

SB 610

Testimony of:

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My name is Waya R. (Rae) Hail; I was born (August 1947) and raised in the State of Oregon. After high school, I joined the United States Marine Corps, served and wounded in Viet-Nam. After serving my country, I was offered an opportunity to receive service connected disability, due to injuries received in combat; I declined and with the GI Bill entered college and later became a police officer in the State of Oregon. By 1987 I had been shot again and stabbed once, adding to my Viet-Nam injuries, which had not totally healed, The Veterans Administration placed me on total and permanent disability. Today I am 100% total and permanent disabled blinded veteran. I volunteered over 40 years with the Boy Scouts of America and several other organizations.

Today, I am President, of the Oregon Columbia Regional Group-Blinded Veterans Association. My wife Patti and I, serve as National Service Officers for the Blinded Veterans Association. Members of American Council of the Blind, American Legion and Military Order of the Purple Heart, along with a few other service organizations.

I have recently had to early- retire my guide dog, Nathan. Nathan had been attacked three times in past two years, twice at the Roseburg Veterans Administration and once at the Portland Veterans Medical facility; added to this, several acts of aggression, on the street and businesses, all in Oregon and all by dogs, all of these dogs were referred to as emotional support, comfort, companion and or a pet by any other name. Nathan becomes very nervous and cannot guide me in or near VA medical facilities, due to all the attacks and the presence of all those feel good emotional support dogs, that make their owner feel warm and fuzzy while attacking other, legitimate, ADI Trained Service Dogs.

The VA Police refer me to Safety dept or anyone else that will find a way not to help. The Police in Oregon, are often sympathetic, but refer us (service dogs) to animal control and advise us to sue the offender at our expense.

History:

1990 Americans with Disability Act (ADA) was signed into Law, this law was enacted for the protection of disabled persons, not animals.

1993 U.S. Supreme Court ruled, in a challenge to ADA, that a person(s) whose illness or injury which is treatable by medication and or therapy are not protected by ADA, except for employment (Medical Disability). At this point, and to this day, disabled as used in ADA, means any illness or injury that has a major effect one of life's primary functions, sight, hearing, mobility, neurological/psychological, which cannot be treated or cured by medication and or therapy (Legal Disability).

2011 After years of abuse by people claiming their pets to be service animals, the U.S. Department of Justice issued a new definition of Service Animal as any DOG (with minor exception for miniature horse) trained to perform tasks for the (legally) disabled. Federal courts have ruled; tasks must be trained tasks, tasks must be people tasks, tasks that the disabled person would do for themselves were it not for their disability, tasks cannot involve anything a dog does naturally, no licking, pawing, sniffing etc and no barking unless a part of a trained alarm response. The ninth circuit court summed it up best by stating "These laws are not for the non-disabled and their pets, nor are they for the disabled and their pets, but for the disabled and their trained service dogs"

2012 President Obama signed into law, Public Law 112-154, which prohibits dogs or any other animal from being on U.S. Gov't property, including Veterans Administration, unless they are a trained service dog, and they must be trained by a program certified by Assistance Dogs International (ADI). This action was the result of the rush to get every veteran a dog..... Dogs got into dog fights, people were being bit, handlers were not cleaning up after the dogs etc..... Base commanders started kicking dogs off their bases, we now have the ADI standard which any law enforcement agency can use to determine if a dog is a service dog or in fact a pet. Problem! Law enforcement needs a law to enforce. Every State bordering Oregon has such laws, not Oregon.

In Oregon, it is a crime to harass or injure livestock, search and rescue dogs, police dogs and personal pets. Service dogs are unprotected, we are told to file a law suit at our expense or file a complaint with the FBI and other wise, go away.

My guide dogs has a value of \$85,000, very few livestock, and no search and rescue, police or pet costs anywhere near this amount. The average service dog takes 18-24 months to train dog and handler. Real service dogs are free to real disabled people. Some people, due to a history of mental illness and or violence, and or extensive criminal history, the same kind of history that can terminate parental rights, cannot be trusted with or issued a legitimate service dog. We spoke to one veteran at the Roseburg VA, who admitted that he and several other veterans were using fake I.D. and vests to impersonate their pets as service dogs, because there is no law against it in Oregon....this same veteran also admitted that his dog had been quarantined at least 4 times by the Roseburg Police for dangerous conduct....this same veteran was disappointed that he would no longer be able to put a service dog vest on his pet and have other peoples little children come up to the dog and love on it...he almost salivating...my wife wanted to kick the---- out of him...I made him a firm promise as to what I would do if I ever caught him with children again.

In Oregon, we have some of the finest Guide and Service Dog training programs, all ADI certified, but....there are also more than a few garage type puppy mills that sell to unsuspecting, real disabled people (usually elderly)a dog that they claim is a service dog, \$2000-\$6000, I have called the Oregon Attorney Generals Office, it is not against the law in Oregon to misrepresent a pet as a service dog. If the elderly want to file a complaint of fraud, they can take a number, the local police cannot help, no law broken...

People check into motels, claiming that their pet is a service dog in order to avoid paying pet fees that are extra to clean up dog hair and the like. We are seeing more and more, dogs in shopping carts in restaurant kitchens on and on. We filed a complaint with Oregon Dept. of Agriculture on Newport Walmart a few days ago, dog crap in aisles, dogs in food carts, dogs running loose, all claim to be service dogs, management says, not against the law to claim pet is a service dog, if Oregon had such a law then we could do a better job of keeping the pet out.

Today we filed a complaint with Lincoln County Health Dept. Cook at Cecils Restaurant in Newport takes his companion dog to work with him, runs loose in restaurant and kitchen, owner says, hard to fire a self identified disabled person and it is not against the law to claim a pet is a service dog.....Need I go on, these are examples of what happens across Oregon on a daily basis.

Used to be that we, the disabled and our trained service dogs, were on the honor system, rarely did anybody want to impersonate us or be us.

Today it is popular to be identified as disabled, and to have a dog as a fashion statement.

Now, we the real disabled and our real service dogs have been so marginalized, that we have been push to the rear of the bus, again.....Legal in Oregon....

Where is our Equal Protection? Note: the FBI in Oregon as of December 2011 has been directed to investigate such complaints as there are no protections under Oregon Law. I am sure there are other reasons in addition. I live in Newport, Oregon; Eugene is the nearest FBI office.

I am a home owner; I pay the same taxes as the non-disabled. Where are my equal rights and protection?

There are two other laws regarding service dogs/animals that seem to confuse many.

1. U.S. Fair Housing Act; requires that landlords owning rental units with four or more units to provide access to tenants with a pet accompanied by a note from a doctor attesting to the fact that the animal is needed for the mental health of the tenant and ask that the pet be allowed just as a service dog would be.
2. U.S. Air Carriers Act, same as Fair Housing note: In both of these areas, a pet is what ever, and a doctor's note, issued annually is required. These Acts do not apply anywhere else in America; ADA is the law everywhere else. ADA also applies to Housing and Air travel, but only ADA/DOJ.

Federal Courts have ruled that doctors' notes do not make a pet a service dog unless the doctor also trained the dog under ADI certification.

Business in Oregon, primarily Portland Metro, I-5 and Hwy 101, are constantly invaded by persons who insist that they be allowed to bring their service dog (PET) into their business, these people self identify themselves as disabled and their pets as service dogs; most have I.D. Cards they purchased off the internet.

NOTE: ADA does not yet require I.D. Cards for service dogs, although all ADI certified trained service dogs are required to be issued a laminated program training card with a photo of the trained handler and dog, together in same photo laminated on the back of the training card. Many of us who are actually disabled with real service dogs want the federal gov't to start requiring I.D. Cards to be issued to persons who can prove their qualifying disability and ADI certification for them and their guide/service dog. Probably another 10 years out.

Problem! Businesses in Oregon have become so accustomed to seeing the phony-false I.D. cards obtained from the internet, that as a legitimate service dog user, if you do not have a fake I.D. card like the frauds carry, they then do not believe that your service dog is real and treated accordingly; so many of us are now finding it necessary to order the same I.D. cards from the internet. The irony is, our cards are legal, but we are being compelled to behave like the fakes, because Oregon has no laws prohibiting impersonating a pet as a service dog.

People enter businesses in Oregon, claim pet is a service dog, produce fake I.D., owner seats the person with their dog, the customer is happy knowing they just got away with it again; and the owner knows it is really a pet, but cannot ask questions and fears assault or other actions if they do ask questions. (Tri-Met Driver recently assaulted by such people recently, plus a person who moved to Alaska from Oregon, recently shot a Walmart Assistant Manager when they tried to remove him and his unleashed 5 month old pet. News Story attached.) ADA allows questions of the dogs trained tasks to determine if it is a service dog.

Next day a legitimate, disabled person with real service dog enters the same business, owner demands to see I.D., legitimate handler says I do not have to show any I.D. but here is a card explain what the trained tasks are for my dog, the owner then seats the disabled person and their service dog in an out of the way table in a empty isolated back room.....this works for the fakes as they just want to bring their pet.....the disabled person says, hey no way, I want to be seated

with everyone else, just like everyone else.....the owner says, no one else complains about the seating, you take your dog out of here and I will allow you to sit with others.....This happened to me, my guide dog, wife, and another blind man with his guide dog at Izzy's Restaurant in Newport, Oregon; they had only about 6 customers at the time, plenty of seating, we only wanted to sit at a large table away most of the others, we did not want to sit in the back of the bus.... It cost me \$80.00 to hire an attorney to convince the Newport Police to take my complaint which they unhappily did 10 days after the incident.....this is not an unusual event in the state of Oregon.

My wife and I travel the U.S. a lot; Oregon, my home State is the most challenging for us with guide dog to travel, and it is all due to a lack of laws, lack of equal protection for the real disabled, plenty of protection for the self described disabled.

It is a Federal Offence to impersonate a disabled person with the intent to obtain a special federal civil right afforded only to the disabled under ADA. But legal in Oregon.....!?!?

Disabled people are now being given hiring priority hiring under section A (Federal employment). Problem!!! People are being allowed to self identify themselves as disabled without proof, want to take a guess as to who is not being hired, except for the occasional token hire.....guess...anyone!!!.....

I have a daughter in her 30's, lives in WA. recently diagnosed with an eye disease which will lead to blindness, I have nine year old granddaughter in Alaska same issue, both have sought my advice on how to live with blindness, I give them a lot of advice, including a warning, DO NOT MOVE TO OREGON. I also had a sister who was born blind and placed in Oregon State custody, she died in State custody at age 6, not of blindness but of virus caught in State Hospital, this is how things used to be done when born blind. We have come a little ways from those days, but not as much as we need to.

I am now begging my home State and its elected representatives, who took an oath to serve all of us.... please help!

SB 610 will not cover all that I have testified to, however will help educate the public, protect the rights of the real disabled, support business and at the same give law enforcement the ability to protect and serve us all, equally.....If law enforcement needs help in identifying a service dog, simple.....adopt the Federal ADI standard, then we are all on the same page...wouldn't that be nice.....

SB 610 requires Oregon Law, among other things, to:

- 1) Adopt the most current U.S. Department of Justice/ADA definition of "Service Dog" rather than the current service animal used in parts of Oregon government with the more current one being used in other parts of Oregon government....get all of Oregon the same page...get Oregon on the same page as the rest of America.....
- 2) Makes it a crime to harass or interfere with a service dog. With this law the police can equally protect us all and at the same time, persons claiming to be disabled and their dog to be a service dog will have to opportunity to satisfy the police of their legitimacy as part of a legal investigation, this will help educate both the police and the public. Proof of disability is easily obtained legally, and ADI program trained service dogs all have a special I.D. Card issued by the school, not from the internet. note: the Federal Courts require such proof.
- 3) Makes it a class C misd. To misrepresent a pet as a service dog. Again, helps educate public and police, police do not have to take action if a conversation takes care of the issue.
- 4) Makes it a Class A misd. To obtain or use, I.D., Vests, Leashes, Collar etc to identify/misrepresent a pet as a service dog. This allows police the ability to investigate crimes not committed in front of them and to take more appropriate action considering the totality of the circumstances, the false I.D. etc. proves intent.....

Thank you

Signed

*Waya R. Hail*

**Attachments: News Story from Alaska, North West ADA flyer, recommend study of March 2011 DOJ/ADA definition of service dog. Also recommend a good web site, Service Dog Central.org**