

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 2877

BY DELEGATES P. MARTIN AND C. MARTIN

[Originating in the Committee on the Judiciary;

January 8, 2020.]

1 A BILL to amend and reenact §17C-13-6 of the Code of West Virginia, as amended, relating to
2 prohibiting public entities, including state, county and municipal buildings and facilities,
3 places of public accommodation and commercial facilities, from charging a fee for parking
4 in an accessible parking space bearing the international symbol of access.

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; expiration; application; violation; penalties.

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

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

8 (3) The applicant shall specify whether he or she is applying for a special registration plate,
9 a removable windshield placard or both on the application form prescribed and furnished by the
10 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), or both. Upon request, the commissioner shall also issue to any otherwise qualified
25 applicant one additional placard having the same expiration date as the applicant's original
26 placard. The placard shall be displayed by hanging it from the interior rearview mirror of the motor
27 vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated
28 accessible parking space. The placard may be removed from the rearview mirror whenever the
29 vehicle is being operated to ensure clear vision and safe driving. Only ~~in the event that~~ if there is
30 no suitable rearview mirror in the vehicle may the placard be displayed on the dashboard of the
31 vehicle.

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

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

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

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

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

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

47 (D) Uses portable oxygen;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

99 (10) "Parking enforcement personnel" includes any law-enforcement officer as defined by
100 §30-29-1 of this code, and private security guards, parking personnel and other personnel
101 authorized by a city, county or the state to issue parking citations.

102 Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the
103 removable windshield placard provided for in this section and any person who falsely certifies that
104 a person is mobility impaired in order that an applicant may be issued the special registration
105 plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction
106 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500. Any
107 person who fabricates, uses or sells unofficially issued windshield placards to any person or
108 organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction
109 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500 per
110 placard fabricated, used or sold. Any person who fabricates, uses or sells unofficially issued
111 identification cards to any person or organization is committing a fraudulent act and is guilty of a
112 misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may
113 otherwise incur, shall be fined \$700 per identification card fabricated, used or sold. Any person
114 who fabricates, uses or sells unofficially issued labels imprinted with a future expiration date to
115 any person or organization is committing a fraudulent act and 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 \$700. Any person covered by this section who sells or gives away their officially issued
118 windshield placard to any person or organization not qualified to apply or receive the placard and

119 then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is
120 guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she,
121 she or they may otherwise incur, shall lose their right to receive or use a special placard or special
122 license plate for a period of not less than five years.

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

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

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

139 (f) An accessible parking space should comply with the provisions of the Americans with
140 Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. ~~In~~
141 ~~particular, the~~ The parking space should be a minimum of eight feet wide with an adjacent eight-
142 foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle
143 for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide
144 stripes spaced every 12 or 24 inches apart along with the words "no parking" in painted letters

145 which are at least 12 inches in height. All accessible parking spaces must have a signpost in front
146 or adjacent to the accessible parking space displaying the international symbol of access sign
147 mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines
148 or markings on the pavement or curbs for parking spaces and access aisles may be in any color,
149 although blue is the generally accepted color for accessible parking.

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

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

158 (i) Notwithstanding any provision of this code to the contrary, no public entity shall install
159 or maintain a parking meter in an accessible parking space bearing the international symbol of
160 access.

161 (†) (j) Any person whose vehicle properly displays a valid, unexpired special registration
162 plate or removable windshield placard may park the vehicle for unlimited periods of time in parking
163 zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not
164 mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or
165 which creates parking zones for special types of vehicles or which prohibits parking during heavy
166 traffic periods during specified rush hours or where parking would clearly present a traffic hazard.
167 To the extent any provision of any ordinance of any political subdivision of this state is contrary to
168 the provisions of this section, the provisions of this section take precedence and apply.

169 The parking privileges provided for in this subsection apply only during those times when
170 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any

171 person who knowingly exercises, or attempts to exercise, these privileges at a time when the
172 vehicle is not being used for the loading or unloading of a person with a mobility impairment is
173 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or
174 she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any
175 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
176 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
177 \$500.

178 ~~(j)~~ (k) Any person whose vehicle does not display a valid, special registration plate or
179 removable windshield placard may not stop, stand or park a motor vehicle in an area designated,
180 zoned or marked for accessible parking with signs or instructions displaying the international
181 symbol of access, either by itself or with explanatory text. The signs may be mounted on a post
182 or a wall in front of the accessible parking space and instructions may appear on the ground or
183 pavement but use of both methods is preferred. Accessible parking spaces for vans having an
184 eight-foot adjacent access aisle should be designated as “van accessible” but may be used by
185 any vehicle displaying a valid special registration plate or removable windshield placard.

186 Any person who violates the provisions of this subsection is guilty of a misdemeanor and,
187 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any
188 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
189 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
190 \$500.

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

193 ~~(l)~~ (m) No person may stop, stand or park a motor vehicle in an area designated or marked
194 off as an access aisle adjacent to a van-accessible parking space or regular accessible parking
195 space. Any person, including a driver of a vehicle displaying a valid removable windshield placard
196 or special registration plate, who violates the provisions of this subsection is guilty of a

197 misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof,
198 in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third
199 and subsequent convictions thereof, in addition to any other penalty he or she may otherwise
200 incur, shall be fined \$500.

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

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

217 ~~(o)~~ (p) Local authorities who adopt the basic enforcement provisions of this section and
218 issue their own local ordinances shall retain all fines and associated late fees. These revenues
219 shall be used first to fund the provisions of subsection (n) of this section, if adopted by local
220 authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise,
221 any moneys collected as fines shall be collected for and remitted to the state.

222 ~~(p)~~ (q) The commissioner shall prepare and issue a document to applicants describing the
223 privileges accorded a vehicle having a special registration plate and removable windshield placard
224 as well as the penalties when the vehicle is being inappropriately used as described in this section
225 and shall include the document along with the issued special registration plate or windshield
226 placard. In addition, the commissioner shall issue a separate document informing the general
227 public regarding the new provisions and increased fines being imposed either by way of
228 newspaper announcements or other appropriate means across the state.

229 ~~(q)~~ (r) The commissioner shall adopt and promulgate rules in accordance with the
230 provisions of article three, Chapter 29-a of this code.

NOTE: The purpose of this bill is to prohibit public entities, including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities, from charging a fee for parking in an accessible parking space bearing the international symbol of access.

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