

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



CATHY BETTS  
DIRECTOR  
KA LUNA HO'OKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 13, 2023

TO: The Honorable Representative Della Au Belatti, Chair  
House Committee on Health & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **SB 612 SD1 – RELATING TO SERVICE ANIMALS.**

Hearing: March 15, 2023, 8:30 a.m.  
Conference Room 329 & Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill and provides comments. DHS defers to the Hawaii Civil Rights Commission and agrees with the Commission's concerns.

**PURPOSE:** This bill requires that a disclaimer be provided by sellers or providers of emotional support animals or certificates, identifications, tags, vests, leashes, and harnesses identifying an animal as an emotional support animal that the animal is not a service animal. Establishes penalties. Effective 7/1/2050. (SD1)

The SD1 amended the measure by:

- (1) Inserting language that clarifies that a user of a service animal, rather than the service animal itself, has certain rights and privileges;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (3) Amending section 1 to reflect its amended purpose; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS supports the measure, 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 supports 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, that the user of an emotional support animal is not entitled to the rights and privileges accorded by law to the user of a service animal; and that knowingly representing as a service animal any animal that does not meet the requirements of a service animal, as defined in section 347-2.5, Hawaii Revised Statutes (HRS), is a violation of section 347-2.6, HRS.

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



# HAWAI‘I CIVIL RIGHTS COMMISSION

## KOMIKINA PONO KIWILA O HAWAI‘I

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 • FAX: 586-8655 • TDD: 568-8692

Wednesday, March 15, 2023 at 8:30 a.m.  
Conference Room 329 & Videoconference

To: The Honorable Della Au Belatti, Chair  
The Honorable Jenna Takenouchi Vice Chair  
Members of the House Committee on Health and Homelessness

From: Liann Ebesugawa, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

### **Re: S.B. No. 612, S.D.1**

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

**The HCRC offers comments and concerns on S.B. No. 612, S.D.1 and supports only the creation of a new subsection § 347-\_\_ (b) (page 3, starting on line 18).** 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.

The HCRC understands the confusion that surrounds the definitions of assistance animals, and that many people do not understand the difference between a service animal, individually trained to perform a task for an individual with a disability, and an emotional support animal, which provides emotional support for an individual with a disability.

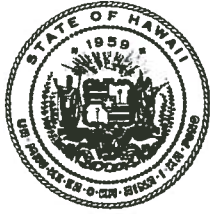
The HCRC supports the creation of the new subsection 347-\_\_ (b) found on page 3 of the bill starting at line 18, to the extent that it requires persons and businesses that sell or provide certificates, identifications, tags, vests, leashes, and harnesses for emotional support animals to provide written notice stating that: 1) the item does not entitle the user of an emotional support animal rights and privileges accorded to the user of a service animal and, 2) that knowingly misrepresenting an animal that does not meet the requirements of a service animal as a service animal is a violation of law.

S.B. 612, S.D.1 amended the language about which we had previously expressed concern. The original version of the bill stated that service animals enjoy certain privileges, and that the law does not extend those privileges to emotional support animals. This misstated the law and was based on a faulty premise. Under state and

federal law, neither service animals nor emotional support animals are accorded rights or privileges. State and federal civil rights laws provide for the right of persons with disabilities to reasonable accommodation – this right to reasonable accommodation belongs to and is exercised by the person with a covered disability. Under state fair employment law (HRS chapter 378, part I), fair housing law (HRS chapter 515), and public accommodations law (HRS chapter 489), as well as the federal Fair Housing Act (FHA) and Americans with Disabilities Act (ADA), ***animals do not have rights or privileges***. In this respect, use of a service animal is the reasonable accommodation, analogous to the use of a wheelchair or other assistive device. The amendments in S.D.1, Section 1 clarified that the user of an animal, the person with a disability, is entitled to an accommodation. Often the person who uses an assistance animal is referred to as a “handler.”

It is unclear how subsection § 347-\_\_(a) of this measure would affect sellers of dogs, cats, rabbits and other animals, including non-profit entities who do not know the reason a person is adopting an animal (and should not inquire into any disability-related reasons). The bill also ignores the fact that an animal that is not trained to be a service animal (to do work or perform tasks for a person with a disability) can later be so trained (even by its owner/handler) and become a service animal for the person with a disability.

The HCRC supports only the creation of the new subsection 347-\_\_(b) found on page 3 of the bill starting at line 18, and not the rest of the bill.



## DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813  
Ph. (808) 586-8121 (V) • TTY (808) 586-8162 • Fax (808) 586-8129

March 15, 2023

### TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH AND HOMELESSNESS

#### Senate Bill 612 SD1 – Relating to Service Animals

The Disability and Communication Access Board (DCAB) supports Senate Bill 612 SD1 – Relating to Service Animals. This bill would require that a disclaimer be provided by sellers or providers of emotional support animals or certificates, identifications, tags, vests, leashes, and harnesses identifying an animal as an emotional support animal that the animal is not a service animal, and establish penalties.

Under Titles II and III of the Americans with Disabilities Act (ADA), state and local governments and places of public accommodation must allow service animals to accompany people with disabilities in all areas of a facility where the public is allowed to go. Untrained animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. DCAB is aware that people with emotional support animals may not understand that state and local governments and places of public accommodation are not obligated to allow emotional support animals to accompany them in all areas of a facility where the public is allowed to go. DCAB encourages increased public education and awareness to clarify that an emotional support animal is not a service animal as defined under Titles II and III of the ADA.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW  
Executive Director

**SB-612-SD-1**

Submitted on: 3/13/2023 4:57:42 PM

Testimony for HLT on 3/15/2023 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
HCRC - Robin Wurtzel	Hawai`i Civil Rights Commission	Comments	Remotely Via Zoom

Comments:

Hawaii Civil Rights Commission has submitted testimony for this measure, but I will be testifying on behalf of the agency. Thank you for your understanding



**TESTIMONY OF TINA YAMAKI  
PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
March 15, 2023  
Re: SB 612 SD1 RELATING TO SERVICE ANIMALS**

Good morning, Chair Belatti and members of the House Committee on Health & Homelessness. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

While we understand the want for SB 612 SD1 we respectfully oppose this measure as we do have some major concerns. This measure requires that a disclaimer be provided by sellers or providers of emotional support animals or certificates, identifications, tags, vests, leashes, and harnesses identifying an animal as an emotional support animal that the animal is not a service animal. Establishes penalties; and is effective 7/1/2050.

We would like to point out that many retailers have a limited amount of space to display let alone the pricing and information for each individual item. It would be difficult for local retailers, especially the small mom & pop stores to have numerous signage with at least 12 Point font for emotional support animal apparel and accessories is quite large as seen below.

**The item does not entitle an emotional support animal to the rights and privileges accorded by law to a service animal; and Knowingly misrepresenting as a service animal any animal that does not meet the requirements of a service animal, as defined in section 347-2.5, is a violation of section 347-2.6**

Having to put this information in a 12-point font minimum is not feasible with the majority of Point of Sales Systems as the programs limit the number of characters and font size on a receipt. To have to give notice to all those who purchase emotional support animal merchandise would also place additional cost on the retailer for not only the printing of the notices but having the employee include the notices in the purchase or staple to the receipt. If we put signage directly on the merchandise while on the shelves, it maybe taken off by customers. If we have to put it on while checking out, there may be human error in the cashier forgetting to include it. **This puts a large burden on the retailer who is mandated to let the customer know and having a large fine if they do not. And anytime you touch retail regardless of how small the amount, the cost will be passed on to the customer and making Hawaii even more expensive to live.**

We would also like to point out that we would have to do this for ALL pet apparel and accessories as retailers who do not know if these items are being purchased for pets, emotional support animals, service animals, or others. The bill currently does not specify that it is only for apparel and accessories labeled clearly with EMOTIONAL SUPPORT ANIMAL imprinted on it.

In addition, because businesses cannot ask for proof if the animal is a true service animal or an emotional support animal, what would stop those with emotional support animals from purchasing apparel and accessories that state "Service Animal" on them? Or claiming it's a service animal to gain entrance into an establishment or business when it really is an emotional support animal.

We do not feel that signage at the retail level will deter people's behavior when it comes to those with emotional support animals. Mahalo again for this opportunity to testify.

# PETER L. FRITZ

T-MOBILE IP RELAY: (808) 568-0077

HOUSE OF REPRESENTATIVES  
THE THIRTY-SECOND LEGISLATURE  
REGULAR SESSION OF 2023

COMMITTEE ON HEALTH & HOMELESSNESS

Testimony on S.B. 612 SD1

Hearing: March 15, 2023

RELATING TO SERVICE ANIMALS

Chair Belatti, Vice Chair Takenouchi and members of the Committee, my name is Peter Fritz. I am an individual with a disability and testifying in support of S.B. 612 SD1.

This bill is intended to reduce the burden on service dog owners by requiring vendors of emotional support dogs and/or credentials to provide a written notice that an emotional support dog is not entitled to the same rights as a service dog. These misrepresentations have caused people with service animals to be improperly denied their rights under the ADA. At the present time, it is unclear whether consumers who purchase emotional support products such as leashes, harnesses and vests are aware that the claims are false, given the official-looking nature of many of the products for sale.

The bill will create a safer public space for all - especially people with disabilities who rely on task trained service dogs for independence.

The impact of the pet and emotional support animal sector on task-trained service dogs because of misrepresentations concerning the rights of emotional support animals has been extreme. Vendors of emotional support animals and equipment perpetuate misinformation around the access rights of emotional support, pet, and service dogs. The result is a dramatic rise in the number of incidents of untrained pet dogs in public accommodations resulting in putting innocent untrained animals in uncomfortable, scary, and even dangerous situations. Both legitimate service dogs as well as innocent bystanders have unfortunately been attacked and hurt by untrained animals.

Public exasperation and hostility toward people perceived to be misrepresenting the rights of emotional support animals often ends up being mistakenly directed at people with service animals.

The false representations create confusion for the owner of the untrained animal and the general public which has to comply with ADA laws.



Testimony of Peter L. Fritz

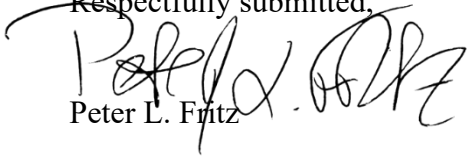
S.B. 612 SD1

March 15, 2023

People with disabilities who use task trained service dogs earn their right to be in public spaces as a result of a rigorous training process ensuring their service dogs satisfy behavioral standards under the ADA.

Please help protect individuals with disabilities who use trained service animals by passing this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz", written over the typed name below it.

Peter L. Fritz

**SB-612-SD-1**

Submitted on: 3/13/2023 7:43:59 PM

Testimony for HLT on 3/15/2023 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Vickie Kennedy	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Vickie Kennedy and I have been a guide dog handler for 23 years now, blessed with three wonderful guide dogs over these years. I am fully in favor of SB612 because it will further help reduce the chances of abuse of access laws meant to be only for legitimate service dog teams. Mahalo nui loa!

Respectfully, Vickie Kennedy

**SB-612-SD-1**

Submitted on: 3/13/2023 8:03:41 PM

Testimony for HLT on 3/15/2023 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
James Kennedy	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Jim Kennedy. I am strongly in favor of the bill as I KNOW it will help further reduce the opportunities of individuals thinking their pet can be considered as a service dog when it is not.

As well trained as legitimate service dogs are, they are still dogs and can become distracted by other aggressive dogs whose owners act like they are entitled to access that is meant to be limited only to service dog teams.

May I please ask that you pass this bill!

Mahalo!

jim