



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
April 04, 2024

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-Second Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Rhoads and Committee Members:

SUBJECT: HB2446 HD2 SD1 RELATING TO PARKING FOR DISABLED PERSONS

The Hawaii State Council on Developmental Disabilities **SUPPORTS HB2446 HD2 SD1**, which authorizes the Examiner of Drivers to suspend the driver's license of a person who violates certain regulations relating to the use of disability parking permits. Authorizes each county to enact ordinances to enforce the design and construction requirements for the provision of accessible parking spaces, including the establishment of penalties for failure to comply with the ordinances. Authorizes officials appointed by a county to enter the property of places of public accommodation to enforce violations of the county ordinances. Requires the court to distribute fifty percent of any fine imposed on a person who violates certain regulations for the use of disability parking permits to the law enforcement agency that issued the citation. Effective 7/1/3000. (SD1)

The Council recognizes this measure's potential to enhance accessibility and fairness in parking provisions for individuals with disabilities. We bring attention to the issue of limited accessible parking stalls, a concern that negatively impacts individuals who require these spaces. The system does experience abuse, exacerbating the challenge for our community members who genuinely need access to these parking stalls. This measure addresses the abuse of accessible parking, ensuring that these spaces remain available for those who truly need them.

The Council defers to the Disability and Communication Access Board (DCAB) for any substantive comments or recommendations. DCAB's expertise in accessibility matters, particularly in the context of parking provisions, is crucial in shaping comprehensive and effective legislation.

Thank you for the opportunity to submit testimony in **support of HB2446 HD2 SD1**.

Sincerely,

Daintry Bartoldus, Executive Administrator



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

April 4, 2024

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

House Bill 2446 HD2 SD1 – Relating to Parking for Disabled Persons

The Disability and Communication Access Board (DCAB) strongly supports House Bill 2446 HD2 SD1 – Relating to Parking for Disabled Persons.

DCAB administers the statewide program on parking for persons with disabilities, which includes among other things, the issuance of disability parking permits through memorandums of agreement with the four counties. More than 100,000 Hawaii residents have an active disability parking permit.

House Bill 2446 HD2 SD1 seeks to improve the statewide parking program for persons with disabilities in three ways:

- (1) Authorizes, but does not mandate, that the counties adopt ordinances to enforce the ADA and State requirements for the provision of reserved parking spaces for persons with disabilities; including their number, location, design, and signage, and to establish penalties for violations.
- (2) Remits 50 percent of any fine levied for a violation of Hawaii Revised Statutes (HRS) §291-57 to the agency that issued the citation.
- (3) Authorizes the examiner of drivers to suspend the driver's license of anyone cited for using a disability parking permit issued to a deceased person for the purpose of parking in a reserved accessible parking space.

DCAB often receives complaints from disability parking permittees about places of public accommodation that fail to comply with the federal Americans with Disabilities Act (ADA) and/or the State requirements for providing parking spaces reserved for persons with disabilities, including their number, location, design, and signage.

HRS §291-58 provides a penalty of \$250 to \$500 per day for private entities that fail to comply with the ADA and State design, construction and signage requirements. Under HRS §291-58, a private entity in violation for an entire year could face a penalty of between \$91,250 and \$182,500, which is excessive.

HRS §291-58 has been in effect since July 1, 2002, but it has not been enforced. A likely explanation for non-enforcement is that this section does not designate a government authority to impose or collect a penalty for noncompliance.

House Bill 2446 HD2 SD1 resolves the non-enforcement problem by authorizing, but not mandating, the counties to adopt ordinances to enforce the ADA and State requirements for the provision of reserved parking spaces for persons with disabilities, including their number, location, design, and signage, and to establish penalties for violations. House Bill 2446 HD2 SD1 provides that an official appointed by a county may enter places of public accommodation to enforce the adopted ordinances. The counties are uniquely suited to enforce those

requirements because they already inspect places of public accommodation for compliance with the building code and various other physical requirements.

Therefore, enforcing the ordinances adopted by the counties pursuant to this measure would be well within their purview. The enforcement mechanism of House Bill 2446 HD2 SD1 is modeled after that of HRS §291-73, which authorizes the counties to adopt ordinances to enforce State law, HRS §291-71 regarding the provision of parking spaces serving electric vehicle charging systems at places of public accommodation.

DCAB also receives complaints about a lack of enforcement. Historically, the State has directed all fines collected into the State general fund, which in turn funds the State court system. However, only 33 citations were issued statewide in fiscal year 2022-2023 for a violation of HRS §291-57. It is imperative that the State take action to increase enforcement activity. DCAB notes that certain State agencies such as the Department of Accounting and General Services, the Department of Transportation, and the Department of Land and Natural Resources, enforce parking laws and would be eligible to receive 50 percent of the fine for any citations they issue to a vehicle illegally parked in a reserved accessible parking space. We also note that county police departments already have the ability to establish Volunteer Special Enforcement Officer (VSEO) programs.

DCAB annually performs a crosscheck of its parking database with the Office of Vital Records which results in approximately 4,300 records being flagged. DCAB mails placard retrieval letters with postage paid envelopes to the estates of the deceased permittees. The placard return rate is roughly 40 percent. Some of the unreturned placards are likely being used illegally to park in reserved accessible spaces. Creating an enhanced penalty for doing so will serve as a strong deterrent.

Thank you for considering our position.

Respectfully submitted,



KIRBY L. SHAW
Executive Director

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

March 28, 2024

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

ON

HB 2446, HD 2, SD 1, RELATING TO PARKING FOR DISABLED PERSONS

Senate Committee on Judiciary

Thursday, April 4, 2024

10:00 a.m.

Conference Room 0169

Via Videoconference

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 2446, HD 2, SD 1, Relating to Parking for Disabled Persons. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of HB 2446, HD 2, SD 1, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of HB 2446, HD 2, SD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:mn



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
APRIL 4, 2024**

HB 2446 HD2 SD1 RELATING TO PARKING FOR DISABLED PERSONS

Good morning, Chair Rhoad, and members of the Senate Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We support the intent of HB 2446 HD2 SD1. This measure authorizes the Examiner of Drivers to suspend the driver's license of a person who violates certain regulations relating to the use of disability parking permits;; authorizes each county to enact ordinances to enforce the design and construction requirements for the provision of accessible parking spaces, including the establishment of penalties for failure to comply with the ordinances; authorizes officials appointed by a county to enter the property of places of public accommodation to enforce violations of the county ordinances; requires the court to distribute fifty per cent of any fine imposed on a person who violates certain regulations for the use of disability parking permits to the law enforcement agency that issued the citation; and is effective 7/1/3000.

We **strongly support the enforcement measures proposed for ADA (Americans with Disabilities Act) parking stalls** that includes retail areas and shopping malls. It is imperative that we take action to prevent the abuse of ADA placards and ensure equitable access to parking spaces for individuals with disabilities.

ADA stalls are designated to provide accessible parking for individuals with disabilities, allowing them to access businesses and services with ease. However, the misuse of ADA placards, such as through borrowing them from friends or family members, undermines the integrity of the system and deprives those with genuine disabilities of the parking accommodations they require.

Enforcement of ADA parking regulations is essential to uphold the rights of individuals with disabilities and prevent discrimination. By ensuring that only individuals with valid ADA placards utilize designated parking spaces, we can promote fairness and accessibility in our communities.

In addition, we do NOT SUPPORT the provision that counties are able to determine the number and location of the ADA stalls in our parking lots. Government mandates that would determine this at the county level may pose significant challenges for businesses, particularly small businesses, and ultimately burden consumers with increased costs. We believe the counties should focus on the enforcement aspect.

Federal ADA laws already mandate specific requirements for accessible parking spaces, including the calculation of the number of stalls and the provision of van-accessible spaces. These requirements are essential for promoting accessibility and inclusivity. However, the proposed provision granting counties the authority to determine the number and location of ADA stalls could lead to inconsistencies and undue burdens on businesses, particularly in parking-constrained areas.

It is important to recognize that small businesses, in particular, may face significant challenges in accommodating additional ADA stalls within their parking areas. **Restriping parking lots and adding signage to comply with ADA regulations can be costly endeavors**, especially within short time frames. These expenses would inevitably be passed on to consumers in the form of higher prices for goods and services.

In addition, **imposing government mandates on businesses not only increases operating costs but also contributes to the overall cost of living in Hawaii.** As businesses pass on these additional expenses to consumers through higher prices, it is ultimately the residents of our communities, including our kupuna, keiki, family, and friends, who bear the financial burden.

Furthermore, **many retailers and shopping centers already exceed the minimum requirements for ADA stalls,** demonstrating a commitment to inclusivity and customer satisfaction. However, without effective enforcement mechanisms in place, these efforts may be undermined by the misuse of ADA placards. By cracking down on placard abuse and promoting compliance with ADA regulations, we can create a more accessible and inclusive environment for all individuals in our community.

Mahalo for this opportunity to testify.

HB-2446-SD-1

Submitted on: 3/27/2024 7:36:20 PM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB 2446, HD 2, SD 1 this legislative session. It gives additional tools to support enforcement to cite those individuals who abuse the disability parking permits and not following the established ordinances of its use.

Thank you for the opportunity to submit written testimony in strong support of HB 2446, HD 2, SD 1.

HB-2446-SD-1

Submitted on: 3/28/2024 9:04:45 AM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerald Ohta	Individual	Support	Written Testimony Only

Comments:

I support the Disability and Communication Access Board's position.

HB-2446-SD-1

Submitted on: 3/28/2024 10:23:51 AM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carol Mon Lee	Individual	Support	Written Testimony Only

Comments:

I support HB 2446, HD 2, SD 1 and urge your support.

After an accident last July, I needed a temporary disability pass. It has really helped motivate me to drive myself knowing that I didn't have to walk long distances. I didn't realize how important having this pass was to aid in my overall recovery.

I don't expect to need to renew the pass again after this July but am forever grateful for this program. Please help improve it by passage of this legislation.

Thank you,

Carol Mon Lee

To: The Senate Committee on Judiciary
From: Brodie Lockard
Date: Thursday, April 4, 2024, 10:00 am

In support of HB2446

Dear Chair Rhoads and Committee Members—

HB2446 will put in place some simple needed safeguards for people like me who have a need for accessible parking spaces. I am a quadriplegic who depends on others to drive me.

There need to be some basic requirements for such spaces such as proper signage, minimum widths, access aisles and a minimum number of spaces based on the total spaces in a lot and the type of place the lot serves. Apparently there is no local agency which currently enforces design standards.

Parking in a regular parking space and exiting my van can be clumsy at best, and dangerous at worst. I have to be careful not to run into adjacent cars, and if no car is adjacent, there's always the hazard of one trying to pull into the next spot while I'm in it. I'm low in the chair and not easily visible.

If I have to park far from the business I'm going to, it's not just inconvenient, it's dangerous. Moving behind rows of parked cars with no way to signal if one starts to back out is nerve wracking.

I have often seen people park in an accessible space, hop out and run into a store. They probably think, "It's only for a minute," but while they are there, I have to wait and block traffic, or drive around and around waiting for the space that's designated for me. Better enforcement would reduce this abuse. HB2446 would incentivize enforcement by remitting half of any fine to the agency which issues the citation.

Finally, there is no excuse at all for using a placard issued to a deceased person. Such an offense deserves a strict penalty. HB2446 would suspend an offender's license.

I urge you to pass this bill.

Brodie Lockard
Kailua

HB-2446-SD-1

Submitted on: 4/1/2024 8:56:08 AM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Ronald May	Individual	Support	Written Testimony Only

Comments:

I accept the HB2446, as it is currently written, for the submission to the Legislature for a positive vote.

HB-2446-SD-1

Submitted on: 4/1/2024 2:37:34 PM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
James Labrie	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads and committee members,

My name is James Labrie, I am in strong support of this bill relating to fines for violating ordinances on disability parking spaces. I support this measure because I am some one that really *needs* to be able to park in an accessible parking space. When this is violated by people who are capable of parking in a regular parking stall, I personally feel they should be charged a fine of \$250 and have their license revoked to ensure they understand that they can't just park in a disability stall for their own convenience. There are people and families who need these spaces due to an actual disability. I would like to suggest that the language of a \$250 fine for disciplinary reasons should remain in the measure.