

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

771H0419

SENATE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1273** - 02/13/2002

Introduced by: Representative Duniphan and Senator Ham

1 FOR AN ACT ENTITLED, An Act to revise the requirements for obtaining plates and
2 certificates to park in any space reserved for the disabled.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-5-76 be amended to read as follows:

5 32-5-76. An owner of a motor vehicle, who is a resident of this state, who has complied with
6 all the laws of this state in obtaining regular number license plates for the motor vehicle, and who
7 operates or directs the operation of the vehicle, may submit to the county treasurer an application
8 containing a physician's certificate on a form approved by the secretary, ~~which states~~ stating that
9 the applicant is so substantially disabled by a physical disability that it is impossible or causes
10 substantial hardship to walk. The secretary shall promulgate a rule, pursuant to chapter 1-26,
11 defining physical disability and disabled. The county treasurer shall procure, issue, and deliver
12 to the applicant plates with letters, numbers, or symbols, or any combination thereof, as the
13 secretary may prescribe. The plates shall be designed to readily apprise law enforcement officers
14 of the fact that the motor vehicle is owned, operated, or used in transporting a substantially
15 disabled person. No charge may be made for the issuance of the distinctive plates. The distinctive



1 plates shall be in addition to the regular number plates issued for the motor vehicle. The
2 distinctive plates shall be displayed as set forth in § 32-5-98 and the regular number plates shall
3 be kept on or in the motor vehicle. If the applicant is no longer disabled by a physical disability
4 or is deceased, the distinctive plates shall be surrendered within thirty days to the county
5 treasurer of the applicant's residence, and the treasurer shall notify the secretary who shall make
6 the necessary changes in the registration file. The regular number plates shall remain with the
7 motor vehicle to which ~~they~~ the plates were issued. Failure to surrender the distinctive license
8 plates as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit
9 a false or fraudulent application.

10 Section 2. That § 32-5-76.1 be amended to read as follows:

11 32-5-76.1. Any person who is a resident of this state and disabled by a physical disability so
12 that it is impossible or causes substantial hardship to walk may be issued a portable serially
13 numbered certificate by the secretary which permits the person or the operator of a vehicle being
14 used in transporting the person to park without time limitation pursuant to § 32-30-11.1 and to
15 park in any space reserved for the ~~handicapped~~ disabled. The person shall submit an application
16 containing a physician's certificate on forms approved by the secretary to prove that the person
17 meets the criteria established by this section. If the secretary determines that the applicant meets
18 the criteria, the secretary shall issue a portable certificate to the applicant. The secretary shall
19 promulgate rules, pursuant to chapter 1-26, governing the application for, term of, and
20 conditions under which such certificates may be issued. If the applicant is no longer disabled by
21 a physical disability or is deceased, the portable certificate shall be surrendered to the county
22 treasurer of the applicant's residence within thirty days, and the treasurer shall notify the
23 secretary who shall make the necessary changes in the file. Failure to surrender the portable
24 certificate as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to

1 submit a false or fraudulent application or to alter the portable certificate.

2 Section 3. That § 32-5-76.2 be amended to read as follows:

3 32-5-76.2. Any nonprofit organization, licensed hospital, retirement home, or educational
4 institution which has under its care or responsibility physically disabled persons, which transports
5 physically disabled persons, and which has complied with all laws of this state in obtaining title,
6 license plates, and registration for its motor vehicles may apply for a portable serially numbered
7 certificate which permits the operator of a vehicle transporting the disabled person to park
8 pursuant to § 32-30-11.1 ~~and to park only.~~ However, the vehicle may only park for the time
9 reasonably necessary to load or unload passengers in any space reserved for the ~~handicapped~~
10 disabled. In addition, any local government entity that owns a vehicle used to transport disabled
11 individuals may apply for the portable certificate. The application shall be made on a form
12 approved by the secretary. If the department determines that the applicant transports disabled
13 persons, the secretary shall issue and deliver a portable certificate to the applicant. The secretary
14 may promulgate rules pursuant to chapter 1-26 regarding the application for, term of, and
15 conditions under which the certificate may be issued. If the applicant no longer transports
16 physically disabled persons, ~~it~~ the applicant shall surrender the certificate to the department
17 within thirty days. Failure to surrender the portable certificate as required by this section is a
18 Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application or
19 to alter the portable certificate.

20 Section 4. That § 32-5-76.3 be amended to read as follows:

21 32-5-76.3. Any nursing facility licensed pursuant to the provisions of chapter 34-12 and
22 which has complied with all laws of this state in obtaining title, license plates, and registration
23 for its motor vehicles may apply for a set of distinctive plates as prescribed by § 32-5-76 ~~which~~
24 ~~permits~~ permitting the operator of a vehicle transporting any disabled person to park pursuant

1 to § 32-30-11.1. However, the vehicle may only park for the time reasonably necessary to load
2 or unload passengers in any space reserved for the disabled. The application shall be made on a
3 form approved by the secretary. If the department determines that the applicant is licensed as a
4 nursing facility, the secretary shall issue and deliver a set of distinctive plates to the applicant.
5 The secretary may promulgate rules, pursuant to chapter 1-26, regarding the application for,
6 term of, and conditions under which the distinctive plates may be issued. If the applicant no
7 longer transports physically disabled persons, the applicant shall surrender the distinctive plates
8 to the department within thirty days. Failure to surrender the distinctive license plates as required
9 by this section is a Class 2 misdemeanor.

10 Section 5. That § 32-30-11 be amended to read as follows:

11 32-30-11. Any person, other than the veteran to whom it was issued, who uses a disabled
12 veteran's license of identification issued pursuant to ~~§ 32-30-7~~ § 32-5-108 for the purpose of
13 parking an automobile as permitted by § 32-30-8, commits a ~~petty offense~~ Class 2 misdemeanor.
14 In addition the court shall assess a civil penalty of not less than one hundred dollars nor more
15 than three hundred dollars if the parking space is marked in accordance with the American With
16 Disabilities Act accessibility guidelines as of January 1, 2002.

17 Section 6. That § 32-30-11.1 be amended to read as follows:

18 32-30-11.1. Any physically ~~handicapped~~ disabled person, who displays special license plates
19 issued under § 32-5-76 or 32-5-108, a serially numbered certificate issued under § 32-5-76.1 or
20 32-5-76.2, or a similar license plate or certificate issued in another state on an automobile used
21 in transporting ~~him~~ that person, shall be entitled to park without limitation in areas where parking
22 is normally restricted by time factors and to park in any space reserved for the ~~handicapped~~
23 disabled. However, a municipality may, by ordinance, prohibit parking on any street or highway
24 for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic

1 during morning and afternoon rush hours, ~~and the~~. The privileges extended to such handicapped
2 disabled persons shall do not apply on streets or highways where and during such times as any
3 time parking is prohibited.

4 Section 7. That § 32-30-11.2 be amended to read as follows:

5 32-30-11.2. If the police of any municipality or any other political subdivision ~~shall find~~ finds
6 that ~~such~~ special license plates or certificates are being improperly used, ~~they~~ the police shall
7 report such violation to the Department of ~~Commerce and Regulation~~ Revenue which ~~may~~ shall
8 revoke the privilege of displaying license plates or certificates ~~so~~ that are improperly used.

9 Section 8. That § 32-30-11.3 be amended to read as follows:

10 32-30-11.3. Any person who is not physically ~~handicapped~~ disabled and who exercises the
11 privileges granted a physically ~~handicapped~~ disabled person under § 32-30-11.1 commits a
12 Class 2 misdemeanor. In addition the court shall assess a civil penalty of not less than one
13 hundred dollars nor more than three hundred dollars if the parking space is marked in accordance
14 with the American With Disabilities Act accessibility guidelines as of January 1, 2002.

15 Section 9. That § 32-30-11.4 be amended to read as follows:

16 32-30-11.4. The owner of any vehicle not displaying a serially numbered certificate or special
17 license plate parked or stopped in a parking space, or blocking a parking space, on public or
18 private property designated as reserved for the physically ~~handicapped~~ disabled commits a Class
19 2 misdemeanor. In addition the court shall assess a civil penalty of not less than one hundred
20 dollars nor more than three hundred dollars if the parking space is marked in accordance with
21 the American With Disabilities Act accessibility guidelines as of January 1, 2002.

22 Section 10. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 No owner of a vehicle may park, stop, or stand in an access aisle or lane immediately

1 adjacent to reserved parking spaces or in front of a ramp or curb-cut in such a manner that
2 blocks access to a disabled person who uses a wheelchair. A violation of this section is a Class
3 2 misdemeanor. In addition the court shall assess a civil penalty of not less than one hundred
4 dollars nor more than three hundred dollars if the parking space is marked in accordance with
5 the American With Disabilities Act accessibility guidelines as of January 1, 2002.

6 Section 11. That § 32-30-11.6 be amended to read as follows:

7 32-30-11.6. ~~Municipalities may~~ Each municipality shall by ordinance, designate special
8 parking spaces which shall be accessible to and usable by persons with physical disabilities. The
9 parking spaces shall be designed in accordance with the Americans With Disabilities Act as
10 amended on January 1, 2002.

11 Section 12. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Each sign designating a parking space for the physically disabled shall state the penalties for
14 illegal use of the parking space. This section only applies to a new sign or a sign that replaces an
15 existing sign after July 1, 2002.