

109TH CONGRESS
2^D SESSION

H. R. 6258

To restore the intent of the Americans with Disabilities Act of 1990 to more fully remove the barriers that confront disabled Americans.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. SENSENBRENNER (for himself, Mr. HOYER, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on the Judiciary, Transportation and Infrastructure, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restore the intent of the Americans with Disabilities Act of 1990 to more fully remove the barriers that confront disabled Americans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Americans with Dis-

5 abilities Act Restoration Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Physical and mental impairments are nat-
2 ural parts of the human condition as are race, gen-
3 der, national origin, and sex.

4 (2) Discrimination results when individuals with
5 actual or perceived physical or mental impairments
6 are met with attitudinal, societal, and physical bar-
7 riers in society.

8 (3) The use of mitigating measures by an indi-
9 vidual does not change the fact that the individual
10 has a physical or mental impairment, nor should the
11 use of a mitigating measure by an individual insu-
12 late covered entities from liability for discriminatory
13 practices and policies.

14 (4) The Americans with Disabilities Act of
15 1990 has not been interpreted by the courts, includ-
16 ing the Supreme Court, as intended by Congress.
17 The courts have significantly limited the intended
18 reach of the Americans with Disabilities Act, allow-
19 ing many individuals with actual or perceived im-
20 pairments to be subject to discrimination.

21 (5) It is necessary to restore the intent of the
22 Americans with Disabilities Act to fully remove the
23 barriers that confront disabled Americans and to
24 permit all people to fully participate in society.

1 **SEC. 3. DISABILITY DEFINED.**

2 Section 3 of the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12102) is amended—

4 (1) by amending paragraph (2) to read as fol-
5 lows:

6 “(2) DISABILITY.—

7 “(A) IN GENERAL.—The term ‘disability’
8 means, with respect to an individual—

9 “(i) a physical or mental impairment;

10 “(ii) a record of a physical or mental
11 impairment; or

12 “(iii) a perceived physical or mental
13 impairment.

14 “(B) RULE OF CONSTRUCTION.—The ex-
15 istence of a physical or mental impairment or
16 record or perception of a physical or mental im-
17 pairment shall be determined without taking
18 into account an individual’s use of mitigating
19 measures or whether the impairment is epi-
20 sodic, short term, or long term.”; and

21 (2) by redesignating paragraph (3) as para-
22 graph (7) and inserting after paragraph (2) the fol-
23 lowing:

24 “(3) PHYSICAL IMPAIRMENT.—The term ‘physi-
25 cal impairment’ means any physiological disorder or
26 condition, cosmetic disfigurement, or anatomical loss

1 affecting one or more of the following body systems:
2 neurological; musculoskeletal; special sense organs;
3 respiratory, including speech organs; cardiovascular;
4 reproductive; digestive; genito-urinary; hemic and
5 lymphatic; skin and endocrine.

6 “(4) MENTAL IMPAIRMENT.—The term ‘mental
7 impairment’ means any mental or psychological dis-
8 order such as mental retardation, organic brain syn-
9 drome, emotional or mental illness, and specific
10 learning disabilities.

11 “(5) RECORD OF PHYSICAL OR MENTAL IMPAIR-
12 MENT.—The term ‘record of physical or mental im-
13 pairment’ means having a history of, or having been
14 misclassified as having, a physical or mental impair-
15 ment.

16 “(6) PERCEIVED PHYSICAL OR MENTAL IMPAIR-
17 MENT.—The term ‘perceived physical or mental im-
18 pairment’ means not having an impairment as set
19 forth in paragraph (2)(A)(i) or (ii), but being re-
20 garded as having, or treated as having, a physical or
21 mental impairment.”.

22 **SEC. 4. DISCRIMINATION ON THE BASIS OF DISABILITY.**

23 The Americans with Disabilities Act of 1990 (42
24 U.S.C. 12101 et seq.) is further amended—

1 (1) in section 2(b), by striking “against individ-
2 uals with disabilities” each place it appears and in-
3 serting “on the basis of disability”; and

4 (2) in section 102(a), by striking “against a
5 qualified individual with a disability because of the
6 disability of such individual” and inserting “against
7 an individual on the basis of disability”.

8 **SEC. 5. QUALIFIED INDIVIDUAL.**

9 (a) DEFENSE.—Section 103, by redesignating sub-
10 sections (a) through (d) as subsections (b) through (e),
11 respectively, and inserting before such subsection (b) (as
12 so redesignated) the following:

13 “(a) IN GENERAL.—It may be a defense to a charge
14 of discrimination under this title that the individual with
15 a disability alleging discrimination is not a qualified indi-
16 vidual, as such term is defined in section 101(8).”.

17 (b) QUALIFIED INDIVIDUAL.—Title I of the Ameri-
18 cans with Disabilities Act of 1990 (42 U.S.C. 12111 et
19 seq.) is further amended—

20 (1) in section 101(8)—

21 (A) in the paragraph heading, by striking
22 “WITH A DISABILITY”; and

23 (B) by striking “with a disability” after
24 “individual” both places it appears;

1 (2) in section 102(b)(5), by striking “with a
2 disability” after “individual” both places it appears;
3 and

4 (3) in section 104—

5 (A) in subsection (a)—

6 (i) in the subsection heading, by strik-
7 ing “WITH A DISABILITY”; and

8 (ii) by striking “with a disability”
9 after “individual”; and

10 (B) in subsection (b), in the matter pre-
11 ceding paragraph (1), by striking “with a dis-
12 ability”.

13 **SEC. 6. RULE OF CONSTRUCTION.**

14 Section 501 of the Americans with Disabilities Act
15 of 1990 (42 U.S.C. 12201) is amended by adding at the
16 end the following:

17 “(e) BROAD CONSTRUCTION.—In order to ensure
18 that this Act achieves its purpose under section 2(b) of
19 providing a comprehensive prohibition of discrimination on
20 the basis of disability, the provisions of this Act shall be
21 broadly construed to advance their remedial purpose.”.

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