

WEST VIRGINIA SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

FILED

JUG 17 11:51

NOTICE OF AN EMERGENCY RULE

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: West Virginia Code Section 5A-4-5

EMERGENCY 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 RULE BEING FILED AS AN EMERGENCY: Six (6)

TITLE OF RULE BEING FILED AS AN EMERGENCY: Parking

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

These rules are necessitated to provide for the regulation of parking of motor vehicles, by the Secretary of Administration, on property owned by the State, including penalties. Enforcement of parking violations will provide more convenient and available parking at the Capitol.

Use Additional Sheets If Necessary.

Curtis



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

August 17, 1990

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: Emergency Rules For Parking

Dear Mr. Hechler:

Approval is hereby given for filing of emergency rules of the Department of Administration entitled "Parking", as enclosed, in accordance with West Virginia Code, 5A-4-5.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Polan".

Chuck Polan
Secretary

CP:bt

Attachment

DATE: August 17, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Administration

EMERGENCY RULE TITLE: Parking

1. Date of filing: August 17, 1990
2. Statutory authority for promulgating the emergency rule: West Virginia Code Section 5A-4-5
3. Date of filing of proposed legislative rule: August 17, 1990
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

NO

5. Has the same or similar emergency rule previously been filed and expired?

NO.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

These rules need to be promulgated as emergency rules to bring a quick
and clear resolution to parking problems at the Capitol. This issue
needs to be resolved so that more public parking will be available.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

These rules are necessary to allow the Secretary of Administration to enforce parking violations. Public parking places are being taken by state employees and there are not enough spaces available for the general public. Further, the enforcement of parking violations is needed to permit convenient and available parking.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parking

Type of Rule: Legislative Interpretive Procedural

Agency Department of Administration Address Capitol Complex E-119
Charleston, W. V. 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates: No additional costs are anticipated by promulgating and implementing these rules.

3. Objectives of these rules: The objective of these rules is to provide more available parking to the general public.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Collection of parking violations is expected to generate an estimated \$10,000 per year in revenues.

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

NONE.

C. Economic Impact on Citizens/Public at Large.

NONE.

Date: August 17, 1990

Signature of Agency Head or Authorized Representative

Carl P. ...

EMERGENCY RULES

148 CSR 6

TITLE 148
LEGISLATIVE RULES
DEPARTMENT OF ADMINISTRATION

SERIES 6

PARKING

Section 148-6-1. General.

1.1 Scope.--These Legislative Rules provide for the regulation of parking of motor vehicles by the Secretary of the Department of Administration on property owned by the State of West Virginia in the city of Charleston, Kanawha County, West Virginia, including penalties.

1.2 Authority.--West Virginia Code Section 5A-4-5.

1.3 Filing Date.--August 17, 1990.

1.4 Effective Date.--August 17, 1990.

Section 148-6-2. Parking Areas.

2.1 General.--Parking on the following property owned by the State of West Virginia in the city of Charleston, Kanawha County, West Virginia shall be subject to these regulations:

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

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

(c) State-owned grounds upon which state office building number three (3) is located;

(d) State-owned grounds upon which state office building number four (4), 112 California Avenue, is located;

(e) Parking garage at 212 California Avenue and upon the state-owned grounds upon which such parking garage is located;

(f) State-owned property at Michigan Avenue and Virginia

Terrace; and

(g) Any other property now or hereafter owned by the State and used for parking purposes in conjunction with the state capitol or state office buildings three (3) and four (4), including the Laidley Field complex.

The Secretary of Administration shall also have the authority to designate any area enumerated in this section as a parking or non-parking area, as he/she determines for the conduct of business at the capitol complex on a daily basis or for special occasions, as they may arise, except as provided in Section 2.2 herein.

2.2 Legislative Sessions.--During sessions of the Legislature, including regular, extended, extraordinary and interim sessions, parking in the following areas shall be designated parking for legislators and employees of the Legislature and subject to rules and regulations promulgated jointly by the Speaker of the House of Delegates and President of the Senate:

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

(b) Science and Culture Center parking lot;

(c) North side of Kanawha Boulevard between Greenbrier Street and California Avenue; and

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

Section 148-6-3. Parking Guards.

The Secretary of Administration shall employ such persons as he/she deems necessary to enforce these parking regulations. The persons employed by the Secretary shall have authority to direct traffic and issue tickets in violation of these regulations, as well as such other authority as determined by the Secretary.

Section 148-6-4. Metered Parking.

The Secretary of Administration may install parking meters in any areas designated for parking he/she deems prudent to permit convenient parking spaces for visitors to the capitol. The amount to be charged for parking at meters shall be determined by the Secretary.

Section 148-6-5. Parking for state officers and employees.

Parking for state officers and employees shall be provided to state spending units by the Secretary of Administration in areas and numbers determined by the Secretary for that purpose. The spending unit shall issue individual parking spaces in accordance with the parking allocation policies of the spending unit, subject to these regulations. Fees for each such parking space shall be fifteen dollars (\$15.00) per month and payment shall be made through payroll deduction, unless otherwise authorized by the Secretary.

Section 148-6-6. Violations.

6.1 General.--The owner of any motor vehicle parked in violation of these regulations shall be subject to the penalty specified in Section 7 herein and shall be 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 such violation and assessed fines, penalties and costs, in his discretion. Further, the Secretary may authorize the removal, at owner expense, of any motor vehicle parked in violation of these regulations.

6.2 Metered Parking.--The owner of a motor vehicle parked at a parking meter with elapsed time during the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday, except holidays, shall be subject to an overtime parking fine in accordance with Section 7 of these regulations. Motor vehicles ticketed between 9:00 a.m. and 12:00 noon may be ticketed again between the hours of 1:00 p.m. and 4:00 p.m., with each ticket containing an overtime parking fine in accordance with Section 7 of these regulations. In no event may a singular vehicle at a single parking meter be ticketed more than twice in one working day.

Section 148-6-7. Penalties.

7.1 Fines.--Violations of these regulations are subject to the following fines:

Handicapped.	\$25.00
Legislative Parking Area	4.00
Reserved Parking Area.	4.00
Parking in Travel Lane	4.00
Overtime Parking	3.00
No Parking Zone.	3.00
Improper Parking	3.00
Car Pool Area.	3.00
Outside Spending Unit Area	3.00
Other.	3.00

7.2 Payment.--Payment of fines shall be made within seventy-two (72) hours 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 seventy-two (72) hours shall be subject to an additional fine not to exceed five dollars (\$5.00). A summons may be issued for tickets not paid within fourteen (14) days.

7.3 Jurisdiction.--Magistrates in Kanawha County, West Virginia shall have jurisdiction of violations and offenses of these regulations.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Sept. 12, 1990
ADMINISTRATIVE LAW DIVISION

September 12, 1990

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Department of Administration

RULE: New Rule, Series 6, Parking

DATE FILED AS AN EMERGENCY RULE: August 17, 1990

DECISION NO. 43-90

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

A handwritten signature in cursive script that reads "Ken Hechler".

KEN HECHLER
Secretary of State

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
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(Plus all the volunteer
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DECISION EMERGENCY RULE DECISION (ERD 43-90)

AGENCY: Department of Administration
RULE: New Rule, Series 6, Parking
FILED AS AN EMERGENCY RULE: August 17, 1990

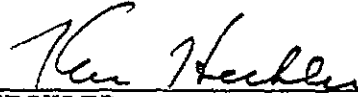
- par. 1 The Department of Administration has filed the above new rule as an emergency.
- par. 2 West Virginia Code §29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Department of Administration filed this emergency rule with supporting documents with the Secretary of State on August 17, 1990 and with the LRMRC on August 17, 1990.

- par. 7 It is the determination of the Secretary of State that the Department of Administration has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- WV Code §5A-4-5 reads in part:
The secretary is authorized to promulgate rules and regulations respecting parking and to allocate parking spaces to public officers and employees of the state upon all of the aforementioned property of the state. . . .
- par. 9 It is the determination of the Secretary of State that the Department of Administration has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:
(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the Department of Administration are as follows:

These rules are necessitated to provide for the regulation of parking of motor vehicles, by the Secretary of Administration, on property owned by the State, including penalties. Enforcement of parking violations will provide more convenient and available parking at the Capitol.
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . . "immediate preservation of public peace, health, safety or welfare."

par. 14

This decision shall be cited as Emergency Rule Decision 43-90 or ERD 43-90 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Department of Administration, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
SECRETARY OF STATE

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE Sept. 12, 1990
ADMINISTRATIVE LAW DIVISION

Entered _____