

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2008 AUG 28 PM 2: 52

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: 5A-4-5

AMENDMENT TO AN EXISTING RULE: YES  NO

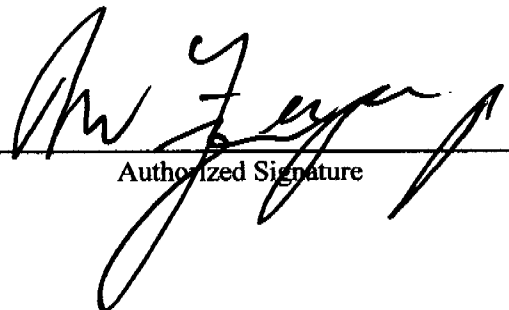
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Parking

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
\_\_\_\_\_  
Authorized Signature

**Agency:** Department of Administration  
Parking

**Rule Type:** Legislative

**Title Number:** 148  
**Cite Authority:** 5A-4-5

## STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The passage of House Bill 4147 during the 2008 legislative session makes changes to the parking statute. As a result of the passage of this bill, the Department of Administration must make changes to the existing legislative rules so there is no conflict between the Statute and the Legislative Rules. The changes to the parking statute gives the Speaker of the House of Delegates and the President of the Senate the authority to control parking in areas that they designate at any time they so designate and gives them the authority to hire personnel to enforce parking.

**Agency:** Department of Administration  
**Rule Type:** Legislative

**Title Number:** 148  
**Cite Authority:** 5A-4-5

## **BRIEF SUMMARY OF COMMENTS RECEIVED; AGENCY RESPONSE; AND AMENDMENTS**

Only one comment was received regarding the proposed parking rules. The comment was from Tom Bennett requesting that the Speaker of the House of Delegates and the President of the Senate be authorized to grant exceptions to the rule. The Department of Administration has no objection to the request and has modified the rules in order to allow the Speaker of the House of Delegates and President of the Senate to grant exceptions to the rule.

**Lipscomb, Donna M**

**From:** Tom Bennett [TomBenne@mail.wvnet.edu]  
**Sent:** Thursday, July 31, 2008 3:20 PM  
**To:** Lipscomb, Donna M  
**Subject:** Parking Rule Update  
**Attachments:** Parking Rules2.wpd

Donna,  
The Speaker and President both agreed on the new language at the end of the attached parking rule. I have highlighted the language for easy review.

If you have any questions, just let me know.

***Thomas R. Bennett, II***  
*Assistant to the Majority Leader*  
*West Virginia House of Delegates*  
State Capitol Complex  
1900 Kanawha Blvd., East  
Building 1, Room 240-M  
Charleston, West Virginia 25305  
Phone: (304) 340-3262  
Fax: (304) 340-3330

FILED

TITLE 148  
LEGISLATIVE RULE  
DEPARTMENT OF ADMINISTRATION

2008 AUG 28 PM 2: 52

SERIES 6  
PARKING

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§148-6-1. General.**

1.1. Scope. -- This legislative rule provides for the regulation of parking of motor vehicles by the Secretary of the Department of Administration on property owned or leased by the State of West Virginia, or any of its agencies, in the city of Charleston, Kanawha County, West Virginia, including penalties.

1.2. Authority -- W. Va. Code §5A-4-5.

1.3. Filing Date. -- ~~May 4, 2004.~~

1.4. Effective Date. -- ~~June 1, 2004.~~

**§148-6-2. Parking Areas.**

2.1. General. Parking on property owned by the State of West Virginia in the City of Charleston, Kanawha County, West Virginia is subject to this rule and includes but is not limited to:

(a). The east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East;

(b). The west side of California Avenue between Kanawha Boulevard and Washington Street, East;

(c). State-owned or leased grounds upon which state office buildings are located.

(d). Any other property now or subsequently owned or leased by the State or any of its agencies and used for parking purposes in conjunction with the state capitol or any state office buildings.

The Secretary of Administration may also designate any area as a parking or no parking area, as he or she determines for the conduct of business at the capitol or any state office buildings in the City of Charleston on a daily basis or for special occasions, as they may arise, except as provided in Sub Section 2.2 of this rule or joint policy of the Speaker of the House of Delegates and President of the Senate.

2.2. Legislative Sessions. During sessions of the Legislature, including regular, extended, extraordinary, and interim sessions, or any other times designated by the Speaker of the House of Delegates and/or the President of the Senate, parking in the following areas is designated for legislators and employees of the Legislature and subject to ~~rules promulgated jointly by a joint policy of the Speaker of the House of Delegates and President of the Senate~~ and shall be managed and controlled by the Legislature:

(a). The east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East;

(b). The Science and Culture Center parking lot;

(c). The north side of Kanawha Boulevard between Greenbrier Street and California Avenue; and

(d). The west side of California Avenue between Kanawha Boulevard and Washington Street, East;

(e). Any other areas designated by a joint policy of the Speaker of the House of Delegates and the President of the Senate.

**§148-6-3. Personnel.**

The Secretary, Speaker of the House of Delegates and/or the President of the Senate may ~~shall~~ employ such persons ~~as he or she~~ considers necessary to enforce this parking rule. The persons employed by the Secretary, Speaker of the House of Delegates and/or the President of the Senate may have authority to direct traffic and issue tickets in violation of this rule, as well as any other authority determined by the Secretary, or the Speaker of the House of Delegates and the President of the Senate.

**§148-6-4. Metered Parking.**

The Secretary may install metered parking in any areas designated for parking he or she considers prudent to permit convenient parking spaces for visitors to the state capitol or any state office buildings in the City of Charleston. The amount to be charged for parking at meters shall be .50 cents per hour.

**§148-6-5. Parking.**

Parking may be provided, at the discretion of the Secretary, to state spending units. The spending unit shall issue individual parking spaces in accordance with the parking allocation policies of the spending unit, subject to this rule. The fee to park shall be ~~sixteen dollars (\$16.00) per month as of July 1, 2003; seventeen dollars (\$17.00) per month as of July 1, 2004; eighteen dollars (\$18.00) per month as of July 1, 2005; nineteen dollars (\$19.00) per month as of July 1, 2006; twenty dollars (\$20.00) per month as of July 1, 2007. The maximum fee that can be charged thereafter for parking is twenty dollars (\$20.00) per month.~~ Payment by the employees shall be made through payroll deduction, unless otherwise authorized by the Secretary. The Secretary may charge a reasonable fee to replace a parking tag or access card issued to a public officer or employee.

For locations outside the Capitol Complex, the spending units shall issue individual parking spaces in accordance with the parking allocation policies of the spending unit subject to this rule

and the fee to park shall be the same as the fees for employees who park on the Capitol Complex Campus unless the facility consists of all free, public access parking (i.e., shopping centers or other facilities approved by the Secretary) or unless they have a contractual obligation in which case the Secretary of Administration may set a different fee.

**§148-6-6. Violations.**

6.1. General. The owner of any motor vehicle parked in violation of this rule is subject to the penalty specified in Section 7 of this rule and is responsible for the payment of any fines, penalties or costs assessed, regardless of whether the owner was operating the motor vehicle at the time of the violation. The Secretary may waive the violation and assessed fines, penalties and costs, in his or her discretion. Further, the Secretary may authorize the removal, immobilization, or any other remedy considered necessary, at owner expense, of any motor vehicle parked in violation of this rule. For the purpose of this subdivision, a motor vehicle parked in violation of this rule shall include a motor vehicle owned by a person who owes more than ten (10) unpaid violations and is parked on property described in subsection 2.1 of this rule. The Secretary may also authorize the revocation of a state issued parking space of a vehicle whose owner owes more than ten (10) unpaid violations.

6.2. Metered Parking. The owner of a motor vehicle parked at metered parking with elapsed time during the hours of 8:00 a.m. through 5:00 p.m. Monday through Friday, except holidays, is subject to overtime parking fine(s) in accordance with Section 7 of this rule or other hours as the Secretary considers appropriate. In no event may a singular vehicle at a single parking meter be ticketed more than four times in one working day.

6.3. Designated Area Parking. The owner of a motor vehicle parked at any time in an area designated handicapped parking, legislative parking, or reserved parking is subject to parking fine(s) in accordance with Section 7 of this rule.

6.4. Parking in Travel Lanes. The owner of a motor vehicle parked in a travel lane is subject to a

parking in travel lane parking fine in accordance with Section 7 of this rule.

6.5. Other Violations. The owner of a motor vehicle parked in a space that has not been assigned for purpose of parking that vehicle is subject to an improper parking fine in accordance with Section 7 of this rule.

**§148-6-7. Penalties.**

7.1. Fines. A person who violates this rule is subject to the following fines:

Handicapped Area	\$100.00
Legislative Parking Area	10.00
Reserved Parking Area	10.00
Parking in Travel Lane	10.00
Overtime Parking	5.00
No Parking Area	10.00
Improper Parking	10.00
Other Violations	10.00

7.2. Payment. Payment of fines is required within ten days (10) of the time the ticket was issued to either the ticket receipt boxes provided by the Department of Administration or to the address printed on the ticket. Fines not paid within ten days (10) are subject to double additional fines not to exceed twenty dollars (\$20.00) each. A summons may be issued for tickets not paid within fourteen (14) days.

7.3. Jurisdiction. Magistrates in Kanawha County, West Virginia have jurisdiction of violations and offenses of this rule.

7.4. Exceptions. The Secretary may grant necessary exceptions to this Rule. The Speaker of the House of Delegates or the President of the Senate may grant necessary exceptions to this Rule during sessions of the Legislature, including regular, extended, extraordinary, interim sessions, or any other times designated by the Speaker of the House of Delegates and the President of the Senate.

FILED

TITLE 148  
LEGISLATIVE RULE 2000 AUG 28 PM 2: 52  
DEPARTMENT OF ADMINISTRATION

SERIES 6  
PARKING

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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### **§148-6-3. Personnel.**

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Senate.

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APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Parking

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Department of Administration

Address: 1900 Kanawha Boulevard, East  
Building 1, Room E-119  
Charleston, WV 25305

Phone Number: 304-558-3392 Email: donna.m.lipscomb@wv.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There will be no fiscal impact to the State of West Virginia with the adoption of the proposed legislative rules. The rules are being promulgated as a result of the passage of HB 4147 during the Legislative session so that there is no conflict between the rules and the statute.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: \_\_\_\_\_

Rule Title: Parking

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

*AW Ferguson*

## QUESTIONNAIRE

**DATE:** August 28, 2008

**TO:** Legislative Rule-Making Review Committee

**FROM:** Donna Lipscomb, Executive Coordinator  
Department of Administration  
1900 Kanawha Boulevard, East  
Room E-119  
Charleston, WV 25305  
304-558-3392

**LEGISLATIVE RULE TITLE:** 148, Series 6, Parking

1. Authorizing statute(s) citation 5A-4-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 25, 2008

b. What other notice, including advertising, did you give of the hearing?

E-mailing a letter to all Parking Coordinators for all State Agencies and related entities.

c. Date of Public Hearing(s) or Public Comment Period Ended:

August 23, 2008

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached  X  No comments received \_\_\_\_\_

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 28, 2008

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (please type)

Donna Lipscomb, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

State Capitol, Room E-119

Charleston, WV 25305

304-558-3392

g. IF DIFFERENT FROM ITEM "f", please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (please type)

N/A

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

July 25, 2008 through August 23, 2008

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A