WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

SENATE BILL NO. 501

(By Senator Boley)

PASSED March 9, 1996
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 motor vehicles; stopping, standing and parking privileges for persons with mobility impairments; qualification; issuance of special registration plates and removable windshield placards bearing the international symbol of access; expiration dates; specifications for registration plates, windshield placards, handicapped parking spaces and signs; definitions; application; transitional provisions; violations; and 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; defin-
(a) Any owner of a Class A motor vehicle subject to registration under the provisions of article three, chapter seventeen-a of this code, who is:

1. (1) A person with a mobility impairment;
2. (2) A relative of a person with a mobility impairment;
3. (3) A person who regularly resides with a person with a mobility impairment; or
4. (4) A person who regularly transports a person who has a mobility impairment, may submit an application for a special registration plate or a removable windshield placard.

(b) Any person with a mobility impairment, any relative of a person with a mobility impairment, any person who regularly resides with a person with a mobility impairment or any person who regularly transports a person who has a mobility impairment may submit an application for a removable windshield placard for a Class A vehicle by submitting to the commissioner:

1. (1) An application on a form prescribed and furnished by the commissioner, specifying whether the applicant desires a special registration plate, a removable windshield placard, or both; and
2. (2) A certificate issued by a licensed physician stating that the applicant or the applicant’s relative is a person with a mobility impairment, or that the person regularly residing with the applicant or regularly transported by the applicant is a person with a mobility impairment, as defined in this section, and furthermore, the physician shall specify whether the disability is temporary (not to exceed six months) or permanent (one to five years or more in expected duration).
Upon receipt of the completed application, the physician’s certificate and the regular registration fee for the applicant’s vehicle class, if the commissioner finds that the applicant qualifies for the special registration plate or a removable windshield placard as provided in this section, he or she shall issue to the applicant a special registration plate (upon remittance of the regular registration fee), or a removable windshield placard (red for temporary and blue for permanent), or both. Upon request, the commissioner shall also issue to any otherwise qualified applicant one additional placard having the same expiration date as the applicant’s original placard. The placard shall be displayed by hanging it from the interior rear view mirror of the motor vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated handicapped parking space. The placard may be removed from the rear view mirror whenever the vehicle is being operated to ensure clear vision and safe driving. Only in the event that there is no rear view mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.

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

1. A person with a “mobility impairment” means a person who, as determined by a licensed physician:

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

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

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

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

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

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

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

(A) The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background;

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

(C) An expiration date in numbers measuring one inch in height; and

(D) The seal or other identifying symbol of the issuing authority.

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

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

(6) "Public facility" means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.
(7) "Place(s) of public accommodation" means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

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

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

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

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

(E) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;

(F) Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;

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

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

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

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

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

(8) "Commercial facility" means a facility whose
operations affect commerce and which are intended for nonresidential use by a private entity.

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

(d) The commissioner shall set the expiration date for special registration plates and permanent removable windshield placards on the last day of a given month and year, to be valid for a minimum of one year but not more than five years, after which time a new application must be submitted to the commissioner. After the commissioner receives the new application, signed by a certified physician, the commissioner shall issue: (i) A new special registration plate or new permanent removable windshield placard; or (ii) official labels imprinted with the new expiration date and designed so as to be placed over the old dates on the original registration plate or windshield placard.

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

(f) The commissioner shall issue to each applicant who is granted a special registration plate or windshield placard an identification card bearing the applicant’s name, assigned identification number and expiration date. The applicant must thereafter carry this identification card on his or her person whenever parking in a handicapped parking space.

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

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

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

(j) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: Provided, That this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state is contrary to the provisions of this section, the
provisions of this section take precedence and apply.

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

(k) No person may stop, stand or park a motor vehicle in an area designated, zoned or marked for handicapped parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. Such signs may be mounted on a post or a wall in front of the handicapped parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Handicapped parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard. These spaces are intended solely for persons with a mobility impairment, as defined in this section. If at any time, a person is not mobility impaired and does not display upon his or her vehicle a special registration plate or removable windshield placard issued by the commissioner, he or she may not lawfully park in a handicapped parking space: Provided, That any person in the act of transporting a person with a mobility impairment as defined in this section, may stop, stand or park a motor vehicle not displaying a special registration plate or removable windshield placard in the area designated for handicapped parking by the international symbol of access for the limited purposes of loading or unloading a passenger with a mobility impairment: Provided, however, That the vehicle shall be promptly moved after the completion of this limited purpose.
Any person who violates the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined one hundred dollars.

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

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

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

(o) The commissioner shall adopt and promulgate rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of this section and provide for an orderly transition to provisions enacted by the Legislature in its regular session in the year one thousand nine hundred ninety-six.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of April, 1996.

Governor