

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1788

4
5 By: Representative Wren

For An Act To Be Entitled

9 "AN ACT TO AMEND SUBCHAPTER 3 OF TITLE 27, CHAPTER 15, OF
10 THE ARKANSAS CODE OF 1987, ANNOTATED, REGARDING PARKING
11 FOR PERSONS WITH DISABILITIES, TO REVISE THE LAW TO PERMIT
12 ONLY THE USE OF SPECIAL CERTIFICATES WHICH SHALL ACCOMPANY
13 THE PERSON WITH A DISABILITY IN A VEHICLE, TO INCREASE THE
14 PENALTIES FOR A VIOLATION OF THE PARKING PRIVILEGES OF
15 PERSONS WITH A DISABILITY, TO MAKE IT A FELONY TO USE
16 FALSE INFORMATION OR FRAUD WHEN ACQUIRING A SPECIAL
17 CERTIFICATE AND TO REQUIRE A PICTURE TO BE AFFIXED TO THE
18 SPECIAL CERTIFICATE FOR IDENTIFICATION PURPOSES; AND FOR
19 OTHER PURPOSES."

Subtitle

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22 "TO REVISE THE LAWS REGARDING PARKING FOR
23 DISABLED PERSONS AND TO INCREASE PENALTIES
24 FOR PARKING AND MAKE IT A FELONY TO USE FALSE
25 INFORMATION TO ACQUIRE A SPECIAL CERTIFICATE."

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. Arkansas Code ~~§~~ 27-15-303 is amended to read as follows:

30 "27-15-303. Applicability.

31 (a) The provisions of this subchapter shall apply only to:

32 (1) Passenger vehicles, including automobiles;

33 (2) Light trucks, including vans, with a three-fourths (3/4) ton or less manufacturer's rated capacity if the vehicle is
34 specially adapted for use by disabled individuals through the use of a lift, ramp, hand controls, etc.

35 (b) The provisions of this section may be waived if the applicant can document that a larger vehicle or special purpose vehicle would
36 otherwise be eligible to display the ~~special license plate or~~ special certificate."

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SECTION 2. Arkansas Code § 27-15-304 is amended to read as follows:

"27-15-304. Temporary special certificate.

(a) A person with a disability, which, as determined by a licensed physician is temporary in nature as opposed to permanent, may apply to the office for a temporary person with a disability special certificate, ~~and, upon request, one (1) additional temporary special certificate. Provided further, that a person to whom has been issued a special license plate or a special certificate may obtain one (1) temporary special certificate. The intent herein being to provide any person with a disability at least one (1), but not more than two (2), special indicia authorizing the use of parking spaces reserved exclusively for persons with disabilities.~~

(b) The temporary special certificate shall conform in size, color, and construction as may be specified by federal rules issued by the United States Secretary of Transportation, pursuant to Public Law 100-641. In addition, beginning with the issuance of all temporary special certificates after January 1, 1998, the temporary special certificate shall contain identifying details about the temporary person with a disability, including, the person's gender, age, and the type of his or her temporary disability, and it shall include a picture of the person with a disability affixed to the front of the special temporary certificate.

(c) When the temporary special certificate is displayed on the inside rearview mirror, or the dashboard if the vehicle is of a type that does not have an inside rearview mirror, of a vehicle described in § 27-15-303 that is transporting the person to whom the temporary special certificate was issued, the owner or operator of the motor vehicle shall be entitled to the same parking privileges as the owner or operator of a vehicle bearing a ~~special license plate certificate~~ provided under ~~§ 27-15-308(a)~~ § 27-15-308(b).

(d) The temporary special certificate shall be issued free of charge and shall expire three (3) months from the last day of the month in which it is issued."

SECTION 3. Arkansas Code § 27-15-305 is amended to read as follows:

"27-15-305. Penalties.

(a) Any individual who provides false information in order to acquire, or who ~~assists~~ uses any fraud to assist an unqualified person to acquire, ~~the special license plate or the special certificate, and any person who abuses the privileges granted by this subchapter shall be deemed guilty of a Class C misdemeanor~~ Class D felony.

(b) Any vehicle found to be parked in an area designated for the exclusive use of any person with a disability, as provided in this subchapter, on which is not displayed ~~a special license plate, a special certificate, or an official designation of another state as authorized in this subchapter, or which is found to be parked in an area designated for the exclusive use of any person with a disability, if operated by a person who is not a person with a disability, while not being used for the actual transporting of a person with a disability, shall be subject to impoundment by the appropriate law enforcement agency. In addition thereto, the owner of the vehicle shall, upon conviction, be subject to a fine of not less than twenty-five dollars (\$25.00) one hundred dollars (\$100) nor more than one hundred dollars (\$100) three hundred dollars (\$300) for each a first offense, plus applicable towing, impoundment, and related fees, as well as court costs. For a second offense, the owner of the vehicle shall, upon conviction, be subject to a fine of not less than two hundred dollars (\$200) nor more than four hundred dollars (\$400). For a third or subsequent offense, the owner of the vehicle shall, upon conviction, be subject to a fine of not less than three hundred dollars (\$300), nor more than five hundred dollars (\$500) and shall have their driver license suspended for a period of up to six (6) months."~~

1 SECTION 4. Arkansas Code § 27-15-307 is amended to read as follows:

2 "27-15-307. Administration.

3 The office shall:

4 (1) Develop an appropriate form, including provision for a sworn statement of disability, for use by an applicant to request issuance of
 5 ~~the special license plate and the special certificate for a person with a disability, and which shall also include a prominent warning statement to an~~
 6 ~~applicant that persons providing false information in order to acquire or who use any fraud to assist an unqualified person to acquire the special~~
 7 ~~certificate may be found guilty of a felony;~~

8 (2) Distribute a copy of this subchapter to all appropriate law enforcement agencies charged with enforcement of the Motor Vehicle
 9 Code;

10 (3) Adopt procedures and promulgate rules to advise and inform the general public of the provisions of this subchapter and the
 11 availability of ~~special license plates and~~ special certificates;

12 (4) Request medical information directly related to determining the eligibility of the applicant for a ~~special license plate or special~~
 13 ~~certificate, which shall be held in strict confidence. In addition, beginning with the issuance of all special certificates after January 1, 1998,~~
 14 ~~information shall be sought about the person with a disability, including, the person's gender, age, and the type of his or her disability. Such~~
 15 ~~medical information shall only be required when the applicant is applying for the initial issuance of a special license plate or special certificate~~
 16 ~~authorized under the provisions of § 27-15-308;~~

17 (5) Maintain accurate records of the annual number of ~~special license plates and~~ special certificates issued and in inventory; ~~and~~

18 (6) Enter into the permanent record of each applicant the ~~special license number, or special certificate number,~~ and type of allowable
 19 disability of the applicant in a manner that will allow retrieval of the information for statistical use; ~~and~~

20 (7) Arrange to include a color photograph of the person with a disability affixed to the front of each special certificate or temporary
 21 special certificate issued."

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23 SECTION 5. Arkansas Code § 27-15-308 is amended to read as follows:

24 "27-15-308. Special license plates and certificates.

25 (a)(1) ~~An~~ Prior to January 1, 1998, an owner of a motor vehicle described in § 27-15-303 may apply to the office for issuance of
 26 one (1) special license plate, to be affixed to his vehicle, if the applicant, a dependent of the applicant, or any individual who depends primarily
 27 on the applicant for more than sixty percent (60%) of his transportation is disabled under the definition of a person with a disability, as defined
 28 in § 27-15-302(2), or if the applicant is an organization owning the vehicle for which the special license is to be affixed, and the organization's
 29 vehicle is primarily used to transport persons with disabilities, as defined in § 27-15-302(2).

30 (2) After January 1, 1998, the office shall issue only a special certificate or a temporary special certificate which is
 31 designed to be moved from vehicle to vehicle to follow the person with a disability. It shall be displayed on the inside rear view mirror, or the
 32 dashboard if the vehicle is of a type that does not have an inside rear view mirror, of a vehicle described in § 27-15-303 that is transporting the
 33 person to whom the special certificate or temporary special certificate was issued.

34 (b)(1) ~~The~~ Prior to January 1, 1998, the special license plate issued by the office shall contain the international symbol of access,
 35 and a white figure on international blue background.

36 (2) The special license plate shall be issued at no additional charge.

1 (3) After January 1, 1998, the special license plates shall not be issued.

2 (c)(1) A person with a disability may apply to the office for a special person with a disability certificate.

3 (2) The special certificate shall conform in size, color, and construction as may be specified by federal rules issued by the
 4 United States Secretary of Transportation, pursuant to Public Law 100-641. In addition, beginning with the issuance of all special certificates
 5 after January 1, 1998, the special certificate shall contain identifying details about the person with a disability, including, the person's gender,
 6 age, and the type of his or her temporary disability, and it shall include a picture of the person with a disability affixed to the front of the special
 7 certificate.

8 (3) When the special certificate is displayed on the inside rearview mirror, or the dashboard if the vehicle is of a type that
 9 does not have an inside rearview mirror, of a vehicle described in ~~§ 27-15-303~~ that is transporting the person to whom the special certificate was
 10 issued, the owner or operator of the motor vehicle shall be entitled to ~~the same parking privileges as the owner or operator of a vehicle bearing a~~
 11 ~~special license plate provided under subsection (a) of this section~~ the authorized the use of parking spaces reserved exclusively for persons with
 12 disabilities as provided for in this subchapter.

13 (4) The special certificate shall be issued free of charge, and shall expire five (5) years from the last day of the month in
 14 which it is issued. Provided, however, the applicant shall not be required to obtain recertification of his qualifying disability in order to renew his
 15 special certificate.

16 (5) Beginning January 1, 1998, persons with a disability who have been issued special license plates shall be re-issued,
 17 free of charge, a special certificate to replace the special license plates which will no longer be issued."

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19 SECTION 6. Arkansas Code ~~§ 27-15-310~~ is amended to read as follows:

20 "27-15-310. Display of special ~~license plate or~~ certificate.

21 ~~_____ (a) No vehicle licensed by the State of Arkansas to operate on the public highways shall display a special license plate issued for a~~
 22 ~~vehicle owned by a person with a disability, or a facsimile thereof, unless the owner or primary user of the vehicle meets the definition of person~~
 23 ~~with a disability as defined in § 27-15-302(2).~~

24 ~~_____ (b) No vehicle shall display the special certificate unless the vehicle is being used for the purpose of transporting the person to whom~~
 25 ~~the special certificate was issued and that person meets the definition of person with a disability as defined in § 27-15-302(2)."~~

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27 SECTION 7. Subsection (a) of Arkansas Code ~~§ 27-15-312~~ is amended to read as follows:

28 "(a) A vehicle displaying a ~~special license plate or~~ special certificate and being used for the actual transporting of a person with a
 29 disability is permitted exclusive parking privileges in those areas designated for parking only by people with disabilities."

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31 SECTION 8. Subsection (a) of Arkansas Code ~~§ 27-15-313~~ is amended to read as follows:

32 "(a) Each public agency of this state, as defined in ~~§ 27-15-302(3)~~, having jurisdiction over street parking or publicly owned and
 33 operated parking lots and facilities, including spaces adjacent to public buildings, shall provide a minimum number of specially designated and
 34 marked motor vehicle parking spaces for the exclusive use of motor vehicles bearing a ~~special license plate or~~ special certificate issued under the
 35 provisions of this subchapter."

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1 SECTION 9. Arkansas Code § 27-15-314 is amended to read as follows:

2 "27-15-314. Parking spaces by private agencies.

3 (a)(1) Any business firm or other person licensed to do business with the public or owning or operating a business which provides
4 parking access to the public may provide specially designated and marked motor vehicle parking spaces for the exclusive use of people with
5 disabilities who have been issued a ~~special license plate~~ or special certificate.

6 (2) Private businesses intended for use by the public, which are constructed after January 1, 1992, and private businesses
7 which undertake significant physical modifications or alterations of their premises after January 1, 1992, shall provide parking spaces in such
8 number and otherwise in accordance with the standards set forth in § 27-15-313 for parking spaces for people with disabilities.

9 (b) The failure of a private agency to provide, in number or specification, parking spaces for people with disabilities as required of
10 public agencies in § 27-15-313 shall in no way be deemed to:

11 (1) Authorize or permit unauthorized vehicles to park in a parking space which contains a sign or other appropriate
12 marking designating the parking space as space reserved for parking for people with disabilities; or

13 (2) Relieve any law enforcement officer of the responsibility of arresting persons for violating the laws of this state which
14 prohibit the parking of vehicles that do not display a ~~special license plate~~ or special certificate in parking spaces designated for people with
15 disabilities."

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17 SECTION 10. Arkansas Code § 27-15-315 is amended to read as follows:

18 "27-15-315. Signs regulatory in nature.

19 (a) For the purposes of this subchapter, and for the purposes of enforcing any law of this state relating to penalizing owners or
20 operators of vehicles who park vehicles in spaces designated for use by people with disabilities, and whose vehicles do not properly and legally
21 display a ~~special license plate~~ or a special certificate provided under this subchapter, it shall be assumed that the identification of areas designated
22 for use by people with disabilities is regulatory in nature and that the identified areas are intended for exclusive use by people with disabilities
23 whose vehicles are properly identified, and that penalties should be imposed on the owner or operator of a vehicle parked in those areas whose
24 vehicle is not properly identified.

25 (b) For the purposes of this subchapter and for the purposes of enforcing any laws of this state related to parking areas for people
26 with disabilities, sign R7-8, listed in the Manual of Uniform Traffic Control Devices (Rev. 12/79) shall be displayed on each parking space
27 for people with disabilities, and shall be regulatory in nature.

28 (c) The blue and white international symbol of access, accompanied by appropriate regulatory language, including, but not limited to,
29 Handicapped Parking, Reserved for Handicapped, Permit Required - Towing Enforced, etc., may be used in lieu of sign R7-8, if the
30 sign was erected prior to January 1, 1992, and shall be regulatory in nature."

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32 SECTION 11. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated
33 and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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35 SECTION 12. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity
36 shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the

1 *provisions of this act are declared to be severable.*

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3 *SECTION 13. All laws and parts of laws in conflict with this act are hereby repealed.*

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