**THE LAW IN REGARDS TO THE RIGHTS AND RESPONSIBILITIES OF THE ASSISTANCE DOG HANDLER**

**Introduction**

Prior to the introduction of the 1992 Disability Discrimination Act (DDA) being passed in Federal Parliament, there was no Act ensuring the rights of disabled persons in all areas of life. Therefore, there was no rules governing Assistance Dogs Federally in Australia. There were a few state Acts that had specified Guide Dogs and Hearing Dogs, but the definition in the Acts only covered those two entities (e.g. Queensland Guide Dog Act 1972; Victoria Domestic Animals Act which incorporated Guide Dogs). Many states have since amended the relevant Acts to include Assistance Dogs. However, some states still do not have any specific legislation.

An assistance dog handler has rights, but they also have responsibilities.

**THE LAW**

To start with, we will look at the definitions used in the DDA. These explain who is covered under the Act. (DDA 1992 in Force, part1, section 9)

**Assistance dog:**

1. Accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a person with a disability to alleviate the effect of the disability; ***or***
2. Accredited by an animal training organisation prescribed by the regulations for the purposes of this paragraph; ***or***
3. Trained: (a) to assist a person with a disability to alleviate the effect of the disability; ***and*** (b) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

**Disability**, **in relation to a person:**

1. Total or partial loss of the person’s bodily or mental functions; ***or***
2. Total or partial loss of a part of the body; ***or***
3. The presence in the body of organisms causing disease or illness; ***or***
4. The presence in the body of organisms capable of causing disease or illness; ***or***
5. The malfunction, malformation or disfigurement of a part of the person’s body; ***or***
6. A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; ***or***
7. A disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; and includes a disability that: (a) presently exists; ***or*** (b) previously existed but no longer exists; ***or*** (c) may exist in the future (including because of a genetic predisposition to that disability); ***or*** (d) is imputed to a person.
8. Includes behaviour that is a symptom or manifestation of the disability.

As you can see from the definition of disability above, the DDA covers a wide range of people and can be quite complex.

**THE RIGHTS AND RESPONSIBILITIES OF AN**

**ASSISTANCE DOG HANDLER**

The following information is taken from the DDA and paraphrased to make it easier to understand.

Only a person with a disability, as outlined in the DDA can use an Assistance Dog. When a person with a disability is accompanied by assistance dog, they can go almost anywhere they used to go without their dog (there are some limitations as listed below).

A person cannot be denied housing, health care, education or anything else that they would have been able to access if they did not have their Assistance Dog. With the protections that come with the DDA, there are also rules.

Assistance dogs need to pass a Public Access Test (P.A.T.). This test is to ensure the health and safety of the public, the assistance dog and their handler.

Assistance dogs in public must not:

1. Urinate or defecate in inappropriate places
2. Ask for attention, visit or annoy any member of the public
3. Disrupt the normal course of business
4. Vocalize unnecessarily (this does not include alerting behavior)
5. Show aggression towards people or other animals
6. Ask for or steal food or other items from the public
7. Put any part of its body on public furniture
8. Wander around unleashed, unless performing an assistance task and in complete control of the handler
9. Mouth any items in any shops or stores
10. Be of annoyance to the public

Assistance dogs in public must:

1. Be clean, well-groomed and have no offensive odor
2. Work calmly and quietly on harness or leash
3. Recover quickly when startled (within 5 seconds)
4. Can perform its tasks in public
5. Lie quietly beside the handler without blocking aisles, doorways, etc
6. Stays close to handler always, unless a task needs to be performed at a distance
7. Urinate and defecate on command

When out in public and working, the dog must be easily identified as an Assistance Dog from a reasonable distance. Guide Dogs have their guide harness which makes them easy to distinguish. Assistance Dogs usually have a harness or cape with a patch or logo identifying the certifying company, and the words ‘Service Dog’ or ‘Assistance Dog’ clearly visible.

If asked, handlers must produce some identification that shows the dog is an assistance dog. Usually this has a photo of the handler and dog, as well as contact details for the certifying company. This is all that may be asked for. Handlers ***do not have to divulge*** why they have the dog or details about their medical condition, unless they choose to.

There are some circumstances that a handler and their assistance dog may be asked to leave the premises. These are covered under the DDAs exemptions clause and are legal. (DDA 1992 in Force, Part 2, Division 5, section 54A)

They are:

1. The person reasonably believes the assistance dog has an infectious disease; ***and***
2. It necessary to protect public health or the health of other animals
3. If the dog is misbehaving, causing damage or disrupting the flow of business
4. Handlers are liable for the cost of any damage caused by their dog

There are several places Assistance Dogs are legally ***not*** permitted to go. This can be for various reasons such as public health; quarantine reasons; the protection of flora and fauna - to name a few.

Assistance Dogs ***cannot go*** into:

1. Commercial kitchens or other food preparation areas e.g. behind a supermarket deli counter
2. Certain areas of hospital
	1. operating theatres
	2. infectious disease wards
	3. burn units
	4. some areas of Emergency Departments (anywhere where open wounds)
3. Ambulances
4. Flora and/or fauna reserves
5. Zoos

While the assistance dog is classified as a medical device under the DDA, the handler must still follow dog related laws.

A handler must:

1. In public keep dog on a leash always, unless the assistance task requires the dog off leash and the dog is still under full control of the handler
2. Utilise off leash areas for exercise if needed, unless there are none within a reasonable distance
3. Pick up dog waste and dispose of it in a hygienic manor
4. Do not allow dog to become a public nuisance, e.g. constant barking etc
5. Verbally or physically mistreat the dog

**Conclusion**

While Assistance Dogs are a wonderful gift for their handler, they come with many responsibilities. Public health and safety are at the core of the laws governing Assistance Dogs. Adhering to these laws and being respectful of other people is a great way to promote the Assistance Dog movement in Australia.