

LEGISLATURE OF NEBRASKA
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LEGISLATIVE BILL 739

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson;
Connealy, 16; Preister, 5; Quandahl, 31;
Redfield, 12; Schimek, 27; Smith, 48

Read first time January 20, 1999

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to handicapped or disabled parking permits; to
2 amend sections 18-1738, 18-1738.01, and 18-1741, Reissue
3 Revised Statutes of Nebraska, and sections 18-1736,
4 18-1737, 18-1741.01, and 81-1108.15, Revised Statutes
5 Supplement, 1998; to provide for wheelchair lift warning
6 cones; to change provisions relating to designation of
7 spaces, signs, applications for permits, violations, and
8 handicapped parking infractions; to harmonize provisions;
9 and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Any person who (a) has been issued a
2 handicapped or disabled parking permit pursuant to section 18-1738
3 or 18-1738.01 or a handicapped or disabled license plate pursuant
4 to section 60-311.14 and (b) operates a motor vehicle equipped with
5 a wheelchair lift may make application to the Department of Motor
6 Vehicles for a permit to use a wheelchair lift warning cone.

7 (2) The application shall be made upon a form approved by
8 the department and shall include the applicant's name and address,
9 the license plate number of the vehicle to be used in conjunction
10 with the wheelchair lift warning cone, the number of the
11 handicapped or disabled parking permit or license plate, and the
12 date of its expiration.

13 (3) If the department determines that the applicant is
14 qualified to use a wheelchair lift warning cone, the department
15 shall mail to the applicant a permanent sticker which shall be
16 attached to a standard traffic cone. The sticker shall be of a
17 design, size, configuration, color, and construction and contain
18 such information as specified by the department and shall show such
19 identifying information with regard to the handicapped or disabled
20 person or temporarily handicapped or disabled person to whom it is
21 issued as is necessary to the enforcement of the laws governing the
22 possession and use of handicapped or disabled parking permits or
23 license plates, including the number of the parking permit or
24 license plate of the vehicle which will be used in conjunction with
25 wheelchair lift warning cone.

26 (4) A wheelchair lift warning cone shall be used only by
27 the person who made application for the right to use the cone and
28 shall be used only in conjunction with a vehicle equipped with a

1 wheelchair lift when the vehicle has a properly displayed
2 handicapped or disabled parking permit or handicapped license
3 plate, when the vehicle is parked in a parking stall or space
4 designated for the exclusive use of a handicapped or disabled
5 person, and when the handicapped or disabled individual will be
6 exiting or entering the vehicle while it is parked in the
7 designated space.

8 (5) The use or display of a wheelchair lift warning cone
9 other than as provided in subsection (4) of this section shall
10 constitute a handicapped parking infraction. The movement,
11 removal, or theft of a properly placed wheelchair lift warning cone
12 by anyone other than its rightful possessor or his or her agent
13 shall constitute a handicapped parking infraction. The
14 disfigurement or destruction of a properly placed wheelchair lift
15 warning cone shall constitute a handicapped parking infraction.
16 The possession of a wheelchair lift warning cone by anyone other
17 than the person who made application to use the cone shall
18 constitute a handicapped parking infraction.

19 Sec. 2. Section 18-1736, Revised Statutes Supplement,
20 1998, is amended to read:

21 18-1736. (1) A city or village may designate parking
22 spaces, including van access aisles, for the exclusive use of (a)
23 handicapped or disabled persons whose motor vehicles display the
24 distinguishing license plates issued to handicapped or disabled
25 persons pursuant to section 60-311.14, (b) handicapped or disabled
26 persons whose motor vehicles display a distinguishing license plate
27 issued to a handicapped or disabled person by another state, (c)
28 such other handicapped or disabled persons or temporarily

1 handicapped or disabled persons, as certified by the city or
2 village, whose motor vehicles display the permit specified in
3 section 18-1739, and (d) such other motor vehicles, as certified by
4 the city or village, which display the permit specified in section
5 18-1739. All such permits shall be displayed by hanging the permit
6 from the motor vehicle's rearview mirror so as to be clearly
7 visible through the front windshield. The permit shall be
8 displayed on the dashboard only when there is no rearview mirror.

9 (2) If a city or village so designates a parking space,
10 it shall be indicated by posting aboveground and immediately
11 adjacent to and visible from each space a sign as described in
12 section 18-1737. In addition to such sign, the space may also be
13 indicated by blue paint on the curb or edge of the paved portion of
14 the street adjacent to the space. If a city or village designates
15 a van access aisle to accompany a designated parking space, the
16 sign for such parking space shall indicate that an access aisle is
17 present.

18 Sec. 3. Section 18-1737, Revised Statutes Supplement,
19 1998, is amended to read:

20 18-1737. (1) Any city or village, any state agency, and
21 any person in lawful possession of any offstreet parking facility
22 may designate stalls or spaces, including van access aisles, in
23 such facility owned or operated by the city, village, state agency,
24 or person for the exclusive use of handicapped or disabled persons
25 whose motor vehicles display the distinguishing license plates
26 issued to such individuals pursuant to section 60-311.14, such
27 other handicapped or disabled persons or temporarily handicapped or
28 disabled persons, as certified by the city or village, whose motor

1 vehicles display the permit specified in section 18-1739, and such
2 other motor vehicles, as certified by the city or village, which
3 display such permit. Such designation shall be made by posting
4 aboveground and immediately adjacent to and visible from each stall
5 or space a sign which is in conformance with the Manual on Uniform
6 Traffic Control Devices adopted pursuant to section 60-6,118. If a
7 city or village designates a van access aisle to accompany a
8 designated parking space, the sign for such parking space shall
9 indicate that an access aisle is present.

10 (2) The owner or person in lawful possession of an
11 offstreet parking facility, after notifying the police or sheriff's
12 department, as the case may be, and any city, village, or state
13 agency providing onstreet parking or owning, operating, or
14 providing an offstreet parking facility may cause the removal, from
15 a stall or space designated exclusively for handicapped or disabled
16 persons or temporarily handicapped or disabled persons or motor
17 vehicles for the transportation of handicapped or disabled persons
18 or temporarily handicapped or disabled persons, of any vehicle not
19 displaying the proper permit or the distinguishing license plates
20 specified in this section if there is posted aboveground and
21 immediately adjacent to and visible from such stall or space,
22 including any van access aisle, a sign which clearly and
23 conspicuously states the area so designated as a tow-in zone.

24 (3) A person who parks a vehicle in any onstreet parking
25 space, including any van access aisle, which has been designated
26 exclusively for handicapped or disabled persons or temporarily
27 handicapped or disabled persons or motor vehicles for the
28 transportation of handicapped or disabled persons or temporarily

1 handicapped or disabled persons, or in any so exclusively
2 designated parking space, including any van access aisle, in any
3 offstreet parking facility, without properly displaying the proper
4 permit or when the handicapped or disabled person to whom or for
5 whom, as the case may be, the license plate or permit is issued
6 will not enter or exit the vehicle while it is parked in the
7 designated space shall be guilty of a handicapped parking
8 infraction as defined in section 18-1741.01 and shall be subject to
9 the penalties and procedures set forth in sections 18-1741.01 to
10 18-1741.07. The display on a motor vehicle of a distinguishing
11 license plate or permit issued to a handicapped or disabled person
12 by and under the duly constituted authority of another state shall
13 constitute a full and complete defense in any action for a
14 handicapped parking infraction as defined in section 18-1741.01.
15 If the identity of the person who parked the vehicle in violation
16 of this section cannot be readily determined, the owner or person
17 in whose name the vehicle is registered shall be held prima facie
18 responsible for such violation and shall be guilty and subject to
19 the penalties and procedures described in this section. In the
20 case of a privately owned offstreet parking facility, a city or
21 village shall not require the owner or person in lawful possession
22 of such facility to inform the city or village of a violation of
23 this section prior to the city or village issuing the violator a
24 handicapped parking infraction citation.

25 (4) For purposes of this section and section 18-1741.01,
26 state agency means any division, department, board, bureau,
27 commission, or agency of the State of Nebraska created by the
28 Constitution of Nebraska or established by act of the Legislature,

1 including the University of Nebraska and the Nebraska state
2 colleges, when the entity owns, leases, controls, or manages
3 property which includes offstreet parking facilities.

4 Sec. 4. Section 18-1738, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 18-1738. (1) The clerk of any city of the primary class,
7 first class, or second class or village shall, or the county clerk
8 or designated county official pursuant to section 23-186 may, take
9 an application from a handicapped or disabled person or temporarily
10 handicapped or disabled person or his or her parent, legal
11 guardian, or foster parent for a permit which will entitle the
12 holder thereof or a person driving a motor vehicle for the purpose
13 of transporting such holder to park in those spaces provided for by
14 sections 18-1736 to 18-1741 when the holder of the permit will
15 enter or exit the motor vehicle while it is parked in such spaces.
16 For purposes of this section, the handicapped or disabled person or
17 temporarily handicapped or disabled person shall be considered the
18 holder of the permit.

19 (2) For the purpose of sections 18-1736 to 18-1741,
20 handicapped or disabled person shall mean any individual with a
21 severe visual or physical impairment which limits personal mobility
22 and results in an inability to travel unassisted more than two
23 hundred feet without the use of a wheelchair, crutch, walker, or
24 prosthetic, orthotic, or other assistant device, any individual
25 whose personal mobility is limited as a result of respiratory
26 problems, any individual who has a cardiac condition to the extent
27 that his or her functional limitations are classified in severity
28 as being Class III or Class IV, according to standards set by the

1 American Heart Association, and any individual who has permanently
2 lost all or substantially all the use of one or more limbs.
3 Temporarily handicapped or disabled person shall mean any
4 handicapped or disabled person whose personal mobility is expected
5 to be limited in such manner for no longer than one year.

6 (3) A person applying for a permit or for the renewal of
7 a permit shall complete an application, shall provide proof of
8 identity, and shall submit a completed medical form containing the
9 statutory criteria for qualification and signed by a physician,
10 physician assistant, or nurse practitioner certifying that the
11 person who will be the holder meets the definition of handicapped
12 or disabled person or temporarily handicapped or disabled person.
13 In the case of a temporarily handicapped or disabled person, the
14 certifying physician, physician assistant, or nurse practitioner
15 shall indicate the estimated date of recovery or that the temporary
16 handicap or disability will continue for a period of six months,
17 whichever is less. A person may hold only one permit under this
18 section and may hold either a permit under this section or a permit
19 under section 18-1738.01, but not both. The Department of Motor
20 Vehicles shall provide applications and medical forms to the clerk
21 or designated county official. The application form shall contain
22 information listing the legal uses of the permit and that the
23 permit is not transferable, is to be used by the party to whom
24 issued or for the motor vehicle for which it is issued, is not to
25 be altered or reproduced, and is to be used only when a handicapped
26 or disabled person or a temporarily handicapped or disabled person
27 will enter or exit the motor vehicle while it is parked in a
28 designated parking space. The application form shall provide space

1 for the applicant to sign a statement that he or she is aware of
2 his or her rights, duties, and responsibilities with regard to the
3 use and possession of a handicapped or disabled parking permit and
4 the penalties provided by law for handicapped parking infractions.
5 The application form ~~It~~ shall indicate that those convicted of
6 handicapped parking infractions shall be subject to suspension of
7 the permit for six months and possible fines. A copy of the
8 completed application form shall be given to each applicant.
9 Before a permit is issued, the department shall enter all
10 information required in the manner prescribed by section 18-1739.
11 The clerk or designated county official shall submit to the
12 department the name, address, and license number of all persons
13 applying for a permit pursuant to this section.

14 (4) The Department of Motor Vehicles, upon receipt from
15 the clerk or designated county official of a completed application
16 form and completed medical form from an applicant for a handicapped
17 parking permit under this section, shall verify that the applicant
18 qualifies for such permit and, if so, shall issue the same by
19 mailing the permit to the applicant at the address provided on the
20 application. Upon issuing such permit, the department shall mail a
21 copy of the permitholder's completed application form and completed
22 medical form with the permit number to the clerk or designated
23 county official who originally accepted the application.

24 Sec. 5. Section 18-1738.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 18-1738.01. The clerk of any city of the primary class,
27 first class, or second class or village shall, or the county clerk
28 or designated county official pursuant to section 23-186 may, take

1 an application from any person for a motor vehicle permit which
2 will entitle the holder thereof or a person driving the motor
3 vehicle for the purpose of transporting handicapped or disabled
4 persons or temporarily handicapped or disabled persons to park in
5 those spaces provided for by sections 18-1736 to 18-1741 if the
6 motor vehicle is used primarily for the transportation of
7 handicapped or disabled persons or temporarily handicapped or
8 disabled persons. Such parking permit shall be used only when the
9 motor vehicle for which it was issued is being used for the
10 transportation of a handicapped or disabled person or temporarily
11 handicapped or disabled person and such person will enter or exit
12 the motor vehicle while it is parked in such designated spaces. A
13 person applying for a permit or for the renewal of a permit
14 pursuant to this section shall apply for a permit for each motor
15 vehicle used for the transportation of handicapped or disabled
16 persons or temporarily handicapped or disabled persons, shall
17 complete such forms as are provided to the clerk or designated
18 county official by the Department of Motor Vehicles, and shall
19 demonstrate to the clerk or designated county official that each
20 such motor vehicle is used primarily for the transportation of
21 handicapped or disabled persons or temporarily handicapped or
22 disabled persons. The application form shall contain information
23 listing the legal uses of the permit and that the permit is not
24 transferable, is to be used by the party to whom issued or for the
25 motor vehicle for which it is issued, is not to be altered or
26 reproduced, and is to be used only when a handicapped or disabled
27 person or a temporarily handicapped or disabled person will enter
28 or exit the motor vehicle while it is parked in a designated

1 parking space. The application form shall provide space for the
2 applicant to sign a statement that he or she is aware of his or her
3 rights, duties, and responsibilities with regard to the use and
4 possession of a handicapped or disabled parking permit and the
5 penalties provided by law for handicapped parking infractions. The
6 application form ~~it~~ shall indicate that those convicted of
7 handicapped parking infractions shall be subject to suspension of
8 the permit for six months and possible fines. A copy of the
9 completed application form shall be given to each applicant. No
10 more than one such permit shall be issued for each motor vehicle.
11 A person may hold either a permit under this section or a permit
12 under section 18-1738, but not both. The department, upon receipt
13 from the clerk or designated county official of a completed
14 application form with necessary accompanying certifications, shall
15 verify that the applicant qualifies for a permit under this section
16 and, if so, shall issue the same by mailing the permit to the
17 applicant at the address provided for the applicant on the
18 application. Before such permit is issued, the department shall
19 enter all information required in the manner prescribed by section
20 18-1739. The clerk or designated county official shall submit to
21 the department the name, address, and license number of all persons
22 applying for a permit pursuant to this section.

23 Sec. 6. Section 18-1741, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 18-1741. Permits issued under sections 18-1736 to
26 18-1741 shall not be transferable and shall be used only by the
27 party to whom issued or for the motor vehicle for which issued and
28 only for the purpose for which it is issued. No person shall alter

1 or reproduce in any manner a permit issued pursuant to section
2 18-1738 or 18-1738.01. No person shall knowingly hold more than
3 one permit or knowingly provide false information on an application
4 for a permit issued pursuant to such sections. No person who is
5 not the holder of a handicapped or disabled parking permit issued
6 to him or her as a handicapped or disabled person shall display a
7 handicapped or disabled parking permit and park in a space or van
8 access aisle designated for the exclusive use of a handicapped or
9 disabled person. No person who is the holder of a handicapped or
10 disabled parking permit issued for the use of such person when
11 driving a handicapped or disabled person shall display his or her
12 handicapped or disabled parking permit and park in a space or van
13 access aisle designated for the exclusive use of a handicapped or
14 disabled person unless a handicapped or disabled person was
15 actually in the vehicle displaying the permit at the time it was
16 parked, has left the vehicle while it was parked, and is returning
17 to the vehicle before it will leave the designated space or access
18 aisle. No person who is not the holder of a handicapped or
19 disabled parking permit issued for use when a vehicle is driving a
20 handicapped or disabled person shall display a handicapped or
21 disabled parking permit and park in a space or van access aisle
22 designated for the exclusive use of a handicapped or disabled
23 person unless a handicapped or disabled person was actually in the
24 vehicle displaying the permit at the time it was parked, has left
25 the vehicle while it was parked, and is returning to the vehicle
26 before it will leave the designated space or access aisle. Any
27 violation of this section shall constitute a handicapped parking
28 infraction and shall be cause for suspension of such permit for a

1 period of six months and such other punishment as may be provided
2 by local ordinance. In addition, the trial court shall impose a
3 fine of not more than two hundred fifty dollars which may be waived
4 by the court if, at the time of sentencing, all handicapped parking
5 permits issued to or in the possession of the offender are returned
6 to the court. At the expiration of such six-month period, a
7 suspended permit may be renewed upon the payment of the permit fee.

8 Sec. 7. Section 18-1741.01, Revised Statutes Supplement,
9 1998, is amended to read:

10 18-1741.01. (1) For purposes of sections 18-1741.01 to
11 18-1741.07, handicapped parking infraction ~~shall mean~~ means the
12 violation of any statute or ordinance regulating (a) the use of
13 parking spaces, including van access aisles, designated for use by
14 handicapped or disabled persons, (b) the unauthorized possession,
15 use, or display of handicapped or disabled parking permits, or (c)
16 ~~or (b)~~ the obstruction of any wheelchair ramps constructed or
17 created in accordance and in conformity with the federal Americans
18 with Disabilities Act of 1990.

19 (2) For any offense classified as a handicapped parking
20 infraction, a handicapped parking citation may be issued by any
21 peace officer or by any person designated by ordinance or
22 resolution approved by a governing board of a county, city, or
23 village to exercise the authority to issue a citation for any
24 handicapped parking infraction. Such authorization shall be
25 carried out in the manner specified in sections 18-1741.03 and
26 18-1741.04.

27 (3) A state agency as defined in section 18-1737 which
28 owns, leases, controls, or manages state property on which public

1 parking is allowed may enter into an agreement with the governing
2 board of the county, city, or village in which the state property
3 or any portion of it is located to allow the political subdivision
4 to enforce sections 18-1736 to 18-1741.07 on such state property.

5 Sec. 8. Section 81-1108.15, Revised Statutes Supplement,
6 1998, is amended to read:

7 81-1108.15. (1) The division shall have the primary
8 functions and responsibilities of statewide facilities planning,
9 facilities construction, and facilities administration and shall
10 adopt and promulgate rules and regulations to carry out this
11 section.

12 (2) Facilities planning shall include the following
13 responsibilities and duties:

14 (a) To maintain utilization records of all state-owned,
15 state-occupied, and vacant facilities;

16 (b) To coordinate comprehensive capital facilities
17 planning;

18 (c) To define and review program statements based on
19 space utilization standards;

20 (d) To prepare or review planning and construction
21 documents;

22 (e) To develop and maintain time-cost schedules for
23 capital construction projects;

24 (f) To assist the Governor and the Legislative Fiscal
25 Analyst in the preparation of the capital construction budget
26 recommendations;

27 (g) To maintain a complete inventory of all state-owned,
28 state-occupied, and vacant sites and structures and to review the

1 proposals for naming such sites and structures;

2 (h) To determine space needs of all state agencies and
3 establish space-allocation standards; and

4 (i) To cause a state comprehensive capital facilities
5 plan to be developed.

6 (3) Facilities construction shall include the following
7 powers and duties:

8 (a) To maintain close contact with and inspections of
9 each project so as to assure execution of time-cost schedules and
10 efficient contract performance if such project's total design and
11 construction cost is more than fifty thousand dollars;

12 (b) To perform final acceptance inspections and
13 evaluations; and

14 (c) To coordinate all change or modification orders and
15 progress payment orders.

16 (4) Facilities administration shall include the following
17 powers and duties:

18 (a) To serve as state leasing administrator or agent for
19 all facilities to be leased for use by the state and for all
20 state-owned facilities to be rented to state agencies or other
21 parties subject to section 81-1108.22. The division shall remit
22 the proceeds from any rentals of state-owned facilities to the
23 State Treasurer for credit to the State Building Revolving Fund and
24 the Building Renewal Allocation Fund;

25 (b) To provide all maintenance, repairs, custodial
26 duties, security, and administration for all buildings and grounds
27 owned or leased by the State of Nebraska except as provided in
28 subsection (5) of this section;

1 (c) To procure and manage office space and assign the
2 remaining office space after the Executive Board of the Legislative
3 Council has made its determination pursuant to subsection (1) of
4 section 81-1108.21;

5 (d) To be responsible for adequate parking and the
6 designation of parking stalls or spaces, including van access
7 aisles, in offstreet parking facilities for the exclusive use of
8 handicapped or disabled or temporarily handicapped or disabled
9 persons pursuant to section 18-1737;

10 (e) To ensure that all state-owned, state-occupied, and
11 vacant facilities are maintained or utilized to their maximum
12 capacity or to dispose of such facilities through lease, sale, or
13 demolition;

14 (f) To report monthly time-cost data on projects to the
15 Governor and the Clerk of the Legislature;

16 (g) To administer the State Emergency Capital
17 Construction Contingency Fund;

18 (h) To submit status reports to the Governor and the
19 Legislative Fiscal Analyst after each quarter of a construction
20 project is completed detailing change orders and expenditures to
21 date. Such reports shall be required on all projects costing five
22 hundred thousand dollars or more and on such other projects as may
23 be designated by the division; and

24 (i) To submit a final report on each project to the
25 Governor and the Legislative Fiscal Analyst. Such report shall
26 include, but not be limited to, a comparison of final costs and
27 appropriations made for the project, change orders, and
28 modifications and whether the construction complied with the

1 related approved program statement. Such reports shall be required
2 on all projects costing five hundred thousand dollars or more and
3 on such other projects as may be designated by the division.

4 (5) Subdivisions (4)(a) through (4)(e) of this section
5 shall not apply to ~~(i)~~ (a) state-owned facilities to be rented to
6 state agencies or other parties by the University of Nebraska, the
7 Nebraska state colleges, the Department of Aeronautics, the
8 Department of Roads, and the Board of Educational Lands and Funds,
9 ~~(ii)~~ (b) buildings and grounds owned or leased for use by the
10 University of Nebraska, the Nebraska state colleges, and the Board
11 of Educational Lands and Funds, ~~(iii)~~ (c) facilities to be leased
12 for nonoffice use by the Department of Roads, ~~(iv)~~ (d) buildings or
13 grounds owned or leased by the Game and Parks Commission if the
14 application of such subdivisions to the buildings or grounds would
15 result in ineligibility for or repayment of federal funding, ~~(v)~~
16 (e) buildings or grounds of the state park system, state recreation
17 areas, state historical parks, state wildlife management areas, or
18 state recreational trails, or ~~(vi)~~ (f) other buildings or grounds
19 owned or leased by the State of Nebraska which are specifically
20 exempted by the division because the application of such
21 subdivisions would result in the ineligibility for federal funding
22 or would result in hardship on an agency, board, or commission due
23 to other exceptional or unusual circumstances.

24 (6) Each member of the Legislature shall receive a copy
25 of the reports required by subdivisions (4)(f), (h), and (i) of
26 this section by making a request for them to the administrator.
27 The information on such reports shall be submitted to the division
28 by the agency responsible for the project.

1 Sec. 9. Original sections 18-1738, 18-1738.01, and
2 18-1741, Reissue Revised Statutes of Nebraska, and sections
3 18-1736, 18-1737, 18-1741.01, and 81-1108.15, Revised Statutes
4 Supplement, 1998, are repealed.