

FILED

2007 MAR 21 PM 4:34

OFFICE OF THE 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

F I L E D

E N R O L L E D

2007 MAR 21 PM 4:35

COMMITTEE SUBSTITUTE  
FOR

OFFICE OF 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.

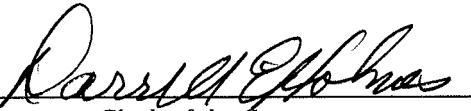
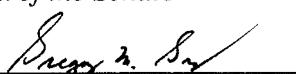
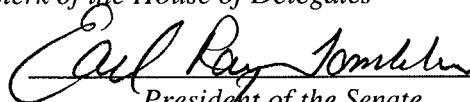
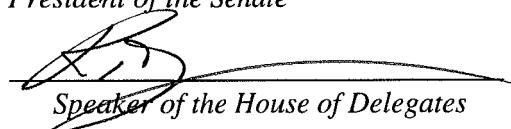
354       (q) The commissioner shall adopt and promulgate rules  
355      in accordance with the provisions of article three, chapter  
356      twenty-nine-a of this code.

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