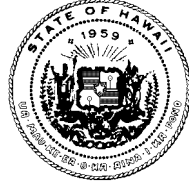


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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 1, 2022

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce & Consumer Protection

FROM: Cathy Betts, Director

SUBJECT: **SB2438 – RELATING TO SERVICE ANIMALS.**

HEARING: Thursday, February 3, 2022, 9:30 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent and provides comments.

PURPOSE: The purpose of the bill is to require that a disclaimer be provided by sellers or providers of emotional support animals or certificates, identifications, tags, vests, leashes, and harnesses for emotional support animals.

DHS appreciates the measure's intent, as animals that are not properly trained can, at the very least, present a distraction to, and in many cases endanger the health and safety of, individuals with disabilities and their fully-trained service animals.

DHS appreciates the measure's language, which discusses the confusion around which animals qualify as service animals and emotional support animals. DHS encourages increased public education and outreach regarding the importance of highly trained service animals to those individuals who rely upon such working animals for health, safety, and independence. DHS urges that proper, rigorous training be a requirement for any proposed service animal.

DHS is not aware of any certification process for emotional support animals. However, as an outreach and education strategy, DHS agrees there is merit to requiring the persons and

businesses who sell or provide animals for use as emotional support animals, as well as those who sell certificates, identifications, tags, vests, leashes, and harnesses for emotional support animals, to provide written notice stating that: the animals do not have the training required to qualify as service animals, the legal consequences of misrepresenting the animals as service animals, and reference to the U.S. Department of Justice's Frequently Asked Questions About Service Animals, at https://www.ada.gov/regs2010/service_animal_qa.html.

The Division of Vocational Rehabilitation (DVR) staff does not have training or jurisdiction to verify that an individual with a disability requires an emotional support animal. We do not know what constitutes proper training for an emotional support animal to become a service animal.

Thank you for the opportunity to provide comments on this measure.



Hawaiian Humane Society
People for animals. Animals for people.

2700 Waiālae Avenue Honolulu, Hawaii 96826
808.356.2200 • HawaiianHumane.org

Date: Jan. 31, 2021

To: Chair Sen. Rosalyn H. Baker
Vice Chair Sen. Stanley Chang
and Members of the
Committee on Commerce and Consumer Protection

Submitted By: Stephanie Kendrick, Public Policy Advocate
Hawaiian Humane Society, 808-356-2217

RE: Comments on SB 2438: Relating to Service Animals
Thursday, Feb. 3, 2023, 9:30 a.m., Capitol Room 229

Aloha Chair Baker, Vice Chair Chang and Committee Members,

On behalf of the Hawaiian Humane Society, thank you for considering our comments on Senate Bill 2438, which requires that a disclaimer be provided by sellers or providers of emotional support animals or certificates, identifications, tags, vests, leashes, and harnesses for emotional support animals that the animal is not a service animal.

Hawaiian Humane supports the intent of the bill to ensure that pet owners are not misrepresenting their pets as service animals and that they understand the legal distinctions between service animals and emotional support animals or other similar terms.

Hawaiian Humane finds new homes for thousands of pet animals every year. While we do not market pets as service animals or emotional support animals, we do regularly promote the human animal bond and the health benefits of animal companionship. We are concerned that Hawaiian Humane and similar organizations that are doing the important work of getting animals into new homes could be impacted by the provisions of this bill.

We request that the committee remove pet acquisition from the bill and amend SB 2438 to focus exclusively on entities that sell or provide certificates, identifications, tags, vests, leashes, and harnesses for emotional support animals.

Mahalo for your consideration. I am happy to answer any questions.

PETER L. FRITZ

THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Testimony on S.B. 2438
Hearing: February 3, 2022

RELATING TO SERVICE ANIMALS

Chair Baker, Vice Chair Chang, and members of the Committee. My name is Peter Fritz. I am testifying **in support** of this bill. The purpose of this bill is to impose penalties for the fraudulent and subsequent misrepresentation of emotional support dogs (ESA) as service dogs.

This bill is similar to a California law, AB468. The California law was sponsored by Guide Dogs for the Blind and Canine Companions for Independence because people misrepresenting that their pet was an ESA was causing people to question people with legitimate service animals. When Hawaii's public accommodation law was amended several years ago to make it clear that ESAs are not service dogs, many service dog owners testified about how businesses were becoming skeptical of representations that a service animal was a legitimate service animal. Misrepresentation is a problem.


The justifications of the California legislature are applicable for this bill. The California legislature noted that there had been an increase in the fraudulent selling and subsequent misrepresenting of emotional support dogs as service dogs, including businesses now selling various misleading ESA-related certificates and merchandise that inaccurately imply that ESAs have the same legal rights and privileges as service dogs. Items generally include vests, tags, patches, holographic identification cards, and certificate documents prominently featuring the words "Emotional Support Animal" and in some instances "ESA, Protected Under Federal Law" which can imply that ESAs wearing such accessories are granted the same rights as service dogs. The provisions in this bill would make such representation a violation.

ESAs are NOT service animals. Under the ADA, a service animal is a dog that has been individually trained to perform tasks for an individual with a disability. ESAs are not service animals under the ADA. An ESA is a dog (or other animal) that is not trained to perform specific acts related to a person's disability. Instead, the owner of an ESA derives a sense of wellbeing, fulfillment, companionship, or lessened anxiety with the presence of the animal. ESAs do not enjoy the same legal privileges as trained service dogs: for example, while federal and state law require that service dogs be allowed to accompany their human partner in public places, ESAs on the other hand do not have to be accommodated

This bill will help to curb misrepresentation by people there ESA is a service dog. I respectfully request that this committee move this bill.

Thank you for the opportunity to testify.

Respectfully submitted,



Peter L. Fritz