STATE OF NEW YORK

5459

2019-2020 Regular Sessions

IN SENATE

May 1, 2019

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed 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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located as close as reasonably practicable to the shopping center or facility and reasonably distributed so as to provide convenient access for use by [~~handicapped~~] drivers with disabilities. Such parking spaces are to be used either by [~~handicapped~~] drivers with disabilities displaying a special municipal parking permit (as defined in section twelve hundred three-a of this [~~chapter~~] article and distributed by the commissioner of motor vehicles to local governing bodies to be issued to [~~handicapped~~] persons with disabilities who reside in such locality) or by motor vehicles registered in accordance with section four hundred four-a of this chapter and being used for the transportation of a [~~handicapped~~] person with a disability.

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

(b) Whenever a person, firm or corporation creates an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of parking spaces in an off-street parking lot or parking garage, which contains designated [~~handicapped~~] parking spaces for persons with disabilities, or creates designated [~~handicapped~~] parking spaces for persons with disabilities in an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of designated [~~handicapped~~] parking spaces for persons with disabilities in an off-street parking lot or parking garage, the size of designated [~~handicapped~~] parking spaces for persons with disabilities and designated [~~handicapped~~] parking space access aisles for persons with disabilities each shall be at least eight feet wide. Such access aisles also shall be (i) clearly designated with conspicuous and permanently installed above grade signs which shall read "No Parking Anytime" and which shall be positioned from the access aisle surface at a height of not less than five feet nor more than seven feet, and (ii) marked with diagonal stripes.

3. A violation of this section by 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 who fails to provide spaces only for [~~the handicapped~~] persons with disabilities and clearly marked for use by [~~the handicapped~~] persons with disabilities in accordance with this section, shall be punishable by a fine up to two hundred fifty dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1203-f. [~~Handicapped~~] **Persons with disabilities** parking enforcement. 1. A county, city, town or village may, by adoption of a local law or ordinance, establish a [~~handicapped~~] **persons with disabilities** parking violation unit to assist in the enforcement of [~~handicapped~~] **persons with disabilities** parking laws or ordinances. Persons appointed to such unit shall be volunteers, shall serve without compensation, and shall be authorized to provide evidence of violations of [~~handicapped~~] **persons with disabilities** parking laws or ordinances to the appropriate local enforcement authority. Such evidence may include photographing a violation, provided that such photograph is taken and handled in compliance with the requirements of this section.

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

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

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

(c) establish uniform procedures for volunteers to follow in determining whether a violation has occurred;

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

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

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

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

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

§ 1203-g. Establishment of the [~~handicapped~~] **persons with disabilities** parking education program. 1. Every county and the city of New York shall establish a separate [~~handicapped~~] **persons with disabilities** parking education program. Each program shall be organized by a coordinator for [~~handicapped~~] **persons with disabilities** parking education and advocacy, who shall be designated by the chief executive officer of the county, if there be one, otherwise by the chair of the governing board of the county, and in the city of New York, a person designated by the mayor thereof.

2. The [~~handicapped~~] **persons with disabilities** parking education program shall be established for the purposes of providing education, advocacy and increased awareness of [~~handicapped~~] **persons with disabilities** parking laws. The program shall provide funding for activities such as public service announcements, public education and awareness campaigns, distribution of literature, and any other activities that are consistent with such purposes.

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

4. Every county and the city of New York that establishes a [~~handicapped~~] **persons with disabilities** parking education program shall

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

§ 11. Section 1226 of the vehicle and traffic law, as amended by chapter 506 of the laws of 1971, is amended to read as follows:

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

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

§ 1809-b. Mandatory surcharge required for certain violations relating to [~~handicapped~~] **persons with disabilities** parking spaces. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or a court result in a finding of liability, or conviction for a violation of section twelve hundred three-a, twelve hundred three-b or twelve hundred three-c of this chapter or any other statute, local law, ordinance or rule involving the parking, stopping or standing of motor vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of thirty dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York.

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

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

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

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

Full service at self service prices
7 a.m. to 7 p.m.

Such notice may also further state,

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

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

§ 14. This act shall take effect immediately.