

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H3/18/15 H3/27/15

2 90th General Assembly

# A Bill

3 Regular Session, 2015

HOUSE BILL 1649

4

5 By: Representative J. Mayberry

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## For An Act To Be Entitled

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AN ACT TO REGULATE PARKING FOR A PERSON WITH A

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DISABILITY; TO MODIFY VAN ACCESSIBLE PARKING AND

10

ENFORCEMENT AND PENALTIES; TO AMEND THE PROVISIONS

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FOR ISSUANCE OF A SPECIAL LICENSE PLATE AND A

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CERTIFICATION; TO CREATE A CLASS TO PROMOTE AWARENESS

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OF PARKING COMPLIANCE FOR PERSONS WITH DISABILITY;

14

AND FOR OTHER PURPOSES.

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## Subtitle

18

THE VAN ACCESSIBLE PARKING ACT.

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

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*SECTION 1. Arkansas Code § 27-15-302, concerning definitions regarding parking for persons with a disability, is amended to add an additional subdivision to read as follows:*

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25

*subdivision to read as follows:*

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*(7) "Van accessible parking decal" means:*

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*(A) A designated special decal to be affixed to a special*

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*plate, special certificate, or temporary special certificate displayed on a*

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*vehicle that is:*

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*(i) Used to transport a person who has limited or no*

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*use of his or her legs;*

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*(ii) Used to transport a wheelchair, a three-wheeled*

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*or four-wheeled scooter, a four-wheeled walker with a seat, or a similar*

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*device; and*

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*(B) Indicia of authorization for the use of a van*

36

*accessible parking space.*



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2           SECTION 2. Arkansas Code § 27-15-304(a)(1), concerning application for  
3 a temporary special certificate for a person with a disability, is amended to  
4 read as follows:

5           (a)(1) A person with a disability, which, as determined by a licensed  
6 physician, is temporary in nature as opposed to permanent, may apply to the  
7 Office of Motor Vehicle for a temporary person-with-a-disability special  
8 certificate, which may include an affixed temporary van accessible parking  
9 decal, and, upon request, one (1) additional temporary special certificate  
10 which may include an additional affixed van accessible parking decal.

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12           SECTION 3. Arkansas Code § 27-15-305(b)(1) and (2), concerning parking  
13 in an area designated for exclusive use of a person with a disability and the  
14 amount of the fine upon conviction for a violation, are amended to read as  
15 follows:

16           (b)(1) ~~Any~~ A motor vehicle found to be parked in an area designated  
17 for the exclusive use of any person with a disability, including the access  
18 aisle, ~~as provided in this subchapter, on which is not displayed a~~ may be  
19 impounded by a law enforcement agency if the motor vehicle:

20                       (A) Does not display the appropriate van accessible  
21 parking decal, special license plate, a special certificate, or ~~an~~ similar  
22 official designation of another state ~~as~~ authorized in this subchapter; or

23                       (B) which is found to be parked in an area designated for  
24 the exclusive use of any person with a disability, if Displays a van  
25 accessible parking decal, special license plate, special certificate, or  
26 similar official designation of another state authorized in this subchapter,  
27 but is operated by a person who is not:

28                               (i) a A person with a disability who is authorized  
29 to park in the designated area; or

30                               (ii) ~~while not being used for the actual~~  
31 ~~transporting of~~ Transporting a person with a disability ~~shall be subject to~~  
32 ~~impoundment by the appropriate law enforcement agency~~ who is authorized to  
33 park in the designated area.

34           (2)(A) In addition ~~thereto~~, the owner of the vehicle shall upon  
35 conviction be subject to a fine of not less than ~~one hundred dollars (\$100)~~  
36 two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500)

1 *for the first offense and not less than ~~two hundred fifty dollars (\$250)~~ five*  
2 *hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for the*  
3 *second and subsequent offenses, plus applicable towing, impoundment, and*  
4 *related fees as well as court costs.*

5 *(B) The fine for a first offense shall be reduced to one*  
6 *hundred dollars (\$100) upon successful completion of a class approved by the*  
7 *Governor's Commission on People with Disabilities to promote education and*  
8 *awareness of compliance with parking and related public accommodation issues*  
9 *under the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.*

10  
11 *SECTION 4. Arkansas Code § 27-15-305(c), concerning the use and*  
12 *distribution of fines collected in district court under this section, is*  
13 *amended to read as follows:*

14 *(c)(1) ~~Thirty percent (30%)~~ Fifty percent (50%) of all fines collected*  
15 *under this section in district court ~~or city court shall be for the purpose~~*  
16 *~~of funding activities of the Governor's Commission on People with~~*  
17 *~~Disabilities and shall be collected and remitted by the tenth day of each~~*  
18 *~~month to the Administration of Justice Funds Section of the Office of~~*  
19 *~~Administrative Services of the Department of Finance and Administration, on a~~*  
20 *~~form provided by the section, for deposit into a special fund established and~~*  
21 *~~maintained by the Treasurer of State~~ the Governor's Commission on People with*  
22 *Disabilities Fund to be used as follows:*

23 *(A) Thirty percent (30%) for scholarship awards to persons*  
24 *with disabilities; and*

25 *(B) Twenty percent (20%) for education and to administer a*  
26 *small business grant program to help small businesses comply with the parking*  
27 *requirements of this subchapter and the Americans with Disabilities Act of*  
28 *1990, Pub. L. No. 101-336.*

29 *(2) ~~Seventy percent (70%)~~ Fifty percent (50%) of the fines*  
30 *collected in district court ~~or city court~~ under this section shall be paid by*  
31 *the tenth day of each month to the city general fund of the town or city in*  
32 *which the violation occurred to assist that political subdivision in paying*  
33 *the expenses it incurs in complying with requirements of the Americans with*  
34 *Disabilities Act of 1990, ~~42 U.S.C. 12101 et seq.~~ Pub. L. No. 101-336.*

35  
36 *SECTION 5. Arkansas Code § 27-15-307 is amended to read as follows:*

1           27-15-307. Administration.

2           The Office of Motor Vehicle shall:

3                   (1) Develop an appropriate form, including provision for a sworn  
4 statement of disability, for use by an applicant to request issuance under  
5 this subchapter of:

6                           (A) ~~the~~ A special license plate for a person with a  
7 disability;

8                           (B) ~~and the~~ A special certificate for a person with a  
9 disability; and

10                           (C) A van accessible parking decal;

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

13                   (3) Adopt procedures and promulgate rules to advise and inform  
14 the general public of the provisions of this subchapter and the availability  
15 of special license plates, ~~and~~ special certificates, and van accessible  
16 parking decals;

17                   (4)(A) Request medical information directly related to  
18 determining the eligibility of the applicant for a special license plate, ~~or~~  
19 special certificate, or a van accessible parking decal ~~which shall be held in~~  
20 ~~strict confidence.~~

21                           (B) The medical information shall be:

22                                   (i) Held in strict confidence; and

23                                   (ii) ~~required~~ Required only when the applicant is  
24 applying for the initial issuance of a special license plate, ~~or~~ special  
25 certificate, or van accessible parking decal authorized under ~~the provisions~~  
26 ~~of~~ § 27-15-308;

27                   (5) Maintain accurate records of the annual number of special  
28 license plates, ~~and~~ special certificates, and van accessible parking decals  
29 issued and in inventory;

30                   (6) Enter into the permanent record of each applicant the  
31 special license number, ~~or~~ special certificate number, or van accessible  
32 parking decal number and type of allowable disability of the applicant in a  
33 manner that will allow retrieval of the information for statistical use; ~~and~~

34                   (7) Include a notice with each application for a special license  
35 plate, ~~or~~ a special certificate, or a van accessible parking decal informing  
36 the applicant and any other person driving for the applicant;

1                   (A) ~~of~~ Of the requirements of this subchapter; and  
2                   (B) ~~further specifically informing the applicant that~~ That  
3 the privilege to park in spaces reserved for persons with disabilities shall  
4 be available only when the person for whom the special license plate, ~~or~~  
5 special certificate, or van accessible parking decal was issued or ~~a~~ the  
6 person with a the disability is actually in the vehicle; and

7                   (8)(A) Request information directly related to determining the  
8 eligibility of an applicant for a van accessible parking decal.

9                   (B) The requested information shall verify that the person  
10 for whom the van accessible parking decal was issued is a person that  
11 requires the use of a wheelchair, a three-wheeled or four-wheeled scooter, a  
12 four-wheeled walker with a seat, or a similar device that is commonly used to  
13 transport persons who have limited or no use of their legs.

14  
15           SECTION 6. Arkansas Code § 27-15-308(c)(1)-(5), concerning special  
16 certificates for transporting persons with disabilities, are amended to read  
17 as follows:

18           (c)(1)(A) A person with a disability may apply to the office for a  
19 special person-with-a-disability certificate and if applicable a van  
20 accessible parking decal, subject to the photo identification card  
21 requirements of subsection (a) of this section.

22           (B) Upon proof that the person with a disability is  
23 regularly transported in more than one (1) motor vehicle described in § 27-  
24 15-303, the person with a disability may be issued not more than two (2)  
25 special certificates and if applicable van accessible parking decals.

26           (2) The special certificate and if applicable van accessible  
27 parking decal shall conform in size, color, and construction as may be  
28 specified by federal rules issued by the United States Secretary of  
29 Transportation, pursuant to Pub. L. No. 100-641.

30           (3) When the special certificate and if applicable van  
31 accessible parking decal is displayed on the inside rearview mirror, or the  
32 dashboard if the vehicle is of a type that does not have an inside rearview  
33 mirror, of a vehicle described in § 27-15-303 that is transporting the person  
34 to whom the special certificate and if applicable van accessible parking  
35 decal was issued, the owner or operator of the motor vehicle shall be  
36 entitled to the same parking privileges as the owner or operator of a motor

1 vehicle bearing a special license plate provided under subsection (a) of this  
2 section.

3 (4) The special certificate and if applicable van accessible  
4 parking decal shall be issued free of charge and shall expire four (4) years  
5 from the last day of the month in which it is issued.

6 (5)(A) If a person to whom a special certificate, van accessible  
7 parking decal, or special license plate has been issued moves to another  
8 state, the person shall surrender the special certificate, van accessible  
9 parking decal, or special license plate to the office.

10 (B) If a person to whom a special certificate, van  
11 accessible parking decal, or special license plate has been issued dies, the  
12 special certificate, van accessible parking decal, or special license plate  
13 shall be returned to the office within thirty (30) days after the death of  
14 the person to whom the special certificate, van accessible parking decal, ~~or~~  
15 and if applicable a special license plate was issued.

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17 SECTION 7. Arkansas Code § 27-15-308(d)(2), concerning the expiration  
18 of a driver's license endorsement for a person with a disability, is amended  
19 to read as follows:

20 (2) If a driver's license endorsement or identification card  
21 endorsement is chosen under this section, then the issuance and expiration of  
22 the driver's license shall correspond with the expiration date of the special  
23 person-with-a-disability certificate or van accessible parking decal issued  
24 under this section.

25

26 SECTION 8. Arkansas Code § 27-15-310, concerning display of a special  
27 license plate or certificate, is amended to add an additional subdivision to  
28 read as follows:

29 (c) No vehicle shall display a special license plate with an affixed  
30 van accessible parking decal or a special certificate with an affixed van  
31 accessible parking decal unless the vehicle is being used for the purpose of  
32 transporting the person with a disability for whom the van accessible parking  
33 decal was issued.

34

35 SECTION 9. Arkansas Code § 27-15-312(a), concerning exclusive parking  
36 privileges for persons with disabilities, is amended to read as follows:

1 (a)(1) A vehicle displaying a van accessible parking decal, a special  
 2 license plate, or a special certificate and being used for the actual  
 3 transporting of a person with a disability is permitted exclusive parking  
 4 privileges in those areas designated for parking only by persons with  
 5 ~~disabilities~~ the van accessible parking decal, special license plate, or  
 6 special certificate.

7 (2)(A) Except as provided under subdivision (a)(2)(B) of this  
 8 section, a parking space reserved for a person with a disability that is  
 9 designated as "van accessible" shall be used exclusively by ~~vehicles~~ a  
 10 vehicle that:

11 (i) ~~load Loads~~ or ~~unload unloads~~ a wheelchair, a  
 12 three-wheeled or four-wheeled scooter, a four-wheeled walker with a seat, or  
 13 a similar device that is commonly used to transport ~~persons who have a person~~  
 14 who has limited or no use of ~~their~~ his or her legs; and

15 (ii) Displays a van accessible parking decal.

16 (B) If the parking lot or parking facility has only one  
 17 (1) parking space reserved for a person with a disability, then the  
 18 limitation of use under subdivision (a)(2)(A) ~~shall~~ of this section does not  
 19 apply.

20  
 21 SECTION 10. Arkansas Code § 27-15-314(a)(1), concerning the provision  
 22 of parking spaces for persons with disabilities, is amended to read as  
 23 follows:

24 (a)(1) Any business firm or other person licensed to do business with  
 25 the public or owning or operating a business that provides parking access to  
 26 the public may provide specially designated and marked motor vehicle parking  
 27 spaces for the exclusive use of persons with disabilities who have been  
 28 issued a special license plate, ~~or~~ special certificate, or parking decal.

29  
 30 SECTION 11. Arkansas Code § 27-15-315(a), concerning the regulation of  
 31 signs to enforce the provisions of this subchapter, is amended to read as  
 32 follows:

33 (a) For the purposes of this subchapter and for the purposes of  
 34 enforcing any law of this state relating to penalizing ~~owners or operators of~~  
 35 ~~vehicles~~ an owner or operator who ~~park parks a vehicles~~ vehicle in ~~a spaces~~  
 36 space designated for use by ~~persons with disabilities~~ a person with a

1 disability and whose ~~vehicles~~ vehicle ~~do~~ does not properly and legally  
2 display a special license plate, a van accessible parking decal, or a special  
3 certificate provided under this subchapter, it shall be presumed that:

4 (1) the The identification of areas designated for use by  
5 persons with disabilities is regulatory in nature;

6 (2) and that the The identified areas are intended for exclusive  
7 use by persons with disabilities whose vehicles are properly identified; and

8 (3) that penalties should Penalties shall be imposed on the  
9 owner or operator of a vehicle that is not properly identified and is parked  
10 in one (1) of those areas whose vehicle is not properly identified designated  
11 for parking only by persons with disabilities.

12  
13 SECTION 12. EFFECTIVE DATE. This act is effective on and after July  
14 1, 2016.

15 /s/J. Mayberry  
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