

LEGISLATIVE BILL 657

Approved by the Governor February 13, 2014

Introduced by Executive Board: Wightman, 36, Chairperson.

FOR AN ACT relating to handicapped parking; to amend sections 18-1736 and 18-1741.02, Reissue Revised Statutes of Nebraska, sections 60-331.01, 60-3,113, 60-3,113.01, 60-3,113.03, 60-3,113.06, 60-3,113.07, and 60-3,113.08, Revised Statutes Cumulative Supplement, 2012, and sections 60-3,113.02, 60-3,113.04, and 60-3,113.05, Revised Statutes Supplement, 2013; to eliminate obsolete provisions related to handicapped or disabled parking permits; to redefine a term; to harmonize provisions; to repeal the original sections; and to outright repeal sections 18-1738, 18-1738.01, 18-1738.02, 18-1739, 18-1740, 18-1741, and 18-1742, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 18-1736, Reissue Revised Statutes of Nebraska, is amended to read:

18-1736 (1) A city or village may designate parking spaces, including access aisles, for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to section 60-3,113, (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and (d) such other motor vehicles which display a handicapped or disabled parking permit.

(2) If a city or village so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in section 18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle.

(3) For purposes of sections 18-1736 to ~~18-1742~~ 18-1741.07:

(a) Access aisle has the same meaning as in section 60-302.01;

(b) Handicapped or disabled parking permit has the same meaning as in section 60-331.01;

(c) Handicapped or disabled person has the same meaning as in section 60-331.02; and

(d) Temporarily handicapped or disabled person has the same meaning as in section 60-352.01.

Sec. 2. Section 18-1741.02, Reissue Revised Statutes of Nebraska, is amended to read:

18-1741.02 (1) Any person found guilty of a handicapped parking infraction shall be fined (a) not more than one hundred fifty dollars for the first offense, (b) not more than three hundred dollars for a second offense within a one-year period, and (c) not more than five hundred dollars for a third or subsequent offense within a one-year period.

(2) In addition to any fine imposed under subsection (1) of this section, any person found guilty of a handicapped parking infraction under section ~~18-1741~~ ~~or section~~ 60-3,113.06 shall be subject to suspension of such person's handicapped or disabled parking permit for six months and such other punishment as may be provided by local ordinance. In addition, the court shall impose a fine of not more than two hundred fifty dollars which may be waived by the court if, at the time of sentencing, all handicapped or disabled parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such six-month period, a suspended handicapped or disabled parking permit may be renewed in the manner provided for renewal of the original permit.

Sec. 3. Section 60-331.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-331.01 Handicapped or disabled parking permit means ~~a permit issued by the department that authorizes the use of parking spaces and access aisles that have been designated for the exclusive use of handicapped or disabled persons.~~

~~(1) A permit issued under section 18-1738 or 18-1738.01 prior to the implementation date designated by the director under section 60-3,113.01; or~~

~~(2) A permit issued under section 60-3,113.02 or 60-3,113.03 on~~

~~or after the implementation date designated by the director under section 60-3,113.01.~~

Sec. 4. Section 60-3,113, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113 (1) The department shall, without the payment of any fee except the taxes and fees required by sections 60-3,102, 60-3,185, 60-3,190, and 60-3,191, issue license plates for one motor vehicle not used for hire and a license plate for one motorcycle not used for hire to:

(a) Any permanently handicapped or disabled person or his or her parent, legal guardian, foster parent, or agent upon application and proof of a permanent handicap or disability; or

(b) A trust which owns the motor vehicle or motorcycle if a designated beneficiary of the trust qualifies under subdivision (a) of this subsection.

An application and proof of disability in the form and with the information required by section ~~18-1738~~ or 60-3,113.02 shall be submitted before license plates are issued or reissued.

(2) The license plate or plates shall carry the internationally accepted wheelchair symbol, which symbol is a representation of a person seated in a wheelchair surrounded by a border six units wide by seven units high, and such other letters or numbers as the director prescribes. Such license plate or plates shall be used by such person in lieu of the usual license plate or plates.

(3) The department shall compile and maintain a registry of the names, addresses, and license numbers of all persons who obtain special license plates pursuant to this section and all persons who obtain a handicapped or disabled parking permit.

Sec. 5. Section 60-3,113.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113.01 The department shall develop, and implement, and maintain an electronic system for accepting and processing applications for handicapped or disabled parking permits. ~~The director shall designate an implementation date for such system, which date shall be on or before January 1, 2013.~~

Sec. 6. Section 60-3,113.02, Revised Statutes Supplement, 2013, is amended to read:

60-3,113.02 ~~(1) This section applies beginning on the implementation date designated by the director under section 60-3,113.01.~~

~~(2)~~ (1) A handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, foster parent, or certifying health care provider may apply for a handicapped or disabled parking permit to the department or through a health care provider using a secure online process developed by the department which will entitle the holder of a permit or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, (a) the handicapped or disabled person or temporarily handicapped or disabled person is considered the holder of the permit and (b) certifying health care provider means the physician, physician assistant, or advanced practice registered nurse who makes the certification required in subsection ~~(3)~~ (2) of this section or his or her designee.

~~(3)~~ (2) The application process for a handicapped or disabled parking permit or for the renewal of a permit under this section shall include presentation of proof of identity by the handicapped or disabled person or temporarily handicapped or disabled person and certification by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act that the person who will be the holder meets the statutory criteria for qualification. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall recommend that the permit for the temporarily handicapped or disabled person be issued for either a three-month period or a six-month period, with such recommendation to be based on the estimated date of recovery.

~~(4)~~ (3) The department, upon receipt of a completed application for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant. In issuing renewed permits, the department shall deliver each individual renewed permit to the applicant. The renewed permit

shall not be issued sooner than ten days prior to the date of expiration, and the existing permit shall be invalid upon receipt of the renewed permit. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 60-3,113.03.

~~(5)~~ (4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall show the expiration date of the permit and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom the permit is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Sec. 7. Section 60-3,113.03, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113.03 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ (1) The department shall take an application from any person for a handicapped or disabled parking permit that is issued for a specific motor vehicle and entitles the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

~~(3)~~ (2) A person applying for a handicapped or disabled parking permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons and shall include such information as is required by the department, including a demonstration to the department that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit.

~~(4)~~ (3) The department, upon receipt of a completed application, shall verify that the applicant qualifies for a handicapped or disabled parking permit under this section and, if so, shall deliver the permit to the applicant. In issuing renewed permits, the department shall deliver each individual renewed permit to the applicant. The renewed permit shall not be issued sooner than ten days prior to the date of expiration, and the existing permit shall be invalid upon receipt of the renewed permit. No more than one such permit shall be issued for each motor vehicle under this section.

~~(5)~~ (4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card to the registered owner of the motor vehicle or the applicant. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall identify the motor vehicle for which the permit is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Sec. 8. Section 60-3,113.04, Revised Statutes Supplement, 2013, is amended to read:

60-3,113.04 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ (1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such

information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2013.

~~(3)~~ (2) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

~~(4)~~ (3) A duplicate handicapped or disabled parking permit may be provided up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 60-3,113.02 or 60-3,113.03, whichever is applicable, except that a new certification by a physician, a physician assistant, or an advanced practice registered nurse need not be provided. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 60-3,113.02 or 60-3,113.03, whichever is applicable.

Sec. 9. Section 60-3,113.05, Revised Statutes Supplement, 2013, is amended to read:

60-3,113.05 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ (1) Permanently issued handicapped or disabled parking permits issued prior to October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. Permanently issued handicapped or disabled parking permits issued on or after October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

~~(3)~~ (2) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending either three months after the date of issuance or six months after the date of issuance, with such period to be based on the estimated date of recovery, but such permit may be renewed one time for a similar three-month or six-month period. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

Sec. 10. Section 60-3,113.06, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113.06 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ A handicapped or disabled parking permit shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which the permit is issued. A handicapped or disabled parking permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. A handicapped or disabled parking permit shall be displayed on the dashboard only when there is no rearview mirror. No person shall alter or reproduce in any manner a handicapped or disabled parking permit. No person shall knowingly hold more than the allowed number of handicapped or disabled parking permits. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.02 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the holder of the permit will enter or exit the motor vehicle while it is parked in a designated space or access aisle. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.03 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the person displaying the permit is driving the motor vehicle for which the permit was issued and a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. Any violation of this ~~subsection~~ section shall constitute a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07.

Sec. 11. Section 60-3,113.07, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113.07 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ (1) No person shall knowingly provide false information on an application for a handicapped or disabled parking permit. Any person who violates this subsection shall be guilty of a Class III misdemeanor.

~~(3)~~ (2) If the director discovers evidence of fraud in an application for a handicapped or disabled parking permit or a license plate issued under section 60-3,113, the director may summarily cancel such permit or license plate and send notice of cancellation to the applicant.

Sec. 12. Section 60-3,113.08, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-3,113.08 ~~(1)~~ This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

~~(2)~~ The department may adopt and promulgate rules and regulations necessary to fulfill any duties and obligations as provided in sections 60-3,113.01 to 60-3,113.08. All rules and regulations of the department relating to the issuance and use of handicapped or disabled parking permits adopted pursuant to section 18-1742 prior to the implementation date designated by the director under section 60-3,113.01 and promulgated prior to the effective date of this act shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Sec. 13. Original sections 18-1736 and 18-1741.02, Reissue Revised Statutes of Nebraska, sections 60-331.01, 60-3,113, 60-3,113.01, 60-3,113.03, 60-3,113.06, 60-3,113.07, and 60-3,113.08, Revised Statutes Cumulative Supplement, 2012, and sections 60-3,113.02, 60-3,113.04, and 60-3,113.05, Revised Statutes Supplement, 2013, are repealed.

Sec. 14. The following sections are outright repealed: Sections 18-1738, 18-1738.01, 18-1738.02, 18-1739, 18-1740, 18-1741, and 18-1742, Reissue Revised Statutes of Nebraska.