

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 112

BY SENATORS BALDWIN AND ROMANO

[Introduced February 10, 2021; 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 removable
2 windshield placards and dashboard cards to a person with a mobility impairment or a West
3 Virginia organization which transports persons with disabilities and facilitates the mobility of its
4 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, ~~or both~~ a dashboard card or 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 is one expected
17 to last for a limited duration and improve during the applicant's life. A disability which is permanent
18 is one which is expected to last during the duration of the applicant's life.

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~~ a dashboard card, or any combination of these. Upon request, the
25 commissioner shall also issue to any otherwise qualified applicant one additional placard having
26 the same expiration date as the applicant's original placard or card. The placard shall be displayed
27 by hanging it from the interior rearview mirror of the motor vehicle so that it is conspicuously visible
28 from outside the vehicle when parked in a designated accessible parking space. The placard may
29 be removed from the rearview mirror whenever the vehicle is being operated to ensure clear vision
30 and safe driving. Only in the event that there is no suitable rearview mirror in the vehicle may the
31 placard be displayed on the dashboard of the vehicle. Dashboard cards shall be placed upon the
32 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 designated 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) "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
74 located;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 (D) The seal or other identifying symbol of the issuing authority.

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

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

135 (c) The commissioner shall set the expiration date for special registration plates and
136 permanent removable windshield placards , and dashboard cards on the last day of a given month
137 and year, to be valid for a minimum of one year but not more than five years, after which time a
138 new application must be submitted to the commissioner. After the commissioner receives the new
139 application, signed by a certified physician, chiropractor, advanced nurse practitioner, or
140 physician's assistant if required under this subsection, the commissioner shall issue: (i) A new
141 special registration plate or new permanent removable windshield placard; , or new dashboard
142 card, or (ii) official labels imprinted with the new expiration date and designed so as to be placed
143 over the old dates on the original registration plate or windshield placard, or dashboard card:
144 *Provided,* That a new application under this subsection must not be accompanied by a certificate
145 pursuant to §17C-13-6(a)(4) of this code if a prior application is on file with the commissioner,
146 such application includes a certificate issued pursuant to §17C-13-6(a)(4) of this code, such
147 certificate specifies that the applicant's disability is permanent for life, and such certificate was
148 made within 10 years of the new application.

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

152 (e) The commissioner shall issue to each applicant who is granted a special registration
153 plate or windshield placard an identification card bearing the applicant's name, assigned
154 identification number, and expiration date. The applicant shall thereafter carry this identification
155 card on his or her person whenever parking in an accessible parking space. The identification
156 card shall be identical in design for both registration plates and removable windshield placards. If
157 the applicant prefers to receive a dashboard card, the identification card issued by the
158 commissioner shall be affixed to the back side of the dashboard card.

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

170 (g) A vehicle displaying a disabled veterans special registration plate issued pursuant to
171 §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of
172 this section.

173 (h) A vehicle from any other state, United States territory, or foreign country displaying an
174 officially issued special registration plate, placard, or decal bearing the international symbol of

175 access shall be recognized and accepted as meeting the requirements of this section, regardless
176 of where the plate, placard, or decal is mounted or displayed on the vehicle.

177 (i) Stopping, standing or parking places marked with the international symbol of access
178 shall be designated in close proximity to all public entities, including state, county, and municipal
179 buildings and facilities, places of public accommodation, and commercial facilities. These parking
180 places shall be reserved solely for persons with a mobility impairment and disabled veterans at
181 all times.

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

191 The parking privileges provided for in this subsection apply only during those times when
192 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any
193 person who knowingly exercises, or attempts to exercise, these privileges at a time when the
194 vehicle is not being used for the loading or unloading of a person with a mobility impairment is
195 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or
196 she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any
197 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
198 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
199 \$500.

200 (k) Any person whose vehicle does not display a valid, special registration plate or

201 removable windshield placard, or dashboard card may not stop, stand, or park a motor vehicle in
202 an area designated, zoned, or marked for accessible parking with signs or instructions displaying
203 the international symbol of access, either by itself or with explanatory text. The signs may be
204 mounted on a post or a wall in front of the accessible parking space and instructions may appear
205 on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for
206 vans having an eight-foot adjacent access aisle should be designated as “van accessible” but
207 may be used by any vehicle displaying a valid special registration plate or removable windshield
208 placard.

209 Any person who violates the provisions of this subsection is guilty of a misdemeanor and,
210 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any
211 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
212 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
213 \$500.

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

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

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

227 (o) Law-enforcement agencies may establish a program to use trained volunteers to
228 collect information necessary to issue citations to persons who illegally park in designated
229 accessible parking spaces. Any law-enforcement agency choosing to establish a program shall
230 provide for workers' compensation and liability coverage. The volunteers shall photograph the
231 illegally parked vehicle and complete a form, to be developed by supervising law-enforcement
232 agencies, that includes the vehicle's license plate number, date, time, and location of the illegally
233 parked vehicle. The photographs must show the vehicle in the accessible space and a readable
234 view of the license plate. Within the discretion of the supervising law-enforcement agency, the
235 volunteers may issue citations or the volunteers may submit the photographs of the illegally
236 parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation,
237 which includes the photographs and the form, to the owner of the illegally parked vehicle.
238 Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned,
239 or designated accessible parking areas by the supervising law-enforcement agency.

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

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

253 (r) The commissioner shall propose rules for legislative approval in accordance with the
254 provisions 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.