

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #5

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Nov 15 6 32 AM '00

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

**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: West Virginia Code §17A-2-9, §17C-13-6

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: 91 CSR 10

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 Dec 16, 2000


Authorized Signature



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

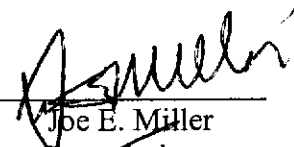
Joe E. Miller
Commissioner

Promulgation History

91 CSR 10

Handicapped Parking Permits

Rule Cite: 91 CSR 10
Rule Type: Interpretive
Initial Filing: August 15, 2000
Public Comment Period Expiration: September 19, 2000
Filing Agency Approved Rule: November 15, 2000
Effective Date: November 15, 2000



Joe E. Miller
Commissioner

FILED

Draft 4, 11/4/00 Agency Approved

Nov 15 6 32 AM '00

OFFICE OF THE CLERK OF THE
SECRETARY OF STATE

**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 - November 15, 2000

1.4 Effective Date - ^{Dec. 16} ~~November 15~~, 2000

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 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) 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.



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

PUBLIC COMMENT SUMMARY AND RESPONSE

SUMMARY OF RECEIVED COMMENTS (Complete Text of Comments Attached)

1. Barbara H. Hays, Executive Director, West Virginia Advocates

**Opposes DMV restriction on limiting the number of disabled parking license plates which may be issued to a disabled vehicle owner as restricting the opportunity for disabled persons to use multiple vehicles and seemingly in violation of the Americans with Disabilities Act (ADA).*

**Opposes DMV limiting issuance of placards to a disabled person who already has more than one disabled parking license plate in violation of 23 CFR Part 1235.3.*

2. Ann Watts Meadows, Executive Director, WV Statewide Independent Living Council

**Opposes DMV restriction on limiting the number of disabled parking license plates which may be issued to a disabled person vehicle owner as unnecessarily limiting the number of vehicles which a disabled person may license in violation of Section 202 of the ADA.*

**Opposes DMV limiting issuance of placards to persons with more than one disabled parking license plates as discriminatory against a disabled person who owns more than two vehicles who may have a need to rent a vehicle and would need a placard.*

3. Linda S. Higgs, Coordinator, Fair Shake Network

**Opposes DMV restrictions on the number of disabled parking license plates which may be issued to a disabled person as a violation of the ADA*

**Opposes DMV limiting issuance of placards to a person with more than one disabled parking license plate as discriminatory against anyone who may need to borrow or rent a vehicle.*

4. Jan Lilly-Stewart, Advocate Specialist, WV Developmental Disabilities Council

**Opposes DMV restrictions on the number of disabled parking license plates which may be issued to a disabled person as a violation of the ADA*

**Opposes DMV limiting issuance of placards to a person with more than one disabled parking license plate as discriminatory against anyone who may need to borrow or rent a vehicle.*

5. Ronald R. Jalbert, ADA Compliance and Consulting Services

**Supports DMV permitting issuance of two disabled parking license plates to a disabled person who owns two vehicles.*

**Opposes two year renewal cycle for placards as a hardship to the disabled and as a costly burden to DMV, suggests a four or five year renewal cycle.*

**Opposes absence of language in rule to require DMV to distribute rules pertaining to proper use of accessible parking spaces to all holders of placards and license plates.*

AGENCY RESPONSE TO COMMENTS

Summary

The Division of Motor Vehicles appreciates all of the comments received concerning proposed amendments to the rules that govern the issuance of special mobile placards and license plates for the use of persons with disabilities. The agency is deeply concerned with the abuse of the use of reserved parking for the disabled. This abuse restricts the mobility of the disabled by denying them the use of these designated parking places.

West Virginia's adoption of Federal Rule 23 CFR Part 1235, Uniform System for Parking for Persons with Disabilities has contributed to the reduction of abuse of disabled parking places in two ways: One, limiting the number of placards and or license plates issued to a person with a disability and two, requiring biannual re-certification of

disabilities in order to renew either a placard or license plate. Limiting the number of placards and license plates to the minimum number required by a person with a disability reduces the potential for misuse of reserved parking for the disabled by persons who are not disabled.

Summary of Specific Content of Rule Under Discussion

The **current** rule allows the applicant to obtain a maximum of:

1. *Two Mobile Placards, or*
2. *One Mobile Placard and One License Plate.*

The **proposed** rule allows the applicant to obtain a maximum of:

1. *Two Mobile Placards-* This provides the disabled person with one mobile placard for the vehicle he or she is driving or for any vehicle in which he or she is a passenger and one placard for another vehicle if he or she parks one vehicle at one site (an airport parking lot for example) and needs another placard for a vehicle which is rented borrowed or operated by another person, or
2. *One Mobile Placard and One Plate-* This provides the disabled person who prefers to display a disabled license plate on his or her vehicle with one mobile placard to use if he or she is either operating or riding in another vehicle, or
3. *Two Plates-* This option allows a disabled person to choose to display disabled parking license plates on two of his or her vehicles. This choice prevents the disabled person from obtaining a mobile placard. Any disabled person who anticipates traveling in vehicles other than those he or she owns should choose either option 1 or 2 to obtain the greatest mobility.

The vast majority of persons with disabilities choose mobile placards instead of license plates for a number of reasons. Primarily, the mobile placard can be used in any vehicle which he or she is either operating or riding, and secondly, it only identifies the operator or rider as disabled when he or she is actually using a disabled parking place. The mobile placard can be stored out of sight when not in use.

A disabled parking license plate is restricted for use on only one vehicle as it is registered to a particular vehicle and identifies the operator or passenger as disabled at all times, not just when he or she is utilizing a disabled parking place. A disabled license plate does not have any advantages or privileges over a mobile placard. Both placard and plate permit the use of disabled parking places nationwide. In fact, the commentary attached to the Federal Rule 23 CFR 1235 states “...the general concern that vehicles with special license plates often become targets for vandals.”

The majority of time a disabled person only needs one mobile placard because it can be transferred for use in any vehicle in which he or she is either operating or is a passenger. However the Federal Rule suggests that States offer disabled persons a choice between using plate or a placard and suggests that issuance of a disabled license plate should not preclude the issuance of one placard.

The commentary attached to the Federal Rule 23 CFR 1235 states that "By imposing restrictions and limitations on to whom special license plates and removable windshield placards are issued, in a way that encourages enforcement, the rule ensures the safety of persons with disabilities by increasing the likelihood that parking places reserved for persons with disabilities are available."

Agency Response to Comments

1. Limiting the number of disabled parking license plates prevents a disabled vehicle owner from operating multiple vehicles.

The Agency disagrees. The use of the mobile placard allows the disabled person to operate or ride in any vehicle. Choosing Option 1 or 2 described above covers all situations faced by a disabled person.

2. Limiting the number of placards to a person who already has one or two disabled license plates violates 23 CFR Part 1235.3.

The Agency disagrees. 23 CFR Part 1235.4 states that "The State System shall require that the issuing authority issue one additional placard to applicants who do not have special license plates". The rule clearly limits the number of placards that can be issued to a disabled person to two if he or she has not opted for a special disabled plate.

The commentary attached the Federal Rule 23 CFR Part 1235 states " The Committee believes that one placard is sufficient to provide easy access. A person who has chosen to obtain special license plates for his or her own car would still be able to travel in another care using the one placard. The Committee deems this requirement to be an outside limit. Issuing more than one placard when a person already has special license plates could result in abuse."

3. Limiting the number of disabled license plates which may be issued to a disabled person is in violation of the Americans With Disabilities Act (ADA)

The Agency disagrees. The Agency is not aware of any litigation under ADA in States which limit the number of disabled license plates. In fact the only ADA litigation involving placards and disabled parking license plates concerns states which have imposed additional fees for placards and disabled license plates. West Virginia issues placards free of charge, and does not impose any additional fees for disabled parking

license plates. The cost of a disabled license plate is \$30, the same price as a regular license plate.

4. The two year renewal cycle for placards is a hardship for the disabled.

The Agency agrees that utilizing a two-year renewal cycle instead of a five year cycle does entail an additional burden for both the disabled person and the agency. However the potential for abuse of placards is greater, the longer the placards are valid. Family members of a deceased holder of a placard may abuse the use of a "valid" placard for a longer period of time under a longer renewal cycle. Such potential for abuse is reduced under a two-year renewal cycle. Reduction of abuse increases the availability of disabled parking for those in need.

5. The rule should include language that requires DMV to distribute rules to holders of plates and placards.

The Agency disagrees. The Division does not need authorization in either rule or statute to distribute parking guidelines to holders of placards and license plates.

The Agency did not make any changes to the rule.



Joe E. Miller
Commissioner

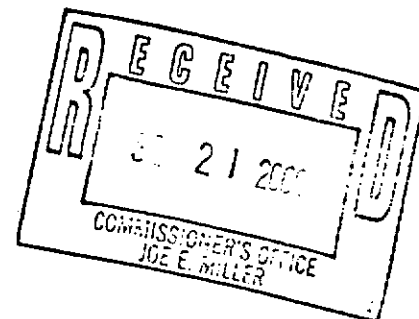
COMMENTS Received

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WVA

West Virginia Advocates

The Protection and Advocacy System for West Virginia



14 September 2000

Commissioner Joe E. Miller
Division of Motor Vehicles
Attention S.O. Dale Room 113
Hearing Docket 2000 91CSR 10
Building 3, Capitol Complex
Charleston, WV 25317

Re: WV Interpretative Rules 91 CSR 10

Dear Commissioner Miller,

Thank you for the opportunity to comment on the proposed rule for parking permits for people with disabilities.

West Virginia Advocates (WVA), designated by the state as the protection and advocacy system for people with disabilities, is a non-profit agency striving to make life better for people with disabilities. WVA works with state and local governments, businesses, schools, and other entities in West Virginia to assure citizens with disabilities have equal access to facilities and programs offered by those entities.

We are deeply concerned with Sections 4.1.1 and 4.1.3. This language would unnecessarily restrict people with disabilities from having the same opportunity to use multiple vehicles as do persons without disabilities. The only reason for limiting the number of special license plates would be to cut down on

304-346-0847 or 1-800-950-5250 (V/TDD)

(Fax) 304-346-0867

Litton Building 4th Floor

1207 Quarrier Street, Charleston, West Virginia 25301-1842

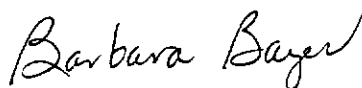
abuse of those plates. Unfortunately this method limits access to people with disabilities rather than addressing the real problems which include doctors not following guidelines when filling out the applications and sporadic and/or non-existent enforcement of illegal use of designated parking.

Title II of the Americans with Disabilities Act (ADA) clearly forbids the use of practices, policies and procedures that discriminate, or tend to discriminate, against a person with a disability or a class of people with disabilities. Unnecessarily limiting access to special plates for any number of vehicles owned by a person with a disability would seem to violate that section of the ADA.

Also of concern is the proposal to not issue hanging placards to anyone with more than one special plate. This would clearly be discriminatory to anyone who may need to borrow or rent a vehicle. Hanging placards should not be issued for vehicles, but rather for persons, as clearly stated in 23 CFR Part 1235 Section 1235.3 which says the issuance of special plates shall not preclude the issuance of a removable windshield placard.

Thank you again for the opportunity to comment on this issue.

Sincerely,



Barbara H. Bayes
Executive Director

cc: Delegate Barbara A. Warner, Chairperson
House Committee on Roads & Transportation
Senator Mike Ross, Chairperson
Senate Committee on Transportation

②

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

September 18, 2000

Joe E. Miller, Commissioner
Division of Motor Vehicles
Building 3, Capitol Complex
Charleston, WV 25317

Attn: S.O. Dale, Room 113, Hearing Docket 2000 91CSR10

Dear Commissioner Miller,

Thank you for the opportunity to review and submit comments on the proposed interpretive rules for handicapped parking permits for persons with disabilities.

The West Virginia Statewide Independent Living Council is a Governor appointed, cross disability council with responsibility for planning and monitoring independent living services for West Virginians with disabilities. The Council works in partnership with the Division of Rehabilitation services and the West Virginia Centers for Independent Living.

We have several areas of concern with regard to the proposed rules. First, 91-10-4, section 4.4.1 contains language that unnecessarily limits the number of vehicles an individual with a disability may license. This discriminates against people with disabilities and should be eliminated. While the Council understands that there are problems with abuse of the special plates and placards, it is wrong to restrict people who are entitled to such permits in an attempt to get at those who are not eligible. The problem of abuse should be attacked through the application process and enforcement, not by discriminating against individuals with valid need.

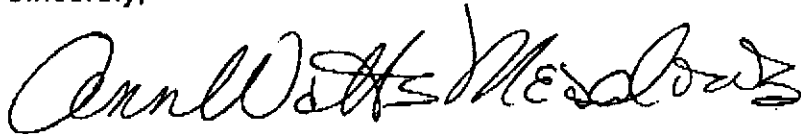
Title II of the Americans with Disabilities Act (ADA) forbids discrimination against people with disabilities by public entities. This section of your proposed rule would violate Section 202 of the ADA.

For the same reasons as for 91-10-4, section 4.4.1, the language in 91-10-4, section 4.1.3 appears discriminatory toward people with disabilities. An individual with a disability who owns two vehicles with special license plate may have a need to rent or borrow a car and would need a placard. Again, this appears to be an attempt to deal

with the abuse of placards at the expense of individuals with valid need.

The Council is very interested in any policy or regulation that impacts the lives of people with disabilities. As a Governor appointed Council with responsibilities covering all disability types, we believe it is very much a part of our job to provide advice and direction to the State on disability issues. Thank you again for the opportunity to provide you with comments on this proposed rule.

Sincerely,

A handwritten signature in black ink, reading "Ann Watts Meadows". The signature is written in a cursive, flowing style.

Ann Watts Meadows, Executive Director
WEST VIRGINIA STATEWIDE INDEPENDENT LIVING COUNCIL

cc: Mark Derry, Chairperson, WVSILC
Todd Beane, Executive Director, WVSRC
Steve Wiseman, Executive Director, WVDDC
Janice Holland, Director, WVDRS
Del. Barbara Warner, Chairperson, House Committee on Roads & Transportation
Sen. Mike Ross, Chairperson, Senate Committee on Transportation

③



FAIR SHAKE NETWORK

Post Office Box 354
Institute, WV 25112-0354

Voice: (304) 345-5766
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Fax: (304) 558-0941

September 18, 2000

Commissioner Joe E. Miller
Division of Motor Vehicles
Attention S.O. Dale Room 113
Hearing Docket 2000 91CSR 10
Building 3, Capitol Complex
Charleston, WV 25317

Re: WV Interpretative Rules 91 CSR 10

Dear Commissioner Miller:

The Fair Shake Network is concerned with Sections 4.1.1 and 4.1.3. This language unnecessarily restricts people with disabilities from having the same opportunity to use multiple vehicles as do persons without disabilities. It seems the only reason for limiting the number of special license plates would be to cut down on abuse of those plates. Unfortunately this method limits access to people with disabilities rather than addressing some of the real problems, such as 1.) doctors not following the guidelines when filling out the applications and 2.) lack of law enforcement on designated parking.

Title II of the Americans with Disabilities Act (ADA) clearly forbids the use of practices, policies and procedures that discriminate, or tend to discriminate, against a person with a disability or a class of people with disabilities. Unnecessarily limiting access to special plates for any number of vehicles owned by a person with a disability would seem to violate that section of the ADA.

The Network is also concerned with the proposed language to not issue hanging placards to anyone with more than one special plate. This would clearly be discriminatory to anyone who may need to borrow or rent a vehicle. Hanging placards should not be issued for vehicles, but rather for persons, as clearly stated in 23 CFR Part 1235 Section 1235.3 which says the issuance of special plates shall not preclude the issuance of a removable windshield placard.

The Fair Shake Network is an association of West Virginians dedicated to a "fair shake" for people with disabilities and to the belief that diversity makes our communities stronger. Our purpose is 1) to provide information to policy makers and the public on issues that pertain to people with disabilities and 2) to support the over 164,000 West Virginians with disabilities and their families in participating in the legislative process.

Thank you for the opportunity to comment on the proposed rule for parking permits for people with disabilities.

Sincerely,

Linda S. Higgs
Coordinator

cc: Kevin Maynus, Chairperson



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110 Stockton Street
Charleston, WV 25312-2521

September 18, 2000

Commissioner Joe E. Miller
Division of Motor Vehicles
Attention S.O. Dale Room 113
Hearing Docket 2000 91CSR 10
Building 3, Capitol Complex
Charleston, WV 25317

Re: WV Interpretative Rules 91 CSR 10

Dear Commissioner Miller:

The West Virginia Developmental Disabilities Council (WVDDC) was established in 1972 by Executive Order of the Governor. The Council is governed by a board comprised of individuals with developmental disabilities and family members, as well as representatives for each major state agency that serves people with developmental disabilities. Our mission is to assure that West Virginians with developmental disabilities receive the services and supports they need in order to achieve independent, productivity, and inclusion in their communities.

The Council is concerned with Sections 4.1.1 and 4.1.3. This language would unnecessarily restrict people with disabilities from having the same opportunity to use multiple vehicles as do persons without disabilities. The only reason for limiting the number of special license plates would be to cut down on abuse of those plates. Unfortunately this method limits access to people with disabilities rather than addressing the real problems of doctors not following the guidelines when filling out the applications and law enforcement on designated parking being sporadic and/or nonexistent.

Title II of the Americans with Disabilities Act (ADA) clearly forbids the use of practices, policies and procedures that discriminate, or tend to discriminate, against a person with a disability or a class of people with disabilities. Unnecessarily limiting access to special plates for any number of vehicles owned by a person with a disability would seem to violate that section of the ADA.

Also, of concern to the Council is the proposed language to not issue hanging placards to anyone with more than one special plate. This would clearly be discriminatory to anyone who may need to borrow or rent a vehicle. Hanging placards should not be issued for vehicles, but rather for persons, as clearly stated in 23 CFR Part 1235 Section 1235.3 which says the issuance of special plates shall not preclude the issuance of a removable windshield placard.

Thank you for the opportunity to comment on the proposed rule for parking permits for people with disabilities.

Sincerely,

Jan Lilly-Stewart, Advocacy Specialist

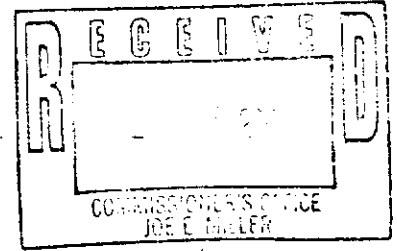
cc: Steve Wiseman, Director
Laura Helems, Chairperson

ADA

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Americans with Disabilities Act Compliance and Consulting Services
61 Canterbury Drive, Parkersburg WV 26101-8051
(304) 485-7068 (Voice/FAX)
E-mail address: rjalber@attglobal.net



August 29, 2000

Commissioner Joe E. Miller
Division of Motor Vehicles
Attention: S. O. Dale - RM 113
Hearing Docket 2000 91CSR 10
Building 3, Capital Complex
Charleston WV 25317

Dear Commissioner Miller,

I appreciate your permitting a qualified applicant who owns two class A or G vehicles to be permitted to apply for two special license plates. I am also in favor of your limiting the total number of special license plates and removable windshield placards to a maximum of two regardless of the combination per qualified applicant. It is also most important that the application clearly states there is a trade-off when applying for two license plates and the applicant waives his or her right to have a removable placard.

I am disappointed that you did not modify section 5.1 to also increase the number of years to either four or five before recertification is required. It is a hardship to a large number of applicants to have to recertify every two years. I also believe it is a costly burden for the DMV as well. Three letters were received requesting a longer recertification period in the original filing of these interpretive rules in 1996. Your consideration of this proposal at this time is appreciated.

I'm also concerned that you have not voluntarily added a new section requiring the commissioner to prepare and distribute a document to all applicants of special license plates and placards outlining the rules and regulations covered under WV Code §17C-13-6 regarding their proper use at accessible parking spaces. Otherwise, I will be including such language as a requirement under this related statute in the next legislative session.

Sincerely,

Ronald L. Jalbert