

HOUSE BILL NO. 1211

Introduced by

Representatives Boschee, Rick C. Becker, Dobervich, Guggisberg, Jones, M. Nelson,
O'Brien

Senators Campbell, Clemens, Laffen, Nelson

1 A BILL for an Act to amend and reenact section 39-01-15 and subsection 1 of section
2 39-06.1-06 of the North Dakota Century Code, relating to parking spaces for mobility-impaired
3 individuals.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 39-01-15 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-01-15. Parking privileges for mobility impaired - Certificate - Revocation -**
8 **Continuing appropriation - Penalty.**

- 9 1. ~~Any~~A mobility-impaired individual who displays prominently upon ~~an automobile~~a
10 motor vehicle parked by that individual or under that individual's direction and for that
11 individual's use, the distinguishing certificate specified in subsection 4, license plates
12 issued under section 39-04-10.2, or a disabled veteran plate issued under
13 subdivision j of subsection 2 of section 39-04-18 is entitled to courtesy in the parking
14 of the ~~automobile~~motor vehicle. However, any municipality may prohibit, by ordinance,
15 parking on any highway for the purpose of creating a fire lane or to provide for the
16 accommodation of heavy traffic during morning and afternoon rush hours. The
17 privileges extended to a mobility-impaired individual do not apply on a highway if
18 parking is prohibited.
- 19 2. A mobility-impaired individual as used in this section includes an individual who uses
20 portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or
21 a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac,
22 pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without
23 rest; has a forced expiratory volume of less than one liter for one second or an arterial

1 oxygen tension of less than sixty millimeters of mercury on room air while at rest and
2 is classified III or IV by standards for cardiac disease set by the American heart
3 association; has an orthopedic, neurologic, or other medical condition that makes it
4 impossible for the person to walk two hundred feet [60.96 meters] without assistance
5 or rest; or is a disabled veteran issued a plate under subdivision j of subsection 2 of
6 section 39-04-18.

7 3. Repealed by S.L. 1989, ch. 319, § 6.

8 4. The director may issue, for a fee of three dollars per year or part of a year, a special
9 identifying certificate to any mobility-impaired applicant upon submission by the
10 applicant of a completed application and a written or electronic statement issued by a
11 qualified physician, physician assistant, chiropractor, or an advanced practice
12 registered nurse to the director that the applicant is a mobility-impaired person within
13 the criteria of subsection 2. The director shall waive the requirement for a written or
14 electronic statement from a qualified physician, physician assistant, chiropractor, or an
15 advanced practice registered nurse if the applicant has previously submitted an
16 application containing a certification from a qualified physician, physician assistant,
17 chiropractor, or an advanced practice registered nurse that the applicant's impairment
18 is not reversible. The application must include the information required by the director.
19 The physician's, physician assistant's, chiropractor's, or advanced practice registered
20 nurse's statement must describe how the impairment limits the applicant's mobility and
21 daily life functions of the applicant. The certificate is valid for a period, not to exceed
22 three years, as determined by the director. A physician, physician assistant,
23 chiropractor, or an advanced practice registered nurse who provides a false statement
24 that an individual is mobility impaired for the purpose of that individual obtaining a
25 certificate under this subsection is guilty of an infraction for which a minimum fine of
26 one hundred dollars must be imposed. A certificate issued under this subsection must
27 be nine and one-half inches [24.13 centimeters] in height and three inches [7.62
28 centimeters] in width and must bear, in white on blue, the internationally accepted
29 symbol of access for the mobility impaired. The certificate must bear the expiration
30 date and registration number assigned by the director. The director shall adopt rules
31 governing the issuance of the certificate. A temporary certificate, valid for an initial

1 period not to exceed three months, may be issued by the director for a fee of three
2 dollars upon application supported by a physician's, physician assistant's,
3 chiropractor's, or an advanced practice registered nurse's statement. The director may
4 issue a maximum of one additional temporary certificate for a fee of three dollars. The
5 temporary certificate may be extended an additional period, not to exceed three
6 months, upon application supported by a physician's, physician assistant's,
7 chiropractor's, or an advanced practice registered nurse's statement that the extension
8 is warranted. Temporary certificates must be the same size as other certificates issued
9 under this section and must be white on red. The director may issue a maximum of
10 one additional certificate, if the applicant does not have number plates issued under
11 section 39-04-10.2 or under subdivision j of subsection 2 of section 39-04-18, for a fee
12 of six dollars per certificate, to a mobility-impaired individual to whom a certificate has
13 been issued under this subsection. The additional certificates may only be used by or
14 on behalf of the mobility-impaired individual.

- 15 5. Except as provided in this subsection, two dollars of each fee for issuance of a
16 certificate and one dollar of each fee for issuance of an additional certificate under this
17 section must be deposited in the state highway department fund for purposes of
18 defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee
19 received for the issuance of an additional certificate under subsection 4, must be
20 deposited in the state treasury and credited to the employment of people with
21 disabilities fund. The fees deposited in the fund are hereby appropriated on a
22 continuing basis to the department of human services for use by the committee on
23 employment of people with disabilities to accomplish the committee's statutory duties
24 provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the
25 individual to whom the certificate was issued is entitled to a replacement. The
26 individual shall furnish proof satisfactory to the director that the certificate has been
27 lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.
- 28 6. A certificate issued under this section must be hung from the rearview mirror of the
29 motor vehicle whenever the vehicle is occupying a space reserved for the mobility
30 impaired and is being used by a mobility-impaired individual or another individual for
31 the purposes of transporting the mobility-impaired individual. No part of the certificate

1 may be obscured. A fee of five dollars may be imposed for a violation of this
2 subsection.

3 7. An applicant may appeal a decision denying issuance of the certificate to the director.
4 Written notice of the appeal must be received within ten business days following
5 receipt by the applicant of notice of denial. The applicant has sixty days to provide
6 additional supportive material to the director for purposes of deciding the appeal. The
7 director shall affirm or reverse the decision to deny issuance of the certificate within
8 thirty days after receipt of the supportive material. Written notice of the decision must
9 be given to the applicant.

10 8. If a law enforcement officer finds that the certificate is being improperly used, the
11 officer may report to the director any violation and the director may, in the director's
12 discretion, remove the privilege. An individual who is not mobility impaired and who
13 exercises the privileges granted a mobility-impaired individual under subsection 1 is
14 guilty of an infraction for which a fine of one hundred dollars must be imposed.

15 9. If a public or private entity designates parking spaces for use by a motor vehicle
16 operated by a mobility-impaired individual, those reserved spaces must comply with
17 the requirements of the Americans with Disabilities Accessibility Guidelines for
18 Buildings and Facilities as contained in the appendix to title 28, Code of Federal
19 Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or
20 edge of the paved portion of the street or parking lot adjacent to the space. In addition
21 to blue paint, each reserved space must be indicated by an official sign approved by
22 the director bearing the internationally accepted symbol of access for the mobility
23 impaired. The sign must indicate that unauthorized use of the space is a nonmoving
24 violation for which a fee of one hundred dollars must be imposed. For particular
25 events, a public or a private entity may reserve additional parking spaces for use by
26 motor vehicles operated by a mobility-impaired individual. In that case, each
27 temporarily reserved space must be indicated by a sign or other suitable means. A
28 sign indicating that a space is reserved for the mobility impaired and blue paint on the
29 curb or edge of the paved portion of the street or parking lot adjacent to the space,
30 unless the space is a temporary mobility-impaired parking space, is sufficient basis for

1 the enforcement of this section. A law enforcement officer shall enforce this section in
2 any parking lot or parking facility, whether publicly or privately owned.

3 10. If the designated mobility-impaired parking spaces are occupied or unavailable, a
4 motor vehicle displaying the distinguishing certificate specified in subsection 4, license
5 plates issued under section 39-04-10.2, or a disabled veteran plate issued under
6 subdivision j of subsection 2 of section 39-04-18 may park at an angle and occupy two
7 standard parking spaces.

8 ~~40.11.~~ An individual may not stop, stand, or park any vehicle in any designated parking space
9 that is reserved for the mobility impaired unless the vehicle displays a
10 mobility-impaired identification certificate issued by the director to a mobility-impaired
11 individual. A mobility-impaired individual may not permit the use of a certificate issued
12 under this section by an individual who is not mobility impaired when that use is not in
13 connection with the transport of the mobility-impaired individual. The registered owner
14 of a vehicle may not allow that vehicle to be used in a manner that violates this
15 subsection. Proof of intent is not required to prove a registered owner's violation of this
16 subsection. The registered owner, however, may be excused from a violation if the
17 owner provides the citing authority with the name and address of the individual
18 operating the vehicle at the time of the violation. A vehicle may temporarily use a
19 space reserved for a mobility-impaired individual without a mobility-impaired certificate
20 for the purpose of loading and unloading a mobility-impaired individual. A violation of
21 this subsection is a nonmoving violation for which a fee of one hundred dollars must
22 be imposed. Notwithstanding section 29-27-02.1, fifty percent of the fee imposed and
23 collected under this subsection is appropriated on a continuing basis to the local
24 committee on persons with disabilities, if one exists in the city in which the violation
25 occurred, for the development of job opportunities for disabled individuals in the
26 community.

27 ~~44.12.~~ ~~Any~~A motor vehicle licensed in another state which displays a special authorized
28 vehicle designation issued by the licensing authority of that state for vehicles used in
29 the transportation of a mobility-impaired individual must be accorded the same
30 privilege provided in this section for similar vehicles licensed in this state if the laws of

1 the other state provide the same privileges to North Dakota motor vehicles displaying
2 the special identifying certificate authorized in this section.

3 ~~12.13.~~ An entity that violates the requirements of subsection 9 is guilty of an infraction if the
4 entity does not comply with subsection 9 within sixty days after receiving official
5 notification of the violation.

6 ~~13.14.~~ The department shall issue a mobility-impaired parking permit for a vehicle owned and
7 operated by care providers licensed by the state, veterans-related organizations, and
8 other entities that regularly transport mobility-impaired individuals for use by those
9 providers and entities to park in designated parking spaces while transporting
10 mobility-impaired individuals.

11 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06.1-06 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 1. For a nonmoving violation as defined in section 39-06.1-08, a fee of twenty dollars
14 except for a violation of any traffic parking regulation on any state charitable or penal
15 institution property or on the state capitol grounds, a fee in the amount of five dollars,
16 excluding a violation of subsection ~~4011~~ of section 39-01-15.