

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974



ENROLLED

SENATE BILL NO. 372

(By Mr. Nelson & Mr. Pozzenbarger)



PASSED March 9, 1974

In Effect ninety days from Passage



FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 3-28-74

372

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(By MR. NELSON AND MR. POFFENBARGER)

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AN ACT to amend and reenact sections one, two, three, four and five, article ten-f, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to handicapped persons and public buildings and facilities; purpose and application of article; rules and regulations; board of public buildings; enforcement; types of building subject to article.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four and five, article ten-f, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 10F. HANDICAPPED PERSONS AND PUBLIC BUILDINGS AND FACILITIES.**

**§18-10F-1. Purpose.**

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

7 As used in this article a public building or facility is one to  
8 which the public has a general right of access and includes  
9 the ways of travel to and from the same, but does not in-  
10 clude:

11 1. Apartment houses with less than twenty units, row  
12 houses or rooming houses;

- 13 2. Convents or monasteries;
- 14 3. Jails or other places of detention;
- 15 4. Garages, hangers or boat houses;
- 16 5. Buildings classified as hazardous occupancies;
- 17 6. Warehouses;
- 18 7. Building specifically built for field service purposes
- 19 such as, but not limited to, conservation fire towers, fish
- 20 hatcheries or tree nursery buildings; or
- 21 8. Residence halls at colleges or universities which
- 22 have at least two other resident halls for men and two
- 23 other resident halls for women so constructed as to allow
- 24 physically handicapped persons reasonable means of ac-
- 25 cess and use of such buildings.

**§18-10F-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, side-
- 4 walks, curbs and facilities to be used by the public which
- 5 are constructed after the effective date of this article.
- 6 (b) Notwithstanding the provisions of subsection (a)
- 7 of this section, the provisions of this article and the rea-
- 8 sonable rules and regulations promulgated hereunder
- 9 shall also be applicable to all buildings, sidewalks, curbs
- 10 and facilities to be used by the public and which are under
- 11 construction on the effective date of this article unless
- 12 the director shall determine that the construction has
- 13 reached a state where compliance is impractical.

**§18-10F-3. Rules and regulations.**

- 1 In order to implement the provisions of this article, the
- 2 director of the division of vocational rehabilitation of the
- 3 state board of education, with the approval of the state
- 4 board of public buildings hereinafter created, shall pro-
- 5 mulgate reasonable rules and regulations. The director
- 6 and the board in promulgating and approving such rea-
- 7 sonable rules and regulations, shall take into account the
- 8 following:
- 9 (1) Use of building, sidewalks, curbs and facilities by
- 10 persons confined to wheelchairs, persons using crutches or
- 11 other walking aids, persons afflicted by sight or hearing
- 12 loss, persons disabled by age and any other persons whose

13 mobility is limited; and data shall be gathered to deter-  
14 mine the 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, sidewalks, curbs and facilities from the provisions  
22 of this article and such reasonable rules and regulations,  
23 in whole or in part, if, in his opinion, compliance therewith  
24 would create a financial hardship, be impractical or serve  
25 no benefit.

26 All such reasonable rules and regulations shall be pro-  
27 mulgated 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, curbs and  
34 ramps;

35 (3) Design and construction of doorways;

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

38 (5) Design of and accessibility to elevators;

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

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

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

46 No rule or regulation promulgated hereunder shall re-  
47 quire the construction of elevators in buildings or fa-  
48 cilities not constructed in whole or in part by the use of  
49 state, county or municipal funds or the funds of any other  
50 political subdivision of this state when such buildings or  
51 facilities are less than three stories in height.

**§18-10F-4. State board of public buildings created; membership; 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 of  
6 the state board of education, and one member to be an  
7 architect. Each member shall serve at the will and pleas-  
8 ure of the governor. The members of the board shall re-  
9 ceive no compensation for their services on such board,  
10 but they shall be reimbursed for all reasonable and neces-  
11 sary expenses actually incurred in the performance of  
12 their duties as members of the board.

**§18-10F-5. Enforcement of article.**

1 It shall be the duty of the director to enforce the pro-  
2 visions of this article and all reasonable rules and regu-  
3 lations promulgated hereunder, and it shall be the duty  
4 of the state, any county, municipality or other political  
5 subdivision thereof, or any department, agency, commis-  
6 sion, board, bureau or individual responsible for the con-  
7 struction of any public building, sidewalk, curb or facility  
8 to comply with the provisions of this article and all such  
9 reasonable rules and regulations. Whenever the director  
10 ascertains that any such public building, sidewalk, curb  
11 or facility is about to be constructed or is under construc-  
12 tion (which construction began after the effective date of  
13 this article) in violation of the provisions of this article  
14 or any such reasonable rules and regulations, he may  
15 petition the circuit court of the county wherein the con-  
16 struction is to be or is taking place for an order to compel  
17 compliance with the provisions of this article and such  
18 reasonable rules and regulations, and the court may com-  
19 pel compliance unless such court finds that compliance  
20 would create a financial hardship, be impractical or serve  
21 no benefit.

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

H. Laurel Darty  
Chairman Senate Committee

Clarence C. Johnston  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Howard W. Cannon  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

H. P. Brotherton, Jr.  
President of the Senate

Louis H. M. Mena  
Speaker House of Delegates

The within approved this the 26th  
March  
day of \_\_\_\_\_, 1974.

Arch A. Prange, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/13/14

Time 2:20 p.m.