

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 23, 1998 Revised: \_\_\_\_\_

Subject: Disabled Parking

|    | <u>Analyst</u>              | <u>Staff Director</u>       | <u>Reference</u>            | <u>Action</u>               |
|----|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 1. | <u>McAuliffe</u>            | <u>Johnson</u>              | <u>TR</u>                   | <u>Favorable/CS</u>         |
| 2. | <u>                    </u> | <u>                    </u> | <u>CA</u>                   | <u>                    </u> |
| 3. | <u>                    </u> | <u>                    </u> | <u>WM</u>                   | <u>                    </u> |
| 4. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| 5. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |

I. Summary:

This CS relates to parking for persons who have disabilities. The CS amends provisions relating to accessible parking spaces and parking access aisles; special license plates and parking permits issued by entities outside Florida; exemptions for parking fines and penalties; fines for illegally parking in a space for disabled persons; and qualifications for veterans to receive free license plates.

The CS establishes prerequisites for receiving a disabled parking permit, and obtaining a replacement permit. The CS amends provisions relating to the design of the temporary permits; procedures relating to false statements or misleading information on applications, and the unlawful display of a disabled parking permit; provides for keeping records relating to confiscation; provides that if two permits issued to the same person have been confiscated, the Department of Highway Safety and Motor Vehicles must refer the information to the Florida Abuse Hotline for an investigation of potential abuse, neglect, or exploitation of the permit owner.

This CS substantially amends sections 316.1955, 316.1958, 316.1964, 318.18, 320.0842, 320.0843, and 320.0848 of the Florida Statutes.

II. Present Situation:

Section 316.1955, F.S., provides that each state agency and political subdivision that has jurisdiction over street parking, or publicly owned and operated parking facilities must provide a minimum number of parking spaces for individuals with disabilities who have been issued a disabled parking permit or a disabled license plate. Under Florida law, parking spaces for persons with disabilities must meet the specific requirements set forth in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) s. 4.1.

The section further provides that it is unlawful to stop, stand, or park in a parking place designated for persons who have disabilities unless the vehicle displays an exemption parking permit or disabled license plate. An exception is made for persons momentarily loading or unloading a disabled person. Any person who parks in a parking space designated for persons who have disabilities may have their car towed, and the cost of such removal will be a lien against the vehicle. In addition, the offender is charged with a noncriminal traffic infraction punishable by a \$100 fine plus any fine that may be imposed by the county or municipality, not to exceed a total fine of \$250.

Section 316.1958, F.S., provides for recognition of special license plates or parking permits for persons who have disabilities which are issued by other states or districts which are subject to the laws of the United States, or by a foreign country that issues disabled parking permits displaying the international symbol of accessibility, provided the state, country or district grants reciprocal recognition for disabled residents of this state. The section further provides that if an individual is required by law to have a Florida driver's license, a disabled parking placard or license plate from another state or jurisdiction is not valid for parking in spaces reserved for persons with disabilities. There is no such requirement for a Florida vehicle registration.

Section 316.1964, F.S., provides that when a parking meter restricts the duration of time a vehicle may be parked, a vehicle displaying a disabled parking permit may park for a maximum of four hours at no charge. However, a county or city may charge for parking in timed parking spaces except for vehicles with specialized equipment such as ramps and lifts, or foot or hand controls. The interpretation by cities and counties regarding the difference between metered parking and timed parking has led to differing enforcement ordinances.

Section 318.18, F.S., provides a penalty of \$100 for illegally parking in a space provided for disabled persons. This penalty is in addition to any penalty that may be assessed by a county or municipality for the same offense not to exceed a total fine of \$250. The section provides that the fine may be waived if the person provides proof of ownership of a valid disabled parking permit, and pays a \$5 dismissal fee to the clerk of the circuit court.

Section 320.0842, F.S., provides free license plates to veterans confined to wheel chairs. A person with a license plate issued pursuant to this section has the same exemption from fees and penalties as the holder of an exemption permit.

Section 320.0843, F.S., provides wheelchair license plates to persons permanently confined to wheelchairs upon payment of the appropriate license tax. Currently, vehicles weighing more than 5,000 pounds do not qualify for a wheelchair license plate. Further, the National Highway Traffic Safety Administration's (NHTSA) Office of Civil Rights found the Florida Department of Highway Safety and Motor Vehicles in violation of the Uniform System of Handicapped Parking guidelines. The NHTSA found that:

*Although Florida provides special license plates to certain groups for free or for the same fee as is charged for normal license plates, it does not make these plates available*

*to all individuals with disabilities which limit or impair the ability to walk. Certain individuals whose disabilities limit or impair the ability to walk are denied the right to obtain a special plate. Rather, these individuals must obtain a disabled parking placard. Moreover, they must pay an additional fee for the placard in addition to the fee they pay for the normal license plate.*

Section 320.0848, F.S., authorizes the Department of Highway Safety and Motor Vehicles, through the county tax collectors acting as their authorized agent, to issue an exemption parking permit for a period of 4 years to any person who has permanent mobility problems, or a temporary exemption parking permit for up to 1 year to any person with temporary mobility problems.

The section further provides descriptions of disabilities that would qualify the applicant for a permanent or temporary parking exemption permit. A person may qualify for a disabled parking permit solely for the inability to walk 200 feet without stopping. Disabilities must be certified by a physician, podiatrist, or an optometrist licensed in Florida, or by the Adjudication Office of the United States Department of Veterans Affairs.

Under current Department of Highway Safety and Motor Vehicles policy, the cost of replacing a lost permit is \$1. If the card was stolen, and the permit holder produces a police report stating the permit was stolen, the permit is replaced free of charge. While this is the department's policy, it is not currently in the statutes.

**III. Effect of Proposed Changes:**

Section 316.1955, F.S., is amended to clarify that disabled parking access aisles are reserved for the exclusive use of persons who have disabled parking permits and who require extra space to deploy a mobility device, lift, or ramp, and that persons who have disabled parking permits may be penalized for parking in clearly defined bus loading zones, fire zones, or access aisles or other no parking zones. The section also provides that signs designating disabled parking spaces must be 84 inches in height, and that a disabled parking violation may not be dismissed for lack of proper signage.

Further, the section is amended to provide that obstructing a disabled parking space, curb cut, or access aisle carries the same penalties as imposed for illegally parking in a disabled parking space; and, that a person may be charged with resisting an officer without violence for refusing to show a law enforcement officer or parking enforcement specialist their disabled parking permit and driver's license.

Section 316.1958, F.S., is amended to provide that if an individual is required by law to have a Florida vehicle registration, a disabled parking permit or license plate from another state or jurisdiction is not valid for parking in spaces reserved for persons with disabilities.

Section 316.1964, F.S., is amended to clarify that persons displaying a valid disabled parking permit may park in *on-street* metered parking spaces without charge for 4 hours, but may be charged for parking in a facility or lot that provides timed parking spaces.

Section 318.18, F.S., is amended to raise the minimum fine for illegally parking in a disabled parking space to \$250, and provides that the fine may be waived if the person provides to the law enforcement agency which issued the citation, proof of ownership of a valid disabled parking permit. The section requires a law enforcement officer to sign an affidavit of compliance that the person who was issued the citation has demonstrated that they do have a valid disabled parking permit.

Section 320.0842, F.S., is amended to authorize the issuance of a free international wheelchair user symbol license plate to veterans who otherwise qualify for a disabled parking permit. Such a license plate entitles the holder to all the privileges afforded to disabled parking permit holders.

Section 320.0843, F.S., is amended to provide that any owner or lessee of a motor vehicle, including motor vehicles weighing up to 8,000 pounds, who qualifies for a disabled parking permit, upon payment of the applicable license tax, may be issued an international wheelchair user symbol license plate which entitles them to all the privileges afforded to disabled parking permit holders. This provision will bring the department in compliance with the Uniform System of Handicapped Parking guidelines.

Section 320.0848, F.S., is amended to provide that to be considered for certification for a disabled parking permit the applicant must be legally blind or have a condition which renders them unable to walk 200 feet without stopping. Such conditions are the inability to walk without an assistance device, the need to permanently use a wheelchair, respiratory disease, the use of portable oxygen, cardiac condition, or arthritic, neurological, or orthopedic condition.

The section is further amended to authorize out-of-state physicians to certify patients as disabled on the disabled parking permit application. Such an application must be accompanied by documentation of the physicians' licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of Florida's eligibility guidelines. The CS provides that persons certified as permanently disabled by a physician will not be required to show such certification upon renewal.

The section is amended to provide a \$1.50 fee for the replacement of a lost or stolen disabled parking permit, and that the fee may be waived if the permit holder shows a police report demonstrating that the permit was stolen. The section provides that a person who qualifies for a disabled parking permit or a disabled veteran's license plate may be issued an international wheelchair user symbol license plate instead, which entitles the user to all the privileges afforded to disabled parking permit holders.

The section provides that the date of expiration must be color coded on the permit to distinguish between long-term and temporary permits and must be in large print. Otherwise, the temporary

permit and the long-term permit must be identical including the inclusion of the state identification card or driver's license number.

The section provides that any person who displays a disabled parking permit that belongs to another person while occupying a disabled parking space or an access aisle while the owner of the permit is not being transported is guilty of a misdemeanor of the second degree. The section provides that a law enforcement officer may confiscate a parking permit that is expired, reported lost or stolen, or defaced, or does not display a personal identification number.

The CS provides that beginning April 1, 1999, permit numbers of all confiscated disabled parking permits must be submitted to the Department of Highway Safety and Motor Vehicles to be noted on the permit holder's record. If two permits issued to the same person have been confiscated the Department of Highway Safety and Motor Vehicles must refer the information to the Florida Abuse Hotline for an investigation of potential abuse, neglect, or exploitation of the owner.

Confiscated permits must be held as evidence until a judicial decision about the violation has been made, at which time the agency may destroy the confiscated permit, and the department must record in the disabled parking permit database that the permit has been invalidated. The confiscated permit may not be returned to the owner after a finding of guilt or a plea of nolo contendere.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Persons who receive a citation for parking illegally in a disabled parking space or access aisle will have to pay a fine of \$250.

**C. Government Sector Impact:**

The State Transportation Trust Fund (STTF) receives \$13.50 for each long-term disabled parking placard purchased. Since all persons who qualify for a permit, and have a Florida vehicle registration, are authorized by this CS to apply for a disabled license plate at no fee beyond the regular license tax (as required by federal law) the STTF will be negatively affected. In FY 1996-1997, 188,499 long-term disabled parking permits were issued. This may have an approximately \$2.5 million impact on the STTF. However, this does not take into account the percentage of these permits which are held by out-of-state residents or who do not have a vehicle registered in Florida.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.