

LEGISLATIVE BILL 632

Approved by the Governor June 10, 1993

Introduced by Lynch, 13; Hartnett, 45

AN ACT relating to parking; to amend sections 18-1737 and 18-1740, Revised Statutes Supplement, 1992, and sections 18-1738 and 18-1738.01, Revised Statutes Supplement, 1992, as amended by sections 3 and 4, respectively, Legislative Bill 112, Ninety-third Legislature, First Session, 1993; to create the offense of handicapped parking infraction; to provide penalties and procedures applicable to the offense; to change provisions relating to issuance and duration of handicapped parking permits; to harmonize provisions; and to repeal the original sections.

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

Section 1. For purposes of sections 1 to 7 of this act, handicapped parking infraction shall mean the violation of any statute or ordinance regulating the use of parking spaces designated for use by handicapped or disabled persons. For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by a city or village to exercise the authority to issue a citation for any handicapped parking infraction. Such authorization shall be carried out in the manner specified in sections 3 and 4 of this act.

Sec. 2. Any person found guilty of a handicapped parking infraction shall be fined (1) not more than one hundred dollars for the first offense, (2) not more than two hundred dollars for a second offense within a one-year period, and (3) not more than three hundred dollars for a third or subsequent offense within a one-year period.

Sec. 3. To insure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Sec. 4. When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the

person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle. At least twenty-four hours before the time set for the appearance of the cited person, either the prosecuting attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified. A person cited for a handicapped parking violation may waive his or her right to trial. The Supreme Court may prescribe uniform rules for such waivers. Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

Sec. 5. Any person failing to appear or otherwise comply with the command of a handicapped parking citation for a handicapped parking infraction shall be guilty of a Class III misdemeanor.

Sec. 6. The trial of any person for a handicapped parking infraction shall be by the court without a jury. All other rights provided by the Constitution of the United States made applicable to the states by the Fourteenth Amendment to the Constitution of the United States and the Constitution of Nebraska shall apply to persons charged with a handicapped parking infraction.

Sec. 7. Sections 1 to 7 of this act shall not be construed to affect the rights, lawful procedures, or responsibilities of peace officers or law enforcement agencies using the handicapped parking citation for handicapped parking infractions.

Sec. 8. That section 18-1737, Revised Statutes Supplement, 1992, be amended to read as follows:

18-1737. (1) Any city or village and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility owned or operated by the city or village or person for the exclusive use of handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14, such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose vehicles display the identification specified in section 18-1739, and such other motor vehicles, as certified by the city or village, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the nineteenth edition of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the Federal Highway Administration.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city or village providing onstreet parking or owning, operating, or providing an offstreet parking facility may cause the removal, from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or

motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying proper identification or the distinguishing license plates specified in this section if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(3) A person who parks a vehicle in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued is not being transported shall be guilty of a ~~traffic infraction as defined in section 39-602 and shall be subject to the penalties and procedures set forth in section 39-6-112~~ handicapped parking infraction as defined in section 1 of this act and shall be subject to the penalties and procedures set forth in sections 1 to 7 of this act. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section. In the case of a privately owned offstreet parking facility, a city or village shall not require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to the city or village issuing the violator a traffic handicapped parking infraction citation.

Sec. 9. Any person applying for a permit pursuant to section 18-1738 or 18-1738.01 shall apply for such permit to the city clerk, village clerk, county clerk, or designated county official pursuant to section 1, Legislative Bill 112, Ninety-third Legislature, First Session, 1993, of the city, village, or county within which the applying individual resides. If such person does not reside within a city or village and the county clerk or designated county official does not issue permits, the person shall make application to the city clerk or village clerk of the city or village located nearest to his or her place of residence or the county clerk or designated county official of any neighboring county who issues such permits. No city clerk, village clerk, county clerk, or designated county official shall issue a permit pursuant to section 18-1738 or 18-1738.01 to any person making application contrary to the provisions of this section.

Sec. 10. That section 18-1738, Revised Statutes Supplement, 1992, as amended by section 3, Legislative Bill 112, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

18-1738. (1) The clerk of any city of the primary class, first class, or second class or village shall, or the county clerk or designated county official pursuant to section 1 of this act ~~of any county in which a~~

~~city of the metropolitan class is located~~ may take an application from a handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided for by sections 18-1736 to 18-1741.

(2) For the purpose of such sections, handicapped or disabled person shall mean any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than two hundred feet without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, and any individual who has permanently lost all or substantially all the use of one or more limbs. Temporarily handicapped or disabled person shall mean any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year.

(3) Persons applying for a permit shall complete such forms as are provided to the clerk or designated county official by the Department of Motor Vehicles and shall demonstrate to the satisfaction of the clerk or designated county official that he or she is handicapped or disabled. The clerk or designated county official may require medical certificates and proof of a handicap or disability. The clerk or designated county official shall issue a permit, as provided to the clerk or designated county official by the department, to approved applicants. Before issuing such permit, the clerk or designated county official shall enter all information required pursuant to section 18-1739. The clerk or designated county official shall submit to the department the name, address, and license number of all persons receiving a permit pursuant to this section.

Sec. 11. That section 18-1738.01, Revised Statutes Supplement, 1992, as amended by section 4, Legislative Bill 112, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

18-1738.01. The clerk of any city of the primary class, first class, or second class or village shall, or the county clerk or designated county official pursuant to section 1 of this act ~~of any county in which a city of the metropolitan class is located~~ may take an application from any person for a motor vehicle permit which will entitle 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 provided for by sections 18-1736 to 18-1741 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Persons applying for permits 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, shall complete such forms as are provided to the clerk or designated county official by the Department of Motor Vehicles, and shall demonstrate to the clerk or designated county official that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. The clerk or designated county official shall issue a permit, as provided to the clerk or designated county official by the department, to approved applicants. Before issuing such permit, the clerk or designated county official shall enter all information required pursuant to section 18-1739. The clerk or designated county official shall submit to the department the name, address, and license number of all persons receiving a permit pursuant to this section.

Sec. 12. That section 18-1740, Revised Statutes Supplement, 1992, be amended to read as follows:

18-1740. All permits authorized under sections 18-1736 to 18-1741 for handicapped or disabled parking shall be issued for a period ending January 1 of the fourth year following the date of issuance. After the effective date of this act, all permits authorized under such sections for handicapped and disabled parking shall be issued for a period of three years. All permits authorized under such sections for temporarily handicapped or disabled parking shall be issued for a period ending ninety days from the date of issuance but may be renewed for up to three additional ninety-day periods. For each additional ninety-day renewal period, there shall be submitted an additional application with proof of a handicap or disability and the required permit fee. A permit fee of three dollars shall be charged for each permit, two dollars and fifty cents of which shall be retained by the clerk who issues the permit and fifty cents of which shall be forwarded on a quarterly basis to the Department of Motor Vehicles.

Sec. 13. That original sections 18-1737 and 18-1740, Revised Statutes Supplement, 1992, and sections 18-1738 and 18-1738.01, Revised Statutes Supplement, 1992, as amended by sections 3 and 4, respectively, Legislative Bill 112, Ninety-third Legislature, First Session, 1993, are repealed.

LEGISLATIVE BILL 635

Approved by the Governor April 19, 1993

Introduced by Hillman, 48; Abboud, 12; Ashford, 6; Baack, 47; Bernard-Stevens, 42; Beutler, 28; Bohlke, 33; Bromm, 23; Byars, 30; Coordsen, 32; Crosby, 29; Cudaback, 36; Day, 19; Dierks, 40; Elmer, 38; Fisher, 35; Hall, 7; Hartnett, 45; Hohenstein, 17; Hudkins, 21; Jansen, 15; Jones, 43; Landis, 46; Lindsay, 9; Lynch, 13; Moore, 24; Pedersen, 39; Pirsch, 10; Preister, 5; Rasmussen, 20; Schellpeper, 18; Schimek, 27; Schmidt, 41; Vrtiska, 1; Warner, 25; Wehrbein, 2; Wickersham, 49; Will, 8; Witek, 31; Withem, 14; Horgan, 4; Robinson, 16

AN ACT relating to public meetings; to amend section 84-1411, Reissue Revised Statutes of Nebraska, 1943, and section 84-1409, Revised Statutes Supplement, 1992; to define a term; to authorize meetings to be held and certain appearances to be made by means of video or telecommunications equipment; to state intent; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 84-1409, Revised Statutes Supplement, 1992, be amended to read as follows:

84-1409. For purposes of sections 84-1408 to 84-1414, unless the context otherwise requires:

(1) Public body shall mean (a) governing bodies of all political subdivisions of the State of Nebraska, (b) governing bodies of all agencies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (c) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (d) the Certificate of Need Review Committee, (e) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (f) advisory committees of the bodies referred to in subdivisions (a), (b), and (c) of this subdivision, and (g) instrumentalities exercising essentially public functions. Sections 84-1408 to 84-1414 shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body nor shall such sections apply to judicial proceedings unless a

court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders; ~~and~~

(2) Meeting shall mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Sec. 2. That section 84-1411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1411. (1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice; or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, or of the governing body of a public power district having a chartered territory of more than fifty counties in this state may be held by means of videoconferencing if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference;

(d) At least one member of the state entity, advisory committee, or governing body is present at each site of the videoconference; and

(e) No more than one-half of the state entity's, advisory committee's, or governing body's meetings in a calendar year are held by

videoconference.

Videoconferencing shall not be used to circumvent any of the public government purposes established in sections 84-1408 to 84-1414.

(3) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(4) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (3) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(5) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

(6) It is the intent of the Legislature that on or before January 1, 1997, the Government, Military and Veterans Affairs Committee of the Legislature review the effects of subsections (2) and (5) of this section on openness of meetings, effectiveness of public access arrangements, costs and cost-savings, and any tendency observed to abuse or circumvent the open meeting provisions of sections 84-1408 to 84-1414. The committee shall develop and propose any corrective legislation it deems necessary.

Sec. 3. That original section 84-1411, Reissue Revised Statutes of Nebraska, 1943, and section 84-1409, Revised Statutes Supplement, 1992, are repealed.