

**THE FOLLOWING IS A COPY OF THE
PORTIONS OF HAWAII REVISED
STATUTES WHICH RELATE TO THE
DISABILITY AND COMMUNICATION
ACCESS BOARD
(through the 2019 Legislative Session)**

- 1. HRS §348F Disability and Communication Access Board**
- 2. HRS §103-50 Building design to consider the needs of
persons with disabilities**
- 3. HRS Parking for disabled persons
Chapter 291
Part III**

SECTION 348F, HAWAII REVISED STATUTES DISABILITY AND COMMUNICATION ACCESS BOARD

§348F-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Board" means the disability and communication access board.

"Members" means the members of the disability and communication access board.

§348F-2 Disability and communication access board. There is established a disability and communication access board within the department of health for administrative purposes, to be composed of seventeen members to be appointed by the governor for staggered terms pursuant to section 26-34. The members of the board shall include at least nine persons with various types of disabilities, or parents or guardians of persons with disabilities. Other members shall include individuals knowledgeable in areas for which the board has rulemaking authority. The members appointed shall include at least one resident from each of the counties of Honolulu, Hawaii, Maui, and Kauai.

The members shall serve without compensation, but shall be reimbursed their necessary and reasonable expenses incurred in the performance of their duties, including travel expenses.

§348F-3 Duties and functions of the board. The board shall perform the following duties and functions:

- (1) Establish guidelines for the design of buildings and facilities by or on behalf of the State and counties in accordance with section 103-50;
- (2) Provide review and recommendations on all state and county plans for buildings and facilities, in accordance with section 103-50;
- (3) Establish guidelines for the utilization of communication access services provided for persons who are deaf, hard-of-hearing, or deaf-blind in state programs and activities. Guidelines include, but are not limited to, determining the qualifications of interpreters who may provide services, the amount of payment to interpreters, and the credentialing of interpreters who do not hold national certification via a state screening process;
- (4) Administer the statewide program for parking for disabled persons, in accordance with part III of chapter 291;
- (5) Serve as public advocate of persons with disabilities by providing advice and recommendations on matters relating to access for persons with disabilities, with emphasis on legislative matters, administrative rules, policies, and procedures of the state and county governments;
- (6) Review and assess the problems and needs relating to access for persons with disabilities in the State in order to provide recommendations in the improvement of laws and services;
- (7) Serve as the designated state agency to coordinate the efforts of the State to comply with the requirements of the Americans with Disabilities Act for access to services, employment, telecommunications, and facility and site design;
- (8) Provide technical assistance and guidance to, but not limited to, state and county entities in order to meet the requirements of state, federal, and county laws providing for access for persons with disabilities through public education programs and other voluntary compliance efforts; and

- (9) Administer funds allocated for its work, including disbursement and allocation of funds that may be available from public and private sources; provided that such disbursement and allocation shall be consistent with the specific requirements and purposes of this chapter.

§348F-4 Annual report. The board shall report on its activities to the governor and the legislature at the end of each fiscal year, and may include recommendations consistent with the purposes of this chapter.

§348F-5 Staff. The board may hire an executive director, who may hire staff to assist in the performance of the board's duties. The staff shall be hired without regard to chapter 76; provided that the executive director and staff shall be eligible for participation in state employee benefit plans.

§348F-6 Rules. The board may adopt rules pursuant to chapter 91, to implement this chapter, section 103-50, and part III of chapter 291.

§348F-7 Disability and communication access board special fund. (a) There is established the disability and communication access board special fund to be administered by the disability and communication access board. All moneys received by the disability and communication access board shall be deposited into the special fund. All interest earned or accrued on moneys deposited into this special fund shall become part of the special fund.

(b) Moneys in the disability and communication access board special fund shall be expended to defray costs of administering this chapter.

(c) All moneys collected as application fees or fees for continuing education units for credentialing of interpreters shall be deposited into the disability and communication access board special fund.

§348F-8 Fees. The board may establish fees, pursuant to chapter 91, for applicants seeking state credentialing of interpreters.

SECTION 103-50, HAWAII REVISED STATUTES

§103-50 Building design to consider needs of persons with disabilities; review fees. (a) Notwithstanding any other law to the contrary, all plans and specifications for the construction of public buildings, facilities, and sites shall be prepared so that the buildings, facilities, and sites are accessible to and usable by persons with disabilities. The buildings, facilities, and sites shall conform to the Americans with Disabilities Act Accessibility Guidelines, Title 36 Code of Federal Regulations Part 1191, and the requirements of the Federal Fair Housing Amendments Act of 1988, as established in Title 24 Code of Federal Regulations Part 100, Subpart D, as adopted and amended by the disability and communication access board under chapter 348F.

(b) All state and county agencies subject to this section shall seek advice and recommendations from the disability and communication access board on any construction plans prior to commencing with construction.

(c) The disability and communication access board shall adopt rules pursuant to chapter 91 for the design of buildings, facilities, and sites, by or on behalf of the State and counties to effectuate the purposes of this section, except that the board, without regard to chapter 91, instead, may adopt federal amendments to the Americans with Disabilities Act Accessibility Guidelines, Title 36 Code of Federal Regulations Part 1191.

(d) The disability and communication access board may approve a site-specific alternate design when an alternate design provides equal or greater access.

(e) The disability and communication access board shall charge a review fee for services rendered pursuant to section 348F-3. The review fees shall be four-tenths of one per cent for the first \$500,000 of the estimated construction cost plus two-tenths of one per cent of the estimated construction costs greater than \$500,000 up to and including \$2,000,000 plus two one-hundredths of one per cent of the estimated construction costs over \$2,000,000 except as follows:

- (1) The minimum review fee for plans and specifications subject to accessibility guidelines under this section shall be \$200;
- (2) The disability and communication access board may limit the maximum review fee for plans and specifications of infrastructure projects or projects managed by private nonprofit entities to \$3,000; and
- (3) There shall be a \$50 review fee for projects with plans and specifications that do not reflect any elements subject to accessibility guidelines under this section.

(f) All moneys collected as review fees shall be deposited into the disability and communication access board special fund established under section 348F-7.

(g) The disability and communication access board shall report to the legislature annually no later than twenty days prior to the convening of each regular session regarding the revenues collected under this section. The report shall include a summary of the number and types of plans reviewed and the amount of review fees collected from each state or county department of agency.

(h) For the purposes of this section:

“Infrastructure” or “infrastructure project” includes water, drainage, sewer, waste disposal and waste treatment systems, roads, and street lighting and projects relating to that infrastructure. Projects with significant work to accessible elements and spaces shall not be considered infrastructure projects.

“Public buildings, facilities, and sites” means buildings, facilities, sites, and the infrastructure thereof that:

- (1) Are designed, constructed, purchased, or leased with the use of any state or county funds or federal funds administered by the State or a county;
- (2) House state or county programs, services, or activities that are intended to be accessed by the general public;
- (3) Are places of public accommodation or commercial facilities under the Americans with Disabilities Act, title 28 Code of Federal Regulations part 36, and are constructed on state or county lands; or
- (4) Are constructed on lands that will be transferred to the State or a county upon completion of construction.

CHAPTER 291, PART III, HAWAII REVISED STATUTES PARKING FOR DISABLED PERSONS

Several sections marked with an (*) require the Legislative Reference Bureau (LRB) to designate new section numbers. The “A”, “B”, and “C” are placeholders. Formal numbering is expected in Fall 2019.

§291-51 Definitions. As used in this part, the following terms have the following meanings:

“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.

“Certificate of disability” means a medical statement issued by a licensed practicing physician or advanced practice registered nurse which verifies that a person is disabled, limited, or impaired in the ability to walk.

“Disability and communication access board” means the disability and communication access board established by chapter 348F.

“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.

“International symbol of access” means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

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

“Issuing agency” means the disability and communication access board.

“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 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 and who has been diagnosed with:
 - (A) An arthritic, neurological, orthopedic, renal, vascular, or oncological condition;
 - (B) Lung disease to such an extent that the person’s force (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) 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.

"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.

"Removable windshield placard" means a two-sided, hanger-style placard 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 six years.

"Sign designating the parking space as reserved for persons 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 persons with disabilities who have valid placards or special license plates; and
- (4) The maximum fine for parking illegally in the space.

"Special license plate" means a license plate that displays the international symbol of access:

- (1) In a color that contrasts to the background; and
- (2) In the same size as the letters or numbers on the plate.

"Temporary removable windshield placard" means a two-sided, hanger-style placard 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.

§291-51.3 Reimbursement to counties; agreement with counties to provide permits. The State shall reimburse the counties for the unit cost of providing a removable windshield placard or a temporary removable windshield placard on behalf of the State. The reimbursement rate paid to the counties for providing removable windshield placards, temporary removable windshield placards, special license plates, and identification cards shall be established pursuant to section 291-56; provided that a county may retain any fees charged for a transaction.

§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 disability parking permit shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense.

§291-51.5 Special license plates. Upon application by a person with a disability, the issuing agency 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 special license plates shall not exceed the fee charged for similar license plates for the same class vehicle.

§291-51.6 Issuance of temporary removable parking placards. The issuing agency shall issue one temporary removable windshield placard to each applicant who requests 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. Upon request of an applicant who was previously issued one temporary removable windshield placard, a second temporary removable windshield placard shall be issued to that applicant upon verification of the applicant's disability.

§291-51.7 Reciprocity. The State, counties, and private property owners shall recognize 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.

§291-52 Issuance of removable windshield placard. The issuing agency shall issue one removable windshield placard to each applicant who presents a certificate of disability that verifies that the applicant's disability is expected to last for at least six years. The removable windshield placard shall expire six years after the date of its issuance.

§291-52.5 Issuance of identification card. The issuing agency shall issue one identification card at the same time it issues a disability parking permit to a person with a disability.

§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.

§291-52.6 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, disabled paid parking exemption permit, or identification card to the issuing agency; and
- (2) Payment of a fee.

§291-52.7 Fraudulent manufacture or alteration, sale, issuance, or use of disability parking permits and identification cards. Any person who fraudulently manufactures or alters a 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 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 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.

§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.

§291-53 Nontransferability; penalty. The 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 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 no less than \$250 nor more than \$500.

§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.

§291-54 Display of removable 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.

§291-55 Metered parking privileges. Any vehicle displaying the 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 amount 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. (Until June 30, 2021)

§291-55 Parking fees. (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. (Effective July 1, 2021)

§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 disability parking permits;
- (2) Decertification, reciprocity, and the replacement of disability parking permits and identification cards;
- (3) The design of disability parking permits, identification card, 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.

§291-57 Parking spaces reserved for persons with disabilities; penalties. (a)

Any person who uses a parking space reserved for persons with disabilities who:

- (1) Fails to properly display a disability parking permit;
- (2) Displays an invalid disability parking permit;
- (3) Uses a 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 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 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 disability parking permit that is currently in effect, and who has failed to display the disability parking permit while parking in a space reserved for persons with disabilities, shall pay a fine of 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 no 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).

§291-58 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.

§291-59 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.