

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969



ENROLLED

Com Sub. for
HOUSE BILL No. 676

(By ~~Mr.~~ *Originator in the Committee
on the Judiciary*)



PASSED March 8, 1969

In Effect July 1, 1969 ~~Passage~~



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-17-69

676

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 676

(Originating in the Committee on the Judiciary)

[Passed March 8, 1969; in effect July 1, 1969.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-e, relating to requiring all public buildings and facilities constructed with public funds to be accessible to and usable by the physically handicapped; creating the state board of public buildings; authorizing rules and regulations; providing for enforcement by the director of the division of vocational rehabilitation and the state board of public buildings; authorizing judicial action; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-e, to read as follows:

ARTICLE 10E. HANDICAPPED PERSONS AND PUBLIC BUILDINGS AND FACILITIES.

§18-10E-1. Purpose.

1 It is hereby declared to be the public policy of this
2 state that all public buildings and facilities covered by
3 this article, as specified in section two of this article, be
4 accessible to and functional for the physically handi-
5 capped, without loss of function, space or facilities so
6 far as the general public is concerned.

§18-10E-2. Application of article.

1 (a) The provisions of this article and the reasonable
2 rules and regulations promulgated hereunder shall apply
3 to all temporary, emergency or permanent buildings and
4 facilities used by the public which are constructed after
5 the effective date of this article in whole or in part by

6 the use of state, county or municipal funds or the funds
7 of any other political subdivision of this state, except
8 as hereinafter provided.

9 (b) Notwithstanding the provisions of subsection (a)
10 of this section, the provisions of this article and the
11 reasonable rules and regulations promulgated hereunder
12 shall also be applicable to all buildings and facilities
13 used by the public and which are under construction
14 on the effective date of this article by the use in whole
15 or in part of state, county or municipal funds or the
16 funds of any other political subdivision of this state,
17 unless the governmental authorities responsible for the
18 construction shall determine that the construction has
19 reached a state where compliance is impractical.

§18-10E-3. Rules and regulations.

1 In order to implement the provisions of this article,
2 the director of the division of vocational rehabilitation
3 of the state board of education, with the approval of the
4 state board of public buildings hereinafter created, shall
5 promulgate reasonable rules and regulations. The director
6 and the board, in promulgating and approving such

7 reasonable rules and regulations, shall take into account
8 the following:

9 (1) Use of buildings and facilities by persons confined
10 to wheelchairs, persons using crutches or other walking
11 aids, persons afflicted by sight or hearing loss, persons
12 disabled by age, and any other persons whose mobility
13 is limited; and data shall be gathered to determine the
14 needs of any such persons;

15 (2) Frequency of use by disabled persons as above
16 enumerated; and

17 (3) Additional construction cost required to comply
18 with the provisions of this article and such reasonable
19 rules and regulations.

20 The director shall have the authority to except build-
21 ings and facilities from the provisions of this article and
22 such reasonable rules and regulations, in whole or in
23 part, if, in his opinion, compliance therewith would
24 create a financial hardship, be impractical or serve no
25 benefit.

26 All such reasonable rules and regulations shall be
27 promulgated in accordance with the provisions of article

28 three, chapter twenty-nine-a of this code, and shall in-
29 clude, but not be limited to, provisions pertaining to the
30 following:

31 (1) Reservation of parking spaces for the disabled,
32 where possible;

33 (2) Construction of exterior walkways and ramps;

34 (3) Design and construction of doorways;

35 (4) Design and construction of interior floors, steps,
36 ramps, and doorways;

37 (5) Design of and accessibility to elevators;

38 (6) Design and construction of toilet facilities for use
39 by the disabled;

40 (7) Design and location of public telephones, water
41 fountains and other conveniences to facilitate their use
42 by the disabled; and

43 (8) Accessibility of at least one primary entrance to
44 individuals in wheelchairs.

§18-10E-4. State board of public buildings; expenses.

1 There is hereby created the state board of public build-
2 ings which shall consist of five members appointed by the
3 governor, one member to be a representative of the state

4 building commission, one member to be a representative
5 of a municipality, one member to be a representative
6 of a county court, one member to be a representative
7 of the state board of education, and one member to be
8 an architect. Each member shall serve at the will and
9 pleasure of the governor. The members of the board
10 shall receive no compensation for their services on such
11 board, but they shall be reimbursed for all reasonable
12 and necessary expenses actually incurred in the perform-
13 ance of their duties as members of the board.

§18-10E-5. Enforcement.

1 It shall be the duty of the director to enforce the
2 provisions of this article and all reasonable rules and
3 regulations promulgated hereunder, and it shall be the
4 duty of the state, any county, municipality or other
5 political subdivision thereof, or any department, agency,
6 commission, board or bureau thereof, responsible for the
7 construction of any ^{SUCH} public building or facility to comply
8 with the provisions of this article and all such reasonable
9 rules and regulations. Whenever the director ascertains
10 that any such public building or facility is about to be

11 constructed or is under construction (which construction
12 began after the effective date of this article) in violation
13 of the provisions of this article or any such reasonable
14 rules and regulations, he may petition the circuit court
15 of the county wherein the construction is to be or is
16 taking place for an order to compel compliance with the
17 provisions of this article and such reasonable rules and
18 regulations, and the court may compel compliance unless
19 such court finds that compliance would create a financial
20 hardship, be impractical or serve no benefit.

§18-10E-6. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstances is held unconstitutional
3 or invalid, such unconstitutionality or invalidity shall
4 not affect other provisions or applications of the article,
5 and to this ^e and the provisions of this article are declared
6 to be severable.

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

William Tompa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect July 1, 1969.

Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Lloyd B. Jackson
President of the Senate

Sam F. Brinkley
Speaker House of Delegates

The within approved this the 17th
day of March, 1969.

Arch A. Stange, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/12/69

Time 2:45 p.m.