



HB 2111 – Conforms State and Federal Language

Amending 659A.104 to Accommodate Oregonians with Disabilities

Timeline:

2009: Oregon amends ORS 659A.103-145, “Unlawful Discrimination Against Person with Disability”, to conform to the federal Americans with Disabilities Act (**ADA**) and the Americans with Disabilities Act as Amended (**ADAAA**).

"(1) An individual has a disability for the purposes of ORS 659A.103 to 659A.145 if the individual meets any one of the following criteria:

(a) The individual has a physical or mental impairment that *substantially limits* one or more major life activities of the individual***."

However, unlike the ADAAA, the Oregon law states: ORS 659A.104***

"(3) An individual is substantially limited in a major life activity if the individual has an impairment*** that *materially restricts** one or more major life activities of the individual. An impairment that substantially limits one major life activity of the individual need not limit other major life activities of the individual. An impairment that is episodic or in remission is considered to substantially limit a major life activity of the individual if the impairment would substantially limit a major life activity of the individual when the impairment is active.***"

2011: EEOC adopts final rules, 29 CFR Section 1630.2j:

(j) *Substantially limits*— (1) *Rules of construction*. The following rules of construction apply when determining whether an impairment substantially limits an individual in a major life activity: (i) The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. “Substantially limits” is not meant to be a demanding standard. (ii) An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. *An impairment need not prevent, or significantly or severely restrict*, the individual from performing a major life activity in order to be considered substantially limiting.

Federal law explicitly states a less-restrictive standard in definition. The word "materially" does not conform to the ADAAA, is not found in the ADAAA, and is clearly inconsistent with the findings, purpose and regulations of the ADAAA.