

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

Com. Sub. for
HOUSE BILL No. 4035

(By ~~Mr.~~ *Del D. Cook*)



Passed *Feb. 27,* 1990

In Effect *Ninety Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4035
(By DELEGATE D. COOK)

[Passed February 27, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article thirteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting nonhandicapped people from parking in parking spaces in privately owned parking lots, parking garages, or other parking areas clearly marked for people with handicapping conditions or people who are physically disabled, and providing a penalty.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. STOPPING, STANDING AND PARKING.

§17C-13-6. Stopping, standing or parking privileges for disabled; qualification; application; violation.

1 (a) Any owner of a Class A motor vehicle subject to
2 registration under the provisions of article three,
3 chapter seventeen-a of this code, who is:

4 (1) A physically handicapped person with limited

5 mobility;

6 (2) A relative of a person who is a physically handi-
7 capped person with limited mobility;

8 (3) A person who regularly resides with a person who
9 is a physically handicapped person with limited mobil-
10 ity; or

11 (4) A person who regularly transports a person who
12 is a physically handicapped person with limited mobil-
13 ity, may apply for a special registration plate or a
14 mobile windshield placard by submitting to the
15 commissioner:

16 (i) An application therefor on a form prescribed and
17 furnished by the commissioner, specifying whether the
18 applicant desires a special registration plate or a mobile
19 windshield placard; and

20 (ii) A certificate issued by a person licensed to
21 practice medicine stating that the applicant or the
22 applicant's spouse or a member of the applicant's
23 immediate family residing with him is a physically
24 handicapped person with limited mobility as defined in
25 this section.

26 Upon receipt of the application, the physician's
27 certificate and the registration fee, if he finds that the
28 applicant qualifies for the special registration plate or
29 mobile windshield placard provided for in this subsec-
30 tion, the commissioner shall issue to such applicant an
31 appropriately designed and appropriately designated
32 special registration plate or mobile windshield placard.
33 The special plate shall be used in place of a regular
34 license plate.

35 As used in this section, a physically handicapped
36 person with limited mobility is any person who suffers
37 from a permanent physical condition making it unduly
38 difficult and burdensome for such person to walk.

39 Any person who falsely or fraudulently obtains or
40 seeks to obtain the special plate or the mobile windshield
41 placard provided for in this subsection (a), and any
42 person who falsely certifies that a person is physically

43 handicapped with limited mobility in order that an
44 applicant may be issued the special plate, is guilty of
45 a misdemeanor, and, upon conviction thereof, in addition
46 to any other penalty he may otherwise incur, shall be
47 fined not less than one hundred dollars nor more than
48 one thousand dollars, or imprisoned in the county jail
49 not more than one year, or both fined and imprisoned.

50 (b) Any physically disabled person, any person who is
51 a relative of a physically disabled person, any person
52 who regularly resides with a physically disabled person,
53 or any person who regularly transports a physically
54 disabled person, may apply for a vehicle decal for a
55 Class A vehicle by submitting to the commissioner:

56 (1) An application therefor on a form prescribed and
57 furnished by the commissioner;

58 (2) A certificate issued by a person licensed to
59 practice medicine stating that the applicant or the
60 applicant's relative is a physically disabled person, or
61 that the person regularly residing with the applicant or
62 regularly transported by the applicant is a physically
63 disabled person, as defined in this section, and stating
64 the expected duration of the disability; and

65 (3) A fee of one dollar.

66 Upon receipt of the application, the physician's
67 certificate and the registration fee, if he finds that the
68 applicant qualifies for the vehicle decal provided for in
69 this subsection, the commissioner shall issue to such
70 applicant an appropriately designed decal. The decal
71 shall be displayed on the motor vehicle in the manner
72 prescribed by the commissioner and shall be valid for
73 such period of time as the certifying physician has
74 determined that the disability will continue, which
75 period of time, reflecting the date of expiration, shall be
76 conspicuously shown on the face of the decal.

77 As used in this section "physically disabled person"
78 means any person who has sustained a temporary
79 disability rendering it unduly difficult and burdensome
80 for him to walk.

81 Any person who falsely or fraudulently obtains or

82 seeks to obtain the vehicle decal provided for in this
83 subsection, and any person who falsely certifies that a
84 person is physically disabled in order that an applicant
85 may be issued the vehicle decal, is guilty of a misdemea-
86 nor, and, upon conviction thereof, in addition to any
87 other penalty he may otherwise incur, shall be fined not
88 less than fifty nor more than one hundred dollars, or
89 imprisoned in the county jail not more than thirty days,
90 or both fined and imprisoned.

91 (c) Free stopping, standing or parking places marked
92 "reserved for disabled persons" shall be designated in
93 close proximity to all state, county and municipal
94 buildings and other public facilities. Such places shall
95 be reserved solely for physically disabled and handi-
96 capped persons during the hours that such buildings are
97 open for business.

98 Any person whose vehicle properly displays a valid
99 special registration plate, mobile windshield placard or
100 decal may park the vehicle for unlimited periods of time
101 in parking zones unrestricted as to length of parking
102 time permitted: *Provided*, That this privilege does not
103 mean that the vehicle may park in any zone where
104 stopping, standing or parking is prohibited or which
105 creates parking zones for special types of vehicles or
106 which prohibits parking during heavy traffic periods
107 during specified rush hours or where parking would
108 clearly present a traffic hazard. To the extent any
109 provision of any ordinance of any political subdivision
110 of this state is contrary to the provisions of this section,
111 the provisions of this section shall take precedence and
112 shall apply.

113 The privileges provided for in this subsection shall
114 apply only during those times when the vehicle is being
115 used for the transportation of a physically handicapped
116 or disabled person. Any person who knowingly exer-
117 cises, or attempts to exercise, such privileges at a time
118 when the vehicle is not being used for the transportation
119 of a physically handicapped or disabled person is guilty
120 of a misdemeanor, and, upon conviction thereof, in
121 addition to any other penalty he may otherwise incur,
122 shall be fined not less than ten nor more than fifty

123 dollars, or imprisoned in the county jail for not more
124 than thirty days, or both fined and imprisoned.

125 (d) No person may stop, stand or park a motor vehicle
126 in an area designated, zoned or marked for the handi-
127 capped or physically disabled, and no person may stop,
128 stand or park any motor vehicle at special, clearly
129 marked, parking locations provided for the handicapped
130 or physically disabled in or on privately owned parking
131 lots, parking garages, or other parking areas, when such
132 person is not physically disabled or handicapped and
133 does not have displayed upon his vehicle a distinguish-
134 ing insignia for the handicapped issued by the commis-
135 sioner: *Provided*, That any person in the act of transport-
136 ing a handicapped or physically disabled person, as
137 defined by this article, may stop, stand or park a motor
138 vehicle not displaying a distinguishing insignia for the
139 handicapped in an area designated, zoned or marked for
140 the handicapped or physically disabled for the limited
141 purposes of loading or unloading his handicapped or
142 physically disabled passenger: *Provided, however*, That
143 such vehicle shall be promptly moved after the comple-
144 tion of such limited purposes.

145 Any person who violates the provisions of this
146 subsection is guilty of a misdemeanor, and, upon
147 conviction thereof, shall be fined not more than twenty-
148 five dollars.

149 (e) The commissioner shall adopt and promulgate
150 rules and regulations in accordance with the provisions
151 of chapter twenty-nine-a of this code to effectuate the
152 provisions of this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Farrell E. Ahmes
Clerk of the Senate

Donald L. Vogg
Clerk of the House of Delegates

Keel Buntz
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *is approved* this the *10th* day of *March* 1990.

Gaston Caperton
Governor

PRESENTED TO THE
GOVERNOR *pc Red*
Date 3/5/90
Time 1:12 PM

RECEIVED

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OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF VIRGINIA