



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Motor Vehicles TITLE-SERIES: 91-10
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 91-10 Handicapped Placards

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 17A-2-9 and 17C-13-6(r).

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/17/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/17/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The rule establishes procedures for issuance of handicapped parking permits for persons with disabilities in accordance with Federal Rule 23 CFR Part 1235 and W. Va. Code §17C-13-6.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

In response to legislation wherein holders of permanent placards do not need renewal; doctor statements are good for ten (10) years

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

none

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

none

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

none

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
 Jennifer A Rutherford -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 91
LEGISLATIVE RULE
DIVISION OF MOTOR VEHICLES

SERIES 10
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 W. Va. Code §17C-13-6.

1.2. Authority. -- W. Va. Code §§17A-2-9 and 17C-13-6(r).

1.3. Filing Date. -- ~~April 1, 2024.~~

1.4. Effective Date. -- ~~April 1, 2024~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, ~~2029~~ 2030.

§91-10-2. Definitions.

2.1. Handicapped parking permit means either the special license plate or removable windshield placard issued under the provisions of W. Va. Code §17C-13-6 meeting the specifications prescribed in Federal Rule 23 CFR 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 W. Va. 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 23 CFR Part 1235.2 (b) and W. Va. Code §17C-13-6(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~~ 60 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, (DMV-41-TR or DMV-41a-TR) 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, unless the applicant already has been issued mobility impaired placards.

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 W. Va. Code §17A-10-11 and certification that the original plate was lost, stolen, or otherwise unusable.

4.1.3. Upon request, one permanent 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 Permanent Removable Windshield Placard.

4.2.1. Upon proper application, on the form prescribed by the Commissioner (DMV-41-TR or DMV-41a-TR) 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 permanent removable windshield placard. In accordance with the provisions of W. Va. Code §17C-13-6, there is no fee for the permanent removable windshield placard.

4.2.2. Upon request, the Commissioner may issue one additional permanent removable windshield placard to an applicant who does not have a special license plate for a maximum of two permanent removable windshield placards.

4.3. Application For A Temporary Removable Windshield Placard.

4.3.1. Upon proper application, on the form prescribed by the Commissioner (DMV-41-TR or DMV-41a-TR), 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, on the form prescribed by the Commissioner (DMV-41a-TR), which transports persons with disabilities, the Commissioner shall issue special license plates or removable placards in such a manner as in his or her judgment to 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 (DMV-41-TR or DMV-41a-TR) but is not required to obtain a physician certification for an additional plate or placard.

4.8 The physician's certification (signature) will be valid for a period of 10 years following initial application or renewal pursuant to West Virginia State Code §17C-13-6(c)(ii).

§91-10-5. Renewal.

5.1. The special license plate shall be renewable each year in accordance with the provisions of W. Va. Code §17A-1-1. The Commissioner shall require each registrant to submit recertification from a licensed physician every ~~five~~ 10 years or portion of the five-year renewal cycle established by the Commissioner for continued eligibility for the special license plate.

5.2. The permanent (BLUE) removable windshield placard shall be valid for the duration of the applicant's life.

5.3. The temporary (RED) 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 W. Va. 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~~ 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. All removable windshield placards, decals 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 regardless of where the placard, decal or plate is mounted or displayed on the vehicle.