

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

771H0419

SENATE ENGROSSED NO. **HB 1273** - 02/19/2002

Introduced by: Representative Duniphan and Senator Ham

1 FOR AN ACT ENTITLED, An Act to revise the requirements for obtaining plates and
2 certificates to park in any space reserved for a person with a disability and to provide for civil
3 penalties.

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

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

6 32-5-76. An owner of a motor vehicle, who is a resident of this state, who has complied with
7 all the laws of this state in obtaining regular number license plates for the motor vehicle, and who
8 operates or directs the operation of the vehicle, may submit to the county treasurer an application
9 containing a physician's certificate on a form approved by the secretary, ~~which states~~ stating that
10 the applicant is ~~so substantially disabled by~~ a person with a substantial physical disability that
11 makes it is impossible or causes substantial hardship to walk. The secretary shall promulgate a
12 rule, pursuant to chapter 1-26, defining a person with a physical disability. The county treasurer
13 shall procure, issue, and deliver to the applicant plates with letters, numbers, or symbols, or any
14 combination thereof, as the secretary may prescribe. The plates shall be designed to readily
15 apprise law enforcement officers of the fact that the motor vehicle is owned, operated, or used



1 in transporting a ~~substantially disabled~~ person with a substantial disability. No charge may be
2 made for the issuance of the distinctive plates. The distinctive plates shall be in addition to the
3 regular number plates issued for the motor vehicle. The distinctive plates shall be displayed as
4 set forth in § 32-5-98 and the regular number plates shall be kept on or in the motor vehicle. If
5 the applicant is no longer ~~disabled by~~ a person with a physical disability or is deceased, the
6 distinctive plates shall be surrendered within thirty days to the county treasurer of the applicant's
7 residence, and the treasurer shall notify the secretary who shall make the necessary changes in
8 the registration file. The regular number plates shall remain with the motor vehicle to which ~~they~~
9 the plates were issued. Failure to surrender the distinctive license plates as required by this
10 section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent
11 application.

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

13 32-5-76.1. Any person who is ~~disabled by~~ a resident of this state and is a person with a
14 physical disability so that makes it is impossible or causes substantial hardship to walk may be
15 issued a portable serially numbered certificate by the secretary which permits the person or the
16 operator of a vehicle being used in transporting the person to park without time limitation
17 pursuant to § 32-30-11.1 and to park in any space reserved for ~~the handicapped~~ a person with
18 a physical disability. The person shall submit an application containing a physician's certificate
19 on forms approved by the secretary to prove that the person meets the criteria established by this
20 section. If the secretary determines that the applicant meets the criteria, the secretary shall issue
21 a portable certificate to the applicant. The secretary shall promulgate rules, pursuant to chapter
22 1-26, governing the application for, term of, and conditions under which such certificates may
23 be issued. If the applicant is no longer a person with a physical disability or is deceased, the
24 portable certificate shall be surrendered to the county treasurer of the applicant's residence within

1 thirty days, and the treasurer shall notify the secretary who shall make the necessary changes in
2 the file. Failure to surrender the portable certificate as required by this section is a Class 2
3 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application or to alter
4 the portable certificate.

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

6 32-5-76.2. Any nonprofit organization, licensed hospital, retirement home, or educational
7 institution which has under its care or responsibility ~~physically disabled~~ persons with physical
8 disabilities, which transports ~~physically disabled~~ persons with physical disabilities, and which has
9 complied with all laws of this state in obtaining title, license plates, and registration for its motor
10 vehicles may apply for a portable serially numbered certificate which permits the operator of a
11 vehicle transporting the ~~disabled~~ person with a disability to park pursuant to § 32-30-11.1 ~~and~~
12 ~~to park only. However, the vehicle may only park~~ for the time reasonably necessary to load or
13 unload passengers in any space reserved for ~~the handicapped~~ person with a disability. In addition,
14 any local government entity that owns a vehicle used to transport ~~disabled individuals~~ persons
15 with disabilities may apply for the portable certificate. The application shall be made on a form
16 approved by the secretary. If the department determines that the applicant transports ~~disabled~~
17 persons with disabilities, the secretary shall issue and deliver a portable certificate to the
18 applicant. The secretary may promulgate rules pursuant to chapter 1-26 regarding the application
19 for, term of, and conditions under which the certificate may be issued. If the applicant no longer
20 transports ~~physically disabled~~ persons with physical disabilities, ~~it~~ the applicant shall surrender
21 the certificate to the department within thirty days. Failure to surrender the portable certificate
22 as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false
23 or fraudulent application or to alter the portable certificate.

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

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

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

15 32-30-11. Any person, other than the veteran to whom it was issued, who uses a disabled
16 veteran's license of identification issued pursuant to ~~§ 32-30-7~~ § 32-5-108 for the purpose of
17 parking an automobile as permitted by § 32-30-8, commits a ~~petty offense~~ Class 2 misdemeanor.
18 In addition the court shall assess a civil penalty of not less than one hundred dollars nor more
19 than three hundred dollars if the parking space is marked in accordance with the American With
20 Disabilities Act accessibility guidelines as of January 1, 2002.

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

22 32-30-11.1. Any ~~physically handicapped~~ person with a physical disability, who displays
23 special license plates issued under § 32-5-76 or 32-5-108, a serially numbered certificate issued
24 under § 32-5-76.1 or 32-5-76.2, or a similar license plate or certificate issued in another state

1 on an automobile used in transporting ~~him~~ that person, shall be entitled to park without limitation
2 in areas where parking is normally restricted by time factors and to park in any space reserved
3 for ~~the handicapped~~ a person with a disability. However, a municipality may, by ordinance,
4 prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide
5 for the accommodation of heavy traffic during morning and afternoon rush hours, ~~and the~~. The
6 privileges extended to ~~such handicapped~~ persons ~~shall~~ with disabilities do not apply on streets
7 or highways where and during ~~such times as~~ any time parking is prohibited.

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

9 32-30-11.2. If the police of any municipality or any other political subdivision ~~shall find~~ finds
10 that ~~such~~ special license plates or certificates are being improperly used, ~~they~~ the police shall
11 report such violation to the Department of ~~Commerce and Regulation~~ Revenue which ~~may~~ shall
12 revoke the privilege of displaying license plates or certificates ~~so~~ that are improperly used.

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

14 32-30-11.3. Any person who is not ~~physically handicapped~~ a person with a physical disability
15 and who exercises the privileges granted a ~~physically handicapped~~ person with a physical
16 disability under § 32-30-11.1 commits a Class 2 misdemeanor. In addition the court shall assess
17 a civil penalty of not less than one hundred dollars nor more than three hundred dollars if the
18 parking space is marked in accordance with the American With Disabilities Act accessibility
19 guidelines as of January 1, 2002.

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

21 32-30-11.4. The owner of any vehicle not displaying a serially numbered certificate or special
22 license plate parked or stopped in a parking space, or blocking a parking space, on public or
23 private property designated as reserved for ~~the physically handicapped~~ a person with a physical
24 disability commits a Class 2 misdemeanor. In addition the court shall assess a civil penalty of not

1 less than one hundred dollars nor more than three hundred dollars if the parking space is marked
2 in accordance with the American With Disabilities Act accessibility guidelines as of January 1,
3 2002.

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

6 No owner of a vehicle may park, stop, or stand in an access aisle or lane immediately
7 adjacent to reserved parking spaces or in front of a ramp or curb-cut in such a manner that
8 blocks access to a person with a disability who uses a wheelchair. A violation of this section is
9 a Class 2 misdemeanor. In addition the court shall assess a civil penalty of not less than one
10 hundred dollars nor more than three hundred dollars if the parking space is marked in accordance
11 with the American With Disabilities Act accessibility guidelines as of January 1, 2002.

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

13 32-30-11.6. ~~Municipalities may~~ Each municipality shall by ordinance, designate special
14 parking spaces which shall be accessible to and usable by persons with physical disabilities. Each
15 municipality may, by ordinance, designate parking spaces that are only for use by a person using
16 a wheelchair. The parking spaces shall be designed in accordance with the Americans With
17 Disabilities Act as amended on January 1, 2002.

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

20 Each sign designating a parking space for a person with a physical disability shall state the
21 penalties for illegal use of the parking space. This section only applies to a new sign or a sign that
22 replaces an existing sign after July 1, 2002.