

ACT 238

S.B. NO. 469

A Bill for an Act Making an Appropriation for Parking for Persons with Disabilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that administration of the program to issue parking placards to qualified persons with disabilities is a state responsibility. The Uniform System for Handicapped Parking, Public Law 100-641, was enacted on November 9, 1988, and established guidelines for the uniform issuance and use of parking placards to persons with disabilities meeting specific eligibility criteria, thereby allowing them to park in stalls designed and reserved for persons with disabilities. The enabling regulations implementing Public Law 100-641, issued by the federal Department of Transportation on March 11, 1991, set guidelines for states to use in establishing a uniform parking system to enhance access and safety of persons with disabilities that limit or impair the ability to walk. The rules establish the parameters for the states to follow, including the design of the placard, definition of eligible persons, issuance of permanent or temporary placards, and issuance of special license plates.

The legislature further finds that the State of Hawaii had a program for the issuance of parking permits to persons with disabilities since 1984 which was implemented in statutory language contained in part III, chapter 291, Hawaii Revised Statutes. With the passage of Public Law 100-641, Hawaii statutes were amended in 1992 and have been amended several times thereafter. Administrative rules to implement the statute were developed under the auspices of the state department of transportation until June 30, 2000. They were transferred to the disability and communication access board on July 1, 2000.

The legislature further finds that the four counties in the State have issued parking placards for persons with disabilities since the inception of the program. Consistent with other functions of traffic control and customer service permitting and licensing, such as issuance of drivers' licenses which the counties have undertaken on behalf of the State, the issuance of parking permits has functionally been integrated into most county offices to the benefit of the public.

The legislature further finds that approximately thirty-three thousand removable windshield placards and temporary removable windshield placards were issued last year by the four counties to qualified persons with disabilities. The counties recovered the marginal administrative costs by charging a fee to applicants to process the issuance of the placards in a manner similar to charging a fee for drivers' licenses and other permits. However, the federal courts have ruled that the imposition of a fee on qualified persons with disabilities is an impermissible surcharge under the Americans with Disabilities Act (*Dare v. State of California*, Case No. 97-56065, filed September 16, 1999 and *Emerick v. City and County of Honolulu*,

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Case No 98-16427, filed December 17, 1999). As a result of the courts' rulings, the counties are no longer able to recoup any of the administrative costs related to the issuance of the removable windshield placards.

The legislature further finds that it is in the interest of the State to have the counties continue administering the program on behalf of the State.

The purpose of this Act is to provide an appropriation for the counties to cover the administrative costs of the program in lieu of charging applicants a fee.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$176,000 or so much thereof as may be necessary for fiscal year 2001-2002 as a grant-in-aid to the counties for the administration of the program to issue removable windshield placards for parking to qualified persons with disabilities.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2001.

(Approved June 13, 2001.)