ASSEMBLY, No. 4321

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:
Assemblyman ERIC HOUGHTALING
District 11 (Monmouth)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

SYNOPSIS

Revises list of persons eligible for free or reduced fees for beach access; prohibits municipalities from preventing individuals with disabilities from using certain mobility devices on beaches.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/29/2020)

AN ACT expanding list of persons eligible for free or reduced beach access, concerning municipal control over beaches, and amending P.L.1955, c.49.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1955, c.49 (C.40:61-22.20) is amended to read as follows:

1. a. The governing body of any municipality bordering on the Atlantic Ocean, tidal water bays or rivers which owns or shall acquire, by any deed of dedication or otherwise, lands bordering on the ocean, tidal water bays or rivers, or easement rights therein, for a place of resort for public health and recreation and for other public purposes shall have the exclusive control, government and care thereof and of any boardwalk, bathing and recreational facilities, safeguards and equipment, now or hereafter constructed or provided thereon, and may, by ordinance, make and enforce rules and regulations for the government and policing of such lands, boardwalk, bathing facilities, safeguards and equipment; provided, that such power of control, government, care and policing shall not be construed in any manner to exclude or interfere with the operation of any State law or authority with respect to such lands, property and facilities. Any such municipality may, in order to provide funds to improve, maintain and police the same and to protect the same from erosion, encroachment and damage by sea or otherwise, and to provide facilities and safeguards for public bathing and recreation, including the employment of lifeguards, by ordinance, make and enforce rules and regulations for the government, use, maintenance and policing thereof and provide for the charging and collecting of reasonable fees for the registration of persons using said lands and bathing facilities, for access to the beach and bathing and recreational grounds so provided and for the use of the bathing and recreational facilities, but no such fees shall be charged or collected from children under the age of 12 years.

b. A municipality may by ordinance provide that no fees, or reduced fees, shall be charged to:

(1) persons 65 or more years of age;

(2) persons who **[**meet the disability criteria for disability benefits under Title II of the federal Social Security Act (42 U.S.C. s.401 et seq.)**]** have a physical, mental or developmental disability;

(3) persons in active military service in any of the Armed Forces of the United States and to their spouse or dependent children **[**over the age of 12 years**]**;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

(4) persons who are active members of the New Jersey National Guard [who have completed Initial Active Duty Training] and to their spouse or dependent children [over the age of 12 years]. [As used in this paragraph, "Initial Active Duty Training" means Basic Military Training, for members of the New Jersey Air National Guard, and Basic Combat Training and Advanced Individual Training, for members of the New Jersey Army National Guard];

(5) persons who have served in any of the Armed Forces of the United States and who were discharged or released therefrom under conditions other than dishonorable [and who either have served at least 90 days in active duty or have been discharged or released from active duty by reason of a service-incurred injury or disability. The Adjutant General of the New Jersey Department of Military and Veterans' Affairs shall promulgate rules and regulations pertaining to veteran eligibility under this paragraph]; and

(6) persons holding a driver's license or identification card with a Gold Star Family designation issued pursuant to section 1 of P.L.2013, c.165 (C.39:3-10f6) or section 2 of P.L.1980, c.47 (C.39:3-29.3), respectively.

c. A municipality providing for no fees or reduced fees pursuant to paragraph (3), (4), (5), or (6) of subsection b. of this section shall track, in a manner deemed appropriate by the governing body of the municipality, the number of persons who qualify under the provisions of those paragraphs.

d. A person who qualifies for free access to beaches and bathing and recreational grounds and free use of bathing and recreational facilities pursuant to paragraph (3), (4), (5), or (6) of subsection b. of this section may, in lieu of obtaining and presenting a municipal beach tag or similar admission pass to gain such access and use, present a DD-214, DD-215, or DD-256 form as issued by the federal government, NGB-22 or other approved separation forms as outlined by all branches of the Armed Forces, a county-issued veteran identification card pursuant to P.L.2012, c.30 (40A:9-78.1 et seq.), a veteran identification card as issued by the United States Department of Veterans Affairs under the “Veterans Identification Card Act of 2015,” (38 U.S.C. 5706,) or similar document, or State driver's license or identification card indicating that the holder is a veteran of the Armed Forces of the United States or a Gold Star Family member.

e. A municipality that issues a permit to operate a motorized vehicle on a beach shall not charge a disabled veteran a fee to obtain, replace, or renew the permit.

For purposes of this [section] <u>subsection</u>, “disabled veteran” means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States and who has been declared by the United States Department of Veterans Affairs,

or its successor, to have a service-connected disability of any degree.

f. A municipality shall not adopt an ordinance prohibiting or restricting individuals with disabilities, who have been issued a "Person with Disability Placard from the New Jersey Motor Vehicle Commission," from operating a power-driven mobility device to access beaches and bathing and recreational grounds.

(1) For the purposes of this subsection, "power-driven mobility device" means any mobility device powered by batteries, fuel, or other engines, that is used by persons with disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices, or any mobility device designed to operate in areas without defined pedestrian routes.

(2) Any power-driven mobility device which can be defined as a "low speed vehicle" pursuant to R.S. 39:1-1, shall be titled, registered, and insured as required by the New Jersey Motor Vehicle Commission.

(cf: P.L.2019, c.500, s.7)

2. This act shall take effect immediately.

STATEMENT

This bill would expand eligibility for free or reduced beach access that may be granted by a shore municipality.

This bill adds any person with a physical, mental, or developmental disability; any dependent children regardless of age of persons in active military service in any of the Armed Forces of the United States and the New Jersey National Guard; and any person who served in the any of the Armed Forces of the United States and who were discharged or released therefrom under conditions other than dishonorable, to the list of persons eligible to receive free or reduced beach access granted by a shore municipality.

The bill would also bar municipalities from adopting an ordinance that restricts or prohibits individuals with disabilities from using other power-driven mobility devices on beaches. A "power-driven mobility device" is defined in the bill as any mobility device powered by batteries, fuel, or other engines, that is used by individuals with disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices, or any mobility device designed to operate in areas without defined pedestrian routes. Individuals with disabilities may require the assistance of such a device in order to access beaches because traditional mobility devices such as wheelchairs, do not function efficiently when used on beach terrain.

Municipalities effectively prohibit individuals with disabilities from accessing the beach by restricting or prohibiting the use of a power-driven mobility device. Therefore, to ensure that all individuals with disabilities have equal beach access capabilities, the use of power-driven mobility devices should not be restricted or prohibited.