



EXHIBIT 1
DATE 3-2-05
CC 39

MONTANA ADVOCACY PROGRAM

The Civil Rights Protection & Advocacy System for the State of Montana

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March 2, 2005

House Transportation Committee
Representative Scott Mendenhall, Chairman

RE: SB 39, Person Using Wheelchair Must Be Considered to Be a Pedestrian

Dear Mr. Chairman and Members of the Committee,

The Montana Advocacy Program welcomes SB 39, which addresses an important omission in current law.

However, as the result of discussions we have had with wheelchair users since this bill was heard on January 13th, we believe that the bill should be further amended to ensure that it is fair to all Montanans.

As you are aware, this bill repeals § 49-4-311, Mont. Code Ann. (rights of persons with disabilities), and seeks to clarify the situations where individuals in wheelchairs may travel on the streets of cities and towns. This is an important measure because too many sidewalks are not paved or lack curb cuts, making it very difficult, if not impossible, for people in wheelchairs to use them. By necessity, many Montanans who use wheelchairs must use streets and roads instead.

Currently, SB 39 requires wheelchairs to use sidewalks when they are available. SB 39.02, p. 3, line 4 - 8. If sidewalks are not provided or not practicable, the wheelchair user may travel by road as long as (a) he or she is as far from the edge of the road as possible and (b) displays a slow-moving vehicle emblem or windwhip flag.

Because many people in wheelchairs across the state are forced to use streets and roads because their communities have few sidewalks and even fewer ADA-compliant sidewalks, SB 39 may require most if not all people who use chairs to be equipped with slow-moving equipment emblems or windwhip flags at all times.

Many wheelchair users consider their wheelchairs to be extensions of their own bodies, and they find windwhip flags or other such signs to be stigmatizing and humiliating.

Wheelchair users also question why pedestrians forced to walk on streets and roads

are not similarly required to wear windwhip flags or safety emblems.

We respectfully request the Committee to consider the following amendment: Delete § 61-8-506(3)(a) and (b), and substitute the following on page 3, line 4:

61-8-506(3) When used in a city or town, wheelchairs must use sidewalks if practicable. When the sidewalk is unsafe for wheelchair use or when there is no curbcut, the wheelchair may be operated in the roadway, as close as possible to the edge of the road.

Thank you very much for attention to these issues.

Yours truly,

A handwritten signature in cursive script that reads "Anita Roessmann". The signature is written in black ink and has a long horizontal flourish extending to the right.

Anita Roessmann
Staff Attorney