

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### Senate Bill 239

FISCAL  
NOTE

BY SENATORS BALDWIN AND JEFFRIES

[Introduced January 10, 2019; Referred  
to the Committee on Transportation and Infrastructure; and  
then to the Committee on Finance]

1 A BILL to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating  
 2 to mobility impairment identifying documents.

*Be it enacted by the Legislature of West Virginia:*

**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 and dashboard cards; expiration; application; violation;  
 penalties.**

1 (a) (1) The commissioner may issue up to two special registration plates or a combination  
 2 of removable windshield placards and dashboard cards to a person with a mobility impairment or  
 3 a West Virginia organization which transports persons with disabilities and facilitates the mobility  
 4 of its customers, patients, students or persons otherwise placed under its responsibility.

5 (2) Special registration plates, ~~or~~ placards or dashboard cards may only be issued for  
 6 placement on a Class A or Class G motor vehicle registered under the provisions of §17A-3-1 *et*  
 7 *seq.* of this code.

8 (3) The applicant shall specify whether he or she is applying for a special registration plate,  
 9 a removable windshield placard, a dashboard card or ~~both~~ any combination of these on the  
 10 application form prescribed and furnished by the commissioner.

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

19 (5) Upon receipt of the completed application, the physician's certificate and the regular  
20 registration fee for the applicant's vehicle class, if the commissioner finds that the applicant  
21 qualifies for the special registration plate or a removable windshield placard as provided in this  
22 section, he or she shall issue to the applicant a special registration plate (upon remittance of the  
23 regular registration fee), ~~or~~ a removable windshield placard (red for temporary and blue for  
24 permanent), a dashboard card, or ~~both~~ any combination of these. Upon request, the  
25 commissioner shall also issue to any otherwise qualified applicant one additional placard or  
26 dashboard card having the same expiration date as the applicant's original placard or card. The  
27 placard shall be displayed by hanging it from the interior rearview mirror of the motor vehicle so  
28 that it is conspicuously visible from outside the vehicle when parked in a designated accessible  
29 parking space. The placard may be removed from the rearview mirror whenever the vehicle is  
30 being operated to ensure clear vision and safe driving. Only in the event that there is no suitable  
31 rearview mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.  
32 Dashboard cards shall be placed upon the dashboard in a conspicuously visible location.

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

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

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

42 (A) Cannot walk 200 feet without stopping to rest;

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

45 (C) Is restricted by lung disease to such an extent that the person's force (respiratory)  
46 expiratory volume for one second, when measured by spirometry, is less than one liter or the  
47 arterial oxygen tension is less than 60 mm/hg on room air at rest;

48 (D) Uses portable oxygen;

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

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

54 (2) "Special registration plate" means a registration plate that displays the international  
55 symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its  
56 Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the  
57 background, in letters and numbers the same size as those on the plate, and which may be used  
58 in lieu of a regular registration plate;

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

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

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

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

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

68 (4) "Dashboard card" (permanent or temporary) means a two-sided, wallet-sized card  
69 measuring three and three-eighths inches by two and one-eighth inches, with all of the following  
70 on each side:

71 (A) The international symbol of access, measuring at least two inches in height, centered  
72 on the placard, in white on a blue background for permanent designations and in white on a red  
73 background for temporary designations;

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

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

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

77 ~~(4)~~ (5) “Regular registration fee” means the standard registration fee for a vehicle of the  
78 same class as the applicant's vehicle;

79 ~~(5)~~ (6) “Public entity” means state or local government or any department, agency, special  
80 purpose district or other instrumentality of a state or local government;

81 ~~(6)~~ (7) “Public facility” means all or any part of any buildings, structures, sites, complexes,  
82 roads, parking lots or other real or personal property, including the site where the facility is located;

83 ~~(7)~~ (8) “Place or places of public accommodation” means a facility or facilities operated by  
84 a private entity whose operations affect commerce and fall within at least one of the following  
85 categories:

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

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

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

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

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

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

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

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

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

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

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

105 ~~(8)~~ (9) "Commercial facility" means a facility whose operations affect commerce and which  
106 are intended for nonresidential use by a private entity;

107 ~~(9)~~ (10) "Accessible parking" formerly known as "handicapped parking" is the present  
108 phrase consistent with language within the Americans with Disabilities Act (ADA).

109 ~~(10)~~ (11) "Parking enforcement personnel" includes any law-enforcement officer as  
110 defined by §30-29-1 of this code, and private security guards, parking personnel and other  
111 personnel authorized by a city, county, or the state to issue parking citations.

112 Any person who falsely or fraudulently obtains or seeks to obtain the special plate, ~~or the~~  
113 removable windshield placard, or dashboard card provided for in this section and any person who  
114 falsely certifies that a person is mobility impaired in order that an applicant may be issued the  
115 special registration plate or windshield placard under this section is guilty of a misdemeanor and,  
116 upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be  
117 fined \$500. Any person who fabricates, uses or sells unofficially issued dashboard cards or  
118 windshield placards to any person or organization is committing a fraudulent act and is guilty of a  
119 misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may  
120 otherwise incur, shall be fined \$500 per placard fabricated, used or sold. Any person who  
121 fabricates, uses or sells unofficially issued identification cards to any person or organization is  
122 committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in

123 addition to any other penalty he or she may otherwise incur, shall be fined \$700 per identification  
124 card fabricated, used or sold. Any person who fabricates, uses or sells unofficially issued labels  
125 imprinted with a future expiration date to any person or organization is committing a fraudulent  
126 act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty  
127 he or she may otherwise incur, shall be fined \$700. Any person covered by this section who sells  
128 or gives away their officially issued windshield placard or dashboard card to any person or  
129 organization not qualified to apply or receive the placard or card and then reapplies for a new  
130 placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor  
131 and, upon conviction thereof, in addition to any other penalty he she or they may otherwise incur,  
132 shall lose their right to receive or use a special placard, card, or special license plate for a period  
133 of not less than five years.

134 (c) The commissioner shall set the expiration date for special registration plates, ~~and~~  
135 permanent removable windshield placards, and dashboard cards on the last day of a given month  
136 and year, to be valid for a minimum of one year but not more than five years, after which time a  
137 new application must be submitted to the commissioner. After the commissioner receives the new  
138 application, signed by a certified physician, chiropractor, advanced nurse practitioner or  
139 physician's assistant, the commissioner shall issue: (i) A new special registration plate, ~~or~~ new  
140 permanent removable windshield placard, or new dashboard card; or (ii) official labels imprinted  
141 with the new expiration date and designed so as to be placed over the old dates on the original  
142 registration plate, ~~or~~ windshield placard, or dashboard card.

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

146 (e) The commissioner shall issue to each applicant who is granted a special registration  
147 plate or windshield placard an identification card bearing the applicant's name, assigned  
148 identification number and expiration date. The applicant shall thereafter carry this identification

149 card on his or her person whenever parking in an accessible parking space. The identification  
150 card shall be identical in design for both registration plates and removable windshield placards. If  
151 the applicant prefers to receive a dashboard card, the identification card issued by the  
152 commissioner shall be affixed to the back side of the dashboard card.

153 (f) An accessible parking space should comply with the provisions of the Americans with  
154 Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In  
155 particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot  
156 access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for  
157 standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes  
158 spaced every 12 or 24 inches apart along with the words "no parking" in painted letters which are  
159 at least 12 inches in height. All accessible parking spaces must have a signpost in front or  
160 adjacent to the accessible parking space displaying the international symbol of access sign  
161 mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines  
162 or markings on the pavement or curbs for parking spaces and access aisles may be in any color,  
163 although blue is the generally accepted color for accessible parking.

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

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

172 (i) Any person whose vehicle properly displays a valid, unexpired special registration plate,  
173 ~~or~~ removable windshield placard, or dashboard card may park the vehicle for unlimited periods of  
174 time in parking zones unrestricted as to length of parking time permitted: *Provided*, That this

175 privilege does not mean that the vehicle may park in any zone where stopping, standing or parking  
176 is prohibited or which creates parking zones for special types of vehicles or which prohibits parking  
177 during heavy traffic periods during specified rush hours or where parking would clearly present a  
178 traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state  
179 is contrary to the provisions of this section, the provisions of this section take precedence and  
180 apply.

181         The parking privileges provided for in this subsection apply only during those times when  
182 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any  
183 person who knowingly exercises, or attempts to exercise, these privileges at a time when the  
184 vehicle is not being used for the loading or unloading of a person with a mobility impairment is  
185 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or  
186 she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any  
187 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent  
188 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined  
189 \$500.

190         (j) Any person whose vehicle does not display a valid, special registration plate, ~~or~~  
191 removable windshield placard, or dashboard card may not stop, stand or park a motor vehicle in  
192 an area designated, zoned or marked for accessible parking with signs or instructions displaying  
193 the international symbol of access, either by itself or with explanatory text. The signs may be  
194 mounted on a post or a wall in front of the accessible parking space and instructions may appear  
195 on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for  
196 vans having an eight-foot adjacent access aisle should be designated as "van accessible" but  
197 may be used by any vehicle displaying a valid special registration plate or removable windshield  
198 placard.

199         Any person who violates the provisions of this subsection is guilty of a misdemeanor and,  
200 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any

201 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent  
202 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined  
203 \$500.

204 (k) All signs that designate areas as “accessible parking” or that display the international  
205 symbol of access shall also include the words “Up to \$500 fine”.

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

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

217 (n) Law-enforcement agencies may establish a program to use trained volunteers to  
218 collect information necessary to issue citations to persons who illegally park in designated  
219 accessible parking spaces. Any law-enforcement agency choosing to establish a program shall  
220 provide for workers' compensation and liability coverage. The volunteers shall photograph the  
221 illegally parked vehicle and complete a form, to be developed by supervising law-enforcement  
222 agencies, that includes the vehicle's license plate number, date, time and location of the illegally  
223 parked vehicle. The photographs must show the vehicle in the accessible space and a readable  
224 view of the license plate. Within the discretion of the supervising law-enforcement agency, the  
225 volunteers may issue citations or the volunteers may submit the photographs of the illegally  
226 parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation,

227 which includes the photographs and the form, to the owner of the illegally parked vehicle.  
228 Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned  
229 or designated accessible parking areas by the supervising law-enforcement agency.

230 (o) Local authorities who adopt the basic enforcement provisions of this section and issue  
231 their own local ordinances shall retain all fines and associated late fees. These revenues shall be  
232 used first to fund the provisions of §17C-13-6(n) of this code, if adopted by local authorities, or  
233 otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys  
234 collected as fines shall be collected for and remitted to the state.

235 (p) The commissioner shall prepare and issue a document to applicants describing the  
236 privileges accorded a vehicle having a special registration plate, ~~and~~ removable windshield  
237 placard, or dashboard card as well as the penalties when the vehicle is being inappropriately used  
238 as described in this section and shall include the document along with the issued special  
239 registration plate, ~~or~~ windshield placard or dashboard card. In addition, the commissioner shall  
240 issue a separate document informing the general public regarding the new provisions and  
241 increased fines being imposed either by way of newspaper announcements or other appropriate  
242 means across the state.

243 (q) The commissioner shall adopt and promulgate rules in accordance with the provisions  
244 of §29A-3-1 *et seq.* of this code.

NOTE: The purpose of this bill is to allow people with disabilities to request a wallet-sized disability placard instead of one that hangs from a vehicle's rearview mirror.

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