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SENATE BILL 58

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MARY JANE M GARCIA

AN ACT

RELATING TO PERSONS WITH DISABILITIES; CHANGING CERTAIN PROVISIONS RELATED TO DESIGNATED DISABLED PARKING; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"NEW MATERIAL LONG-TERM CARE FACILITY PLACARDS-- DEPOSITS-- MISDEMEANOR PENALTIES. --

A. Upon application to the division, accompanied by a payment of two hundred fifty dollars (\$250), an administrator of a long-term care facility licensed by the department of health may be granted one parking placard for a long-term care facility in this state under his direct supervision for use in the transport of persons with severe

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1 mobility impairments as defined in Subsection H of Section
2 66-3-16 NMSA 1978 in situations where it is impractical for
3 the person being transported to obtain and use his own parking
4 placard.

5 B. A person who uses a long-term care facility's
6 parking placard when not engaged in the transport of a person
7 with a severe mobility impairment or an administrator who
8 knowingly allows such use of the parking placard in violation
9 of Subsection A of this section is guilty of a misdemeanor and
10 shall be sentenced pursuant to the provisions of Section
11 66-8-7 NMSA 1978. "

12 Section 2. Section 3-51-46 NMSA 1978 (being Laws 1973,
13 Chapter 22, Section 3) is amended to read:

14 "3-51-46. PASSENGER MOTOR VEHICLE OF DISABLED PERSON--
15 PARKING PRIVILEGE. --Passenger motor vehicles owned by
16 [~~disabled~~] persons with severe mobility impairment and
17 carrying special registration plates or passenger motor
18 vehicles carrying persons with severe mobility impairment or
19 severe visual impairment and displaying parking placards
20 issued pursuant to Section [~~64-3-12.3 NMSA 1953~~] 66-3-16 NMSA
21 1978 shall be permitted to park for unlimited periods of time
22 in parking zones restricted as to length of time parking is
23 normally permitted and are exempt from payment of any parking
24 meter or parking authorization fee of the state or its
25 political subdivisions. The provisions of this section shall

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1 prevail over any other law, regulation or local ordinance but
2 do not apply to zones where stopping, standing or parking is
3 prohibited, zones reserved for special types of vehicles,
4 zones where parking is prohibited during certain hours of the
5 day in order to facilitate traffic during those hours when
6 parking is prohibited and zones subject to similar regulation
7 because parking presents a traffic hazard. "

8 Section 3. Section 66-1-4.1 NMSA 1978 (being Laws 1990,
9 Chapter 120, Section 2) is amended to read:

10 "66-1-4.1. DEFINITIONS. -- As used in the Motor Vehicle
11 Code:

12 A. "abandoned vehicle" means a vehicle or motor
13 vehicle that has been determined by a New Mexico law
14 enforcement agency:

15 (1) to have been left unattended on either
16 public or private property for at least thirty days;

17 (2) not to have been reported stolen;

18 (3) not to have been claimed by any person
19 asserting ownership; and

20 (4) not to have been shown by normal record
21 checking procedures to be owned by any person;

22 B. "access aisle" means an accessible pedestrian
23 space of at least sixty inches in width that allows side
24 access the length of its adjacent designated disabled parking
25 space and is marked with blue striping; provided that van-

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1 accessible access aisles shall be at least ninety-six inches
2 in width;

3 ~~[B-]~~ C. "additional place of business", for
4 dealers and wreckers of vehicles, means locations in addition
5 to an established place of business as defined in Section
6 66-1-4.5 NMSA 1978 and meeting all the requirements of an
7 established place of business, except Paragraph (5) of
8 Subsection B of Section 66-1-4.5 NMSA 1978, but "additional
9 place of business" does not mean a location used solely for
10 storage and that is not used for wrecking, dismantling, sale
11 or resale of vehicles;

12 ~~[C-]~~ D. "alcoholic beverages" means any and all
13 distilled or rectified spirits, potable alcohol, brandy,
14 whiskey, rum, gin, aromatic bitters or any similar alcoholic
15 beverage, including all blended or fermented beverages,
16 dilutions or mixtures of one or more of the foregoing
17 containing more than one-half of one percent alcohol but
18 excluding medicinal bitters; and

19 ~~[D-]~~ E. "authorized emergency vehicle" means any
20 fire department vehicle, police vehicle, ambulance and any
21 emergency vehicles of municipal departments or public
22 utilities that are designated or authorized as emergency
23 vehicles by the director of the New Mexico state police
24 division of the department of public safety or local
25 authorities. "

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1 Section 4. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
2 Chapter 120, Section 5, as amended) is amended to read:

3 "66-1-4.4. DEFINITIONS. -- As used in the Motor Vehicle
4 Code:

5 A. "day" means calendar day, unless otherwise
6 provided in the Motor Vehicle Code;

7 B. "dealer", except as herein specifically
8 excluded, means any person who sells or solicits or advertises
9 the sale of new or used motor vehicles, manufactured homes or
10 trailers subject to registration in this state; "dealer" does
11 not include:

12 (1) receivers, trustees, administrators,
13 executors, guardians or other persons appointed by or acting
14 under judgment, decree or order of any court;

15 (2) public officers while performing their
16 duties as such officers;

17 (3) persons making casual sales of their own
18 vehicles;

19 (4) finance companies, banks and other
20 lending institutions making sales of repossessed vehicles; or

21 (5) licensed brokers under the Manufactured
22 Housing Act who, for a fee, commission or other valuable
23 consideration, engage in brokerage activities related to the
24 sale, exchange or lease purchase of pre-owned manufactured
25 homes on a site installed for a consumer;

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1 C. "declared gross weight" means the maximum gross
2 vehicle weight or combination gross vehicle weight at which a
3 vehicle or combination will be operated during the
4 registration period, as declared by the registrant for
5 registration and fee purposes; the vehicle or combination
6 shall have only one declared gross weight for all operating
7 considerations;

8 D. "department" means the taxation and revenue
9 department, the secretary of taxation and revenue or any
10 employee of the department exercising authority lawfully
11 delegated to that employee by the secretary;

12 E. "designated disabled parking space" means any
13 space marked and reserved for the parking of a passenger
14 vehicle that carries registration plates or a placard
15 indicating disability in accordance with Section 66-3-16 NMSA
16 1978; such a place shall be designated by a conspicuously
17 posted sign bearing the international disabled symbol of a
18 wheelchair [øx] and by a clearly visible depiction of this
19 symbol painted on the pavement of the space and an access
20 aisle adjacent to the space; provided that two designated
21 disabled parking spaces may share a common access aisle;

22 F. "director" means the secretary;

23 G. "disqualification" means a prohibition against
24 driving a commercial motor vehicle;

25 H. "distinguishing number" means the number

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1 assigned by the department to a vehicle whose identifying
2 number has been destroyed or obliterated or the number
3 assigned by the department to a vehicle that has never had an
4 identifying number;

5 I. "distributor" means any person who distributes
6 or sells new or used motor vehicles to dealers and who is not
7 a manufacturer;

8 J. "division", without further specification,
9 "division of motor vehicles" or "motor vehicle division" means
10 the department;

11 K. "driver" means every person who drives or is in
12 actual physical control of a motor vehicle, including a
13 motorcycle, upon a highway, who is exercising control over or
14 steering a vehicle being towed by a motor vehicle or who
15 operates or is in actual physical control of an off-highway
16 motor vehicle;

17 L. "driver's license" means a license or a class
18 of license issued by a state or other jurisdiction to an
19 individual that authorizes the individual to drive a motor
20 vehicle; and

21 M "driveaway-towaway operation" means [any] an
22 operation in which [any] a motor vehicle, new or used, is the
23 item being transported when one set or more of wheels of any
24 such motor vehicle is on the roadway during the course of
25 transportation, whether or not the motor vehicle furnishes the

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1 motive power."

2 Section 5. Section 66-1-4.14 NMSA 1978 (being Laws 1990,
3 Chapter 120, Section 15, as amended) is amended to read:

4 "66-1-4.14. DEFINITIONS. --As used in the Motor Vehicle
5 Code:

6 A. "park" or "parking" means the standing of a
7 vehicle, whether occupied or not, other than temporarily for
8 the purpose of and while actually engaged in loading and
9 unloading;

10 B. "parking lot" means a parking area [~~containing~~
11 ~~fifteen or more parking spaces~~] provided for the [free] use of
12 patrons of any office of state or local government or of any
13 public accommodation, retail or commercial establishment;

14 C. "parts car" means a motor vehicle generally in
15 [~~nonoperable~~] inoperable condition that is owned by a
16 collector to furnish parts that are usually [~~nonobtainable~~]
17 unobtainable from normal sources, thus enabling a collector to
18 preserve, restore and maintain a motor vehicle of historic or
19 special interest;

20 D. "pedestrian" means any natural person on foot;

21 E. "person" means every natural person, firm,
22 copartnership, association, corporation or other legal entity;

23 F. "personal information" means information that
24 identifies an individual, including an individual's
25 photograph, social security number, driver identification

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1 number, name, address other than zip code, telephone number
2 and medical or disability information, but "personal
3 information" does not include information on vehicles, vehicle
4 ownership, vehicular accidents, driving violations or driver
5 status;

6 G. "pneumatic tire" means every tire in which
7 compressed air is designed to support the load;

8 H. "pole trailer" means any vehicle without motive
9 power, designed to be drawn by another vehicle and attached to
10 the towing vehicle by means of a reach or pole or by being
11 boomed or otherwise secured to the towing vehicle and
12 ordinarily used for transporting long or irregularly shaped
13 loads such as poles, structures, pipes and structural members
14 capable, generally, of sustaining themselves as beams between
15 the supporting connections;

16 I. "police or peace officer" means every officer
17 authorized to direct or regulate traffic or to make arrests
18 for violations of the Motor Vehicle Code;

19 J. "private road or driveway" means every way or
20 place in private ownership used for vehicular travel by the
21 owner and those having express or implied permission from the
22 owner, but not other persons; and

23 K. "property owner" means the owner of a piece of
24 land or the agent of that property owner. "

25 Section 6. Section 66-3-16 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 36, as amended) is amended to read:

2 "66-3-16. SEVERE MOBILITY IMPAIRMENT--SPECIAL
3 REGISTRATION PLATES-- [~~DISABLED PERSONS--DISPLAY DEVICE~~]
4 PARKING PLACARDS. --

5 A. The division shall issue distinctive
6 registration plates to any [~~disabled~~] person with severe
7 mobility impairment who so requests and who proves
8 satisfactorily to the division that he has suffered the loss
9 of, or the complete and total loss of use of one or both legs
10 at or above the ankle or of one or both arms at or above the
11 wrist for use on motor vehicles owned by the person. No fee
12 in addition to the regular registration fee, if any,
13 applicable to the motor vehicle shall be collected for
14 issuance of special registration plates pursuant to this
15 section.

16 B. No person shall falsely represent himself to
17 [~~be disabled~~] have a severe mobility impairment or severe
18 visual impairment so as to be eligible to be issued special
19 registration plates or [~~display devices~~] a parking placard
20 pursuant to this section when he is in fact not [~~disabled~~]
21 severely mobility impaired or severely visually impaired.

22 C. Upon notice and opportunity to be heard,
23 scheduled within forty-five days of a complaint filed by the
24 governor's committee on concerns of the handicapped or another
25 concerned person, the division may revoke and demand return of

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1 any placard when it is found that:

- 2 (1) it was issued in error or with false
- 3 information;
- 4 (2) the person receiving the placard is no
- 5 longer eligible; or
- 6 (3) the placard is being used by ineligible
- 7 persons.

8 [~~C-~~] D. Upon written application to the division
9 accompanied by a medical statement by a licensed physician
10 attesting to the [~~disability~~] severe mobility impairment or
11 severe visual impairment, a resident of the state who has a
12 [~~disability~~] severe mobility impairment that limits or impairs
13 the ability to walk [~~as provided in Subsection G of this~~
14 ~~section~~] or a severe visual impairment may apply for and be
15 granted the issuance of [~~a placard~~] not more than two parking
16 placards for display upon a motor vehicle registered to him or
17 motor vehicle owned by another person who is transporting him.
18 The director may charge a reasonable fee to cover the cost of
19 the placard and of its issuance. The fee shall be retained by
20 the division and shall be appropriated to the division for
21 expenditures incurred in the implementation of the placard
22 replacement program. The application shall provide for a
23 certification of permanence of the severe mobility impairment
24 or severe visual impairment that, if indicated by the signing
25 physician, shall preclude the necessity of subsequent medical

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1 certifications on renewals. The application for a parking
2 placard shall be deemed to be a waiver of the doctor-patient
3 privilege of confidentiality to the minimum extent necessary
4 to verify the information contained in the application, and
5 the application shall advise the applicant of this waiver.

6 [D-] E. A parking placard issued pursuant to this
7 section shall expire [~~in no more than two years~~] on the same
8 date that the holder's driver's license or identification card
9 expires.

10 [E-] F. The division shall issue two-sided
11 hanger-style parking placards with the following
12 characteristics:

13 (1) the international symbol of access shall
14 be displayed on both sides of the parking placard and shall be
15 at least three inches in height, centered on the parking
16 placard and white on a blue [~~shield~~] field;

17 (2) [~~an identification number enabling the~~
18 ~~division to identify~~] an indelible imprinting of the driver's
19 license or identification card number of the holder of each
20 parking placard. The division shall maintain this
21 information, including permanence of the severe mobility
22 impairment or severe visual impairment, in a readily
23 retrievable format in the same data base as used for recording
24 driver's license information and make it available on demand
25 to any law enforcement agency or the governor's committee on

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1 concerns of the handicapped;

2 (3) the date of expiration; and

3 (4) the division seal or other identification
4 of the issuing authority.

5 [F-] G. Upon written application to the division
6 accompanied by a medical statement from a licensed physician
7 attesting to a temporary [~~disability~~] severe visual impairment
8 or severe mobility impairment, a person, whether resident or
9 nonresident, who has a temporary [~~disability~~] severe visual
10 impairment or severe mobility impairment that limits or
11 impairs the ability to walk may be issued a temporary parking
12 placard, which shall be distinguishable in color and in
13 appearance from parking placards valid for [~~two~~] four years.
14 The medical statement shall include the period of time that
15 the physician determines the applicant will have the
16 [~~disability~~] severe visual impairment or severe mobility
17 impairment. A temporary parking placard issued pursuant to
18 this section shall be valid no more than six months.

19 [G-] H. For the purpose of obtaining a parking
20 placard, a person with a [~~"disability that limits or impairs~~
21 ~~the ability to walk"~~] "severe mobility impairment" means the
22 person:

23 (1) cannot walk one hundred feet without
24 stopping to rest;

25 (2) cannot walk without the use of a brace, a

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1 cane, a crutch, another person, a prosthetic device, a
2 wheelchair or another assistive device;

3 (3) is restricted by lung disease to such an
4 extent that the person's forced respiratory volume, when
5 exhaling for one second, when measured by spirometry, is less
6 than one liter or the arterial oxygen tension is less than
7 sixty millimeters on room air at rest;

8 (4) uses portable oxygen;

9 (5) has a severe cardiac condition; or

10 (6) is so severely limited in his ability to
11 walk due to an arthritic, neurologic or orthopedic condition
12 that the person cannot ascend or descend more than ten stair
13 steps.

14 I. For the purpose of obtaining a parking placard,
15 "severe visual impairment" means a person who has not more
16 than ten percent visual acuity in his better eye with
17 correction. This means a person who has:

18 (1) not more than twenty/two hundred central
19 visual acuity in his better eye after correction; or

20 (2) a limitation in visual field so that the
21 widest diameter of the visual field subtends an angle no
22 greater than twenty degrees. The person's blindness shall be
23 certified by a duly licensed ophthalmologist, subject to
24 approval of the New Mexico board of medical examiners;

25 [~~H.~~] J. Special registration plates or parking

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1 placards issued to [~~the disabled~~] a person with severe
2 mobility impairment or severe visual impairment by another
3 state or foreign jurisdiction shall be granted reciprocity
4 while the vehicle [~~and disabled operator are~~] or parking
5 placard holder is in this state. [~~for a period not to exceed~~
6 ~~thirty days~~

7 ~~F.]~~ K. All parking placards shall be issued in
8 accordance with this section beginning on July 1, [~~1995~~] 1998.
9 All placards issued prior to July 1, [~~1995 shall expire on~~
10 ~~July 1~~] 1996 are void. Two-year placards issued between July
11 1, 1996 and July 1, 1998 shall be renewed for a period to
12 expire on the same date as the holder's driver's license
13 expires. "

14 Section 7. Section 66-3-16.1 NMSA 1978 (being Laws 1995,
15 Chapter 129, Section 2) is amended to read:

16 "66-3-16.1. PROVIDING FALSE INFORMATION-- FALSE USE OF
17 PLACARD-- PENALTY-- PLACARD CONFISCATED. --

18 A. Any person who provides false information in
19 order to acquire, or who assists an unqualified person in
20 acquiring, a special registration plate or [~~special~~] parking
21 placard as provided in Section 66-3-16 NMSA 1978 is guilty of
22 a misdemeanor and shall be sentenced pursuant to the
23 provisions of Section [~~31-19-1~~] 66-8-7 NMSA 1978.

24 B. A person who uses a parking placard to park in
25 a designated disabled parking space and is neither the holder

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1 of the parking placard nor assisting in the transportation of
2 the holder is guilty of a misdemeanor and shall be sentenced
3 pursuant to the provisions of Section 66-8-7 NMSA 1978. When
4 a law enforcement officer finds that a person is using a
5 parking placard that does not belong to him or his passenger,
6 the officer may confiscate the placard. The law enforcement
7 agency shall return the parking placard to the division. The
8 division shall hold the parking placard until it receives a
9 written request for its return from the parking placard
10 holder. The division shall retain a record of the
11 identification numbers of confiscated parking placards.
12 Failure to surrender the parking placard on demand of a law
13 enforcement officer is a petty misdemeanor and punishable by a
14 fine not to exceed one hundred dollars (\$100). "

15 Section 8. Section 66-5-408 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 335, as amended) is amended to read:

17 "66-5-408. FEES. --

18 A. Upon application for an identification card,
19 there shall be paid to the division a fee of five dollars
20 (\$5.00), but no fee shall be charged to an applicant for an
21 identification card if the applicant is at least seventy-five
22 years of age or eligible for a registration plate or parking
23 placard pursuant to Section 66-3-16 NMSA 1978.

24 B. The department with the approval of the
25 governor may increase the amount of the identification card

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1 fee by an amount not to exceed three dollars (\$3.00) for the
2 purpose of implementing an enhanced licensing system. The
3 additional amounts collected pursuant to this subsection are
4 appropriated to the division to defray the expense of the new
5 system of licensing. "

6 Section 9. Section 66-7-352.4 NMSA 1978 (being Laws
7 1983, Chapter 45, Section 4) is amended to read:

8 "66-7-352.4. PARKING LOTS--STANDARDS. --

9 A. Every parking lot coming under the provisions
10 of the Disabled Parking Standards and Enforcement Act shall
11 have designated disabled parking spaces, including access
12 aisles, as provided in Subsection B of this section [~~provided~~
13 ~~that an office of state or local government shall have a~~
14 ~~minimum of one such parking space~~]. No building permit shall
15 be issued by the state or any local government for the
16 construction or substantial renovation of a commercial
17 building inviting public access unless the parking lot has
18 designated disabled parking spaces as delineated in Subsection
19 B of this section.

20 B. The minimum numbers of designated disabled
21 parking spaces are as follows:

TOTAL SPACES IN PARKING LOT	MINIMUM DESIGNATED DISABLED PARKING SPACES
[0 to 14	0
15] <u>1</u> to 25	1

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1	26 to 35	2
2	36 to 50	3
3	51 to 100	4
4	101 to 300	8
5	301 to 500	12
6	501 to 800	16
7	801 to 1,000	20
8	more than 1,000	20, plus [3] <u>1</u>
9		for each
10		additional
11		[1,000] <u>100</u> .

The designated disabled parking spaces shall be located so as to provide the most convenient access to entrance ways or to the nearest curb cut. One of every eight designated disabled parking spaces, but not less than one, shall be designated as van accessible.

C. In parking lots with five or fewer parking spaces, one accessible parking space shall be provided but need not be designated by sign and pavement painting. Use of the undesignated accessible parking space by a vehicle without a special registration plate or parking placard shall not be a violation of Section 66-7-352.5 NMSA 1978. "

Section 10. Section 66-7-352.5 NMSA 1978 (being Laws 1983, Chapter 45, Section 5, as amended) is amended to read:

"66-7-352.5. UNAUTHORIZED USE--PENALTY.-- [A.] It is

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1 unlawful for any person to park a motor vehicle not carrying
2 special registration plates or a parking placard indicating
3 [~~disability~~] severe mobility impairment or severe visual
4 impairment in accordance with Section 66-3-16 NMSA 1978 in a
5 designated disabled parking space [~~or blocking a curb cut~~].
6 It is unlawful for any person to park a vehicle with or
7 without a special registration plate or parking placard in a
8 position that blocks a curb cut or access aisle. Any person
9 who violates this subsection is subject to a [~~fifty-dollar~~
10 ~~(\$50.00)~~] minimum three hundred dollar (\$300) fine and the
11 vehicle may be towed at the owner's expense.

12 [~~B. A person charged with a violation of Subsection~~
13 ~~A of this section shall not be determined to have committed an~~
14 ~~infraction if he produces in court special disabled~~
15 ~~registration plates or a placard indicating disability in~~
16 ~~accordance with Section 66-3-16 NMSA 1978 or demonstrates he~~
17 ~~was entitled to such at the time of the violation.]"~~

18 Section 11. EFFECTIVE DATE. -- The effective date of the
19 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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5 January 30, 1998
6

7 Mr. President:
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9 Your COMMITTEES' COMMITTEE, to whom has been referred
10

11 SENATE BILL 58
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13 has had it under consideration and finds same to be NOT GERMANE.
14

15 Respectfully submitted,
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21 Manny M. Aragon, Chairman
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25 Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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5 January 30, 1998
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11 SENATE BILL 58
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