

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 185

FISCAL
NOTE

By Senator Martin

[Introduced January 13, 2023; 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; 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 are

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

122 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 be
126 submitted to the commissioner. After the commissioner receives the new application, signed by a
127 certified physician, chiropractor, advanced nurse practitioner, or physician's assistant if required
128 under this subsection, the commissioner shall issue: (i) A new special registration plate or new
129 permanent removable windshield placard; or (ii) official labels imprinted with the new expiration
130 date and designed so as to be placed over the old dates on the original registration plate or
131 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 file
133 with the commissioner, such application includes a certificate issued pursuant to §17C-13-6(a)(4)
134 of this code, such certificate specifies that the applicant's disability is permanent for life, and such
135 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 and
138 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 card
143 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 adjacent
151 to the accessible parking space displaying the international symbol of access sign mounted at a
152 minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings
153 on the pavement or curbs for parking spaces and access aisles may be in any color, although blue
154 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 this
157 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 or
163 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 all
169 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 or
191 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 any
194 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 ~~(t)~~ (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 ~~(e)~~ (p) of this section, if adopted by local
229 authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any
230 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 the
239 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.