

AN ACT

RELATING TO DISABILITIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO EXPAND PARKING FOR PERSONS WITH SEVERE MOBILITY IMPAIRMENT; PROVIDING FOR ENFORCEMENT OF CERTAIN PARKING PRIVILEGES; CREATING PENALTIES.

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

Section 1. SHORT TITLE.--Sections 1 and 2 of this act may be cited as the "Parking Placard Abuse Act".

Section 2. PROGRAM CREATED.--The "placard abuse prevention program" is created in the governor's committee on concerns of the handicapped to ensure compliance with statutes affecting parking privileges for persons with severe mobility impairment and safe and effective use of designated disabled parking space. The committee shall design and implement a program to:

A. monitor the system of eligibility for and use of parking placards and special registration plates;

B. provide public awareness education and training to address barriers to the appropriate use of designated disabled parking space;

C. pursue efforts to reduce abuse and misuse of designated disabled parking space privileges, including revocation of parking placards and special registration plates; and

D. provide education, training and technical assistance to local law enforcement agencies and volunteers on enforcement of statutes affecting use of designated disabled parking space.

Section 3. Section 3-51-46 NMSA 1978 (being Laws 1973,

Chapter 22, Section 3) is amended to read:

"3-51-46. PASSENGER MOTOR VEHICLE OF DISABLED PERSON--
PARKING PRIVILEGE.--Passenger motor vehicles owned by and
carrying disabled persons and displaying special
registration plates, or passenger motor vehicles carrying
persons with severe mobility impairment and displaying
parking placards, issued pursuant to Section 66-3-16 NMSA
1978 shall be permitted to park for unlimited periods of
time in parking zones restricted as to length of time
parking is normally permitted and are exempt from payment of
any parking fee of the state or its political subdivisions.
The provisions of this section shall prevail over any other
law, rule or local ordinance but do not apply to zones where
stopping, standing or parking is prohibited, zones reserved
for special types of vehicles, zones where parking is
prohibited during certain hours of the day in order to
facilitate traffic during those hours when parking is
prohibited and zones subject to similar regulation because
parking presents a traffic hazard."

Section 4. Section 66-1-4.1 NMSA 1978 (being Laws
1990, Chapter 120, Section 2) is amended to read:

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

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

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

(2) not to have been reported stolen;

(3) not to have been claimed by any person

asserting ownership; and

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

B. "access aisle" means a space designed to allow a person with severe mobility impairment to safely exit and enter a motor vehicle and that is immediately adjacent to a designated disabled parking space and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked with blue striping;

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

D. "alcoholic beverages" means any and all distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol but excluding medicinal bitters; and

E. "authorized emergency vehicle" means any fire department vehicle, police vehicle, ambulance and any emergency vehicles of municipal departments or public

utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or local authorities."

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

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

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

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

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

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

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

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

(5) licensed brokers under the Manufactured Housing Act who, for a fee, commission or other valuable consideration, engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured

homes on a site installed for a consumer;

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

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

E. "designated disabled parking space" means any space, including an access aisle, marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978, and designated by a conspicuously posted sign bearing the international disabled symbol of a wheelchair and if paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space;

F. "director" means the secretary;

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

H. "distinguishing number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number;

I. "distributor" means any person who distributes

or sells new or used motor vehicles to dealers and who is not a manufacturer;

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

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

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

M. "driveaway-towaway operation" means any operation in which any motor vehicle, new or used, is the item being transported when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power."

Section 6. Section 66-1-4.14 NMSA 1978 (being Laws 1990, Chapter 120, Section 15, as amended) is amended to read:

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

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

B. "parking lot" means a parking area provided for the use of patrons of any office of state or local government or of any public accommodation, retail or commercial establishment;

C. "parts car" means a motor vehicle generally in nonoperable condition that is owned by a collector to furnish parts that are usually nonobtainable from normal sources, thus enabling a collector to preserve, restore and maintain a motor vehicle of historic or special interest;

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

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

F. "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address other than zip code, telephone number and medical or disability information, but "personal information" does not include information on vehicles, vehicle ownership, vehicular accidents, driving violations or driver status;

G. "placard" or "parking placard" means a card-like device that identifies the vehicle as being currently in use to transport a person with severe mobility impairment and issued pursuant to Section 66-3-16 NMSA 1978 to be displayed inside a motor vehicle so as to be readily visible to an observer outside the vehicle;

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

I. "pole trailer" means any vehicle without

motive power, designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, structures, pipes and structural members capable, generally, of sustaining themselves as beams between the supporting connections;

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

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

L. "property owner" means the owner of a piece of land or the agent of that property owner."

Section 7. Section 66-3-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 36, as amended) is amended to read:

"66-3-16. SPECIAL REGISTRATION PLATES--DISABLED PERSONS--PARKING PLACARD.--

A. The division shall issue distinctive registration plates to any disabled person who so requests and who proves satisfactorily to the division that he has suffered the loss, or the complete and total loss of use of, one or both legs at or above the ankle or of one or both arms at or above the wrist for use on motor vehicles owned by the person. No fee in addition to the regular registration fee, if any, applicable to the motor vehicle shall be collected for issuance of special registration plates pursuant to this section.

B. No person shall falsely represent himself to be disabled so as to be eligible to be issued a special registration plate or a parking placard pursuant to this section when he is in fact not disabled. Upon notice and opportunity to be heard, the division may revoke and demand return of any placard when:

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

C. Upon written application to the division accompanied by a medical statement by a licensed physician attesting to the permanent disability, a resident of the state who has a disability that limits or impairs the ability to walk, as provided in Subsection G of this section, may apply for and be granted the issuance of no more than two parking placards for display upon a motor vehicle registered to him or motor vehicle owned by another person who is transporting him. The physician shall provide the division all information and records necessary to issue a permanent parking placard. Once approved for use of a permanent parking placard, a person shall not be required to furnish further medical information about his mobility impairment.

D. A parking placard issued pursuant to this section shall expire on the same date the person's license or identification card issued pursuant to Section 66-5-401 NMSA 1978 expires.

E. The division shall issue two-sided hanger-style parking placards with the following characteristics:

(1) the international symbol of access shall be displayed on both sides of the placard and shall be at least three inches in height, centered on the placard and white on a blue field;

(2) an identification number enabling the division to identify the holder of each placard. The division shall maintain this information in a readily retrievable format, provide it to the governor's committee on concerns of the handicapped and make it available on demand to any law enforcement agency just as it provides vehicle registration and driver's license information;

(3) the date of expiration; and

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

F. Upon written application to the division accompanied by a medical statement from a licensed physician attesting to a temporary disability, a person who has a temporary disability that limits or impairs the ability to walk may be issued a temporary placard for no more than one year. The physician shall provide the division all information and records necessary to issue a temporary placard.

G. For the purpose of obtaining a placard, a person with a "severe mobility impairment" means the person:

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

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

a cane, a crutch, assistance from another person, a prosthetic device, a wheelchair or another assistive device;

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

(4) uses portable oxygen;

(5) has a severe cardiac condition; or

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

H. Special registration plates or placards issued to a person with severe mobility impairment by another state or foreign jurisdiction shall be honored until the vehicle is registered or the placard holder establishes residency in this state.

I. All parking placards issued on or after July 1, 1999 shall be issued in accordance with the provisions of this section."

Section 8. Section 66-3-16.1 NMSA 1978 (being Laws 1995, Chapter 129, Section 2) is amended to read:

"66-3-16.1. PROHIBITED ACTS--PENALTIES.--

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

B. Any person, other than the person to whom a special registration plate or a parking placard was issued, who in the absence of the holder of the plate or placard, parks in a designated disabled parking space while displaying the plate or placard, is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. A special registration plate or parking placard displayed on a vehicle parked in a designated disabled parking space in the absence of the holder of that plate or placard, is subject to immediate seizure by a law enforcement official and if seized shall be delivered to the division within seventy-two hours. Failure to surrender the parking placard on demand of a law enforcement officer is a petty misdemeanor and punishable by a fine not to exceed one hundred dollars (\$100)."

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

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

A. Every parking lot coming under the provisions of the Disabled Parking Standards and Enforcement Act shall have designated disabled parking spaces as provided in Subsection B of this section. No building permit shall be issued by any local government for the construction or substantial renovation of a commercial building inviting public access unless the parking lot has designated disabled parking spaces as delineated in Subsection B of this section.

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

TOTAL SPACES IN PARKING LOT	MINIMUM DESIGNATED DISABLED PARKING SPACES
1 to 25	1
26 to 35	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
more than 1,000	20, plus 1 for each 100 over 1,000.

The designated disabled parking spaces shall be located so as to provide the most convenient access to entranceways or to the nearest curb cut. Every parking lot shall have at least one designated disabled parking space designed to accommodate a motor vehicle passenger van, and there shall be a minimum of one such space for every eight designated disabled parking spaces."

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--PENALTIES.--

A. It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard issued pursuant to Section 66-3-16 NMSA 1978 in a designated disabled parking space.

B. It is unlawful for any person to park a motor vehicle in such a manner so as to block access to any part of a curb cut designed for access by persons with severe

mobility impairment.

C. Any person convicted of violating Subsection A or B of this section is subject to a fine of not less than one hundred dollars (\$100) or more than three hundred dollars (\$300). Failure to properly display a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A or B of this section.

D. A vehicle parked in violation of Subsection A or B of this section is subject to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel or by the property owner or manager of a parking lot." _____
