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WEEKEND BREAK

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Joan Herman, an Astoria resident, outside Street 14 Cafe in summer 2016.

Joan Herman

ADA threatened by federal legislation

Congress tries to chip away at rights of people with disabilities

By **JOAN HERMAN**
 For *The Daily Astorian*

Unbeknownst to me at the time, 1990 would be a fortuitous year.

Working full-time as a newspaper reporter during the week, on weekends I was more often than not adventuring out on some long-distance bike ride or another with my then-husband, the late Richard Fencsak. We owned Bikes & Beyond in Astoria, so cycling — and athletics, in general — consumed our lives.

Not surprisingly, the passage of the Americans with Disabilities Act that year did not even register a blip in our household. Even if it had, the landmark legislation did not affect us — or so we thought. We were young and believed ourselves invincible, inhabiting bodies that could take on even Astoria's steepest hills on our sleek racing bikes. What could happen to us?

Eighteen years later, Rich, would be dead from prostate cancer at 57, despite having lived a textbook-healthy lifestyle. We had divorced by that time but remained friends up to the very end.

And I? After several years of experiencing strange symptoms, such as a floppy foot when I ran or acute hearing loss in one ear, I would be diagnosed in 1998 with multiple sclerosis, a sometimes progressive (as in my case) neurological disorder.

Twenty years post-diagnosis, I am in a wheelchair full-time. I am extremely fortunate and grateful to have a loving husband, John Gaasland, who is also my caretaker.

And, thanks to the Americans with Disabilities Act, I am able to live a full life — a much different one from what my youthful, physically arrogant self could have imagined in 1990, but a full one nonetheless.

Why am I writing about the Americans With Disabilities Act, or the ADA, as it is often referred to, today? Simply, because it is threatened by a seemingly innocuous piece of federal legislation.

First, just a bit of background about the ADA. It is “the nation’s first comprehensive civil rights law addressing the needs of people with disabilities, prohibiting discrimination in employment, public services, pub-



Alex Brandon/Associated Press

Sen. Tammy Duckworth, D-Ill., right, waits with an aide for the elevator on Capitol Hill.



Joan Herman

Supporters of the Americans with Disabilities Act

lic accommodations, and telecommunications,” according to the federal Equal Employment Opportunity Commission.

The ADA protects not only Americans with obvious disabilities, physical ones such as mine, but also invisible ones, such as mental and intellectual impairments. According to the U.S. Census, nearly 57 million Americans, or 19 percent of the population, qualify as disabled, with more than half of those disabilities described as “severe.”

The legislation that concerns me and disability rights advocates across the country would mandate that anyone wishing to sue a business due to lack of access first give written notice detailing the problem. The business would then have 60 days to devise a plan to address the complaint and an additional 60 to actually implement an accommodation.

The bill passed the House a week

ago Thursday along mostly partisan lines by a vote of 225-192. No comparable bill is pending in the Senate at this time.

On the surface, the bill sounds reasonable. The bill’s proponents claim it is needed to ward off frivolous lawsuits by unscrupulous lawyers looking to make a buck.

Yet disability rights advocates argue that, if enacted, the bill would essentially do away with any incentive businesses have to comply with the law, unless a complaint is filed. In other words, rather than obey the law to begin with, a business could flaunt it and ask for forgiveness later — and, again, only if a complaint were filed.

“If you don’t live with a disability, you might not think of #ADA violations as significant at 1st glance,” Sen. Tammy Duckworth (D-Ill.), a double-amputee veteran of the Iraq War, tweeted in response to the bill, “but I assure you they’re significant for those

**WILD AND
PRECIOUS
LIFE**

Doesn't everything die
at last, and too soon?

Tell me, what is it
you plan to do

with your one wild
and precious life?"

— Mary Oliver, American poet

of us who do live with disabilities.”

Thanks to the ADA, I can independently ride my power wheelchair around town without worrying about whether there will be curb cuts to provide access. Newly constructed buildings must include access, such as ramps, and significant building remodels must incorporate access as well.

Parking lots must set aside spaces for people with disabilities, which is particularly important for those of us with vans that require two spaces to extend a ramp, allowing us to roll out of our vehicles (by the way, that’s what those spaces with hash marks are for). These are just a few of the many kinds of access for those of us with physical disabilities required under the law.

But even 28 years after the ADA’s enactment, many places still are inaccessible. I have learned to always call ahead to a restaurant or other business I have not visited before to see if there is a literal barrier to my entering the building.

Some places I simply cannot access, such as the upper level of the 50-year-old Astor Library, where browsing through my favorite genre, fiction, remains tantalizingly out of reach. The librarians are always more than accommodating in fetching any titles. Still, it’s not the same as roaming through the stacks myself. The city is conducting a fundraising campaign to remodel the pre-ADA-constructed library to, in part, make it fully accessible.

Our country was founded on the principles of “life, liberty, and the pursuit of happiness” for all Americans. Thanks to the ADA, I and millions of other Americans have a shot at those most fundamental of American values.

How ironic that such an august body as Congress, elected to represent we the People, should attempt to chip those rights away.