

WAC 162-26-135 Removal of a dog guide or service animal. (1)

General rule. It is an unfair practice for a place of public accommodation to ask that a trained dog guide or service animal be removed, unless that place of public accommodation can show that the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons.

It is an unfair practice to remove a trained dog guide or service animal from the entire place of public accommodation because the dog guide or service animal presents a risk of injury or harm when in part of the place of public accommodation.

(2) Assessing risk of injury or harm.

(a) Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, not remote or speculative. Risk to persons may be given more weight than risk to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, a barber excludes a patron's dog guide because; "It might bite somebody — I don't allow any dogs in here." This is **not** "reasonably foreseeable risk" justifying removal of the dog guide.

(b) Annoyance on the part of staff or other customers of the place of public accommodation at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(c) Risk of injury or harm to the dog guide or service animal is not a reason for a place of public accommodation to exclude the animal. The decision whether to bring the animal into a place of public accommodation under such circumstances most properly rests with the person with a disability using the dog guide or service animal.

(3) Duty to reasonably accommodate. When risk justifies the removal of a dog guide or service animal from the place of public accommodation, efforts must be made to reasonably accommodate the person with the disability.

(4) Liability. Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the behavior and actions of the animal.

[Statutory Authority: RCW 49.60.120(3). WSR 99-15-025, § 162-26-135, filed 7/12/99, effective 8/12/99.]