

STATE OF NEW YORK

6215

2019-2020 Regular Sessions

IN ASSEMBLY

March 4, 2019

Introduced by M. of A. BARCLAY -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to accessible parking space requirements for persons with disabilities and enforcement of illegal parking; and to amend the vehicle and traffic law and the general business law, in relation to replacing the term "handicapped" with the term "persons with disabilities"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1203-c of the vehicle and traffic law, as added by chapter 203 of the laws of 1981, subdivision 2 as amended by chapter 350 of the laws of 1993, paragraph (a) of subdivision 2 as amended by chapter 199 of the laws of 2005, paragraph (b) of subdivision 2 as amended by chapter 274 of the laws of 2012, subdivision 4 as amended by chapter 613 of the laws of 2003, and subdivision 6 as added by chapter 508 of the laws of 1992, is amended to read as follows:

1. Any person, firm or corporation owning a shopping center or facility with [~~at least five separate retail stores and at least twenty~~] off street parking spaces which are provided for use by the shopping public must designate [~~as only for the handicapped and~~] accessible parking spaces as required by section 1106 of the 2015 International Building Code, as adopted by New York State. Such parking spaces must be clearly [~~mark~~] marked for use by [~~the handicapped a minimum of five percent of such parking spaces or ten such spaces whichever is less~~] persons with disabilities. The number of accessible parking spaces shall be in compliance with table 1106.1 of the 2015 International Building Code, as adopted by New York State, except as required by sections 1106.2, 1106.3, and 1106.4 of the 2015 International Building Code, as adopted by New York State. Where more than one parking facility is provided on a site, the number of parking spaces required to be accessible shall be calculated separately for each parking facility. These spaces must be

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 located as close as reasonably practicable to the shopping center or
2 facility and reasonably distributed so as to provide convenient access
3 for use by [~~handicapped~~] drivers with disabilities. Such parking spaces
4 are to be used either by [~~handicapped~~] drivers with disabilities
5 displaying a special municipal parking permit (as defined in section
6 twelve hundred three-a of this [~~chapter~~] article and distributed by the
7 commissioner of motor vehicles to local governing bodies to be issued to
8 [~~handicapped~~] persons with disabilities who reside in such locality) or
9 by motor vehicles registered in accordance with section four hundred
10 four-a of this chapter and being used for the transportation of a [~~hand-~~
11 ~~icapped~~] person with a disability.

12 2. (a) The parking spaces designated pursuant to the provisions of
13 this section shall be clearly identified for use by [~~handicapped~~]
14 persons with disabilities which designation shall include conspicuous
15 and permanently installed above grade signs which display the interna-
16 tional symbol of access and which shall be positioned from the parking
17 space surface at a height of not less than five feet nor more than seven
18 feet and may include the use of blue painted lines or markings. Such
19 parking spaces also may be marked as tow-away zones.

20 (b) Whenever a person, firm or corporation creates an off-street park-
21 ing lot or parking garage, or repaves or repaints more than one-half of
22 the total number of parking spaces in an off-street parking lot or park-
23 ing garage, which contains designated [~~handicapped~~] parking spaces for
24 persons with disabilities, or creates designated [~~handicapped~~] parking
25 spaces for persons with disabilities in an off-street parking lot or
26 parking garage, or repaves or repaints more than one-half of the total
27 number of designated [~~handicapped~~] parking spaces for persons with disa-
28 bilities in an off-street parking lot or parking garage, the size of
29 designated [~~handicapped~~] parking spaces for persons with disabilities
30 and designated [~~handicapped~~] parking space access aisles for persons
31 with disabilities each shall be at least eight feet wide. Such access
32 aisles also shall be (i) clearly designated with conspicuous and perma-
33 nently installed above grade signs which shall read "No Parking Anytime"
34 and which shall be positioned from the access aisle surface at a height
35 of not less than five feet nor more than seven feet, and (ii) marked
36 with diagonal stripes.

37 3. A violation of this section by any person, firm or corporation
38 owning a shopping center or facility with [~~at least five separate retail~~
39 ~~stores and at least twenty~~] off street parking spaces which are provided
40 for use by the shopping public who fails to provide spaces only for [~~the~~
41 ~~handicapped~~] persons with disabilities and clearly marked for use by
42 [~~the handicapped~~] persons with disabilities in accordance with this
43 section, shall be punishable by a fine up to two hundred fifty dollars.

44 4. Except as otherwise provided by local law which imposes a larger
45 maximum fine, any person who stops, stands or parks in spaces clearly
46 marked for use by [~~the handicapped~~] persons with disabilities in accord-
47 ance with this section, without a special vehicle identification parking
48 permit, a special municipal parking permit or whose motor vehicle is not
49 registered in accordance with section four hundred four-a of this chap-
50 ter and being used for the transportation of [~~a handicapped person~~]
51 persons with disabilities; or with such permit or registration and such
52 person is not the one to whom the permit or registration was issued or
53 is not transporting the person issued the permit or registration; or any
54 person who parks in [~~a handicapped~~] an accessible parking access aisle;
55 or any person who parks in a manner that blocks ingress or egress from a
56 vehicle utilizing a space reserved for use by persons with disabilities

1 shall be subject to a fine of not less than fifty dollars nor more than
2 seventy-five dollars for the first offense and seventy-five to one
3 hundred fifty dollars for the second offense occurring within a period
4 of two years within the same municipality. The arresting or ticketing
5 officer shall issue a summons to violators of this section. A ticketing
6 officer issuing a summons pursuant to this section may provide for the
7 removal and storage of a motor vehicle illegally parked in [~~a-hand-~~
8 ~~icapped~~] an accessible parking space, or [~~a-hand-~~
9 ~~icapped~~] an accessible parking access aisle.

10 5. As used in this section, the term [~~"handicapped"~~] "persons with
11 disabilities" shall also include a "severely disabled person" as defined
12 in section four hundred four-a of this chapter.

13 6. Notwithstanding any other state or local law to the contrary, a
14 state, county or municipal law enforcement officer seeking to enforce
15 subdivision four of this section, may enter onto the parking lot of any
16 shopping center or facility as described in subdivision one of this
17 section or any other parking lot as described in the state fire
18 prevention and building code, which is required to contain accessible
19 and designated parking spaces for people with disabilities, regardless
20 of the existence or absence of any state or local law or rule otherwise
21 permitting or restricting such access for such law enforcement officer.

22 § 2. Subparagraph (ii) of paragraph (a) of subdivision 2 of section
23 237 of the vehicle and traffic law, as amended by chapter 458 of the
24 laws of 2010, is amended to read as follows:

25 (ii) [~~handicapped~~] persons with disabilities parking violations for
26 which monetary penalties shall not exceed one hundred fifty dollars; and

27 § 3. Subparagraph 2 of paragraph (b) of subdivision 20 of section 375
28 of the vehicle and traffic law, as amended by chapter 190 of the laws of
29 2014, is amended to read as follows:

30 (2) The universal [~~handicapped~~] persons with disabilities symbol shall
31 be conspicuously displayed on the exterior of every omnibus equipped
32 with a wheelchair lift which transports children with disabilities. The
33 commissioner shall promulgate regulations regarding the size and
34 location of such universal [~~handicapped~~] persons with disabilities
35 symbol. The commissioner shall require that any new signage relating to
36 accessibility installed or replaced on or after the effective date of
37 the chapter of the laws of two thousand fourteen which amended this
38 subparagraph depict the logo promulgated by the secretary of state
39 pursuant to section one hundred one of the executive law.

40 § 4. Subdivision 3 of section 404-a of the vehicle and traffic law, as
41 added by chapter 601 of the laws of 1987, is amended to read as follows:

42 3. Registration of vehicles owned by severely disabled veterans. The
43 commissioner shall assign to such motor vehicles, including any vans or
44 pick-up trucks used for transporting [~~handicapped~~] disabled veterans
45 which are not used for commercial purposes and which are owned by such
46 veterans or a not-for-profit corporation serving such veterans, a
47 distinctive number and issue and deliver in such manner as the commis-
48 sioner may prescribe to the owner a certification of registration, in
49 such form as the commissioner shall prescribe and two number plates,
50 called disabled veteran plates. Said severely disabled veteran plates
51 shall conform to the requirements of section four hundred one of this
52 chapter, but shall bear distinctive marks to distinguish them from
53 number plates to be issued to other persons, qualifying under this chap-
54 ter. The commissioner in his discretion, may issue, for any registration
55 year, only one plate as a set for a motor vehicle, in which event a set
56 of severely disabled veteran plates for a motor vehicle shall consist of

one plate. Where a severely disabled veteran owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the owner, the commissioner shall issue one set of plates for each additional vehicle used by such severely disabled veteran, provided that such user qualifies as a severely disabled veteran in the manner required by this section. For purposes of this subdivision, the term "severely disabled veteran" shall mean any member of the armed forces of the United States who served in time of war, as defined in section eighty-five of the civil service law, and whose disability qualifies him as a severely disabled person within the meaning of such term as defined in subdivision four of this section.

§ 5. Subdivision (c) of section 1100 of the vehicle and traffic law, as amended by chapter 436 of the laws of 1985, is amended to read as follows:

(c) Notwithstanding the provisions of subdivision (b) of this section, the provisions of subparagraph e of paragraph two of subdivision (a) of section twelve hundred two and section twelve hundred three-c of this chapter shall also apply to any area which has been designated as a place for parking for ~~[handicapped persons]~~ persons with disabilities pursuant to such section.

§ 6. The section heading, paragraph (ii) of subdivision 1, subdivision 2 and subdivision 4 of section 1203-a of the vehicle and traffic law, the section heading as amended and subdivision 2 as added by chapter 690 of the laws of 1982, paragraph (ii) of subdivision 1 as amended by chapter 180 of the laws of 1996 and subdivision 4 as amended by chapter 298 of the laws of 2007, are amended to read as follows:

Parking permits for ~~[handicapped]~~ persons with disabilities.

(ii) any state facility, or agency licensed by the state of New York or any of its political subdivisions, that operates a motor vehicle for purposes of transporting ~~[handicapped]~~ persons with disabilities, upon the application of such a facility or agency.

2. The special vehicle identification parking permit issued by the commissioner shall be recognized statewide and, except for a permit issued pursuant to and used subject to the limitations of subdivision three of this section is the only valid permit for the purpose of preserving parking spaces for ~~[the handicapped]~~ persons with disabilities.

4. A person who knowingly and wilfully with the intent to deceive makes a false statement or gives information which such individual knows to be false to a public official to obtain a parking permit for ~~[handicapped]~~ persons with disabilities or to prevent the marking on such permit of the last three digits of a driver's license or non-driver identification card held by such person, in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

§ 7. Section 1203-b of the vehicle and traffic law, as amended by chapter 203 of the laws of 1981, is amended to read as follows:

§ 1203-b. Parking spaces; ~~[handicapped]~~ persons with disabilities. 1. Parking spaces for ~~[the handicapped]~~ persons with disabilities as provided for in sections one thousand two hundred three-a and one thousand two hundred three-c of this chapter shall also be extended to a motor vehicle registered in accordance with section four hundred four-a of this chapter. A ~~[handicapped]~~ permit issued for persons with disabilities in accordance with the provisions of section thousand two hundred three-a of this chapter shall entitle the driver to park in such parking spaces. Parking spaces for ~~[the handicapped]~~ persons with disabilities

1 shall be those parking spaces accorded to a holder of a [~~handicapped~~
2 persons with disabilities parking permit provided in accordance with
3 section one thousand two hundred three-a or as provided in section four
4 hundred four-a of this chapter.

5 2. It shall be a violation for any person to stop, stand or park a
6 vehicle in any area designated as a place for [~~handicapped~~] parking for
7 persons with disabilities unless the vehicle bears a permit issued under
8 section one thousand two hundred three-a or a registration issued under
9 section four hundred four-a of this chapter and such vehicle is being
10 used for the transportation of persons with disabilities or a severely
11 disabled [~~or handicapped~~] person. This subdivision shall not apply to a
12 violation of section twelve hundred three-c of this chapter.

13 § 8. Section 1203-e of the vehicle and traffic law, as amended by
14 chapter 65 of the laws of 1996, is amended to read as follows:

15 § 1203-e. Dumping snow onto parking places for [~~handicapped~~] persons
16 with disabilities prohibited. Any person who knowingly dumps or shovels
17 snow onto a parking place for [~~handicapped~~] persons with disabilities
18 rendering such place unusable for parking purposes shall be subject to a
19 fine of twenty-five dollars for the first offense and a fine not to
20 exceed one hundred dollars for every offense thereafter. However, a
21 local or municipal government may, by local law or ordinance, establish
22 fines higher than those established in this section, but in no instance
23 shall the fines exceed fifty dollars for the first offense or two
24 hundred dollars for the second or subsequent offense.

25 § 9. Section 1203-f of the vehicle and traffic law, as added by chap-
26 ter 335 of the laws of 1997, is amended to read as follows:

27 § 1203-f. [~~Handicapped~~] Persons with disabilities parking enforcement.

28 1. A county, city, town or village may, by adoption of a local law or
29 ordinance, establish a [~~handicapped~~] persons with disabilities parking
30 violation unit to assist in the enforcement of [~~handicapped~~] persons
31 with disabilities parking laws or ordinances. Persons appointed to such
32 unit shall be volunteers, shall serve without compensation, and shall be
33 authorized to provide evidence of violations of [~~handicapped~~] persons
34 with disabilities parking laws or ordinances to the appropriate local
35 enforcement authority. Such evidence may include photographing a
36 violation, provided that such photograph is taken and handled in compli-
37 ance with the requirements of this section.

38 2. A local law or ordinance enacted in accordance with the provisions
39 of this section shall:

40 (a) establish a training program of no less than two hours in length
41 and require each volunteer to participate in and complete such training
42 program;

43 (b) provide for the assignment of an identification number to each
44 volunteer, and provide official identification and equipment to assist
45 volunteer personnel in the conduct of their duties;

46 (c) establish uniform procedures for volunteers to follow in determin-
47 ing whether a violation has occurred;

48 (d) establish procedures for the uniform reporting of violations,
49 which reporting shall include the identification number of the volunteer
50 making the report;

51 (e) if such local law or ordinance provides for the taking of photo-
52 graphs of violations, (i) grant only the enforcement agency the authori-
53 ty to process or to contract for the processing of all film submitted by
54 volunteers; (ii) require any photographs evidencing a violation to be
55 available for inspection in any proceeding to adjudicate the liability
56 for such violation; (iii) provide that a certificate, sworn to or

1 affirmed by a technician employed by the locality in which the charged
2 violation occurred, or a facsimile thereof, based upon inspection of
3 photographs produced from film submitted by volunteers, shall be prima
4 facie evidence of the facts contained therein; and (iv) prohibit the use
5 of such a photograph for any purpose other than as evidence of a [~~hand-~~
6 ~~icapped~~] persons with disabilities parking violation; and

7 (f) provide the following with respect to notices of violation: (i) a
8 notice of violation shall be sent by first class mail to each person
9 alleged to be liable as an owner for a violation of a [~~handicapped~~]
10 persons with disabilities parking law or ordinance. A manual or auto-
11 matic record of mailing prepared in the ordinary course of business
12 shall be prima facie evidence of the facts contained therein; (ii) a
13 notice of violation shall reference the law which was allegedly
14 violated, and shall contain the name and address of the person alleged
15 to be liable as an owner for a violation of a [~~handicapped~~] persons with
16 disabilities parking law or ordinance, the registration number of the
17 vehicle involved in such violation, the location where such violation
18 took place, the date and time of such violation, and the identification
19 number of the volunteer who recorded the violation; (iii) a notice of
20 violation shall contain information advising the person charged of the
21 manner and the time in which he or she may contest the violation alleged
22 in the notice, and shall also contain a warning to advise the persons
23 charged that failure to contest in the manner and time provided shall be
24 deemed an admission of liability and that a default judgment may be
25 entered thereon.

26 § 10. Section 1203-g of the vehicle and traffic law, as added by chap-
27 ter 497 of the laws of 1999, is amended to read as follows:

28 § 1203-g. Establishment of the [~~handicapped~~] persons with disabilities
29 parking education program. 1. Every county and the city of New York
30 shall establish a separate [~~handicapped~~] persons with disabilities park-
31 ing education program. Each program shall be organized by a coordinator
32 for [~~handicapped~~] persons with disabilities parking education and advoca-
33 cacy, who shall be designated by the chief executive officer of the
34 county, if there be one, otherwise by the chair of the governing board
35 of the county, and in the city of New York, a person designated by the
36 mayor thereof.

37 2. The [~~handicapped~~] persons with disabilities parking education
38 program shall be established for the purposes of providing education,
39 advocacy and increased awareness of [~~handicapped~~] persons with disabili-
40 ties parking laws. The program shall provide funding for activities such
41 as public service announcements, public education and awareness
42 campaigns, distribution of literature, and any other activities that are
43 consistent with such purposes.

44 3. It shall be the duty of the coordinator to: (a) render annually or
45 at the request of the county legislature or other governing body of the
46 county, a verified account of all moneys received and expended by the
47 coordinator or under the coordinator's direction and an account of other
48 pertinent matters; and (b) make a biennial report to the commissioner,
49 which shall be due on the first day of April every second year following
50 implementation of the program and shall include an assessment of the
51 effectiveness of the program, recommendations for expanding and improv-
52 ing the program and any problems or other matters related to the admin-
53 istration of the program. Such report shall also be made available to
54 the temporary president of the senate and the speaker of the assembly.

55 4. Every county and the city of New York that establishes a [~~hand-~~
56 ~~icapped~~] persons with disabilities parking education program shall

1 establish a separate [~~handicapped~~] persons with disabilities parking
2 education fund in the custody of the chief fiscal officer of each such
3 county or city, by April first, two thousand, which shall consist of
4 moneys granted to such county or city pursuant to section eighteen
5 hundred nine-b of this chapter. No provision of law shall be deemed to
6 preclude a county or the city of New York from receiving funds from
7 other sources to be deposited in the [~~handicapped~~] persons with disabili-
8 ties parking education fund, provided such funds are used in a manner
9 and for purposes consistent with this section. The moneys of such fund
10 shall be disbursed to provide education, advocacy and increased aware-
11 ness of [~~handicapped~~] persons with disabilities parking laws and may be
12 used to execute contracts with private organizations for such purposes.
13 Such contracts shall be awarded upon competitive bids after the issuance
14 of requests for proposal.

15 § 11. Section 1226 of the vehicle and traffic law, as amended by chap-
16 ter 506 of the laws of 1971, is amended to read as follows:

17 § 1226. Control of steering mechanism. No person shall operate a motor
18 vehicle without having at least one hand or, in the case of a [~~phys-~~
19 ~~ically handicapped person~~] person with a physical disability, at least
20 one prosthetic device or aid on the steering mechanism at all times when
21 the motor vehicle is in motion.

22 § 12. Section 1809-b of the vehicle and traffic law, as added by chap-
23 ter 497 of the laws of 1999, is amended to read as follows:

24 § 1809-b. Mandatory surcharge required for certain violations relating
25 to [~~handicapped~~] persons with disabilities parking spaces. 1. Notwith-
26 standing any other provision of law, whenever proceedings in an adminis-
27 trative tribunal or a court result in a finding of liability, or
28 conviction for a violation of section twelve hundred three-a, twelve
29 hundred three-b or twelve hundred three-c of this chapter or any other
30 statute, local law, ordinance or rule involving the parking, stopping or
31 standing of motor vehicles registered pursuant to section four hundred
32 four-a of this chapter or those possessing a special vehicle identifica-
33 tion parking permit issued in accordance with section one thousand two
34 hundred three-a of this chapter, there shall be levied a mandatory
35 surcharge in addition to any other sentence, fine or penalty otherwise
36 permitted or required, in the amount of thirty dollars. Such surcharge
37 shall not be deemed a monetary penalty for the purposes of section two
38 hundred thirty-seven of this chapter or section 19-203 of the adminis-
39 trative code of the city of New York.

40 2. The mandatory surcharge provided for in subdivision one of this
41 section shall be paid to the clerk of the court or administrative tribu-
42 nal that made the determination of liability. Within the first ten days
43 of the month next succeeding the collection of such surcharge, the
44 collecting authority shall pay fifteen dollars of such surcharge to the
45 chief fiscal officer of the county in which such violation occurred or
46 of the city of New York, for deposit to the credit of the [~~handicapped~~]
47 persons with disabilities parking education fund of such county or city
48 established pursuant to section twelve hundred three-g of this chapter
49 which shall be used by such county or city solely for a [~~handicapped~~]
50 persons with disabilities parking education program pursuant to such
51 section. The remaining amount of the surcharge shall be paid to the
52 chief fiscal officer of the municipality from which it originated and
53 used by such municipality for its local criminal justice programs and
54 purposes; provided, however, that such municipality shall use ten
55 percent of such funds for developing and implementing a disability
56 awareness program for local law enforcement agencies for the purpose of

1 training local law enforcement personnel to recognize and appropriately
2 respond to persons with disabilities with whom such personnel come into
3 contact in the course of their duties.

4 § 13. Subdivisions 1 and 2 of section 396-bb of the general business
5 law, as amended by chapter 228 of the laws of 2010, are amended to read
6 as follows:

7 1. Any person, firm or corporation owning or operating a premises or
8 facility for the retail sale of motor fuels for use in motor vehicles
9 and offering self service and full service at the same time, shall,
10 between the hours of seven o'clock in the morning and seven o'clock in
11 the evening, provide full service of such motor fuels to disabled
12 persons with a valid New York state disabled person license plate or a
13 valid parking permit for [~~handicapped~~] persons with disabilities issued
14 pursuant to section twelve hundred three-a of the vehicle and traffic
15 law at the same price charged for such motor fuels at the self service
16 islands and shall post a notice in a manner and in at least one location
17 which is conspicuous to a person seeking refueling service, including a
18 depiction of the international symbol of access and stating as follows:

19 Full service at self service prices

20 7 a.m. to 7 p.m.

21 Such notice may also further state,

22 For persons with a valid New York state disabled license
23 plate or a valid parking permit for [~~handicapped~~] persons
24 with disabilities.

25 2. For purposes of this section "disabled person" shall mean a regis-
26 tered owner or authorized operator of a motor vehicle who has been
27 issued special license tags by the state or a valid parking permit for
28 [~~handicapped~~] persons with disabilities issued pursuant to section
29 twelve hundred three-a of the vehicle and traffic law.

30 § 14. This act shall take effect immediately.