

Date of Hearing: April 11, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2602 (Gatto) – As Amended April 4, 2016

SUBJECT: Disabled parking placards

SUMMARY: Creates a two-tiered disabled person (DP) parking system whereby only those persons with disabilities that severely limit mobility and dexterity may qualify for free and unlimited parking at metered spaces. Specifically, **this bill:**

- 1) Creates a new category of DP parking, denoted by a yellow sticker, that authorizes only certain individuals, based on mobility and dexterity limitations, to park for free and unlimited time periods at metered parking spaces, including those regulated by parking meters and parking payment centers or kiosks.
- 2) Authorizes the California Department of Motor Vehicles (DMV) to establish protocols and procedures for the issuing and renewing yellow free-parking stickers that denotes eligibility for free parking for unlimited time periods to parking meters, for persons with certain disabilities, that can be affixed to existing DP plates or placards.
- 3) Requires that persons applying for the yellow sticker must first apply for and receive a DP plate or placard through the existing program.
- 4) Requires that yellow stickers have a fixed expiration date of June 30 every four years.
- 5) Requires, in order to qualify for a yellow sticker, an applicant must be unable to perform one or more of the following activities:
 - a) Manage, manipulate, or insert coins, or obtain tickets or tokens at parking meters or payment centers, due to lack of fine motor controls of both hands;
 - b) Reach above his or her head to a height of 42 inches from the ground due to a lack of finger, hand, or upper extremity strength or mobility;
 - c) Approach a parking meter due to his or her use of a wheelchair or other device; or,
 - d) Walk more than 20 feet due to an orthopedic, neurological, cardiovascular, or lung condition in with the degree of debilitation is so severe that almost completely impedes the ability to walk.
- 6) Requires that DMV, prior to issuing the yellow sticker, be provided with a certificate, completed and signed by a medical practitioner, as specified, substantiating the person's disability in accordance with the specified requirement, and providing a full description of the qualifying condition, unless the person's disability is readily observable and uncontested.
- 7) Provides that the medical form submitted by an applicant for a yellow sticker must be retained by the approving medical practitioner for inspection by the Medical Board of California or appropriate regulatory board.

- 8) Provides that persons issued yellow stickers may apply to DMV for a substitute sticker without needing to recertify, if the sticker is lost or stolen.
- 9) Authorizes DMV to establish a fee for the issuance of the yellow sticker which does not exceed the reasonable costs of implementing the sticker program.
- 10) Provides that the maximum fine that may be imposed for misuse of a yellow sticker is the same as those for misuse of DP plates or placards.
- 11) Repeals provisions authorizing persons with a DP plate or DP placard (without a yellow sticker) to park free of charge for unrestricted time periods at metered parking spaces.
- 12) Repeals and recasts a number of provisions.
- 13) Makes related, conforming amendments.

EXISTING LAW:

- 1) Allows individuals who are issued a DP plate or placard to park for unlimited time periods in any metered parking space, in any parking zone with a restricted time limit, as well as at any parking space designated for use by the disabled, or any space designated along the street as a preferential parking zone for residents and merchants.
- 2) Allows DMV to cancel or revoke a DP placard if DMV is satisfied that the placard was fraudulently obtained, erroneously issued, or that the placard is being used in an unlawful manner.
- 3) Requires a disabled person, in order to obtain a DP placard or plate, to submit a certificate signed by a physician, surgeon, or licensed chiropractor indicating that the person has lost the use of one or more lower extremities or both hands, or who has a significant limitation in the use of his or her lower extremities.
- 4) Allows DMV to issue a temporary permit for a period of not more than six months to any person who submits a certificate signed by a physician or surgeon substantiating the temporary disability and stating the date upon which the disability is expected to terminate.
- 5) Prohibits a person from knowingly permitting the use of a DP placard for parking purposes unless the person to whom the DP placard was issued is being transported.
- 6) Provides misdemeanor penalties for DP placard misuse punishable by fines of not less than \$250 or more than \$1,000, imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

FISCAL EFFECT: Unknown

COMMENTS: The issue of parking privileges for disabled persons is a sensitive one wherein the state has rightfully recognized the need to accommodate individuals with mobility problems. However, at the same time, with the privilege of free and unlimited parking that accompanies DP plates and placards comes greater incidents of abuse of DP placards by people who are not, in fact, disabled. While the actual magnitude of DP placard abuse is difficult to verify, reports in

metropolitan areas show that the majority of metered spaces are taken by vehicles bearing DP placards. For example, a survey conducted by the City of Sacramento found that 73% of metered parking spaces in certain areas of the city were occupied by cars bearing DP placards and that the majority of these cars were parked in the spaces most of the day, suggesting that the occupants worked in nearby areas. Surveys conducted by the San Francisco Metropolitan Transit Association (SFMTA) also indicate that fraudulent placard use is a significant problem, whereby SFMTA notes that on many occasions, nearly 50% of cars parked in downtown San Francisco have DP placards and resulting substantial lost parking revenues as well as less frequent parking space "turnover." In addition, studies performed by the University of California at Los Angeles (UCLA) found that metered curbside parking in downtown areas of Los Angeles are, for the most part, filled most of day by cars bearing DP placards. The UCLA study went on to note that despite a metered rate of \$4 per hour, the city of Los Angeles only earns about \$.32 per hour because cars with DP placards consume 80% of the meter time.

Under current law, DMV issues DP plates to disabled veterans and persons with permanent disabilities. Because these individuals often travel in vehicles other than their own, individuals may also opt to obtain a permanent DP parking (blue) placard which is automatically renewed by DMV every two years. Persons with temporary disabilities may obtain a temporary DP parking (red) placard that is valid for up to six months, or the expected length of the disability as determined by a medical professional, whichever is shorter. In each case, a specified medical professional must certify the individual meets certain disability criteria outlined in law. When issued, a DP placard or plate entitles the owner, or a person transporting the owner, to park in preferential parking spaces (marked in blue) and to park in public parking spaces that are metered or regulated by parking payment centers (such as kiosks) for unlimited periods of time.

Current law prohibits any person from displaying a DP placard that does not belong to him or her unless he or she is transporting the placard holder. Persons who violate this provision are subject to a civil penalty ranging from \$250-\$1000 or criminal misdemeanor penalties which include fines ranging from \$250-\$1,000, up to one month in a county jail, or both. In addition, when a violation is identified, a peace officer is authorized to confiscate the DP placard. After verification with the DMV that the user of the placard was not the owner, the enforcement agency must notify DMV of the misuse and DMV may cancel the placard. The disabled person whose placard was canceled may subsequently reapply for a new DP placard.

Many suggest that the primary motivation for DP placard fraud is the privilege it provides-- to park free of charge for unlimited periods of time in metered parking spaces. This is a particularly valuable privilege in metropolitan areas where parking is scarce and/or costly. According to a 2012 study published in the *Journal of Planning Education and Research*, nearly one-half of states have laws allowing people with DP placards to park for free at metered spaces and, the majority of those states impose no time limit. The report goes on to state that the non-payment privileges associated with DP placards invites fraud and abuse.

To address the growing problem of DP placard fraud and abuse and to provide legitimately disabled person and the general population with better parking access, the author has introduced this bill which would outline a new policy for California's DP parking placard program. Specially, this bill would create a two-tiered approach to DP parking, much like the programs that are in place in Michigan and Illinois, where individuals with severe mobility impairments may continue to park for free at metered spaces if they qualify for and obtain a yellow sticker, while individuals with less severe disabilities would be allowed to access preferential DP parking

but be required to pay for parking at metered spaces. Specifically, this bill provides that individuals who meet certain criteria would be eligible to apply for a yellow free-parking sticker from the DMV. Once issued, the yellow sticker would be affixed to his or her existing DP placard to indicate the individual's eligibility for free and unlimited parking. Individuals who qualify for the existing DP plates and placards, but who do not qualify for the yellow sticker, would continue to be able to access preferential parking offered for handicapped persons (such as blue parking spaces and stalls). This bill provides that the yellow sticker would have a fixed expiration date of June 30 every four years and provides that misuse of the yellow sticker would carry the same penalties as DP plate or placard abuse.

The author points out that in Illinois, where free and unlimited time at parking meters is only offered to a smaller subset of persons with disabilities, only 41,000 applied for the free parking sticker out of the nearly 479,000 placards issued. While the problem of DP placard abuse has not been completely solved in these states, there has been a substantial decrease in reported DP placard fraud. The author also points to similar programs in Michigan where fraud is said to have dropped dramatically when the yellow sticker programs were implemented. Reports did not indicate, however, whether or not the programs excluded or inconvenienced legitimately disabled individuals.

Writing in support of this bill, Safer Streets LA points out that fraudulent use of DP placards is a widespread problem that poses a significant impediment to providing parking access to both disabled motorists and the general motoring population. Safer Streets LA notes that in many urban areas, where parking is at a premium, cars with DP placards routinely occupy almost all the metered curb spaces yet investigative "stings" consistently find that the majority of these placards are being used fraudulently by able-bodied individuals who simply wish to park without paying a fee. Safer Streets LA points to reforms, similar to AB 2602, in Michigan where there was a 98% reduction in the number of DP parking placards issued.

Writing in opposition, disability rights advocates contend that the levels of suspected DP placard fraud may be overblown. They note that many indicate that fraud is occurring because large numbers of DP plates and placards are issued but they counter, noting that today, more people with disabilities are getting out into society thereby creating the need for more parking placards. Californians for Disability Rights, Inc. points out that AB 2602 would strip away important privileges that were intended to ameliorate longstanding and still persistent civil rights violations. They claim that this bill would substantially impact persons with disabilities who encounter multiple physical barriers so that local jurisdictions can obtain parking revenues. They contend that if "rampant" abuse is occurring, DMV as well as the municipalities should deal with the fraud through enforcement rather than further burdening the disabled community.

Author's amendments: The author acknowledges the need for continuing to work with interested parties to reach consensus on a variety of issues related to this bill including, among other things, delaying the implementation date of the yellow sticker program to give DMV time to implement the program and educate the public about program changes. Additionally, the author notes there is a need to address provisions authorizing DMV to establish a fee for the purposes of recouping its costs for the yellow sticker program in light of the case William Robert Dare; Gary Petillo, Plaintiffs-Appellees, v. State of California; Dept. of Motor Vehicles, Defendants-Appellants which challenged California's legal right to charge a \$6 fee for disabled parking placards. In the case, two federal courts ruled that DMV's surcharged violated the federal law by ruling that the \$6 parking placard free was discriminatory. The author concedes that this bill is a "work in

progress" and that amendments would be forthcoming as the bill moves through the legislative process. The author has indicated other items that may be addressed in the bill as it moves through the legislative process including; but not necessarily limited to, using a "free parking placard" rather than a sticker to minimize opportunities for fraudulent duplication, considering a "mobility distance" greater than 20 feet with respect to establishing qualifications for the free-parking sticker, expanding the "life" of the sticker from two years to four years to minimize the inconvenience and costs involved with re-certification and sticker issuance, taking into account modern meter technology when establishing parameters for free parking sticker qualifications, and improving the communication between DMV and the County Recorder's Offices so that DMV can more easily identify when placard holders have passed to minimize continued mailing of placard to the homes of deceased placard holders.

Committee comments: It is clear that this bill is a "work in progress" and that much discussion still needs to take place between the author, interest groups, and state agencies to ensure the bill meets the author's stated goal (reducing DP placard fraud) while also ensuring that legitimately disabled persons continue to have access to priority DP parking. It is important to note that little comprehensive statewide data is available with respect to cause, magnitude, and extent of DP placard abuse in California. Without this data, it is difficult to craft a thoughtful and comprehensive solution to the problem.

For example, while most would agree that DP placard fraud is occurring, it is not completely understood what avenues are most frequently exploited. Some suggest that the majority of fraud is resulting from legitimately issued placards being borrowed or shared between friends and family members which suggest that a solution may lie in increased enforcement. Other data, however, suggests that fraudulent use is driven by the widespread availability of DP placards that continue to be sent to deceased DP placard holders for many years by the DMV, indicating the need for DMV to "tighten" its practices with respect to DP placard renewals as well as increase enforcement. Additionally, little data is available to fully understand the extent to which DP placards may be being issued to persons who do not qualify for the DP placards in the first place. If there are unscrupulous medical practitioners who are willing to sign medical certifications fraudulently, then it is unrealistic to expect that the same practice would not happen with the yellow sticker program. Lastly, some suggest that DP placards themselves are being forged and traded or sold in "underground" markets (such as on Internet Web sites), suggesting that alternative methods of enforcement are needed to curb the problem. In light of the lack of data, the author may, therefore, wish to consider tasking the State Auditor with conducting a comprehensive review of the program to better understand the intricacies of DP placard fraud in California that would aid in the crafting of a comprehensive and effective solution.

Double referral: This bill will be referred to the Assembly Local Government Committee should it pass out of this committee.

Related legislation: AB 2586 (Gatto), amends a variety of provisions in existing law related to parking. AB 2586 passed out of this committee on April 4, 2016, with a 16-0 vote and is scheduled to be heard by the Assembly Local Government Committee on April 20, 2016.

Previous legislation: AB 1111 (Gatto) of 2015, would have allowed local jurisdictions to install parking meters in accessible parking spaces and allowed local jurisdictions to make changes to disabled parking requirements. AB 1111 was returned to the Chief Clerk by this committee pursuant to Joint Rule 56.

SB 1123 (de León) of 2011, would have suspended, for 30 days, the driver's license of a person who misuses a disabled parking placard and allows cities and counties to charge disabled persons for parking at 10-hour meters. SB 1123 was returned to the Secretary of the Senate by the Senate Transportation and Housing Committee pursuant to Joint Rule 56.

AB 1531 (DeSaulnier), Chapter 413, Statutes of 2007, alters signage and painting requirements for disabled parking spaces, limits the number of times that temporary disability placards may be renewed, and increases fines for second and third violations related to illegal parking in disabled spaces.

AB 327 (Runner), Chapter 555, Statutes of 2003, allows local governments to impose an additional \$100 penalty for the violation of statutes related to disabled persons' parking privileges.

AB 1314 (Havice), Chapter 640, Statutes of 2001, among other things, revised provisions regarding wheelchair curbside access.

REGISTERED SUPPORT / OPPOSITION:

Support

Safer Streets LA
1 private citizen

Opposition

Californians for Disability Rights
Disability Rights California
5 private citizens

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