

VETERAN VOTING SUPPORT ACT

SPEECH OF

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 2008

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise today in support of H.R. 6625, the Veteran Voting Support Act. I want to thank my colleague, Chairman BRADY, for sponsoring this important legislation.

We have a special duty to make it easier, not harder, for all our citizens to participate in this great democracy. I was utterly appalled to learn that earlier this year, the Department of Veterans Affairs was blocking non-partisan voter registration organizations from its facilities.

Congressional and public outrage forced the VA to revise its policy. However, their "new" directive still falls short of providing the voting assistance our veterans deserve. This is simply unacceptable. H.R. 6625 requires the VA to actively offer voter registration and assistance opportunities to our veterans.

Every day our soldiers risk life and limb to protect our liberties and defend our freedoms. When they come home, we owe them the most sacred of freedoms—the right to vote. We must do everything in our power to help them register and participate in this historic election.

HONORING JAMES BLEDSOE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 2008

Mr. GRAVES. Madam Speaker, I proudly pause to recognize James Bledsoe of Blue Springs, Missouri. James is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1763, and earning the most prestigious award of Eagle Scout.

James has been very active with his troop, participating in many scout activities. Over the many years James has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending James Bledsoe for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

ADA AMENDMENTS ACT OF 2008

SPEECH OF

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 2008

Mr. GEORGE MILLER of California. Madam Speaker, I rise today in strong support of final passage of S. 3406, the ADA Amendments Act of 2008.

Since 1990, the Americans with Disabilities Act has provided protection from discrimina-

tion for millions of productive, hard-working Americans so that they may fully participate in our Nation's schools, communities and workplaces.

Among other rights, the law guaranteed that workers with disabilities would be judged on their merits and not on an employer's prejudice.

But since the ADA's enactment, several Supreme Court rulings have dramatically reduced the number of individuals with disabilities who are protected from discrimination under the law.

Workers like Carey McClure, an electrician with muscular dystrophy who testified before our committee in January, have been determined by an employer be "too disabled" to do a job, yet courts have said that these individuals are not disabled enough. This is the terrible "catch-22" that Congress will change with passage of this bill.

S. 3406, like H.R. 3195 passed in June, remedies this situation in several ways by reversing flawed court decisions to restore the original congressional intent of the ADA. Workers with disabilities who have been discriminated against will no longer be denied their civil rights as a result of these erroneous court decisions.

We expect that individuals will find it much easier to meet the determination of disability under the amended ADA.

In order to achieve the remedial purpose of the ADA as a civil rights law, S. 3406 re-establishes the scope of protection to be generous and inclusive. The bill returns the proper emphasis to whether discrimination occurred rather than on whether an individual's impairment qualifies as a disability.

S. 3406 ensures that individuals who reduce the impact of their impairments through means such as hearing aids, medications, or learned behavioral modifications will be considered in their unmitigated state.

For people with epilepsy, or diabetes, or other conditions who have successfully managed a disability, this means the end of the "catch-22" that Carey McClure and so many others have encountered when seeking justice.

For our returning war veterans with disabilities, S. 3406 will ensure their transition back to civilian life will not include another battle here at home—a battle against discrimination on the basis of disability.

And students with physical or mental impairments will have access to the accommodations and modifications they need to successfully pursue an education.

Much of the language contained in S. 3406 is identical to the House-passed H.R. 3195. This includes provisions concerning mitigating measures, episodic conditions, major life activities, treatment of claims under the "regarded as" prong, regulatory authority for the definition of disability, and the conforming amendments to Section 504 of the Rehabilitation Act.

In the House Committee Reports on H.R. 3195, we clarify that an individual who is "regarded as having such an impairment" under the third prong of the definition is not subject to the functional test (i.e., required to establish that the perceived or actual impairment substantially limits a major life activity) set forth in the first prong. Thus, an individual with an actual or perceived impairment who is disqualified from a job, program, or service and al-

leges that the adverse action was based upon his or her impairment is covered by the ADA as a member of the protected class, and therefore entitled to bring a claim.

In clarifying the scope of protection under the third prong of the definition, we also established that reasonable accommodations or modifications do not need to be provided for those individuals who qualify for coverage only because they have been "regarded as" having a disability. We are confident, as is the Senate, that individuals who need accommodations or modifications will receive them because those individuals will now qualify for coverage under the first or second prongs (under the less demanding interpretation of "substantial limitation") when accommodations or modifications are still required. Our clarification regarding the provision of modifications here does not shield qualification standards, tests, or other selection criteria from challenge by an individual who is disqualified based on such standard, test, or criteria. As is currently required under the ADA, any standard, test, or other selection criteria that results in disqualification of an individual because of an impairment can be challenged by that individual and must be shown to be job-related and consistent with business necessity or necessary for the program or service in question.

Other small differences in the findings and purposes in S. 3406, as well as the rule of construction related to the broad coverage of the act, correspond to similar language in H.R. 3195 and support the objectives as described in the House Committee Education and Labor Report.

As such, our committee report continues to reflect the intent of the legislation and should be regarded as a valid interpretation, with one exception—the definition of "materially restricts."

This difference between the two bills resides in the attempt to correct the current interpretation of "substantially limits."

The EEOC regulations define the term "substantially limits" as "unable to perform" or "significantly restricted." In the Toyota case (Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002)), the Supreme Court interpreted "substantially limits" to mean "prevents or severely restricts."

Both the House and the Senate clearly expect the courts and the agencies to apply a less demanding standard when interpreting "substantially limits," even though the two chambers took divergent, but not inconsistent, approaches.

S. 3406 rejects both of these definitions as too demanding and too narrow, and directs the courts and the agencies to interpret the term "substantially limits" consistently with the findings and purposes of the ADA Amendments Act.

H.R. 3195 defines "substantially limits" to mean "materially restricts." While the committee believed inclusion of this language would send a strong signal that "while the limitation imposed by an impairment must be important, it need not rise to the level of severely restricting or significantly restricting the ability to perform a major life activity" (House Committee on Education and Labor Report 110-730 part 1, at 9), our colleagues in the Senate disagreed.

In his statement, Senator KENNEDY notes that the term "materially restricts," and the House committee report's references to a

spectrum or range of severity "set an inappropriately high standard for the determination of whether an individual is substantially limited in a major life activity and pose the risk of confusing the threshold determination of who is covered by the act." (154 Cong. Rec. S8355 (daily ed September 11, 2008)). This was certainly not our intention.

We also agree with the Senate managers that "such terms encourage the courts to engage in an inappropriate level of scrutiny as to the severity of an impairment when determining whether an individual has a disability." (Senate Statement of Managers to Accompany S. 3406, Endnote 14.) We intend that the ADA Amendments will have the opposite effect, by reducing the depth of analysis related to the severity of the limitation of the impairment and returning the focus to the question of discrimination.

S. 3406 also includes a restatement of current law related to fundamental alterations in order to assure institutions of higher education that the ADA Amendments Act does not change the principle that entities need not make modifications to policies, practices or procedures that would fundamentally alter the nature of programs or services, as is true under current law.

For example, a university would not be expected to eliminate academic requirements essential to the instruction being pursued by a student, although the school may be required to make modifications in order to enable students with disabilities to meet those academic requirements. Current regulations provide that "Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted." (Senate Statement of Managers to Accompany S. 3406, Endnote 14)

Educational, testing, certification and licensing entities covered by the ADA also maintain discretion to establish appropriate and reasonable documentation requirements related to the determination of disability, as is true under current law. In June 2008, the Department of Justice offered that "a testing entity should accept without further inquiry documentation provided by a qualified professional who has made an individualized assessment of the applicant. Appropriate documentation may include a letter from a qualified professional or evidence of a prior diagnosis, accommodation, or classification, such as eligibility for a special education program." (Examinations and Courses, 73 Federal Register 34539 (June 17, 2008))

Once an individual has established that he or she experiences (or has a record of) a physical or mental impairment that substantially limits a major life activity, such individual is entitled to reasonable and appropriate modifications in policies, practices or procedures so long as the modifications in question do not fundamentally alter the nature of the program or service.

We expect that the less demanding standard applied to the definition of disability will allow students and licensure candidates with documented disabilities to more readily access appropriate accommodations on examinations when needed.

Last, we must remember that the ADA definition of disability applies also to our public el-

ementary and secondary schools. We believe that most schools currently operate in a manner consistent with the original congressional intent of Section 504 of the Rehabilitation Act and the ADA and should be minimally affected by the change in definition. We do not anticipate a need for extensive changes to the current regulations and published guidance provided by the Office of Civil Rights at the Department of Education.

This legislation has broad support: Democrats and Republicans, employers, civil rights groups, and advocates for individuals with disabilities. I'm pleased we were able to work together to get to this point.

In particular, I would like to thank the members of the Employer and Disability Alliance, including the Leadership Conference on Civil Rights, the Epilepsy Foundation, the American Association of People with Disabilities, the Bazelon Center for Mental Health Law, the U.S. Chamber of Commerce, HR Policy Association, the National Association of Manufacturers, and the Society for Human Resource Management for their hard work and long hours of negotiation with each other and with our staff.

Of course, much credit is due to Majority Leader HOYER and Congressman SENSENBRENNER for their leadership and tenacity in the House; and Senator HARKIN, Senator KENNEDY and Senator HATCH for their skill in moving this legislation through the Senate with unanimous support.

It is time to restore the original intent of the ADA and ensure that the tens of millions of Americans with disabilities who want to work, attend school, and fully participate in our communities will have the chance to do so.

I look forward to passage of this legislation.

HONORING CHRISTOPHER SAVING

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 2008

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Christopher Saving of Parkville, Missouri. Christopher is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1395, and earning the most prestigious award of Eagle Scout.

Christopher has been very active with his troop, participating in many scout activities. Over the many years Christopher has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Christopher Saving for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

EARMARK DECLARATION

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 2008

Mr. BARTLETT of Maryland. Madam Speaker, pursuant to the Republican Leadership

standards on earmarks, I am submitting the following information for publication in the CONGRESSIONAL RECORD regarding earmarks I received as part of H.R. 6599, FY 09 Military Construction and Veterans Affairs Appropriations.

Bill Number: H.R. 6599.

Account: Air National Guard/United States Air Force.

Legal Name of Requesting Entity: Air National Guard/A7 Programming Division.

Address of Requesting Entity: Maryland Air National Guard, Martin State Airport, Baltimore, Maryland.

Description of Request: Provide an earmark asking for \$6,300,000 which was appropriated \$7,900,000 to replace fire station and ASE facilities at Martin State Airport, Baltimore, MD. The fire station must be located such that it can support crash and fire rescue mission generated by flying operations and by the joint use agreement between the Air National Guard and Maryland Aviation Authority. The 175th Wing of the Air National Guard requires an adequately sized and properly operating fire station. Currently the base fire station is less than 50 percent of authorized use. This funding would provide construction for 21,100 square foot fire station complete with concrete foundation and floor slab, steel frame masonry walls with standing seam insulated metal roof or "green" roof, as well as, interior mechanical, electrical, and fire protection systems.

HONORING THE SERVICE OF LT.
RICHARD W. BOYD

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 2008

Mr. GERLACH. Madam Speaker, I rise today to honor a dedicated public servant in Chester County, Pennsylvania, who is retiring after 28 years of loyal and dedicated service to the residents and businesses of East Whiteland Township.

Lt. Richard W. Boyd joined the East Whiteland Police Department as a patrol officer in 1980, rising through the ranks to become a lieutenant in November 2002.

The lifelong Chester County resident also worked as an officer in West Grove and Kennett Square in the 1970's. Described by colleagues as a "straight arrow", Lt. Boyd earned the respect of fellow officers with his commitment to protecting the community and a no-nonsense approach to public service each day he has pinned on a badge. His steadfast professionalism and compassion for others are hallmarks of his nearly three decades of service.

Lt. Boyd's career and accomplishments will be celebrated on Friday, September 19, 2008 during a dinner at the Downingtown Country Club.

Madam Speaker, I ask that my colleagues join me today in praising the outstanding service and dedication of Lt. Richard W. Boyd, and all those who take an oath to serve and protect their communities.