

JAN 24 2019

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**A BILL FOR AN ACT**

RELATING TO PARKING FOR DISABLED PERSONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the statewide  
2 parking program for persons with disabilities, established under  
3 part III of chapter 291, Hawaii Revised Statutes, pursuant to  
4 Public Law 100-641, and administered by the disability and  
5 communication access board, provides individuals with mobility  
6 disabilities the ability to travel and park in accessible  
7 stalls.

8           The legislature finds that the exemption from payment of  
9 parking fees for the first two-and-a-half hours or the maximum  
10 time the meter allows, whichever is longer, was not intended as  
11 a benefit for persons with mobility impairments, but was  
12 intended as an exception for those who drove themselves and who  
13 were unable to reach or operate a parking meter because of a  
14 physical disability.

15           The legislature finds that while part III of chapter 291  
16 provides for the imposition of fines for the use of disability  
17 parking permits that were fraudulently manufactured or altered,  
18 used by unauthorized persons, or rendered invalid, it does not

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1 expressly authorize law enforcement to confiscate the permits.  
2 Therefore, law enforcement officers may not confiscate such  
3 permits, which means individuals who may be cited for unlawfully  
4 using a permit may be at liberty to violate the law again and  
5 thereby reduce the availability of parking spaces designed and  
6 reserved for persons who need them.

7       The legislature further finds that while part III of  
8 chapter 291 establishes which disabilities qualify for a  
9 disability parking permit, the current wording is vague. This  
10 causes physicians and advanced practice registered nurses to  
11 incorrectly certify certain applicants.

12       The purpose of the Act is to clarify that the exemption  
13 from parking fees is only for those who drive and are unable to  
14 reach or operate a parking meter due to a physical disability,  
15 stipulate that the exemption also applies to areas where parking  
16 fee payment is made via an unattended pay station, remove the  
17 time limit for an exemption from payment of parking fees, add  
18 additional wording to reflect changes in parking technology and  
19 terminology, add wording to allow law enforcement to confiscate  
20 a permit that is invalid or has been fraudulently manufactured  
21 or altered, and clarify which disabilities qualify an applicant  
22 for certification of eligibility.

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1 SECTION 2. Chapter 291, Hawaii Revised Statutes, is  
2 amended by adding to part III three sections to be appropriately  
3 designated and to read as follows:

4 "291- Issuance of distinguishing parking device, code,  
5 or placard. The issuing agency shall issue one distinguishing  
6 parking device, code, or placard to each applicant who presents  
7 a certificate of disability that verifies that the applicant is  
8 licensed to drive a motor vehicle and that the applicant cannot  
9 reach or operate parking meters or unattended pay stations  
10 because of the applicant's physical disability. The  
11 distinguishing parking device, code, or placard shall have the  
12 same expiration as the removable windshield placard, temporary  
13 removable windshield placard, or special license plates issued  
14 to the applicant.

15 §291- Sale or purchase. A disability parking permit may  
16 not be sold or purchased except by a state or county issuing  
17 agency. Other than a state or county issuing agency, the seller  
18 and buyer of a disability parking permit shall be guilty of a  
19 misdemeanor. The sale or purchase of each disability parking  
20 permit in violation of this section shall constitute a separate  
21 offense.

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1        §291- Confiscation. A disability parking permit may be  
2 confiscated by a law enforcement officer or a commissioned  
3 volunteer enforcement officer of a county law enforcement agency  
4 for:

- 5        (1) Fraudulent manufacture or alteration pursuant to  
6        section 291-52.7;  
7        (2) Any unauthorized use pursuant to section 291-53;  
8        (3) Display of an invalid disability parking permit; or  
9        (4) Selling or purchasing a disability parking permit  
10       pursuant to section 291- ."

11       SECTION 3. Section 291-51, Hawaii Revised Statutes, is  
12 amended as follows:

13       (1) By adding new definitions to be appropriately inserted  
14 and to read as follows:

15       "Distinguishing parking device, code, or placard" means a  
16 device to be displayed on a dashboard or contained elsewhere on  
17 the vehicle, a code, or a two-sided, hanger style placard that  
18 indicates that the individual to whom the device, code, or  
19 placard is issued pursuant to this part is licensed to drive a  
20 motor vehicle and not able to reach or operate a parking meter  
21 or unattended pay station because of a physical disability.

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1        "Disability parking permit" means a removeable windshield  
2 placard, special license plate, temporary removable windshield  
3 placard, or distinguishing parking device, code, or placard.

4        "Invalid disability parking permit" means an expired or  
5 voided removable windshield placard, temporary removable  
6 windshield placard, special license plates, or distinguishing  
7 parking device, code, or placard."

8        (2) By amending the definition of "person with a  
9 disability" to read as follows:

10        "Person with a disability" means a person with a disability  
11 which limits or impairs the ability to walk, and who, as  
12 determined by a licensed practicing physician[+] or advanced  
13 practice registered nurse:

14        (1) Cannot walk two hundred feet without stopping to rest,  
15 ~~[due to a diagnosed arthritic, neurological,~~  
16 ~~orthopedic, renal, vascular, or oncological~~  
17 ~~condition,]~~ and who has been diagnosed with:

18        (A) An arthritic, neurological, orthopedic, renal,  
19 vascular, or oncological condition;

20        (B) Lung disease to such an extent that the person's  
21 forced (respiratory) expiratory volume for one  
22 second, when measured by spirometry, is less than

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1           one liter, or the arterial oxygen tension is less  
2           than sixty mm/hg on room air at rest; or

3           (C) A cardiac condition to the extent that the  
4           person's functional limitations are classified in  
5           severity as Class III or Class IV according to  
6           the standards set by the American Heart  
7           Association;

8           (2) [~~Cannot walk without the use of, or assistance from, a~~  
9           ~~brace, cane, crutch, another person, prosthetic~~  
10           ~~device, wheelchair, or other assistive device,] And  
11           because of a condition identified in paragraph (1):~~

12           (A) Cannot walk two hundred feet under the person's  
13           own power without stopping to rest; or

14           (B) Cannot walk without the use of, or assistance  
15           from, a brace, cane, crutch, another person,  
16           prosthetic device, wheelchair, or other assistive  
17           device; or

18           (C) Uses portable oxygen.

19           ~~[(3) Is restricted by lung disease to such an extent that~~  
20           ~~the person's forced (respiratory) expiratory volume~~  
21           ~~for one second, when measured by spirometry, is less~~

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1           ~~than one liter, or the arterial oxygen tension is less~~  
2           ~~than sixty mm/hg on room air at rest;~~  
3           ~~[(4) Uses portable oxygen; or~~  
4           ~~[(5) Has a cardiac condition to the extent that the~~  
5           ~~person's functional limitations are classified in~~  
6           ~~severity as Class III or Class IV according to the~~  
7           ~~standards set by the American Heart Association.]]"~~

8           SECTION 4. Section 291-51.4, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§291-51.4 Fraudulent verification of an applicant as a**  
11 **person with a disability; penalty.** A physician or advanced  
12 practice registered nurse who fraudulently verifies that an  
13 applicant is a person with a disability to enable the person to  
14 represent to the issuing agency that the person is qualified to  
15 obtain a ~~[removable windshield placard, temporary removable~~  
16 ~~windshield placard, or special license plates]~~ disability  
17 parking permit shall be guilty of a petty misdemeanor. Each  
18 fraudulent verification shall constitute a separate offense."

19           SECTION 5. Section 291-51.7, Hawaii Revised Statutes, is  
20 amended to read as follows:

21           "**§291-51.7 Reciprocity.** The State, counties, and private  
22 property owners shall recognize ~~[removable windshield placards,~~

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1 ~~temporary removable windshield placards, and special license~~  
2 ~~plates which] disability parking permits that have been issued  
3 by authorities of other states and countries, for the purpose of  
4 identifying persons permitted to:~~

- 5 (1) Utilize parking spaces reserved for persons with  
6 disabilities; or  
7 (2) Exercise other parking privileges afforded by the  
8 State, counties, or private property owners for the  
9 benefit of persons with disabilities."

10 SECTION 6. Section 291-52.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§291-52.5 Issuance of identification card. The issuing  
13 agency shall issue one identification card at the same time it  
14 issues a [~~removable windshield placard, temporary removable~~  
15 ~~windshield placard, or special license plates] disability  
16 parking permit to a person with a disability."~~

17 SECTION 7. Section 291-52.6, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§291-52.6 Replacement of a removable windshield placard,  
20 distinguishing parking device, code, or placard, or  
21 identification card. A removeable windshield placard, temporary



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1 removable windshield placard, distinguishing parking device,  
2 code, or placard, or identification card shall be replaced upon:

3 (1) Submittal to the issuing agency of a completed  
4 application for a removeable windshield placard,  
5 temporary removable windshield placard, distinguishing  
6 parking device, code, or placard, or identification  
7 card to the issuing agency; and

8 (2) Payment of a fee."

9 SECTION 8. Section 291-52.7, Hawaii Revised Statutes is  
10 amended to read as follows:

11 "§291-52.7 Fraudulent manufacture or alteration, sale,  
12 issuance, or use of [placards] disability parking permits and  
13 identification cards. Any person who fraudulently manufactures  
14 or alters a [~~removable windshield placard, temporary removable~~  
15 ~~windshield placard,~~] disability parking permit or identification  
16 card for personal use, sale, or issuance to another person to  
17 circumvent the issuance requirements of this part, or any person  
18 who uses a fraudulently manufactured or altered [placard]  
19 disability parking permit or identification card to circumvent  
20 the issuance requirements of this part, shall be guilty of a  
21 misdemeanor. The fraudulent manufacture or alteration of each  
22 [placard] disability parking permit and of each identification

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1 card for personal use, sale, or issuance or is otherwise used in  
2 violation of this section shall constitute a separate offense."

3 SECTION 9. Section 291-53, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§291-53 **Nontransferability; penalty.** The [~~removable~~  
6 ~~windshield placard, temporary removable windshield placard, or~~  
7 ~~special license plates~~] disability parking permit shall not be  
8 used by anyone other than the person with a disability to whom  
9 it was issued unless it is being used in connection with the  
10 transport of the person with a disability. An unauthorized  
11 person using the [~~removable windshield placard, temporary~~  
12 ~~removable windshield placard, or +special license plates~~]  
13 disability parking permit to obtain the special parking  
14 privileges authorized under this part or otherwise afforded by  
15 the State or counties, shall be guilty of a traffic infraction  
16 under chapter 291D and fined not less than \$250 nor more than  
17 \$500. [~~A removable windshield placard, temporary removable~~  
18 ~~windshield placard, or special license plates may be confiscated~~  
19 ~~by a law enforcement officer or commissioned volunteer~~  
20 ~~enforcement officer of the county law enforcement agency for any~~  
21 ~~unauthorized use.] "~~

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1 SECTION 10. Section 291-54, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§291-54 Display of removable ~~[and]~~ windshield placards,  
4 temporary removable windshield placards ~~[-]~~ and distinguishing  
5 parking devices, codes, or placards. The placard or  
6 distinguishing parking device, code, or placard shall be  
7 displayed in such a manner that it may be viewed from the front  
8 and rear of the vehicle by hanging it from the front windshield  
9 rearview mirror of a vehicle when the placard is in use. If the  
10 design or condition of the rearview mirror, or the design or  
11 condition of the placard or distinguishing parking device, code,  
12 permit, or decal precludes hanging the placard or distinguishing  
13 parking device, code, or placard in a secure manner, the placard  
14 or distinguishing parking device, code, or placard shall be  
15 displayed on the dashboard."

16 SECTION 11. Section 291-55, Hawaii Revised Statutes is  
17 amended to read as follows:

18 "§291-55 ~~[Metered parking privileges]~~ Parking fees. ~~[Any~~  
19 ~~vehicle displaying special license plates, a removable~~  
20 ~~windshield placard, or a temporary removable windshield placard~~  
21 ~~issued under this part shall be permitted to park, without~~  
22 ~~payment of metered parking fees, in any metered parking space~~

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1 ~~for a maximum of the first two and a half hours or the maximum~~  
2 ~~amount of time the meter allows, whichever is longer. All~~  
3 ~~parking fees not specifically exempted under this part shall~~  
4 ~~remain in effect.]~~ (a) All parking fees not specifically

5 exempted under this section shall remain in effect.

6 (b) A driver who is issued a distinguishing parking  
7 device, code, or placard pursuant to section 291- shall be  
8 permitted to park a vehicle, without payment of parking fees, in  
9 any parking area where payment is required via a parking meter  
10 or unattended pay station. The vehicle must prominently display  
11 the distinguishing parking device, code, or placard."

12 SECTION 12. Section 291-56, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§291-56 Rules. The disability and communication access  
15 board shall adopt rules under chapter 91 to carry out the  
16 purposes of this part, including rules for:

17 (1) The issuance, renewal, confiscation, revocation, and  
18 suspension of [~~removable windshield placards,~~  
19 ~~temporary removable windshield placards, and special~~  
20 ~~license plates;~~] disability parking permits;

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- 1           (2) Decertification, reciprocity, and the replacement of  
2           ~~[placards]~~ disability parking permits and  
3           identification cards;
- 4           (3) The design of ~~[the placard,]~~ disability parking  
5           permits and identification ~~[card,]~~ cards; ~~[and special~~  
6           ~~license plates]~~
- 7           (4) The establishment of transaction fees for removeable  
8           windshield placards ~~[,]~~ temporary removable windshield  
9           placards, and distinguishing parking devices, codes,  
10          and placards;
- 11          (5) Signage and marking of parking spaces;
- 12          (6) Reimbursement rates to the counties; and
- 13          (7) Penalties."

14          SECTION 13. Section 291-57, Hawaii Revised Statutes, is  
15 amended to read as follows:

16          "**§291-57 Parking spaces reserved for persons with**  
17 **disabilities; penalties.** (a) Any person who uses a parking  
18 space reserved for persons with disabilities who:

- 19          (1) Fails to properly display a ~~[removable windshield~~  
20          ~~placard, temporary removable windshield placard, or~~  
21          ~~special license plates,]~~ disability parking permit;

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- 1           (2) Displays an invalid [~~removable windshield placard, an~~  
2            ~~invalid temporary removable windshield placard, or~~  
3            ~~special license plates;~~] disability parking permit;
- 4           (3) Uses a [~~removable windshield placard, a temporary~~  
5            ~~removable windshield placard, or special license~~  
6            ~~plate]~~ disability parking permit that was not issued  
7            to that person or to any passengers occupying the  
8            vehicle in the parking space; or
- 9           (4) With or without a [~~removable windshield placard, a~~  
10           ~~temporary removable windshield placard, or special~~  
11           ~~license plates;~~] disability parking permit:
- 12                   (A) Parks in an access aisle; or
- 13                   (B) Obstructs the ingress or egress to a parking  
14                    space reserved for a person with a  
15                    disability;
- 16           shall be guilty of a traffic infraction under chapter 291D  
17           and shall be fined not less than \$250 nor more than \$500  
18           and pay any costs incurred by the court related to  
19           assessing the fine; provided that a person with a  
20           disability who has been issued a valid [~~placard or special~~  
21           ~~license plate]~~ disability parking permit that is currently  
22           in effect, and who has failed to display the [~~placard or~~

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1       ~~special license plate]~~ disability parking permit while  
2       parking in a space reserved for persons with disabilities,  
3       shall pay a fine of not less than \$25 nor more than \$100  
4       and any costs incurred by the court related to assessing  
5       the fine.

6       (b) Any person who uses a parking space reserved for  
7       persons with disabilities and refuses or fails to present an  
8       identification card issued under this chapter or the rules  
9       adopted thereunder to an enforcement officer upon request shall  
10      be guilty of a traffic infraction under chapter 291D and shall  
11      be fined not less than \$250 nor more than \$500.

12      (c) Any citation issued under this chapter may be mailed  
13      to the violator pursuant to section 291C-165(b)."

14      SECTION 14. Statutory material to be repealed is bracketed  
15      and stricken. New statutory material is underscored.

16      SECTION 15. This Act, upon its approval, shall take effect  
17      on January 1, 2021.

18

19

INTRODUCED BY:                     *M. W. H.*                    

20

BY REQUEST

21

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**Report Title:**

Persons with a Disability, Parking Meter Fees, Permit  
Confiscation Exemption

**Description:**

Clarifies that the exemption from payment of parking fees is an exception for drivers who are unable to reach or operate a parking meter or unattended pay station because of a physical disability, and who display a distinguishing parking device, code, or placard. Repeals existing time limits for parking fee exemption. Makes the act of selling or buying a parking permit a misdemeanor. Provides that law enforcement may confiscate a parking permit that has been altered or is invalid. Clarifies the types of disabilities that qualify for a disability parking permit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO PARKING FOR DISABLED PERSONS.

PURPOSE: To limit the exemption from payment of parking fees to persons who are licensed to drive a motor vehicle and who cannot reach or operate parking meters because of physical disability; to clarify the types of disabilities that qualify an applicant for a disability parking permit; and to expressly authorize law enforcement to confiscate disability parking permits that are expired, voided, fraudulently manufactured or altered, or offered for sale or purchase.

MEANS: Adds three new sections to part III, chapter 291; and amends sections, 291-51, 291-51.4, 291-51.7, 291-52.5, 291-52.6, 291-52.7, 291-53, 291-54, 291-55, 291-56, and 291-57, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The original intent of section 291-53 was to exempt from payment of parking meter fees persons who are licensed to drive and who are unable to reach or feed a parking meter because of a physical disability. However, as currently written, the section exempts any vehicle displaying a valid disability parking permit from payment of the parking meter fee, regardless of whether the driver can physically reach or feed the meter. While the rationale for the exemption is sound, the exemption should be restricted to persons who drive themselves and who cannot reach or feed a parking meter or unattended pay station because of a physical disability. The exemption is not justified for persons who drive themselves and are able to feed parking meters and unattended pay stations.

The current definition of "person with a disability" establishing what disabilities qualify for a disability parking permit is broad enough to cause confusion for certifying physicians and advanced practice registered nurses. Amending the definition to require certifying physicians and advanced practice registered nurses to indicate an applicant's general condition and then its functional impact will assist them to certify only qualified applicants.

The current law only allows a law enforcement officer to confiscate a disability parking permit that is expired, voided, or fraudulently manufactured or altered when it is used to park in an accessible stall. They should have express authority to confiscate such permits, as well as any permit offered for sale or purchase.

Impact on the public: Anyone who qualifies for a disability parking permit and who is able to feed parking meters and unattended pay stations will be required to pay the fees for the amount of time the parking space is used, in the same manner as the general public. Persons who are licensed to drive and who are unable to reach or feed parking meters and unattended pay stations may be issued a distinguishing parking device, code, or placard that will exempt the person from payment of parking meter and unattended pay station fees pursuant to section 291-55, HRS.

A disability parking permit may be confiscated by a law enforcement officer for fraudulent manufacture or alteration, for unauthorized use, for display of an invalid disability parking permit, or selling or purchasing a disability parking permit.

Impact on the department and other agencies:  
The bill requires the Disability and

Communication Access Board (DCAB) to amend existing administrative rules to establish a method for law enforcement officers to recognize parking permits for persons with disabilities that exempt the driver from feeding the meter.

State and county agencies that collect parking meter fees should realize an increase in revenue generated from metered parking spaces.

The bill will assist law enforcement in removing parking permits from circulation that are voided, expired, fraudulently manufactured or altered, sold, or purchased.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HTH 520.

OTHER AFFECTED  
AGENCIES: County law enforcement agencies and State Department of Transportation, and Department of Accounting and General Services.

EFFECTIVE DATE: July 1, 2021.