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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2465

(By Delegates Fleischauer, Mahan, Susman,
Schadler, Coleman, Wills and Faircloth)



Passed March 9, 2002

In Effect Ninety Days from Passage

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H. B. 2465

(BY DELEGATES FLEISCHAUER, MAHAN, SUSMAN,
SCHADLER, COLEMAN, WILLS AND FAIRCLOTH)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five, six, seven and eight, article fifteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the “White Cane Law”; updating terms and definitions; removing requirements for certification or accreditation of service animals; and providing a certified trainer of service animals with the same rights, privileges and responsibilities afforded to persons who are blind or deaf or have a disability.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven and eight, article fifteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 15. WHITE CANE LAW.

§5-15-2. Policy.

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

§5-15-3. Definitions.

1 For the purpose of this article:

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

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

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

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

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

5 (b) Any person who is blind and any person with a disabili-
6 ty is entitled to full and equal accommodations, advantages,
7 facilities and privileges of all common carriers, airplanes, motor
8 vehicles, railroad trains, motor buses, streetcars, boats or any
9 other public conveyances or modes of transportation, hotels,
10 lodging places, restaurants, professional offices for health or
11 legal services, hospitals, other places of public accommodation,
12 amusement or resort, and other places, including places of
13 employment, to which the general public is invited, subject only
14 to the conditions and limitations established by law and
15 applicable alike to all persons.

16 (c) Every person who is blind, every person with a hearing
17 impairment and every person with a disability shall have the
18 right to be accompanied by a service animal in any of the
19 places, accommodations or conveyances specified in subsection
20 (b) of this section without being required to pay an extra charge
21 for the admission of the service animal. The person who is blind
22 deaf or has a disability shall be liable for any damage done by
23 the service animal to the premises or facilities or to persons
24 using such premises or facilities: *Provided*, That the person who
25 is blind, deaf or has a disability shall not be liable for any
26 damage done by the service animal to any person or the
27 property of a person who has contributed to or caused the
28 service animal's behavior by inciting or provoking such
29 behavior. A service animal shall not occupy a seat in any public
30 conveyance and shall be upon a leash while using the facilities
31 of a common carrier.

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

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

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

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

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

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

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

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

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

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

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

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

1 It is the policy of this state that persons who are blind or
2 visually impaired and persons with disabilities shall be em-
3 ployed in the state service, the service of the political subdivi-
4 sions of the state, in the public schools and in all other employ-
5 ment supported, in whole or in part, by public funds on the
6 same terms and conditions as any other person, unless it is
7 shown that the blindness or disability prevents the performance
8 of the work involved.

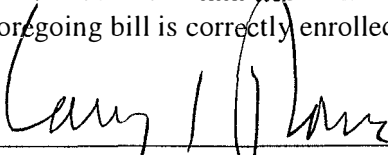
§5-15-8. Interference with rights hereunder; penalties.

1 Any person, firm or corporation, or the agent of any person,
2 firm or corporation, who denies or interferes with admittance to
3 or enjoyment of the places, accommodations or conveyances
4 specified in section four of this article or otherwise interferes
5 with the rights of a person who is blind or visually impaired or
6 a person with a disability under the provisions of this article

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- 7 shall be guilty of a misdemeanor, and, upon conviction thereof,
- 8 shall be fined an amount not to exceed fifty dollars.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



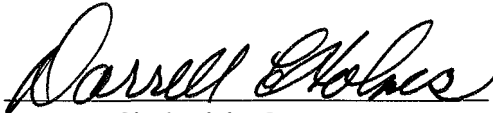
Chairman Senate Committee



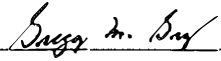
Chairman House Committee

Originating in the House.

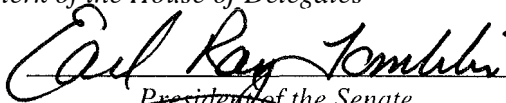
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

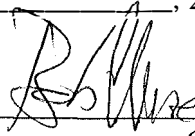


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2002.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/02

Time 3:50 PM