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DAVID J. NEWBURGER
COMMISSIONER

MEMORANDUM

December 19, 2011

To: Linda Baker, Executive Director
Governor's Council on Disability

From: David J. Newburger, Commissioner
City of St. Louis Office on the Disabled

Re: Proposed Technical Amendment to Section 301.143, RSMo.

This is to follow up on the discussions we have had about problems created in the last Session adoption of House Bill 555 regarding Section 301.143, RSMo. I have developed the amendments that I suggest should be adopted to straighten the situation out and attach that draft to this memo. Below is an explanation of the reasons for the various parts of the proposed amendments.

In its 2011 Regular Session, the General Assembly enacted House Bill 555, which contained 86 new sections of the Missouri Statutes related to health care policies. One of those sections enacted is Section 301.143, RSMo. Certain provisions of that new section are inconsistent with the Americans with Disabilities Act (ADA) and otherwise pose problems with the effective administration of the section. Therefore, I suggest certain amendments to the section as indicated in the attached. Below is a point-by-point analysis of the proposed amendments:

Section 301.143.2, lines 18 and 20-23 of the attached draft: This change would delete the requirement that an access aisle next to a van accessible parking space necessarily be 96 inches and replace it with a provision that,

1. if the van accessible parking space is at least 132 inches wide, the access aisle may be the standard 60 inches, but
2. if the van accessible parking space is less than 132 inches wide, the access aisle must be at least 96 inches wide.

Reason for change: ADA Standards originally made the same requirement as adopted in House Bill 555. But, in 2010 the U.S. Department of Justice promulgated standards that allow either of the two alternatives specified in this proposed change.

Many people with disabilities prefer the alternative of the space being 132 inches wide and the access aisle being 60 inches wide. When both the aisle and the parking space are

96 inches wide, people commonly park their cars in the access aisle, making it impossible for wheelchair users to load in or out of their side loading vans. When the access aisle is 60 inches wide, people usually do not try to park in the access aisle. But, when the access aisle is 60 inches wide, the parking space needs to be at least 132 inches wide, so that the combination of open space in the parking space and access aisle provide suffice space to load the wheelchair in the lift or ramp on the side of the van. The language as adopted by House Bill 555 makes it impossible to have the combination of a 132-inch wide van accessible space and 60-inch wide accessible

Section 301.143.2, line 18 of the attached draft: This change would delete the provision that a van accessible space applies only to vans with “lifts.”

Reason for change: Many vans use retractable or fold-out ramps instead of lifts to allow a wheelchair user to enter or leave the van. There is no apparent policy reason to provide a benefit for lift equipped vans, but not ramp equipped vans.

Section 301.143.2, line 18 of the attached draft: This change would delete the provision that would *only* allow vans to park in van accessible spaces.

Reason for the change: Various kinds of vehicles need van accessible spaces in addition to vans. For example, see the Accessible Honda Element depicted below:



Sometimes people who use manual wheelchairs use two-door coupes with their extra wide doors to load and unload their wheelchairs and need the space of a van accessible parking space to maneuver. Restricting van accessible spaces only to vans does not meet the needs of all people with disabilities.

In addition, the ADA does not limit the van accessible parking spaces it requires to use only by vans. The ADA also requires that the first parking space on a parking lot be van accessible. Under Section 301.143.2 as it stands, a business or government entity that is striping a parking lot would have to have one ADA van accessible parking space and one “accessible van only” parking space before it could have any parking spaces available to the general public – there would have to be at least three spaces for the parking lot to

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have any space available to the general public. Much as I support the interests of the disabled, I believe this is overkill.

Deleting the "lift" and the "only" will make Section 301.143.2 compatible with the ADA.

Section 301.143.5, lines 55 to 57 of the attached draft: This change would delete the provision that requires that residential disabled designated parking spaces be denoted with blue paint on the curb and a blue imprint of the international symbol of accessibility on the pavement.

Reason for the change: Residential parking designated for people with disabilities change all the time. People move and people die; the designation is regularly added and removed. The City of St. Louis had 2,194 residential parking spaces designated for the disabled as of November 30, 2011. It has installed 236 designated spaces and removed 177 spaces in the previous 12 months. Painting and removing the paint would be very expensive. The designation of a residential disabled parking space is done at no charge for the person with a disability.

Besides, and for whatever it is worth, compliance with this requirement is spotty at best. This Office was able to make a casual survey of cities around the state to see what their practice is. Of the responses it was able to secure, only Columbia paints the curb as required (but not the blue imprint of the international symbol of accessibility on the pavement). Cape Girardeau, Kansas City, and St. Louis County, as well as the City of St. Louis, do not paint either the curb or the symbol. This Office was unable to find any local government that does comply with the painting requirement.

Since there is no enforcement mechanism attached to this painting requirement, one could argue that leaving the provision in the section is inconsequential. This Office is concerned, however, that people who illegally park in these designated parking spaces will contest being ticketed on grounds that the space is not painted as required. Therefore, I suggest that the clause should be eliminated from Section 301.143.5.

Thank you for your attention to this matter.