

H. B. 4456

(By Delegates Caputo, Manchin, Longstreth, Hunt,  
Barill, Marshall, Talbott and Moore)

[Introduced February 8, 2012; referred to the

Committee on Roads and Transportation then

Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to requiring a removable windshield placard that is issued to a person with a mobility impairment to have on the placard a photograph of the person to whom the placard is issued.

*Be it enacted by the Legislature of West Virginia:*

That §17C-13-6 of the Code of West Virginia, 1931, 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.**

(a) (1) The commissioner may issue up to two special registration plates or removable windshield placards to a person

1 with a mobility impairment or a West Virginia organization which  
2 transports persons with disabilities and facilitates the mobility  
3 of its customers, patients, students or persons otherwise placed  
4 under its responsibility.

5 (2) Special registration plates or placards may only be issued  
6 for placement on a Class A or Class G motor vehicle registered  
7 under the provisions of article three, chapter seventeen-a of this  
8 code.

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

13 (4) The applicant shall submit, with the application, a  
14 certificate issued by any physician chiropractor, advanced nurse  
15 practitioner or physician's assistant who is licensed in this  
16 state, stating that the applicant has a mobility impairment or that  
17 the applicant is an organization which regularly transports a  
18 person with a mobility impairment as defined in this section. The  
19 physician chiropractor, advanced nurse practitioner or physician's  
20 assistant shall specify in the certificate whether the disability  
21 is temporary or permanent. A disability which is temporary shall  
22 not exceed six months. A disability which is permanent is one  
23 which is one to five years or more in expected duration.

24 (5) Upon receipt of the completed application, the physician's

1 certificate and the regular registration fee for the applicant's  
2 vehicle class, if the commissioner finds that the applicant  
3 qualifies for the special registration plate or a removable  
4 windshield placard as provided in this section, he or she shall  
5 issue to the applicant a special registration plate (upon  
6 remittance of the regular registration fee) or a removable  
7 windshield placard (red for temporary and blue for permanent), or  
8 both. Upon request, the commissioner shall also issue to any  
9 otherwise qualified applicant one additional placard having the  
10 same expiration date as the applicant's original placard. The  
11 placard shall be displayed by hanging it from the interior rearview  
12 mirror of the motor vehicle so that it is conspicuously visible  
13 from outside the vehicle when parked in a designated accessible  
14 parking space. The placard may be removed from the rearview mirror  
15 whenever the vehicle is being operated to ensure clear vision and  
16 safe driving. Only in the event that there is no suitable rearview  
17 mirror in the vehicle may the placard be displayed on the dashboard  
18 of the vehicle.

19       (6) Organizations which transport people with disabilities  
20 will be provided with a placard which will permit them to park in  
21 a designated area for the length of time necessary to load and  
22 unload passengers. These vehicles must be moved to a nondesignated  
23 space once the loading or unloading process is complete.

24       (b) As used in this section, the following terms have the

1 meanings ascribed to them in this subsection:

2       (1) A person or applicant with a "mobility impairment" means  
3 a person who is a citizen of West Virginia and as determined by a  
4 physician, allopath or osteopath, chiropractor, advanced nurse  
5 practitioner or physician's assistant licensed to practice in West  
6 Virginia:

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

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

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

15       (D) Uses portable oxygen;

16       (E) Has a cardiac condition to such an extent that the  
17 person's functional limitations are classified in severity as Class  
18 III or Class IV according to standards established by the American  
19 Heart Association; or

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

22       (2) "Special registration plate" means a registration plate  
23 that displays the international symbol of access, as adopted by the  
24 Rehabilitation International Organization in 1969 at its Eleventh

1 World Congress on Rehabilitation of the Disabled, in a color that  
2 contrasts with the background, in letters and numbers the same size  
3 as those on the plate, and which may be used in lieu of a regular  
4 registration plate;

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

8 (A) The international symbol of access, measuring at least  
9 three inches in height, centered on the placard, in white on a blue  
10 background for permanent designations and in white on a red  
11 background for temporary designations;

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

13 (C) An expiration date in numbers measuring one inch in  
14 height; ~~and~~

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

17 (E) A photograph of the applicant measuring one and one-half  
18 inches square similar to the photograph on a driver license and the  
19 full name of the applicant at the side of the photograph on one  
20 side; and

21 (F) A sliding opaque cover issued by the commissioner to be  
22 used to cover the photograph for applicants with privacy concerns.  
23 This cover must be removed upon request by any parking enforcement  
24 personnel as defined in subsection (k), subdivision (10) of this

1 section.

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

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

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

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

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

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

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

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

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

23 (F) Laundromats, dry cleaners, banks, barber and beauty shops,  
24 travel agencies, shoe repair shops, funeral parlors, gas or service

1 stations, offices of accountants and attorneys, pharmacies,  
2 insurance offices, offices of professional health care providers,  
3 hospitals or other service establishments;

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

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

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

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

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

17 (8) "Commercial facility" means a facility whose operations  
18 affect commerce and which are intended for nonresidential use by a  
19 private entity;

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

23 (10) "Parking enforcement personnel" includes any law-  
24 enforcement officer as defined by section one, article twenty-nine,

1 chapter thirty of this code, and private security guards, parking  
2 personnel and other personnel authorized by a city, county or the  
3 state to issue parking citations.

4       Any person who falsely or fraudulently obtains or seeks to  
5 obtain the special plate or the removable windshield placard  
6 provided ~~for~~ in this section and any person who falsely certifies  
7 that a person is mobility impaired in order that an applicant may  
8 be issued the special registration plate or windshield placard  
9 under this section is guilty of a misdemeanor and, upon conviction  
10 thereof, in addition to any other penalty he or she may otherwise  
11 incur, shall be fined \$500. Any person who fabricates, uses or  
12 sells unofficially issued windshield placards to any person or  
13 organization is committing a fraudulent act and is guilty of a  
14 misdemeanor and, upon conviction thereof, in addition to any other  
15 penalty he or she may otherwise incur, shall be fined \$500 per  
16 placard fabricated, used or sold. Any person who fabricates, uses  
17 or sells unofficially issued identification cards to any person or  
18 organization is committing a fraudulent act and is guilty of a  
19 misdemeanor and, upon conviction thereof, in addition to any other  
20 penalty he or she may otherwise incur, shall be fined \$700 per  
21 identification card fabricated, used or sold. Any person who  
22 fabricates, uses or sells unofficially issued labels imprinted with  
23 a future expiration date to any person or organization is  
24 committing a fraudulent act and is guilty of a misdemeanor and,



1 upon conviction thereof, in addition to any other penalty he or she  
2 may otherwise incur, shall be fined \$700. Any person covered by  
3 this section who sells or gives away their officially issued  
4 windshield placard to any person or organization not qualified to  
5 apply or receive the placard and then reapplies for a new placard  
6 on the basis it was stolen is committing a fraudulent act and is  
7 guilty of a misdemeanor and, upon conviction thereof, in addition  
8 to any other penalty he or she or they may otherwise incur, shall  
9 lose their right to receive or use a special placard or special  
10 license plate for a period of not less than five years.

11 (c) The commissioner shall set the expiration date for special  
12 registration plates and permanent removable windshield placards on  
13 the last day of a given month and year, to be valid for a minimum  
14 of one year but not more than five years, after which time a new  
15 application must be submitted to the commissioner. After the  
16 commissioner receives the new application, signed by a certified  
17 physician chiropractor, advanced nurse practitioner or physician's  
18 assistant the commissioner shall issue: (i) A new special  
19 registration plate or new permanent removable windshield placard;  
20 or (ii) official labels imprinted with the new expiration date and  
21 designed so as to be placed over the old dates on the original  
22 registration plate or windshield placard.

23 (d) The commissioner shall set the expiration date of  
24 temporary removable windshield placards to be valid for a period of

1 approximately six months after the application was received and  
2 approved by the commissioner.

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

11 (f) An accessible parking space should comply with the  
12 provisions of the Americans with Disabilities Act accessibility  
13 guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In  
14 particular, the parking space should be a minimum of eight feet  
15 wide with an adjacent eight-foot access aisle for vans having side  
16 mounted hydraulic lifts or ramps or a five-foot access aisle for  
17 standard vehicles. Access aisles should be marked using diagonal  
18 two to four-inch wide stripes spaced every twelve or twenty-four  
19 inches apart along with the words "no parking" in painted letters  
20 which are at least twelve inches in height. All accessible parking  
21 spaces must have a signpost in front or adjacent to the accessible  
22 parking space displaying the international symbol of access sign  
23 mounted at a minimum of eight feet above the pavement or sidewalk  
24 and the top of the sign. Lines or markings on the pavement or

1 curbs for parking spaces and access aisles may be in any color,  
2 although blue is the generally accepted color for accessible  
3 parking.

4 (g) A vehicle from any other state, United States territory or  
5 foreign country displaying an officially issued special  
6 registration plate, placard or decal bearing the international  
7 symbol of access shall be recognized and accepted as meeting the  
8 requirements of this section, regardless of where the plate,  
9 placard or decal is mounted or displayed on the vehicle.

10 (h) Stopping, standing or parking places marked with the  
11 international symbol of access shall be designated in close  
12 proximity to all public entities, including state, county and  
13 municipal buildings and facilities, places of public accommodation  
14 and commercial facilities. These parking places shall be reserved  
15 solely for persons with a mobility impairment at all times.

16 (i) Any person whose vehicle properly displays a valid,  
17 unexpired special registration plate or removable windshield  
18 placard may park the vehicle for unlimited periods of time in  
19 parking zones unrestricted as to length of parking time permitted:  
20 *Provided*, That this privilege does not mean that the vehicle may  
21 park in any zone where stopping, standing or parking is prohibited  
22 or which creates parking zones for special types of vehicles or  
23 which prohibits parking during heavy traffic periods during  
24 specified rush hours or where parking would clearly present a

1 traffic hazard. To the extent any provision of any ordinance of  
2 any political subdivision of this state is contrary to the  
3 provisions of this section, the provisions of this section take  
4 precedence and apply.

5       The parking privileges provided for in this subsection apply  
6 only during those times when the vehicle is being used for the  
7 loading or unloading of a person with a mobility impairment. Any  
8 person who knowingly exercises, or attempts to exercise, these  
9 privileges at a time when the vehicle is not being used for the  
10 loading or unloading of a person with a mobility impairment is  
11 guilty of a misdemeanor and, upon first conviction thereof, in  
12 addition to any other penalty he or she may otherwise incur, shall  
13 be fined \$200; upon second conviction thereof, in addition to any  
14 other penalty he or she may otherwise incur, shall be fined \$300;  
15 and upon third and subsequent convictions thereof, in addition to  
16 any other penalty he or she may otherwise incur, shall be fined  
17 \$500.

18       (j) Any person whose vehicle does not display a valid, special  
19 registration plate or removable windshield placard may not stop,  
20 stand or park a motor vehicle in an area designated, zoned or  
21 marked for accessible parking with signs or instructions displaying  
22 the international symbol of access, either by itself or with  
23 explanatory text. The signs may be mounted on a post or a wall in  
24 front of the accessible parking space and instructions may appear

1 on the ground or pavement, but use of both methods is preferred.  
2 Accessible parking spaces for vans having an eight-foot adjacent  
3 access aisle should be designated as "van accessible" but may be  
4 used by any vehicle displaying a valid special registration plate  
5 or removable windshield placard.

6 Any person who violates the provisions of this subsection is  
7 guilty of a misdemeanor and, upon conviction thereof, shall be  
8 fined \$200; upon second conviction thereof, in addition to any  
9 other penalty he or she may otherwise incur, shall be fined \$300;  
10 and upon third and subsequent convictions thereof, in addition to  
11 any other penalty he or she may otherwise incur, shall be fined  
12 \$500.

13 (k) All signs that designate areas as " accessible parking" or  
14 that display the international symbol of access shall also include  
15 the words " Up to \$500 fine".

16 (l) No person may stop, stand or park a motor vehicle in an  
17 area designated or marked off as an access aisle adjacent to a van-  
18 accessible parking space or regular accessible parking space. Any  
19 person, including a driver of a vehicle displaying a valid  
20 removable windshield placard or special registration plate, who  
21 violates the provisions of this subsection is guilty of a  
22 misdemeanor and, upon conviction thereof, shall be fined \$200; upon  
23 second conviction thereof, in addition to any other penalty he or  
24 she may otherwise incur, shall be fined \$300; and upon third and

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

3 (m) Parking enforcement personnel who otherwise enforce  
4 parking violations may issue citations for violations of this  
5 section and shall reference the number on the vehicle's license  
6 plate, since the driver normally will not be present.

7 (n) Law-enforcement agencies may establish a program to use  
8 trained volunteers to collect information necessary to issue  
9 citations to persons who illegally park in designated accessible  
10 parking spaces. Any law-enforcement agency choosing to establish  
11 a program shall provide for workers' compensation and liability  
12 coverage. The volunteers shall photograph the illegally parked  
13 vehicle and complete a form, to be developed by supervising law-  
14 enforcement agencies, that includes the vehicle's license plate  
15 number, date, time and location of the illegally parked vehicle.  
16 The photographs must show the vehicle in the accessible space and  
17 a readable view of the license plate. Within the discretion of the  
18 supervising law-enforcement agency, the volunteers may issue  
19 citations or the volunteers may submit the photographs of the  
20 illegally parked vehicle and the form to the supervising law-  
21 enforcement agency, who may issue a citation, which includes the  
22 photographs and the form, to the owner of the illegally parked  
23 vehicle. Volunteers shall be trained on the requirements for  
24 citations for vehicles parked in marked, zoned or designated

1 accessible parking areas by the supervising law-enforcement agency.

2       (o) Local authorities who adopt the basic enforcement  
3 provisions of this section and issue their own local ordinances  
4 shall retain all fines and associated late fees. These revenues  
5 shall be used first to fund the provisions of subsection (n) of  
6 this section, if adopted by local authorities, or otherwise shall  
7 go into the local authorities' General Revenue Fund. Otherwise,  
8 any moneys collected as fines shall be collected for and remitted  
9 to the state.

10       (p) The commissioner shall prepare and issue a document to  
11 applicants describing the privileges accorded a vehicle having a  
12 special registration plate and removable windshield placard as well  
13 as the penalties when the vehicle is being inappropriately used as  
14 described in this section and shall include the document along with  
15 the issued special registration plate or windshield placard. In  
16 addition, the commissioner shall issue a separate document  
17 informing the general public regarding the new provisions and  
18 increased fines being imposed either by way of newspaper  
19 announcements or other appropriate means across the state.

20       (q) The commissioner shall adopt and promulgate rules in  
21 accordance with the provisions of article three, chapter twenty-  
22 nine-a of this code.

NOTE: The purpose of this bill is to require removable windshield placards that are issued to persons with a mobility impairment to have on the placard a photograph of the person to whom the placard is issued.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.