

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

FILED

2001 NOV 27 A 9 28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91

CITE AUTHORITY: WV Code §17A-2-9 and §17C-13-6(q)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE X

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES X NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 91CSR10

TITLE OF RULE BEING AMENDED: Handicapped Parking Permits

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS December 28, 2001



Authorized Signature



WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • 304/558-0444

Bob Wise
Governor

Fred VanKirk, P. E.
Secretary

October 11, 2001

The Honorable Joe Manchin III
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Mr. Secretary:

The Commissioner of Motor Vehicles is hereby authorized to promulgate proposed amendments to 91 CSR 10, Handicapped Parking Permits.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred VanKirk".

Fred VanKirk, P.E.
Secretary/Highways Commissioner

FV:sd

Enclosure



**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles**

**1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317**

**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary**

**Roger Pritt
Commissioner**

**Promulgation History
91 CSR 10
Handicapped Parking Permits**

Rule Cite: 91 CSR 10
Rule Type: Interpretive
Initial Filing: October 11, 2001
Public Comment Period Expiration: November 12, 2001
Filing Agency Approved Rule: November 27, 2001
Effective Date: December 28, 2001

A handwritten signature in black ink that reads "Roger Pritt".

**Roger Pritt
Commissioner**



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

**1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317**

**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary**

**Roger Pritt
Commissioner**

Public Comment Summary and Response

91 CSR 10

Handicapped Parking Permits

1. Ann Watts Meadows
WV Statewide Independent Living Council

*Opposes increasing the renewal cycle for handicapped parking permits from two years to five years because she feels the change lessens the requirements and increases the opportunity for abuse.

Agency Response:

The Agency disagrees that the change will greatly increase the opportunity for abuse. West Virginia Code §17C-13-6(d) provides that the Commissioner establish an expiration date from 1 year to 5 years. This rule establishes an expiration period within that statutory range. The commentator may wish to suggest that the Legislature amend the statute to reduce the renewal period to the period of time she feels would reduce abuse.

This change will benefit the majority of disabled persons who have disabilities that are permanent and will not change in two years or even five years. The change will allow disabled persons to renew their placards every five years instead of every two years, reducing trips to DMV locations and mailings. The change will reduce DMV's expenses by reducing postage and printing costs.

A handwritten signature in black ink that reads "Roger Pritt".

**Roger Pritt
Commissioner**



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

**1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010**

**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary**

**Roger Pritt
Commissioner**

91 CSR 10
Handicapped Parking Permits
Persons Notified of Public Comment Period

Ann Watts Meadows, Executive Director
WV Statewide Independent Living Council
P.O. Box 625
Institute, West Virginia 25115-0625

Barbara H. Bayes, Executive Director
West Virginia Advocates
Litton Building 4th Floor
1207 Quarrier Street
Charleston, West Virginia 25301-1842

Ronald L. Jalbert
61 Canterbury Drive
Parkersburg, West Virginia 26101-8051

Linda S. Higgs, Coordinator
Fair Shake Network
Post Office Box 354
Institute, West Virginia 25112-0354

Jan Lilly-Stewart, Advocacy Specialist
West Virginia Developmental Disabilities Council
110 Stockton Street
Charleston, West Virginia 25312-2521



Voice/TDD: (304) 766-4624
1-800-642-8207 ext. 4624
Fax: (304) 766-4721

Statewide Independent Living Council
P. O. Box 625 - Institute, West Virginia 25112-0625

November 13, 2001

Steven O. Dale
Office of the Commissioner
Division of Motor Vehicles
Docket #200191CSR10
Building 3, Room 113
Capitol Complex
Charleston, WV 25317

Dear Mr. Dale:

While I realize that the deadline for public comments on the proposed amendments to WV Code §17A-2-9, Handicapped Parking Permits, was yesterday I feel obligated to submit feedback on behalf of my Council and the disability community. I recognize that these comments cannot officially be considered, but I want to have them on record with your office.

We are opposed to the proposed change in Sections 5.1 and 5.2 because of the added potential for more abuse of the special permits. The Statewide Independent Living Council, the Fair Shake Network, the WV Division of Rehabilitation, West Virginia Advocates and the WV Developmental Disabilities Council, worked extensively on the original bill that added the time limits and it would be a huge step backwards for the rights and needs of West Virginians with disabilities to lessen the requirements.

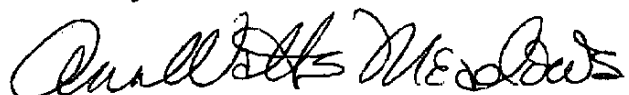
No individual who truly needs a special permit should object to renewing that permit on a regular basis. The paperwork can easily be handled at a regular doctor's appointment. The renewal requirement decreases the chances of a family member continuing to use a permit if the individual it was issued to dies or for some other reason no longer needs the permit. Such abuse may sound unlikely but it most definitely occurs.

The already lax monitoring of who receives permits would be even more difficult to manage with a longer time between renewal. We believe while there are people who are not going to improve physically, people with disabilities significant enough to qualify for special parking receive regular medical care and do not find the renewal process to be a hardship.

I apologize for the lateness of my comments and hope you will consider their merit as you work to maintain control and monitoring of the issuance of special parking permits.

If you or anyone at DOT/DMV have any questions please contact me at 766-4624 or through e-mail at ann.meadows@wvsilc.org.

Sincerely,

A handwritten signature in cursive script that reads "Ann Watts Meadows". The signature is fluid and somewhat stylized, with the first and last names being more prominent.

Ann Watts Meadows
Executive Director

FILED

2001 NOV 27 A 9:28

**WEST VIRGINIA INTERPRETIVE RULES
DIVISION OF MOTOR VEHICLES
91CSR10**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Title: Handicapped Parking Permits

91-10-1 General

1.1 Scope - The rule establishes procedures for issuance of handicapped parking permits for persons with disabilities in accordance with Federal Rule 23 CFR Part 1235 and West Virginia Code §17C-13-6.

1.2 Authority - West Virginia Code 17A-2-9 and 17C-13-6(q).

1.3 Filing Date - November 27, 2001

1.4 Effective Date - December 28, 2001

1.5 Application and Enforcement - This rule applies to persons applying for handicapped parking permits.

91-10-2 Definitions

2.1 Handicapped parking permit means either the special license plate or removable windshield placard issued under the provisions of West Virginia Code 17C-13-6 meeting the specifications prescribed in Federal Rule 23CFR Part 1235.

2.2 Licensed Physician - means any allopathic or osteopathic physician licensed in this state or any other state.

91-10-3 Handicapped Parking Permits - Eligibility

3.1 Eligibility - In accordance with West Virginia Code 17C-13-6, a physically disabled person with limited mobility is any person who is a resident of West Virginia and who suffers from a permanent or temporary physical condition making it unduly difficult and burdensome to walk.

In accordance with Federal Rule 23CFR Part 1235.2 (b) and West Virginia Code 17C-13-6(c) (1996 enactment) limited mobility shall be further defined as persons who as certified by a licensed physician:

3.1.1 Can not walk two hundred (200) feet without stopping to rest; or

3.1.2 Can not walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

3.1.3 Are restricted by lung disease to such an extent that the persons forced (respiratory) 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; or

3.1.4 Use portable oxygen; or

3.1.5 Have 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 set by the American Heart Association; or

3.1.6 Are severely limited in their ability to walk due to an arthritic, neurological, or other orthopedic condition.

The licensed physician shall certify on the application specifically as to which of the six conditions pertain to the applicant.

91-10-4 Application Procedure

4.1 Application For a Special License Plate

4.1.1 Upon proper application, on the form prescribed by the Commissioner and completion of all requested information, including the physician certification, a person who is a resident of West Virginia with a disability as defined in Section 3 of this Rule, shall be issued no more than two special license plates for not more than two Class A vehicles registered in West Virginia in the applicant's name.

4.1.2 The fee for the issuance of a special license plate shall not exceed the fee charged for a regular issue license plate for the same class or weight of vehicle. However, any application for a duplicate special license plate shall be accompanied by the fee prescribed in West Virginia Code 17A-10-11 and certification that the original plate was lost, stolen, or otherwise unusable.

4.1.3 Upon request, one removable windshield placard may be issued to the applicant who already has one special plate. However, an applicant who has obtained two special license plates is

not eligible for any removable windshield placards.

4.2 Application For a Removable Windshield Placard

4.2.1 Upon proper application, on the form prescribed by the Commissioner and completion of all requested information, including the physician certification, a person who is a resident of West Virginia with a disability as defined in Section 3 of this Rule shall be issued one removable windshield placard. In accordance with the provisions of West Virginia Code 17A-13-6, there is no fee for the removable windshield placard.

4.2.2 Upon request, the Commissioner may issue one additional removable windshield placard to an applicant who does not have a special license plate for a maximum of two removable windshield placards. Such additional removable windshield placard shall have the same expiration as the original placard.

4.3 Application For A Temporary Removable Windshield Placard

4.3.1 Upon proper application, on the form prescribed by the Commissioner, and completion of all requested information, including the physician certification, a person who is a resident of West Virginia with a disability as defined in Section 3 of this Rule shall be issued one temporary removable windshield placard for a period of time not to exceed six months.

4.3.2 Upon request, the Commissioner may issue an applicant one additional temporary removable windshield placard.

4.4 Upon application of a West Virginia organization which transports persons with disabilities, the Commissioner shall issue special license plates or removable placards in such a manner as in his or her judgement facilitate the mobility of such organization's customers, patients, students, or persons otherwise placed under the responsibility or care of the organization.

4.5 The removable windshield placard may be used in any class A vehicle in which a person with a disability is the operator or passenger, regardless of vehicle ownership.

4.6 Upon proper application, on the form prescribed by the Commissioner and completion of all requested information, including the physician certification, a person who is a resident of West Virginia with a disability as defined in Section 3 of this Rule, shall be issued special license plates for one or more Class G motorcycle vehicles registered in West Virginia in the applicant's name.

4.7 Any applicant with a permanent disability who has obtained a special disabled class A license plate, special disabled class G license plate, or removable windshield placard with current and unexpired physician certification is required to complete the designated application but is not

required to obtain a physician certification for an additional plate or placard.

91-10-5 Renewal

5.1 The special license plate shall be renewable each year in accordance with the provisions of West Virginia Code 17A. The Commissioner shall require each registrant to submit recertification from a licensed physician every five years or portion of the five year renewal cycle established by the Commissioner for continued eligibility for the special license plate.

5.2 The removable windshield placard shall be valid for a period of five years or portion of the five year renewal cycle established by the Commissioner. The applicant shall submit certification from a licensed physician for continued eligibility for the removable windshield placard prior to renewal for an additional renewal period.

5.3 The temporary removable windshield placard shall not be renewable. However, the applicant may submit an original application for another temporary removable windshield placard upon certification by a licensed physician.

5.4 The Commissioner may issue a duplicate removable windshield placard upon certification by the applicant that the original removable windshield placard was lost, stolen or otherwise made unusable. The fee for a duplicate removable windshield placard is \$5.00 as prescribed in West Virginia Code 17A-10-11.

91-10-6 Display of Placard

6.1 The placard shall be displayed by hanging it from the front windshield rear view mirror of the vehicle in such a manner that it may be conspicuously visible from the outside of the vehicle only when the vehicle is utilizing reserved handicapped parking space. When there is no rear view mirror, the placard shall be displayed on the dashboard to be conspicuously visible from the outside of the vehicle. The placard shall be removed from the rear view mirror whenever the vehicle is in motion. A placard shall not be used on a class G motorcycle vehicle.

91-10-7 Identification Cards

7.1 The Commissioner shall issue all holders of handicapped parking permits one identification card to be carried by the person with a disability whenever handicapped parking privileges are exercised. Such card shall be exhibited to any law enforcement officer on demand.

7.2 The Commissioner may issue a duplicate identification card upon certification by the applicant that the original identification card was lost, stolen, or otherwise made unusable.

91-10-8 Reciprocity

8.1 In accordance with Federal Rule 25 CPR Part 1235, and West Virginia Code 17C-13-6(h) all removable windshield placards or special license plates issued by any other state or country shall be recognized for the purpose of identifying vehicles permitted to utilize parking spaces reserved for persons with disabilities.