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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

**ENROLLED**

Com. Sub. for Com. Sub. for  
SENATE BILL NO. LS6

(By Senators Boley and McKenzie )

PASSED March 9, 2002

In Effect ninety days from Passage

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 156

(SENATORS BOLEY AND MCKENZIE, *original sponsors*)

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[Passed March 9, 2002; in effect ninety days from passage.]

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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 special registration plates or placards for persons with mobility impairments; providing entitlement for special registration plates or placards for persons who transport persons with disabilities; requiring persons other than the person with the mobility impairment to provide certification with the application; modifying definition of a person with a mobility impairment; providing that "accessible parking" is preferred language in reference to "handicapped parking"; increasing criminal penalties; creating new criminal offense for selling unofficially issued placards or identification

cards; providing that identification cards shall be identical in design for both registration plates and placards; providing requirements relative to accessible parking space signposts; providing local authorities who adopt enforcement provisions contained in this section shall retain fines and fees associated with enforcement under the section; and providing the commissioner issue a separate document informing general public regarding the new provisions and increased fines under the legislation.

*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; definitions; qualification; special registration plates and removable windshield placards; expiration; application; violation; penalties.**

- 1 (a) (1) The following persons may apply for special  
2 registration plates or removable windshield placards:
  - 3 (A) A person with a mobility impairment;
  - 4 (B) A relative of a person with a mobility impairment;
  - 5 (C) A person who regularly resides with a person with a  
6 mobility impairment;
  - 7 (D) A person who regularly transports a person who has  
8 a mobility impairment; or
  - 9 (E) A West Virginia organization which transports  
10 persons with disabilities and facilitates the mobility of its  
11 customers, patients, students or persons otherwise placed  
12 under its responsibility.
- 13 (2) The commissioner may not issue a total of more than  
14 two special registration plates or removable windshield

15 placards to any person with a mobility impairment and  
16 any applicant applying on behalf of that person under  
17 paragraphs (B), (C) and (D), subdivision (1) of this subsection.  
18 tion.

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

23 (4) The applicant shall submit, with the application, a  
24 certificate issued by a licensed physician stating that the  
25 applicant has a mobility impairment or that the applicant  
26 is a relative of, regularly resides with, or regularly transports  
27 a person with a mobility impairment as defined in  
28 this section. The physician shall specify in the certificate  
29 whether the disability is temporary or permanent. A  
30 disability which is temporary shall not exceed six months.  
31 A disability which is permanent is one which is one to five  
32 years or more in expected duration.

33 (5) Upon receipt of the completed application, the  
34 physician's certificate and the regular registration fee for  
35 the applicant's vehicle class, if the commissioner finds that  
36 the applicant qualifies for the special registration plate or  
37 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 registration  
40 fee) or a removable windshield placard (red for  
41 temporary and blue for permanent), or both. Upon  
42 request, the commissioner shall also issue to any otherwise  
43 qualified applicant one additional placard having the same  
44 expiration date as the applicant's original placard. The  
45 placard shall be displayed by hanging it from the interior  
46 rearview mirror of the motor vehicle so that it is conspicuously  
47 visible from outside the vehicle when parked in a  
48 designated accessible parking space. The placard may be  
49 removed from the rearview mirror whenever the vehicle is  
50 being operated to ensure clear vision and safe driving.  
51 Only in the event that there is no suitable rearview mirror

52 in the vehicle may the placard be displayed on the dash-  
53 board of the vehicle.

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

56 (1) A person or applicant with a "mobility impairment"  
57 means a person who is a citizen of West Virginia and as  
58 determined by a physician, allopath or osteopath licensed  
59 to practice in West Virginia:

60 (A) Cannot walk two hundred feet without stopping to  
61 rest;

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

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

70 (D) Uses portable oxygen;

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

75 (F) Is severely limited in his or her ability to walk  
76 because of an arthritic, neurological or other orthopedic  
77 condition;

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

83 (3) "Removable windshield placard" (permanent or  
84 temporary) means a two-sided, hanger-style placard

85 measuring three inches by nine and one-half inches, with  
86 all of the following on each side:

87 (A) The international symbol of access, measuring at  
88 least three inches in height, centered on the placard, in  
89 white on a blue background for permanent designations  
90 and in white on a red background for temporary designa-  
91 tions;

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

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

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

98 (4) "Regular registration fee" means the standard  
99 registration fee for a vehicle of the same class as the  
100 applicant's vehicle;

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

104 (6) "Public facility" means all or any part of any build-  
105 ings, structures, sites, complexes, roads, parking lots or  
106 other real or personal property, including the site where  
107 the facility is located;

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

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

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

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

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

119 (E) Bakeries, grocery stores, clothing stores, hardware  
120 stores, shopping centers or other sales or rental establish-  
121 ments;

122 (F) Laundromats, dry cleaners, banks, barber and beauty  
123 shops, travel agencies, shoe repair shops, funeral parlors,  
124 gas or service stations, offices of accountants and attor-  
125 neys, pharmacies, insurance offices, offices of professional  
126 health care providers, hospitals or other service establish-  
127 ments;

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

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

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

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

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

141 (8) "Commercial facility" means a facility whose opera-  
142 tions affect commerce and which are intended for nonresi-  
143 dential use by a private entity.

144 (9) "Accessible parking" formerly known as "handi-  
145 capped parking" is the present phrase consistent with  
146 language within the Americans with Disabilities Act  
147 (ADA).

148 Any person who falsely or fraudulently obtains or seeks  
149 to obtain the special plate or the removable windshield

149 placard provided for in this section and any person who  
150 falsely certifies that a person is mobility impaired in order  
151 that an applicant may be issued the special registration  
152 plate or windshield placard under this section is guilty of  
153 a misdemeanor and, upon conviction thereof, in addition  
154 to any other penalty he or she may otherwise incur, shall  
155 be fined five hundred dollars. Any person who fabricates,  
156 uses or sells unofficially issued windshield placards to any  
157 person or organization is committing a fraudulent act and  
158 is guilty of a misdemeanor and, upon conviction thereof, in  
159 addition to any other penalty he or she may otherwise  
160 incur, shall be fined five hundred dollars per placard  
161 fabricated, used or sold. Any person who fabricates, uses  
162 or sells unofficially issued identification cards to any  
163 person or organization is committing a fraudulent act and  
164 is guilty of a misdemeanor and, upon conviction thereof, in  
165 addition to any other penalty he or she may otherwise  
166 incur, shall be fined seven hundred dollars per identifica-  
167 tion card fabricated, used or sold. Any person who  
168 fabricates, uses or sells unofficially issued labels imprinted  
169 with a future expiration date to any person or organization  
170 is committing a fraudulent act and is guilty of a misde-  
171 meanor and, upon conviction thereof, in addition to any  
172 other penalty he or she may otherwise incur, shall be fined  
173 seven hundred dollars. Any person covered by this section  
174 who sells or gives away their officially issued windshield  
175 placard to any person or organization not qualified to  
176 apply or receive the placard and then reapplies for a new  
177 placard on the basis it was stolen is committing a fraudu-  
178 lent act and is guilty of a misdemeanor and, upon convic-  
179 tion thereof, in addition to any other penalty he, she or  
180 they may otherwise incur, shall lose their right to receive  
181 or use a special placard or special license plate for a period  
182 of not less than five years.

183 (c) The commissioner shall set the expiration date for  
184 special registration plates and permanent removable  
185 windshield placards on the last day of a given month and  
186 year, to be valid for a minimum of one year but not more

188 than five years, after which time a new application must  
189 be submitted to the commissioner. After the commissioner  
190 receives the new application, signed by a certified physi-  
191 cian, the commissioner shall issue: (i) A new special  
192 registration plate or new permanent removable windshield  
193 placard; or (ii) official labels imprinted with the new  
194 expiration date and designed so as to be placed over the  
195 old dates on the original registration plate or windshield  
196 placard.

197 (d) The commissioner shall set the expiration date of  
198 temporary removable windshield placards to be valid for  
199 a period of approximately six months after the application  
200 was received and approved by the commissioner.

201 (e) The commissioner shall issue to each applicant who  
202 is granted a special registration plate or windshield  
203 placard an identification card bearing the applicant's  
204 name, assigned identification number and expiration date.  
205 The applicant shall thereafter carry this identification  
206 card on his or her person whenever parking in an accessi-  
207 ble parking space. The identification card shall be identi-  
208 cal in design for both registration plates and removable  
209 windshield placards.

210 (f) An accessible parking space should comply with the  
211 provisions of the Americans with Disabilities Act accessi-  
212 bility guidelines, contained in 28 C.F.R. 36, Appendix A,  
213 Section 4.6. In particular, the parking space should be a  
214 minimum of eight feet wide with an adjacent eight-foot  
215 access aisle for vans having side mounted hydraulic lifts or  
216 ramps or a five-foot access aisle for standard vehicles.  
217 Access aisles should be marked using diagonal two- to  
218 four-inch-wide stripes spaced every twelve or twenty-four  
219 inches apart or other appropriate markings denoting that  
220 the space is a no-parking zone. All accessible parking  
221 spaces should have a signpost in front or adjacent to the  
222 accessible parking space displaying the international  
223 symbol of access sign mounted at a minimum of eight feet  
224 above the pavement or sidewalk and the top of the sign.

224 Lines or markings on the pavement or curbs for parking  
225 spaces and access aisles may be in any color, although blue  
226 is the generally accepted color for accessible parking.

227 (g) A vehicle from any other state, United States terri-  
228 tory or foreign country displaying an officially issued  
229 special registration plate, placard or decal bearing the  
230 international symbol of access shall be recognized and  
231 accepted as meeting the requirements of this section,  
232 regardless of where the plate, placard or decal is mounted  
233 or displayed on the vehicle.

234 (h) Free stopping, standing or parking places marked  
235 with the international symbol of access shall be designated  
236 in close proximity to all public entities, including state,  
237 county and municipal buildings and facilities, places of  
238 public accommodation and commercial facilities. These  
239 parking places shall be reserved solely for persons with a  
240 mobility impairment at all times.

241 (i) Any person whose vehicle properly displays a valid,  
242 unexpired special registration plate or removable wind-  
243 shield placard may park the vehicle for unlimited periods  
244 of time in parking zones unrestricted as to length of  
245 parking time permitted: *Provided*, That this privilege does  
246 not mean that the vehicle may park in any zone where  
247 stopping, standing or parking is prohibited or which  
248 creates parking zones for special types of vehicles or which  
249 prohibits parking during heavy traffic periods during  
250 specified rush hours or where parking would clearly  
251 present a traffic hazard. To the extent any provision of  
252 any ordinance of any political subdivision of this state is  
253 contrary to the provisions of this section, the provisions of  
254 this section take precedence and apply.

255 The parking privileges provided for in this subsection  
256 apply only during those times when the vehicle is being  
257 used for the loading or unloading of a person with a  
258 mobility impairment. Any person who knowingly exer-  
259 cises, or attempts to exercise, these privileges at a time

260 when the vehicle is not being used for the loading or  
261 unloading of a person with a mobility impairment is guilty  
262 of a misdemeanor and, upon first conviction thereof, in  
263 addition to any other penalty he or she may otherwise  
264 incur, shall be fined one hundred dollars; upon second  
265 conviction thereof, in addition to any other penalty he or  
266 she may otherwise incur, shall be fined three hundred  
267 dollars; and upon third and subsequent convictions  
268 thereof, in addition to any other penalty he or she may  
269 otherwise incur, shall be fined five hundred dollars.

270 (j) Any person whose vehicle does not display a valid,  
271 special registration plate or removable windshield placard  
272 may not stop, stand or park a motor vehicle in an area  
273 designated, zoned or marked for accessible parking with  
274 signs or instructions displaying the international symbol  
275 of access, either by itself or with explanatory text. The  
276 signs may be mounted on a post or a wall in front of the  
277 accessible parking space and instructions may appear on  
278 the ground or pavement, but use of both methods is  
279 preferred. Accessible parking spaces for vans having an  
280 eight-foot adjacent access aisle should be designated as  
281 "van accessible" but may be used by any vehicle display-  
282 ing a valid special registration plate or removable wind-  
283 shield placard. These spaces are intended solely for  
284 persons with a mobility impairment, as defined in this  
285 section: *Provided*, That any person in the act of transport-  
286 ing a person with a mobility impairment as defined in this  
287 section, may stop, stand or park a motor vehicle not  
288 displaying a special registration plate or removable  
289 windshield placard in the area designated for accessible  
290 parking by the international symbol of access for the  
291 limited purposes of loading or unloading a passenger with  
292 a mobility impairment: *Provided, however*, That the  
293 vehicle shall be promptly moved after the completion of  
294 this limited purpose.

295 Any person who violates the provisions of this subsection  
296 is guilty of a misdemeanor and, upon conviction thereof,

297 shall be fined one hundred dollars; upon second conviction  
298 thereof, in addition to any other penalty he or she may  
299 otherwise incur, shall be fined three hundred dollars; and  
300 upon third and subsequent convictions thereof, in addition  
301 to any other penalty he or she may otherwise incur, shall  
302 be fined five hundred dollars.

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

306 (l) No person may stop, stand or park a motor vehicle in  
307 an area designated or marked off as an access aisle adja-  
308 cent to a van-accessible parking space or regular accessi-  
309 ble parking space. Any person, including a driver of a  
310 vehicle displaying a valid removable windshield placard or  
311 special registration plate, who violates the provisions of  
312 this subsection is guilty of a misdemeanor and, upon  
313 conviction thereof, shall be fined one hundred dollars;  
314 upon second conviction thereof, in addition to any other  
315 penalty he or she may otherwise incur, shall be fined three  
316 hundred dollars; and upon third and subsequent convic-  
317 tions thereof, in addition to any other penalty he or she  
318 may otherwise incur, shall be fined five hundred dollars.

319 (m) Parking enforcement personnel who otherwise  
320 enforce parking violations may issue citations for viola-  
321 tions of this section and shall reference the number on the  
322 vehicle’s license plate, since the driver normally will not be  
323 present.

324 (n) Law-enforcement agencies may establish a program  
325 to use trained volunteers to collect information necessary  
326 to issue citations to persons who illegally park in desig-  
327 nated accessible parking spaces. Any law-enforcement  
328 agency choosing to establish a program shall provide for  
329 workers’ compensation and liability coverage. The  
330 volunteers shall photograph the illegally parked vehicle  
331 and complete a form, to be developed by supervising law-  
332 enforcement agencies, that includes the vehicle’s license

333 plate number, date, time and location of the illegally  
334 parked vehicle. The photographs must show the vehicle in  
335 the accessible space and a readable view of the license  
336 plate. Within the discretion of the supervising law-  
337 enforcement agency, the volunteers may issue citations or  
338 the volunteers may submit the photographs of the illegally  
339 parked vehicle and the form to the supervising law-  
340 enforcement agency, who may issue a citation, which  
341 includes the photographs and the form, to the owner of the  
342 illegally parked vehicle. Volunteers shall be trained on the  
343 requirements for citations for vehicles parked in marked,  
344 zoned or designated accessible parking areas by the  
345 supervising law-enforcement agency.

346 (o) Local authorities who adopt the basic enforcement  
347 provisions of this section and issue their own local ordi-  
348 nances shall retain all fines and associated late fees. These  
349 revenues shall be used first to fund the provisions of  
350 subsection (n) of this section, if adopted by local authori-  
351 ties, or otherwise shall go into the local authorities'  
352 general revenue fund. Otherwise, any moneys collected as  
353 fines shall be collected for and remitted to the state.

354 (p) The commissioner shall prepare and issue a document  
355 to applicants describing the privileges accorded a vehicle  
356 having a special registration plate and removable wind-  
357 shield placard as well as the penalties when the vehicle is  
358 being inappropriately used as described in this section and  
359 shall include the document along with the issued special  
360 registration plate or windshield placard. In addition, the  
361 commissioner shall issue a separate document informing  
362 the general public regarding the new provisions and  
363 increased fines being imposed either by way of newspaper  
364 announcements or other appropriate means across the  
365 state.

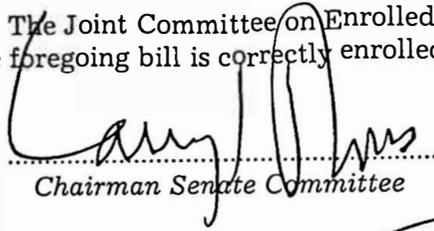
366 (q) The commissioner shall adopt and promulgate rules  
367 in accordance with the provisions of article three, chapter  
368 twenty-nine-a of this code to effectuate the provisions of

13 [Enr. Com. Sub. for Com. Sub. for S. B. No. 156

369 this section within ninety days after being enacted by the  
370 Legislature in its regular session.

Enr. Com. Sub. for Com. Sub. for S. B. No. 156] 14

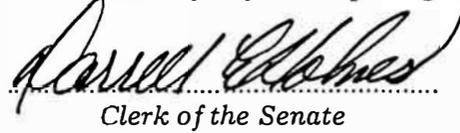
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

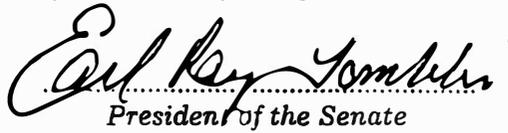
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.)

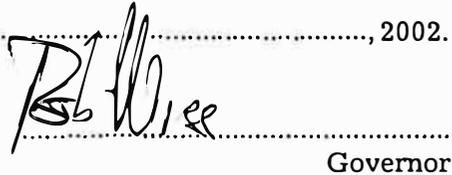
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 2nd  
Day of April ....., 2002.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/26/02

Time 3:05p