

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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FEB 27 11 37 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91CSR10

RULE TYPE: Interpretive; CITE AUTHORITY 17A-2-9, 17C-13-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

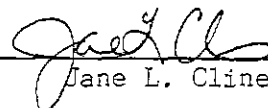
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 10

TITLE OF RULE BEING PROPOSED: Handicapped Parking Permits

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON March 30, 1996 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Division of Motor Vehicles
Attention: Steven O. Dale, Room 113
Capitol Complex, Building 3
Charleston, WV 25317

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Jane L. Cline, Commissioner

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

Gaston Caperton
Governor

Fred VanKirk, P.E.
Secretary
Commissioner of Highways

February 21, 1996

The Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, WV 25305

Dear Mr. Secretary:

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

A handwritten signature in cursive script, appearing to read "Fred VanKirk", written over a horizontal line.

Fred VanKirk
Secretary

A handwritten date "2-23-96" written in cursive script, positioned above a horizontal line.

Date



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

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

Gaston Caperton
Governor

Fred VanKirk, P.E.
Secretary
Commissioner of Highways

Jane L. Cline
Commissioner

91 CSR 10

**Handicapped Parking Permits
Proposed Interpretive Rule (1996)**

**Summary of Content
Statement of Circumstances Requiring Filing**

This Rule implements the process by which the Division of Motor Vehicles will issue and renew handicapped parking removable windshield placards and license plates.

This Rule is required in order for West Virginia to be in complete compliance with Federal Rule 23 CFR Part 1235, which prescribes a standardize issuance procedure for all states.

A handwritten signature in cursive script, appearing to read "Jane L. Cline", written over a horizontal line.

**Jane L. Cline
Commissioner**

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Handicapped Parking Permits - 91 CSR 10

Type of Rule: Legislative xx Interpretive Procedural

Agency Division of Motor Vehicles

Address Capitol Complex, Building 3

Charleston, WV 25317

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 73,500	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE	73,500				
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

First year expense to develop new computer program to track the renewal of handicapped parking permits, and mail renewals to all current placard and plate holders.

3. Objectives of these rules:

The purpose of this Rule is to fully implement the Federal Requirements for a standardized system of issuing and renewing handicapped parking plates and placards, by establishing a renewal period and incorporating the standard medical eligibility criteria prescribed by Federal Rule.

Rule Title: Handicapped Parking Permits

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Insignificant

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

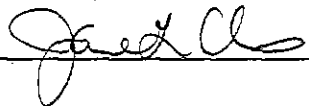
Handicapped citizens will be required to recertify their disability by submitting to the DMV a doctor's certification.

C. Economic Impact on Citizens/Public at Large.

None

Date: February 27, 1996

Signature of Agency Head or Authorized Representative

A handwritten signature in cursive script, appearing to read "Jackie", is written over a horizontal line.

FILED

FEB 27 11 37 AM '96

(Proposed)
WEST VIRGINIA INTERPRETATIVE RULES
DIVISION OF MOTOR VEHICLES
91CSR10

OFFICE OF 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(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(a) or 17C-13-6(b) 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 handicapped 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) 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

4.2 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 special license plate for a Class A vehicle 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 special plate.

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. 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. In accordance with West Virginia Code 17A-13-6, the fee for a temporary windshield placard is one dollar.

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 vehicle in which a person with a disability is the operator or passenger, regardless of vehicle ownership.

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 handicapped parking 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. 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.

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, all handicapped parking 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.