks for the benefit of an individual that directly relate to the disability of the individual;

(6) *Assistance animal trainer* means an individual exercising care, custody and control over an assistance animal trainee during a course of training designed to develop the trainee into an assistance animal;

(7) *Animal-assisted activity organization* means any entity involved in training or incorporating dogs within the animal-assisted activity community; and

(8) *Assistance dogs* (or a similar term is *therapy dog*) are animals trained to assist professionals by improving the quality of their work. For the purpose of clarity, the term "therapy dog" will be used. Assistance dogs and therapy dogs are not "service dogs" and do not have the public access freedom afforded under the Americans with Disabilities Act.

(b) *Disability* has the meaning stated in the federal Americans with Disabilities Act of 1990, 42 U.S.C. § 12102 (ADA), as amended, to include, but not be limited to, the following:

(1) *Blind* means a visual acuity not exceeding 20/200 in the better eye with corrective lenses; or a visual field of which the widest diameter subtends an angle of not more than twenty (20) degrees;

(2) *Deaf* means a permanent hearing loss that necessitates the use of amplification devices to hear oral communication; or for which amplification devices are ineffective; and

(3) *Mobility impaired* means an inability to carry objects or to move or travel without the use of an assistive device or service animal.

(c) *Companion dogs/pets* means dogs/animals that are trained to be obedient and loyal pets. The presence of a dog for comfort, protection, or personal defense does not qualify a dog as being trained to mitigate an individual's disability and therefore does not qualify the dog as a service dog covered under the provisions of the ADA or as a therapy or a professional working dog.

(d) *Place of public accommodation* means a place of public accommodation as defined by the Americans with Disabilities Act as businesses, organizations and government agencies that serve the public, including any place or service offering to the public accommodations, advantages, facilities or privileges whether in the nature of goods, services, lodgings, amusements, transportation or otherwise. A place of public accommodation is any place that is open to the public and owned or maintained by a public body, regardless of whether the place is commercial in nature. The term does not include air carriers covered by the Air Carrier Access Act of 1986, 49 U.S.C. § 41705, and by regulations adopted by the United States Department of Transportation to implement such act.

(e) *Prison Dog Program* is a community service project and means a partnership between the Guam Department of Corrections with an animal assisted activity organization(s) to provide training to homeless dogs in order to improve the adoptability of the dog; take advantage of the social/psychological benefits of animal therapy for the inmate; aid in the reduction of stray dogs; and benefit the community. In relationship to a Guam Prison Dog Program the following definitions apply:

(1) *Dog bite* means oral contact by a dog that scratches or breaks the skin;

(2) *Dog Trainer I* is an inmate who has been properly screened and assigned to serve as the substitute or secondary handler and trainer for an assigned dog in a Prison Dog Training Program.

(3) *Dog Trainer II* is an inmate who has been properly screened and assigned to serve as the primary handler and trainer for an assigned dog through the Prison Dog Training Program.

(4) *Facility Primary Program Coordinator* is a Department of Corrections employee designated by the facility head to manage and coordinate all aspects of a Prison Dog Training Program at the facility level.

(5) *Facility Secondary Program Coordinator* is an employee who is designated to be responsible for managing and coordinating the program in the absence of the Primary Coordinator.

(6) *Home furlough* is a brief period of time when a volunteer is allowed to take a dog that is in a Prison Dog Training Program to their home or into the community for socialization or other supportive community training as may be required or needed as a part of the overall training program. Upon conclusion of the furlough, the dog is returned to the prison facility.

(7) *Volunteer Inmate Trainer* is an inmate who has requested and been approved to participate and provide services in a Prison Dog Training Program on a voluntary basis, and the inmate volunteer meets all of the program participation criteria for his or her services; and

(8) *Volunteer Trainer* is a professional trainer recommended by the animal assisted activity organization and approved by the facility who volunteers their time to teach the Dog Trainer I and Dog Trainer II appropriate methods and techniques of training dogs. All volunteers

must adhere to the Department of Corrections Community Volunteer Program policy.

(f) *Service dogs*, for the purpose of this Article and in accordance with the Americans with Disabilities Act (ADA), as amended by the September 15, 2010 Regulations, is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with post-traumatic stress disorder (PTSD) during an anxiety attack, or doing other specific work or performing other special tasks. The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition. For the purposes of this Article, a service dog is not generally a pet, although some are also treated as a pet. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition, consistent with 28 C.F.R., Part 35, § 35.104 and Chapter I, Part 36, Subpart A, § 36.104 (2010 Title II ADA Regulation). Service dogs are permitted, in accordance with the

ADA, to accompany a person with a disability almost anywhere the general public is allowed. This includes restaurants, businesses, and on airplanes. Types of service dogs include:

(1) *Guide Dog* guides a person who is blind or visually impaired;

(2) *Hearing Dog* alerts a person who is deaf or hearing impaired to sounds such as door bells, smoke alarms, and alarm clocks;

(3) *Medical Alert Dog* is a dog that notifies a person of a change in body chemistry that may indicate a health concern, such as low or high blood sugar for a person with diabetes, or that a seizure is imminent for a person with epilepsy;

(4) *Mobility Dog* assists a person in performing tasks such as opening doors, picking up objects, and pulling wheelchairs; and provides stability to a person with the aid of a special harness; and

(5) *Psychiatric Service Dog* assists a person with a psychiatric disorder such as anxiety or PTSD. It is an important distinction of a psychiatric service dog that it performs a specific task to assist a person, as is the case with all service dogs. Some examples are: if a person suffers from PTSD and is prone to nightmares, their service dog is trained to wake them from their nightmares; if a person suffers from PTSD and is not comfortable venturing alone into public places, their service dog is trained to move in and stand as a barrier between them and anyone who approaches; if a person occasionally does something unconsciously that physically harms themselves, such as pulling or picking at something, their service dog is trained to alert them to their actions. In each of these examples if the dog was not trained to perform the task described, and it was simply its calming presence that kept the

person from having nightmares, helped them feel comfortable venturing into public places, or kept them from harming themselves, it would not qualify as a service dog for the purposes of this Article.

(g) Professional Working Dog (PWD) is a dog trained to do useful work. For purposes of this Article, Professional Working Dogs are segregated into a separate category from Therapy Dogs and Service Dogs. However, in the animal assisted intervention community they are often included in certain categories. PWDs are dogs that receive training to perform tasks in a variety of areas of human endeavor. Unlike Service Dogs they do not enjoy access afforded by the Americans with Disabilities Act, but they do have public access when performing their trained task. For instance, a bomb-sniffing dog has public access in airports or in instances when searching for bombs. PWDs also tend not to have a therapeutic one-to-one relationship with humans such as that with Therapy Dogs. PWDs are distinguishable from service dogs and therapy dogs. Some examples of Professional Working Dogs are:

(1) *Search and Rescue Dog* is trained to locate lost or missing persons, victims of natural or man-made disasters, and human bodies;

(2) *Tracking Dog* is trained to track and find a missing person, escaped inmate, or fleeing felon;

(3) *Narcotic Detection Dog* is trained to locate narcotics by scent;

(4) *Patrol Dog* is trained to protect a peace officer and to apprehend a person;

(5) *Accelerant Detection Dog* is trained for accelerant detection, commonly referred to as arson canines;

(6) *Bomb Detection Dog* is trained to locate bombs or explosives by scent;

(7) *Cadaver Dog* is trained to find human remains;

(8) *Herding Dog* is trained to control other animals such as sheep; and

(9) *Actor Dog* is trained to perform in the arts.

(h) *Therapist* means any licensed (1) physician who specializes in psychiatry; (2) psychologist or professional counselor; (3) marital and family therapist; (4) clinical social worker or master social worker; (5) occupational therapist; or (6) other mental health professional.

(i) *Therapy Dog* means any dog trained to provide comfort to individuals who have (1) experienced mental, physical or emotional trauma; (2) witnessed, or has been a victim of, an act of violence; or (3) behavioral health care needs. A therapy dog has no special rights of access, except in those facilities where they are welcomed. They may not enter businesses with a "no pet" policy or accompany their handler in the cabin of an airplane regardless of their therapy dog designation. Some examples of therapy dogs include:

(1) *Courthouse Companion Dog* is trained and used to facilitate testimony in minors or mentally disabled within a court room setting. Outside the courtroom, Courthouse Companion Dogs do not have a public access clearance;

(2) *Emotional Support Dog* is trained and prescribed by a therapist to provide therapeutic support to a person with a mental illness by a licensed mental health professional for a person with a mental illness. The prescription must state that the individual has an impairment that substantially limits one (1) or more major life activities, and that the presence of the dog is necessary for the individual's mental health. Pursuant to the ADA, individuals with

emotional support dogs do not have the same rights to public access as individuals with a service dog. Emotional support dogs may only accompany their owners in public areas with the express permission of each individual venue and/or facility management. Emotional support dogs may travel with their owner on an airplane and may live with their owner in locations covered by the Fair Housing Act (FHA) regardless of a "no pet" policy;

(3) *Reading Dog* is trained to facilitate reading skill improvement in children;

(4) *Hospital Dog* is trained to bring emotional comfort to persons within the hospital or clinical setting;

(5) *Facility Dog* is trained and prescribed by a therapist to live on-site as a resident therapy dog and can be found at nursing homes, residential facilities, group homes, or at many businesses. If a Therapy Dog is a "familiar face" at a business, that qualifies as a Facility Dog. Facility dogs do not have public access outside the office or building where they work.

§ 34402. Promulgation of Rules within Government of Guam Agencies.

(a) Department of Agriculture (DOAg); Lead Oversight Agency. The Director of Agriculture, working through the Territorial Veterinarian, *shall* assist government of Guam agencies in the promulgation of rules and regulations and processes pursuant to the Administrative Adjudication Law, as required and as related to animal assisted interventions (AAI) in the community:

(1) To ensure the health and wellness of animals used in AAI and for the protection of the community; and

(2) To provide for the full potential use of assistive animals.

(b) Guam Housing and Urban Renewal Authority (GHURA). The Guam Housing and Urban Renewal Authority *shall* establish or amend policies and processes, following the U.S. Department of Housing and Urban Development FHEO Notice FHEO-2013-01, including other related guidelines, to support the incorporation of animal assisted interventions and service dogs within GHURA housing units.

(c) Guam Memorial Hospital Authority (GMHA). The GMHA Board of Trustees, through the Administrator of Guam Memorial Hospital, *shall* promulgate rules and regulation pursuant to the Administrative Adjudication Law to establish policies and processes to support the incorporation of animal assisted therapy, therapy dogs, and service dogs within the Guam Memorial Hospital.

(d) Department of Public Health and Social Services (DPHSS). The Director of DPHSS *shall* establish policies and processes to support the incorporation of animal assisted interventions within DPHSS pursuant to the Administrative Adjudication Law.

(e) Guam Department of Education (GDOE). The Guam Education Board, through the Superintendent of Education, *shall* establish policies and processes to support the incorporation of animal assisted interventions in support of the GDOE mission pursuant to the Administrative Adjudication Law.

(f) Department of Corrections. The Director of Corrections *shall* establish policies and processes to establish a "Prison Dog Program" pursuant to the Administrative Adjudication Law.

(g) Guam Attorney General. The Attorney General is encouraged to examine the use of Courthouse Facility Dogs to facilitate testimony within the

scope of the law. If deemed appropriate, the Attorney General *shall* develop guidelines for the incorporation of Courthouse Facility Dogs, regardless of the fact that the use of these dogs may be prohibited by the judge presiding in the case.

§ 34403. Certification and Licensure.

Under U.S. federal law there are no standards or procedures for certifying a service animal. Certification is not required as a condition of using an animal as a service animal. However, the person using the animal must meet the legal definition of "disability" (42 U.S.C. § 12102 - Definition of disability) and their dog must be individually trained to perform tasks that mitigate the owner's disability.

Fake certification is an issue for the disabled community. These "fakers" diminish the reputation of real teams by behaving inappropriately. Under federal law, service animals do not need certification. A business may only verify an animal is a service animal by asking (a) whether it is required because of the person's disability; and (b) what the dog is trained to do to mitigate that disability. They may ask this regardless of whether a dog is "certified," and an owner who refuses to answer can be barred from the facility.

A *license* is something that all dogs are required to have. All categories of service animals, therapy dogs or professional working dogs are not exempt from any licensing requirements pursuant to Guam law as provided pursuant to § 34102 (Pet License Required) of Article 1 of this Chapter 34, and other applicable laws, rules and regulations.

Owners and handlers of service dogs, professional working dogs and therapy dogs when used in interventions are encouraged to use specific identification, in an adequate form and design (such as a vest).

§ 34404. Access to Public Spaces.

Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This federal law applies to all businesses open to the public, including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos (see 28 CFR § 36.302). Access to facilities by service dogs accompanying individuals with disabilities is controlled by 40 U.S.C. § 3103, which states: "Guide dogs or other service animals accompanying individuals with disabilities and especially trained and educated for that purpose shall be admitted to any building or other property owned or controlled by the Federal or Local Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property."

(a) Individuals with disabilities *shall* be permitted to be accompanied by their service animals in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.

(b) A public accommodation *shall not* ask about the nature or extent of a person's disability, but may make two (2) inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation *shall not* require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent that an

animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(c) People with disabilities who use service animals cannot be charged extra fees, isolated from other patrons, or treated less favorably than other patrons. However, if a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may be charged for damage caused by his or her service animal. A person with a disability cannot be asked to remove his service animal from the premises unless:

(1) the animal is out of control and the animal's owner does not take effective action to control it (for example, a dog that barks repeatedly during a movie); or

(2) the animal poses a direct threat to the health or safety of others; and

(3) in these cases, the business should give the person with the disability the option to obtain goods and services without having the animal on the premises.

(d) Businesses that sell or prepare food must allow service animals in public areas even if other Guam law, health code, or policy prohibits animals on the premises.

(e) A business is not required to provide care or food for a service animal or provide a special location for it to relieve itself.

(f) Allergies and fear of animals are generally not valid reasons for denying access or refusing service to people with service animals.

(g) No-Pets Housing: The Fair Housing Act (FHA) allows that a person may keep a service dog in housing with a "no pets" policy. Note,

however, that it only requires that housing providers make reasonable accommodations for persons with service dogs. The FHA does not apply to hotels and motels or other facilities lodging transient guests.

(h) Airplanes: The Air Carrier Access Act (ACAA) of 1986, 49 U.S.C. § 41705, allows that a service dog may travel with its owner on an airplane.

(i) If a place of public accommodation or of access to government services, programs or activities customarily charges a person for damages that the person causes to the place, the place may charge a person with a disability or an assistance animal trainer for damages that an assistance animal or assistance animal trainee causes to the place.

(j) A person with a disability or an assistance animal trainer must maintain control of an assistance animal or assistance animal trainee. Except as provided in this Subsection, control *shall* be exerted by means of a harness, leash or other tether. If the use of a harness, leash or other tether would interfere with the ability of the animal to do the work or perform the tasks for which the animal is trained or is being trained, control may be exerted by the effective use of voice commands, signals or other means. If an animal is not under control as required in this Subsection, a place of public accommodation or of access to government services, programs or activities may consider the animal to be out of control for purposes of this Section.

(k) Except as provided in this Subsection, a place of public accommodation or of access to government services, programs or activities may not deny a person with a disability or an assistance animal trainer the right to be accompanied by an assistance animal or assistance animal trainee in any area of the place that is open to the public or to business invitees. A place of public accommodation or of access to government services, programs

or activities may require a person with a disability or an assistance animal trainer to remove an assistance animal or assistance animal trainee if: (1) the animal is not housebroken; or (2) the animal is out of control and effective action is not taken to control the animal.

(l) A place of public accommodation or of access to government services, programs or activities may impose legitimate requirements necessary for the safe operations of the place of public accommodation or of access to government services, programs or activities. The place of public accommodation or of access to government services, programs or activities *shall* ensure that the safety requirements are based on actual risks, not on speculation, stereotypes or generalizations about persons with disabilities.

(m) A place of public accommodation or of access to government services, programs or activities *shall* make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of an assistance animal to obtain goods, services, and the use of the advantages, facilities and privileges of the place, or the advantages, facilities and privileges of the government services, programs or activities. For purposes of this Subsection, except as provided in Subsections (f) and (h) of this Section, in addition to any other applicable accommodation requirement, allowing the presence of the assistance animal is a reasonable modification.

(n) If a place of public accommodation or of access to government services, programs or activities requires a person with a disability to remove an assistance animal under Subsection (f) of this Section, the place *shall* give the person with a disability a reasonable opportunity to obtain goods, services and the use of the advantages, facilities and privileges of the place, or the

advantages, facilities and privileges of the government services, programs or activities, without the assistance animal's presence.

(o) A place of public accommodation or of access to government services, programs or activities is not required to provide care or supervision for an assistance animal or assistance animal trainee.

(p) A registered voter who requires the assistance of a service animal is entitled to bring the animal into the polls and the voting booth.

(q) The protection granted under this Section to a person with a disability or an assistance animal trainer does not invalidate or limit the remedies, rights and procedures of any other federal or local laws that provide equal or greater protection of the rights of a person with a disability, an assistance animal trainer, or individuals associated with a person with a disability.

(r) A place of public accommodation does not include:

(1) the Department of Corrections;

(2) the Department of Youth Affairs;

(3) a local Guam Police Department lockup; and

(4) an institution, bona fide club or place of accommodation that is in its nature distinctly private.

§ 34405. Recognition of Community Organizations.

Duly qualified members of the animal assistance community, as defined pursuant to § 34401(a)(2), desiring recognition in the community should follow established processes to become a non-governmental organization, a not-for-profit, or private business entity, and be recognized as a Guam animal assisted organization(s) that will work with DOAg and other government agencies in the further development of AAI programs by providing information and recommendations in the development of rules and

regulations pursuant to the Administrative Adjudication Law, as provided pursuant to § 34402.

§ 34406. Penalties and Fines.

The Americans with Disabilities Act provides that the owners or operators of a place of public accommodation cannot deny access to the facility to a disabled person with a service animal or service animal trainee, except under very specific circumstances.

(a) Violators of the ADA can be required to pay money damages and penalties. The following ADA fine fee schedule is in effect, and *shall* be deemed adopted and applicable to Guam, as follows:

(1) for a first (1st) offense, a fine of One Thousand Dollars ($1,000);

(2) for a second (2nd) offense, a fine of Two Thousand Dollars ($2,000); and

(3) for subsequent offenses, a fine of Five Thousand Dollars ($5,000).

(b) It is unlawful for a person to fraudulently misrepresent an animal as a service animal or service animal in training. Fraudulent representation *shall* be a misdemeanor violation for any person to knowingly verbally misrepresent or affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs, or license tag; and the following fine fee schedule *shall* be deemed adopted and applicable to Guam, as follows:

(1) for a first (1st) offense, a fine of One Thousand Dollars ($1,000);

(2) for a second (2nd) offense, a fine of Two Thousand Dollars ($2,000); and

(3) for subsequent offenses, a fine of Five Thousand Dollars ($5,000).

(c) Refusing Access. Any place of public accommodation commits a misdemeanor violation if it refuses access to public accommodation or charges a fee for access to a public accommodation to a person using a service dog/service animal trainer.

(d) Harassment of or Interference With. Any person who knows or has reason to know that an animal is a Professional Working Dog, Service Dog or Therapy Dog, and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a Professional Working Dog, Service Dog or Therapy Dog *shall* be guilty of a misdemeanor in the second (2nd) degree.

(e) Serious Harm to Assistance Animal. Any person who knows or has reason to know that an animal is a Professional Working Dog, Service Dog or Therapy Dog and who willfully causes or attempts to cause serious harm to the animal *shall* be guilty of animal abuse in the first (1st) degree and subject to the penalties contained in 9 GCA § 70.10.1.

(f) Killing of Assistance Animal. Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully kills the animal *shall* be guilty of animal abuse in the first (1st) degree and subject to the penalties contained in 9 GCA § 70.10.1.

(g) A defendant convicted of violating this Section *shall* also owe full financial restitution to the owner which *shall* include, but is not limited to, the following:

(1) veterinary, medical care, and boarding expenses;

(2) medical expenses for the person with the disability relating to the harm inflicted upon the assistance animal;

(3) replacement and training or retraining;

(4) expenses incurred to provide temporary mobility services to the person with a disability; and

(5) wages or income lost while the assistance animal is receiving training or retraining.

Emergency medical treatment *shall not* be denied to an assistance dog assigned to a person regardless of the person's ability to pay prior to treatment, and the convicted person(s) *shall* be fully liable for the payment of the medical treatment."

Section 4. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 5. Effective Date. This Act *shall* be effective upon enactment.