

ACT 87

S.B. NO. 1236

A Bill for an Act Relating to Parking for Disabled Persons.

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

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

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

The legislature finds that while part III of chapter 291, Hawaii Revised Statutes, provides for the imposition of fines for the use of disability parking permits that were fraudulently manufactured or altered, used by unauthorized persons, or rendered invalid, it does not expressly authorize law enforcement to confiscate the permits. Therefore, law enforcement officers may not confiscate such permits and individuals who may be cited for unlawfully using a permit may be at liberty to violate the law again, thereby reducing the availability of parking spaces designed and reserved for persons who need them.

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

The purpose of the Act is to:

- (1) Clarify that the exemption from parking fees is only for those who drive and are unable to reach or operate a parking meter due to a physical disability;
- (2) Stipulate that the exemption also applies to areas where parking fee payment is made via an unattended pay station;
- (3) Add additional wording to reflect changes in parking technology and terminology;
- (4) Authorize law enforcement to confiscate a permit that is invalid or has been fraudulently manufactured or altered; and
- (5) Clarify the disabilities that qualify an applicant for certification of eligibility.

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

“§291-A Issuance of a disabled paid parking exemption permit. The issuing agency shall issue one disabled paid parking exemption permit to each applicant who presents a certificate of disability that verifies that the applicant is licensed to drive a motor vehicle and that the applicant cannot reach or operate parking meters or unattended pay stations because of the applicant’s physical disability. The disabled paid parking exemption permit shall have the same expiration as the removable windshield placard, temporary removable windshield placard, or special license plates issued to the applicant.

§291-B Sale or purchase. Only a state or county issuing agency may offer for sale a disability parking permit and no person may purchase a disability

parking permit except from a state or county issuing agency. Any person who sells or purchases a disability parking permit in violation of this section shall be guilty of a misdemeanor. The sale or purchase of each disability parking permit in violation of this section shall constitute a separate offense.

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

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

For the purposes of this section, “commissioned volunteer enforcement officer” means a civilian volunteer commissioned by a county chief of police to act as an enforcement officer for limited purposes as determined by the county chief of police.”

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

1. By adding three new definitions to be appropriately inserted and to read as follows:

“Disability parking permit” means a removable windshield placard, special license plate, temporary removable windshield placard, or disabled paid parking exemption permit.

“Disabled paid parking exemption permit” means a permit to be displayed on a dashboard or contained elsewhere on the vehicle, a code, or a two-sided, hanger style placard that indicates that the individual to whom the permit, code, or placard is issued pursuant to this part is licensed to drive a motor vehicle and not able to reach or operate a parking meter or unattended pay station because of a physical disability.

“Invalid disability parking permit” means an expired or voided removable windshield placard, temporary removable windshield placard, special license plates, or disabled paid parking exemption permit.”

2. By amending the definition of “person with a disability” to read as follows:

“Person with a disability” means a person with a disability [which] that limits or impairs the ability to walk, and who, as determined by a licensed practicing physician[;] or an advanced practice registered nurse:

- (1) Cannot walk two hundred feet without stopping to rest, [due to a diagnosed arthritic, neurological, orthopedic, renal, vascular, or on-cological condition;] and who has been diagnosed with:
 - (A) An arthritic, neurological, orthopedic, renal, vascular, or on-cological condition;
 - (B) 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; or
 - (C) 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; and

- (2) ~~[Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;] Because of a condition identified in paragraph (1):~~
 - ~~(A) Cannot walk two hundred feet under the person's own power without stopping to rest; or~~
 - ~~(B) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or~~
 - ~~(C) Uses portable oxygen.~~
- ~~[(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.]”~~

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

“§291-51.4 Fraudulent verification of an applicant as a person with a disability; penalty. A physician or advanced practice registered nurse 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]~~ disability parking permit shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense.”

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]~~ disability parking permits that have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

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

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

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

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

“§291-52.6 Replacement of a removable windshield placard, disabled paid parking exemption permit, or identification card. A removable windshield placard, temporary removable windshield placard, disabled paid parking exemption permit, or identification card shall be replaced upon:

- (1) Submittal to the issuing agency of a completed application for a removable windshield placard, temporary removable windshield placard,

- ard, disabled paid parking exemption permit, or identification card to the issuing agency; and
- (2) Payment of a fee.”

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

“§291-52.7 Fraudulent manufacture or alteration, sale, issuance, or use of [placards] disability parking permits and identification cards. Any person who fraudulently manufactures or alters a [~~removable windshield placard, temporary removable windshield placard,~~] disability parking permit or identification card for personal use, sale, or issuance to another person to circumvent the issuance requirements of this part, or any person who uses a fraudulently manufactured or altered [~~placard~~] disability parking permit or identification card to circumvent the issuance requirements of this part, shall be guilty of a misdemeanor. The fraudulent manufacture or alteration of each [~~placard~~] disability parking permit 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.”

SECTION 9. 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 plates~~] disability parking permit shall not be used by anyone other than the person with a disability to whom it is issued unless it is being used in connection with the transport of the person with a disability. An unauthorized person using the [~~removable windshield placard, temporary removable windshield placard, or special license plates~~] disability parking permit 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~~] no less than \$250 nor more than \$500. [~~A removable windshield placard, temporary removable windshield placard, or special license plates may be confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use.~~]”

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

“§291-54 Display of removable [~~and~~] windshield placards; temporary removable windshield placards[-]; and disabled paid parking exemption permit. The placard or disabled paid parking exemption permit 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 when the placard or disabled paid parking exemption permit is in use. If the design or condition of the rearview mirror, or the design or condition of the placard or disabled paid parking exemption permit precludes hanging the placard or disabled paid parking exemption permit in a secure manner, the placard or disabled paid parking exemption permit shall be displayed on the dashboard.”

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

“§291-55 [~~Metered parking privileges~~] Parking fees. [~~Any vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield placard issued under this part shall be permitted to park, without payment of metered parking fees, in any metered 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.] (a) All parking fees not specifically exempted under this section shall remain in effect.~~

(b) A driver who is issued a disabled paid parking exemption permit pursuant to section 291-A shall be permitted to park a vehicle in any parking area where payment is required, via a parking meter or unattended pay station, without payment of parking fees for the first two-and-a-half hours or the maximum amount of time the meter allows, whichever is longer."

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

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

- (1) The issuance, renewal, confiscation, revocation, and suspension of ~~[removable windshield placards, temporary removable windshield placards, and special license plates;]~~ disability parking permits;
- (2) Decertification, reciprocity, and the replacement of ~~[placards]~~ disability parking permits and identification cards;
- (3) The design of ~~[the placard,]~~ disability parking permits and identification [card,] cards; [and special license plates]
- (4) The establishment of transaction fees for ~~removable windshield placards[;], temporary removable windshield placards, and disabled paid parking exemption permits;~~
- (5) Signage and marking of parking spaces;
- (6) Reimbursement rates to the counties; and
- (7) Penalties."

SECTION 13. Section 291-57, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

~~"(a) Any person who uses a parking space reserved for persons with disabilities who:~~

- (1) ~~Fails to properly display [a removable windshield placard, a temporary removable windshield placard, or special license plates;] a~~ disability parking permit;
- (2) ~~Displays an invalid [removable windshield placard, an invalid temporary removable windshield placard, or invalid special license plates;] disability parking permit;~~
- (3) ~~Uses a [removable windshield placard, a temporary removable windshield placard, or special license plate] disability parking permit that was not issued to that person or to any passengers occupying the vehicle in the parking space; or~~
- (4) ~~With or without a [removable windshield placard, a temporary removable windshield placard, or special license plates;] disability parking permit;~~
 - (A) ~~Parks in an access aisle; or~~
 - (B) ~~Obstructs the ingress or egress to a parking space reserved for a person with a disability;~~

~~shall be guilty of a traffic infraction under chapter 291D and shall be fined [not] no less than \$250 nor more than \$500 and pay any costs incurred by the court related to assessing the fine; provided that a person with a disability who has been issued a valid [placard or special license plate] disability parking permit that is currently in effect, and who has failed to display the [placard or license plate] disability parking permit while parking in a space reserved for persons with dis-~~

abilities, shall pay a fine of [~~not~~] no less than \$25 nor more than \$100 and any costs incurred by the court related to assessing the fine.

(b) Any 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~~] no less than \$250 nor more than \$500.”

SECTION 14. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect upon its approval; provided that section 11 of this Act shall take effect on July 1, 2021.

(Approved June 7, 2019.)

Note

1. Edited pursuant to HRS §23G-16.5.