

ACT 297

S.B. NO. 209

A Bill for an Act Relating to Parking for Persons with Disabilities.

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

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

“§291- Fraudulent verification of an applicant as a person with a disability; penalty. A physician who fraudulently verifies that an applicant is a person with a disability to enable the person to represent to the issuing agency that the person is qualified to obtain a removable windshield placard, temporary removable windshield placard, or special license plates shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense.

§291- Replacement of a lost, stolen, or mutilated placard or identification card. A removable windshield placard, temporary removable windshield placard, or identification card that is reported lost or mutilated may be replaced upon the submittal of a written statement by a person with a disability that the placard or identification card was either lost or mutilated and a completed application for a removable windshield placard, temporary removable windshield placard, or identification card to the issuing agency. If a placard is lost, the county may charge a replacement fee to be paid to the issuing agency. A removable windshield placard, temporary removable windshield placard, or identification card that is reported stolen may be replaced upon police verification that the placard was stolen and submittal of a completed application for a removable windshield placard, temporary removable windshield placard, or identification card to the issuing agency. If a police verification is not obtained in the case of a stolen placard or identification card, the county may charge a replacement fee to be paid to the issuing agency. The replacement fee amount shall be established by the disability and communication access board.

§291- Fraudulent manufacture or alteration of placards and identification cards. Any person who fraudulently manufactures or alters a removable windshield placard, temporary removable windshield placard, or identification card for personal use, sale, or issuance to another person to circumvent the issuance requirements of this part, and any person who uses a fraudulently manufactured or

altered placard or identification card to circumvent the issuance requirements of this part, shall be guilty of a petty misdemeanor. The fraudulent manufacture or alteration of each placard and of each identification card for personal use, sale, or issuance or is otherwise used in violation of this section shall constitute a separate offense.

§291- Issuance of identification card. Each issuing agency shall issue one identification card when it issues a removable windshield placard, temporary removable windshield placard, or special license plates to each person with a disability. The identification card shall have the same date of expiration as the removable windshield placard, temporary removable windshield placard, or special license plates issued to the person. The identification card shall not be issued with a second removable windshield placard or second temporary removable windshield placard. The identification card shall indicate the applicable serial number of the removable windshield placard or temporary removable windshield placard or the special license plates number. The identification card shall also indicate the applicable serial number of the second removable windshield placard or second temporary removable windshield placard if issued.

§291- Requirement to provide parking for persons with disabilities; penalty. Beginning July 1, 2002, any public or private entity that provides a parking space reserved for persons with disabilities shall comply with this part and any administrative rules adopted under this part. A private entity that fails to comply with this section shall be fined not less than \$250 nor more than \$500 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect any penalty provided for in this section shall be considered a civil action.”

SECTION 2. Section 291-51, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read:
“‘Issuing agency’ means an agency authorized by a county to issue removable windshield placards, temporary removable windshield placards, special license plates, and identification cards pursuant to this part.

“‘Private entity’ means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied.

“‘Private parking’ means a privately owned parking facility or site where invitation to the general public is expressed or implied.

“‘Public entity’ means the State or any of its counties.

“‘Public parking’ means a parking facility or site under state or county jurisdiction.”

2. By amending the definition of “disabled person” to read:

“[“Disabled person”] “Person with a disability” means a person with a disability which limits or impairs the ability to walk, and who, as determined by a licensed practicing physician:

- (1) Cannot walk two hundred feet without stopping to rest, due to a diagnosed arthritic, neurological, [or] orthopedic, renal, or oncological condition;
- (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
- (3) Is restricted by lung disease to such an extent that the person’s forced (respiratory) expiratory volume for one second, when measured by

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

- (4) Uses portable oxygen; or
- (5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association."

3. By amending the definition of "parking space reserved for disabled person" to read:

""Parking space reserved for [disabled] persons[⁽¹⁾ with disabilities" means a public or private parking space designated for the use of a [disabled] person with a disability that [(1)] is designed and constructed in compliance with the requirements of the federal Americans with Disabilities Act of 1990, as amended, and related rules and guidelines; [(2)] and is marked with a sign designating the parking space as reserved for [disabled] persons [; or (3)] ~~is otherwise clearly designated for the use of disabled persons;~~ with disabilities."

4. By amending the definition of "removable windshield placard" to read:

""Removable windshield placard" means a two-sided, hanger-style placard which includes on each side:

- (1) The international symbol of access which is white on a blue shield;
- (2) An identification number;
- (3) A date of expiration; and
- (4) The ~~[seal of the State.²]~~ words "State of Hawaii"."

5. By amending the definition of "sign designating the parking place¹ as reserved for disabled persons" to read:

""Sign designating the parking place¹ as reserved for [disabled] persons[⁽¹⁾ with disabilities" means a sign which contains:

- (1) The words, "Reserved Parking";
- (2) The international symbol of access;
- (3) Words indicating that the space is reserved for parking by [disabled] persons with disabilities who have valid placards or special license plates; and
- (4) The maximum fine for parking illegally in the space."

6. By amending the definition of "temporary removable windshield placard" to read:

""Temporary removable windshield placard" means a two-sided, hanger-style placard, which includes on each side:

- (1) The international symbol of access which is white on a red shield;
- (2) An identification number;
- (3) A date of expiration;
- (4) The ~~[seal of the State.²]~~ words "State of Hawaii"; and
- (5) The word "temporary"."

SECTION 3. Section 291-51.5, Hawaii Revised Statutes, is amended to read as follows:

"§291-51.5 Special license plates. Upon application by a [disabled] person[;] with a disability, each county shall issue special license plates for the vehicle registered in the applicant's name if the vehicle is primarily used to transport that person. The fee for the issuance of [a] special license [plate] plates shall not exceed the fee charged for [a] similar license [plate] plates for the same class vehicle."

SECTION 4. Section 291-51.6, Hawaii Revised Statutes, is amended to read as follows:

“§291-51.6 Temporary removable parking placards. ~~[The county shall require that the application for a temporary removable windshield placard be accompanied by a certificate of disability which verifies that the applicant meets the definition of a disabled person. The certification shall also include the period of time that the physician determines the applicant will have the disability, not to exceed six months. The temporary removable windshield placard shall be valid for a period of time for which the physician has determined that the applicant will have the disability, not to exceed six months from the date of issuance.]~~ Each county may issue one temporary removable windshield placard to each applicant who requests it and presents a certificate of disability that verifies the duration of the applicant’s disability in monthly increments, which shall not exceed six months, and upon payment of a fee to the issuing agency. The temporary removable fee amount shall be established by the disability and communication access board. The temporary removable windshield placard shall expire at the end of the last month of the applicant’s disability.

A second temporary removable windshield placard may be issued to each applicant with a disability who so requests and upon payment of a fee to the issuing agency. The second temporary removable windshield placard fee amount shall be established by the disability and communication access board. The second temporary removable windshield placard shall have the same date of expiration as the first temporary removable windshield placard issued to the applicant.

Upon expiration of a temporary removable windshield placard, a person with a disability may apply for a new temporary removable windshield placard upon return of the expired placard and presentation of a new certificate of disability. No applicant shall have more than two valid temporary removable windshield placards issued under this part at any time. The temporary removable windshield placard shall be designed, fabricated, and sold to the counties at a rate negotiated by the disability and communication access board.”

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

“§291-51.7 Reciprocity. The State, counties, and private property owners shall recognize removable windshield placards, temporary removable windshield placards, and special license plates which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

- (1) Utilize parking spaces reserved for ~~[disabled] persons[;]~~ with disabilities; or
- (2) Exercise other parking privileges afforded by the State, counties, or private property owners for the benefit of ~~[disabled] persons[-]~~ with disabilities.”

SECTION 6. Section 291-52, Hawaii Revised Statutes, is amended to read as follows:

“§291-52 Issuance of removable windshield placard. Each county may issue one ~~[distinguishing] removable windshield placard to each [disabled person] applicant who so requests and presents a certificate of disability[-]~~ that verifies that the applicant’s disability is expected to last for at least four years. The removable windshield placard shall expire four years after the date of its issuance. A second removable windshield placard may be issued to each applicant who requests one. The second removable windshield placard shall have the same date of expiration as the first removable windshield placard issued to the applicant. A person with a disability may apply for a new removable windshield placard upon return of the

expired placard and presentation of a new certificate of disability. No person with a disability shall have more than two removable windshield placards issued under this part at any time. The removable windshield placard shall be designed, fabricated, and sold to the counties at a rate negotiated by the disability and communication access board. [The county may charge a fee to cover its costs.]”

SECTION 7. Section 291-53, Hawaii Revised Statutes, is amended to read as follows:

“**§291-53 Nontransferability; penalty.** The removable windshield placard, temporary removable windshield placard, or special license [~~plate~~] plates shall not be used by anyone other than the [~~disabled~~] person³ with a disability to whom it is issued unless it is being used in connection with the transport of the [~~disabled~~] person[-] with a disability. An unauthorized person using the removable windshield placard, temporary removable windshield placard, or special license [~~plate~~] plates to obtain the special parking privileges authorized under this part or otherwise afforded by the State or counties, shall be guilty of a traffic infraction under chapter 291D and fined not less than [~~\$150~~] \$250 nor more than [~~\$300~~] \$500. A removable windshield placard, temporary removable windshield placard, or special license [~~plate~~] plates may be [~~revoked~~] confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use.”

SECTION 8. Section 291-54, Hawaii Revised Statutes, is amended to read as follows:

“**§291-54 Display of removable and temporary removable windshield placards.** The placard shall be displayed in such a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle utilizing a parking space reserved for [~~disabled~~] persons[-] with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard.”

SECTION 9. Section 291-55, Hawaii Revised Statutes, is amended to read as follows:

“**§291-55 Parking privileges.** Any vehicle displaying [~~the~~] special license plates, a⁴ removable windshield [~~placards;~~] placard, or a temporary removable windshield [~~placards~~] placard displaying the international symbol of access issued under this part shall be permitted to park, without payment of metered parking fees, in any metered parking space designated for the use of [~~disabled persons~~] a person with a disability in accordance with law. Any vehicle displaying special license plates, a removable windshield [~~placards;~~] placard,⁵ or temporary removable windshield [~~placards~~] placard displaying the international symbol of access issued under this part shall be permitted to park, without payment of metered parking fees in any metered or unmetered parking space for a maximum of two-and-a-half hours or the maximum amount of time the meter allows, whichever is longer. All parking fees not specifically exempted under this part shall remain in effect.”

SECTION 10. Section 291-56, Hawaii Revised Statutes, is amended to read as follows:

“**§291-56 Rules.** The disability and communication access board may adopt rules under chapter 91 to carry out the purposes of this part, including rules for the

issuance, renewal, [~~revocation,~~] confiscation,⁵ and suspension of removable windshield placards, temporary removable windshield placards, and special license plates, reciprocity, the replacement of lost [øf], stolen, or mutilated placards[;] and identification cards, the design of the placard and special license plates, signage and marking of parking spaces, and penalties.”

SECTION 11. Section 291-57, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~⁶~~§291-57[]]~~⁶ ~~Disabled parking;~~ **Parking spaces reserved for persons with disabilities; penalties.** (a) A person using a parking space reserved for ~~[disabled]~~ persons with disabilities without properly displaying a removable windshield placard, a⁴ temporary removable windshield placard, or special license ~~[plate,]~~ plates, in accordance with this part or any rule adopted thereunder, shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than ~~[\$150]~~ \$250 nor more than ~~[\$300.]~~ \$500.

(b) Any ~~[disabled]~~ person who uses a parking space reserved for persons with disabilities and refuses or fails to present an identification card issued under this chapter or the rules adopted thereunder to an enforcement officer upon request shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than ~~[\$150]~~ \$250 nor more than ~~[\$300.]~~ \$500.⁷”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.⁸

SECTION 13. This Act shall take effect upon its approval.

(Approved June 28, 2001.)

Notes

1. Prior to amendment “space” appeared here. “Place” should be underscored.
2. Prior to amendment “;” appeared here.
3. “Person” should not be underscored.
4. “A” should be underscored.
5. Comma should be underscored.
6. So in original.
7. “\$500.” should be underscored.
8. Edited pursuant to HRS §23G-16.5.