

SB 501

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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SENATE BILL NO. 501

(By Senator BOLEY)

PASSED MARCH 9, 1996
In Effect NINETY DAYS FROM Passage

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WEST VIRGINIA
STATE

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Senate Bill No. 501

(BY SENATOR BOLEY)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article thirteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to motor vehicles; stopping, standing and parking privileges for persons with mobility impairments; qualification; issuance of special registration plates and removable windshield placards bearing the international symbol of access; expiration dates; specifications for registration plates, windshield placards, handicapped parking spaces and signs; definitions; application; transitional provisions; violations; and penalties.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. STOPPING, STANDING AND PARKING.

§17C-13-6. Stopping, standing or parking privileges for persons with a mobility impairment; defini-

**tions; qualification; special registration plates
and removable windshield placards; expira-
tion; application; violation; penalties.**

1 (a) Any owner of a Class A motor vehicle subject to
2 registration under the provisions of article three, chapter
3 seventeen-a of this code, who is:

4 (1) A person with a mobility impairment;

5 (2) A relative of a person with a mobility impairment;

6 (3) A person who regularly resides with a person with
7 a mobility impairment; or

8 (4) A person who regularly transports a person who has
9 a mobility impairment, may submit an application for a
10 special registration plate or a removable windshield
11 placard.

12 (b) Any person with a mobility impairment, any
13 relative of a person with a mobility impairment, any
14 person who regularly resides with a person with a
15 mobility impairment or any person who regularly
16 transports a person who has a mobility impairment may
17 submit an application for a removable windshield
18 placard for a Class A vehicle by submitting to the
19 commissioner:

20 (1) An application on a form prescribed and furnished
21 by the commissioner, specifying whether the applicant
22 desires a special registration plate, a removable wind-
23 shield placard, or both; and

24 (2) A certificate issued by a licensed physician stating
25 that the applicant or the applicant's relative is a person
26 with a mobility impairment, or that the person regularly
27 residing with the applicant or regularly transported by
28 the applicant is a person with a mobility impairment, as
29 defined in this section, and furthermore, the physician
30 shall specify whether the disability is temporary (not to
31 exceed six months) or permanent (one to five years or
32 more in expected duration).

33 Upon receipt of the completed application, the physi-
34 cian's certificate and the regular registration fee for the
35 applicant's vehicle class, if the commissioner finds that
36 the applicant qualifies for the special registration plate
37 or a removable windshield placard as provided in this
38 section, he or she shall issue to the applicant a special
39 registration plate (upon remittance of the regular
40 registration fee), or a removable windshield placard (red
41 for temporary and blue for permanent), or both. Upon
42 request, the commissioner shall also issue to any other-
43 wise qualified applicant one additional placard having
44 the same expiration date as the applicant's original
45 placard. The placard shall be displayed by hanging it
46 from the interior rear view mirror of the motor vehicle so
47 that it is conspicuously visible from outside the vehicle
48 when parked in a designated handicapped parking space.
49 The placard may be removed from the rear view mirror
50 whenever the vehicle is being operated to ensure clear
51 vision and safe driving. Only in the event that there is no
52 rear view mirror in the vehicle may the placard be
53 displayed on the dashboard of the vehicle.

54 (c) As used in this section, the following terms have the
55 meanings ascribed to them in this subsection:

56 (1) A person with a "mobility impairment" means a
57 person who, as determined by a licensed physician:

58 (A) Cannot walk two hundred feet without stopping to
59 rest;

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

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

68 (D) Uses portable oxygen;

69 (E) Has a cardiac condition to such an extent that the
70 person's functional limitations are classified in severity
71 as Class III or Class IV according to standards estab-
72 lished by the American heart association; or

73 (F) Is severely limited in his or her ability to walk
74 because of an arthritic, neurological, orthopedic or other
75 physical condition.

76 (2) "Special registration plate" means a registration
77 plate that displays the international symbol of access in
78 a color that contrasts with the background, in letters and
79 numbers the same size as those on the plate, and which
80 may be used in lieu of a regular registration plate.

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

85 (A) The international symbol of access, measuring at
86 least three inches in height, centered on the placard, in
87 white on a blue background;

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

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

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

94 (4) "Regular registration fee" means the standard
95 registration fee for a vehicle of the same class as the
96 applicant's.

97 (5) "Public entity" means state or local government or
98 any department, agency, special purpose district or other
99 instrumentality of a state or local government.

100 (6) "Public facility" means all or any part of any
101 buildings, structures, sites, complexes, roads, parking
102 lots or other real or personal property, including the site
103 where the facility is located.

104 (7) "Place(s) of public accommodation" means a
105 facility or facilities operated by a private entity whose
106 operations affect commerce and fall within at least one
107 of the following categories:

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

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

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

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

115 (E) Bakeries, grocery stores, clothing stores, hardware
116 stores, shopping centers or other sales or rental estab-
117 lishments;

118 (F) Laundromats, dry cleaners, banks, barber and
119 beauty shops, travel agencies, shoe repair shops, funeral
120 parlors, gas or service stations, offices of accountants
121 and attorneys, pharmacies, insurance offices, offices of
122 professional health care providers, hospitals or other
123 service establishments;

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

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

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

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

135 (K) Gymnasiums, health spas, bowling alleys, golf
136 courses or other places of exercise or recreation.

137 (8) "Commercial facility" means a facility whose

138 operations affect commerce and which are intended for
139 nonresidential use by a private entity.

140 Any person who falsely or fraudulently obtains or
141 seeks to obtain the special plate or the removable
142 windshield placard provided for in this section, and any
143 person who falsely certifies that a person is mobility
144 impaired in order that an applicant may be issued the
145 special registration plate or windshield placard hereun-
146 der, is guilty of a misdemeanor, and, upon conviction
147 thereof, in addition to any other penalty he or she may
148 otherwise incur, shall be fined one hundred dollars.

149 (d) The commissioner shall set the expiration date for
150 special registration plates and permanent removable
151 windshield placards on the last day of a given month and
152 year, to be valid for a minimum of one year but not more
153 than five years, after which time a new application must
154 be submitted to the commissioner. After the commis-
155 sioner receives the new application, signed by a certified
156 physician, the commissioner shall issue: (i) A new special
157 registration plate or new permanent removable wind-
158 shield placard; or (ii) official labels imprinted with the
159 new expiration date and designed so as to be placed over
160 the old dates on the original registration plate or wind-
161 shield placard.

162 (e) The commissioner shall set the expiration date of
163 temporary removable windshield placards to be valid for
164 a period of approximately six months after the applica-
165 tion was received and approved by the commissioner.

166 (f) The commissioner shall issue to each applicant who
167 is granted a special registration plate or windshield
168 placard an identification card bearing the applicant's
169 name, assigned identification number and expiration
170 date. The applicant must thereafter carry this identifi-
171 cation card on his or her person whenever parking in a
172 handicapped parking space.

173 (g) A handicapped parking space should comply with
174 the provisions of the Americans with Disabilities Act

175 Guidelines, contained in 28 C.F.R. 36, Appendix A,
176 section 4.6. In particular, the parking space should be a
177 minimum of eight feet wide with an adjacent access aisle
178 for vans having side mounted handicap lifts. Access
179 aisles should be marked using diagonal stripes or other
180 appropriate markings denoting that the space is a no-
181 parking zone. Lines or markings on the pavement or
182 curbs for parking spaces and access aisles may be in any
183 color, although blue is the generally accepted color for
184 handicapped parking.

185 (h) A vehicle from any other state, United States
186 territory or foreign country displaying an officially
187 issued special registration plate, placard or decal bearing
188 the international symbol of access, shall be recognized
189 and accepted as meeting the requirements of this section,
190 regardless of where the plate, placard or decal is mount-
191 ed or displayed on the vehicle.

192 (i) Free stopping, standing or parking places marked
193 with the international symbol of access shall be desig-
194 nated in close proximity to all public entities, including
195 state, county and municipal buildings and facilities,
196 places of public accommodation and commercial facili-
197 ties. These parking places shall be reserved solely for
198 persons with a mobility impairment during the hours
199 that those buildings are open for business.

200 (j) Any person whose vehicle properly displays a valid,
201 unexpired special registration plate or removable
202 windshield placard may park the vehicle for unlimited
203 periods of time in parking zones unrestricted as to length
204 of parking time permitted: *Provided*, That this privilege
205 does not mean that the vehicle may park in any zone
206 where stopping, standing or parking is prohibited or
207 which creates parking zones for special types of vehicles
208 or which prohibits parking during heavy traffic periods
209 during specified rush hours or where parking would
210 clearly present a traffic hazard. To the extent any
211 provision of any ordinance of any political subdivision of
212 this state is contrary to the provisions of this section, the

213 provisions of this section take precedence and apply.

214 The privileges provided for in this subsection apply
215 only during those times when the vehicle is being used
216 for the transportation of a person with a mobility
217 impairment. Any person who knowingly exercises, or
218 attempts to exercise, these privileges at a time when the
219 vehicle is not being used for the transportation of a
220 person with a mobility impairment is guilty of a misde-
221 meanor, and, upon conviction thereof, in addition to any
222 other penalty he or she may otherwise incur, shall be
223 fined one hundred dollars.

224 (k) No person may stop, stand or park a motor vehicle
225 in an area designated, zoned or marked for handicapped
226 parking with signs or instructions displaying the inter-
227 national symbol of access, either by itself or with ex-
228 planatory text. Such signs may be mounted on a post or
229 a wall in front of the handicapped parking space and
230 instructions may appear on the ground or pavement, but
231 use of both methods is preferred. Handicapped parking
232 spaces for vans having an eight-foot adjacent access aisle
233 should be designated as "van accessible" but may be
234 used by any vehicle displaying a valid special registra-
235 tion plate or removable windshield placard. These
236 spaces are intended solely for persons with a mobility
237 impairment, as defined in this section. If at any time, a
238 person is not mobility impaired and does not display
239 upon his or her vehicle a special registration plate or
240 removable windshield placard issued by the commis-
241 sioner, he or she may not lawfully park in a handicapped
242 parking space: *Provided*, That any person in the act of
243 transporting a person with a mobility impairment as
244 defined in this section, may stop, stand or park a motor
245 vehicle not displaying a special registration plate or
246 removable windshield placard in the area designated for
247 handicapped parking by the international symbol of
248 access for the limited purposes of loading or unloading
249 a passenger with a mobility impairment: *Provided*,
250 *however*, That the vehicle shall be promptly moved after
251 the completion of this limited purpose.

252 Any person who violates the provisions of this subsection
253 is guilty of a misdemeanor, and, upon conviction
254 thereof, shall be fined one hundred dollars.

255 (l) Signs erected in the future that designate areas as
256 "handicapped parking" or that display the international
257 symbol of access shall also include the words "\$100
258 fine".

259 (m) No person may stop, stand or park a motor vehicle
260 in an area designated or marked off as an access aisle
261 adjacent to a van-accessible parking space or regular
262 handicapped parking space. Any person, including a
263 driver of a vehicle displaying a valid removable wind-
264 shield placard or special registration plate, who violates
265 the provisions of this subsection is guilty of a misde-
266 meanor, and, upon conviction thereof, shall be fined one
267 hundred dollars.

268 (n) The commissioner shall establish a grace period for
269 individuals who, on the effective date of the amendment
270 adding this subsection, hold special registration plates or
271 removable windshield placards bearing no expiration
272 date to submit their applications for newly issued special
273 registration plates and windshield placards, after which
274 time any undated registration plate or windshield
275 placard is invalid and subject to confiscation by any duly
276 appointed law-enforcement officer.

277 (o) The commissioner shall adopt and promulgate rules
278 in accordance with the provisions of article three,
279 chapter twenty-nine-a of this code to effectuate the
280 provisions of this section and provide for an orderly
281 transition to provisions enacted by the Legislature in its
282 regular session in the year one thousand nine hundred
283 ninety-six.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schromver

.....
Chairman Senate Committee

Andy Deacon
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carrick Pollock

.....
Clerk of the Senate

Gregory M. Boy

.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Bill Clatter

.....
Speaker House of Delegates

The within *is approved* this the *1st*
day of *April*, 1996.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/96

Time 10:26 am