

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 5680

FISCAL  
NOTE

By Delegate Mallow

[Introduced February 13, 2024; Referred to the  
Committee on Technology and Infrastructure]

1 A BILL to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended,  
 2 relating to designated accessible parking for persons with a mobility impairment; increasing  
 3 certain penalties for illegally parking, stopping, standing or blocking access to a designated  
 4 accessible parking space, or illegally creating, obtaining and use of special plates or windshield  
 5 cards issued to mobility impaired persons; establishing a program to increase public awareness of  
 6 the applicable law, criminal penalties and the consequences of illegally parking, stopping or  
 7 standing in designated accessible parking spaces and illegally creating, obtaining and using of  
 8 special plates or windshield cards issued to mobility impaired persons.

*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; 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 §17A-3-1 *et seq.* of this code.

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

10 (4) The applicant shall submit, with the application, a certificate issued by any physician,  
 11 chiropractor, advanced nurse practitioner, or physician’s assistant who is licensed in this state,  
 12 stating that the applicant has a mobility impairment, or that the applicant is an organization which  
 13 regularly transports a person with a mobility impairment as defined in this section. The physician,

14 chiropractor, advanced nurse practitioner, or physician's assistant shall specify in the certificate  
15 whether the disability is temporary or permanent. A disability which is temporary is one expected  
16 to last for a limited duration and improve during the applicant's life. A disability which is permanent  
17 is one which is expected to last during the duration of the applicant's life.

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

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

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

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

- 40 (A) Cannot walk 200 feet without stopping to rest;
- 41 (B) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic  
42 device, wheelchair, other assistive device, or another person;
- 43 (C) Is restricted by lung disease to such an extent that the person's force (respiratory)  
44 expiratory volume for one second, when measured by spirometry, is less than one liter or the  
45 arterial oxygen tension is less than 60 mm/hg on room air at rest;
- 46 (D) Uses portable oxygen;
- 47 (E) Has a cardiac condition to such an extent that the person's functional limitations are  
48 classified in severity as Class III or Class IV according to standards established by the American  
49 Heart Association; or
- 50 (F) Is severely limited in his or her ability to walk because of an arthritic, neurological, or  
51 other orthopedic condition;
- 52 (2) "Special registration plate" means a registration plate that displays the international  
53 symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its  
54 Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the  
55 background, in letters and numbers the same size as those on the plate, and which may be used in  
56 lieu of a regular registration plate;
- 57 (3) "Removable windshield placard" (permanent or temporary) means a two-sided,  
58 hanger-style placard measuring three inches by nine and one-half inches, with all of the following  
59 on each side:
- 60 (A) The international symbol of access, measuring at least three inches in height, centered  
61 on the placard, in white on a blue background for permanent designations and in white on a red  
62 background for temporary designations;
- 63 (B) An identification number measuring one inch in height;
- 64 (C) An expiration date in numbers measuring one inch in height for a temporary placard;
- 65 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  
73 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 are  
97 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 provided for in this section, and any person who falsely certifies that  
105 a person is mobility impaired in order that an applicant may be issued the special registration plate  
106 or windshield placard under this section is guilty of a misdemeanor and, upon conviction thereof, in  
107 addition to any other penalty he or she may otherwise incur, shall be fined ~~\$500~~ \$750. Any person  
108 who fabricates, uses, or sells unofficially issued windshield placards to any person or organization  
109 is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in  
110 addition to any other penalty he or she may otherwise incur, shall be fined ~~\$500~~ \$750 per placard  
111 fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued identification  
112 cards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor  
113 and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall  
114 be fined ~~\$700~~ \$1000 per identification card fabricated, used, or sold. Any person who fabricates,  
115 uses, or sells unofficially issued labels imprinted with a future expiration date to any person or  
116 organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction  
117 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined ~~\$700~~ \$1000.

118 Any person covered by this section who sells or gives away their officially issued windshield  
119 placard to any person or organization not qualified to apply for or receive the placard and then  
120 reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is guilty of  
121 a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she, or they  
122 may otherwise incur, shall lose their right to receive or use a special placard or special license  
123 plate for a period of not less than five years.

124 (c) The commissioner shall set the expiration date for special registration plates on the last  
125 day of a given month and year, to be valid for a minimum of one year but not more than five years,  
126 after which time a new application must be submitted to the commissioner. After the commissioner  
127 receives the new application, signed by a certified physician, chiropractor, advanced nurse  
128 practitioner, or physician's assistant if required under this subsection, the commissioner shall  
129 issue: (i) A new special registration plate or new permanent or temporary removable windshield  
130 placard; or (ii) official labels imprinted with the new expiration date and designed so as to be  
131 placed over the old dates on the original registration plate or windshield placard: *Provided*, That a  
132 new application under this subsection must not be accompanied by a certificate pursuant to §17C-  
133 13-6(a)(4) of this code if a prior application is on file with the commissioner, such application  
134 includes a certificate issued pursuant to §17C-13-6(a)(4) of this code, such certificate specifies  
135 that the applicant's disability is permanent for life, and such certificate was made within 10 years of  
136 the new application.

137 (d) The commissioner shall set the expiration date of temporary removable windshield  
138 placards to be valid for a period of approximately six months after the application was received and  
139 approved by the commissioner. Permanent removable windshield placards are valid for the  
140 duration of the applicant's life.

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

144 card on his or her person whenever parking in an accessible parking space. The identification card  
145 shall be identical in design for both registration plates and removable windshield placards.

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

157 (g) A vehicle displaying a disabled veterans special registration plate issued pursuant to  
158 §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of this  
159 section.

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

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

169 (j) Any person whose vehicle properly displays a valid, unexpired special registration plate



170 or removable windshield placard may park the vehicle for unlimited periods of time in parking  
171 zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not  
172 mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or  
173 which creates parking zones for special types of vehicles or which prohibits parking during heavy  
174 traffic periods during specified rush hours or where parking would clearly present a traffic hazard.  
175 To the extent any provision of any ordinance of any political subdivision of this state is contrary to  
176 the provisions of this section, the provisions of this section take precedence and apply.

177         The parking privileges provided for in this subsection apply only during those times when  
178 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any  
179 person who knowingly exercises, or attempts to exercise, these privileges at a time when the  
180 vehicle is not being used for the loading or unloading of a person with a mobility impairment is  
181 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or  
182 she may otherwise incur, shall be fined ~~\$200~~ \$300; upon second conviction thereof, in addition to  
183 any other penalty he or she may otherwise incur, shall be fined ~~\$300~~ \$400; and upon third and  
184 subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur,  
185 shall be fined \$500.

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

194         Any person who violates the provisions of this subsection is guilty of a misdemeanor and,  
195 upon conviction thereof, shall be fined ~~\$200~~ \$300; upon second conviction thereof, in addition to

196 any other penalty he or she may otherwise incur, shall be fined ~~\$300~~ \$400; and upon third and  
197 subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur,  
198 shall be fined \$500.

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

201 (m) No person may stop, stand, or park a motor vehicle in an area designated or marked off  
202 as an access aisle adjacent to a van-accessible parking space or regular accessible parking  
203 space. Any person, including a driver of a vehicle displaying a valid removable windshield placard  
204 or special registration plate, who violates the provisions of this subsection is guilty of a  
205 misdemeanor and, upon conviction thereof, shall be fined ~~\$200~~ \$300; upon second conviction  
206 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined ~~\$300~~ \$400;  
207 and upon third and subsequent convictions thereof, in addition to any other penalty he or she may  
208 otherwise incur, shall be fined \$500.

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

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

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

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

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

237 (r) The commissioner shall establish and implement a program to promote and increase  
238 public awareness of the applicable law and the consequences of illegally parking, stopping or  
239 standing in designated accessible parking spaces, illegally creating, obtaining and using of special  
240 plates or windshield cards issued to mobility impaired persons and methods of enforcement of the  
241 provisions of this section, including the following:

242 (A) The prohibitions in this section against illegally parking, stopping, standing or blocking  
243 access to a designated accessible parking space and the penalties for violation of the provisions of  
244 this section;

245 (B) The availability and contact information of programs established by law enforcement  
246 agencies to use trained volunteers for assisting in enforcement of the provisions of this section;

247 (C) The prohibitions in this section against illegally creating, obtaining, and using of special

248 plates or windshield cards issued to mobility impaired persons

249 (D) The consequences of illegally parking, stopping, standing or blocking access to a  
250 designated accessible parking space with regard to disabled persons denied access thereto,  
251 including inconvenience, hardship and possible delay or denial of medical care, which may result  
252 in injury, illness or even death;

253 ~~(F)~~ (S) 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 increase certain criminal penalties for unlawful use of designated accessible parking spaces for mobility impaired persons and unlawful creation and use of special plates or placards issued to mobility impaired persons and establishing a program to increase public awareness for unlawful use of designated accessible parking spaces for mobility impaired persons and unlawful creation and use of special plates or placards issued to mobility impaired persons.

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