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
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)

[Passed February 19, 1998; 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 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.

(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) A person with a mobility impairment;

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

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

(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 special registration plate or a removable windshield placard or both for a Class A vehicle by submitting to the commissioner:

(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) 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 registra-
tion 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 rearview 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 rearview mirror when-
ever the vehicle is being operated to ensure clear vision
and safe driving. Only in the event that there is no
suitable rearview 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 for permanent designations and in white on a red background for temporary designations;

(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 establish-
ments;

(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 handi-
capped parking space.

(g) A handicapped parking space should comply with the
provisions of the Americans with Disabilities Act Guide-
lines, 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 terri-
tory 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) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not 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: 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) Parking enforcement personnel who otherwise enforce parking violations are hereby authorized to issue citations for violations of this section.

(o) Law-enforcement agencies may establish a program to utilize trained volunteers to collect information necessary to issue citations to persons who illegally park in designated handicapped parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the handicapped space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated handicapped parking areas by the supervising law-enforcement agency.

(p) 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.

(q) 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.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

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

[Signature]
Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/98
Time 6:17 PM