

H.B. NO. 1106

A BILL FOR AN ACT

RELATING TO LICENSING OF AMERICAN SIGN LANGUAGE INTERPRETERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there is an increase
2 in the number of requests for American Sign Language English
3 interpreters as a result of requests from the deaf community,
4 state and county government agencies (including the legislature
5 and courts), private businesses, and employers. The increase in
6 requests has created a need for all consumers of American Sign
7 Language English interpreting services to be assured that
8 services are provided by qualified and skilled interpreters who
9 follow professional standards and codes of conduct.

10 Although there is an increased need for qualified American
11 Sign Language English interpreters, there are a limited number
12 of national or state certifying or credentialing agencies. The
13 disability and communication access board credentials American
14 Sign Language English interpreters at the state level, while the
15 Registry of Interpreters for the Deaf issues credentials at the
16 national level.

17 The legislature finds that the Pacific Disabilities Center
18 compiled a report on the status of state licensure of American

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1 Sign Language English interpreters nationally in July 2015.
2 This report indicated that of the fifty states, sixteen
3 currently require licensure or registration of American Sign
4 Language English interpreters. Of the sixteen states
5 identified, ten established an entity responsible for overseeing
6 the licensing board, while six did not. In addition, five
7 states license only educational interpreters with a state entity
8 overseeing the licensing board. The report did not include
9 recommendations related to the impact licensure has had in those
10 states that license American Sign Language English interpreters.

11 The legislature finds that with the passage of the
12 Americans with Disabilities Act of 1990, Public Law 100-336, as
13 amended, the demand for American Sign Language English
14 interpreters greatly increased, as many public and private
15 organizations did not provide qualified interpreters when
16 requested prior to the passage of the Americans with
17 Disabilities Act. The Americans with Disabilities Act, as
18 amended, defines a qualified interpreter as one who is able to
19 interpret effectively, accurately, and impartially. The
20 quandary for the general public as well as people who are deaf,
21 hard of hearing, and deaf-blind is how to determine whether or

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1 not an American Sign Language English interpreter is qualified
2 or providing effective communication for all parties involved.

3 The legislature further finds that American Sign Language
4 English interpreters establish their own businesses in Hawaii,
5 and obtain a general excise tax license to provide services, and
6 may accept assignments from a business directly or through an
7 interpreter referral agency. When hiring an interpreter,
8 factors to consider include whether an interpreter provides
9 services in a satisfactory, professional, and ethical manner,
10 and what recourse parties have after services are rendered and a
11 deaf consumer or agency paying for the service is not satisfied
12 with services rendered.

13 The purpose of this Act to protect consumers of American
14 Sign Language English interpreter services by requiring all
15 American Sign Language English interpreters who work in Hawaii
16 to be licensed in order to provide services to facilitate
17 communication.

18 SECTION 2. The Hawaii Revised Statutes is amended by
19 adding a new chapter to be appropriately designated and to read
20 as follows:

21 "CHAPTER

22 LICENSURE OF AMERICAN SIGN LANGUAGE ENGLISH INTERPRETERS

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1 § -1 Findings and declaration of necessity. It is the
2 intent of the legislature to establish standards for the
3 licensing of American Sign Language English interpreters to
4 address the present and critical need for ensuring that those in
5 the community requiring communication access to use community
6 services, pursuant to the titles I, II, and III of the Americans
7 with Disabilities Act, as amended, receive such services from a
8 interpreter.

9 § -2 Definitions. For the purposes of this chapter:

10 "American Sign Language" or "sign language" means a visual-
11 gestural language that incorporates facial grammatical markers,
12 physical affect markers, special linguistic information, and
13 fingerspelling, as well as signs made with the hands. American
14 Sign Language is recognized in Hawaii, per Act 152, Session Laws
15 of Hawaii 2016, as a distinct world language.

16 "Board" means board of sign language interpreters.

17 "Code of ethics" includes a code of professional conduct,
18 educational interpreter performance assessment guidelines for
19 professional conduct for professional interpreters, Hawaii
20 quality assurance system code of ethics, or other currently
21 accepted and ratified standards of professional conduct.

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1 "Consumer" means a hearing, deaf, hard of hearing, deaf-
2 blind, or speech-disabled person; or a person or an entity
3 requiring the use of interpreter services to effectively
4 communicate and comprehend signed, written, or speech discourse.

5 "Department" means the department of _____.

6 "Interpreting" means the process of providing effective
7 communication between and among persons who are deaf, hard of
8 hearing, or deaf-blind, and those who can hear. The process
9 includes, communication using American Sign Language or other
10 forms of manual communication and English. The process may also
11 involve various other modalities that involve visual, gestural
12 and tactile methods.

13 "Interpreter" means a professional: (1) who holds a state
14 credential or nationally recognized certification as such; and
15 (2) uses a source language message and, after working through a
16 complex physical and mental process, expresses an equivalent
17 message into the target language, maintaining essential elements
18 of meaning and intent.

19 "Nationally recognized certification" means a certification
20 or professional credential awarded to an individual who
21 successfully completes an evaluation of interpreting skills at a
22 nationally recognized level. The term includes a credential

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1 issued, recognized, or issued/recognized by the Registry of
2 Interpreters for the Deaf or National Association of the Deaf.

3 "Registry of Interpreters for the Deaf" means the national
4 organization of professional interpreters with established
5 affiliate chapters in each state.

6 "State-recognized credential" means a credential awarded by
7 the state disability and communication access board to an
8 individual who successfully completes an evaluation of
9 interpreting skills at a professional level.

10 **§ -3 Licensing of American Sign Language English**

11 **interpreters program established; personnel. (a)**

12 Notwithstanding any other law, there is established an American
13 Sign Language English licensing program within the department.

14 (b) The board may employ necessary personnel without
15 regard to chapter 76 to assist with the implementation and
16 continuing functions of this chapter.

17 **§ -4 Board of sign language interpreters. There shall be**

18 a board of sign language interpreters, which shall consist of
19 five members appointed by the governor pursuant to section 26-

20 34. Of the members, there shall be a nationally certified

21 interpreter, a state credentialed interpreter, and a person who

22 is a consumer of American Sign Language services.

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1 § -5 License requirements. (a) Beginning January 1,
2 2019, except as specifically provided in this chapter, no person
3 shall engage in the practice of American Sign Language English
4 interpreting for compensation or use the title "licensed
5 American Sign Language English interpreter" without a valid
6 license issued pursuant to this chapter.

7 (b) Any person who violates this section shall be subject
8 to a fine of not more than \$500 for each separate offense. Each
9 day in which a violation occurs shall constitute a separate
10 offense.

11 (c) To be eligible for licensure by the State as an
12 interpreter, an applicant shall:

13 (1) Be at least 18 years of age and apply to the board
14 upon a form prescribed by the board;

15 (2) Pay the board the appropriate application fee;

16 (3) Possess nationally recognized certification or a
17 state-recognized credential; and

18 (4) Demonstrate sufficient evidence of good professional
19 character and reliability to satisfy the state that
20 the applicant will faithfully and conscientiously
21 avoid professional misconduct and otherwise adhere to
22 the requirements of this chapter.

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1 **§ -6 Powers and duties of the board.** In addition to any
2 other powers and duties authorized by law, the board shall:

3 (1) Grant, deny, renew, refuse to renew, restore,
4 terminate, reinstate, condition, restrict, suspend, or
5 revoke a license issued pursuant to this chapter;

6 (2) Administer, coordinate, and enforce this chapter;

7 (3) Discipline a licensed American Sign Language English
8 interpreter on grounds specified by this chapter or
9 for any violation of rules adopted by the board
10 pursuant to this chapter;

11 (4) Refuse to license a person for failure to meet the
12 licensing requirements in this chapter or for any
13 reason specified by this chapter as grounds to
14 discipline an American Sign Language English
15 interpreter including violations of the code of ethics
16 of the certifying or credentialing organization; and

17 (5) Adopt, amend, or repeal rules pursuant to chapter 91
18 as the board finds necessary to carry out this
19 chapter.

20 **§ -7 Sign language interpreter licensing special fund.**

21 (a) There is established in the state treasury a special fund
22 to be known as the sign language interpreter licensing special

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1 fund to be administered by the department. Fees collected under
2 section _____ shall be deposited in the sign language
3 interpreter licensing special fund and may be expended for costs
4 associated with administering the licensure program.

5 (b) Any fines collected to section _____ shall be
6 deposited into the sign language interpreter licensing special
7 fund.

8 (c) The board shall submit a report to the legislature
9 concerning the status of the sign language interpreter licensing
10 special fund no later than twenty days prior to the convening of
11 each regular session.

12 **§ -8 Fees; disposition.** (a) Upon issuance of a new
13 license and at each license renewal period, each American Sign
14 Language English interpreter shall pay in addition to a license
15 fee or renewal fee, a surcharge of \$50 that shall be deposited
16 into the sign language interpreter licensing special fund.

17 (b) Application fees paid pursuant to this chapter shall
18 not be refundable.

19 **§ -9 Exemptions.** The following persons shall be exempt
20 from licensure:

21 (1) Any student who is enrolled in a formal American Sign
22 Language English interpreter education program, a

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1 formal interpreter training program, or a formal
2 interpreter internship program;

3 (2) Any person who interprets or transliterates solely in
4 a church, synagogue, temple, or other religious
5 setting;

6 (3) Any public education personnel and state division of
7 vocational rehabilitation personnel who are acting as
8 interpreters in emergencies; or

9 (4) Public education personnel hired prior to July 1, 2015
10 who provide interpreting services to students.

11 **§ -10 Application for licensure.** (a) The board shall
12 issue a license under this chapter to an applicant for American
13 Sign Language English interpreter licensure if the applicant
14 provides satisfactory evidence to the board that the applicant
15 meets requirements for licensure contained in this chapter and
16 rules adopted by the board and if the applicant for American
17 Sign Language English interpreter works in general settings.

18 (b) An initial license will be issued upon submission of:

19 (1) A completed application for licensure under this
20 chapter;

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1 (2) Documentation of current certification of a national
2 or state-recognized credential, as approved by the
3 board;

4 (3) a sworn statement that the applicant has read,
5 understands, and agrees to abide by a code of ethics
6 for American Sign Language English interpreters; and

7 (4) Payment of the required nonrefundable fee pursuant to
8 this chapter and any rules adopted pursuant to this
9 chapter.

10 (c) A license issued pursuant to this chapter shall be
11 renewed annually upon submission of:

12 (1) Documentation of current validation of national or
13 state credential recognized under the rules pursuant
14 to this chapter; and

15 (2) payment of the nonrefundable renewal fee pursuant to
16 rules of this chapter.

17 **§ -11 Renewal of license.** Licenses issued pursuant to
18 this chapter shall be valid for one year and shall be renewed
19 upon payment of renewal fee within sixty days before the
20 expiration of the license. Failure to renew a license shall
21 result in forfeiture of that license. A license that has been
22 forfeited may be restored within one year of the forfeiture

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1 based upon payment of renewal and restoration fees. Failure to
2 restore a forfeited license within one year shall result in
3 automatic termination of the license. A person whose license
4 has been terminated pursuant to this section shall be required
5 to reapply for a new license as a new applicant.

6 § -12 Grounds for refusal to renew, reinstate, or restore
7 a license and for denial, revocation, suspension, or condition
8 of a license. (a) In addition to any other acts or conditions
9 provided by law, the board may refuse to renew, reinstate, or
10 restore and may deny, revoke, suspend, or condition in any
11 manner any license for any one or more of the following acts or
12 conditions on the part of a licensee or license applicant:

- 13 (1) Failure to meet or to maintain the conditions and
14 requirements necessary to qualify for a license;
- 15 (2) Engaging in false, fraudulent, or deceptive
16 advertising, or making untruthful or improbable
17 statements in advertising;
- 18 (3) Engaging in the practice of interpreting while
19 impaired by alcohol, drugs, physical disability, or
20 mental instability;

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- 1 (4) Engaging in professional misconduct, incompetence,
2 gross negligence, or manifest incapacity in the
3 practice of interpreting;
- 4 (5) Engaging in conduct in violation of recognized
5 standards of the most recent ethical guidelines for
6 the practice of interpreting as adopted by the
7 Registry of Interpreters for the Deaf and National
8 Association of the Deaf, State Disability and
9 Communication Access Board, or other professional
10 organization credentialing interpreters;
- 11 (6) Engaging in the practice of interpreting in a manner
12 that causes injury to one or more members of the
13 public;
- 14 (7) Failing to comply with, observe, or adhere to any law
15 in the manner that causes the board to determine that
16 the applicant or holder is unfit to hold a license;
- 17 (8) Having a license revoked or suspended or other
18 disciplinary action by any state or federal agency for
19 any reason that is provided by the applicable
20 licensing laws or by this section;
- 21 (9) Failing to report in writing to the board any
22 disciplinary decision issued against the licensee or

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1 applicant in another jurisdiction within thirty days
2 of the disciplinary decision;

3 (10) Failing to report in writing to the board of the
4 revocation of certification of a licensee or applicant
5 within fifteen days of the revocation; or

6 (11) Violating this chapter or any rule adopted pursuant to
7 this chapter, or order of the board.

8 (b) Any licensee or applicant who violates this section
9 may also be fined not more than \$500 per violation."

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$
12 or so much thereof as may be necessary for fiscal year 2016-2017
13 and the same sum or so much thereof as may be necessary for
14 fiscal year 2017-2018 to implement the American Sign Language
15 English interpreter licensing program established pursuant to
16 section 2 of this Act.

17 The sums appropriated shall be expended by the department
18 of _____ for the purposes of this Act.

19 SECTION 4. This Act, upon approval, shall take effect on
20 July 1, 2018.

21 INTRODUCED BY: _____



22 BY REQUEST

JAN 23 2017

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Report Title:

Licensing; Practice of American Sign Language English Interpreting; Appropriation

Description:

Requires an American Sign Language interpreter to be licensed to work in Hawaii. Appropriates funds to implement the American Sign Language English Interpreter Licensing Program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO LICENSING OF AMERICAN SIGN LANGUAGE INTERPRETERS.

PURPOSE: To protect consumers of American Sign Language (ASL) interpreter services by requiring all ASL interpreters who work in Hawaii for profit to be licensed.

MEANS: Add a new chapter to Hawaii Revised Statutes.

JUSTIFICATION: Currently there is no regulation of ASL interpreters in the State. The new chapter will require interpreters working for profit in Hawaii to be licensed.

Impact on the public: Through licensure of interpreters, consumers who are hearing, deaf, hard of hearing, or deaf-blind will be assured that the most qualified interpreter will be rendering services when they are hired for an assignment in the community.

Impact on the department and other agencies: The Department of _____ will establish an advisory committee comprised of credentialed deaf and hearing interpreters who will be responsible to assist with promulgating administrative rules and overseeing the licensure of ASL interpreters.

GENERAL FUND: None.

OTHER FUNDS: General fund appropriation of \$40,000 for each year of the biennium to establish the ASL Interpreter Licensure Program.

PPBS PROGRAM DESIGNATION:

OTHER AFFECTED

AGENCIES:

Department of Budget and Finance.

EFFECTIVE DATE:

July 1, 2018.