

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u>0</u>	_____	_____	_____	_____

ADDITIONAL FTE POSITIONS (Cumulative) _____ 0 _____ 0 _____ 0 _____ 0 _____ 0

Is Item Included In Current Budget? Yes _____ No _____

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 The fiscal impact is undeterminable at this time.

Departmental Fiscal Review: Stephanie Lepore 7/19/12

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Signature] 7/27/12
 OFMB *JP 7/27/12*

[Signature] 7/27/12
 Contract Administration *7-27-12 B. Wheel*

B. Legal Sufficiency:

[Signature] 7/30/12
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

ORDINANCE NO. 2012- ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO REFUELING ASSISTANCE FOR PERSONS WITH DISABILITIES; PROVIDING FOR THE CREATION OF A NEW SECTION OF THE CODE OF ORDINANCES OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR AUTHORITY; PROVIDING FOR A TITLE; PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ACCESSIBILITY; PROVIDING FOR PROHIBITED CONDUCT; PROVIDING FOR FILING OF COMPLAINTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS, PROVIDING FOR SCOPE OF ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Subsection 526.141(5)(a), Florida Statutes, as amended from time to time, requires gasoline stations that offer self-service to require an attendant employed by the station to dispense gasoline to persons with disabilities; and

WHEREAS, the Board of County Commissioners of Palm Beach County ("Board") desires to create the "Refueling Assistance for Persons with Disabilities Ordinance" in the Palm Beach County Code of Ordinances in order to provide assistance to persons with disabilities in refueling their vehicles; and

WHEREAS, the Board finds that implementation of this Ordinance as set forth herein will promote, protect, and improve the health, safety, and welfare of the people of Palm Beach County, Florida,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. New section.

A new section of the Code of Ordinances of Palm Beach County, Florida, is created to read as follows: [Underlining omitted]

Section 2. Authority.

The provisions of this Section are enacted pursuant to power of the County to establish and enforce business regulations for the protection of the public.

Section 3. Short title.

This Section shall be known and may be cited as the "Refueling Assistance for Persons with Disabilities Ordinance of Palm Beach County."

Section 4. Purpose.

(a) It is declared by the Board of County Commissioners of Palm Beach County ("Board") that, in order to provide for and safeguard the life, safety, property, and welfare of the people, the regulation of business enterprises engaged in the business of selling gasoline at gasoline stations is a matter affecting the public interest, and any person desiring to conduct such business enterprise shall be required to obey the regulations as hereinafter provided.

(b) The purpose of this Section is to provide a uniform system for the regulation of business enterprises which are engaged in or which intend to engage in the business of selling gasoline at a gasoline station.

Section 5. Definitions.

For the purposes of this Section, the following definitions shall apply:

- (a) *Board* shall mean the Board of County Commissioners of Palm Beach County, Florida.
- (b) *Complainant* shall mean any individual who witnesses or who is subjected to conduct which violates this Ordinance and who files a written complaint with the Division stating the information required by this Ordinance.
- (c) *County Administrator* shall mean the chief executive officer and head of the administrative branch of county government as provided in Article III of the Charter of Palm Beach County.
- (d) *Director* shall mean the Director or Manager of the Palm Beach County Consumer Affairs Division.
- (e) *Division* shall mean the Palm Beach County Consumer Affairs Division, or any selected county agency.
- (f) *Gasoline Dispensing Area* shall mean the area where the pumps used to dispense flammable and combustible liquids used as motor fuels are located.
- (g) *Gasoline Station Retailer* shall mean:
 - (1) Any full-service gasoline station; or
 - (2) Any self-service gasoline station that has two (2) or more attendants on duty at any given time during the hours the station is open for business to the public.
- (h) *Person(s) With Disability(ies)* shall mean any natural person who:
 - (1) Has been issued and is operating any motor vehicle properly displaying an exemption parking permit as provided in Section 316.1958, or Section 320.0848, or a license plate issued pursuant to Section 320.084, Section 320.0842, Section 320.0843, or Section 320.0845, Florida Statutes, or
 - (2) Is operating any motor vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls, for use by a person who has a disability or whose vehicle is displaying the Florida Toll Exemption permit.
- (i) *Self-service Gasoline Station* shall mean that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by persons other than the service station attendant.

Section 6. Accessibility requirements.

- (a) Attendants at all Gasoline Station Retailers shall at all times be able to communicate with persons requiring assistance.
- (b) Self-service Gasoline Station Retailers with two (2) or more attendants on duty shall require an attendant to provide refueling assistance to Persons with Disabilities when such service is requested.
- (c) Gasoline Station Retailers shall be required to prominently display a sign, decal, or sticker, no smaller than fifteen (15) square inches (3 inches in height by 5 inches in length), on the front of all gasoline pumps clearly stating the telephone number of that

Gasoline Station Retailer, as well as the existence of the international symbol of accessibility ("ISA"), and wording such as "Call for Assistance" or "Assistance Available upon Request." The sign, decal, or sticker must also be on a blue background. The telephone number indicated on the sign, decal, or sticker shall be operational and answered directly by an attendant on duty during the hours the Gasoline Station Retailer is open for business to the public.

(d) In the event that assistance is requested during times when a second attendant is not present at a Self-service Gasoline Station, the Gasoline Station Retailer is not required to provide the requested assistance. In such instances, the attendant on duty shall inform the person who requested assistance that the attendant is not able to provide such assistance because there is only one (1) attendant on duty.

Section 7. Prohibited conduct.

It shall be a violation of the County Code for a Gasoline Station Retailer to:

- (a) Fail or refuse to prominently display a sign, decal, or sticker, on the front of all gasoline pumps, which meets the requirements of the Code; or
- (b) Fail to ensure that the telephone number, indicated on the sign, decal, or sticker is operational and answered by an attendant on duty during the hours the Gasoline Station Retailer is open for business to the public; or
- (c) Fail to provide refueling assistance to a Person with Disabilities when such assistance is requested and when more than one (1) attendant is on duty.

Section 8. Filing of complaints.

- (a) Any person who witnesses, or who is subjected to, conduct that violates the County Code may file a written complaint with the Division.
- (b) The complaint must be in writing and shall contain the following information:
 - (1) Name and address of the Gasoline Station Retailer alleged to have committed the violation; and
 - (2) Date of the alleged violation; and
 - (3) General statement of the facts of the alleged violation; and
 - (4) Such other information required by the Division.

Section 9. Enforcement and penalties.

- (a) It shall be the duty of the Division to enforce this provision of the Code.
- (b) The Division shall receive, review, and when appropriate, investigate, complaints of violations of this provision of the Code.
- (c) The Division shall maintain a system by which violators are given written notice of all violations. Division personnel shall be permitted to enter the business premises of Gasoline Station Retailers to ascertain compliance with this provision of the Code. If Division personnel are refused entry or access to the business premises, the Division shall obtain an inspection warrant pursuant to Florida law in order to ascertain compliance with this provision of the Code.
- (d) Any Gasoline Station Retailer found to be in violation of this provision of the Code shall be required to pay to Palm Beach County a civil penalty of Two Hundred Fifty Dollars (\$250.00) for the first violation and Five Hundred Dollars (\$500.00) for each repeat violation.

Section 10. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of County Commissioners that such holding shall not affect the remainder of this Ordinance.

Section 11. Repeal of laws in conflict.

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this article are hereby repealed to the extent of any conflict.

Section 12. Inclusion in Code of Laws and Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Palm Beach County Code; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 13. Captions.

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 14. Scope of Ordinance.

This article shall be applicable in both the unincorporated and incorporated areas of Palm Beach County, except that this article shall not apply in any municipality that has adopted and maintains in effect ordinances or regulations governing the same matter.

Section 15. Effective date.

This Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach

County, Florida, on this the _____ day of _____, 2012.

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By _____
Deputy Clerk

By: _____
Shelley Vana, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

Filed with the Department of State on the _____ day of _____, 2012.



Paralyzed Veterans Association of Florida, Inc.

3799 N. Andrews Avenue • Ft. Lauderdale, FL 33309 • 954-565-8885 • 800-683-2001 • Fax 954-565-8843

May 1, 2012

Ms. Marcus

I am writing on behalf of the Paralyzed Veterans Association of Florida and the disabled community of Palm Beach as a whole. Effective January 1, 2012 Hillsborough County became the first Florida County to enact the Ordinance requiring large gas stations to post their telephone number on the pump. Broward County followed in April, 2012 and Miami-Dade Commission went through the First Reading of the Ordinance on April 30th. This landmark ordinance requires all the large gas stations in these Counties to post their phone number on their gas pumps, allowing drivers with mobility impairments to call for assistance in fueling their vehicle, sadly, the Florida Statute 526.141 (5)(a) is simply not working. The Department of Justice stated that a person with disability, (PWD), can gain assistance by honking or otherwise signaling an employee, (<http://www.ada.gov/gasserve.pdf>)

The federal and state guidelines do not work because the refueling assistance policies do not spell out how a PWD should go about requesting help, other than honking or waving a parking placard. Throughout the United States, qualified drivers with disabilities, in need of gas pumping assistance honk and wave, to no avail. I am proud that the Paralyzed Veteran helped to champion this cause in Hillsborough and Broward County and would very much like to work with your office to make this a reality for Miami-Dade-County, after which I will work on Palm Beach County, Broward County Commission approved the Ordinance in March, 2012

The solution in Hillsborough and Broward is to place the phone number of the gas station/convenience store on gas pumps with the ISA Symbol and "call for Assistance". This sticker is simple and much more inexpensive than the "Fuel Call" buttons mandated along the 450 mile long Florida Turnpike following a 2005 lawsuit brought against the Meridian Oil Company.

Ironically, several years ago Florida State Senator Victor Crist drafted a bill that would require gas stations to post their phone number on all of their gas pumps, this bill would have amended State Statute 526.141, however this bill died and was never presented to legislature.

There is no one perfect solution to getting gasoline pumped for PWD's. Some feel the fuel call buttons are best, others feel the phone number stickers is a practical solution. Given the great number of people with disabilities living in Florida and the many with

Attachment # _____

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disabilities who visit our state every year, there is no doubt that our state, led by the example of Hillsborough and Broward Counties, needs a solution to the problem of gas pumping assistance to people with disabilities. Gas Station retailers who have two or more employees on duty during normal business hours need to be part of the solution.

It is my hope that you can work with me, or set me up to meet with the appropriate authorities to enact an ordinance that would require gas station/convenience stores to place their phone numbers on gas pumps. This would only affect the larger stores that have two or more employees on duty during normal business hours.

Thank you,

Timothy A. Werner, PhD, RKT
Advocacy Director
Paralyzed Veterans Association of Florida



The Florida Senate

2011 Florida Statutes

<u>TITLE XXXIII</u> REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	<u>CHAPTER 526</u> SALE OF LIQUID FUELS; BRAKE FLUID	<u>VIEW ENTIRE CHAPTER</u>
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526.141 Self-service gasoline stations; attendants; regulations.—

(1) This section authorizes the establishment of self-service gasoline stations.

(2) A “self-service gasoline station” shall be that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by persons other than the service station attendant.

(3) All self-service gasoline stations shall have at least one attendant on duty while the station is open to the public. The attendant’s primary function shall be the proper administration, supervision, observation, and control of the dispensing of flammable and combustible liquids used as motor fuels while such liquids are actually being dispensed. It shall be the responsibility of the attendant to prevent the dispensing of flammable and combustible liquids used as motor fuels into portable containers unless such container bears a seal of approval of a nationally recognized testing agency; to control sources of ignition; and immediately to handle accidental spills and fire extinguishers if needed. The attendant on duty shall be mentally and physically capable of performing the functions and assuming the responsibility prescribed in this subsection.

(4)(a) The “attendant control area” is that area reserved for the placing of the attendant, which shall be not more than 100 feet from the dispensing area and shall contain the fire-extinguishment equipment and emergency controls.

(b) The “dispensing area” is that area where the pumps used to dispense flammable and combustible liquids used as motor fuels are located. The dispensing area shall at all times be in clear view of the attendant, and the

placing or allowing of any obstruction to vision between the dispensing area and the attendant control area shall be prohibited. The attendant shall at all times be able to communicate with persons in the dispensing area. Emergency controls shall be installed at a location acceptable to the authority having jurisdiction, but controls shall not be more than 100 feet from dispensers. Operating instructions and warning signs shall be conspicuously posted in the dispensing area.

(5)(a) Every full-service gasoline station offering self-service at a lesser cost shall require an attendant employed by the station to dispense gasoline from the self-service portion of the station to any motor vehicle properly displaying an exemption parking permit as provided in s. 316.1958 or s. 320.0848 or a license plate issued pursuant to s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845 when the person to whom such permit has been issued is the operator of the vehicle and such service is requested. Such stations shall prominently display a decal no larger than 8 square inches on the front of all self-service pumps clearly stating the requirements of this subsection and the penalties applicable to violations of this subsection. The Department of Agriculture and Consumer Services shall enforce this requirement.

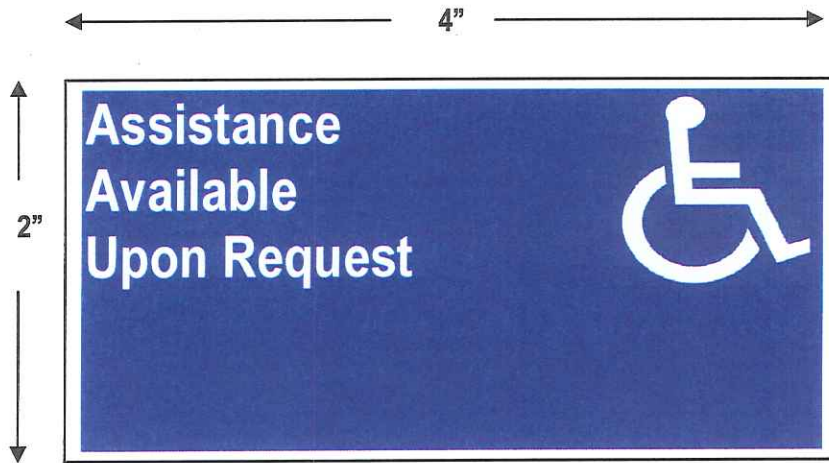
(b) Violation of paragraph (a) is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) All self-service equipment used to dispense gasoline shall be approved by a nationally recognized testing agency for its intended use.

(7) The Chief Financial Officer, under her or his powers, duties, and functions as State Fire Marshal, shall adopt rules for the administration and enforcement of this section, except for subsection (5) which shall be administered and enforced by the Department of Agriculture and Consumer Services.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 74-162; s. 1, ch. 80-205; s. 1, ch. 85-323; s. 1, ch. 86-117; s. 2, ch. 89-233; s. 24, ch. 90-330; s. 69, ch. 91-220; s. 719, ch. 97-103; s. 639, ch. 2003-261.

CURRENT STATE REQUIREMENT



2" x 4" = 8 square inches

PROPOSED PBC REQUIREMENT



3" x 5" = 15 square inches