

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 255

FISCAL
NOTE

By Senator Martin

[Introduced January 11, 2024; 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 prohibiting public entities, including state, county, and municipal buildings and facilities,
 3 places of public accommodation, and commercial facilities from installing or maintaining a
 4 parking meter 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; 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. Any person who
108 fabricates, uses, or sells unofficially issued windshield placards to any person or organization is
109 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 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 per identification card fabricated, used, or sold. Any person who fabricates, uses, or
115 sells unofficially issued labels imprinted with a future expiration date to any person or organization
116 is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in
117 addition to any other penalty he or she may otherwise incur, shall be fined \$700. Any person
118 covered by this section who sells or gives away their officially issued windshield placard to any
119 person or organization not qualified to apply for or receive the placard and then reapplies for a new
120 placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor
121 and, upon conviction thereof, in addition to any other penalty he or she, or they may otherwise

122 incur, shall lose their right to receive or use a special placard or special license plate for a period of
123 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) Notwithstanding any provision of this code to the contrary, no public entity may install or
165 maintain a parking meter in an accessible parking space bearing the international symbol of
166 access.

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

172 (†) (k) Any person whose vehicle properly displays a valid, unexpired special registration
173 plate or removable windshield placard may park the vehicle for unlimited periods of time in parking

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

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

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

197 Any person who violates the provisions of this subsection is guilty of a misdemeanor and,
198 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any
199 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent

200 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
201 \$500.

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

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

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

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

226 Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned,
227 or designated accessible parking areas by the supervising law-enforcement agency.

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

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

240 ~~(r)~~ (s) The commissioner shall propose rules for legislative approval in accordance with the
241 provisions of §29A-3-1 *et seq.* 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 installing or maintaining a parking meter 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.