

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2038

BY DELEGATE BOGGS

[Introduced February 10, 2021; Referred to the
Committee on Technology and Infrastructure then
Government Organization]

1 A BILL to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating
2 to revising requirements relating to the issuance and renewal of handicap vehicle
3 placards.

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 if an additional vehicle is registered in the applicant's name. The placard shall be
26 displayed by hanging it from the interior rearview mirror of the motor vehicle so that it is
27 conspicuously visible from outside the vehicle when parked in a designated accessible parking
28 space. The placard may be removed from the rearview mirror whenever the vehicle is being
29 operated to ensure clear vision and safe driving. Only in the event that there is no suitable
30 rearview mirror in the vehicle may the placard be displayed on the dashboard of the 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 on a color background
65 which changes annually and identifies the year of expiration; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

97 are intended for nonresidential use by a private entity;

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

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

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

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

124 (c) The commissioner shall set the expiration date for special registration plates and
125 permanent removable windshield placards on the last day of a given month and year, to be valid
126 for a minimum of one year but not more than five years, after which time a new application must
127 be submitted to the commissioner. The commissioner shall issue permanent removable
128 windshield placards that coordinate expiration of the placards with the person's driver's license.
129 If issued for a person that does not have a driver's license, the permanent removable windshield
130 placard shall have a five-year duration. Upon renewal of a permanent removable windshield
131 placard, the recipient shall execute a notice that the recipient remains disabled, if the recipient
132 has two permanent removable windshield placards that he or she still owns two vehicles, and that
133 he or she understands and affirms that the placard will be used lawfully. After the commissioner
134 receives the new application, signed by a certified physician, chiropractor, advanced nurse
135 practitioner or physician's assistant, the commissioner shall issue: (i) A new special registration
136 plate or new permanent removable windshield placard; or (ii) official labels imprinted with the new
137 expiration date and designed so as to be placed over the old dates on the original registration
138 plate or windshield placard.

139 (d) The commissioner shall ~~set the expiration date of~~ issue a temporary removable
140 windshield placards placard to be valid for a ~~period of approximately six months after the~~
141 ~~application was received and approved by the commissioner~~ the term the applicant, in the
142 judgement of the issuing physician, chiropractor, advanced nurse practitioner or physician's
143 assistant, will be disabled. The temporary removal windshield placard can be extended for an
144 additional term that is deemed appropriate by the physician, chiropractor, advanced nurse
145 practitioner or physician's assistant who is completing the certification.

146 (e) The commissioner shall issue to each applicant who is granted a special registration
147 plate or windshield placard an identification card bearing the applicant's name, assigned
148 identification number, and expiration date. The applicant shall thereafter carry this identification

149 card on his or her person whenever parking in an accessible parking space. The identification
150 card shall be identical in design for both registration plates and removable windshield placards.

151 (f) An accessible parking space should comply with the provisions of the Americans with
152 Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In
153 particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot
154 access aisle for vans having side mounted hydraulic lifts or ramps, or a five-foot access aisle for
155 standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes
156 spaced every 12 or 24 inches apart along with the words "no parking" in painted letters which are
157 at least 12 inches in height. All accessible parking spaces must have a signpost in front or
158 adjacent to the accessible parking space displaying the international symbol of access sign
159 mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines
160 or markings on the pavement or curbs for parking spaces and access aisles may be in any color,
161 although blue is the generally accepted color for accessible parking.

162 (g) A vehicle displaying a disabled veterans special registration plate issued pursuant to
163 §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of
164 this section.

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

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

174 (j) Any person whose vehicle properly displays a valid, unexpired special registration plate

175 or removable windshield placard may park the vehicle for unlimited periods of time in parking
176 zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not
177 mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or
178 which creates parking zones for special types of vehicles or which prohibits parking during heavy
179 traffic periods during specified rush hours or where parking would clearly present a traffic hazard.
180 To the extent any provision of any ordinance of any political subdivision of this state is contrary to
181 the provisions of this section, the provisions of this section take precedence and apply.

182 The parking privileges provided for in this subsection apply only during those times when
183 the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any
184 person who knowingly exercises, or attempts to exercise, these privileges at a time when the
185 vehicle is not being used for the loading or unloading of a person with a mobility impairment is
186 guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or
187 she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any
188 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
189 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
190 \$500.

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

199 Any person who violates the provisions of this subsection is guilty of a misdemeanor and,
200 upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any

201 other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent
202 convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined
203 \$500.

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

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

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

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

227 which includes the photographs and the form, to the owner of the illegally parked vehicle.
228 Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned,
229 or designated accessible parking areas by the supervising law-enforcement agency.

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

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

242 (r) The commissioner shall propose rules for legislative approval in accordance with the
243 provisions of §29A-3-1 *et seq.* of this code.

NOTE: The purpose of this bill is to modify requirements associated for permanent handicap vehicle placards. It: (1) Requires renewal stickers have color backgrounds correlated to and identifying the year of expiration; (2) requires issuing healthcare providers to specify a specific time period for issuing temporary cards, (3) allows temporary placards to be renewed; and (4) requires applicants to have a second vehicle registered in their name before receiving an additional placard.

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