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H. B. 4206

(By Delegates Iaquina, Longstreth, Fragale,
P. Smith, Storch, Cadle, Eldridge, Stephens,
Staggers, Cooper and Moore)

[Introduced January 17, 2014; referred to the
Committee on Roads and Transportation then the
Judiciary.]

A BILL to amend and reenact §17C-13-6 of the Code of West Virginia,
1931, as amended, relating to providing that "van accessible"
mobility impaired parking spaces may be used only by a van or
a vehicle that accommodates a side-loading wheelchair lift or
ramp; and penalty.

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.**

(a) (1) The commissioner may issue up to two special

1 registration plates or removable windshield placards to a person
2 with a mobility impairment or a West Virginia organization which
3 transports persons with disabilities and facilitates the mobility
4 of its customers, patients, students or persons otherwise placed
5 under its responsibility.

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

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

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

1 (5) Upon receipt of the completed application, the physician's
2 certificate and the regular registration fee for the applicant's
3 vehicle class, if the commissioner finds that the applicant
4 qualifies for the special registration plate or a removable
5 windshield placard as provided in this section, he or she shall
6 issue to the applicant a special registration plate (upon
7 remittance of the regular registration fee) or a removable
8 windshield placard (red for temporary and blue for permanent), or
9 both. Upon request, the commissioner shall also issue to any
10 otherwise qualified applicant one additional placard having the
11 same expiration date as the applicant's original placard. The
12 placard shall be displayed by hanging it from the interior rearview
13 mirror of the motor vehicle so that it is conspicuously visible
14 from outside the vehicle when parked in a designated accessible
15 parking space. The placard may be removed from the rearview mirror
16 whenever the vehicle is being operated to ensure clear vision and
17 safe driving. Only in the event that there is no suitable rearview
18 mirror in the vehicle may the placard be displayed on the dashboard
19 of the vehicle.

20 (6) Organization which transport people with disabilities will
21 be provided with a placard which will permit them to park in a
22 designate area for the length of time necessary to load and unload
23 passengers. These vehicles must be moved to a nondesignated space
24 once the loading or unloading process is complete.

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

3 (1) A person or applicant with a "mobility impairment" means
4 a person who is a citizen of West Virginia and as determined by a
5 physician, allopath or osteopath, chiropractor, advanced nurse
6 practitioner or physician's assistant licensed to practice in West
7 Virginia:

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

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

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

16 (D) Uses portable oxygen;

17 (E) Has a cardiac condition to such an extent that the
18 person's functional limitations are classified in severity as Class
19 III or Class IV according to standards established by the American
20 Heart Association; or

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

23 (2) "Special registration plate" means a registration plate
24 that displays the international symbol of access, as adopted by the

1 Rehabilitation International Organization in nineteen hundred
2 sixty-nine at its Eleventh World Congress on Rehabilitation of the
3 Disabled, in a color that contrasts with the background, in letters
4 and numbers the same size as those on the plate, and which may be
5 used in lieu of a regular registration plate;

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

9 (A) The international symbol of access, measuring at least
10 three inches in height, centered on the placard, in white on a blue
11 background for permanent designations and in white on a red
12 background for temporary designations;

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

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

16 (D) The seal or other identifying symbol of the issuing
17 authority;

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

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

23 (6) "Public facility" means all or any part of any buildings,
24 structures, sites, complexes, roads, parking lots or other real or

1 personal property, including the site where the facility is
2 located;

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

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

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

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

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

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

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

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

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

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

1 recreation;

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

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

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

12 (9) "Accessible parking" formerly known as "handicapped
13 parking" is the present phrase consistent with language within the
14 Americans with Disabilities Act (ADA).

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

20 Any person who falsely or fraudulently obtains or seeks to
21 obtain the special plate or the removable windshield placard
22 provided ~~for~~ in this section and any person who falsely certifies
23 that a person is mobility impaired in order that an applicant may
24 be issued the special registration plate or windshield placard

1 under this section is guilty of a misdemeanor and, upon conviction
2 thereof, in addition to any other penalty he or she may otherwise
3 incur, shall be fined \$500. Any person who fabricates, uses or
4 sells unofficially issued windshield placards to any person or
5 organization is committing a fraudulent act and is guilty of a
6 misdemeanor and, upon conviction thereof, in addition to any other
7 penalty he or she may otherwise incur, shall be fined \$500 per
8 placard fabricated, used or sold. Any person who fabricates, uses
9 or sells unofficially issued identification cards to any person or
10 organization is committing a fraudulent act and is guilty of a
11 misdemeanor and, upon conviction thereof, in addition to any other
12 penalty he or she may otherwise incur, shall be fined \$700 per
13 identification card fabricated, used or sold. Any person who
14 fabricates, uses or sells unofficially issued labels imprinted with
15 a future expiration date to any person or organization is
16 committing a fraudulent act and is guilty of a misdemeanor and,
17 upon conviction thereof, in addition to any other penalty he or she
18 may otherwise incur, shall be fined \$700. Any person covered by
19 this section who sells or gives away their officially issued
20 windshield placard to any person or organization not qualified to
21 apply or receive the placard and then reapplies for a new placard
22 on the basis it was stolen is committing a fraudulent act and is
23 guilty of a misdemeanor and, upon conviction thereof, in addition
24 to any other penalty he, she or they may otherwise incur, shall

1 lose their right to receive or use a special placard or special
2 license plate for a period of not less than five years.

3 (c) The commissioner shall set the expiration date for special
4 registration plates and permanent removable windshield placards on
5 the last day of a given month and year, to be valid for a minimum
6 of one year but not more than five years, after which time a new
7 application must be submitted to the commissioner. After the
8 commissioner receives the new application, signed by a certified
9 physician, chiropractor, advanced nurse practitioner or physician's
10 assistant, the commissioner shall issue: (i) A new special
11 registration plate or new permanent removable windshield placard;
12 or (ii) official labels imprinted with the new expiration date and
13 designed so as to be placed over the old dates on the original
14 registration plate or windshield placard.

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

19 (e) The commissioner shall issue to each applicant who is
20 granted a special registration plate or windshield placard an
21 identification card bearing the applicant's name, assigned
22 identification number and expiration date. The applicant shall
23 thereafter carry this identification card on his or her person
24 whenever parking in an accessible parking space. The

1 identification card shall be identical in design for both
2 registration plates and removable windshield placards.

3 (f) An accessible parking space should comply with the
4 provisions of the Americans with Disabilities Act accessibility
5 guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In
6 particular, the parking space should be a minimum of eight feet
7 wide with an adjacent eight-foot access aisle for vans having side
8 mounted hydraulic lifts or ramps or a five-foot access aisle for
9 standard vehicles. Access aisles should be marked using diagonal
10 two- to four-inch-wide stripes spaced every twelve or twenty-four
11 inches apart along with the words "no parking" in painted letters
12 which are at least twelve inches in height. All accessible parking
13 spaces must have a signpost in front or adjacent to the accessible
14 parking space displaying the international symbol of access sign
15 mounted at a minimum of eight feet above the pavement or sidewalk
16 and the top of the sign. Lines or markings on the pavement or
17 curbs for parking spaces and access aisles may be in any color,
18 although blue is the generally accepted color for accessible
19 parking.

20 (g) A vehicle from any other state, United States territory or
21 foreign country displaying an officially issued special
22 registration plate, placard or decal bearing the international
23 symbol of access shall be recognized and accepted as meeting the
24 requirements of this section, regardless of where the plate,

1 placard or decal is mounted or displayed on the vehicle.

2 (h) Stopping, standing or parking places marked with the
3 international symbol of access shall be designated in close
4 proximity to all public entities, including state, county and
5 municipal buildings and facilities, places of public accommodation
6 and commercial facilities. These parking places shall be reserved
7 solely for persons with a mobility impairment at all times.

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

21 The parking privileges provided ~~for~~ in this subsection apply
22 only during those times when the vehicle is being used for the
23 loading or unloading of a person with a mobility impairment. Any
24 person who knowingly exercises, or attempts to exercise, these

1 privileges at a time when the vehicle is not being used for the
2 loading or unloading of a person with a mobility impairment is
3 guilty of a misdemeanor and, upon first conviction thereof, in
4 addition to any other penalty he or she may otherwise incur, shall
5 be fined \$200; upon second conviction thereof, in addition to any
6 other penalty he or she may otherwise incur, shall be fined \$300;
7 and upon third and subsequent convictions thereof, in addition to
8 any other penalty he or she may otherwise incur, shall be fined
9 \$500.

10 (j) Any person whose vehicle does not display a valid, special
11 registration plate or removable windshield placard may not stop,
12 stand or park a motor vehicle in an area designated, zoned or
13 marked for accessible parking with signs or instructions displaying
14 the international symbol of access, either by itself or with
15 explanatory text. The signs may be mounted on a post or a wall in
16 front of the accessible parking space and instructions may appear
17 on the ground or pavement, but use of both methods is preferred.
18 Accessible parking spaces for vans having an eight-foot adjacent
19 access aisle ~~should~~ shall be designated as "van accessible" ~~but~~ and
20 may only be used by ~~any vehicle~~ a van or a vehicle that
21 accommodates a side-loading wheelchair lift or ramp ~~displaying~~ and
22 which displays a valid special registration plate or removable
23 windshield placard. Any person who violates the provisions of this
24 subsection is guilty of a misdemeanor and, upon conviction thereof,

1 shall be fined \$200; upon second conviction thereof, in addition to
2 any other penalty he or she may otherwise incur, shall be fined
3 \$300; and upon third and subsequent convictions thereof, in
4 addition to any other penalty he or she may otherwise incur, shall
5 be fined \$500.

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

9 (l) No person may stop, stand or park a motor vehicle in an
10 area designated or marked off as an access aisle adjacent to a van-
11 accessible parking space or regular accessible parking space. Any
12 person, including a driver of a vehicle displaying a valid
13 removable windshield placard or special registration plate, who
14 violates the provisions of this subsection is guilty of a
15 misdemeanor and, upon conviction thereof, shall be fined \$200; upon
16 second conviction thereof, in addition to any other penalty he or
17 she may otherwise incur, shall be fined \$300; and upon third and
18 subsequent convictions thereof, in addition to any other penalty he
19 or she may otherwise incur, shall be fined \$500.

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

24 (n) Law-enforcement agencies may establish a program to use

1 trained volunteers to collect information necessary to issue
2 citations to persons who illegally park in designated accessible
3 parking spaces. Any law-enforcement agency choosing to establish
4 a program shall provide for workers' compensation and liability
5 coverage. The volunteers shall photograph the illegally parked
6 vehicle and complete a form, to be developed by supervising law-
7 enforcement agencies, that includes the vehicle's license plate
8 number, date, time and location of the illegally parked vehicle.
9 The photographs must show the vehicle in the accessible space and
10 a readable view of the license plate. Within the discretion of the
11 supervising law-enforcement agency, the volunteers may issue
12 citations or the volunteers may submit the photographs of the
13 illegally parked vehicle and the form to the supervising law-
14 enforcement agency, who may issue a citation, which includes the
15 photographs and the form, to the owner of the illegally parked
16 vehicle. Volunteers shall be trained on the requirements for
17 citations for vehicles parked in marked, zoned or designated
18 accessible parking areas by the supervising law-enforcement agency.

19 (o) Local authorities who adopt the basic enforcement
20 provisions of this section and issue their own local ordinances
21 shall retain all fines and associated late fees. These revenues
22 shall be used first to fund the provisions of subsection (n) of
23 this section, if adopted by local authorities, or otherwise shall
24 go into the local authorities' General Revenue Fund. Otherwise,

1 any moneys collected as fines shall be collected for and remitted
2 to the state.

3 (p) The commissioner shall prepare and issue a document to
4 applicants describing the privileges accorded a vehicle having a
5 special registration plate and removable windshield placard as well
6 as the penalties when the vehicle is being inappropriately used as
7 described in this section and shall include the document along with
8 the issued special registration plate or windshield placard. In
9 addition, the commissioner shall issue a separate document
10 informing the general public regarding the new provisions and
11 increased fines being imposed either by way of newspaper
12 announcements or other appropriate means across the state.

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

NOTE: The purpose of this bill is to provide that "van accessible" mobility impaired parking spaces may be used only by a van or a vehicle that accommodates a side-loading wheelchair lift or ramp.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.