

What are service animals?

Federal legislation only recognizes dogs as a service animal. According to the *Accessible Transportation for Persons with Disabilities Regulations (ATPDR)* in Canada, a service dog is one that:

- has been individually trained by an organization or person specializing in service dog training; and
- performs a task to assist a person with a disability with a need related to their disability.

Under the provincial *Accessibility for Ontarians with Disabilities Act (AODA), Customer Service Standards*, to be considered a service animal, it must meet one of the following two conditions:

- the animal is easily identifiable as relating to your disability (for example, it is a guide dog or other animal wearing a vest or harness)
- you can provide documentation from a regulated health professional confirming the animal is required due to a disability

It is important to distinguish that service animals are not considered pets.

Types of service animals

The most recognizable type of service animal is a guide dog for the blind or visually impaired, but there are many other types. These may include:

- Psychiatric service (or assistance) dogs: for people suffering from mental illness, they perform tasks such as alerting their owner of an oncoming psychiatric episode, or providing emotional support while travelling
- Social Signal Dogs: trained to assist a person with autism. The dog may recognize familiar persons in a crowd, or respond to other people or social signals
- Hearing dogs or cats: trained to alert a deaf or hearing impaired person to sounds like fire alarms;
- Animals trained to assist a person with a disability or mobility issues. This can include mobility dogs, and small ponies/miniature horses. These animals may help with:
 - pulling a wheelchair

- reminding a person to take their medication
- opening doors
- ringing doorbells
- carrying items
- Seizure dogs: trained to alert an oncoming seizure, stand guard or get help
- Other types of service animals include monkeys, horses and birds

Do service animals need certification?

Some provinces require a certificate or an identity card that confirms the animal has been trained and meets a high standard of behavior to be granted access rights. Ontario does not.

Under the *Ontario Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act*, service animals do not need certificates or identity cards that attest to having received training or certification from a recognized disability-related organization. However, where the guide dog or service animal does not wear a vest or a harness, you may be asked to show acceptable documentation. This includes:

- documentation from a regulated health professional
- an identification card from the Ontario Ministry of the Attorney General for people who are blind and use a guide dog

A regulated health professional includes:

- audiologist or speech-language pathologist
- chiropractor
- nurse
- occupational therapist
- optometrist
- physician or surgeon
- physiotherapist
- psychologist
- psychotherapist or mental health therapist

What access rights do service animals have?

Provincial law

Under provincial legislation, service animals, specifically service dogs, have broad access rights. This may include access to:

- Taxis
- Trains
- Buses
- Recreation centers
- Stores
- Malls
- Cinemas
- Other facilities open to the public

The following four laws deal with the rules and regulations regarding service animals and access rights, and also contain definitions of what a service animal is as it relates to that law:

1. *Blind Persons Rights Act (BPRA)*

The BPRA only pertains to guide dogs used for blind persons. A “guide dog” is defined as a dog trained as a guide for a blind person and having the qualifications prescribed by the regulations under the BPRA. A “blind person” means a person who, because of blindness, is dependent on a guide dog or white cane. Guide dogs, unlike other service animals, can be identified by an identification card from the Ministry of Attorney General. No other services animals are covered under this *Act*.

Under the *BPRA*, no person shall deny accommodations, services or facilities to an individual accompanied by a guide dog or shall discriminate against an individual for being accompanied by a guide dog. There is a \$5,000 fine under the *BPRA* for failing to accommodate or provide services for the reason that an individual is accompanied by a guide dog.

2. *Accessibility for Ontarians with Disabilities Act (AODA)*

According to the *AODA's* Customer Service Standards, where a person with a disability is accompanied by a guide dog (as defined under the *BPRA*) or other

service animal, service providers shall ensure that the person is permitted to enter the premises with the animal, subject to exclusions by law. These exclusions include a few food-related exceptions. However, where a customer with a service animal wishes to enter a public area where service animals are not legally permitted, the service provider must find alternative ways to accommodate the customer.

In cases where a contravention of the *AODA* is determined to be major, an administrative daily penalty may be ordered of up to \$100,000 for a corporation, or \$50,000 for an individual or unincorporated organization.

3. *Ontario Human Rights Code (OHRC)*

The definition of “disability” under the Ontario *Human Rights Code* includes any person with a physical reliance on a guide dog or other animal and extends the protection of the *Code* to those who rely on service animals.

The *Code* recognizes all types of dogs, as well as other animals as service animals, including emotional support animals. The Ontario Human Rights Commission has stated that “service animals for people with psychiatric disabilities or addictions do not have to be trained or certified by a recognized disability-related organization.”

According to the *Code*, organizations have a legal obligation to not refuse entry or access to a building, premise, good, or service on the basis that the person uses a service animal. Failing to accommodate an individual with a guide dog or service animal is potentially a failure to accommodate a disability and ultimately a ground for a discrimination complaint. The organization is required to accommodate these circumstances unless they amount to undue hardship. Simply put, undue hardship arises where it may not be practicable for the organization to accommodate the needs of the individual, due to cost considerations and health and safety requirements.

The penalty for infringing on an individual’s right that is covered under the *Code* can result in a fine of not more than \$25,000.

4. *Health Promotion and Protection Act (HPPA)*

The *Food Premises Regulation* under the *Health Promotion and Protection Act (HPPA)* prohibits live birds and animals from entering rooms where food is manufactured, prepared, processed, handled, served, displayed, stored, sold or offered for sale

However, there is an exception that is expressly limited to service dogs. According to the *HPPA*, a service dog is defined similarly to the *AODA*'s definition:

1. It is readily apparent to an average person that the dog functions as a service dog for a person with a medical disability, or
2. If the person can provide on request a letter from a physician or nurse confirming that the person requires a service dog.

The service dog may enter dining area restaurants but is prohibited from being in areas where food is manufactured or prepared for public consumption.

Federal law – travelling with service animals

The Federal *Accessible Transportation for Persons with Disabilities Regulations (ATPDR)* deals primarily with the access rights of service dogs and transportation service providers. (However, while not specifically mentioned by name, the rights of disabled individuals travelling with **emotional support animals** are also protected against discrimination under the *ATPDR*.)

The *ATPDR* applies to carriers (such as buses, planes and trains), terminal operators, the Canadian Air Transport Security Authority (CATSA), and the Canadian Border Services Agency (CBSA). Under the *ATPDR*, these service providers must:

- Accept service dogs for transportation;
- Provide appropriate seating and sufficient space for service dogs;
- Provide service dog relief areas;
- Simultaneously screen a person and their service dog;
- Train personnel; and
- Retain information and documents for future trips.

Regarding air travel, Canadian carriers must provide adjacent seating if needed and not charge additional fares or any other charges, when travel is within Canada. However, additional fares or any other charge for an additional seat needed to accommodate a service dog is allowed when travel is between Canada and a foreign country.

The animal may accompany the person onboard the aircraft and remain on the floor by the person's passenger seat, provided that the animal is properly

harnessed in accordance with standards established by the professional service animal institution.

What responsibilities do service animal owners have under the *ATPDR*?

Service dog owners have a set of responsibilities under the *ATPDR* which include:

- Providing advance notice (48 hours-96 hours) so that the carrier can prepare accommodations;
- Providing information and documents such as certification or an identity card that attests that the service dog has been trained by an organization or person specializing in service dog training to perform a task to assist the person with a need related to their disability; and
- Controlling the service dog with a leash, tether, or harness during travel.

Failure to comply with the *ATPDR* can result in an administrative monetary penalty of up to \$250,000.

Municipal law

Depending on the municipality, there may be by-laws that govern the right for persons with guide dogs or service animals to access particular public spaces and services. Failure by a business to accommodate this right may result in a fine.

For instance, the City of Toronto requires all businesses that are licensed by the City of Toronto to provide service to individuals with guide dogs and service animals. If an individual has been refused service, they can call 311 and the City will investigate. Three things can happen:

1. A bylaw officer will educate the business owner of their responsibility to provide service.
2. A \$500 ticket can be issued.
3. If the business owner refuses or it is a recurring issue, a Part III ticket can be issued, which is a summons to Provincial Court.

By-laws may also exist restricting certain breeds of animals or dogs from the municipality.

Original Article: <https://www.legalline.ca/legal-answers/companion-and-service-animals/#:~:text=Federal%20legislation%20only%20recognizes%20dogs,in%20service%20dog%20training%3B%20and>