1	AN ACT	
2	RELATING TO DISABILITY; RENAMING THE ASSISTANCE ANIMAL ACT AS	
3	THE "SERVICE ANIMAL ACT"; AMENDING THE SERVICE ANIMAL ACT TO	
4	PROVIDE FOR QUALIFIED SERVICE DOGS AND QUALIFIED SERVICE	
5	MINIATURE HORSES; ENACTING A NEW SECTION OF THE SERVICE	
6	ANIMAL ACT TO PROHIBIT A PERSON FROM KNOWINGLY PRESENTING AS	
7	A QUALIFIED SERVICE ANIMAL ANY ANIMAL OTHER THAN A QUALIFIED	
8	SERVICE ANIMAL; PRESCRIBING CIVIL AND CRIMINAL PENALTIES.	
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:	
11	SECTION 1. Section 28-11-1.1 NMSA 1978 (being Laws	
12	2005, Chapter 224, Section 1) is amended to read:	
13	"28-11-1.1. SHORT TITLEChapter 28, Article 11 NMSA	
14	1978 may be cited as the "Service Animal Act"."	
15	SECTION 2. Section 28-11-2 NMSA 1978 (being Laws 1989,	
16	Chapter 242, Section 1, as amended) is amended to read:	
17	"28-11-2. DEFINITIONSAs used in the Service Animal	
18	Act:	
19	A. "emotional support animal", "comfort animal" or	
20	"therapy animal" means an animal selected to accompany an	
21	individual with a disability that does not work or perform	
22	tasks for the benefit of an individual with a disability and	
23	does not accompany at all times an individual with a	
24	disability;	
25		SB 320 Page l

service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability; but "qualified service animal" does not include a pet, an emotional support animal, a comfort animal or a therapy animal;

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C. "qualified service dog" means a dog that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities; and

D. "qualified service miniature horse" means a miniature horse that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities."

SECTION 3. Section 28-11-3 NMSA 1978 (being Laws 1989, Chapter 242, Section 2, as amended) is amended to read: "28-11-3. ADMITTANCE OF QUALIFIED SERVICE ANIMAL.--

A. Notwithstanding any other provision of law:

(1) a person with a disability who is using a qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service

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1 animal. A person shall not deny an individual with a 2 qualified service animal entry to a building open to the 3 public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying to pets 4 5 entry to that building, public accommodation or common 6 carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may 7 be liable for any damage done by the qualified service 8 animal; provided that persons without disabilities would be 9 10 liable for similar damage; and

in an emergency requiring transportation 11 (2) or relocation of the owner or trainer of the qualified 12 service animal, to the extent practicable, accommodations 13 shall be made for the qualified service animal to remain or 14 15 be reunited with the owner, trainer or handler. When accommodations cannot be made for allowing the qualified 16 service animal to remain with the owner, trainer or handler, 17 the qualified service animal shall be placed pursuant to 18 instructions provided by the owner, trainer or handler. 19

B. This section does not require a public
accommodation or common carrier to permit an owner, trainer
or handler using a qualified service animal to have access to
a public accommodation or common carrier in circumstances in
which the individual's use of the qualified service animal
poses a direct threat of significant harm to the health or SI

SB 320 Page 3 1 safety of others."

2	SECTION 4. Section 28-11-4 NMSA 1978 (being Laws 1989,	
3	Chapter 242, Section 3, as amended) is amended to read:	
4	"28-11-4. PENALTY	
5	A. A person who violates a provision of the	
6	Service Animal Act is guilty of a misdemeanor and, upon	
7	conviction, shall be sentenced in accordance with the	
8	provisions of Section 31-19-1 NMSA 1978.	
9	B. Nothing in this section shall be construed to	
10	preclude any other remedy otherwise available pursuant to	
11	common law or other law of this state."	
12	SECTION 5. Section 28-11-5 NMSA 1978 (being Laws 1999,	
13	Chapter 113, Section 1, as amended) is amended to read:	
14	"28-11-5. FINDINGS AND PURPOSEINTERFERENCE WITH	
15	QUALIFIED SERVICE ANIMALS PROHIBITEDCRIMINAL AND CIVIL	
16	PENALTIES	
17	A. The legislature finds that unrestrained animals	
18	constitute a danger to qualified service animals and public	
19	safety. The purpose of this section is to protect persons	
20	with disabilities and qualified service animals from attack	
21	by unrestrained animals.	
22	B. It is unlawful for any person, with no	
23	legitimate reason, to:	
24	(1) intentionally interfere with the use of	
25	a qualified service animal by harassing or obstructing the	SB 320 Page 4

owner, trainer or handler of the qualified service animal or the qualified service animal; or

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(2) intentionally fail or refuse to control the person's unrestrained animal, which animal interferes with or obstructs the owner, trainer or handler of the qualified service animal.

7 C. The provisions of this section shall not apply
8 to unrestrained animals on private property not open to the
9 public.

D. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978. A person convicted under this section may be ordered to pay restitution, including, but not limited to, actual damages.

E. Nothing in this section shall be construed to preclude any other remedies otherwise available pursuant to common law or the NMSA 1978."

18 SECTION 6. A new section of the Service Animal Act is 19 enacted to read:

20 "PROHIBITION OF FALSE PRESENTATION OF ANIMAL AS A 21 QUALIFIED SERVICE ANIMAL.--

A. A person shall not knowingly present as a
qualified service animal any animal that does not meet a
definition of "qualified service animal" pursuant to Section
28-11-2 NMSA 1978. A person who violates the provisions of SB 320

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1	this section is guilty of a misdemeanor and upon conviction	
2	shall be punished pursuant to Section 31-19-1 NMSA 1978.	
3	B. Nothing in this section shall be construed to	
4	preclude any other remedies otherwise available pursuant to	
5	common law or the NMSA 1978."	
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