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FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

May 21, 2009

**S. 126**

Introduced by Senators Sheheen and Elliott

S. Printed 5/12/09--S.

Read the first time January 13, 2009.

**A** **BILL**

TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED”, TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED AND TO DEFINE THE TERM “ACCESS AISLE”; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, PROPER USE AND DISPLAY OF HANDICAPPED PLACARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISION; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS; TO AMEND SECTION 56‑3‑1970, RELATING TO THE UNLAWFUL PARKING OF A VEHICLE IN A PARKING PLACE DESIGNATED FOR HANDICAPPED PERSON, SO AS TO PROVIDE THAT IT IS ALSO UNLAWFUL FOR CERTAIN PERSONS TO EXERCISE THE PRIVILEGES GRANTED TO A HOLDER OF A LICENSE PLATE OR PLACARD DESIGNATED FOR USE BY A HANDICAPPED PERSON, AND TO INCREASE THE PENALTY FOR A VIOLATION OF THIS PROVISION; AND TO AMEND SECTION 56‑3‑1975, RELATING TO THE IDENTIFICATION AND MAINTENANCE OF HANDICAPPED PARKING PLACES, SO AS TO PROVIDE THAT A HANDICAPPED PARKING PLACE INCLUDES ALL ACCESS AISLES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56‑3‑1910 of the 1976 Code is amended to read:

“Section 56‑3‑1910. (A) As used in this article, ‘handicapped’ means a person who has one or more of the following conditions:

(1) an inability to ordinarily walk one hundred feet nonstop without aggravating an existing medical condition, including the increase of pain;

(2) an inability to ordinarily walk without the use of, or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) a restriction by lung disease to the extent that the person’s forced expiratory volume for one second when measured by spirometry is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(4) requires use of portable oxygen;

(5) a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association. If the person’s status improves to a higher level, for example as a result of bypass surgery or transplantation, he no longer meets this criteria;

(6) a substantial limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition, for example, coordination problems and muscle spasticity due to conditions that include Parkinson’s disease, cerebral palsy, or multiple sclerosis; or

(7) blindness.

(B) Upon payment of the regular motor vehicle license fee, the department may issue a license ~~tag~~ plate with a special number or identification indicating that the ~~tag~~ license plate was issued to a person ~~(a) disabled by an impairment in the use of one or more limbs and required to use a wheelchair or (b) disabled by an impairment in mobility, but otherwise qualified for a driver’s license as determined by the department. Each application for the license must be accompanied by the certificate of a licensed physician as defined in Section 40‑47‑5 as to the permanency of limb impairment or as to the severity or the permanency of mobility impairment.~~ certified as permanently handicapped. A license plate issued pursuant to this section must be accompanied by a certification form completed by a licensed physician.

(C)(1) The department must develop a standardized certification form designed to capture criteria related information relating to persons considered handicapped. The form shall indicate whether the applicant meets one or more of the criteria, whether the condition is permanent or temporary, and if temporary, the expected duration.

(2) All persons that have been issued a handicapped license plate as of the effective date of this section will be issued a certificate upon renewal of the license plate. To renew the plate and receive the certificate, the person must be certified as permanently handicapped as provided in this section. Failure to carry a certificate as required by this section by a person that has been issued a handicapped license plate as of the effective date of this section is not a violation of the provisions of this section until after the person renews his license plate.

(D) Forms must be completed by physicians licensed to practice in South Carolina as defined in Section 40‑47‑5.

(E) The special license plate authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who meets the requirements of this section if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family.

(F) The special license ~~tag~~ plate authorized by this section may also be issued for a vehicle of special design and equipment designed to transport a disabled person who ~~meets~~ is certified as meeting the requirements of this section ~~if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family or~~ for a vehicle used by an agency, organization, or facility ~~that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility~~. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for the special license ~~tag~~ plate issued to the agency, organization, or facility.

(G) When processing applications for special license plates pursuant to this section, the department shall also issue a license plate registration certificate that must be carried at all times in the vehicle driven by or transporting the disabled individual. The certificate must display the name of the individual or organization to which the plate was issued.

(H) Vehicles displaying a special handicapped license plate may only park in designated handicapped parking spaces if that vehicle is driven by or transporting the disabled individual whose name appears on the license plate registration certificate, or if the certificate lists the name of the agency, organization, or facility authorized under subsection (G). The driver of the vehicle displaying the plate must present the registration when requested by law enforcement entities or their duly authorized agents.

(I) A person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56‑3‑1110 must be issued the license plate provided for in this section free of charge.

(J)(1) Except as provided in item (2), a person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped license plate or a person who falsifies information on an application form for a handicapped license plate is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 2. Section 56‑3‑1950 of the 1976 Code is amended to read:

“Section 56‑3‑1950. As used in this article:

(1) ~~‘Handicapped’~~ ‘Handicapped’ means a person ~~who:~~

~~(a)~~ ~~has an obvious physical disability that impairs the ability to walk or requires the use of a wheelchair, braces, walkers, or crutches;~~

~~(b)~~ ~~has lost the use of one or both legs;~~

~~(c)~~ ~~suffers from lung disease to such an extent that he is unable to walk without the aid of a respirator;~~

~~(d)~~ ~~is disabled by an impairment in mobility; or~~

~~(e)~~ ~~is determined by the Social Security Administration or the Veterans Administration to be totally and permanently disabled.~~

~~(2)~~ ~~A licensed physician shall certify that the total and permanent disability substantially impairs the ability to walk, unless the applicant is an agency or organization complying with Section 56‑3‑1910.~~ as defined in Section 56‑3‑1910.

(2) ‘Access aisle’ means a designated space for maneuvering a wheelchair or other mobility device when entering or exiting a vehicle, and that is immediately adjacent to a properly designated parking space for handicapped persons, on public or private property. Access aisles must be marked so as to discourage parking in them.”

SECTION 3. Section 56‑3‑1960 of the 1976 Code is amended to read:

“Section 56‑3‑1960. (A)~~(1)~~ ~~Any person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate which must be issued by the department, pursuant to this section, Section 56‑3‑1910, or Section 56‑3‑1110, for vehicles registered to the disabled person. The license plate must be issued for the usual fee applicable to standard license plates, except that a person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56‑3‑1110 must be issued the license plate provided for in this section free of charge. Application must be made on a form prescribed by the department and applicants may apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 that the applicant is handicapped as defined in this article and that the handicap is permanent. No applicant may be denied a license plate if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 as required by this subsection.~~

~~(2)~~ ~~An agency, organization, or facility that transports a disabled or handicapped person or any person who is handicapped as defined in this article may apply to the department for issuance of a temporary or permanent distinguishing placard to be designed by the department. The department, if necessary, may design another distinguishing placard for an agency, organization, or facility that is eligible for a placard, however, all placards must be at least three inches by nine and one‑half inches in size and must hang from the rearview mirror of a vehicle or be displayed on the driver’s side dashboard when there is no hanging apparatus. The placard must be used on vehicles transporting the disabled person in lieu of the distinguishing license plate issued pursuant to subsection (1) of this section. When the placard is displayed on the driver’s side dashboard of a vehicle, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (1) of this section are applicable to the vehicle. The department shall establish procedures for the issuance of distinguishing placards, and the procedures shall permit applicants to apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 that the applicant is handicapped as defined in this article, except that a physician’s certificate is not required for applications by an agency, organization, or facility which must include sufficient documentation as may be prescribed by the department that the applying agency, organization, or facility transports handicapped or disabled persons. The physician shall state on the certificate whether the applicant is handicapped temporarily or permanently. If the applicant is temporarily handicapped, the physician shall state the length of time for which the applicant is temporarily handicapped. A placard issued for a temporary disability is valid only for the anticipated length of time of the disability specified by the physician in the certificate. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5,~~  ~~as required by this subsection.~~ A person who is ‘handicapped’ as defined in Section 56‑3‑1910 may apply to the department for issuance of a temporary or permanent placard. A person may be issued a temporary placard if the condition causing his handicap is expected to last for at least four months. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the application is accompanied by a certificate from a licensed physician that certifies that the individual is handicapped and whether the handicap is temporary or permanent. The placards must indicate that the person is qualified to use reserved handicapped parking spaces. Applications for placards must be processed through and issued by the department’s headquarters. Only one placard may be issued to an applicant. The certification procedure shall adhere to the requirements set forth in Section 56‑3‑1910. In conjunction with the issuance of a placard, applicants also must be issued a placard registration certificate that must be carried at all times in the vehicle driven by or transporting the handicapped individual. The certificate will display the name of the individual to which the placard was issued. A placard can only be displayed on a vehicle driven by or transporting the disabled individual whose name appears on the placard registration certificate. The department shall charge a fee of one dollar for a placard ~~and may issue two placards to an individual applicant upon request~~. An agency, organization, or facility that transports a disabled or handicapped person may receive a placard for each vehicle registered upon proper application and the payment of the appropriate fees.

~~The permanent placards may be issued and renewed only for a maximum period of four years renewable on the owner’s birth date; however, placards issued to an agency, organization, or facility must be renewed every four years. The placards must be of a color as determined by the department which is easily recognizable by law enforcement personnel. The placard shall indicate on its face when it expires.~~

~~(3)~~ ~~A vehicle displaying an out‑of‑state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided for in this section.~~

(B) The placards authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who is certified as meeting the requirements of this section for a vehicle used by an agency, organization, or facility that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for placards issued to an agency, organization, or facility. At the time of qualification, applicants qualifying for a placard under this section also must be issued a placard registration certificate that must be carried at all times in the vehicle transporting handicapped or disabled individuals. The certificate will display the name of the agency, organization, or facility to which the placard was issued.

(C) The placards shall conform to specifications set forth in the standards established for compliance with the Americans with Disabilities Act. The design must incorporate a means for hanging the placard from a vehicle windshield rearview mirror, and:

(1) contain the international symbol of access;

(2) be color‑coded to reflect user status in the following manner:

(a) dark blue ‑ permanently disabled; and

(b) red ‑ temporarily disabled.

(D) Blue and red placards shall contain the qualified user’s photograph. The photograph must be taken from the qualified user’s driver’s license or identification card on file with the department. However, a photograph is not required for a placard issued to an agency, organization, or facility.

(E) Each placard shall contain the placard’s expiration date.

(F) When qualified users park in designated spaces, the placard must be displayed in the windshield of the vehicle by hanging it from the rearview mirror. In vehicles in which hanging may not be feasible, the placard must be placed on the side of the dashboard so that it is clearly visible through the windshield. When more than one placard holder is transported in the same vehicle, only one placard needs to be displayed.

(G) Placards used for parking in designated handicapped spaces must be displayed on vehicles driven by or transporting the handicapped individual whose name appears on the placard registration certificate. When parked in designated spaces, the driver of the vehicle displaying the placard must present the placard registration certificate when requested by law enforcement entities or their duly authorized agents.

(H) Placards and placard registration certificates for permanently disabled persons may be issued and renewed for a maximum period of four years and are renewable on the owner’s birth date. Placards issued to an agency, organization, or facility must be renewed every four years.

(I) A vehicle displaying a valid out‑of‑state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided in this section. Handicapped individuals from other states seeking permanent residence in South Carolina have forty‑five days after becoming a resident to obtain South Carolina certification.

(J) Placards issued prior to the effective date of this section must be renewed by the expiration date on the placard or by January 1, 2013, whichever is sooner. To renew the placard and receive the certificate, the person must be certified as permanently handicapped as provided in Section 56‑3‑1910. Upon renewal, the department will issue a certificate as required by this section. Failure to carry a certificate as required by this section by a person using a placard issued prior to the effective date of this section is not a violation of the provisions of this section until after the placard is renewed or January 1, 2013, whichever is sooner.

(K)(1) Except as provided in item (2), a person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped placard or a person who falsifies information on an application form for a handicapped placard is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 4. Section 56‑3‑1965 of the 1976 Code is amended to read:

“Section 56‑3‑1965. Those municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons. A person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section does not apply to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or to areas which are reserved for special types of vehicles. A vehicle must display a distinguishing license plate which must be issued by the department, or a distinguishing placard which must be issued by the department, pursuant to Section 56‑3‑1960 when parked in metered or timed parking places.”

SECTION 5. Section 56‑3‑2010 of the 1976 Code is amended by adding at the end:

“(C) If a person who qualifies for the special license plate issued under this section also qualifies for the handicapped license plate issued pursuant to Section 56‑3‑1910, then the license plate issued pursuant to this section also shall include a decal with the International Symbol of Access used on license plates issued pursuant to Section 56‑3‑1910. The decal can only be used if space is available to place the decal on the license plate without covering any identifying numbers or letters on the license plate.”

SECTION 6. Section 56‑3‑1970 of the 1976 Code is amended to read:

“Section 56‑3‑1970. (A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56‑3‑1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56‑3‑1910, ~~Section~~ 56‑3‑1960, and 56‑3‑1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five hundred dollars nor more than ~~two hundred~~ one thousand dollars or imprisoned for not more than thirty days for each offense.”

SECTION 7. Section 56‑3‑1975 of the 1976 Code is amended to read:

“Section 56‑3‑1975. Each handicapped parking place must be clearly identified as a handicapped parking place. The handicapped parking place includes all access aisles. If the handicapped parking place is on public property, the marker must be maintained by the political subdivision having jurisdiction over the public property or the street or highway where the handicapped parking place is located. If the handicapped parking place is on private property, the marker must be maintained by the owner of the property.”

SECTION 8. This act takes effect six months after approval by the Governor.

/s/Sen. Daniel B. Verdin III /s/Rep. Donald C. Smith

/s/Sen. Vincent A. Sheheen /s/Rep. Phillip D. Owens

/s/Sen. Paul G. Campbell, Jr. /s/Rep. Lester P. Branham, Jr.

On Part of the Senate. On Part of the House.

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