

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### Senate Bill 243

FISCAL  
NOTE

BY SENATORS MARTIN AND SWOPE

[Introduced February 11, 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 prohibiting public entities, including state, county, and municipal buildings and facilities,  
 3 places of public accommodation, and commercial facilities from charging a fee for parking  
 4 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  
29 no 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  
34 or 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  
56 in 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; and

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

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

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

70 (6) "Public facility" means all or any part of any buildings, structures, sites, complexes,  
71 roads, parking lots, or other real or personal property, including the site where the facility is  
72 located;

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

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

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

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

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

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

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

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

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

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

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

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

95 (8) "Commercial facility" means a facility whose operations affect commerce and which

96 are intended for nonresidential use by a private entity;

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

99 (10) "Parking enforcement personnel" includes any law-enforcement officer as defined by  
100 §30-29-1 of this code, and private security guards, parking personnel, and other personnel  
101 authorized by a city, county, or the state to issue parking citations.

102 Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the  
103 removable windshield placard provided for in this section, and any person who falsely certifies  
104 that a person is mobility impaired in order that an applicant may be issued the special registration  
105 plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction  
106 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500. Any  
107 person who fabricates, uses, or sells unofficially issued windshield placards to any person or  
108 organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction  
109 thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500 per  
110 placard fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued  
111 identification cards to any person or organization is committing a fraudulent act and is guilty of a  
112 misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may  
113 otherwise incur, shall be fined \$700 per identification card fabricated, used, or sold. Any person  
114 who fabricates, uses, or sells unofficially issued labels imprinted with a future expiration date to  
115 any person or organization is committing a fraudulent act and is guilty of a misdemeanor and,  
116 upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be  
117 fined \$700. Any person covered by this section who sells or gives away their officially issued  
118 windshield placard to any person or organization not qualified to apply or receive the placard and  
119 then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is  
120 guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she,  
121 or they may otherwise incur, shall lose their right to receive or use a special placard or special

122 license plate for a period of not less than five years.

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

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

139 (e) The commissioner shall issue to each applicant who is granted a special registration  
140 plate or windshield placard an identification card bearing the applicant's name, assigned  
141 identification number, and expiration date. The applicant shall thereafter carry this identification  
142 card on his or her person whenever parking in an accessible parking space. The identification  
143 card shall be identical in design for both registration plates and removable windshield placards.

144 (f) An accessible parking space should comply with the provisions of the Americans with  
145 Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. ~~In~~  
146 ~~particular~~, The parking space should be a minimum of eight feet wide with an adjacent eight-foot  
147 access aisle for vans having side mounted hydraulic lifts or ramps, or a five-foot access aisle for

148 standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes  
149 spaced every 12 or 24 inches apart along with the words “no parking” in painted letters which are  
150 at least 12 inches in height. All accessible parking spaces must have a signpost in front or  
151 adjacent to the accessible parking space displaying the international symbol of access sign  
152 mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines  
153 or markings on the pavement or curbs for parking spaces and access aisles may be in any color,  
154 although blue is the generally accepted color for accessible parking.

155 (g) A vehicle displaying a disabled veterans special registration plate issued pursuant to  
156 §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of  
157 this section.

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

162 (i) Notwithstanding any provision of this code to the contrary, no public entity may install  
163 or maintain a parking meter in an accessible parking space bearing the international symbol of  
164 access.

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

170 (j) (k) Any person whose vehicle properly displays a valid, unexpired special registration  
171 plate or removable windshield placard may park the vehicle for unlimited periods of time in parking  
172 zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not  
173 mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or

174 which creates parking zones for special types of vehicles or which prohibits parking during heavy  
175 traffic periods during specified rush hours or where parking would clearly present a traffic hazard.  
176 To the extent any provision of any ordinance of any political subdivision of this state is contrary to  
177 the provisions of this section, the provisions of this section take precedence and apply.

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

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

195         Any person who violates the provisions of this subsection is guilty of a misdemeanor and,  
196 upon conviction thereof, 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           ~~(l)~~ (m) All signs that designate areas as “accessible parking” or that display the  
201 international symbol of access shall also include the words “Up to \$500 fine”.

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

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

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

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

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

238           ~~(r)~~ (s) The commissioner shall propose rules for legislative approval in accordance with  
239 the 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 charging a fee for parking 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.