

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 88

**FISCAL
NOTE**

BY SENATOR BALDWIN

[Introduced January 8, 2020; 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; disabled veterans; 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) Organization 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 two hundred 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 sixty 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) "Regular registration fee" means the standard registration fee for a vehicle of the same
69 class as the applicant's vehicle;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

122 and, upon conviction thereof, in addition to any other penalty he or she, or they may otherwise
123 incur, shall lose their right to receive or use a special placard, card, or special license plate for a
124 period of not less than five years.

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

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

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

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

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

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 displaying a disabled veterans special registration plate issued pursuant to
165 §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of
166 this section.

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

171 (i) Stopping, standing or parking places marked with the international symbol of access
172 shall be designated in close proximity to all public entities, including state, county and municipal
173 buildings and facilities, places of public accommodation and commercial facilities. These parking

174 places shall be reserved solely for persons with a mobility impairment and disabled veterans at
175 all times.

176 (j) Any person whose vehicle properly displays a valid, unexpired special registration plate,
177 ~~or~~ removable windshield placard, or dashboard card may park the vehicle for unlimited periods of
178 time in parking zones unrestricted as to length of parking time permitted: *Provided*, That this
179 privilege does not mean that the vehicle may park in any zone where stopping, standing or parking
180 is prohibited or which creates parking zones for special types of vehicles or which prohibits parking
181 during heavy traffic periods during specified rush hours or where parking would clearly present a
182 traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state
183 is contrary to the provisions of this section, the provisions of this section take precedence and
184 apply.

185 The parking privileges provided for in this subsection apply only during those times when
186 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any
187 person who knowingly exercises, or attempts to exercise, these privileges at a time when the
188 vehicle is not being used for the loading or unloading of a person with a mobility impairment is
189 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or
190 she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any
191 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
192 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
193 \$500.

194 (k) Any person whose vehicle does not display a valid, special registration plate or
195 removable windshield placard, or dashboard card may not stop, stand or park a motor vehicle in
196 an area designated, zoned or marked for accessible parking with signs or instructions displaying
197 the international symbol of access, either by itself or with explanatory text. The signs may be
198 mounted on a post or a wall in front of the accessible parking space and instructions may appear
199 on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for

200 vans having an eight-foot adjacent access aisle should be designated as “van accessible” but
201 may be used by any vehicle displaying a valid special registration plate or removable windshield
202 placard.

203 Any person who violates the provisions of this subsection is guilty of a misdemeanor and,
204 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any
205 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
206 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
207 \$500.

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

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

218 (n) Parking enforcement personnel who otherwise enforce parking violations may issue
219 citations for violations of this section and shall reference the number on the vehicle’s license plate,
220 since the driver normally will not be present.

221 (o) Law-enforcement agencies may establish a program to use trained volunteers to
222 collect information necessary to issue citations to persons who illegally park in designated
223 accessible parking spaces. Any law-enforcement agency choosing to establish a program shall
224 provide for workers’ compensation and liability coverage. The volunteers shall photograph the
225 illegally parked vehicle and complete a form, to be developed by supervising law-enforcement

226 agencies, that includes the vehicle's license plate number, date, time and location of the illegally
227 parked vehicle. The photographs must show the vehicle in the accessible space and a readable
228 view of the license plate. Within the discretion of the supervising law-enforcement agency, the
229 volunteers may issue citations or the volunteers may submit the photographs of the illegally
230 parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation,
231 which includes the photographs and the form, to the owner of the illegally parked vehicle.
232 Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned
233 or designated accessible parking areas by the supervising law-enforcement agency.

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

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

247 (r) The commissioner shall adopt and promulgate rules in accordance with the provisions
248 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.