Linda S. Crawford *Legislative Service Commission*

Sub. H.B. 148*

123rd General Assembly
(As Reported by S. Highways & Transportation)

Reps. **Williams, Taylor, Thomas, Schuler, Terwilleger, Logan, Pringle, Evans, Hood, Roman, Bateman, Bender, Olman, Mead, Haines, Damschroder, Coughlin, Schuck, Roberts, Netzley, O'Brien, Buchy, Peterson, Verich, Distel, Goodman, Barnes, Allen, Patton, Harshman-Ferderber, Hollister, D. Miller, Krebs, Salerno, Metelsky, DePiero, Perz, Householder, Young, Sutton, Ford, Maier, Hartnett, Grendell, Core, Tiberi, Metzger, Boyd, Harris, Austria**

BILL SUMMARY

- Requires presentation of a prescription from a physician or chiropractor before a removable windshield placard or temporary removable windshield placard can be issued to a person who has a disability that limits or impairs the ability to walk, prescribing the placard for the person.

- Requires all such placards issued after the bill's effective date to be manufactured in such a manner that allows for the placard's expiration date to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

- Requires the Bureau of Motor Vehicles, at least once every year, to examine the records of the Office of Vital Statistics that pertain to deceased persons, and also the Bureau's records, so that the Bureau can cancel removable windshield placards and temporary removable windshield placards that were issued to persons who became deceased during the previous year.

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* *This analysis was prepared before the report of the Senate Highways and Transportation Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- In regard to a new or replacement sign designating a special parking location that is posted on or after the bill's effective date, requires a notice to be affixed upon the surface of such sign, whether located on public or private property, stating the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

- Increases the fine for illegally parking in a special parking location from not more than $100 to a minimum of $250 and a maximum of $500.

- Permits a political subdivision to use up to 50% of each fine it receives from a person who is convicted of the offense of illegally parking in a special parking location to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

- Provides that if a person is charged with the offense of illegally parking in a special parking location, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria a person must meet in order to be a "person with a disability that limits or impairs the ability to walk."

- Provides that an arrest for illegally parking in a special parking location or conviction of that offense does not constitute a criminal record.

- Permits a motor vehicle that is illegally parked in a special parking location to be towed or otherwise removed from the parking location.

- Allows any person serving on a permanent basis on September 20, 1984, as a liquor control investigator (now designated an enforcement agent of the Department of Public Safety) to continue to serve in that capacity without being required to complete an approved peace officer basic training program.

- Declares an emergency.

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CONTENT AND OPERATION

Issuance of removable windshield placards to persons with a disability that limits or impairs the ability to walk; special license plates for vehicles owned or used by such persons

Application provisions

Current law. Any organization or person with a disability that limits or impairs the ability to walk may apply to the Registrar of Motor Vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of special disability license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard. When a motor vehicle has been altered for the

purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the Registrar or a deputy registrar for registration and issuance of special license plates.

The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk or for registration of a motor vehicle owned or leased by such a person must be accompanied by a signed statement from the applicant's personal physician or chiropractor certifying that the applicant meets at least one of the seven criteria contained in the definition of "person with a disability that limits or impairs the ability to walk" and that the disability is expected to continue for more than six consecutive months. (Sec. 4503.44(B).)[1]

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[1] *Law unaffected by the bill defines a "person with a disability that limits or impairs the ability to walk" as any person who, as determined by a physician or chiropractor, meets any of the following criteria (sec. 4503.44(A)(1)):*

(1) Cannot walk 200 feet without stopping to rest;

(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 millimeters of mercury on room air at rest;

(4) Uses portable oxygen;

(5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;

(6) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(7) Is blind.

"Organization" is defined as any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by handicapped persons (sec. 4503.44(A)(2)). This definition also is unaffected by the bill.

Operation of the bill. Under the bill, any organization or person with a disability that limits or impairs the ability to walk still may apply to the Registrar for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, *but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the Registrar, in his discretion, determines that good and justifiable cause exists to approve the request for the additional placard*.

The bill continues to require the application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk to be accompanied by a signed statement from the applicant's personal physician or chiropractor certifying that the applicant meets at least one of the seven criteria contained in the definition of "person with a disability that limits or impairs the ability to walk" and that the disability is expected to continue for more than six consecutive months. However, the bill modifies the documents that must accompany the application for the placard.

The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk must be accompanied by a prescription from the applicant's personal physician or chiropractor prescribing the placard for the applicant, and by a signed statement certifying that the applicant meets at least one of the seven criteria contained in the definition of "person with a disability that limits or impairs the ability to walk." The physician or chiropractor also must state on the prescription the length of time the physician expects the applicant to have the disability that limits or impairs the ability to walk. (Sec. 4503.44(B).)

Submission of the application

Under current law, when an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have such a disability but owns a motor vehicle that has been altered for the purpose of providing it with special equipment for a person who has a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle and every fifth year thereafter, the organization or person must submit a signed statement from the applicant's personal physician or chiropractor or documentary evidence of vehicle alterations, as applicable.

The bill requires the organization or person to submit every year a signed statement from the applicant's personal physician or chiropractor, a completed

application, and any required documentary evidence of vehicle alterations, as applicable. (Sec. 4503.44(C).)

Issuance of removable windshield placards

Current law. Current law provides that upon receipt of an application for a removable windshield placard and presentation of a signed statement from the applicant's personal physician or chiropractor, if required, or presentation of documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and, except as otherwise provided, payment of a fee of $5, and the payment of a service fee of $2.25, the Registrar or deputy registrar is required to issue to the applicant a removable windshield placard. The placard must bear its expiration date on both sides, in numerals at least one inch in height, and be printed in white on a blue-colored background; it is valid until expired, revoked, or surrendered. Every removable windshield placard expires on the last day of the month in the fifth year after the date it is issued. An additional $5 fee is charged if the application for renewal of a parking card or placard is submitted more than six months after the expiration date of the previous card or placard. (Sec. 4503.44(D).)

Operation of the bill. Under the bill, upon receipt of a completed and signed application for a removable windshield placard, a prescription as specified in the bill, documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and payment of a service fee of $2.25, the Registrar or deputy registrar is required to issue to the applicant a removable windshield placard.

The bill eliminates the requirement that the expiration date numerals be at least one inch in height and be printed in white on a blue-colored background. Every removable windshield placard expires on the last date the person will have the disability, as indicated on the prescription, but in no case may a removable windshield placard be valid for a period of less than 60 days. The bill also eliminates the $5 fee that currently is or may be levied in connection with the issuance of a parking card or placard. (Sec. 4503.44(D)(1) and (2).) (See **COMMENT**.)

Placards issued after the bill's effective date must be manufactured in such a manner that allows for the expiration date to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard. (Sec. 4503.44(D)(1).)

At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the Registrar or deputy registrar

is required to enter into the records of the Bureau of Motor Vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than 30 days prior to that date and all removable windshield placard renewal dates, the Bureau must send a renewal notice to that person at the person's last known address as shown in the records of the Bureau, informing him that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting another prescription and by complying with the prescribed renewal provisions. If a prescription is not received by the Registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact must be recorded in the records of the Bureau. (Sec. 4503.44(D)(2).)

The bill provides that at least once every year, on a date determined by the Registrar, the Bureau must examine the records of the Office of Vital Statistics, located within the Department of Health, that pertain to deceased persons, and also the Bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the records of the Office of Vital Statistics indicate that a person to whom a removable windshield placard or temporary removable windshield placard has been issued is deceased, the Bureau is required to cancel that placard, and note this cancellation in its records. The Office of Vital Statistics is required to make available to the Bureau all information necessary to enable the Bureau to comply with this provision. (Sec. 4503.44(D)(3).)

Issuance of temporary removable windshield placards

Current law. Any person with a disability that limits or impairs the ability to walk may apply to the Registrar or a deputy registrar for a temporary removable windshield placard. The application for such a placard must be accompanied by a signed statement from the applicant's personal physician or chiropractor certifying that the applicant meets at least one of the seven criteria contained in the definition of "person with a disability that limits or impairs the ability to walk" and that the disability is expected to continue for six consecutive months or less.

The Registrar or a deputy registrar issues a temporary removable placard upon receipt of the completed application, the signed statement, a fee of $5, and a $2.25 service fee. A temporary removable windshield placard must be of the same size and form as the removable windshield placard, be printed in white on a red-colored background, and bear the word "temporary" in letters of the size prescribed by the Registrar. It also is required to bear its expiration date on the front and back sides, in numerals at least one inch in height. A temporary removable windshield placard is valid until expired, surrendered, or revoked. (Sec. 4503.44(E).)

Operation of the bill. Under the bill, an application for a temporary removable windshield placard must be accompanied by a prescription from the applicant's personal physician or chiropractor prescribing such a placard for the applicant, and by a signed statement certifying that the applicant meets at least one of the seven criteria contained in the definition of "person with a disability that limits or impairs the ability to walk" and that the disability is expected to continue for six consecutive months or less. The physician or chiropractor must state on the prescription the length of time the physician or chiropractor expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription.

The bill eliminates the requirement that the expiration date numerals be at least one inch in height and the $5 fee that currently applies to the issuance of a temporary removable windshield placard. A temporary removable windshield placard is valid until expired, surrendered, or revoked, but in no case may such a placard be valid for a period of less than 60 days. (Sec. 4503.44(E).)

Any temporary removable windshield placards issued after the effective date of the bill must be manufactured in a manner that allows for the expiration date of the placard to be indicated on the placard through the punching, drilling, boring, or creation by any other means of holes in the placard.

Issuance of removable windshield and temporary removable windshield placards to veterans who have a service-connected disability

Currently, if an applicant for a removable windshield placard or a temporary removable windshield placard is a veteran of the armed forces of the United States whose disability is service-connected, the Registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the applicant's personal physician or chiropractor certifying the period for which the applicant's disability is expected to continue, and presentation of such documentary evidence that the disability is service-connected as the Registrar may require by rule, is required to issue the applicant a removable windshield placard or temporary removable windshield placard, as the case may be, but without the payment of any fee for issuance or service fee. (Sec. 4503.44(F).)

The bill removes references to an application from a veteran for a temporary removable windshield placard. It provides that if an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability is service-connected, the Registrar or deputy registrar must issue the applicant a removable windshield placard upon receipt of the application, presentation of a signed statement from the applicant's personal physician or chiropractor certifying the applicant's disability, and presentation of the required

documentary evidence from the Department of Veterans Affairs that the disability of the applicant meets at least one of the statutory criteria that defines a "person with a disability that limits or impairs the ability to walk" and is service-connected. Eligible veterans continue to receive the removable windshield placards without payment of a service fee. (Sec. 4503.44(F).)

Loss, destruction, or mutilation of a removable windshield placard, temporary removable windshield placard, or parking card

Current law provides that if a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing to the Registrar suitable proof of loss, destruction, or mutilation.

(2) Paying an issuance fee of $5 plus a service fee of $2.25.

The bill eliminates the $5 fee currently levied in connection with the issuance of replacement card or placard. (Sec. 4503.44(K).)

Notice of the penalties for crimes involving the issuance, use, and display of special disability license plates and removable windshield placards

The bill requires all applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards, all renewal notices for such items, and all other publications issued by the Bureau that relate to special disability license plates and removable windshield placards to contain the criminal penalties that may be imposed upon a person who violates any provision relating to special disability license plates, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards (sec. 4503.44(N)).

Prohibitions relating to physicians and chiropractors

The bill contains essentially identical prohibitions relating to the furnishing by a physician or chiropractor of a prescription to a person in order to enable the person to obtain a removable windshield placard, temporary removable windshield placard, or special disability license plates.

Physicians

The bill prohibits a physician from doing either of the following:

(1) Furnishing a person with a prescription in order to enable the person to be issued a removable windshield placard, temporary removable windshield placard, or special disability license plates, knowing that the person does not meet any of the statutory criteria that define a "person with a disability that limits or impairs the ability to walk." (Sec. 4731.481(A).)

(2) Furnishing a person with a prescription described in above item (1) and knowingly misstating on the prescription the length of time the physician expects the person to have the disability that limits or impairs the ability to walk in order to enable the person to retain a removable windshield placard or temporary removable windshield placard for a period of time longer than that which would be estimated by a similar practitioner under the same or similar circumstances (sec. 4731.481(B)).

The bill enacts these two prohibitions in Chapter 4731. of the Revised Code, which is the chapter that creates the State Medical Board and contains the provisions governing physicians. A physician who violates either prohibition is guilty of a misdemeanor of the first degree, which is punishable by a term of imprisonment of not more than six months, a fine of not more than $1,000, or both (sec. 4731.99(F)). In addition, the physician may be subject to a sanction by the Board.

Chiropractors

The bill also prohibits a chiropractor from doing either of the following:

(1) Furnishing a person with a prescription in order to enable the person to be issued a removable windshield placard, temporary removable windshield placard, or special disability license plates, knowing that the person does not meet any of the statutory criteria that defines a "person with a disability that limits or impairs the ability to walk." (Sec. 4734.23(A).)

(2) Furnishing a person with a prescription described in above item (1) and knowingly misstating on the prescription the length of time the chiropractor expects the person to have the disability that limits or impairs the ability to walk in order to enable the person to retain a removable windshield placard or temporary removable windshield placard for a period of time longer than that which would be estimated by a similar practitioner under the same or similar circumstances (sec. 4734.23(B)).

The bill enacts these two prohibitions in Chapter 4734. of the Revised Code, which is the chapter that creates the Chiropractic Examining Board and contains the provisions governing chiropractors. A chiropractor who violates

either prohibition is guilty of a misdemeanor of the first degree (sec. 4734.99(B)). In addition, the physician may be subject to a sanction by the Board.

Provisions relating to special parking locations for handicapped persons and persons with disabilities that limit or impair the ability to walk

Designation requirements

In accordance with current law, the Board of Building Standards has adopted standards and rules requiring signs to be posted in or on privately owned parking lots and garages to designate special parking locations for handicapped persons and persons with disabilities that limit or impair the ability to walk. The signs must be mounted on fixed or movable post or otherwise affixed in a vertical position at a height so that the sign is clearly visible to the driver of a vehicle when parked in such a location. (Sec. 3781.111(C).)

Current law also requires special parking locations and privileges for persons with disabilities that limit or impair the ability to walk to be provided and designated by the state, every agency and instrumentality of the state, and every political subdivision, at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations must be designated through the posting of an elevated sign, either permanently affixed or movable, imprinted with the international symbol of access, and must be reasonably close to exits, entrances, elevators, and ramps. These elevated signs must be mounted on a fixed or movable post, and the distance from the ground to the top edge of the sign must measure five feet. (Sec. 4511.69(E).)

The bill requires that if a new sign or a replacement sign designating a special parking location is posted on or after the bill's effective date, there also must be affixed upon the surface of that sign or affixed next to the designating sign, whether located on public or private property, a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location (secs. 3781.111(C) and 4511.69(E)).

Prohibition relating to the special parking locations

R.C. 4511.69(F)(1) prohibits any person from stopping, standing, or parking any motor vehicle at a special parking location designated by the state, an agency or instrumentality of the state, or a political subdivision for handicapped parking or persons with a disability that limits or impairs the ability to walk or at such clearly marked and designated special parking locations provided in or on privately owned parking lots, parking garages, or other parking areas, unless one of the following applies (sec. 4511.69(F)(1)):

(1) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates.

(2) The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

Under current law, a person who is convicted or pleads guilty to either of the prohibitions is guilty of a minor misdemeanor, which is punishable by a fine of not more than $100 (sec. 4511.99(F)).

Under the bill, a person who violates either of the prohibitions is guilty of a misdemeanor and must be fined not less than $250 nor more than $500, but in no case is a court permitted to sentence the person to any term of imprisonment. Every such fine collected must be paid by the clerk of the court to the political subdivision in which the violation occurred. Except as provided in the bill, the political subdivision must use the fine moneys it receives to pay the expenses it incurs in complying with the signage and notice requirements of current law and the bill.

Arrest or conviction for violating either of the prohibitions does not constitute a criminal record and does not need to be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (Sec. 4511.99(P).)

The bill permits a political subdivision to use up to 50% of each fine it receives for a violation of either of the prohibitions to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs (sec. 4511.99(P)).

Removal of a motor vehicle illegally parked in a special parking location designated for handicapped persons or persons with disabilities that limit or impair the ability to walk

The bill provides that any motor vehicle that is parked illegally in a special marked parking location may be towed or otherwise removed from the parking location by the law enforcement agency of the political subdivision in which the parking location is located. A motor vehicle that is so towed or removed cannot be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by that political

subdivision for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it cannot be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles. (Sec. 4511.69(F)(2).)

Affirmative defense

The bill provides that if a person is charged with illegally parking in a special marked handicapped parking location, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria a person must meet in order to be a "person with a disability that limits or impairs the ability to walk" and therefore be eligible to be issued special disability license plates, a removable windshield placard, or a temporary removable windshield placard. (Sec. 4511.69(F)(3).)

Enforcement agents of the Department of Public Safety

Am. Sub. H.B. 163 of the 123rd General Assembly (effective in part, June 30, 1999) combined the separate staffs of liquor control investigators and food stamp trafficking agents into a new Department of Public Safety Investigative Unit, consisting of employees who perform both liquor control and food stamp functions. Under that act, any person employed by the Department and designated by the Director of Public Safety to enforce the state's liquor control and food stamp laws and rules is known as an "enforcement agent." Prior law required both liquor control investigators and food stamp trafficking agents to complete a peace officer training program; Am. Sub. H.B. 163 applied this requirement to enforcement agents and removed references to liquor control investigators and food stamp trafficking agents.

The bill specifies that the requirement to complete a peace officer training program does not apply to any person serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the Department of Public Safety, who is engaged in the enforcement of the Liquor Laws (sec. 109.77(B)(4)).

COMMENT

In *Thorpe v. Ohio*, 19 F. Supp.2d 816 (S.D. Ohio 1998), the Court ruled that Ohio's statutory scheme of requiring a $5 fee for the issuance of a permanent handicapped windshield placard violated the Americans with Disabilities Act. The Court enjoined the state from requiring payment from future applicants for

permanent handicapped windshield placards; and ordered the state to reimburse the class action plaintiffs for past payments of the illegal surcharge. The Bureau of Motor Vehicles reported that it stopped charging the $5 fee in September of 1998. The bill conforms the Revised Code to the Court order and to the current practice of the Bureau by eliminating references to the $5 fee throughout the bill.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-99	pp. 169-170
Reported, H. Transportation & Public Safety	05-12-99	p. 644
Passed House (97-0)	05-26-99	pp. 718-719
Reported, S. Highways & Transportation	---	---

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