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HOUSE BILL 145

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Delores C. Wright

AN ACT

RELATING TO PERSONS WITH DISABILITIES; PROVIDING FOR PARKING FOR THE SEVERELY MOBILITY IMPAIRED; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. 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 [~~disabled~~] persons with severe mobility impairment and carrying special registration plates or passenger motor vehicles carrying persons with severe mobility impairment and displaying parking placards issued pursuant to Section [~~64-3-12.3 NMSA 1953~~] 66-3-16 NMSA 1978 shall be permitted to park for unlimited periods of time in parking zones restricted

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1 as to length of time parking is normally permitted and are
2 exempt from payment of any parking meter or parking
3 authorization fee of the state or its political subdivisions.
4 The provisions of this section shall prevail over any other
5 law, regulation or local ordinance but do not apply to zones
6 where stopping, standing or parking is prohibited, zones
7 reserved for special types of vehicles, zones where parking is
8 prohibited during certain hours of the day in order to
9 facilitate traffic during those hours when parking is
10 prohibited and zones subject to similar regulation because
11 parking presents a traffic hazard. "

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

14 "66-1-4.1. DEFINITIONS. --As used in the Motor Vehicle
15 Code:

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

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

21 (2) not to have been reported stolen;

22 (3) not to have been claimed by any person
23 asserting ownership; and

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

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1 B. "access aisle" means an accessible pedestrian
2 space of at least sixty inches in width that allows side
3 access the length of its adjacent designated disabled parking
4 space and is marked with blue striping; provided that van-
5 accessible access aisles shall be at least ninety-six inches
6 in width;

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

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

23 [~~D.-~~] E. "authorized emergency vehicle" means any
24 fire department vehicle, police vehicle, ambulance and any
25 emergency vehicles of municipal departments or public

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

5 Section 3. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
6 Chapter 120, Section 5, as amended) is amended to read:

7 "66-1-4.4. DEFINITIONS. -- As used in the Motor Vehicle
8 Code:

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

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

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

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

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

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

25 (5) licensed brokers under the Manufactured

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1 Housing Act who, for a fee, commission or other valuable
2 consideration, engage in brokerage activities related to the
3 sale, exchange or lease purchase of pre-owned manufactured
4 homes on a site installed for a consumer;

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

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

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

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1 may share a common aisle;

2 F. "director" means the secretary;

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

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

10 I. "distributor" means any person who distributes
11 or sells new or used motor vehicles to dealers and who is not
12 a manufacturer;

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

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

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

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

7 Section 4. Section 66-1-4.14 NMSA 1978 (being Laws 1990,
8 Chapter 120, Section 15, as amended) is amended to read:

9 "66-1-4.14. DEFINITIONS. --As used in the Motor Vehicle
10 Code:

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

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

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

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

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

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

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

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

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

24 J. "private road or driveway" means every way or
25 place in private ownership used for vehicular travel by the

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1 owner and those having express or implied permission from the
2 owner, but not other persons; and

3 K. "property owner" means the owner of a piece of
4 land or the agent of that property owner."

5 Section 5. Section 66-3-16 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 36, as amended) is amended to read:

7 "66-3-16. SEVERE MOBILITY IMPAIRMENT--SPECIAL
8 REGISTRATION PLATES-- [~~DISABLED PERSONS--DISPLAY DEVICE~~]
9 PARKING PLACARDS. --

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

21 B. No person shall falsely represent himself to
22 [~~be disabled~~] have a severe mobility impairment so as to be
23 eligible to be issued special registration plates or [~~display~~
24 ~~devices~~] a parking placard pursuant to this section when he is
25 in fact not [~~disabled~~] severely mobility impaired.

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1 Upon notice and opportunity to be heard, the [~~division~~
2 department may revoke and demand return of any placard when:

3 (1) it was issued in error or with false
4 information;

5 (2) the person receiving the placard is no
6 longer eligible; or

7 (3) the placard is being used by ineligible
8 persons.

9 C. Upon written application to the [~~division~~
10 department accompanied by a medical statement by a licensed
11 physician or other licensed health care provider authorized by
12 rule of the governor's committee on concerns of the
13 handicapped to provide such medical statements attesting to
14 the [~~disability~~] severe mobility impairment, a resident of the
15 state who has a [~~disability~~] severe mobility impairment that
16 limits or impairs the ability to walk, as provided in
17 [~~Subsection 6 of~~] this section, may apply for and be granted
18 the issuance of [~~a placard~~] not more than two parking placards
19 for display upon a motor vehicle registered to him or motor
20 vehicle owned by another person who is transporting him. [~~The~~
21 ~~director may charge a reasonable fee to cover the cost of the~~
22 ~~placard and of its issuance. The fee shall be retained by the~~
23 ~~division and shall be appropriated to the division for~~
24 ~~expenditures incurred in the implementation of the placard~~
25 ~~replacement program.~~] The medical statement shall distinguish

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1 between a chronic severe mobility impairment that will remain
2 unchanged or worsen during the lifetime of the applicant and a
3 non-chronic severe mobility impairment that may improve or be
4 ameliorated during the lifetime of the applicant. When the
5 medical statement identifies the applicant as having a chronic
6 severe mobility impairment, the applicant shall be allowed to
7 renew his placard and no additional medical statement shall be
8 required. The application for a parking placard shall be
9 deemed to be a waiver of the doctor-patient privilege of
10 confidentiality to the minimum extent necessary to verify the
11 information contained in the application, and the application
12 shall advise the applicant of this waiver.

13 D. A parking placard issued pursuant to this
14 section [~~shall expire in no more than two years~~] on or after
15 July 1, 1999 shall be valid for no more than four years and
16 shall expire on the last day of the applicant's birth month.

17 E. The [~~division~~] department shall issue two-sided
18 hanger-style parking placards with the following
19 characteristics:

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

24 (2) an identification number enabling the
25 [~~division~~] department to identify the holder of each parking

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1 placard. The [~~division~~] department shall maintain this
2 information in a readily retrievable format and make it
3 available on demand to any law enforcement agency or the
4 governor's committee on concerns of the handicapped;

- 5 (3) the date of expiration; and
- 6 (4) the [~~division~~] department seal or other
7 identification of the issuing authority.

8 F. Upon written application to the [~~division~~]
9 department accompanied by a medical statement from a licensed
10 physician or other licensed health care provider authorized by
11 rule of the governor's committee on concerns of the
12 handicapped to provide such medical statements attesting to a
13 temporary [~~disability~~] severe mobility impairment, a person
14 who has a temporary [~~disability~~] severe mobility impairment
15 that limits or impairs the ability to walk may be issued a
16 temporary parking placard [~~which shall be distinguishable in~~
17 ~~appearance from placards valid for two years~~]. The medical
18 statement shall include the period of time that the
19 [~~physician~~] health care provider determines the applicant will
20 have the [~~disability~~] severe mobility impairment. A temporary
21 parking placard issued pursuant to this section shall be valid
22 for no more than six months.

23 G. For the purpose of obtaining a placard, a
24 person with a [~~"disability that limits or impairs the ability~~
25 ~~to walk"~~] severe mobility impairment means the person:

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- 1 (1) cannot walk one hundred feet without
- 2 stopping to rest;
- 3 (2) cannot walk without the use of a brace, a
- 4 cane, a crutch, another person, a prosthetic device, a
- 5 wheelchair or another assistive device;
- 6 (3) is restricted by lung disease to such an
- 7 extent that the person's forced respiratory volume, when
- 8 exhaling for one second, when measured by spirometry, is less
- 9 than one liter or the arterial oxygen tension is less than
- 10 sixty millimeters on room air at rest;
- 11 (4) uses portable oxygen;
- 12 (5) has a severe cardiac condition; or
- 13 (6) is so severely limited in his ability to
- 14 walk due to an arthritic, neurologic or orthopedic condition
- 15 that the person cannot ascend or descend more than ten stair
- 16 steps.

17 H. Special registration plates or placards issued
18 to ~~[the disabled]~~ a person with severe mobility impairment by
19 another state or foreign jurisdiction shall be granted
20 reciprocity while the vehicle ~~[and disabled operator are]~~ or
21 parking placard holder is in this state ~~[for a period not to~~
22 ~~exceed thirty days]~~.

23 I. All parking placards ~~[shall be]~~ issued ~~[in~~
24 ~~accordance with this section beginning on July 1, 1995.~~ All
25 ~~placards issued prior to July 1, 1995 shall expire on July 1,~~

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1 ~~1996]~~ on or after July 1, 1999 shall be issued in accordance
2 with the provisions of this section."

3 Section 6. Section 66-3-16.1 NMSA 1978 (being Laws 1995,
4 Chapter 129, Section 2) is amended to read:

5 "66-3-16.1. PROVIDING FALSE INFORMATION--PENALTY.--

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

12 B. A person who uses a parking placard to park in
13 a designated disabled parking space and is neither the holder
14 of the parking placard nor assisting in the transportation of
15 the holder is guilty of a misdemeanor and shall be sentenced
16 pursuant to the provisions of Section 66-8-7 NMSA 1978. When
17 a law enforcement officer finds that a person is using a
18 parking placard that does not belong to him or his passenger,
19 the officer may confiscate the placard. The law enforcement
20 agency shall return the parking placard to the department.
21 The department shall hold the parking placard until the
22 department receives a written request for the parking
23 placard's return from the parking placard holder. Failure to
24 surrender the parking placard on demand of a law enforcement
25 officer is a petty misdemeanor and punishable by a fine not to

1 exceed one hundred dollars (\$100). "

2 Section 7. Section 66-7-352.4 NMSA 1978 (being Laws
3 1983, Chapter 45, Section 4) is amended to read:

4 "66-7-352.4. PARKING LOTS--STANDARDS. --

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

16 B. The minimum numbers of designated disabled
17 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
26 to 35	2
36 to 50	3
51 to 100	4

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

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

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

20 Section 8. Section 66-7-352.5 NMSA 1978 (being Laws
21 1983, Chapter 45, Section 5, as amended) is amended to read:

22 "66-7-352.5. UNAUTHORIZED USE--PENALTY.-- [A.] It is
23 unlawful for any person to park a motor vehicle not carrying
24 registration plates or a parking placard indicating
25 [~~disability~~] severe mobility impairment in accordance with

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1 Section 66-3-16 NMSA 1978 in a designated disabled parking
2 space [~~or blocking a curb cut~~]. It is unlawful for any person
3 to park a vehicle with or without a special registration plate
4 or parking placard in a position that blocks a curb cut or
5 access aisle. Any person who violates this subsection is
6 subject to a [~~fifty dollar (\$50.00)~~] one hundred dollar (\$100)
7 fine

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

15 Section 9. Section 66-8-116 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 524, as amended) is amended to read:

17 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
18 DEFINITION--SCHEDULE OF ASSESSMENTS.--

19 A. As used in the Motor Vehicle Code, "penalty
20 assessment misdemeanor" means violation of any of the
21 following listed sections of the NMSA 1978 for which the
22 listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Permitting unlicensed		
minor to drive	66-5-40	\$ 10.00

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1	Failure to obey sign	66- 7- 104	10. 00
2	Failure to obey signal	66- 7- 105	10. 00
3	Speeding	66- 7- 301	
4	(1) up to		
5	and including ten		
6	miles an hour		
7	over speed limit		15. 00
8	(2) from eleven up to		
9	and including fifteen		
10	miles an hour		
11	over speed limit		30. 00
12	(3) from sixteen up to		
13	and including twenty		
14	miles an hour over		
15	speed limit		65. 00
16	(4) from twenty-one up to		
17	and including twenty-five		
18	miles an hour		
19	over speed limit		100. 00
20	(5) from twenty-six up to		
21	and including thirty		
22	miles an hour over the		
23	speed limit		125. 00
24	(6) from thirty-one up to		
25	and including thirty-five		

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1	miles an hour over the		
2	speed limit		150.00
3	(7) more than thirty-five		
4	miles an hour over the		
5	speed limit		200.00
6	Unfastened safety belt	66-7-372	25.00
7	Child not in restraint device		
8	or seat belt	66-7-369	25.00
9	Minimum speed	66-7-305	10.00
10	Speeding	66-7-306	15.00
11	Improper starting	66-7-324	10.00
12	Improper backing	66-7-354	10.00
13	Improper lane	66-7-308	10.00
14	Improper lane	66-7-313	10.00
15	Improper lane	66-7-316	10.00
16	Improper lane	66-7-317	10.00
17	Improper lane	66-7-319	10.00
18	Improper passing	66-7-309 through 66-7-312	10.00
19	Improper passing	66-7-315	10.00
20	Controlled access		
21	violation	66-7-320	10.00
22	Controlled access		
23	violation	66-7-321	10.00
24	Improper turning	66-7-322	10.00
25	Improper turning	66-7-323	10.00

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1	Improper turning	66-7-325	10.00
2	Following too closely	66-7-318	10.00
3	Failure to yield	66-7-328 through 66-7-332	10.00
4	Failure to yield	66-7-332.1	25.00
5	Pedestrian violation	66-7-333	10.00
6	Pedestrian violation	66-7-340	10.00
7	Failure to stop	66-7-341 through 66-7-346	10.00
8	Passing school bus	66-7-347	100.00
9	Failure to signal	66-7-325 through 66-7-327	10.00
10	Failure to secure load	66-7-407	100.00
11	Operation without oversize-		
12	overweight permit	66-7-413	50.00
13	Improper equipment	66-3-801	10.00
14	Improper equipment	66-3-901	20.00
15	Improper emergency		
16	signal	66-3-853 through 66-3-857	10.00
17	Operation interference	66-7-357	5.00
18	Litterbugging	30-8-4	50.00
19	Litterbugging	30-8-10	100.00
20	Litterbugging	66-7-364	100.00
21	Improper parking	66-7-349 through	
22		66-7-352 and 66-7-353	5.00
23	Improper parking	66-7-352.5	[50.00] <u>100.00</u>
24	Improper parking	66-3-852	5.00
25	Failure to dim lights	66-3-831	10.00

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1	Riding in or towing		
2	occupied house trailer	66-7-366	5.00
3	Improper opening of doors	66-7-367	5.00
4	No slow-moving vehicle		
5	emblem or flashing		
6	amber light	66-3-887	5.00
7	Open container - first		
8	violation	66-8-138	25.00.

9 B. The term "penalty assessment misdemeanor" does
10 not include any violation that has caused or contributed to
11 the cause of an accident resulting in injury or death to any
12 person.

13 C. When an alleged violator of a penalty assessment
14 misdemeanor elects to accept a notice to appear in lieu of a
15 notice of penalty assessment, no fine imposed upon later
16 conviction shall exceed the penalty assessment established for
17 the particular penalty assessment misdemeanor and no probation
18 imposed upon a suspended or deferred sentence shall exceed
19 ninety days. "

20 Section 10. A new section of the Motor Vehicle Code is
21 enacted to read:

22 " [NEW MATERIAL] LONG-TERM CARE FACILITY PARKING
23 PLACARDS--ELIGIBILITY--REQUIRED REPORTS.--

24 A. Upon application satisfactory to the department,
25 an administrator of a long-term care facility licensed by the

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1 department of health may be granted one parking placard for
2 each long-term care facility under his direct supervision in
3 the state for use in the transport of persons with severe
4 mobility impairment in situations in which it is impractical
5 for the person being transported to obtain and use his own
6 parking placard.

7 B. A long-term care facility parking placard shall
8 expire annually on the last day of the month in which it was
9 issued.

10 C. A long-term care facility parking placard may be
11 renewed upon application to the department if the
12 administrator of the long-term care facility provides the
13 information reasonably requested by the department, including
14 the number of persons with severe mobility impairments and the
15 number of persons without severe mobility impairments
16 transported in the year prior to renewal. The information may
17 be provided by the department to the governor's committee on
18 concerns of the handicapped.

19 D. A person who uses a long-term care facility's
20 parking placard when not engaged in the transport of a person
21 with severe mobility impairment or an administrator who
22 knowingly allows such use of the parking placard in violation
23 of Subsection A of this section is guilty of a misdemeanor and
24 shall be sentenced pursuant to the provisions of Section
25 66-8-7 NMSA 1978. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 23, 1999

7
8 Mr. Speaker:

9
10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 145

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE
18 SUBSTITUTE FOR HOUSE BILL 145

19
20 DO PASS, and thence referred to the JUDICIARY
21 COMMITTEE.

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Respectfully submitted,

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Patsy Trujillo Knauer, Chairwoman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Hawkins

Absent: None

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HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

HOUSE BILL 145

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 3 of this act may be cited as the "Parking Placard Abuse Act".

Section 2. [NEW MATERIAL] 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. [NEW MATERIAL] LOCAL ENFORCEMENT PROGRAMS-- VOLUNTEERS-- TRAINING. --

A. Municipalities and counties may establish programs that include the use of trained volunteers for enforcement of state statutes and local ordinances on designated disabled parking space.

B. Prior to issuing citations, volunteers shall receive a minimum of sixteen hours of training in the specifics of enforcement of parking statutes and ordinances, including behavioral training for dealing with the public in stressful circumstances, and shall be issued a certificate if deemed to have successfully completed the training.

C. If a volunteer provides less than fifty hours service per year he shall be required to be recertified on a biennial basis by completing a four-hour refresher course, to ensure familiarity with citation procedures and any changes in statutes or ordinances.

D. Volunteers shall wear a distinctive laminated shield, designed by the governor's committee on concerns of the handicapped, to include personal photo and local government identification indicating authority to issue

1 parking placard violation citations. Volunteers shall not
2 wear a uniform.

3 E. Volunteers are not peace officers or law
4 enforcement officers as defined in Chapter 29 NMSA 1978 and
5 are not authorized to make arrests or to detain individuals
6 and are prohibited from carrying or using weapons of any sort
7 in carrying out their designated responsibilities.

8 F. Volunteers are authorized to issue citations only
9 for the enforcement of the provisions of Sections 3-51-46, 66-
10 3-16, 66-3-16.1, 66-7-352.4 and 66-7-352.5 NMSA 1978. If a
11 volunteer cannot place the citation securely on the windshield
12 of a vehicle, he shall assist the local law enforcement agency
13 to ensure the citation is mailed to the registered owner of
14 the vehicle.

15 Section 4. Section 3-51-2 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-52-2, as amended) is amended to read:

17 "3-51-2. FINDING AND DECLARATION OF NECESSITY.--It is
18 hereby declared that:

19 A. there ~~[exists]~~ exist in cities in the state of
20 New Mexico serious conditions of congestion of street traffic
21 preventing free circulation of traffic, obstructing access to
22 and use of both public and private property, increasing
23 traffic hazards, impeding rapid and effective fighting of
24 fires and the disposition of police forces and endangering the
25 public peace, health and safety;

26 B. ~~[this condition is]~~ these conditions are caused
27 in substantial part by insufficiency of space or
28 accommodations for the parking of motor vehicles off the

1 public streets;

2 C. the installation of parking meters and the
3 establishment of additional parking facilities, together with
4 all undertakings incidental or advantageous thereto, for the
5 improvement of traffic control and regulation are public uses
6 and purposes for which [~~public~~] public money may be spent and
private property acquired;

7 D. projects for such purposes will, in addition,
8 confer special benefits on property within their environs;
9 [~~and~~]

10 E. it is in the public interest that work on
11 projects for such purposes be commenced as soon as possible in
12 order to relieve traffic congestion; and

13 F. the public interest is best served by the
14 exclusive use of designated disabled parking spaces by persons
15 eligible for and displaying special registration plates or
16 parking placards issued pursuant to Section 66-3-16 NMSA 1978;
17 that municipal law enforcement personnel do not have
18 sufficient time to devote to enforcement of statutes and
19 ordinances relating to designated disabled parking spaces for
20 persons with severe mobility impairment; and that volunteers
21 trained specifically for that purpose can best ensure
22 appropriate use of such parking spaces, both on public and
23 private property, through issuance of parking citations.

24 The necessity in the public interest for the provisions
25 [~~hereinafter~~] by the Greater Municipality Parking Law
is hereby declared as a matter of legislative determination."

Section 5. Section 3-51-5 NMSA 1978 (being Laws 1965,

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1 Chapter 300, Section 14-52-5) is amended to read:

2 "3-51-5. POWERS OF CITY. -- Every city shall have all the
3 powers necessary, convenient, desirable or appropriate to
4 carry out the purposes and provisions of the Greater
5 Municipality Parking Law, including the following powers in
6 addition to other powers conferred by the Greater Municipality
7 Parking Law to:

8 A. [~~to~~] purchase and install, maintain, regulate,
9 operate and manage parking meters and parking spaces upon the
10 streets of the city;

11 B. [~~to~~] purchase, acquire, lease, rent, construct,
12 reconstruct, improve, alter, repair, maintain, operate and
13 manage parking facilities for the parking of motor vehicles
14 off the public streets, together with public rights of way
15 necessary or convenient [~~therefor~~] for the parking facilities,
16 including the leasing of the operation [~~thereof~~] of the
17 parking facilities and including the leasing of a portion of
18 the space at any such parking facility to private operators
19 for commercial purposes when in the judgment of the governing
20 body it is convenient or necessary to permit such leasing in
21 order to utilize the balance of the property as a parking
22 facility;

23 C. [~~to~~] purchase, acquire by gift, grant, bequest or
24 devise or otherwise any real or personal property or any
25 interest therein, together with the improvement thereon, to be
used as parking facilities or incident [~~thereto~~] to parking
facilities;

D. [~~to~~] insure or provide for the insurance of any

1 parking facility established by the city against such risks
2 and hazards as the city may deem advisable;

3 E. ~~It~~ acquire by the exercise of the power of
4 eminent domain any real property or personal property or any
5 interest therein which it deems necessary for its purposes
6 under the Greater Municipality Parking Law after the adoption
7 by it of an ordinance declaring that its acquisition is
8 necessary for such purposes. This power shall be exercised in
9 the manner provided by any applicable statutory provisions and
10 laws of the state of New Mexico and acts amendatory thereof or
11 supplementary thereto. Title to property so acquired shall be
12 taken in the name of the city;

12 F. ~~It~~ sell, lease, exchange, transfer, assign or
13 otherwise dispose of any real or personal property or any
14 interest therein acquired for the purpose of the Greater
15 Municipality Parking Law; ~~and~~

15 G. ~~It~~ receive, control, invest and order the
16 expenditure of any and all ~~moneys~~ money and funds pertaining
17 to parking facilities and parking meters or related properties
18 if the same are not otherwise committed; and

19 H. authorize and implement a program for use of
20 trained volunteers to enforce statutes and municipal
21 ordinances relating to parking accommodations for persons with
22 severe mobility impairment, pursuant to the Parking Placard
23 Abuse Act. "

23 Section 6. Section 3-51-46 NMSA 1978 (being Laws 1973,
24 Chapter 22, Section 3) is amended to read:

25 "3-51-46. PASSENGER MOTOR VEHICLE OF DISABLED PERSON--

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1 PARKING PRIVILEGE. -- Passenger motor vehicles owned by and
2 carrying disabled persons and [~~carrying~~] displaying special
3 registration plates, or passenger motor vehicles carrying
4 persons with severe mobility impairment and displaying parking
5 placards, issued pursuant to Section [~~64-3-12.3 NMSA 1953~~]
6 66-3-16 NMSA 1978 shall be permitted to park for unlimited
7 periods of time in parking zones restricted as to length of
8 time parking is normally permitted and are exempt from payment
9 of any parking [~~meter~~] fee of the state or its political
10 subdivisions. The provisions of this section shall prevail
11 over any other law, [~~regulation~~] rule or local ordinance but
12 do not apply to zones where stopping, standing or parking is
13 prohibited, zones reserved for special types of vehicles,
14 zones where parking is prohibited during certain hours of the
15 day in order to facilitate traffic during those hours when
16 parking is prohibited and zones subject to similar regulation
17 because parking presents a traffic hazard. "

18 Section 7. A new Section 4-41-5.1 NMSA 1978 is enacted
19 to read:

20 "4-41-5.1. [NEW MATERIAL] SPECIAL PARKING ENFORCEMENT--
21 VOLUNTEER USE AUTHORIZED. --Subject to authorization by a board
22 of county commissioners, a sheriff may implement a program for
23 use of trained volunteers to enforce statutes and county
24 ordinances relating to parking accommodations for persons with
25 severe mobility impairment pursuant to the Parking Placard
Abuse Act. "

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

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

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

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

8 (2) not to have been reported stolen;

9 (3) not to have been claimed by any person
10 asserting ownership; and

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

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

21 [~~B.~~] C. "additional place of business", for dealers
22 and wreckers of vehicles, means locations in addition to an
23 established place of business as defined in Section 66-1-4.5
24 NMSA 1978 and meeting all the requirements of an established
25 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;

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1 ~~[C-]~~ D. "alcoholic beverages" means any and all
2 distilled or rectified spirits, potable alcohol, brandy,
3 whiskey, rum, gin, aromatic bitters or any similar alcoholic
4 beverage, including all blended or fermented beverages,
5 dilutions or mixtures of one or more of the foregoing
6 containing more than one-half of one percent alcohol but
7 excluding medicinal bitters; and

8 ~~[D-]~~ E. "authorized emergency vehicle" means any fire
9 department vehicle, police vehicle, ambulance and any emergency
10 vehicles of municipal departments or public utilities that are
11 designated or authorized as emergency vehicles by the director
12 of the New Mexico state police division of the department of
13 public safety or local authorities. "

14 Section 9. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
15 Chapter 120, Section 5, as amended) is amended to read:

16 "66-1-4.4. DEFINITIONS. --As used in the Motor Vehicle
17 Code:

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

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

25 (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

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1 duties as such officers;

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

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

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

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

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

19 E. "designated disabled parking space" means any
20 space, including an access aisle, marked and reserved for the
21 parking of a passenger vehicle that carries registration plates
22 or a parking placard indicating disability in accordance with
23 Section 66-3-16 NMSA 1978, [~~such a place shall be~~] and
24 designated by a conspicuously posted sign bearing the
international disabled symbol of a wheelchair [~~or~~] and if
25 paved, by a clearly visible depiction of this symbol painted in

1 blue on the pavement of the space;

2 F. "director" means the secretary;

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

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

10 I. "distributor" means any person who distributes or
11 sells new or used motor vehicles to dealers and who is not a
12 manufacturer;

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

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

22 L. "driver's license" means a license or a class of
23 license issued by a state or other jurisdiction to an
24 individual that authorizes the individual to drive a motor
25 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

1 vehicle is on the roadway during the course of transportation,
2 whether or not the motor vehicle furnishes the motive power."

3 Section 10. Section 66-1-4.14 NMSA 1978 (being Laws 1990,
4 Chapter 120, Section 15, as amended) is amended to read:

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

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

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

15 C. "parts car" means a motor vehicle generally in
16 nonoperable condition that is owned by a collector to furnish
17 parts that are usually nonobtainable from normal sources, thus
18 enabling a collector to preserve, restore and maintain a motor
19 vehicle of historic or 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 photograph,
25 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

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1 accidents, driving violations or driver status;

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

8 [~~G.~~] H. "pneumatic tire" means every tire in which
9 compressed air is designed to support the load;

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

18 [~~I.~~] J. "police or peace officer" means every officer
19 authorized to direct or regulate traffic or to make arrests for
20 violations of the Motor Vehicle Code;

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

25 [~~K.~~] L. "property owner" means the owner of a piece
of land or the agent of that property owner. "

Section 11. Section 66-3-16 NMSA 1978 (being Laws 1978,
Chapter 35, Section 36, as amended) is amended to read:

1 "66-3-16. SPECIAL REGISTRATION PLATES--DISABLED
 2 PERSONS-- [~~DISPLAY DEVICE~~] PARKING PLACARD. --

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

12 B. No person shall falsely represent himself to be
 13 disabled so as to be eligible to be issued a special
 14 registration [~~plates~~] plate or [~~display devices~~] a parking
 15 placard pursuant to this section when he is in fact not
 16 disabled. Upon notice and opportunity to be heard, the
 17 division may revoke and demand return of any placard when:

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

24 C. Upon written application to the division
 25 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

1 for and be granted the issuance of [~~a placard~~] no more than two
2 parking placards for display upon a motor vehicle registered to
3 him or motor vehicle owned by another person who is
4 transporting him. [~~The director may charge a reasonable fee to~~
5 ~~cover the cost of the placard and of its issuance. The fee~~
6 ~~shall be retained by the division and shall be appropriated to~~
7 ~~the division for expenditures incurred in the implementation of~~
8 ~~the placard replacement program.] The physician shall provide
9 the division all information and records necessary to issue a
10 permanent parking placard. Once approved for use of a
11 permanent parking placard, a person shall not be required to
12 furnish further medical information about his mobility
13 impairment.~~

14 D. A parking placard issued pursuant to this section
15 shall expire [~~in no more than two years~~] on the same date the
16 person's license or identification card issued pursuant to
17 Section 66-5-401 NMSA 1978 expires.

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

20 (1) the international symbol of access shall be
21 displayed on both sides of the placard and shall be at least
22 three inches in height, centered on the placard and white on a
23 blue [~~shield~~] field;

24 (2) an identification number enabling the
25 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

1 enforcement agency just as it provides vehicle registration and
 2 driver's license information;

3 (3) the date of expiration; and

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

6 F. Upon written application to the division
 7 accompanied by a medical statement from a licensed physician
 8 attesting to a temporary disability, a person who has a
 9 temporary disability that limits or impairs the ability to walk
 10 may be issued a temporary placard [~~which shall be~~
 11 ~~distinguishable in appearance from placards valid for two~~
 12 ~~years. The medical statement shall include the period of time~~
 13 ~~that the physician determines the applicant will have the~~
 14 ~~disability. A temporary placard issued pursuant to this~~
 15 ~~section shall be valid] for no more than [six months] one year.
 16 The physician shall provide the division all information and
 17 records necessary to issue a temporary placard.~~

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

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

23 (2) cannot walk without the use of a brace, a
 24 cane, a crutch, assistance from another person, a prosthetic
 25 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

1 than one liter or the arterial oxygen tension is less than
2 sixty millimeters on room air at rest;

3 (4) uses portable oxygen;

4 (5) has a severe cardiac condition; or

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

9 H. Special registration plates or placards issued to
10 ~~[the disabled]~~ a person with severe mobility impairment by
11 another state or foreign jurisdiction shall be ~~[granted~~
12 ~~reciprocity while]~~ honored until the vehicle ~~[and disabled~~
13 ~~operator are]~~ is registered or the placard holder establishes
14 residency in this state ~~[for a period not to exceed thirty~~
15 ~~days]~~.

16 I. All parking placards ~~[shall be]~~ issued ~~[in~~
17 ~~accordance with this section beginning on July 1, 1995. All~~
18 ~~placards issued prior to July 1, 1995 shall expire on July 1,~~
19 ~~1996]~~ on or after July 1, 1999 shall be issued in accordance
20 with the provisions of this section. "

21 Section 12. Section 66-3-16.1 NMSA 1978 (being Laws 1995,
22 Chapter 129, Section 2) is amended to read:

23 "66-3-16.1. ~~[PROVIDING FALSE INFORMATION--PENALTY]~~

24 PROHIBITED ACTS--PENALTIES. --

25 A. Any person who provides false information in order
to acquire, or who assists an unqualified person ~~[in acquiring]~~
to acquire, a special registration plate or ~~[special]~~ parking
placard as provided in Section 66-3-16 NMSA 1978 is guilty of a

1 misdemeanor and shall be sentenced pursuant to the provisions
2 of Section 31-19-1 NMSA 1978.

3 B. Any person, other than the person to whom a
4 special registration plate or a parking placard was issued, who
5 in the absence of the holder of the plate or placard, parks in
6 a designated disabled parking space while displaying the plate
7 or placard, is guilty of a misdemeanor and upon conviction
8 shall be sentenced pursuant to the provisions of Section
9 31-19-1 NMSA 1978.

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

18 Section 13. Section 66-7-352.4 NMSA 1978 (being Laws
19 1983, Chapter 45, Section 4) is amended to read:

20 "66-7-352.4. PARKING LOTS--STANDARDS. --

21 A. Every parking lot coming under the provisions of
22 the Disabled Parking Standards and Enforcement Act shall have
23 designated disabled parking spaces as provided in Subsection B
24 of this section [~~provided that an office of state or local~~
25 ~~government shall have a minimum of one such parking space~~]. 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

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1 disabled parking spaces as delineated in Subsection B of this
2 section.

3 B. The minimum numbers of designated disabled parking
4 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
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 3 for each additional 1,000]
<u>more than 1,000</u>	<u>20, plus 1 for each 100 over 1,000.</u>

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

24 Section 14. Section 66-7-352.5 NMSA 1978 (being Laws
25 1983, Chapter 45, Section 5, as amended) is amended to read:

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underscored material = new
[bracketed material] = delete

1 "66-7-352.5. UNAUTHORIZED USE-- ~~[PENALTY]~~ PENALTIES. --

2 A. It is unlawful for any person to park a motor
3 vehicle not ~~[carrying]~~ displaying a special registration
4 ~~[plates]~~ plate or a parking placard ~~[indicating disability in~~
5 ~~accordance with]~~ issued pursuant to Section 66-3-16 NMSA 1978
6 in a designated disabled parking space. ~~[or blocking a curb~~
7 ~~cut. Any person who violates this subsection is subject to a~~
8 ~~fifty-dollar (\$50.00) fine.~~

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

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

19 C. Any person convicted of violating Subsection A
20 or B of this section is subject to a fine of not less than one
21 hundred dollars (\$100) or more than three hundred dollars
22 (\$300). Failure to properly display a parking placard or
23 special registration plate issued pursuant to Section 66-3-16
24 NMSA 1978 is not a defense against a charge of violation of
25 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

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1 personnel or by the property owner or manager of a parking
2 lot."

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1 **FORTY- FOURTH LEGISLATURE**
2 **FIRST SESSION, 1999**

3
4 **March 10, 1999**

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6
7 **Mr. Speaker:**

8
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE**

11 **SUBSTITUTE FOR HOUSE BILL 145**

12
13 **has had it under consideration and reports same with**
14 **recommendation that it DO PASS, amended as follows:**

15
16 1. On page 1, line 18, strike "through 3" and insert
17 in lieu thereof "and 2".

18 2. On page 2, strike lines 15 through 25, strike pages
19 3 through 6, strike lines 1 through 19 on page 7, strike
20 lines 18 through 25 on page 8 and strike line 1 on page 9.

21
22 3. Renumber succeeding sections accordingly.
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HCPAC/HB 145

HJC/HCPAC/CSHB 145

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Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Luna, Thompson, Sanchez, Pederson

Absent: None

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