

SB 179

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



## ENROLLED

SENATE BILL NO. 179

(By Senator WHITE, ET AL)



PASSED FEBRUARY 19, 1998

In Effect NINETY DAYS FROM Passage

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SENATE AND HOUSE

## ENROLLED

### Senate Bill No. 179

(BY SENATORS WHITE, BALL, FANNING, HUNTER, ROSS,  
BUCKALEW, SCOTT, DEEM, KIMBLE, OLIVERIO,  
SCHOONOVER, WOOTON, MCKENZIE, MINEAR, SPROUSE,  
ANDERSON, HELMICK, BOWMAN AND WALKER)

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[Passed February 19, 1998; in effect ninety days from passage.]

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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 generally to parking for handicapped persons; defining terms; establishing qualifications; requiring special registration plates and removable windshield placards; establishing expiration dates for special registration plates and permanent removable windshield placards; establishing duties of commissioner; determining violations; authorizing law-enforcement agencies to utilize trained volunteers; and establishing penalties.

*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 persons with a mobility impairment; definitions; qualification; special registration plates and removable windshield placards; expiration; application; violation; penalties.**

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

4 (1) A person with a mobility impairment;

5 (2) A relative of a person with a mobility impairment;

6 (3) A person who regularly resides with a person with a  
7 mobility impairment; or

8 (4) A person who regularly transports a person who has  
9 a mobility impairment, may submit an application for a  
10 special registration plate or a removable windshield  
11 placard.

12 (b) Any person with a mobility impairment, any relative  
13 of a person with a mobility impairment, any person who  
14 regularly resides with a person with a mobility impair-  
15 ment or any person who regularly transports a person who  
16 has a mobility impairment may submit an application for  
17 a special registration plate or a removable windshield  
18 placard or both for a Class A vehicle by submitting to the  
19 commissioner:

20 (1) An application on a form prescribed and furnished by  
21 the commissioner, specifying whether the applicant  
22 desires a special registration plate, a removable wind-  
23 shield placard, or both; and

24 (2) A certificate issued by a licensed physician stating

25 that the applicant or the applicant's relative is a person  
26 with a mobility impairment, or that the person regularly  
27 residing with the applicant or regularly transported by the  
28 applicant is a person with a mobility impairment, as  
29 defined in this section, and furthermore, the physician  
30 shall specify whether the disability is temporary (not to  
31 exceed six months) or permanent (one to five years or  
32 more in expected duration).

33 Upon receipt of the completed application, the  
34 physician's certificate and the regular registration fee for  
35 the applicant's vehicle class, if the commissioner finds  
36 that the applicant qualifies for the special registration  
37 plate or a removable windshield placard as provided in  
38 this section, he or she shall issue to the applicant a special  
39 registration plate (upon remittance of the regular registra-  
40 tion fee), or a removable windshield placard (red for  
41 temporary and blue for permanent), or both. Upon  
42 request, the commissioner shall also issue to any otherwise  
43 qualified applicant one additional placard having the  
44 same expiration date as the applicant's original placard.  
45 The placard shall be displayed by hanging it from the  
46 interior rearview mirror of the motor vehicle so that it is  
47 conspicuously visible from outside the vehicle when  
48 parked in a designated handicapped parking space. The  
49 placard may be removed from the rearview mirror when-  
50 ever the vehicle is being operated to ensure clear vision  
51 and safe driving. Only in the event that there is no  
52 suitable rearview mirror in the vehicle may the placard be  
53 displayed on the dashboard of the vehicle.

54 (c) As used in this section, the following terms have the  
55 meanings ascribed to them in this subsection:

56 (1) A person with a "mobility impairment" means a  
57 person who, as determined by a licensed physician:

58 (A) Cannot walk two hundred feet without stopping to  
59 rest;

60 (B) Cannot walk without the use of or assistance from a  
61 brace, cane, crutch, prosthetic device, wheelchair, other  
62 assistive device or another person;

63 (C) Is restricted by lung disease to such an extent that  
64 the person's force (respiratory) expiratory volume for one  
65 second, when measured by spirometry, is less than one  
66 liter or the arterial oxygen tension is less than sixty  
67 mm/hg on room air at rest;

68 (D) Uses portable oxygen;

69 (E) Has a cardiac condition to such an extent that the  
70 person's functional limitations are classified in severity as  
71 Class III or Class IV according to standards established by  
72 the American heart association; or

73 (F) Is severely limited in his or her ability to walk  
74 because of an arthritic, neurological, orthopedic or other  
75 physical condition;

76 (2) "Special registration plate" means a registration  
77 plate that displays the international symbol of access in a  
78 color that contrasts with the background, in letters and  
79 numbers the same size as those on the plate, and which  
80 may be used in lieu of a regular registration plate;

81 (3) "Removable windshield placard" (permanent or  
82 temporary) means a two-sided, hanger style placard  
83 measuring three inches by nine and one-half inches, with  
84 all of the following on each side:

85 (A) The international symbol of access, measuring at  
86 least three inches in height, centered on the placard, in  
87 white on a blue background for permanent designations  
88 and in white on a red background for temporary designa-  
89 tions;

90 (B) An identification number measuring one inch in  
91 height;

92 (C) An expiration date in numbers measuring one inch

93 in height; and

94 (D) The seal or other identifying symbol of the issuing  
95 authority;

96 (4) "Regular registration fee" means the standard  
97 registration fee for a vehicle of the same class as the  
98 applicant's;

99 (5) "Public entity" means state or local government or  
100 any department, agency, special purpose district or other  
101 instrumentality of a state or local government;

102 (6) "Public facility" means all or any part of any build-  
103 ings, structures, sites, complexes, roads, parking lots or  
104 other real or personal property, including the site where  
105 the facility is located;

106 (7) "Place(s) of public accommodation" means a facility  
107 or facilities operated by a private entity whose operations  
108 affect commerce and fall within at least one of the follow-  
109 ing categories:

110 (A) Inns, hotels, motels and other places of lodging;

111 (B) Restaurants, bars or other establishments serving  
112 food or drink;

113 (C) Motion picture houses, theaters, concert halls,  
114 stadiums or other places of exhibition or entertainment;

115 (D) Auditoriums, convention centers, lecture halls or  
116 other places of public gatherings;

117 (E) Bakeries, grocery stores, clothing stores, hardware  
118 stores, shopping centers or other sales or rental establish-  
119 ments;

120 (F) Laundromats, dry cleaners, banks, barber and beauty  
121 shops, travel agencies, shoe repair shops, funeral parlors,  
122 gas or service stations, offices of accountants and attor-  
123 neys, pharmacies, insurance offices, offices of professional  
124 health care providers, hospitals or other service establish-

125 ments;

126 (G) Terminals, depots or other stations used for public  
127 transportation;

128 (H) Museums, libraries, galleries or other places of  
129 public display or collection;

130 (I) Parks, zoos, amusement parks or other places of  
131 recreation;

132 (J) Public or private nursery, elementary, secondary,  
133 undergraduate or post-graduate schools or other places of  
134 learning and day care centers, senior citizen centers,  
135 homeless shelters, food banks, adoption agencies or other  
136 social services establishments; and

137 (K) Gymnasiums, health spas, bowling alleys, golf  
138 courses or other places of exercise or recreation;

139 (8) "Commercial facility" means a facility whose opera-  
140 tions affect commerce and which are intended for nonresi-  
141 dential use by a private entity.

142 Any person who falsely or fraudulently obtains or seeks  
143 to obtain the special plate or the removable windshield  
144 placard provided for in this section, and any person who  
145 falsely certifies that a person is mobility impaired in order  
146 that an applicant may be issued the special registration  
147 plate or windshield placard hereunder, is guilty of a  
148 misdemeanor and, upon conviction thereof, in addition to  
149 any other penalty he or she may otherwise incur, shall be  
150 fined one hundred dollars.

151 (d) The commissioner shall set the expiration date for  
152 special registration plates and permanent removable  
153 windshield placards on the last day of a given month and  
154 year, to be valid for a minimum of one year but not more  
155 than five years, after which time a new application must  
156 be submitted to the commissioner. After the commissioner  
157 receives the new application, signed by a certified physi-  
158 cian, the commissioner shall issue: (i) A new special

159 registration plate or new permanent removable windshield  
160 placard; or (ii) official labels imprinted with the new  
161 expiration date and designed so as to be placed over the  
162 old dates on the original registration plate or windshield  
163 placard.

164 (e) The commissioner shall set the expiration date of  
165 temporary removable windshield placards to be valid for  
166 a period of approximately six months after the application  
167 was received and approved by the commissioner.

168 (f) The commissioner shall issue to each applicant who  
169 is granted a special registration plate or windshield  
170 placard an identification card bearing the applicant's  
171 name, assigned identification number and expiration date.  
172 The applicant must thereafter carry this identification  
173 card on his or her person whenever parking in a handi-  
174 capped parking space.

175 (g) A handicapped parking space should comply with the  
176 provisions of the Americans with Disabilities Act Guide-  
177 lines, contained in 28 C.F.R. 36, Appendix A, Section 4.6.  
178 In particular, the parking space should be a minimum of  
179 eight feet wide with an adjacent access aisle for vans  
180 having side mounted handicap lifts. Access aisles should  
181 be marked using diagonal stripes or other appropriate  
182 markings denoting that the space is a no-parking zone.  
183 Lines or markings on the pavement or curbs for parking  
184 spaces and access aisles may be in any color, although  
185 blue is the generally accepted color for handicapped  
186 parking.

187 (h) A vehicle from any other state, United States terri-  
188 tory or foreign country displaying an officially issued  
189 special registration plate, placard or decal bearing the  
190 international symbol of access, shall be recognized and  
191 accepted as meeting the requirements of this section,  
192 regardless of where the plate, placard or decal is mounted  
193 or displayed on the vehicle.



194 (i) Free stopping, standing or parking places marked  
195 with the international symbol of access shall be desig-  
196 nated in close proximity to all public entities, including  
197 state, county and municipal buildings and facilities, places  
198 of public accommodation and commercial facilities. These  
199 parking places shall be reserved solely for persons with a  
200 mobility impairment during the hours that those buildings  
201 are open for business.

202 (j) Any person whose vehicle properly displays a valid,  
203 unexpired special registration plate or removable wind-  
204 shield placard may park the vehicle for unlimited periods  
205 of time in parking zones unrestricted as to length of  
206 parking time permitted: *Provided*, That this privilege  
207 does not mean that the vehicle may park in any zone  
208 where stopping, standing or parking is prohibited or  
209 which creates parking zones for special types of vehicles  
210 or which prohibits parking during heavy traffic periods  
211 during specified rush hours or where parking would  
212 clearly present a traffic hazard. To the extent any provi-  
213 sion of any ordinance of any political subdivision of this  
214 state is contrary to the provisions of this section, the  
215 provisions of this section take precedence and apply.

216 The privileges provided for in this subsection apply only  
217 during those times when the vehicle is being used for the  
218 transportation of a person with a mobility impairment.  
219 Any person who knowingly exercises, or attempts to  
220 exercise, these privileges at a time when the vehicle is not  
221 being used for the transportation of a person with a  
222 mobility impairment is guilty of a misdemeanor and, upon  
223 conviction thereof, in addition to any other penalty he or  
224 she may otherwise incur, shall be fined one hundred  
225 dollars.

226 (k) Any person whose vehicle does not display a valid,  
227 special registration plate or removable windshield placard  
228 may not stop, stand or park a motor vehicle in an area  
229 designated, zoned or marked for handicapped parking

230 with signs or instructions displaying the international  
231 symbol of access, either by itself or with explanatory text.  
232 Such signs may be mounted on a post or a wall in front of  
233 the handicapped parking space and instructions may  
234 appear on the ground or pavement, but use of both  
235 methods is preferred. Handicapped parking spaces for  
236 vans having an eight-foot adjacent access aisle should be  
237 designated as "van accessible" but may be used by any  
238 vehicle displaying a valid special registration plate or  
239 removable windshield placard. These spaces are intended  
240 solely for persons with a mobility impairment, as defined  
241 in this section: *Provided*, That any person in the act of  
242 transporting a person with a mobility impairment as  
243 defined in this section, may stop, stand or park a motor  
244 vehicle not displaying a special registration plate or  
245 removable windshield placard in the area designated for  
246 handicapped parking by the international symbol of  
247 access for the limited purposes of loading or unloading a  
248 passenger with a mobility impairment: *Provided, how-*  
249 *ever*, That the vehicle shall be promptly moved after the  
250 completion of this limited purpose.

251 Any person who violates the provisions of this subsec-  
252 tion is guilty of a misdemeanor and, upon conviction  
253 thereof, shall be fined one hundred dollars.

254 (l) Signs erected in the future that designate areas as  
255 "handicapped parking" or that display the international  
256 symbol of access shall also include the words "\$100 fine".

257 (m) No person may stop, stand or park a motor vehicle  
258 in an area designated or marked off as an access aisle  
259 adjacent to a van-accessible parking space or regular  
260 handicapped parking space. Any person, including a  
261 driver of a vehicle displaying a valid removable wind-  
262 shield placard or special registration plate, who violates  
263 the provisions of this subsection is guilty of a misde-  
264 meanor and, upon conviction thereof, shall be fined one  
265 hundred dollars.

266 (n) Parking enforcement personnel who otherwise  
267 enforce parking violations are hereby authorized to issue  
268 citations for violations of this section.

269 (o) Law-enforcement agencies may establish a program  
270 to utilize trained volunteers to collect information neces-  
271 sary to issue citations to persons who illegally park in  
272 designated handicapped parking spaces. Any law-enforce-  
273 ment agency choosing to establish a program shall provide  
274 for workers' compensation and liability coverage. The  
275 volunteers shall photograph the illegally parked vehicle  
276 and complete a form, to be developed by supervising law-  
277 enforcement agencies, that includes the vehicle's license  
278 plate number, date, time and location of the illegally  
279 parked vehicle. The photographs must show the vehicle in  
280 the handicapped space and a readable view of the license  
281 plate. Within the discretion of the supervising law-  
282 enforcement agency, the volunteers may issue citations or  
283 the volunteers may submit the photographs of the illegally  
284 parked vehicle and the form to the supervising law-  
285 enforcement agency, who may issue a citation, which  
286 includes the photographs and the form, to the owner of the  
287 illegally parked vehicle. Volunteers shall be trained on  
288 the requirements for citations for vehicles parked in  
289 marked, zoned or designated handicapped parking areas  
290 by the supervising law-enforcement agency.

291 (p) The commissioner shall establish a grace period for  
292 individuals who, on the effective date of the amendment  
293 adding this subsection, hold special registration plates or  
294 removable windshield placards bearing no expiration date  
295 to submit their applications for newly issued special  
296 registration plates and windshield placards, after which  
297 time any undated registration plate or windshield placard  
298 is invalid and subject to confiscation by any duly ap-  
299 pointed law-enforcement officer.

300 (q) The commissioner shall adopt and promulgate rules  
301 in accordance with the provisions of article three, chapter

302 twenty-nine-a of this code to effectuate the provisions of  
303 this section and provide for an orderly transition to  
304 provisions enacted by the Legislature in its regular session  
305 in the year one thousand nine hundred ninety-six.

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

*Randy Spoonover*  
.....  
Chairman Senate Committee

*Nick Trentano*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carroll Adams*  
.....  
Clerk of the Senate

*Gregory W. Bann*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*F. Ki*  
.....  
Speaker House of Delegates

The within *approved* this the *27th*  
day of *February*, 1998.

*J. Anderson*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 2/25/98

Time 6:17 pm