

From: [Boderman, Nathan](#)
To: [Savas, Paul](#)
Cc: [Marek, Joe](#)
Subject: FW: ADA Hearing
Date: Thursday, February 25, 2021 8:20:05 AM
Attachments: [image003.png](#)

Commissioner Savas – During the ADA hearing earlier this month, you had asked whether there were modifications that could be made to the Gator or the ATV that would enable them to legally operate on roads. Joe believes that it may be possible to install equipment that could meet the minimum threshold for the equipment necessary for operation on a public road. That being said, regardless of modification, Oregon law generally still does not allow the type of vehicles at issue to be legally operated on public roads (ORS 821.190).

State law does appear to provide an exception for a certain class of ATV, provided that it is “properly equipped for operation on a highway.” It is unclear to us whether the ATV at issue is the type (Class II as defined by the ORS) that would qualify for the exception. If it were, at a minimum it appears it would need to be equipped with the type of equipment that Joe highlights in his message below, and which is provided for in the safety standards for off-road vehicles adopted by DMV in Oregon Administrative Rule Chapter 735, Division 116. <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3381>.

I hope this helps. Please let me know if you have any follow up questions related to the above.

~Nate

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From: Marek, Joe <JoeMar@clackamas.us>
Sent: Monday, February 22, 2021 4:42 PM
To: Boderman, Nathan <NBoderman@clackamas.us>
Subject: RE: ADA Hearing

Hi Nate,
Even with those items, I don't think Oregon Statute allows him to operate on the road.

Joseph F. Marek, PE, PTOE | Transportation Safety Program Manager
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Safe and Healthy Communities Start With You!

From: Boderman, Nathan <NBoderman@clackamas.us>
Sent: Monday, February 22, 2021 4:27 PM
To: Marek, Joe <JoeMar@clackamas.us>
Subject: RE: ADA Hearing

Thanks for this Joe. So if Mr. Andersson installed equipment along the lines that you reference below (headlights, taillights, turn signals, etc.),

he would be able to operate gator (but not the ATV) on Oregon roads legally with nothing further?

~Nate

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From: Marek, Joe <JoeMar@clackamas.us>
Sent: Friday, February 19, 2021 4:36 PM
To: Boderman, Nathan <NBoderman@clackamas.us>
Subject: ADA Hearing

Hi Nate,

For a John Deere Gator, the owner could install all of the necessary equipment to technically make it street legal. This could include headlights, tail lights, turn signals, horn etc. But what cannot be installed are all of the occupant protection systems beyond what the UTV may provide such as a lap belt. These vehicles, as manufactured are not intended to be used on paved roads and do not meet either Federal Motor Vehicle Safety or Federal Environmental Protection Agency standards. The vehicles cannot be modified to meet these standard.

In 1990, the Specialty Vehicle Institute of America (SVIA), the trade association for the ATV manufacturers, published their first voluntary standards for ATV's and four-wheeled all-terrain

vehicles. Including equipment, configuration and performance requirements. These voluntary standards have been updated to include the side-by-side units like the John Deere Gator. These standards have including acknowledgement that these types of vehicles are not safe to operate on public roads due to their high center of gravity and wide low-pressure tires that make handling problematic while executing turns, especially on higher friction surfaces such as pavement. These cannot be retrofitted on the vehicle.

Let me know if this is adequate or if you would like me to take a different approach.

Thanks

Joe

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Safe and Healthy Communities Start With You!

From: [John Andersson](#)
To: [Boderman, Nathan](#)
Subject: John Andersson other power mobility device Clackamas county commissioners ADA Hearing
Date: Thursday, February 25, 2021 8:36:03 AM
Attachments: [PGA TOUR, Inc. v. Martin Oyez](#)

Warning: External email. Be cautious opening attachments and links.

I am entering this in to my grievance complaint as ADA evidence in Clackamas county Oregon other power mobility devices . In Oregon It is illegal to operate an electric power mobility device on a road over 35 mph by the oregon vehical code . AS 28cfr35. 137 FEDERAL LAW garrantys freedom of choose a other power mobility device and as I reside on a 55 mph rural county road The only reasonable acomadation is the other power mobility device that has been chose the state of Oregon and Clackamas county set the presednce with allowing utv and avts for farm , construction, pedestrian, bicycles, horses, county, city and state uses on all county roads assuring all safety and direct theats of the devices and persons have been addressed buy the state of Oregon day or night 7 days aweek I have met all safety device standards and pedestrian safety standards. Clackams County council has quoted Young v Oklahoma as I review this case I realize that this case was heard long before federal ada law 28cfr 35. 137 was put in to the civilrights ada laws and summery judgment was granted by the courts not because it was a direct threat it was granted because the city had a no golf cart law in the city. Other power mobility device laws were non existing there was no requirements of city council in Oklahoma to apply 28cfr35. 137 or 28cfr35.130 section (h) to bring the golf cart to mobility device standards. This case is not a case about other power mobility devices under the federal ada laws 28cfr35. 137 other power mobility device when council addressed county commissioners that this case set some type of precedent over a case about ada power mobility devices is confusing in the young v Oklahoma they were not asking for a reasonabl accomodation under 28cfr 35. 137 maybe young v Oklahoma is the reason 28cfr 35. 137 was created by the federal government and iam thankfully that county council brought this case to the country commissioners attention . Federal laws like 28cfr 35.137 and 28cfr 35.130 that say people with disabilities will be allowed to use other power mobility devices for locomotion and to protect them from other entities from making laws or rules or desisions that violate disabled persons. Under the law entity s shall make exception and modifications with out speculation and Will be treated the same and have equal or more rights than others or other entities that have accesse to a facility public or private under federal law and that people with disabilities shall be treated equal to any other entity and to be allowed to use power mobility devices and be treated with out discrimination and have the rights that are afforded to others using the same facilities research tells me farm tractors, construction equipment, mobility devices, bicycles, joggers, pedestrians have all the same nature, duration and severity of risk that could lead to potential injury in all of the entities I mention above .Oregon state law has applied safety factors for there ability to use the facilities. The federal government has created a ada civil rights law to protect disabled persons from discrimination and has directed entities how to apply them as in a assesment of power mobility devices. Other powerd mobility devices may have less affected on the nature, duration and severity of risk as the mention above I am sure all mentioned above entities were assessed by the state and they did not allowed speculation in there decisions the nature, duration and severity of using a power mobility device could be far less than a 10,000 pound farm tractor using 2/3 of a county road could cause or a bicycle traveling at 10 miles an hour or construction equipment or a child on a bike or a horse day or night . I have proven

that the reflective triangle which is reflective for a fifth of a mile and glows from head lights has established the safety device's to mitigate and reduce the risk under the law states 28cfr 35. 137 that is what is required and allows for ample time for a vehicle to slow as the law requires and the flashing amber light is visible for farther than the safety triangle. Clackamas county department of transportation may speculate if people know what the national safety triangle stand for and that a person using a other power mobility device should be responsible for what a licensed driver in Oregon should know I would like to believe this safety triangle would appear in the Oregon driver manual. There is no direct threat involved in this situation of access of the facility that I have requested there is no direct threat involved in any of the above mentioned user's of the Clackamas country facility as mentioned above .Clackamas county department of transportation has chosen to build there denial of the other power mobility device request on discrimination choosing to evaluate the roads surrounding my residences which is a violation under 28cfr 35. 130 sections b (1),(4 (I) (II) ,7 (I),8, (H) .I am being discriminated against because Clackamas county department of transportation did not want to follow the law and apply the same safety device's found on all farm, construction equipment to give me equal rights as they have ignoring this part of the law so they could create a so called direct threat defense which is a creation by design by Clackamas county department of transportation. They believe there staff should decide if you have a accesses to vehical you need not use or choose a mobility device for locomotion instead of implicating the law as required under federal law as in the letter from odot of oregon that was entered in to the complaint saying they do not do assessments of power mobility devices I would believe there refusal would forfeit any regulation over a request of a other power mobility device as I believe this would be the same for Clackamas county's decisions to not apply the law correctly. When I was asked at my grievance hearing at Clackamas county if I would be open to considering some type of a deal of restrictions of what time of the day I could use the device for locomotion at my grievance hearing on February 4th 2021 General protection against discrimination 28cfr 35.130 (b) (1) (vII) discrimination is to(limit)a qualified individual with a disability in the enjoyment of any rights, privilege, advantage or opportunity enjoined by others receiving the aid , benefit or services protect disabled persons from this of legal punishment .Freedom to choose as human being was more important than ever I would never forfeit my civil rights for any one or anything as America's these are the most important laws we have these are laws created by the federal government which is we the people . We have elected officials to represent the people and create laws to protect and preserve equality for all people the business man the farmer the disabled the homeless or any and all people in America . I am sure all the Clackamas county commissioners already no this I have no illusions that I'm saying something that every one dose not already knows. I Believe Clackamas county department of transportation and council tried to sway or mislead the commissioners with the thought that this assessment denial had something to do with farming and civil court cases not related to other power mobility device and road study's from odot which is a violations under 28cfr 35.130 .I heard at my hearing this is a direct threat situation Clackamas county department of transportation and council created it by not following the laws as they were created as in the federal ada paper work of how to apply 28cfr 35. 137 they said the law was so clear how to apply the law that the direct threat law 28cfr 35.139 was not even consider in the assessment of factors to be considered instead they ignored the 28cfr 35.130section(h) like it was not part of the assessment by doing this they chose to create the direct threat defense but it did not go unnoticed or the unjust action that has been taken against disabled persons the federal ada laws adopted by the federal government were put in place to protect the over reach of states , county and cities governments of the idea that I pose more of a risk than a 8,000 pound farm tractor or that I may occupy a facillitie longer than a farm tractor or a jogger , bike, pedestrian or a child on a horse there is no evidence of this

.Clackamas county department of transportation and Clackamas county council only used intentional actions and scare tactics like notifying Clackamas county law enforcement of my denial of the use of other power mobility device alarming them that I am a direct threat to others which is not a realistic thought under 28cfr 35. 137 and a decision that could not be made by any Clackamas county staff person and to avoid proper assessment of the other power mobility device by ignoring federal ada law procedure by useing assessments of roads on three sides of where I currently reside which is a clear discrimination under 28cfr 35. 130 and not applying safety devices procedure as the federal law requires in section (h) 28cfr35.130. Clackamas county shall adjust there usual procedures according to federal law 28cfr35. 137 to allow use of other power mobility devices instead the public entity Clackamas county chose to deni the device because a staff members of Clackamas county believes if you have access to a vehicle you do not need to use or choose to use a mobility device and if we do not apply the federal law correctly it will be unnoticed by all. Under federal law 28cfr 35. 137 it has granted disabled people to have freedom to choose the right to have access of a other power mobility devices for locomotion and use and have public access to public property of afforded to others that the people own and have equal rights afforded to other entities.

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