

CHAPTER 98-202

Committee Substitute for Senate Bill No. 1498

An act relating to the use of motor vehicles by persons who have disabilities; amending s. 316.1955, F.S.; clarifying standards for accessible parking spaces and parking access aisles; providing violations; providing penalties; amending s. 316.1958, F.S.; providing that a special motor vehicle license plate or parking permit issued by another state, district, or country is invalid with respect to a person who must have a Florida vehicle registration; amending s. 316.1964, F.S.; amending circumstances in which vehicles are exempt from paying parking fees and penalties; amending s. 318.18, F.S.; increasing the amount of the fine for illegally parking in a parking space for disabled persons; amending procedures for dismissing such fines and for distributing the proceeds of such fines; amending s. 320.0842, F.S.; amending prerequisites to qualifying for a free license plate as a veteran who uses a wheelchair due to a service-connected disability; amending s. 320.0843, F.S.; amending provisions related to license plates for wheelchair users; amending s. 320.0848, F.S.; amending provisions relating to the issuance of disabled parking permits; amending prerequisites; providing for replacement permits; providing for alternatives; amending requirements for the design of temporary permits; providing penalties for unlawfully displaying a disabled parking permit; providing additional grounds for confiscation of a disabled parking permit; providing for recordkeeping related to confiscation; providing for revoking the privilege of applying for a disabled parking permit; providing procedures related to confiscations and revocations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (4), (5), (6), and (7) of section 316.1955, Florida Statutes, are amended, present subsections (8) and (9) of that section are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

316.1955 Parking spaces for persons who have disabilities.—

(4) The number of accessible parking spaces must comply with the parking requirements in ADAAG s. 4.1 and the following:

(a) There must be one accessible parking space in the immediate vicinity of a publicly owned or leased building that houses a governmental entity or a political subdivision, including, but not limited to, state office buildings and courthouses, if no parking for the public is provided on the premises of the building.;

(b) There must be one accessible parking space for each 150 metered onstreet parking spaces provided by state agencies and political subdivisions.;

(c) The number of parking spaces for persons who have disabilities must be increased on the basis of demonstrated and documented need.

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located in conformance with the guidelines set forth in ADAAG ss. 4.1.2 and 4.6 and Appendix s. A4.6.3 "Universal Parking Design."

(a) All spaces must be located on an accessible route no less than 44 inches wide so that users will not be compelled to walk or wheel behind parked vehicles.

(b) Each space must be located on the shortest safely accessible route from the parking space to an accessible entrance. If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013(9) provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest safely accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

(c)1. Each parking space must be no less than 12 feet wide. Parking access aisles must be no less than 5 feet wide and must be part of an accessible route to the building or facility entrance. In accordance with ADAAG 4.6.3, access aisles must be placed adjacent to accessible parking spaces; however, The parking access aisles are reserved for the use of persons who have disabled parking permits, and violators are subject to the same penalties that are imposed for illegally parking in parking spaces that are designated for persons who have disabilities. two accessible parking spaces may share a common access aisle. The access aisle must be striped diagonally to designate it as a no-parking zone.

2. The parking access aisles are reserved for the temporary exclusive use of persons who have disabled parking permits and who require extra space to deploy a mobility device, lift, or ramp in order to exit from or enter a vehicle. Parking is not allowed in an access aisle. Violators are subject to the same penalties that are imposed for illegally parking in parking spaces that are designated for persons who have disabilities. A vehicle may not be parked in an access aisle, even if the vehicle owner or passenger is disabled or owns a disabled parking permit.

3. Any provision of this subsection to the contrary notwithstanding, a theme park or an entertainment complex as defined in s. 509.013(9) in which are provided continuous attendant services for directing individuals to marked accessible parking spaces or designated lots for parking by persons who have disabilities, may, in lieu of the required parking space design, provide parking spaces that comply with ss. 4.1 and 4.6 of the Americans with Disabilities Act Accessibility Guidelines.

(d) On-street parallel parking spaces must be located either at the beginning or end of a block or adjacent to alley entrances. Such spaces must be

designed in conformance with the guidelines set forth in ADAAG ss. 4.6.2 through 4.6.5. exception: access aisles are not required. Curbs adjacent to such spaces must be of a height that will not interfere with the opening and closing of motor vehicle doors. This subsection does not relieve the owner of the responsibility to comply with the parking requirements of ADAAG ss. 4.1 and 4.6.

(e) Parallel parking spaces must be even with surface slopes, may match the grade of the adjacent travel lane, and must not exceed a cross slope of 1 to 50, where feasible.

(f) Curb ramps must be located outside of the disabled parking spaces and access aisles.

(g)1. The removal of architectural barriers from a parking facility in accordance with 28 C.F.R. s. 36.304 or with s. 553.508 must comply with this section unless compliance would cause the barrier removal not to be readily achievable. If compliance would cause the barrier removal not to be readily achievable, a facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing persons who have disabilities to the alternative parking if readily achievable. The facility may not reduce the required number or dimensions of those spaces, nor may it unreasonably increase the length of the accessible route from a parking space to the facility. The removal of an architectural barrier must not create a significant risk to the health or safety of a person who has a disability or to that of others.

2. A facility that is making alterations under s. 553.507(2)(b) must comply with this section to the maximum extent feasible. If compliance with parking location requirements is not feasible, the facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing persons who have a disability to alternative parking. The facility may not reduce the required number or dimensions of those spaces, nor may it unnecessarily increase the length of the accessible route from a parking space to the facility. The alteration must not create a significant risk to the health or safety of a person who has a disability or to that of others.

(6) Each such parking space must be prominently outlined with blue paint, and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign of a color and design approved by the Department of Transportation, which is placed on or at a distance of 84 inches above the ground to the bottom of the sign and which bears bearing the international symbol of accessibility meeting the requirements of ADAAG s. 4.30.7 and the caption "PARKING BY DISABLED PERMIT ONLY." Such a sign erected after October 1, 1996, must indicate the penalty for illegal use of the space. Any provision of this section to the contrary notwithstanding, in a theme park or an entertainment complex as defined in s. 509.013(9) in which accessible parking is located in designated lots or areas, the signage indicating the lot as reserved for accessible parking may be located at the entrances to the lot in lieu of a sign at each parking place.

This subsection does not relieve the owner of the responsibility of complying with the signage requirements of ADAAG s. 4.30.

(7) It is unlawful for any person to stop, stand, or park a vehicle within, or to obstruct, any such specially designated and marked parking space provided in accordance with this section, unless the vehicle displays a disabled parking permit issued under s. 316.1958 or s. 320.0848 or a license plate issued under s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845, and the vehicle is transporting the person to whom the displayed permit is issued. The violation may not be dismissed for failure of the marking on the parking space to comply with this section if the space is in general compliance and is clearly distinguishable as a designated accessible parking space for people who have disabilities. Only a warning may be issued for unlawfully parking in a space designated for persons with disabilities if there is no above-grade sign as provided in subsection (6).

(a) Whenever a law enforcement officer, a parking enforcement specialist, or the owner or lessee of the space finds a vehicle in violation of this subsection, that officer, owner, or lessor shall have the vehicle in violation removed to any lawful parking space or facility or require the operator or other person in charge of the vehicle immediately to remove the unauthorized vehicle from the parking space. Whenever any vehicle is removed under this section to a storage lot, garage, or other safe parking space, the cost of the removal and parking constitutes a lien against the vehicle.

(b) The officer or specialist shall charge the operator or other person in charge of the vehicle in violation with a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18(6).

(c) All convictions for violations of this section must be reported to the Department of Highway Safety and Motor Vehicles by the clerk of the court.

(d) A law enforcement officer or a parking enforcement specialist has the right to demand to be shown the person's disabled parking permit and driver's license or state identification card when investigating the possibility of a violation of this section. If such a request is refused, the person in charge of the vehicle may be charged with resisting an officer without violence, as provided in s. 843.02 ~~may be issued a citation for a violation of this section.~~

(8) It is unlawful for any person to obstruct the path of travel to an accessible parking space, curb cut, or access aisle by standing or parking a vehicle within any such designated area. The violator is subject to the same penalties as are imposed for illegally parking in a space that is designated as an accessible parking space for persons who have disabilities.

Section 2. Section 316.1958, Florida Statutes, is amended to read:

316.1958 Out-of-state vehicles bearing identification of issuance to persons who have disabilities.—Motor vehicles displaying a special license plate or parking permit issued to a person who has a disability by any other state or district subject to the laws of the United States or by a foreign country that issues disabled parking permits that display the international symbol of accessibility are recognized as displaying a valid license plate or

permit, that allows such a vehicle special parking privileges under s. 316.1955, if the other state or district grants reciprocal recognition for residents of this state who have disabilities. However, when an individual is required by law to have a Florida driver's license or a Florida vehicle registration, a special motor vehicle license plate or parking permit issued by another state, district, or country to persons who have disabilities is not valid and the individual whose vehicle displays such an invalid plate or permit is subject to the same penalty as an individual whose vehicle does not display a valid plate or permit.

Section 3. Subsections (5) and (8) of section 316.1964, Florida Statutes, are amended to read:

316.1964 Exemption of vehicles transporting certain persons who have disabilities from payment of parking fees and penalties.—

(5) Notwithstanding subsection (1), when an on-street a parking meter restricts the duration of time that a vehicle may be parked, a vehicle properly displaying a disabled parking permit is allowed a maximum of 4 hours at no charge; however, local governments may extend such time by local ordinance.

(8) Notwithstanding subsection (1), a county, municipality, or any agency thereof may charge for parking in a facility or lot that provides timed parking spaces any space a vehicle that displays a disabled parking permit, except that any vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls, for use by a person who has a disability, or any vehicle that is displaying the Florida Toll Exemption permit, is exempt from any parking fees.

Section 4. Subsection (6) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(6) One hundred dollars for illegally parking, under s. 316.1955, in a parking space provided for people who have disabilities. However, this fine will be waived if a person provides to the law enforcement agency that issued the citation for such a violation proof disabled persons under s. 316.1955 or s. 316.1956 or provide proof to the clerk of the circuit court that the person committing the violation has a valid parking permit or license plate issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848 or and a signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred. The law enforcement officer, upon determining that all required documentation has been submitted verifying that the required parking permit or license plate was valid at the time of the violation, must sign an affidavit of compliance. Upon provision of the affidavit of compliance proof of such a valid parking permit or license plate and payment of a \$5 dismissal fee to the clerk of the circuit court, the clerk shall dismiss the citation.

Section 5. Subsection (2) of section 320.0842, Florida Statutes, is amended to read:

320.0842 Free motor vehicle license plates to veterans who use wheelchairs.—

(2) In order to be eligible for the motor vehicle license plate described in subsection (1), a person must comply with the following provisions:

(a) The veteran must be eligible for the license plate issued under s. 320.084 and must apply for the license plate issued under this section in lieu of or in exchange for the motor vehicle license number plate authorized by s. 320.084; and

(b) The veteran must offer, in addition to the proof required by s. 320.084(1), proof that due to a service-connected disability he or she permanently uses a wheelchair or proof, in the form of an application that conforms to the requirements set forth in s. 320.0848, that he or she qualifies for a disabled parking permit under that section. The license plate entitles the person to all privileges afforded by a parking permit issued under s. 320.0848.

Section 6. Section 320.0843, Florida Statutes, is amended to read:

320.0843 License plates for persons with disabilities eligible for permanent disabled parking permits wheelchair users.—

(1) Any owner or lessee of a motor vehicle who resides in this state and qualifies for a disabled parking permit under s. 320.0848(2) ~~is permanently confined to a wheelchair, upon application to the department accompanied by competent and appropriate proof of disability, and upon payment of the license tax for a motor vehicle registered under s. 320.08(2), (3)(a), (b), (c), or (e), (4)(a) or (b), (6)(a), or (9)(c) or (d), shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial number prescribed by s. 320.06, shall be stamped with the international wheelchair user symbol after the serial number of the license plate. The license plate entitles the person to all privileges afforded by a parking permit issued under s. 320.0848.~~

(2) All applications for such license plates must ~~shall~~ be made to the department.

Section 7. Section 320.0848, Florida Statutes, is amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(1)(a) The Department of Highway Safety and Motor Vehicles or its authorized agents shall, upon application and receipt of the fee, issue a disabled parking permit for a period of up to 4 years, which period that ends on the applicant's birthday, to any person who has long-term mobility impairment problems, or a temporary disabled parking permit not to exceed 1 year to any person who has a temporary mobility impairment problems.

~~(b)1. The person must be currently certified by a physician licensed under chapter 458, chapter 459, or chapter 460, or by a podiatrist licensed under chapter 461, by the Division of Blind Services of the Department of Labor and Employment Security, or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being legally blind or as having any of the following disabilities that render him limit or impair his or her unable ability to walk 200 feet without stopping to rest:~~

~~1. Inability to walk 200 feet without stopping to rest.~~

~~a.2. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.~~

~~b.3. The need to permanently use a wheelchair.~~

~~c.4. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.~~

~~d.5. Use of portable oxygen.~~

~~e.6. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.~~

~~f.7. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.~~

2. The certification of disability which is required under subparagraph 1. must be provided by a physician licensed under chapter 458, chapter 459, or chapter 460, by a podiatrist licensed under chapter 461, by an optometrist licensed under chapter 463, by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor, or by a similarly licensed physician from another state if the application is accompanied by documentation of the physician's licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of this state's eligibility guidelines.

~~(c)(b)~~ The certificate of disability must include, but need not be limited to:

1. The disability of the applicant; the certifying physician's name and address; the physician's certification number; the eligibility criteria for the permit; the penalty for falsification by either the certifying physician or the applicant; the duration of the condition that entitles the person to the permit; and justification for the additional placard pursuant to subsection (2).

2. The statement, in bold letters: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility."

3. The signatures of:
 - a. The applicant's physician;
 - b. The applicant or the applicant's parent or guardian; and
 - c. The employee of the department's authorized agent which employee is processing the application.

~~(d)(e)~~ Beginning April 1, 1999, the Department of Highway Safety and Motor Vehicles shall renew the disabled parking permit of any person certified as permanently disabled on the application who has a disability upon presentation of the certification required by paragraph (b).

~~(e)(d)~~ The Department of Highway Safety and Motor Vehicles shall, in consultation with the Commission for the Transportation Disadvantaged, adopt rules, in accordance with chapter 120, for the issuance of a disabled parking permit to any organization that can adequately demonstrate a bona fide need for such a permit because the organization provides regular transportation services to persons who have disabilities and are certified as provided in this subsection ~~paragraph (a).~~

(2) **DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM MOBILITY PROBLEMS.—**

(a) The disabled parking permit is a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning that the applicant must have such identification at all times while using the parking permit. A validation sticker must also be issued with each disabled parking permit, showing the month and year of expiration on each side of the placard. Validation stickers must be of the size specified by the Department of Highway Safety and Motor Vehicles and must be affixed to the disabled parking permits. The disabled parking permits must use the same colors as license plate validations.

(b) License plates issued under ss. 320.084, 320.0842, 320.0843, and 320.0845 are valid for the same parking privileges and other privileges provided under ss. 316.1955, 316.1964, and 526.141(5)(a).

(c)1. Except as provided in subparagraph 2., the fee for a disabled parking permit shall be:

- a. Fifteen dollars for each initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$13.50 and the tax collector of the county in which the fee was collected shall receive \$1.50.

- b. One dollar for each additional or additional renewal 4-year permit, of which the State Transportation Trust Fund shall receive all funds collected.

The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic.

The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(d). Subsections (1), (5), (6), and (7) apply to this subsection.

2. If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the United States Department of Veterans Affairs or its predecessor to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the United States Department of Veterans Affairs and has a signed physician's statement of qualification for the disabled parking permits, the fee for a disabled parking permit shall be:

a. One dollar and fifty cents for the initial 4-year permit or renewal permit.

b. One dollar for each additional or additional renewal 4-year permit.

The tax collector of the county in which the fee was collected shall retain all funds received pursuant to this subparagraph.

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of supplemental security income, the fee for the disabled parking permit shall be \$9 for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$6.75 and the tax collector of the county in which the fee was collected shall receive \$2.25.

(d) To obtain a replacement for a disabled parking permit that has been lost or stolen, a person must submit an application on a form prescribed by the department and must pay a replacement fee in the amount of \$1.00, to be retained by the issuing agency. If the person submits with the application a police report documenting that the permit was stolen, there is no replacement fee.

(e) A person who qualifies for a disabled parking permit under this section may be issued an international wheelchair user symbol license plate under s. 320.0843 in lieu of the disabled parking permit; or, if the person qualifies for a "DV" license plate under s. 320.084, such a license plate may be issued to him or her in lieu of a disabled parking permit.

(3) DISABLED PARKING PERMIT; TEMPORARY.—

(a) The temporary disabled parking permit is a placard of a different color from the color of the long-term disabled parking permit placard, and must clearly display the date of expiration in large print and with color coding, but is ~~in all other respects~~ identical to the long-term disabled parking permit placard in all other respects, including, but not limited to, the inclusion of a state identification card number or driver's license number on one side of the temporary permit. The temporary disabled parking permit placard must be designed to conspicuously display the expiration date of the permit on the front and back of the placard.

(b) The department shall issue the temporary disabled parking permit for the period of the disability as stated by the certifying physician, but not to exceed 1 year.

(c) The fee for a temporary disabled parking permit is \$15.

(4) From the proceeds of the temporary disabled parking permit fees:

(a) The Department of Highway Safety and Motor Vehicles must receive \$3.50 for each temporary permit, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.

(b) The tax collector, for processing, must receive \$2.50 for each temporary permit.

(c) The remainder must be distributed monthly as follows:

1. To the Florida Governor's Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers, \$4. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for Employment of Disabled Citizens.

2. To the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities, \$5.

(5) The applications for disabled parking permits and temporary disabled parking permits are official state documents. The following statement must appear on each application form immediately below the physician's signature and immediately below the applicant's signature: "Knowingly providing false information on this application is a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes. The penalty is up to 1 year in jail or a fine of \$1,000, or both."

(6) Any person who knowingly makes a false or misleading statement in an application or certification under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Any person who fraudulently obtains or unlawfully displays a disabled parking permit that belongs to another person while occupying a disabled parking space or an access aisle as defined in s. 316.1955 while the owner of the permit is not being transported in the vehicle uses such a disabled parking permit or who uses an unauthorized replica of such a disabled parking permit with the intent to deceive is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) A law enforcement officer may confiscate the disabled parking permit from any person who fraudulently obtains or unlawfully ~~and~~ uses such a

permit. A law enforcement officer may confiscate any disabled parking permit that is expired, reported as lost or stolen, or defaced, or that does not display a personal identification number.

(a) Beginning April 1, 1999, the permit number of each confiscated permit must be submitted to the Department of Highway Safety and Motor Vehicles, and the fact that the permit has been confiscated must be noted on the permitholder's record. If two permits issued to the same person have been confiscated, the Department of Highway Safety and Motor Vehicles shall refer the information to the Florida Abuse Hotline for an investigation of potential abuse, neglect, or exploitation of the permit owner.

(b) A confiscated permit must be held as evidence until a judicial decision about the violation has been made. After a finding of guilt has been made or a plea of nolo contendere has been entered, the charging agency shall destroy the confiscated permit. A confiscated permit may not, under any circumstances, be returned to its registered owner after a finding of guilt has been made or a plea of nolo contendere has been entered in court. The permit number of each destroyed permit must be reported to the department, and the department must record in the real-time disabled parking permit database that the permit has been invalidated.

Section 8. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1998.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.