

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 435
Committee Substitute Favorable 5/9/91

Short Title: MV Laws-Handicapped Persons.

(Public)

Sponsors:

Referred to:

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. G.S. 20-37.5 reads as rewritten:

"§ 20-37.5. ~~Handicapped Definition.~~ Definitions.

As used in this Article, ~~handicapped~~ shall mean:

- (1) ~~Any person who has an obvious physical disability that requires the use of a wheelchair, braces, walkers, or crutches, and those who have lost the use of one or both legs; or~~
- (2) ~~Any person who, as determined and certified by a physician, is severely restricted in mobility by a pulmonary or cardiovascular disability, arthritic condition, orthopedic or neurologic impairment.~~

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;

- 1 **b.** Cannot walk without the use of, or assistance from, a brace,
2 cane, crutch, another person, prosthetic device, wheelchair, or
3 other assistive device;
- 4 **c.** Are restricted by lung disease to such an extent that the person's
5 forced (respiratory) expiratory volume of one second, when
6 measured by spirometry, is less than one liter, or the arterial
7 oxygen tension is less than 60 mm/hg on room air at rest;
- 8 **d.** Use portable oxygen;
- 9 **e.** Have a cardiac condition to the extent that the person's
10 functional limitations are classified in severity as Class III or
11 Class IV according to standards set by the American Heart
12 Association;
- 13 **f.** Are severely limited in their ability to walk due to an arthritic,
14 neurological, or orthopedic condition; or
- 15 **g.** Are totally blind or whose vision with glasses is so defective as
16 to prevent the performance of ordinary activity for which
17 eyesight is essential, as certified by a licensed ophthalmologist,
18 optometrist, or the Division of Services for the Blind.
- 19 (4) 'International Symbol of Access' means the symbol adopted by
20 Rehabilitation International in 1969 at its Eleventh World Congress on
21 Rehabilitation of the Disabled.
- 22 (5) 'Removable windshield placard' means a two-sided, hooked placard
23 which includes on each side:
- 24 **a.** The International Symbol of Access, which is at least three
25 inches in height, centered on the placard, and is white on a blue
26 shield;
- 27 **b.** An identification number;
- 28 **c.** An expiration date; and
- 29 **d.** The seal or other identification of the issuing authority."

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

31 **"§ 20-37.6. Handicapped; drivers and passengers; parking privileges.**

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

43 (b) Handicapped Car Owners; Distinguishing License Plates. – If the
44 handicapped ~~or visually impaired~~ person is a registered owner of a vehicle, ~~this vehicle the~~

1 owner may apply for and display a distinguishing license plate. This license plate shall
2 be issued for the normal fee applicable to standard license plates. Any vehicle owner
3 who qualifies for a distinguishing license plate may also receive a combination of two
4 distinguishing placards or identification cards under subsection (e). one removable
5 windshield placard.

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

36 (d) Application for Placard; Physician's Certification. – The initial application for
37 a distinguishing license plate, removable windshield placard, or temporary removable
38 windshield placard shall be accompanied by a certification of a licensed physician,
39 ophthalmologist, optometrist, or Division of Services for the Blind that the applicant
40 meets the definition of a person being handicapped in G.S. 20-37.5. The application for
41 a temporary removable windshield placard shall contain additional certification to
42 include the period of time the certifying authority determines the applicant will have the
43 disability. Distinguishing license plates shall be renewed annually, but subsequent
44 applications shall not require a medical certification that the applicant meets the

1 definition of being handicapped in G.S. 20-37.5. Removable windshield placards shall
2 be renewed every five years, and the renewal shall require a medical recertification that
3 the person is handicapped as defined in G.S. 20-37.5. Temporary removable windshield
4 placards shall expire no later than six months after issuance.

5 (e) Existing Placards; Expiration; Exchange for New Placards. – All existing
6 placards shall expire on January 1, 1992. No person shall be convicted of parking in
7 violation of this Article by reason of an expired placard if the defendant produces in
8 court, at the time of trial on the illegal parking charge, an expired placard and a renewed
9 placard issued within 30 days of the expiration date of the expired placard and which
10 would have been a defense to the charge had it been issued prior to the time of the
11 alleged offense. Existing placards issued on or after July 1, 1989, may be exchanged
12 without charge for the new placards.

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

21 ~~(d1)~~ (g) Unique Properties. – The owner of private property which contains a
22 public vehicular area, on which is to be designated one or more parking spaces for the
23 ~~physically handicapped and the visually impaired,~~ handicapped, may file a written
24 certification, on a form supplied by the Department of Transportation, that signs
25 conforming to ~~G.S. 20-37.6(d)~~ G.S. 20-37.6(f) would not be compatible with the unique
26 visual character of the property. Upon filing of the certification with the Department of
27 Transportation, the owner may cause to be erected signs of materials and colors
28 different from signs R7-8 and R7-8a. The signs shall be the same size and shape as
29 signs R7-8 or R7-8a, as appropriate, with the same letters, words, numbers, and
30 symbols, except for the statement of the maximum penalty for parking in a parking
31 space for the ~~physically handicapped or visually impaired~~ in violation of the law. Such
32 signs shall be deemed to conform to ~~G.S. 20-37.6(d)~~ G.S. 20-37.6(f).

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

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

41 (2) For any person not qualifying for the rights and privileges extended to
42 handicapped ~~or visually impaired~~ persons under this section to exercise
43 or attempt to exercise such rights or privileges by the unauthorized use
44 of a distinguishing license plate, ~~placard,~~ or identification card

removable windshield placard, or temporary removable windshield placard issued pursuant to the provisions of this section;

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

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

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

(f) (i) Penalties for violation.

(1) A violation of ~~G.S. 20-37.6(e)(1)~~, ~~G.S. 20-37.6(h)(1)~~, (2) or (3) is an infraction which carries a penalty of at least fifty dollars (\$50.00) but not more than one hundred dollars (\$100.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be **prima facie** evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.

(2) A violation of ~~G.S. 20-37.6(e)(4)~~ ~~G.S. 30-37.6(h)(4)~~ is an infraction which carries a penalty of at least fifty dollars (\$50.00) but not more than one hundred dollars (\$100.00) and whenever evidence shall be presented in any court of the fact that any such nonconforming sign or markings are being used it shall be **prima facie** evidence in any court in the State of North Carolina that the person, firm, or corporation with ownership of the property where said nonconforming signs or markings are located is responsible for violation of this section. Building inspectors and others responsible for North Carolina State Building Code violations specified in G.S. 143-138(h) where such signs are required by the Handicapped Section of the North Carolina State Building Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.

(3) A law-enforcement officer, including a security officer who has authority to enforce laws on the property of his employer as specified in Chapter 74A, may cause a vehicle parked in violation of this section to be towed; and such officer shall be a legal possessor as provided in G.S. 20-161(d)(2). This law-enforcement officer, or security officer, shall not be held to answer in any civil or criminal action to any owner,

1 lienholder or other person legally entitled to the possession of any
2 motor vehicle removed from such space pursuant to this section,
3 except where such motor vehicle is willfully, maliciously, or
4 negligently damaged in the removal from aforesaid space to place of
5 storage.

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

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

13 **"§ 20-37.6A. Vehicles designated for out-of-state handicapped; parking privileges.**

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

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

19 **"§ 20-51. Exempt from registration.**

20 The following shall be exempt from the requirement of registration and certificate of
21 title:

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

1 some other thing of value is paid or given for the use of such tractors,
2 implements of husbandry, and trailers or semitrailers.

3 (6) Any trailer or semitrailer attached to and drawn by a properly licensed
4 motor vehicle when used by a farmer, his tenant, agent, or employee in
5 transporting unginmed cotton, peanuts, soybeans, corn, hay, tobacco,
6 silage, cucumbers, potatoes, fertilizers or chemicals purchased or
7 owned by such farmer or tenant for personal use in implementing
8 husbandry or irrigation pipes and equipment owned by such farmer or
9 tenant from place to place on the same farm, from one farm to another,
10 from farm to gin, from farm to dryer, or from farm to market, and
11 when not operated on a for-hire basis. The term 'transporting' as used
12 herein shall include the actual hauling of said products and all
13 unloaded travel in connection therewith.

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

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

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

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

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

35 (12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds
36 gross ~~weight.~~ weight when used for pedestrian purposes by a
37 handicapped person with a mobility impairment as defined in G.S. 20-
38 37.5."

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

40 Sec. 6. This act becomes effective October 1, 1991.