

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 435

Short Title: MV Laws-Handicapped Persons.

(Public)

Sponsors: Representatives Huffman; Gardner, Justus, and Stamey.

Referred to: Judiciary III.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO REWRITE AND AMEND THE MOTOR VEHICLE LAWS RELATING TO HANDICAPPED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

**§ 20-37.1A. Handicapped-definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

- (1) 'Distinguishing License Plate' means a license plate that displays the International Symbol of Access using the same color, size of plate, and size of letters or numbers as a regular plate.
- (2) 'Handicapped' shall mean a person with a mobility impairment who, as determined by a licensed physician:
  - a. Cannot walk 200 feet without stopping to rest;
  - b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
  - c. Are restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
  - d. Use portable oxygen;

- 1 e. Have a cardiac condition to the extent that the person's  
 2 functional limitations are classified in severity as Class III or  
 3 Class IV according to standards set by the American Heart  
 4 Association;  
 5 f. Are severely limited in their ability to walk due to an arthritic,  
 6 neurological, or orthopedic condition; or  
 7 g. Are totally blind or whose vision with glasses is so defective as  
 8 to prevent the performance of ordinary activity for which  
 9 eyesight is essential, as certified by a licensed ophthalmologist,  
 10 optometrist, or the Division of Services for the Blind.
- 11 (4) 'International Symbol of Access' means the symbol adopted by  
 12 Rehabilitation International in 1969 at its Eleventh World Congress on  
 13 Rehabilitation of the Disabled.
- 14 (5) 'Removable windshield placard' means a two-sided, hooked placard  
 15 which includes on each side:  
 16 a. The International Symbol of Access, which is at least three  
 17 inches in height, centered on the placard, and is white on a blue  
 18 shield;  
 19 b. An identification number;  
 20 c. An expiration date; and  
 21 d. The seal or other identification of the issuing authority."

22 Sec. 2. G.S. 20-37.6 reads as rewritten:

23 **"§ 20-37.6. Handicapped; drivers and passengers; parking privileges.**

24 (a) Any vehicle driven by or transporting a person who is handicapped as defined  
 25 by ~~G.S. 20-37.5~~ G.S. 20-37.1A ~~or transporting a person who is visually impaired as~~  
 26 ~~defined by G.S. 111-11, as certified by a licensed ophthalmologist, optometrist, or~~  
 27 ~~Division of Services for the Blind, displaying a distinguishing license plate, a removable~~  
 28 windshield placard, or a temporary removal windshield placard may be parked for  
 29 unlimited periods in parking zones restricted as to the length of time parking is  
 30 permitted. This provision has no application to those zones or during times in which the  
 31 stopping, parking, or standing of all vehicles is prohibited or which are reserved for  
 32 special types of vehicles. Any qualifying vehicle may park in spaces designated by  
 33 aboveground markings as restricted to vehicles distinguished as being driven by or as  
 34 transporting the ~~handicapped or as transporting the visually impaired.~~ handicapped.

35 (b) Handicapped Car Owners; Distinguishing License Plates. – If the  
 36 ~~handicapped or visually impaired~~ person is a registered owner of a vehicle, ~~this vehicle the~~  
 37 owner may apply for and display a distinguishing license plate. This license plate shall  
 38 be issued for the normal fee applicable to standard license plates. Any vehicle owner  
 39 who qualifies for a distinguishing license plate may also receive ~~a combination of two~~  
 40 ~~distinguishing placards or identification cards under subsection (c).~~ one removable  
 41 windshield placard.

42 (c) Handicapped Drivers and Passengers; Distinguishing Placards ~~or~~  
 43 ~~Identification Cards.~~ Placards. – A handicapped person ~~who is either handicapped or~~  
 44 ~~visually impaired~~ may apply for the issuance of a distinguishing placard ~~or a wallet size~~

1 identification card to be designed by the Division of Motor Vehicles of the Department  
2 of Transportation, in cooperation with the Office for the Handicapped of the  
3 Department of Insurance. removable windshield placard or a temporary removable  
4 windshield placard. Upon request, one additional placard may be issued to applicants  
5 who do not have a distinguishing license plate. Any organization which, as determined  
6 and certified by the State Vocational Rehabilitation Agency, regularly transports  
7 handicapped or visually impaired people, persons, may also apply. These organizations  
8 may receive one removable windshield placard for each transporting vehicle. A placard  
9 shall be at least 6 inches by 12 inches in size, and a placard or identification card shall  
10 contain all the information the Division of Motor Vehicles deems necessary for  
11 designation and enforcement. A placard or identification card shall be displayed on the  
12 driver's side of the dashboard of a vehicle only when the vehicle is being driven by a  
13 duly licensed handicapped driver or is being used to transport handicapped or visually  
14 impaired passengers. —When the removable windshield or temporary removable  
15 windshield placard or identification card is properly displayed, all parking rights and  
16 privileges extended to vehicles displaying a distinguishing license plate issued pursuant  
17 to subsection (b) shall apply. The removable windshield placard or the temporary  
18 removable windshield placard shall be displayed so that it may be viewed from the front  
19 and rear of the vehicle by hanging it from the front windshield rearview mirror of a  
20 vehicle using a parking space reserved for handicapped persons. When there is no  
21 inside rearview mirror, the placard shall be displayed on the driver's side of the  
22 dashboard. The Division of Motor Vehicles shall establish procedures for the issuance  
23 of the distinguishing placards and identification cards, and may charge a fee sufficient  
24 to pay the actual cost of issuance, but in no event less than five dollars (\$5.00)  
25 per placard. A combination of two placards or identification cards may be issued to an  
26 applicant on request. Applicants who are organizations may receive one placard or  
27 identification card for each transporting vehicle.

28 (d) Application for Placard; Physician's Certification. — The initial application for  
29 a distinguishing license plate, removable windshield placard, or temporary removable  
30 windshield placard shall be accompanied by a certification of a licensed physician,  
31 ophthalmologist, optometrist, or Division of Services for the Blind that the applicant  
32 meets the definition of a person being handicapped in G.S. 20-37.1A. The initial  
33 application for a temporary removable windshield placard shall contain additional  
34 certification to include the period of time the certifying authority determines the  
35 applicant will have the disability. Distinguishing license plates shall be renewed  
36 annually, but subsequent applications shall not require a medical certification that the  
37 applicant meets the definition of being handicapped in G.S. 20-37.1A. Removable  
38 windshield placards shall be renewed every five years, and the renewal shall require a  
39 medical recertification that the person is handicapped as defined in G.S. 20-37.1A.  
40 Temporary removable windshield placards shall expire no later than six months after  
41 issuance.

42 (e) Existing Placards; Expiration; Exchange for New Placards. — All existing  
43 placards shall expire on January 1, 1992. No person shall be convicted of parking in  
44 violation of this Article by reason of an expired placard if the defendant produces in

1 court, at the time of trial on the illegal parking charge, an expired placard and a renewed  
2 placard issued within 30 days of the expiration date of the expired placard and which  
3 would have been a defense to the charge had it been issued prior to the time of the  
4 alleged offense. Existing placards issued on or after July 1, 1989, may be exchanged  
5 without charge for the new placards.

6 ~~(d)~~ (f) Designation of Parking Places. – Designation of parking spaces for the  
7 physically handicapped and the visually impaired on streets and in other areas,  
8 including public vehicular areas specified in G.S. 20-4.01(32), shall be by the use of  
9 sign R7-8 for multiple parking spaces as shown in the Manual on Uniform Traffic  
10 Control Devices, or sign R7-8a for single parking spaces as shown in the N.C.  
11 Department of Transportation Supplement to the Manual on Uniform Traffic Control  
12 Devices. Signs R7-8 and R7-8a shall state the maximum penalty for parking in a  
13 parking space for the ~~physically handicapped or visually impaired~~ in violation of the law.

14 ~~(d)~~ (g) Unique Properties. – The owner of private property which contains a  
15 public vehicular area, on which is to be designated one or more parking spaces for the  
16 ~~physically handicapped and the visually impaired,~~ handicapped, may file a written  
17 certification, on a form supplied by the Department of Transportation, that signs  
18 conforming to ~~G.S. 20-37.6(d)~~ G.S. 20-37.6(f) would not be compatible with the unique  
19 visual character of the property. Upon filing of the certification with the Department of  
20 Transportation, the owner may cause to be erected signs of materials and colors  
21 different from signs R7-8 and R7-8a. The signs shall be the same size and shape as  
22 signs R7-8 or R7-8a, as appropriate, with the same letters, words, numbers, and  
23 symbols, except for the statement of the maximum penalty for parking in a parking  
24 space for the ~~physically handicapped or visually impaired~~ in violation of the law. Such  
25 signs shall be deemed to conform to ~~G.S. 20-37.6(d)~~ G.S. 20-37.6(f).

26 ~~(e)~~ (h) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:

27 (1) To park or leave standing any vehicle in a space designated with a sign  
28 pursuant to subsection ~~(d)~~ (f) or (g) of this section for handicapped  
29 persons ~~or visually impaired persons~~ when the vehicle does not display  
30 the distinguishing license plate, ~~placard,~~ removable windshield placard  
31 or temporary removable windshield placard or identification card as  
32 provided in this section or a disabled veteran registration plate issued  
33 pursuant to ~~G.S. 20-81.4;~~ G.S. 20-81.4;

34 (2) For any person not qualifying for the rights and privileges extended to  
35 handicapped ~~or visually impaired~~ persons under this section to exercise  
36 or attempt to exercise such rights or privileges by the unauthorized use  
37 of a distinguishing license plate, ~~placard,~~ removable windshield placard, or temporary removable windshield  
38 placard issued pursuant to the provisions of this section;

39 (3) To park or leave standing any vehicle so as to obstruct a curb ramp or  
40 curb cut for handicapped persons as provided for by the North  
41 Carolina Building Code or as designated in G.S. 136-44.14;  
42

- 1 (4) For those responsible for designating parking spaces for the  
2 handicapped to erect or otherwise use signs not conforming to ~~G.S. 20-~~  
3 ~~37.6(d)~~-G.S. 20-37.6(f) for this purpose.

4 This section is enforceable in all public vehicular areas specified in G.S. 20-  
5 4.01(32).

6 (f) (i) Penalties for violation.

- 7 (1) A violation of ~~G.S. 20-37.6(e)(1)~~-G.S. 20-37.6(h)(1), (2) or (3) is an  
8 infraction which carries a penalty of at least fifty dollars (\$50.00) but  
9 not more than one hundred dollars (\$100.00) and whenever evidence  
10 shall be presented in any court of the fact that any automobile, truck,  
11 or other vehicle was found to be parked in a properly designated  
12 handicapped parking space in violation of the provisions of this  
13 section, it shall be **prima facie** evidence in any court in the State of  
14 North Carolina that the vehicle was parked and left in the space by the  
15 person, firm, or corporation in whose name the vehicle is registered  
16 and licensed according to the records of the Division of Motor  
17 Vehicles. No evidence tendered or presented under this authorization  
18 shall be admissible or competent in any respect in any court or tribunal  
19 except in cases concerned solely with a violation of this section.
- 20 (2) A violation of ~~G.S. 20-37.6(e)(4)~~-G.S. 30-37.6(h)(4) is an infraction  
21 which carries a penalty of at least fifty dollars (\$50.00) but not more  
22 than one hundred dollars (\$100.00) and whenever evidence shall be  
23 presented in any court of the fact that any such nonconforming sign or  
24 markings are being used it shall be **prima facie** evidence in any court  
25 in the State of North Carolina that the person, firm, or corporation with  
26 ownership of the property where said nonconforming signs or  
27 markings are located is responsible for violation of this section.  
28 Building inspectors and others responsible for North Carolina State  
29 Building Code violations specified in G.S. 143-138(h) where such  
30 signs are required by the Handicapped Section of the North Carolina  
31 State Building Code, may cause a citation to be issued for this  
32 violation and may also initiate any appropriate action or proceeding to  
33 correct such violation.
- 34 (3) A law-enforcement officer, including a security officer who has  
35 authority to enforce laws on the property of his employer as specified  
36 in Chapter 74A, may cause a vehicle parked in violation of this section  
37 to be towed; and such officer shall be a legal possessor as provided in  
38 G.S. 20-161(d)(2). This law-enforcement officer, or security officer,  
39 shall not be held to answer in any civil or criminal action to any owner,  
40 lienholder or other person legally entitled to the possession of any  
41 motor vehicle removed from such space pursuant to this section,  
42 except where such motor vehicle is willfully, maliciously, or  
43 negligently damaged in the removal from aforesaid space to place of  
44 storage.

- 1 (4) Notwithstanding any other provision of the General Statutes, the  
2 provisions of this section relative to handicapped parking shall be  
3 enforced by State, county, city and other municipal authorities in their  
4 respective jurisdictions whether on public or private property in the  
5 same manner as is used to enforce other parking laws and ordinances  
6 by said agencies."

7 Sec. 3. G.S. 20-37.6A reads as rewritten:

8 **"§ 20-37.6A. Vehicles designated for out-of-state handicapped; parking privileges.**

9 Any vehicle displaying an out-of-state handicapped license plate, placard or other  
10 evidence of handicap or visual impairment issued by the appropriate authority of the  
11 appropriate jurisdiction may park in any space reserved for the handicapped ~~or the~~  
12 ~~visually impaired~~ pursuant to G.S. 20-37.6."

13 Sec. 4. G.S. 20-51 reads as rewritten:

14 **"§ 20-51. Exempt from registration.**

15 The following shall be exempt from the requirement of registration and certificate of  
16 title:

- 17 (1) Any such vehicle driven or moved upon a highway in conformance  
18 with the provisions of this Article relating to manufacturers, dealers, or  
19 nonresidents.
- 20 (2) Any such vehicle which is driven or moved upon a highway only for  
21 the purpose of crossing such highway from one property to another.
- 22 (3) Any implement of husbandry, farm tractor, road construction or  
23 maintenance machinery or other vehicle which is not self-propelled  
24 that was designed for use in work off the highway and which is  
25 operated on the highway for the purpose of going to and from such  
26 nonhighway projects.
- 27 (4) Any vehicle owned and operated by the government of the United  
28 States.
- 29 (5) Farm tractors equipped with rubber tires and trailers or semitrailers  
30 when attached thereto and when used by a farmer, his tenant, agent, or  
31 employee in transporting his own farm implements, farm supplies, or  
32 farm products from place to place on the same farm, from one farm to  
33 another, from farm to market, or from market to farm. This exemption  
34 shall extend also to any tractor, implement of husbandry, and trailer or  
35 semitrailer while on any trip within a radius of 10 miles from the point  
36 of loading, provided that the vehicle does not exceed a speed of 35  
37 miles per hour. This section shall not be construed as granting any  
38 exemption to farm tractors, implements of husbandry, and trailers or  
39 semitrailers which are operated on a for-hire basis, whether money or  
40 some other thing of value is paid or given for the use of such tractors,  
41 implements of husbandry, and trailers or semitrailers.
- 42 (6) Any trailer or semitrailer attached to and drawn by a properly licensed  
43 motor vehicle when used by a farmer, his tenant, agent, or employee in  
44 transporting unginne cotton, peanuts, soybeans, corn, hay, tobacco,

1 silage, cucumbers, potatoes, fertilizers or chemicals purchased or  
2 owned by such farmer or tenant for personal use in implementing  
3 husbandry or irrigation pipes and equipment owned by such farmer or  
4 tenant from place to place on the same farm, from one farm to another,  
5 from farm to gin, from farm to dryer, or from farm to market, and  
6 when not operated on a for-hire basis. The term 'transporting' as used  
7 herein shall include the actual hauling of said products and all  
8 unloaded travel in connection therewith.

9 (7) Those small farm trailers known generally as tobacco-handling trailers,  
10 tobacco trucks or tobacco trailers when used by a farmer, his tenant,  
11 agent or employee, when transporting or otherwise handling tobacco in  
12 connection with the pulling, tying or curing thereof.

13 (8) Any vehicle which is driven or moved upon a highway only for the  
14 purpose of crossing or traveling upon such highway from one side to  
15 the other provided the owner or lessee of the vehicle owns the fee or a  
16 leasehold in all the land along both sides of the highway at the place or  
17 crossing.

18 (9) Mopeds as defined in G.S. 20-4.01(27)d1.

19 (10) Devices which are designed for towing private passenger motor  
20 vehicles or vehicles not exceeding 5,000 pounds gross weight. These  
21 devices are known generally as 'tow dollies.' A tow dolly is a two-  
22 wheeled device without motive power designed for towing disabled  
23 motor vehicles and is drawn by a motor vehicle in the same manner as  
24 a trailer.

25 (11) Devices generally called converter gear or dollies consisting of a  
26 tongue attached to either a single or tandem axle upon which is  
27 mounted a fifth wheel and which is used to convert a semitrailer to a  
28 full trailer for the purpose of being drawn behind a truck tractor and  
29 semitrailer.

30 (12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds  
31 gross ~~weight~~ weight when used for pedestrian purposes by a  
32 handicapped person with a mobility impairment as defined in G.S. 20-  
33 37.1A."

34 Sec. 5. G.S. 20-37.2, 20-37.3, 20-37.4, and 20-37.5 are repealed.

35 Sec. 6. This act becomes effective July 1, 1991.