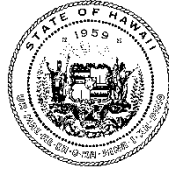


DAVID Y. IGE  
GOVERNOR



CURT T. OTAGURO  
Comptroller  
AUDREY HIDANO  
Deputy Comptroller

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY  
OF  
CURT T. OTAGURO  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEES  
ON  
TRANSPORTATION AND JUDICIARY  
ON  
FEBRUARY 14, 2019, 10:30 A.M.  
CONFERENCE ROOM 016, STATE CAPITOL

S.B. 1236  
RELATING TO PARKING FOR DISABLED PERSONS

Chairs Inouye, Rhoads, Vice Chairs Harimoto, Wakai, and Members of the Committees,  
thank you for the opportunity to testify on S.B.1236.

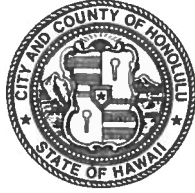
The Department of Accounting and General Services (DAGS) offers comments on S.B.  
1236 which clarifies provisions on Disabled Persons Parking.

DAGS agrees with the proposed changes which clarifies the exemption of parking fees  
that is only for those who cannot operate a parking meter or pay station because of physical  
disability.

Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.police.org



KIRK CALDWELL  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. McCARTHY  
JONATHAN GREMS  
DEPUTY CHIEFS

OUR REFERENCE AP-GR

February 14, 2019

The Honorable Lorraine R. Inouye, Chair  
and Members  
Committee on Transportation  
The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
The Senate  
Hawaii State Capitol  
415 South Beretania Street, Conference Room 016  
Honolulu, Hawaii 96813

**LATE**

Dear Chairs Inouye and Rhoads and Members:

SUBJECT: Senate Bill No. 1236, Relating to Parking for Disabled Persons

I am Andre Peters, Acting Captain of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the passage of Senate Bill No. 1236, Relating to Parking for Disabled Persons. From a law enforcement perspective, our parking enforcement officers have expressed that removing time limits defeats the intent of this bill which is to provide parking spaces for those that really need them. If the time limit is removed, then drivers would be allowed to park all day. Officers have seen disabled persons using their placard for the first two and a half hours then when the officer returns, the person will pay the meter to extend their time.

A time limit for free disabled placard parking should be included at two and a half hours or the maximum allowed by the meter. There should also be an amendment where only one method of payment can be used at any one time. The vehicle should be moved once this method has been exhausted.

We realize that disabled parking stalls are limited and they should be utilized by those that require them. The city increased ADA compliance by changing all parking meters to electronic models so that no twisting of the wrist would be required by those persons whose disability prevents this movement.

The Honorable Lorraine R. Inouye, Chair  
and Members  
The Honorable Karl Rhoads, Chair  
and Members  
Page 2  
February 14, 2019

This bill would expressly allow us to confiscate any fraudulent disability parking permits. We fully support this as it would encourage violators to not reoffend; thereby allowing more available parking for those drivers who have a legitimate need.

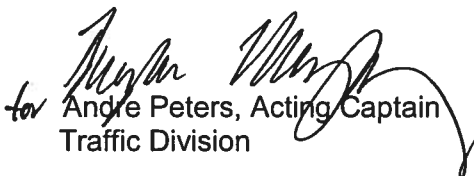
The HPD urges you to support House Bill No. 1236, Relating to Parking for Disabled Persons.

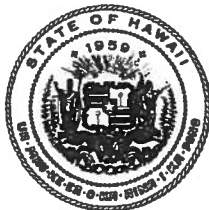
Thank you for the opportunity to testify.

APPROVED:

  
Susan Ballard  
Chief of Police

Sincerely,

  
for Andre Peters, Acting Captain  
Traffic Division



## DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813  
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • TTY (808) 586-8162

February 14, 2019

### TESTIMONY TO THE SENATE COMMITTEES ON TRANSPORTATION AND JUDICIARY

#### Senate Bill 1236 - Relating to Parking for Persons with Disabilities

The Disability and Communication Access Board (DCAB) is the State agency that administers the statewide program on parking for persons with disabilities. DCAB strongly SUPPORTS Senate Bill 1236.

The purpose of the bill is to:

- 1) Limit the privilege of parking a vehicle in an on-street metered parking space without payment of parking fees for the first two and a half hours or the maximum time the meter allows, whichever is longer, available to only permittees who are licensed drivers and are not personally able to reach or operate parking meters or pay stations because of a physical disability;
- 2) Prohibit the unauthorized sale or purchase of certain disability parking permits;
- 3) Clarify the authority of law enforcement officers and commissioned volunteer enforcement officers to confiscate disability parking permits in certain circumstances;
- 4) Clarify the eligibility requirements to obtain a disability parking permit; and
- 5) Adds the term "disability parking permit" that encompasses the various forms of a disability parking permit.

DCAB strongly supports the changes that are proposed because they will help to ensure the appropriate issuance of permits, strengthen enforcement, reduce abuse, and provide clarity in the law.

The current parking meter fee exemption has become a free parking benefit for all permittees, but it was never intended as such. On the contrary, the exemption was intended for drivers who could not reach or operate parking meters because of a physical disability. The exemption was never intended to be a free parking benefit for all permittees. However, the unintended consequence of the current exemption was the creation of an incentive for persons to obtain a permit for the benefit of free parking. In addition, the exemption created an added temptation for those other than the permittees, such as family members, to illegally use the permit to obtain free parking at meters. We should note that this bill does not change any person's eligibility for a permit or suggest that they do not need a permit. It only removes the free meter privilege for those who can personally feed meters or who are driven by someone else who can feed the meter.

Importantly, limiting the meter exemption as proposed does not take away from any permittee the right to park in a parking space reserved for persons with disabilities. Permittees, as certified by a physician or advanced practice registered nurse, need - (1) parking that is closest to an accessible entrance of a facility, and or (2) a five foot or eight foot wide access aisle next to the parking space to enter or exit their vehicle with or without a mobility device - because they cannot walk two hundred feet without stopping to rest due to a diagnosed condition.

Four other states have limited the exemption as proposed in Senate Bill 1236, and based on their data, we estimate that between three and seven percent of Hawaii permittees would qualify for the meter fee exemption.

DCAB is aware of one instance of a Hawaii disability parking permit offered for sale online, and therefore supports adding a provision to the parking statute to make the practice illegal.

DCAB supports the addition of a provision to the parking statute that uses express, unequivocal wording to authorize law enforcement officers and commissioned volunteer enforcement officers to confiscate disability parking permits that are invalid or illegally used by someone other than the permittee. This provision is necessary to help law enforcement remove invalid permits from circulation and to reduce the abuse of permits.

DCAB supports requiring the certifying physician or advanced practice registered nurse to identify a permit applicant's (1) qualifying health condition and (2) its functional impact on the applicant's physical inability to walk two hundred feet without stopping to rest. This amendment to the "person with a disability" definition will help physicians and advanced practice registered nurses certify only applicants who are eligible to obtain a permit, but it will not change the eligibility requirements.

DCAB supports adding the term "disability parking permit" to the parking statute to define as "a removable windshield placard, special license plate, temporary removable windshield placard, or distinguishing parking device, code, or placard." Use of the new term would eliminate the need to repeat the lengthy phrase multiple times throughout the statute.

Thank you for the opportunity to provide testimony.

Respectfully submitted,



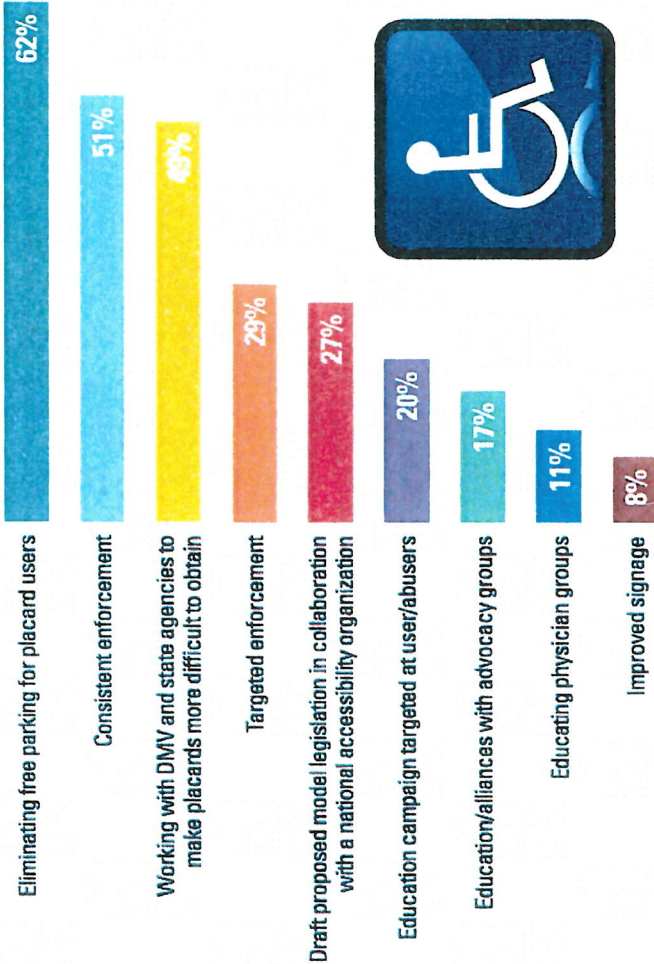
FRANCINE WAI  
Executive Director

SB 1236

# Solutions for Accessible (ADA) Parking Placard Abuse

Parking professionals offered several potential solutions to the problem of ADA parking abuse in the recent Emerging Trends in Parking Survey conducted by IPI. A few survey questions were designed to elicit opinions on ongoing issues facing the parking industry and its consumers, including the rampant abuse of accessible (ADA) parking placards by those without impaired mobility. Asked to rate potential measures to alleviate the problem, 62 percent of respondents recommend doing away with free placards, and nearly half (49 percent) feel the industry should work with departments of motor vehicles (DMVs) and state agencies to make placards more difficult to obtain and use fraudulently. Enforcement measures, both consistent (51 percent) and targeted (29 percent), ranked second. Only 20 percent or fewer of those surveyed believe that various education efforts would be effective in eliminating placard abuse.

## How Can Accessible (ADA) Parking Placard Abuse Be Solved?



**LATE**

**SB-1236**

Submitted on: 2/14/2019 1:22:13 AM

Testimony for TRS on 2/14/2019 10:30:00 AM

**LATE**

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Oppose	Yes

Comments:

**WE STRONGLY OPPOSE THIS BILL. This bill CLEARLY VIOLATES** the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq. (West Supp.1999) (“ADA”).

In *Dare v. California*, 191 F.3d 1167, 1173 (9th Cir. 1999), the Ninth Circuit Court of Appeals held:

“This case raises two main issues: (1) Does California's \$6 placard fee violate Title II of the ADA and its implementing regulations, and, if so, (2) was Congress's enactment of Title II of the ADA a valid exercise of its power under § 5 of the Fourteenth Amendment to abrogate California's Eleventh Amendment immunity from suit? Because we answer both of these questions in the affirmative, we affirm the district court's grant of partial summary judgment and a permanent injunction against imposition of the placard fee.

The Dale action was brought by a person with a disability against the STATE OF CALIFORNIA, in FEDERAL DISTRICT COURT & WON THIS ISSUE IN THE NINTH CIRCUIT. If the State's 11th Amendment Immunity from suit under the ADA couldn't prevent a suit brought against it, under the ADA, then this bill will be ripe for an ADA challenge in Federal Court as well!

We believe that this bill, which lacks any testimony by the State Attorney General's Office violates the ADA, since it:

- 1.) Impermissibly redefines who has a disability and which is directly in conflict with the ADA;
- 2.) Discriminates against the majority of people who already are “regarded-as” persons with a disability; and
- 3.) Impermissibly creates a subclass of persons with a disability.

These three issues demonstrates the States attempt to specifically target those who are “regarded-as” persons with a disability from participation in a disability program that is specifically catering to a newly State-Created subclass of persons with a disability.

This committee should defer or hold this bill, as there is no testimony submitted by the State Attorney General’s Office as to the legality of this bill. It will be the State Attorney General who will have to defend the State of Hawaii against a lawsuit challenging this badly written bill. Mahalo.



**SB-1236**

Submitted on: 2/12/2019 8:31:19 PM

Testimony for TRS on 2/14/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kenichi Yabusaki	Individual	Support	No

Comments:

I am support of HB1236 as the number of those who are elderly and disabled grow in our State of Hawaii. They need all the support they can receive. Thank you for your support.

Kenichi Yabusaki, Ph.D.

February 14, 2019

**LATE**

To: House Committee on Health, and  
Committee on the Judiciary

From: Bryan K. Mick

Re: SB 1236 Relating to the Parking Program for People with Disabilities – Hearing  
on Feb 14, 2019 at 10:30 am

Aloha Chairs Inouye and Rhoads and committee members,

I write to you in full support of SB 1236. This bill will do four things, all of them efforts to reduce the large amount of abuse that occurs with parking disability permits. In order of importance, those four things are:

- 1) Restrict the parking meter fee exemption to only those who drive and are unable to feed or operate a meter. This will remove one of the greatest incentives for someone to obtain a permit under false pretenses or to use a permit that belongs to someone else.
- 2) Reword the eligibility criteria to help ensure only qualified applicants receive certification from their physicians or advanced practiced registered nurse.
- 3) Make it illegal for a private citizen to buy or sell a parking permit.
- 4) Provide that parking enforcement officers can confiscate permits that are fraudulent, expired, bought or sold, or used by someone other than the permittee.

I want to focus your attention the first item. Hawaii would be the fifth state to restrict parking in this manner, while 23 states provide no free parking for anyone at the state level. With the recent increase in parking meter rates in the urban core of Honolulu and Waikiki, a standard employee who uses a disability parking permit to avoid paying the meter is avoiding over **\$7,000** in annual parking meter fees. There is simply a huge financial incentive for people to abuse the system right now, either by obtaining a permit when not qualified for one, borrowing a permit that was issued to someone else, or by overstaying the amount of time that's legally exempted from payment; two and a half hours of the maximum time the meter allows, whichever is longer.

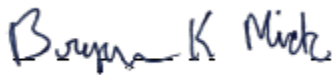
If ten percent of permit holders use the permit to avoid paying parking fees while they work, you are looking at a \$70 million loss in revenue. Even at one percent does this equals \$7 million dollars in lost revenue. Before you consider raising the gas tax or the weight tax, please try and tighten up areas where transportation related revenue is

being lost. Based on other states data, we can confidently predict that only between 3 and 7 percent of permittees would qualify for the new parking meter fee exempt permit.

If the State wants to provide transportation financial assistance for people with disabilities, it should do it via a method that covers all disabilities, not just the mobility ones, and it should allow for greater safeguards against abuse than our system can offer.

The tired system this bill creates is a good compromise.

Mahalo,

A handwritten signature in blue ink that reads "Bryan K. Mick". The signature is written in a cursive style with a large initial 'B'.

Bryan K. Mick

**LATE**

14 February 2019

Testimony to the Senate Committee on Transportation and the Committee on Judiciary  
RE: SB 1236 Relating to Parking for Persons with Disabilities

This written testimony is to express my support of SB 1236. It is my opinion that the bill will significantly reduce the abuse of disabled parking permits and provide for more equitable application of parking fees. I am a previously able bodied licensed driver who is now a disabled wheelchair user and licensed driver.

It is obvious that the most controversial change would be limiting free parking to those licensed drivers who are not able to reach and/or operate meters and pay stations. If an individual is able to operate a meter or pay station, it is reasonable that they should be required to pay for parking. The purpose of a disabled parking stall is to ensure access to the built environment for those with qualifying physical disabilities which prohibit their ability to use regular stalls-- not to ensure free parking. I encourage you to consider the potential for a paradigm shift where equal access is not associated with a financial privilege.

Thank you for the opportunity to provide testimony.

Respectfully,  
Summer Kozai

**LATE**

**SB-1236**

Submitted on: 2/14/2019 1:03:36 AM

Testimony for TRS on 2/14/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

Being handicapped due to breathing problems, heart, server arthritis and diabetes has warranted my having a placard by my physician. Am I now needing to requalify for my placard or is there a new class to qualify to be a placat holder?