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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2714**

(By Delegates Mahan, Brown, Ennis, Long,
Marshall, Perdue, Romine and Schadler)

Passed March 9, 2007

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE
FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 2714

(BY DELEGATES MAHAN, BROWN, ENNIS, LONG,
MARSHALL, PERDUE, ROMINE AND SCHADLER)

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to parking areas designated for use by persons with a mobility impairment; removing the requirement that certain parking areas be provided without cost; authorizing chiropractor, advanced nurse practitioner or physician's assistant to verify impairment for the purpose of the issuing of license plates or place cards; removing certain persons from eligibility for placards and plates; amending and adding definitions; limiting the ability of certain organizations from parking in designated spaces; requiring certain markings in designated parking areas; increasing the fine for first offense parking violation; and removing certain rule-making requirements.

Be it enacted by the Legislature of West Virginia:

That §17C-13-6 of the Code of West Virginia, 1931, 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) (1) The commissioner may issue up to two special
2 registration plates or removable windshield placards to a
3 person with a mobility impairment or a West Virginia
4 organization which transports persons with disabilities and
5 facilitates the mobility of its customers, patients, students or
6 persons otherwise placed under its responsibility.

7 (2) Special registration plates or placards may only be
8 issued for placement on a Class A or Class G motor vehicle
9 registered under the provisions of article three, chapter
10 seventeen-a of this code.

11 (3) The applicant shall specify whether he or she is
12 applying for a special registration plate, a removable
13 windshield placard or both on the application form prescribed
14 and furnished by the commissioner.

15 (4) The applicant shall submit, with the application, a
16 certificate issued by any physician, chiropractor, advanced
17 nurse practitioner or physician's assistant who is licensed in
18 this state, stating that the applicant has a mobility impairment
19 or that the applicant is an organization which regularly
20 transports a person with a mobility impairment as defined in
21 this section. The physician, chiropractor, advanced nurse
22 practitioner or physician's assistant shall specify in the
23 certificate whether the disability is temporary or permanent.
24 A disability which is temporary shall not exceed six months.
25 A disability which is permanent is one which is one to five
26 years or more in expected duration.

27 (5) Upon receipt of the completed application, the
28 physician's certificate and the regular registration fee for the
29 applicant's vehicle class, if the commissioner finds that the

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

47 (6) Organization which transport people with disabilities
48 will be provided with a placard which will permit them to
49 park in a designate area for the length of time necessary to
50 load and unload passengers. These vehicles must be moved
51 to a non-designated space once the loading or unloading
52 process is complete.

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

55 (1) A person or applicant with a "mobility impairment"
56 means a person who is a citizen of West Virginia and as
57 determined by a physician, allopath or osteopath
58 chiropractor, advanced nurse practitioner or physician's
59 assistant licensed to practice in West Virginia:

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

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

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

70 (D) Uses portable oxygen;

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

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

78 (2) "Special registration plate" means a registration plate
79 that displays the international symbol of access, as adopted
80 by the Rehabilitation International Organization in nineteen
81 hundred sixty-nine at its Eleventh World Congress on
82 Rehabilitation of the Disabled, in a color that contrasts with
83 the background, in letters and numbers the same size as those
84 on the plate, and which may be used in lieu of a regular
85 registration plate;

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

90 (A) The international symbol of access, measuring at
91 least three inches in height, centered on the placard, in white
92 on a blue background for permanent designations and in
93 white on a red background for temporary designations;

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

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

98 (D) The seal or other identifying symbol of the issuing
99 authority;

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

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

106 (6) "Public facility" means all or any part of any
107 buildings, structures, sites, complexes, roads, parking lots or
108 other real or personal property, including the site where the
109 facility is located;

110 (7) "Place or places of public accommodation" means a
111 facility or facilities operated by a private entity whose
112 operations affect commerce and fall within at least one of the
113 following categories:

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

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

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

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

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

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

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

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

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

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

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

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

145 (9) "Accessible parking" formerly known as
146 "handicapped parking" is the present phrase consistent with
147 language within the Americans with Disabilities Act (ADA).

148 (10) "Parking enforcement personnel" includes any law
149 enforcement officer as defined by section one, article twenty-
150 nine, chapter thirty of this code, and private security guards,
151 parking personnel and other personnel authorized by a city,
152 county or the state to issue parking citations.

153 Any person who falsely or fraudulently obtains or seeks
154 to obtain the special plate or the removable windshield
155 placard provided for in this section and any person who
156 falsely certifies that a person is mobility impaired in order
157 that an applicant may be issued the special registration plate
158 or windshield placard under this section is guilty of a
159 misdemeanor and, upon conviction thereof, in addition to any
160 other penalty he or she may otherwise incur, shall be fined
161 five hundred dollars. Any person who fabricates, uses or sells

162 unofficially issued windshield placards to any person or
163 organization is committing a fraudulent act and is guilty of a
164 misdemeanor and, upon conviction thereof, in addition to any
165 other penalty he or she may otherwise incur, shall be fined
166 five hundred dollars per placard fabricated, used or sold.
167 Any person who fabricates, uses or sells unofficially issued
168 identification cards to any person or organization is
169 committing a fraudulent act and is guilty of a misdemeanor
170 and, upon conviction thereof, in addition to any other penalty
171 he or she may otherwise incur, shall be fined seven hundred
172 dollars per identification card fabricated, used or sold. Any
173 person who fabricates, uses or sells unofficially issued labels
174 imprinted with a future expiration date to any person or
175 organization is committing a fraudulent act and is guilty of a
176 misdemeanor and, upon conviction thereof, in addition to any
177 other penalty he or she may otherwise incur, shall be fined
178 seven hundred dollars. Any person covered by this section
179 who sells or gives away their officially issued windshield
180 placard to any person or organization not qualified to apply
181 or receive the placard and then reapplies for a new placard on
182 the basis it was stolen is committing a fraudulent act and is
183 guilty of a misdemeanor and, upon conviction thereof, in
184 addition to any other penalty he, she or they may otherwise
185 incur, shall lose their right to receive or use a special placard
186 or special license plate for a period of not less than five years.

187 (c) The commissioner shall set the expiration date for
188 special registration plates and permanent removable
189 windshield placards on the last day of a given month and
190 year, to be valid for a minimum of one year but not more than
191 five years, after which time a new application must be
192 submitted to the commissioner. After the commissioner
193 receives the new application, signed by a certified physician,
194 chiropractor, advanced nurse practitioner or physician's
195 assistant, the commissioner shall issue: (i) A new special
196 registration plate or new permanent removable windshield
197 placard; or (ii) official labels imprinted with the new
198 expiration date and designed so as to be placed over the old
199 dates on the original registration plate or windshield placard.

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

204 (e) The commissioner shall issue to each applicant who
205 is granted a special registration plate or windshield placard an
206 identification card bearing the applicant's name, assigned
207 identification number and expiration date. The applicant
208 shall thereafter carry this identification card on his or her
209 person whenever parking in an accessible parking space. The
210 identification card shall be identical in design for both
211 registration plates and removable windshield placards.

212 (f) An accessible parking space should comply with the
213 provisions of the Americans with Disabilities Act
214 accessibility guidelines, contained in 28 C.F.R. 36,
215 Appendix A, Section 4.6. In particular, the parking space
216 should be a minimum of eight feet wide with an adjacent
217 eight-foot access aisle for vans having side mounted
218 hydraulic lifts or ramps or a five-foot access aisle for
219 standard vehicles. Access aisles should be marked using
220 diagonal two- to four-inch-wide stripes spaced every twelve
221 or twenty-four inches apart along with the words "no
222 parking" in painted letters which are at least twelve inches in
223 height. All accessible parking spaces must have a signpost
224 in front or adjacent to the accessible parking space displaying
225 the international symbol of access sign mounted at a
226 minimum of eight feet above the pavement or sidewalk and
227 the top of the sign. Lines or markings on the pavement or
228 curbs for parking spaces and access aisles may be in any
229 color, although blue is the generally accepted color for
230 accessible parking.

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

238 (h) Stopping, standing or parking places marked with the
239 international symbol of access shall be designated in close
240 proximity to all public entities, including state, county and
241 municipal buildings and facilities, places of public
242 accommodation and commercial facilities. These parking
243 places shall be reserved solely for persons with a mobility
244 impairment at all times.

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

258 The parking privileges provided for in this subsection
259 apply only during those times when the vehicle is being used
260 for the loading or unloading of a person with a mobility
261 impairment. Any person who knowingly exercises, or
262 attempts to exercise, these privileges at a time when the
263 vehicle is not being used for the loading or unloading of a
264 person with a mobility impairment is guilty of a
265 misdemeanor and, upon first conviction thereof, in addition
266 to any other penalty he or she may otherwise incur, shall be
267 fined two hundred dollars; upon second conviction thereof,
268 in addition to any other penalty he or she may otherwise
269 incur, shall be fined three hundred dollars; and upon third and
270 subsequent convictions thereof, in addition to any other
271 penalty he or she may otherwise incur, shall be fined five
272 hundred dollars.

273 (j) Any person whose vehicle does not display a valid,
274 special registration plate or removable windshield placard
275 may not stop, stand or park a motor vehicle in an area

276 designated, zoned or marked for accessible parking with
277 signs or instructions displaying the international symbol of
278 access, either by itself or with explanatory text. The signs
279 may be mounted on a post or a wall in front of the accessible
280 parking space and instructions may appear on the ground or
281 pavement, but use of both methods is preferred. Accessible
282 parking spaces for vans having an eight-foot adjacent access
283 aisle should be designated as "van accessible" but may be
284 used by any vehicle displaying a valid special registration
285 plate or removable windshield placard.

286 Any person who violates the provisions of this subsection
287 is guilty of a misdemeanor and, upon conviction thereof,
288 shall be fined two hundred dollars; upon second conviction
289 thereof, in addition to any other penalty he or she may
290 otherwise incur, shall be fined three hundred dollars; and
291 upon third and subsequent convictions thereof, in addition to
292 any other penalty he or she may otherwise incur, shall be
293 fined five hundred dollars.

294 (k) All signs that designate areas as " accessible parking"
295 or that display the international symbol of access shall also
296 include the words " Up to \$500 fine".

297 (l) No person may stop, stand or park a motor vehicle in
298 an area designated or marked off as an access aisle adjacent
299 to a van-accessible parking space or regular accessible
300 parking space. Any person, including a driver of a vehicle
301 displaying a valid removable windshield placard or special
302 registration plate, who violates the provisions of this
303 subsection is guilty of a misdemeanor and, upon conviction
304 thereof, shall be fined two hundred dollars; upon second
305 conviction thereof, in addition to any other penalty he or she
306 may otherwise incur, shall be fined three hundred dollars; and
307 upon third and subsequent convictions thereof, in addition to
308 any other penalty he or she may otherwise incur, shall be
309 fined five hundred dollars.

310 (m) Parking enforcement personnel who otherwise
311 enforce parking violations may issue citations for violations
312 of this section and shall reference the number on the vehicle's
313 license plate, since the driver normally will not be present.

314 (n) Law-enforcement agencies may establish a program
315 to use trained volunteers to collect information necessary to
316 issue citations to persons who illegally park in designated
317 accessible parking spaces. Any law-enforcement agency
318 choosing to establish a program shall provide for workers'
319 compensation and liability coverage. The volunteers shall
320 photograph the illegally parked vehicle and complete a form,
321 to be developed by supervising law-enforcement agencies,
322 that includes the vehicle's license plate number, date, time
323 and location of the illegally parked vehicle. The photographs
324 must show the vehicle in the accessible space and a readable
325 view of the license plate. Within the discretion of the
326 supervising law-enforcement agency, the volunteers may
327 issue citations or the volunteers may submit the photographs
328 of the illegally parked vehicle and the form to the supervising
329 law-enforcement agency, who may issue a citation, which
330 includes the photographs and the form, to the owner of the
331 illegally parked vehicle. Volunteers shall be trained on the
332 requirements for citations for vehicles parked in marked,
333 zoned or designated accessible parking areas by the
334 supervising law-enforcement agency.

335 (o) Local authorities who adopt the basic enforcement
336 provisions of this section and issue their own local
337 ordinances shall retain all fines and associated late fees.
338 These revenues shall be used first to fund the provisions of
339 subsection (n) of this section, if adopted by local authorities,
340 or otherwise shall go into the local authorities' general
341 revenue fund. Otherwise, any moneys collected as fines shall
342 be collected for and remitted to the state.

343 (p) The commissioner shall prepare and issue a document
344 to applicants describing the privileges accorded a vehicle
345 having a special registration plate and removable windshield
346 placard as well as the penalties when the vehicle is being
347 inappropriately used as described in this section and shall
348 include the document along with the issued special
349 registration plate or windshield placard. In addition, the
350 commissioner shall issue a separate document informing the
351 general public regarding the new provisions and increased
352 fines being imposed either by way of newspaper
353 announcements or other appropriate means across the state.

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354 (q) The commissioner shall adopt and promulgate rules
355 in accordance with the provisions of article three, chapter
356 twenty-nine-a of this code.

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



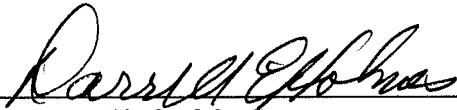
Chairman Senate Committee



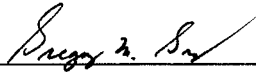
Chairman House Committee

Originating in the House.

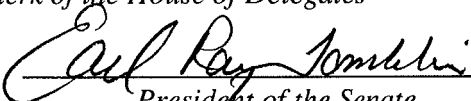
In effect ninety days from passage.




Clerk of the Senate



Clerk of the House of Delegates

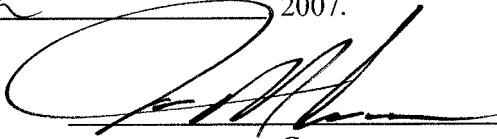


President of the Senate



Speaker of the House of Delegates

The within is approved this the 21st
day of March 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 15 2007

Time

3:50 pm