

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) REGULAR SESSION

Bill No. 486-30(COR)

Introduced by:
Oct. 29, 2010 @ 1:43p.m.

Judith P. Guthertz, DPA 

AN ACT TO REPEAL AND REENACT SUB SECTION 3401(D) AND TO REPEAL AND REENACT SUB ITEMS (A)(1)(2)(3)(C)(D)(E) AND ADD SUB ITEMS (B)(1)(2) AND (M) TO SUB SECTION 3401.1. OF ARTICLE 4, CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED RELATIVE TO ACCESSIBLE PARKING IN GUAM.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that
3 parking for individuals with disabilities is quite often a challenge especially when
4 persons disembarking from vehicles utilize assistive devices such as wheelchairs and
5 other related aids or individuals whose disability requires adequate clearance. There is
6 a sentiment of inequity and disservice experienced by individuals with disabilities
7 requiring the services of adequately identified and properly utilized assigned areas for
8 parking and disembarking from vehicles.

9 There is also a challenge in the enforcement and adjudication processes relative
10 to ensuring that accessible and van-accessible parking stalls are utilized by persons who
11 require the additional parking considerations

12 It is the intent of *I Liheslaturan Guahan* to address issues such as the failure to
13 properly display an accessible access placard; persons who possess a valid placard not
14 disembarking from a vehicle; and persons improperly parking in van-accessible aisles
15 and to facilitate a broader understanding by the island community regarding the rights

1 and needs of individuals with disabilities to freely and without encumbrance utilize
2 accessible and van-accessible parking stalls.

3 **Section 2.** “Sub Section 3401(d) of Article 4, Chapter 3, Title 16, Guam Code
4 Annotated and Sub Items 3401.1(a)(1)(2)(3)(c)(d)(e) are hereby repealed and reenacted
5 and sub items 3401.1(b)(1)(2) and (m) relative to accessible parking in Guam are hereby
6 added to read:

7 ~~(d) No person shall park any vehicle in a designated accessible parking space for~~
8 ~~persons with disabilities which is on public property or private property available for~~
9 ~~public use, unless the vehicle displays a special license plate, a removable windshield~~
10 ~~placard or a temporary removable windshield placard issued pursuant to § 7120.1 of~~
11 ~~Title 16, Guam Code Annotated, except that the initial citation of a vehicle as a result of~~
12 ~~a failure to display the special license plate, the removable windshield placard, or the~~
13 ~~temporary removable windshield placard so issued pursuant to § 7120.1 of Title 16,~~
14 ~~Guam Code Annotated, shall be dismissed upon presentation to the court of the plate or~~
15 ~~the placard, by the person to whom the plate or placard was issued or upon~~
16 ~~presentation of any competent documentary evidence that the vehicle so cited has a~~
17 ~~current and valid plate or placard and such vehicle is not in violation of any other~~
18 ~~provision of law.~~

19 (d) No person shall park any vehicle(s) within a designated, accessible parking
20 space for persons with disabilities on public or private property made available for
21 public use; unless the vehicle displays a special license plate, a removable windshield
22 placard, or a temporary-removal windshield placard issued pursuant to 16 GCA §
23 7120.1.

24 § 3401.1. Accessible Parking for Persons With Disabilities

25 (a) ~~Any person who commits, or attempts to commit a deception or fraud by one~~
26 ~~or more of the following methods is guilty of a misdemeanor:~~

1 ~~(1) intentionally making a false statement of material fact to obtain or~~
2 ~~assist an individual in obtaining a special license plate, removable windshield~~
3 ~~placard, or temporary removable wind shield placard, issued pursuant to 16~~
4 ~~GCA § 7120.1, including any statement made on the physician's or optometrist's~~
5 ~~certification submitted for purposes of obtaining the license plate or placard;~~

6 ~~(2) altering, modifying, or selling a removable special license plate,~~
7 ~~removable windshield placard, or temporary removable windshield placard~~
8 ~~issued pursuant to 16 GCA § 7120.1; or~~

9 ~~(3) copying or forging a special license plate, removable windshield~~
10 ~~placard, or temporary removable windshield placard issued pursuant to 16 GCA~~
11 ~~§ 7120.1, or using any such copied or forged license plate or placard;~~

12 **(a) Any person committing or attempting to commit an act of deception or fraud,**
13 **by one or more of the following methods, is guilty of a misdemeanor:**

14 (1)The intentional providing of false information, including statements
15 made on or within a physician or optometrists' certification, submitted in order
16 to obtain or assist another individual in acquiring a special license plate,
17 removable windshield placard, or a temporary-removable windshield placard,
18 issued pursuant to 16 GCA §7120.1;

19 (2) the alteration, modification or sale of a special license plate, removable
20 windshield placard, or a temporary-removable windshield placard, issued
21 pursuant to 16 GCA § 7120.1; or

22 (3) the copying, forging, or use of a fraudulent special license plate,
23 removable windshield placard, or a temporary-removable windshield placard,
24 issued pursuant to 16 GCA § 7120.1;

25 **(b) Any person:**

26 (1) parking within a designated accessible parking space(s) without a
27 special license plate, removable windshield placard, or a temporary-windshield

1 placard on public or private property made available for public use, is guilty of a
2 violation; or

3 (2) blocking access to aisle(s) adjacent to accessible parking space(s) on
4 public or private property made available for public use, is guilty of a violation.

5 ~~(c) Any person who parks in a designated accessible parking space, or who~~
6 ~~blocks access to aisles adjacent to an accessible parking space on public property or~~
7 ~~private property available for public use, using a vehicle with a special license plate,~~
8 ~~removable windshield placard, or temporary removal windshield placard obtained~~
9 ~~pursuant to § 7120.1, Title 16, Guam Code Annotated, and who is not a qualified person~~
10 ~~with a disability as defined in § 7120.1(a)(2), Title 16, Guam Code Annotated, is guilty of~~
11 ~~a violation, unless such person is using the vehicle or placard in connection with the~~
12 ~~transportation of a qualified person with a disability. For the purpose of this Subsection~~
13 ~~(c), it shall not be a violation of this Subsection (c) that the qualified person with a~~
14 ~~disability, as defined in § 7120.1(a)(2), Title 16, Guam Code Annotated, remains in the~~
15 ~~vehicle so parked in an accessible parking space, while his or her companion leaves the~~
16 ~~vehicle for the purpose of conducting business in behalf and for the benefit of the~~
17 ~~qualified person with a disability. Furthermore, it shall not be a violation of Subsection~~
18 ~~(c) that the driver remains in the vehicle waiting for the qualified person to return.~~

19 (c) Any person parking in a designated accessible parking space(s), on public or
20 private property made available for public use, who is not qualified as defined within
21 16 GCA §7120.1(a)(2) and using a vehicle with a special license plate, removable
22 windshield placard, or a temporary-removable placard obtained pursuant to 16 GCA §
23 7120.1, is guilty of a violation; unless such person is transporting an individual who is
24 embarking or disembarking from the vehicle to which such license plate or placard has
25 been registered pursuant to 16 GCA § 7120.1(a)(2).

26 ~~(d) Penalty. Any qualified person with a disability who has applied for and~~
27 ~~received a special license plate, a removable windshield placard, or a temporary~~

1 ~~removable windshield placard, and who permits another individual not a qualified~~
2 ~~person with a disability to use the vehicle with the special license plate or placard in~~
3 ~~violation of this Act is guilty of a violation.~~

4 (d) Penalty. Any person with a disability, who has applied for and received a
5 special license plate, removable windshield placard, or a temporary-removable
6 windshield placard, and who allows another individual usage of assigned special
7 license plate or placard, is in violation of this Act and guilty of a violation.

8 ~~(e) A violation of Subsections (b), (c) or (d) of this Section shall be punishable by~~
9 ~~a fine of not less than Three Hundred Dollars (\$300.00) and no more than Five Hundred~~
10 ~~Dollars (\$500.00). All fines that are imposed hereunder by the court shall be deposited~~
11 ~~into the Accessible Parking Fund maintained by the Guam Police Department pursuant~~
12 ~~to §50111(c), Title 5, Guam Code Annotated. Additionally, a vehicle which is illegally~~
13 ~~parked pursuant to this Subsection may be towed, and the owner of the vehicle shall be~~
14 ~~liable for reasonable towing expenses which shall constitute a lien against the offending~~
15 ~~vehicle. When a citation issued in violation of Subsections (b), (c), or (d) of this Section~~
16 ~~is contested, and a hearing date is set, the scheduling of the hearing shall not be~~
17 ~~conditioned on the posting of any monetary amount.~~

18 (e) A violation of Subsections (b), (c), or (d) of this Section is punishable by a fine
19 no less than Three Hundred Dollars (\$300.00) and no more than Five Hundred Dollars
20 (\$500.00). A violation of Subsections (b)(1) or Subsection (c) of this Section or of 16 GCA
21 Chapter 3 Subsections 3401(d) by any individual(s) qualifying as a disabled person, as
22 defined within 16GCA § 7120.1(a)(2), may have citation(s) dismissed upon the
23 presentation of special license plate or removable windshield placard obtained
24 pursuant to 7120.1 before the Court. The Courts may, at its discretion and by direction,
25 create a methodology and system that authorizes the administrative support services of
26 the Courts to certify the presentation of a placard by a person with a disability for the

1 purposes of dismissal in order to forgo the need of a personal court appearance, and
2 that such methodology and system strongly consider the potential for abuse.

3 All fines imposed hereunder by the court shall be deposited into the Accessible
4 Parking Fund, maintained by the Guam Police Department pursuant to Title 5 GCA §
5 50111(c). Additionally, any vehicle(s) illegally parked pursuant to this Subsection, may
6 be towed; and the owner of such vehicle(s) will be liable for reasonable towing
7 expenses, which shall constitute a lien against the offending vehicle.

8 (m) When issuing a special license plate, removable windshield placard, Guam
9 Driver License, a Guam Motorcycle License, or a vehicle registration, The Department
10 of Revenue and Taxation shall distribute literature detailing the appropriate use of a
11 special license plate, removable windshield placard, or a temporary-removable placard,
12 covering 16 GCA Ch. 3 § 3401.1(a), 3401.1(b), 3401.1(c), 3401.1(d), 3401.1(e), and 3401(d).
13 The aforementioned informative literature shall be produced with funds from the
14 Accessible Parking Fund, maintained by the Guam Police Department, within sixty (60)
15 days upon the passage of this provision into law.”

16 **Section 3.** Effective Date. This Act shall take effect upon enactment into law.”