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Animal house

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For the service goat, assistance monkey and emotional-support iguana, it could be the end of an era. Under new federal rules taking effect Tuesday, the Americans with Disabilities Act will no longer compel shops, restaurants and other businesses to accommodate a menagerie of supposed service animals brought in by the public. Only dogs and some miniature horses will qualify. Moreover, dogs will qualify as service animals only if they've been individually trained to assist with a disabled human's needs.

"The provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this new definition." And they'll need to be on-leash unless their work requires otherwise.

Finally. You'd think the Obama administration had, in a fit of common sense, for once chosen to heed a public outcry about zany regulations-gone-mad.

But as usual, the politics are more complicated than that.

The original ADA, signed in 1990, required businesses to admit service animals such as seeing-eye dogs. At first that didn't cause much stir because dogs trained to help blind persons, and those with deafness and some other disabilities, are expertly drilled to stay on task while ignoring random distractions from food, strangers and other animals.

But with service-animal use newly defined as a civil right, and states and cities jumping in with their own more liberal rules, came more perplexing cases.

As early as 1999, a Seattle clothing shop owner got in trouble because she'd refused to let in a dog whose owner had no obvious disability. Next thing you know the customer had produced a note from her doctor declaring her "emotionally dependent" on the pooch's companionship. The city ordered the shop owner to pay a fine and undergo sensitivity training.

California opened the floodgates in 2002, when its regulators approved service dogs for non-traditional sorts of assistance. The next year, the federal Transportation Department gave its blessing to a liberalized definition of service animals, ushering in constant headaches for airlines and the flying public. As one online commentator put it, having paid good money for a plane seat in the first place, "I kinda feel I have the right not to have a goat in the seat next to me, no matter how comforting its presence is to the third person in the row."

Doctors soon proved willing to write approving notes for a veritable Noah's Ark of therapy creatures, such as an iguana that helps an Ocean Park, Maryland man maintain a stable mood.

To make matters worse, business owners risked violating the law even for asking questions about the critters, and the penalties for guessing wrong can exceed \$50,000 for a first offense. New York officials have battled a woman who says her 120-pound dog protects her from panic attacks while riding the subway; in one action she won \$10,000 from the city.

As for required training, the San Francisco Chronicle reported in 2004, that "can be done by the owner and can be as simple as teaching the dog to wag a tail and lick a face if that's what it takes to make someone with a diagnosed depression feel better." You can even buy a "therapy dog" vest online with no questions asked.

The upcoming revision is at best a partial fix. It doesn't address subways and other transport, which is governed by separate rules. And states and cities with more liberal rules won't have to adopt the new federal standard.

Still, you'd think President Obama might boast of the rule change as a shining example of his newfound interest in rolling back excessive regulation, which developed quite suddenly after November when his Democratic Party suffered a poll "shellacking" at the hands of the GOP.

Not so. To begin with, the new policy change dates back well before the election and was driven not by businesses or critics of excessive regulation, but by disabled-rights advocates themselves.

Seasoned ADA advocates and litigation groups saw that the public was being turned off by an endless procession of reports of ferrets and potbelly pigs introduced into inappropriate settings and unruly purse dogs yapping at music recitals and wee-weeing in food stores.

The backlash might even result in a wider rethinking of the law — and we couldn't have that.

Instead, limiting service animals is but a token gesture that distracts from the growing burden of the ADA and similar federal statutes. Federal complaints of employment bias surged to record levels last year, up 7%, and the big spike was in disability-discrimination claims, up 17% and now representing a quarter of the nearly 100,000 total.

This is not because discrimination against disabled persons suddenly got worse. It's because Congress in 2008 dramatically expanded the law's reach, expanding coverage of conditions that courts had previously ruled less than "disabling," and

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bestowing new rights to sue on persons “regarded as” disabled even if their actual medical condition doesn’t qualify. The upshot is that it’s much easier to file complaints.

The Obama people are busy adding new layers of regulation, most notably one that would mandate online media “accessibility” by requiring operators to redesign websites to add captions and graphics/mouse alternatives for the benefit of blind, deaf or handless users.

The cost of that rule alone — even aside from the implications for online speech and free expression — would easily outweigh a dozen service-animal controversies.

Don’t mistake the iguana for true regulatory reform. Washington’s push for a more highly regulated America continues as before.

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