

AN ACT

ENTITLED, An Act to revise the requirements for obtaining plates and certificates to park in any space reserved for a person with a disability and to provide a penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-5-76 be amended to read as follows:

32-5-76. An owner of a motor vehicle, who is a resident of this state, who has complied with all the laws of this state in obtaining regular number license plates for the motor vehicle, and who operates or directs the operation of the vehicle, may submit to the county treasurer an application containing a physician's certificate on a form approved by the secretary, stating that the applicant is a person with a substantial physical disability that makes it impossible or causes substantial hardship to walk. The secretary shall promulgate a rule, pursuant to chapter 1-26, defining a person with a physical disability. The county treasurer shall procure, issue, and deliver to the applicant plates with letters, numbers, or symbols, or any combination thereof, as the secretary may prescribe. The plates shall be designed to readily apprise law enforcement officers of the fact that the motor vehicle is owned, operated, or used in transporting a person with a substantial disability. No charge may be made for the issuance of the distinctive plates. The distinctive plates shall be in addition to the regular number plates issued for the motor vehicle. The distinctive plates shall be displayed as set forth in § 32-5-98 and the regular number plates shall be kept on or in the motor vehicle. If the applicant is no longer a person with a physical disability or is deceased, the distinctive plates shall be surrendered within thirty days to the county treasurer of the applicant's residence, and the treasurer shall notify the secretary who shall make the necessary changes in the registration file. The regular number plates shall remain with the motor vehicle to which the plates were issued. Failure to surrender the distinctive license plates as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application.

Section 2. That § 32-5-76.1 be amended to read as follows:

32-5-76.1. Any person who is a resident of this state and is a person with a physical disability so that makes it impossible or causes substantial hardship to walk may be issued a portable serially numbered certificate by the secretary which permits the person or the operator of a vehicle being used in transporting the person to park without time limitation pursuant to § 32-30-11.1 and to park in any space reserved for a person with a physical disability. The person shall submit an application containing a physician's certificate on forms approved by the secretary to prove that the person meets the criteria established by this section. If the secretary determines that the applicant meets the criteria, the secretary shall issue a portable certificate to the applicant. The secretary shall promulgate rules, pursuant to chapter 1-26, governing the application for, term of, and conditions under which such certificates may be issued. If the applicant is no longer a person with a physical disability or is deceased, the portable certificate shall be surrendered to the county treasurer of the applicant's residence within thirty days, and the treasurer shall notify the secretary who shall make the necessary changes in the file. Failure to surrender the portable certificate as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application or to alter the portable certificate.

Section 3. That § 32-5-76.2 be amended to read as follows:

32-5-76.2. Any nonprofit organization, licensed hospital, retirement home, or educational institution which has under its care or responsibility persons with physical disabilities, which transports persons with physical disabilities, and which has complied with all laws of this state in obtaining title, license plates, and registration for its motor vehicles may apply for a portable serially numbered certificate which permits the operator of a vehicle transporting the person with a disability to park pursuant to § 32-30-11.1. However, the vehicle may only park for the time reasonably necessary to load or unload passengers in any space reserved for person with a disability. In addition,

any local government entity that owns a vehicle used to transport persons with disabilities may apply for the portable certificate. The application shall be made on a form approved by the secretary. If the department determines that the applicant transports persons with disabilities, the secretary shall issue and deliver a portable certificate to the applicant. The secretary may promulgate rules pursuant to chapter 1-26 regarding the application for, term of, and conditions under which the certificate may be issued. If the applicant no longer transports persons with physical disabilities, the applicant shall surrender the certificate to the department within thirty days. Failure to surrender the portable certificate as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application or to alter the portable certificate.

Section 4. That § 32-5-76.3 be amended to read as follows:

32-5-76.3. Any nursing facility licensed pursuant to the provisions of chapter 34-12 and which has complied with all laws of this state in obtaining title, license plates, and registration for its motor vehicles may apply for a set of distinctive plates as prescribed by § 32-5-76 permitting the operator of a vehicle transporting any person with a disability to park pursuant to § 32-30-11.1. However, the vehicle may only park for the time reasonably necessary to load or unload passengers in any space reserved for persons with disabilities. The application shall be made on a form approved by the secretary. If the department determines that the applicant is licensed as a nursing facility, the secretary shall issue and deliver a set of distinctive plates to the applicant. The secretary may promulgate rules, pursuant to chapter 1-26, regarding the application for, term of, and conditions under which the distinctive plates may be issued. If the applicant no longer transports persons with physical disabilities, the applicant shall surrender the distinctive plates to the department within thirty days. Failure to surrender the distinctive license plates as required by this section is a Class 2 misdemeanor.

Section 5. That § 32-30-11 be amended to read as follows:

32-30-11. Any person, other than the veteran to whom it was issued, who uses a disabled

veteran's license of identification issued pursuant to § 32-5-108 for the purpose of parking an automobile as permitted by § 32-30-8, commits a Class 2 misdemeanor. The court shall assess a fine of not less than one hundred dollars if the parking space is marked in accordance with the Americans With Disabilities Act accessibility guidelines as of January 1, 2002.

Section 6. That § 32-30-11.1 be amended to read as follows:

32-30-11.1. Any person with a physical disability, who displays special license plates issued under § 32-5-76 or 32-5-108, a serially numbered certificate issued under § 32-5-76.1 or 32-5-76.2, or a similar license plate or certificate issued in another state on an automobile used in transporting that person, shall be entitled to park without limitation in areas where parking is normally restricted by time factors and to park in any space reserved for a person with a disability. However, a municipality may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours. The privileges extended to persons with disabilities do not apply on streets or highways where and during any time parking is prohibited.

Section 7. That § 32-30-11.2 be amended to read as follows:

32-30-11.2. If the police of any municipality or any other political subdivision finds that special license plates or certificates are being improperly used, the police shall report such violation to the Department of Revenue which shall revoke the privilege of displaying license plates or certificates that are improperly used.

Section 8. That § 32-30-11.3 be amended to read as follows:

32-30-11.3. Any person who is not a person with a physical disability and who exercises the privileges granted a person with a physical disability under § 32-30-11.1 commits a Class 2 misdemeanor. The court shall assess a fine of not less than one hundred dollars if the parking space is marked in accordance with the Americans With Disabilities Act accessibility guidelines as of

January 1, 2002.

Section 9. That § 32-30-11.4 be amended to read as follows:

32-30-11.4. The owner of any vehicle not displaying a serially numbered certificate or special license plate parked or stopped in a parking space, or blocking a parking space, on public or private property designated as reserved for a person with a physical disability commits a Class 2 misdemeanor. The court shall assess a fine of not less than one hundred dollars if the parking space is marked in accordance with the Americans With Disabilities Act accessibility guidelines as of January 1, 2002.

Section 10. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as follows:

No owner of a vehicle may park, stop, or stand in an access aisle or lane immediately adjacent to reserved parking spaces or in front of a ramp or curb-cut in such a manner that blocks access to a person with a disability who uses a wheelchair. A violation of this section is a Class 2 misdemeanor. The court shall assess a fine of not less than one hundred dollars if the parking space is marked in accordance with the Americans With Disabilities Act accessibility guidelines as of January 1, 2002.

Section 11. That § 32-30-11.6 be amended to read as follows:

32-30-11.6. Each municipality shall by ordinance, designate special parking spaces which shall be accessible to and usable by persons with physical disabilities. Each municipality may, by ordinance, designate parking spaces that are only for use by a person using a wheelchair. The parking spaces shall be designed in accordance with the Americans With Disabilities Act as amended on January 1, 2002.

Section 12. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as follows:

Each sign designating a parking space for a person with a physical disability shall state the

penalties for illegal use of the parking space. This section only applies to a new sign or a sign that replaces an existing sign after July 1, 2002.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1273

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1273
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State