

ACT 30

H.B. NO. 1572

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

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

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

“**§291- Enforcement.** Notwithstanding any law to the contrary, and in addition to any other authority provided by law that is not inconsistent with the purposes of this part:

- (1) A law enforcement officer may access the property of a private entity to enforce the provisions of this part; and
- (2) A commissioned volunteer enforcement officer may access the property of a private entity during normal business hours of the entity to enforce the provisions of this part;

provided that the private entity’s parking lot contains a parking space reserved for persons with disabilities.”

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

1. By adding a new definition to be appropriately inserted and to read:

““Access aisle” means the area that is adjacent to a parking space reserved for a person with a disability and that is to be used exclusively by that person for the purpose of entering and exiting a vehicle.”

2. By amending the definitions of “parking space reserved for persons with disabilities”, “person with a disability”, “removable windshield placard”, and “temporary removable windshield placard” to read:

““Parking space reserved for persons with disabilities” means a public or private parking space, including the access aisle, designated for the use of a person with a disability that 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, and is marked with a sign designating the parking space as reserved for persons with disabilities.

“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, orthopedic, renal, vascular, 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.

“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 words “State of Hawaii”;~~] issued under this part to a person with a disability who presents a certificate of disability that verifies that the applicant’s disability is expected to last for at least four years.

“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 words “State of Hawaii”;~~ and
- (5) ~~The word “temporary”;~~] issued under this part to a person with a disability who presents a certificate of disability that verifies the person’s disability in monthly increments, which shall not exceed six months.”

SECTION 3. Section 291-51.6, Hawaii Revised Statutes, is amended to read as follows:

“§291-51.6 [Temporary] Issuance of temporary removable windshield parking placards. Each county may issue one temporary removable windshield placard and a second 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 4. Section 291-52, Hawaii Revised Statutes, is amended to read as follows:

“§291-52 Issuance of removable windshield placard. Each county may issue one removable windshield placard and a second removable windshield placard to each 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.”

SECTION 5. Section 291-52.5, Hawaii Revised Statutes, is amended to read as follows:

“[H]§291-52.5[H] Issuance of identification card. Each issuing agency shall issue one identification card [when it] at the same time it issues a removable windshield placard, temporary removable windshield placard, or special license plates to [each] a 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.]”

SECTION 6. Section 291-52.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§291-52.6]]~~ **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, stolen, 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, stolen, 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.]”~~

SECTION 7. Section 291-52.7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§291-52.7]]~~ **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]~~ or 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.”

SECTION 8. Section 291-55, Hawaii Revised Statutes, is amended to read as follows:

“~~§291-55~~ **[Parking] Metered parking privileges.** Any vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield 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 a person with a disability in accordance with law. Any vehicle displaying special license plates, a removable windshield placard, or temporary removable windshield 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 9. 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]~~:

- (1) The issuance, renewal, confiscation, ~~revocation~~, and suspension of removable windshield placards, temporary removable windshield placards, and special license plates~~[-]~~;
- (2) Decertification, reciprocity, and the replacement of ~~[lost, stolen, or mutilated]~~ placards and identification cards~~[-, the]~~;
- (3) The design of the placard, ~~identification card~~, and special license plates~~[-]~~;
- (4) The establishment of fees for placards; ~~[signage]~~
- (5) Signage and marking of parking spaces~~[-, and penalties.]; and~~
- (6) Penalties.”

SECTION 10. Section 291-57, Hawaii Revised Statutes, is amended to read as follows:

“**§291-57 Parking spaces reserved for persons with disabilities; penalties.** (a) ~~[A person using]~~ Any person who uses a parking space reserved for persons with disabilities ~~[without]~~ who:

- (1) Fails to properly ~~[displaying]~~ display a removable windshield placard, a temporary removable windshield placard, or special license plates~~[-, in accordance with this part or any rule adopted thereunder,];~~
- (2) Displays an invalid removable windshield placard, an invalid temporary removable windshield placard, or invalid special license plates;
- (3) Uses a removable windshield placard, a temporary removable windshield placard, or special license plate 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:
 - (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 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 that is currently in effect, and who has failed to display the placard or license plate while parking in a space reserved for persons with disabilities, shall pay a fine of not 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 less than \$250 nor more than \$500.

(c) Any citation issued under this chapter may be mailed to the violator pursuant to section 291C-165(b).”

SECTION 11. Section 291C-165, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In every case when a citation is issued, the original of the citation shall be given to the violator~~[-, or in];~~ provided that:

- (1) In the case of an unattended vehicle, the original of the citation shall be affixed to the vehicle as provided for in section 291C-167~~;~~[;] or
- (2) ~~in~~ In the case of:
 - (A) ~~[a]~~ A vehicle utilizing the high occupancy vehicle lane illegally~~;~~[;] or
 - (B) A vehicle illegally utilizing a parking space reserved for persons with disabilities, where the violator refuses the citation;

the original of the citation shall be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, as provided in section 291C-223 for vehicles illegally utilizing the high occupancy vehicle lane, or within seventy-two hours of the time of the incident for vehicles illegally utilizing a parking space reserved for persons with disabilities, to the registered owner of the vehicle at the address on record at the vehicle licensing division ~~[as provided in section 291C-223.]~~¹ If the end of the applicable forty-eight or seventy-two hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday; provided that the administrative judge of the district courts may allow a carbon copy of the citation to be given to the violator or affixed to the vehicle and provide for the disposition of the original and any other copies of the citation.’’

SECTION 12. Statutory material to be repealed is bracketed and ~~stricken~~. New statutory material is underscored.²

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

(Approved April 22, 2003.)

Notes

- 1. Period should not be bracketed.
- 2. Edited pursuant to HRS §23G-16.5.