

STORAGE NAME: h3983s1.tr

DATE: April 7, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3983

RELATING TO: Disabled Persons/Motor Vehicle Use

SPONSOR(S): Committee on Transportation and Representatives Jacobs, Morse, Fasano, and others

COMPANION BILL(S): CS/SB 1498 (s), HB 3679 & SB 582 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 11 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3) ELDER AFFAIRS & LONG TERM CARE
 - (4) FINANCE & TAXATION
 - (5) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
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I. SUMMARY:

The bill contains numerous changes to provisions of law relating to accessible parking for persons with disabilities. Substantive issues included in the bill address current problems with implementing and enforcing accessible parking laws. The bill:

- Authorizes out-of-state physicians to certify patients as disabled on the disabled parking permit application. Such an application must be accompanied by documentation of the physicians' licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of Florida's eligibility guidelines.
- Provides that permanently disabled persons are not required to be recertified as being disabled when renewing their parking permit.
- Makes several changes to the enforcement of accessible parking laws, including establishing a statewide fine amount of \$250 and authorizing law enforcement officers to confiscate a parking placard that is expired, defaced, reported lost or stolen, or does not display a personal identification number.
- Authorizes a motor vehicle owner or lessee, who qualifies for a disabled parking permit, to be issued an international wheelchair user symbol license plate which entitles them to all the privileges afforded to a disabled parking permit holder. This provision will help to bring the Department of Highway Safety and Motor Vehicles (DHS&MV) into compliance with federal guidelines.

A majority of the provisions in the bill have minimal or no fiscal impact. However, establishing a statewide fine amount of \$250 will result in an indeterminate increase in revenues to local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In 1996 the Legislature addressed several issues concerning parking for persons who have disabilities (chapter 96-200, Laws of Florida). Most importantly, the Legislature consolidated requirements for such parking spaces, clarified the distribution of permit fees revenues, and increased enforcement and sanctions for illegally parking in designated spaces. The 1996 law has been in effect for approximately 18 months and several provisions require further revision.

Section 316.1955, F.S., provides that each state agency and political subdivision that has jurisdiction over street parking, or publicly owned and operated parking facilities must provide a minimum number of parking spaces for individuals with disabilities who have been issued a disabled parking permit or a disabled license plate. Under Florida law, parking spaces for persons with disabilities must meet the specific requirements set forth in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) s. 4.1.

The section further provides that it is unlawful to stop, stand, or park in a parking place designated for persons who have disabilities unless the vehicle displays an exemption parking permit or disabled license plate. An exception is made for persons momentarily loading or unloading a disabled person. Any person who parks in a parking space designated for persons who have disabilities may have their car towed, and the cost of such removal is a lien against the vehicle. In addition, the offender is charged with a noncriminal traffic infraction punishable by a \$100 fine, plus any fine that may be imposed by the county or municipality, up to a total fine of \$250.

Section 316.1958, F.S., provides for recognition of special license plates or parking permits for persons who have disabilities which are issued by other states or districts which are subject to the laws of the United States. The section provides that if an individual is required by law to have a Florida driver's license, a disabled parking placard or license plate from another state or jurisdiction is not valid for parking in spaces reserved for persons with disabilities. There is no such requirement for a Florida vehicle registration.

Section 316.1964, F.S., provides that when a parking meter restricts the duration of time a vehicle may be parked, a vehicle displaying a disabled parking permit may park for a maximum of four hours at no charge. However, a county or city may charge for parking in timed parking spaces except for vehicles with specialized equipment such as ramps and lifts, or foot or hand controls. The interpretation by cities and counties regarding the difference between metered parking and timed parking has led to differing enforcement ordinances.

Section 318.18, F.S., provides a penalty of \$100 for illegally parking in a space provided for disabled persons. This penalty is in addition to any penalty that may be assessed by a county or municipality for the same offense not to exceed a total fine of \$250. The section provides that the fine may be waived if the person provides proof of ownership of a valid disabled parking permit, and pays a \$5 dismissal fee to the clerk of the circuit court.

Section 320.0842, F.S., provides free license plates to veterans confined to wheel chairs. A person with a license plate issued pursuant to this section has the same exemption from penalties as the holder of a disabled parking permit.

Section 320.0843, F.S., provides for wheelchair license plates to persons permanently confined to wheelchairs on payment of the appropriate license tax. Currently, vehicles weighing more than 5,000 pounds do not qualify for a wheelchair license plate. Further, the National Highway Traffic Safety Administration's (NHTSA) Office of Civil Rights found the Florida Department of Highway Safety and Motor Vehicles in violation of the Uniform System of Handicapped Parking guidelines. The NHTSA found that:

Although Florida provides special license plates to certain groups for free or for the same fee as is charged for normal license plates, it does not make these plates available to all individuals with disabilities which limit or impair the ability to walk. Certain individuals whose disabilities limit or impair the ability to walk are denied the right to obtain a special plate. Rather, these individuals must obtain a disabled parking placard. Moreover, they must pay an additional fee for the placard in addition to the fee they pay for the normal license plate.

Section 320.0848, F.S., authorizes the DHS&MV, through the county tax collectors acting as their authorized agent, to issue an disabled parking permit for a period of 4 years to any person who has long term mobility problems, or a temporary parking permit for up to 1 year to any person with temporary mobility problems.

The section further provides descriptions of disabilities that would qualify the applicant for a permanent or temporary parking exemption permit. A person may qualify for a disabled parking permit solely on the inability to walk 200 feet without stopping. Disabilities must be certified by a physician, podiatrist, or an optometrist licensed in Florida, the Division of Blind Services of the Department of Labor and Employment Security, or by the Adjudication Office of the United States Department of Veterans Affairs.

Under current DHS&MV policy, the cost of replacing a lost permit is \$1. If the placard was stolen, and the permit holder produces a police report stating the permit was stolen, the permit is replaced free of charge. While this is DHS&MV's policy, it is not currently in the statutes.

B. EFFECT OF PROPOSED CHANGES:

The bill contains numerous changes to provisions of law relating to accessible parking for persons with disabilities. Substantive issues included in the bill address current problems with implementing and enforcing accessible parking laws. The bill:

- Authorizes out-of-state physicians to certify patients as disabled on the disabled parking permit application. Such an application must be accompanied by documentation of the physicians' licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of Florida's eligibility guidelines.

- Provides that permanently disabled persons are not required to be recertified as being disabled when renewing their parking permit.
- Makes several changes to the enforcement of accessible parking laws, including establishing a statewide fine amount of \$250 and authorizing law enforcement officers to confiscate a parking placard that is expired, defaced, reported lost or stolen, or does not display a personal identification number.
- Authorizes a motor vehicle owner or lessee, who qualifies for a disabled parking permit, to be issued an international wheelchair user symbol license plate which entitles them to all the privileges afforded to a disabled parking permit holder. This provision will help to bring the DHS&MV into compliance with federal guidelines.

[See the *Section-by-Section Research* for more details.]

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires signs at accessible parking spaces to be 84 inches above the ground.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill authorizes persons with disabilities to use physicians from out-of-state to certify their disability when applying for a placard.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 316.1955, 316.1958, 316.1964, 318.18, 320.0842, 320.0843, and 320.0848, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Section 316.1955, F.S., is amended to clarify that disabled parking access aisles are reserved for the exclusive use of persons who have disabled parking permits and who require extra space to deploy a mobility device, lift, or ramp. The section also provides that signs designating disabled parking spaces must be 84 inches in height, and that a disabled parking violation may not be dismissed for lack of proper signage.

Further, the section is amended to provide that obstructing a disabled parking space, curb cut, or access aisle carries the same penalties as imposed for illegally parking in an accessible parking space; and, that a person may be charged with resisting an officer without violence for refusing to show a law enforcement officer or parking enforcement specialist their disabled parking permit, identification card, or driver's license.

Section 2: Section 316.1958, F.S., is amended to provide that if an individual is required by law to have a Florida vehicle registration, a disabled parking permit or license plate from another state or jurisdiction is not valid for parking in spaces reserved for persons with disabilities.

Section 3: Section 316.1964, F.S., is amended to clarify that persons displaying a valid disabled parking permit may park in *on-street* metered parking spaces without charge for 4 hours, but may be charged for parking in a facility or lot that provides timed parking spaces.

Section 4: Section 318.18, F.S., is amended to raise the minimum fine for illegally parking in a disabled parking space to \$250, and provide that the fine may be waived if the person provides proof of compliance to the law enforcement agency which issued the citation. The section requires a law enforcement officer to sign an affidavit of compliance that the person who was issued the citation has demonstrated that they do have a valid disabled parking permit.

Section 5: Section 320.0842, F.S., is amended to authorize the issuance of a free international wheelchair user symbol license plate to veterans who otherwise qualify for

a disabled parking permit. Such a license plate entitles the holder to all the privileges afforded to disabled parking permit holders.

Section 6: Section 320.0843, F.S., is amended to provide that any owner or lessee of a motor vehicle, including motor vehicles weighing up to 8,000 pounds, who qualifies for a disabled parking permit, on payment of the applicable license tax, may be issued an international wheelchair user symbol license plate which entitles them to all the privileges afforded to disabled parking permit holders. This provision will help to bring the DHS&MV into compliance with the Uniform System of Handicapped Parking guidelines.

Section 7: Section 320.0848, F.S., is amended to provide that to be considered for certification for a disabled parking permit the applicant must be legally blind or have a condition which renders them unable to walk 200 feet without stopping. Such conditions are the inability to walk without an assistance device, the need to permanently use a wheelchair, respiratory disease, the use of portable oxygen, cardiac condition, or arthritic, neurological, or orthopedic condition.

The section is further amended to authorize out-of-state physicians to certify patients as disabled on the disabled parking permit application. Such an application must be accompanied by documentation of the physicians' licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of Florida's eligibility guidelines. The bill provides that persons certified as permanently disabled by a physician will not be required to show such certification on renewal.

The section is amended to provide a \$1 fee for the replacement of a lost or stolen disabled parking permit, and that the fee may be waived if the permit holder shows a police report demonstrating that the permit was stolen. The section provides that a person who qualifies for a disabled parking permit or a disabled veteran's license plate may be issued an international wheelchair user symbol license plate instead, which entitles the user to all the privileges afforded to disabled parking permit holders.

The section provides that the date of expiration must be color coded on the permit to distinguish between long-term and temporary permits and must be in large print. Otherwise, the temporary permit and the long-term permit must be identical including the inclusion of the state identification card or driver's license number.

The section provides that any person who displays a disabled parking permit that belongs to another person while occupying a disabled parking space or an access aisle while the owner of the permit is not being transported is guilty of a misdemeanor of the second degree. The section provides that a law enforcement officer may confiscate a parking permit that is expired, defaced, reported lost or stolen, or does not display a personal identification number.

The bill provides that beginning April 1, 1999, permit numbers of all confiscated disabled parking permits must be submitted to the DHS&MV to be noted on the permit holder's record. If two permits issued to the same person have been confiscated, DHS&MV must refer the information to the Florida Abuse Hotline for an investigation of potential abuse, neglect, or exploitation of the owner.

Confiscated permits must be held as evidence until a judicial decision about the violation has been made, at which time the agency shall destroy the confiscated permit, and DHS&MV must record in the disabled parking permit database that the permit has been invalidated. The confiscated permit may not be returned to the owner after a finding of guilt or a plea of nolo contendere.

Section 8: Provides that bill takes effect July 1, 1998, unless otherwise expressly provided for in the bill.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Indeterminate. See Fiscal Comments D.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Establishing a statewide fine amount of \$250 should result in an indeterminate increase in revenues to local governments.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The private sector may incur costs associated with implementing the sign requirements for accessible parking spaces.

2. Direct Private Sector Benefits:

Indeterminate. See Fiscal Comments D.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The State Transportation Trust Fund (STTF) receives \$13.50 for each long-term disabled parking placard purchased. Since all persons who qualify for a permit, and have a Florida vehicle registration, are authorized by the bill to apply for a disabled license plate at no fee beyond the regular license tax (as required by federal law) the STTF will be negatively affected. This could have an impact on the STTF if permit holders elect to not renew their placard and obtain a disabled license plate. In FY 1996-1997, 188,499 long-term disabled parking permits were issued. A savings would be realized by permit holders to the extent that they elect to not renew their placard and obtain a disabled license plate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Provisions related to accessible parking space signs and requirements associated with the waiver of citations by law enforcement officers are excepted from the requirements of Article VII, s. 18 of the Florida Constitution, because all similarly situated persons are required to comply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 2, 1998, the House Transportation Committee adopted a proposed committee substitute in place of HB 3983. The impact of the proposed committee substitute is included in this Bill Research & Economic Impact Statement.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

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