

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 435  
Committee Substitute Favorable 5/9/91  
Senate Transportation Committee Substitute Adopted 6/13/91

Short Title: MV Laws-Handicapped Persons.

(Public)

Sponsors:

Referred to:

April 1, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO REWRITE AND AMEND THE MOTOR VEHICLE LAWS RELATING  
3 TO HANDICAPPED PERSONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-37.5 reads as rewritten:

6 "**§ 20-37.5. Handicapped Definition. Definitions.**

7 ~~As used in this Article, handicapped shall mean:~~

8 (1) ~~Any person who has an obvious physical disability that requires the~~  
9 ~~use of a wheelchair, braces, walkers, or crutches, and those who have~~  
10 ~~lost the use of one or both legs; or~~

11 (2) ~~Any person who, as determined and certified by a physician, is~~  
12 ~~severely restricted in mobility by a pulmonary or cardiovascular~~  
13 ~~disability, arthritic condition, orthopedic or neurologic impairment.~~

14 Unless the context requires otherwise, the following definitions apply throughout  
15 this Article to the defined words and phrases and their cognates:

16 (1) 'Distinguishing license plate' means a license plate that displays the  
17 International Symbol of Access using the same color, size of plate, and  
18 size of letters or numbers as a regular plate.

19 (2) 'Handicapped' shall mean a person with a mobility impairment who, as  
20 determined by a licensed physician:

21 a. Cannot walk 200 feet without stopping to rest;

- 1           b.     Cannot walk without the use of, or assistance from, a brace,  
 2           cane, crutch, another person, prosthetic device, wheelchair, or  
 3           other assistive device;  
 4           c.     Is restricted by lung disease to such an extent that the person's  
 5           forced (respiratory) expiratory volume of one second, when  
 6           measured by spirometry, is less than one liter, or the arterial  
 7           oxygen tension is less than 60 mm/hg on room air at rest;  
 8           d.     Uses portable oxygen;  
 9           e.     Has a cardiac condition to the extent that the person's functional  
 10           limitations are classified in severity as Class III or Class IV  
 11           according to standards set by the American Heart Association;  
 12           f.     Is severely limited in their ability to walk due to an arthritic,  
 13           neurological, or orthopedic condition; or  
 14           g.     Is totally blind or whose vision with glasses is so defective as to  
 15           prevent the performance of ordinary activity for which eyesight  
 16           is essential, as certified by a licensed ophthalmologist,  
 17           optometrist, or the Division of Services for the Blind.
- 18       (3)   'International Symbol of Access' means the symbol adopted by  
 19       Rehabilitation International in 1969 at its Eleventh World Congress on  
 20       Rehabilitation of the Disabled.
- 21       (4)   'Removable windshield placard' means a two-sided, hooked placard  
 22       which includes on each side:
- 23           a.     The International Symbol of Access, which is at least three  
 24           inches in height, centered on the placard, and is white on a blue  
 25           shield;  
 26           b.     An identification number;  
 27           c.     An expiration date; and  
 28           d.     The seal or other identification of the issuing authority."

29       Sec. 2. G.S. 20-37.6 reads as rewritten:

30   "**§ 20-37.6. Handicapped; drivers and passengers; parking privileges.**

31       (a)   Any vehicle driven by or transporting a person who is handicapped as defined  
 32       by G.S. 20-37.5 ~~or transporting a person who is visually impaired as defined by G.S.~~  
 33       ~~111-11, as certified by a licensed ophthalmologist, optometrist, or Division of Services~~  
 34       ~~for the Blind, displaying a distinguishing license plate, a removable windshield placard,~~  
 35       ~~or a temporary removal windshield placard~~ may be parked for unlimited periods in  
 36       parking zones restricted as to the length of time parking is permitted. This provision has  
 37       no application to those zones or during times in which the stopping, parking, or standing  
 38       of all vehicles is prohibited or which are reserved for special types of vehicles. Any  
 39       qualifying vehicle may park in spaces designated by aboveground markings as restricted  
 40       to vehicles distinguished as being driven by or as transporting the ~~handicapped or as~~  
 41       ~~transporting the visually impaired- handicapped.~~

42       (b)   Handicapped Car Owners; Distinguishing License Plates. – If the  
 43       handicapped ~~or visually impaired~~ person is a registered owner of a vehicle, ~~this vehicle the~~  
 44       owner may apply for and display a distinguishing license plate. This license plate shall

1 be issued for the normal fee applicable to standard license plates. Any vehicle owner  
2 who qualifies for a distinguishing license plate may also receive ~~a combination of two~~  
3 ~~distinguishing placards or identification cards under subsection (e).~~ one removable  
4 windshield placard.

5 (c) ~~Handicapped Drivers and Passengers; Distinguishing Placards or~~  
6 ~~Identification Cards. Placards.~~ – A handicapped person who is either handicapped or  
7 visually impaired may apply for the issuance of a distinguishing placard or a wallet-size  
8 identification card to be designed by the Division of Motor Vehicles of the Department  
9 of Transportation, in cooperation with the Office for the Handicapped of the  
10 Department of Insurance. removable windshield placard or a temporary removable  
11 windshield placard. Upon request, one additional placard may be issued to applicants  
12 who do not have a distinguishing license plate. Any organization which, as determined  
13 and certified by the State Vocational Rehabilitation Agency, regularly transports  
14 handicapped or visually impaired people, persons may also apply. These organizations  
15 may receive one removable windshield placard for each transporting vehicle. A placard  
16 shall be at least 6 inches by 12 inches in size, and a placard or identification card shall  
17 contain all the information the Division of Motor Vehicles deems necessary for  
18 designation and enforcement. A placard or identification card shall be displayed on the  
19 driver's side of the dashboard of a vehicle only when the vehicle is being driven by a  
20 duly licensed handicapped driver or is being used to transport handicapped or visually  
21 impaired passengers.—When the removable windshield or temporary removable  
22 windshield placard or identification card is properly displayed, all parking rights and  
23 privileges extended to vehicles displaying a distinguishing license plate issued pursuant  
24 to subsection (b) shall apply. The removable windshield placard or the temporary  
25 removable windshield placard shall be displayed so that it may be viewed from the front  
26 and rear of the vehicle by hanging it from the front windshield rearview mirror of a  
27 vehicle using a parking space allowed for handicapped persons. When there is no inside  
28 rearview mirror, or when the placard cannot reasonably be hung from the rearview  
29 mirror by the handicapped person, the placard shall be displayed on the driver's side of  
30 the dashboard. A removable windshield placard placed on a motorized wheelchair or  
31 similar vehicle shall be displayed in a clearly visible location. The Division of Motor  
32 Vehicles shall establish procedures for the issuance of the distinguishing placards and  
33 identification cards, and may charge a fee sufficient to pay the actual cost of issuance.  
34 issuance, but in no event less than five dollars (\$5.00) per placard. A combination of  
35 two placards or identification cards may be issued to an applicant on request. Applicants  
36 who are organizations may receive one placard or identification card for each  
37 transporting vehicle.

38 (c1) Application for Placard; Physician's Certification. – The initial application for  
39 a distinguishing license plate, removable windshield placard, or temporary removable  
40 windshield placard shall be accompanied by a certification of a licensed physician,  
41 ophthalmologist, optometrist, or the Division of Services for the Blind that the applicant  
42 meets the definition of a person being handicapped in G.S. 20-37.5. The application for  
43 a temporary removable windshield placard shall contain additional certification to  
44 include the period of time the certifying authority determines the applicant will have the

1 disability. Distinguishing license plates shall be renewed annually, but subsequent  
2 applications shall not require a medical certification that the applicant meets the  
3 definition of being handicapped in G.S. 20-37.5. Removable windshield placards shall  
4 be renewed every five years, and the renewal shall require a medical recertification that  
5 the person is handicapped as defined in G.S. 20-37.5. Temporary removable windshield  
6 placards shall expire no later than six months after issuance.

7 (c2) Existing Placards; Expiration; Exchange for New Placards. – All existing  
8 placards shall expire on January 1, 1992. No person shall be convicted of parking in  
9 violation of this Article by reason of an expired placard if the defendant produces in  
10 court, at the time of trial on the illegal parking charge, an expired placard and a renewed  
11 placard issued within 30 days of the expiration date of the expired placard and which  
12 would have been a defense to the charge had it been issued prior to the time of the  
13 alleged offense. Existing placards issued on or after July 1, 1989, may be exchanged  
14 without charge for the new placards.

15 (d) Designation of Parking Places. – Designation of parking spaces for the  
16 physically handicapped and the visually impaired on streets and in other areas,  
17 including public vehicular areas specified in G.S. 20-4.01(32), shall be by the use of  
18 sign R7-8 for multiple parking spaces as shown in the Manual on Uniform Traffic  
19 Control Devices, or sign R7-8a for single parking spaces as shown in the N.C.  
20 Department of Transportation Supplement to the Manual on Uniform Traffic Control  
21 Devices. Signs R7-8 and R7-8a shall state the maximum penalty for parking in a  
22 parking space for the physically handicapped or visually impaired in violation of the  
23 law.

24 (d1) Unique Properties. – The owner of private property which contains a public  
25 vehicular area, on which is to be designated one or more parking spaces for the  
26 physically handicapped and the visually impaired, may file a written certification, on a  
27 form supplied by the Department of Transportation, that signs conforming to G.S. 20-  
28 37.6(d) would not be compatible with the unique visual character of the property. Upon  
29 filing of the certification with the Department of Transportation, the owner may cause to  
30 be erected signs of materials and colors different from signs R7-8 and R7-8a. The signs  
31 shall be the same size and shape as signs R7-8 or R7-8a, as appropriate, with the same  
32 letters, words, numbers, and symbols, except for the statement of the maximum penalty  
33 for parking in a parking space for the physically handicapped or visually impaired in  
34 violation of the law. Such signs shall be deemed to conform to G.S. 20-37.6(d).

35 (e) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:

36 (1) To park or leave standing any vehicle in a space designated with a sign  
37 pursuant to subsection (d) of this section for handicapped persons ~~or~~  
38 ~~visually impaired persons~~ when the vehicle does not display the  
39 distinguishing license plate, ~~placard,~~ removable windshield placard or  
40 temporary removable windshield placard or identification card as  
41 provided in this section or a disabled veteran registration plate issued  
42 pursuant to ~~G.S. 20-81.4;~~ G.S. 20-81.4;

43 (2) For any person not qualifying for the rights and privileges extended to  
44 handicapped ~~or visually impaired~~ persons under this section to exercise

1 or attempt to exercise such rights or privileges by the unauthorized use  
2 of a distinguishing license plate, ~~placard, or identification card~~  
3 removable windshield placard, or temporary removable windshield  
4 placard issued pursuant to the provisions of this section;

5 (3) To park or leave standing any vehicle so as to obstruct a curb ramp or  
6 curb cut for handicapped persons as provided for by the North  
7 Carolina Building Code or as designated in G.S. 136-44.14;

8 (4) For those responsible for designating parking spaces for the  
9 handicapped to erect or otherwise use signs not conforming to G.S. 20-  
10 37.6(d) for this purpose.

11 This section is enforceable in all public vehicular areas specified in G.S. 20-  
12 4.01(32).

13 (f) Penalties for Violation. –

14 (1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which  
15 carries a penalty of at least fifty dollars (\$50.00) but not more than one  
16 hundred dollars (\$100.00) and whenever evidence shall be presented in  
17 any court of the fact that any automobile, truck, or other vehicle was  
18 found to be parked in a properly designated handicapped parking space  
19 in violation of the provisions of this section, it shall be **prima facie**  
20 evidence in any court in the State of North Carolina that the vehicle  
21 was parked and left in the space by the person, firm, or corporation in  
22 whose name the vehicle is registered and licensed according to the  
23 records of the Division of Motor Vehicles. No evidence tendered or  
24 presented under this authorization shall be admissible or competent in  
25 any respect in any court or tribunal except in cases concerned solely  
26 with a violation of this section.

27 (2) A violation of G.S. 20-37.6(e)(4) is an infraction which carries a  
28 penalty of at least fifty dollars (\$50.00) but not more than one hundred  
29 dollars (\$100.00) and whenever evidence shall be presented in any  
30 court of the fact that any such nonconforming sign or markings are  
31 being used it shall be **prima facie** evidence in any court in the State of  
32 North Carolina that the person, firm, or corporation with ownership of  
33 the property where said nonconforming signs or markings are located  
34 is responsible for violation of this section. Building inspectors and  
35 others responsible for North Carolina State Building Code violations  
36 specified in G.S. 143-138(h) where such signs are required by the  
37 Handicapped Section of the North Carolina State Building Code, may  
38 cause a citation to be issued for this violation and may also initiate any  
39 appropriate action or proceeding to correct such violation.

40 (3) A law-enforcement officer, including a security officer who has  
41 authority to enforce laws on the property of his employer as specified  
42 in Chapter 74A, may cause a vehicle parked in violation of this section  
43 to be towed; and such officer shall be a legal possessor as provided in  
44 G.S. 20-161(d)(2). This law-enforcement officer, or security officer,

1 shall not be held to answer in any civil or criminal action to any owner,  
2 lienholder or other person legally entitled to the possession of any  
3 motor vehicle removed from such space pursuant to this section,  
4 except where such motor vehicle is willfully, maliciously, or  
5 negligently damaged in the removal from aforesaid space to place of  
6 storage.

- 7 (4) Notwithstanding any other provision of the General Statutes, the  
8 provisions of this section relative to handicapped parking shall be  
9 enforced by State, county, city and other municipal authorities in their  
10 respective jurisdictions whether on public or private property in the  
11 same manner as is used to enforce other parking laws and ordinances  
12 by said agencies."

13 Sec. 3. G.S. 20-37.6A reads as rewritten:

14 **"§ 20-37.6A. Vehicles designated for out-of-state handicapped; parking privileges.**

15 Any vehicle displaying an out-of-State handicapped license plate, placard or other  
16 evidence of handicap or visual impairment issued by the appropriate authority of the  
17 appropriate jurisdiction may park in any space reserved for the handicapped ~~or the~~  
18 ~~visually impaired~~ pursuant to G.S. 20-37.6."

19 Sec. 4. G.S. 20-51 reads as rewritten:

20 **"§ 20-51. Exempt from registration.**

21 The following shall be exempt from the requirement of registration and certificate of  
22 title:

- 23 (1) Any such vehicle driven or moved upon a highway in conformance  
24 with the provisions of this Article relating to manufacturers, dealers, or  
25 nonresidents.
- 26 (2) Any such vehicle which is driven or moved upon a highway only for  
27 the purpose of crossing such highway from one property to another.
- 28 (3) Any implement of husbandry, farm tractor, road construction or  
29 maintenance machinery or other vehicle which is not self-propelled  
30 that was designed for use in work off the highway and which is  
31 operated on the highway for the purpose of going to and from such  
32 nonhighway projects.
- 33 (4) Any vehicle owned and operated by the government of the United  
34 States.
- 35 (5) Farm tractors equipped with rubber tires and trailers or semitrailers  
36 when attached thereto and when used by a farmer, his tenant, agent, or  
37 employee in transporting his own farm implements, farm supplies, or  
38 farm products from place to place on the same farm, from one farm to  
39 another, from farm to market, or from market to farm. This exemption  
40 shall extend also to any tractor, implement of husbandry, and trailer or  
41 semitrailer while on any trip within a radius of 10 miles from the point  
42 of loading, provided that the vehicle does not exceed a speed of 35  
43 miles per hour. This section shall not be construed as granting any  
44 exemption to farm tractors, implements of husbandry, and trailers or

1 semitrailers which are operated on a for-hire basis, whether money or  
2 some other thing of value is paid or given for the use of such tractors,  
3 implements of husbandry, and trailers or semitrailers.

4 (6) Any trailer or semitrailer attached to and drawn by a properly licensed  
5 motor vehicle when used by a farmer, his tenant, agent, or employee in  
6 transporting unginning cotton, peanuts, soybeans, corn, hay, tobacco,  
7 silage, cucumbers, potatoes, fertilizers or chemicals purchased or  
8 owned by such farmer or tenant for personal use in implementing  
9 husbandry or irrigation pipes and equipment owned by such farmer or  
10 tenant from place to place on the same farm, from one farm to another,  
11 from farm to gin, from farm to dryer, or from farm to market, and  
12 when not operated on a for-hire basis. The term 'transporting' as used  
13 herein shall include the actual hauling of said products and all  
14 unloaded travel in connection therewith.

15 (7) Those small farm trailers known generally as tobacco-handling trailers,  
16 tobacco trucks or tobacco trailers when used by a farmer, his tenant,  
17 agent or employee, when transporting or otherwise handling tobacco in  
18 connection with the pulling, tying or curing thereof.

19 (8) Any vehicle which is driven or moved upon a highway only for the  
20 purpose of crossing or traveling upon such highway from one side to  
21 the other provided the owner or lessee of the vehicle owns the fee or a  
22 leasehold in all the land along both sides of the highway at the place or  
23 crossing.

24 (9) Mopeds as defined in G.S. 20-4.01(27)d1.

25 (10) Devices which are designed for towing private passenger motor  
26 vehicles or vehicles not exceeding 5,000 pounds gross weight. These  
27 devices are known generally as 'tow dollies.' A tow dolly is a two-  
28 wheeled device without motive power designed for towing disabled  
29 motor vehicles and is drawn by a motor vehicle in the same manner as  
30 a trailer.

31 (11) Devices generally called converter gear or dollies consisting of a  
32 tongue attached to either a single or tandem axle upon which is  
33 mounted a fifth wheel and which is used to convert a semitrailer to a  
34 full trailer for the purpose of being drawn behind a truck tractor and  
35 semitrailer.

36 (12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds  
37 gross ~~weight~~—weight when used for pedestrian purposes by a  
38 handicapped person with a mobility impairment as defined in G.S. 20-  
39 37.5."

40 Sec. 5. G.S. 20-37.2, 20-37.3, and 20-37.4 are repealed.

41 Sec. 6. This act becomes effective October 1, 1991.