

Enrolled Senate Bill 144

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CHAPTER

AN ACT

Relating to telecommunications devices for persons with disabilities; amending sections 9, 10, 11 and 14, chapter 290, Oregon Laws 1987; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 9, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 872, Oregon Laws 1991, section 32, chapter 280, Oregon Laws 1995, section 2, chapter 451, Oregon Laws 1995, section 1, chapter 384, Oregon Laws 1999, section 1, chapter 28, Oregon Laws 2007, and section 353, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 9. As used in sections 9 to 14, chapter 290, Oregon Laws 1987, unless the context requires otherwise:

(1) "Adaptive equipment" means equipment that permits a person with a disability, other than a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.

(2) "Applicant" means a person who applies for an assistive telecommunication device, adaptive equipment or a signal device.

(3) "Assistive telecommunication device" means a device that utilizes a keyboard, acoustic coupler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-blind, [severely] hard of hearing or [severely] speech impaired to communicate effectively on the telephone.

(4) "Audiologist" means a person who has a master's or doctoral degree in audiology and a Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Association.

(5) "Deaf" means a profound hearing loss, as determined by an audiologist, **licensed physician, nurse practitioner, hearing aid specialist** or [a] vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(6) "Deaf-blind" means a hearing loss and a visual impairment[, as determined by a licensed physician and by an audiologist or a vocational rehabilitation counselor of the Department of Human Services,] that require use of an assistive telecommunication device to communicate effectively on the telephone. **For purposes of this subsection:**

(a) A hearing loss must be determined by an audiologist, licensed physician, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Department of Human Services.

(b) A visual impairment must be determined by a licensed physician, nurse practitioner, vocational rehabilitation counselor of the Department of Human Services or rehabilitation instructor for persons who are blind.

(7) "Disability" means a physical condition, as determined by a licensed physician, **nurse practitioner** or vocational rehabilitation counselor of the Department of Human Services, other than hearing or speech impairment that requires use of adaptive equipment to utilize the telephone.

(8) "Hard of hearing" means a hearing loss, as determined by an audiologist, licensed physician, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

[(8)] **(9) "Hearing aid specialist" means a person licensed to deal in hearing aids under ORS chapter 694.**

(10) "Nurse practitioner" has the meaning given that term in ORS 678.010.

[(9)] **(11) "Physician" means an applicant's primary care physician or a medical specialist who is able to determine an applicant's disability and to whom the applicant was referred by the primary care physician.**

[(10)] **(12) "Recipient" means a person who receives adaptive equipment, an assistive telecommunication device or a signal device.**

(13) "Rehabilitation instructor for persons who are blind" means an employee of the Commission for the Blind who:

(a) Meets the minimum qualifications set by the commission to assess adult clients referred for services;

(b) Develops individualized training programs; and

(c) Instructs and counsels clients of the commission on adapting to sight loss.

[(11)] *"Severely hard of hearing" means a hearing loss, as determined by an audiologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.*

[(12)] *"Severely speech impaired" means a speech disability, as determined by a speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.*

[(13)] **(14) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind or [severely] hard of hearing of an incoming telephone call.**

(15) "Speech impaired" means a speech disability, as determined by a licensed physician, nurse practitioner, speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

[(14)] **(16) "Speech-language pathologist" means a person who has a master's degree or equivalency in speech-language pathology and a Certificate of Clinical Competence issued by the American Speech-Language-Hearing Association.**

[(15)] **(17) "Telecommunications relay center" means a facility authorized by the Public Utility Commission to provide telecommunications relay service.**

[(16)] **(18) "Telecommunications relay service" means the provision of voice and teletype communication between users of some assistive telecommunication devices and other parties.**

SECTION 2. Section 10, chapter 290, Oregon Laws 1987, as amended by section 3, chapter 872, Oregon Laws 1991, section 2, chapter 384, Oregon Laws 1999, and section 354, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 10. It is recognized that a large number of people in this state, through no fault of their own, are unable to utilize telecommunication equipment due to the inability to hear or speak well enough or due to other disabilities. It is also recognized that present technology is available, but at significant cost, that would allow these people to utilize telecommunication equipment in their daily activities. There is, therefore, a need to make available such technology in the form of assistive telecommunication devices and a telecommunications relay service for people who are deaf,

[*severely*] hard of hearing or [*severely*] speech impaired or adaptive equipment for people with disabilities at no additional cost beyond normal telephone service. The provision of assistive telecommunication devices and a telecommunications relay service or adaptive equipment would allow those formerly unable to use telecommunication systems to more fully participate in the activities and programs offered by government and other community agencies, as well as in their family and social activities. The assistive telecommunication devices or adaptive equipment would be provided on a loan basis to each recipient, to be returned if the recipient moves out of the state.

SECTION 3. Section 11, chapter 290, Oregon Laws 1987, as amended by section 4, chapter 872, Oregon Laws 1991, section 3, chapter 384, Oregon Laws 1999, and section 355, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 11. (1) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute assistive telecommunication devices to persons who are deaf, [*severely*] hard of hearing, [*severely*] speech impaired or deaf-blind and establish a dual party relay system making telephone service generally available to persons who are deaf, [*severely*] hard of hearing, [*severely*] speech impaired or deaf-blind.

(2) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute adaptive equipment to make telephone service generally available to persons with physical disabilities.

SECTION 4. Section 14, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 115, Oregon Laws 1989, section 7, chapter 872, Oregon Laws 1991, section 33, chapter 280, Oregon Laws 1995, section 5, chapter 384, Oregon Laws 1999, section 2, chapter 28, Oregon Laws 2007, and section 357, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 14. (1)(a) In order to be eligible to receive assistive telecommunication devices or adaptive equipment, individuals must be certified as deaf, [*severely*] hard of hearing, [*severely*] speech impaired or deaf-blind by a licensed physician, **nurse practitioner**, audiologist, hearing aid specialist, speech-language pathologist, **rehabilitation instructor for persons who are blind** or vocational rehabilitation counselor of the Department of Human Services. Certification implies that the individual cannot use the telephone for expressive or receptive communication.

(b) No more than one assistive telecommunication device or adaptive equipment device [*shall*] **may** be provided to a household. However, two assistive telecommunication devices or adaptive equipment devices may be provided to a household if more than one eligible person permanently resides in the household. Households without any assistive telecommunication devices or adaptive equipment shall be given priority over households with one assistive telecommunication device or adaptive equipment device when such devices are distributed.

(c) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility to provide an assistive telecommunication device to any person in violation of ORS 646.730.

(2)(a) In order to be eligible to receive adaptive equipment, individuals must be certified to have the required disability by a person or agency designated by the Public Utility Commission to make such certifications. Certification implies that the individual is unable to use the telephone.

(b) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility to provide adaptive equipment to any person in violation of ORS 646.730.

SECTION 5. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (2), chapter _____, Oregon Laws 2011 (Enrolled Senate Bill 5542), for the biennium beginning July 1, 2011, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Utility Commission of Oregon, is increased by \$178,187.

SECTION 6. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by Senate May 16, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 25, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State