used an object which appeared to be a dangerous weapon in the commission of his offense. Defendant admitted at his plea colloquy (and does not dispute on appeal) that he actually lit the fuse to the bomb-like object during his attempted bank robbery. As the fuse was lit, Defendant also threatened the bank teller, asking her if she knew what "it" [the bomb-like object] really was. On appeal, Defendant does not argue that this conduct is mere brandishment or display rather than otherwise use. In *Wooden*, we recently found that a defendant who pointed a handgun at a specific victim, holding the gun one-half inch from the victim's forehead, properly received an enhancement for otherwise using a dangerous weapon, *see* U.S.S.G § 2B3.1(b)(2)(D), because "his conduct was more than brandishing; it was more than merely pointing or waving the weapon about in a threatening manner." *Wooden*, 169 F.3d at 676. We arrived at this conclusion by emphasizing that the defendant's conduct "involved an explicit threat," rendering the conduct more than simply brandishing or displaying a weapon. *Wooden*, 169 F.3d at 676; *see also United States v. Johnson*, 931 F.2d 238 (3d Cir.1991) (holding that pointing weapon at close distance constituted "otherwise use"); *United States v. Hamilton*, 929 F.2d 1126 (6th Cir.1991) (finding that placing knife against a victim's throat amounted to "otherwise use"). Here, we believe the issue is even clearer. Defendant did not just display or brandish the fake bomb; he actually lit the fuse of the fake bomb while explicitly threatening the bank teller. Indeed, lighting the fuse is like the cocking of a handgun. Based on these facts, it was not plain error for the district court to conclude that Defendant's conduct constituted the "otherwise use" of a dangerous weapon, qualifying Defendant for a four-level enhancement under section 2B3.1(b)(2)(D). Accordingly, we affirm.

AFFIRMED.

Gregory SOLOMON, Patricia Beckwith, et al., on behalf of themselves and all others similarly situated, Plaintiffs–Appellants,

v.

LIBERTY COUNTY COMMISSIONERS, Liberty County School Board, et al., Defendants–Appellees.

No. 97–2540.

United States Court of Appeals, Eleventh Circuit.

March 14, 2000.

David M. Lipman, Miami, FL, Robert E. Weisberg, Law Offices of Robert E. Weisberg, Coral Gables, FL, Robert Bruce McDuff, Jackson, MS, for Plaintiffs–Appellants.

J.C. O'Steen, Tallahassee, FL, John C. Pelham, Jr., Pennington, Wilkinson, Moore, Bell & Dunbar, Tallahassee, FL, for Defendants–Appellees.

Appeal from the United States District Court for the Northern District of Florida (Nos. 85–CV–7009, 85–CV–7010); Maurice M. Paul, Judge.

(Opinion Feb. 3, 1999, 166 F.3d 1135, 11th Cir., 1999).

Before ANDERSON, Chief Judge, and TJOFLAT, EDMONDSON, COX, BIRCH, DUBINA, BLACK, CARNES, BARKETT, HULL, MARCUS and WILSON, Circuit Judges.

BY THE COURT:

A member of this court in active service having requested a poll on the suggestions of rehearing en banc and a majority of the judges in this court in active service having voted in favor of granting a rehearing en banc,

IT IS ORDERED that the above cause shall be reheard by this court en banc. The previous panel's opinion is hereby VACATED.

William Bruce REED, Plaintiff–Appellant,

v.

The HEIL COMPANY, Defendant–Appellee.

No. 98–6982.

United States Court of Appeals, Eleventh Circuit.

March 14, 2000.

Injured employee brought state court action against employer alleging violations of Alabama statute barring retaliation against employees for filing workers' compensation claims, violations of Americans with Disabilities Act (ADA), and breach of contract. Employer removed action to federal court. The United States District Court for the Northern District of Alabama, No. 96-02462-CV-AR-M, William M. Acker, Jr., J., entered summary judgment in favor of employer. Employee appealed. The Court of Appeals, Kravitch, Senior Circuit Judge, held that: (1) as matter of first impression, retaliation claim arose under workers' compensation laws, and its removal thus was barred by federal statute, abrogating *Moreland v. Gold Kist, Inc.*, and (2) employee was not qualified individual, and thus failed to establish prima facie ADA claim.

Affirmed in part; reversed and remanded in part.

1. Removal of Cases ⚿3

Employee's action under Alabama statute barring retaliation by employer for filing workers' compensation claims arose under Alabama's workers' compensation laws, and removal of action to federal court thus was barred by federal jurisdictional statute; Alabama statute, which increased employees' willingness to file workers' compensation claims and thus encouraged prompt and thorough medical attention to workplace injuries, was integral to Alabama's workers' compensation scheme; abrogating *Moreland v. Gold Kist, Inc.* 908 F.Supp. 898. 28 U.S.C.A. § 1445(c); Ala. Code 1975, § 25–5–11.1.

2. Federal Courts ⚿417

Because the statute precluding the removal of a state court action arising under the workers' compensation laws is a federal jurisdiction statute with nationwide application, federal law, not the law of the state in which the action is brought, governs its interpretation. 28 U.S.C.A. § 1445(c).

3. Statutes ⚿217.4

When interpreting statutes, courts should not resort to the legislative history if the statutory language is straightforward.

4. Civil Rights ⚿173.1

An employee advancing a claim of employment discrimination under the ADA must make a prima facie case establishing that: (1) he or she has a disability; (2) he or she is a qualified individual, which is to say, able to perform the essential functions of the employment position that he or she holds or seeks with or without reasonable accommodation; and (3) the employer unlawfully discriminated against him or her because of the disability. Americans with Disabilities Act of 1990, § 102(a), 42 U.S.C.A. § 12112(a).

5. Federal Courts ⚿776, 802

The Court of Appeals reviews a grant of summary judgment de novo, reviewing the record in the light most favorable to