# WEST VIRGINIA SECRETARY OF STATE KEN HECHLER ADMINISTRATIVE LAW DIVISION

Do Not Mark In This Box

AUG 15 1 09 PH 100

Form #2 **=** 

#### NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Motor Vehicles		TITLE NUMBER:	91
RULE TYPE: Interpretive	_ CITE AUTHORITY:	WV Code §17A-2-9	
AMENDMENT TO AN EXISTING RULE: YES.	X NO		
IF YES, SERIES NUMBER OF RULE BEING AM	1.0		
TITLE OF RULE BEING AMENDED: Han		its	
IF NO, SERIES NUMBER OF RULE BEING PRO	OPOSED:		
TITLE OF RULE BEING PROPOSED:			
IIILE OF RULE BEING PROPOSED:	,		
		-	
	<b></b>		
IN LIEU OF A PUBLIC HEARING, A COMMEN	T PERIOD HAS BEEN	ESTABLISHED DURING	WHICE
ANY INTERESTED PERSON MAY SEND COMM	MENTS CONCERNING	THESE PROPOSED RULE	ES. THIS
COMMENT PERIOD WILL END ON September	19, 2000	A.M. ONLY W	
		OINLI W	RITTE
COMMENTS WILL BE ACCEPTED AND ARE			
COMMENTS WILL BE ACCEPTED AND ARE			
Commissioner Joe E. Miller			
Commissioner Joe E. Miller Division of Motor Vehicles	TO BE MAILED TO TH	HE FOLLOWING ADDRE	
Commissioner Joe E. Miller Division of Motor Vehicles	TO BE MAILED TO TH THE ISSUES TO	HE FOLLOWING ADDRES	
Commissioner Joe E. Miller Division of Motor Vehicles Attention S.O. Dale Rm 113 Hearing Docket 2000 91CSR 10	TO BE MAILED TO TH THE ISSUES TO	HE FOLLOWING ADDRE	
Commissioner Joe E. Miller Division of Motor Vehicles	TO BE MAILED TO TH THE ISSUES TO	HE FOLLOWING ADDRES	
Commissioner Joe E. Miller Division of Motor Vehicles Attention S.O. Dale Rm 113 Hearing Docket 2000 91CSR 10 Building 3, Capitol Complex	TO BE MAILED TO TH THE ISSUES TO LIMITED TO TH	HE FOLLOWING ADDRES BE HEARD SHALL BE IS PROPOSED RULE.	
Commissioner Joe E. Miller Division of Motor Vehicles Attention S.O. Dale Rm 113 Hearing Docket 2000 91CSR 10 Building 3, Capitol Complex	TO BE MAILED TO TH THE ISSUES TO LIMITED TO TH	HE FOLLOWING ADDRES	

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



# WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

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

Samuel H. Beverage, P. E. Acting Secretary

August 11, 2000

The Honorable Ken Hechler Secretary of State State Capitol Charleston, West Virginia 25305

Dear Mr. Secretary:

Cecil H. Underwood

Governor

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

Please contact the Division of Motor Vehicles if additional information is required.

Sincerely,

Samuel H. Beverage, P.E.

Samuel H Bureage

Secretary

SHB/sd



#### WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

# **Division of Motor Vehicles**

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

Samuel H. Beverage, P. E. Acting Secretary

Joe E. Miller Commissioner

Cecil H. Underwood Governor

91 CSR 10

#### **Handicapped Parking Permits**

#### Summary of Content

This proposed rule revises procedures governing the issuance of handicapped plates and placards. The revision is necessary because of legislation adopted by the 2000 Legislature (HB4309) which authorizes the issuance of a handicapped parking motorcycle license plate.

In summary, this rule accomplishes the following:

- 1. Authorizes the issuance of any number of handicapped motorcycle license plates to qualified applicants outside of the formula limiting the number of plates and placards. The reason for issuance outside of the formula is because placards can not be used on motorcycles and the seasonal nature of motorcycle use.
- 2. Changes the formula to allow a qualified applicant to obtain up to two license plates instead of the previous limit of one. The new formula will allow an applicant to choose a combination of a maximum of two placards, two plates or one placard and one plate. This change will comply with the placard limits prescribed in federal rule 23 CFR Part 1235.

Joe E. Miller



#### WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

## **Division of Motor Vehicles**

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

Cecil H. Underwood

Governor

Samuel H. Beverage, P. E. Acting Secretary

Joe E. Miller Commissioner

91 CSR 10

Handicapped Parking Permits

Statement of Circumstances

Revisions to this rule are made necessary because of legislation adopted by the 2000 Legislature (HB4309) which authorizes a handicapped parking motorcycle license plate. Issuance of this additional type of handicapped parking indicia also caused a review and revision of the formula regulating the maximum number of handicapped parking plates and mobile windshield placards.

Voe E. Miller Commissioner APPENDIX B

#### FISCAL NOTE FOR PROPOSED RULES

Rule Title	le: Handicapped Parking Permits	
Type of F	Rule: Legislative X Interpretive Procedural	
Agency:	Division of Motor Vehicles	
	Building 3, Capitol Complex  Charleston, WV 25317	
		_
		_

#### 1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		١R
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	O			
PERSONAL SERVICES					
CURRENT EXPENSE	:				
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

#### 2. Explanation of Above Estimates:

This rule will not increase or decrease the expenses of the State.

3. Objectives of These Rules:

This rule establishes the procedures for issuance of handicapped parking permits.

- 4. Explanation of Overall Economic Impact of Proposed Rule:
  - A. Economic Impact on State Government: None
  - B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.
None

Date: August 11, 2000

Signature of Agency Head or Authorized Representative:

AUG 15 1 09 PH 100 OF STATE IN IA

### (Proposed)

#### WEST VIRGINIA INTERPRETATIVE RULES DIVISION OF MOTOR VEHICLES 91CSR10

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(e).
  - 1.3 Filing Date -
  - 1.4 Effective Date -
- 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 one no more than two special license plates for a not more than two Class A vehicle 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 a 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 <u>for a maximum of two removable windshield placards</u>. 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 <u>class A</u> 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 two years for continued eligibility for the special license plate.
- 5.2 The removable windshield placard shall be valid for a period of two years. 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) (1996 enactment) 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.

#### 91-10-9 Expiration of Old Permits

9.1 The Commissioner shall prescribe the date upon which all handicapped placards or plates previously issued prior to implementation of this rule are invalid. However, at the discretion of the Commissioner such date may be extended in order to facilitate an orderly transition to the new handicapped parking plates and removable windshield placards.