

January 13, 2005
Montana Legislature
Senate Highway and Transportation Committee

SENATE HIGHWAYS AND TRANSPORTATION

EXHIBIT NO. 1

DATE: 1/13/05

BILL NO. SB

RE: SB 39, Person Using Wheelchair Considered As Pedestrian

Chairman Pease, Members of the Committee:

I have asked Ms. Roessmann to provide this testimony on my behalf as I was unable to make it to Helena today. Thank you for this opportunity to provide my thoughts to you today.

My name is Robert D. Liston and I would like to give you a bit of information about myself that is pertinent to this bill and its effect on persons with disabilities—especially those who use power wheelchairs, scooters and various other motorized means for mobility purposes. I am the Executive Director of Montana Fair Housing, a non-profit, civil rights organization whose mission is to end discrimination in Montana, specifically related to housing. I am a member of the Statewide Independent Living Council, appointed by the previous Governor, and the current President of the Board of Directors for the Montana Advocacy Program. This testimony is not being given as representation of any organization—it is my personal opinion and testimony.

More importantly, I am a person with a disability. I have used a wheelchair for mobility for almost 34 years due to a spinal cord injury from an automobile accident. I have worked in the disability arena for over twenty five years in one fashion or another. I have assisted others with disabilities in adjusting to a new life, one in which disability is often times the primary focus. I have been an advocate, activist, peer, friend and representative for persons with all kinds of disabilities and who used various forms of wheelchairs for mobility.

I am opposed to S. B. 39, not for what I believe to be its intent, but for its content.

My first objection is contained in Section 61-1-102, paragraph 2, and 61-1-103, paragraph 3, in "...is used as the person's only means of mobility." You must understand that there are many individuals with disabilities who utilize multiple devices for mobility, depending on their disability, their functional limitation, and often it is just a matter of what day it is. As I get older, I have begun to use a power wheelchair for various purposes—going for walks with my wife and friends, doing yard work, sometimes I don't have the energy to wheel, and I used it to march 140 miles from Philadelphia to Washington, D. C. in support of disability rights. This march was done on/in highways, byways, streets and roads.

My point is that the use of the term "only" is going to discriminate against many people who need a power wheelchair on occasion, but is not their ONLY means of mobility. I would recommend this be changed to "...a means of mobility for such persons."

My second objection to this bill is philosophical in nature and discriminatory at its core. I

believe the intent of this bill is to move persons who use motorized wheelchairs from the classification of being vehicles to being pedestrians. However, if you are going to make people with disabilities pedestrians, don't legislate a mandate that they look like a vehicle. There have been accidents and I am sorry for that. There have also been accidents with ambulatory pedestrians, yet no one is suggesting they have a "slow moving person" or the need to "carry a red flag." We suggest that people act responsibly and wear reflective and/or bright clothing, for their own protection and the protection of drivers. The reality is that most people I know who use power or manual wheelchairs, if they do much "traveling" on roads, have reflectors and reflective tape on their wheelchairs.

One thing you have to remember is this is still Montana and many cities, towns and communities do not have curb cuts at every corner. This forces people who use wheelchairs, motorized or manual, to resort to the street, not by choice, but because they do not have access to all the sidewalks that other pedestrians have. I implore you to not to pass this legislation for paternal reasons. Rather, there should be an emphasis on safety education and making Montana a more accessible place for everyone. I can certainly make myself available if assistance is needed in modifying this bill.

Thank you for the opportunity to provide this testimony.

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