

SENATE BILL NO. 295

INTRODUCED BY

Jacobson Lurbin Shea Lynch

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEPARTMENT OF JUSTICE'S DUTY TO REVIEW HANDICAP PARKING PERMIT REQUESTS AND TO ISSUE PERMITS IF WARRANTED; ALLOWING A PERSON DENIED A PERMIT BY THE DEPARTMENT OF JUSTICE TO USE THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; LIMITING THE TERM OF A HANDICAP PARKING PERMIT TO A MAXIMUM PERIOD OF 3 YEARS; ALLOWING LICENSED PHYSICAL THERAPISTS, REHABILITATION COUNSELORS, SOCIAL SERVICE PROFESSIONALS, AND HEALTH CARE PROFESSIONALS, IN ADDITION TO PHYSICIANS, TO ISSUE A CERTIFICATE DESCRIBING THE EXTENT OF AN APPLICANT'S DISABILITY; AND AMENDING SECTIONS 49-4-301, 49-4-302, 49-4-303, AND 49-4-305, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-4-301, MCA, is amended to read:

"49-4-301. ~~Who eligible~~ Eligibility for special parking permit. (1) The department of justice shall issue a special parking permit to a person who:

~~(a) holds a valid Montana driver's license and owns a motor vehicle, other than a commercial vehicle, and has a permanent physical disability that impairs mobility when not in a motor vehicle;~~

~~(b) regardless of whether the person holds a driver's license or owns a motor vehicle, has a permanent physical disability that impairs driving ability and impairs mobility when not in a motor vehicle to such an extent that the person needs to be driven by another person to a destination; or~~

~~(c) has a temporary physical disability that impairs driving ability or mobility when not in a motor vehicle to such an extent that the person needs to be driven by another person to a destination.~~ has a disability that limits or impairs the ability to walk and who, as determined by a licensed physician, licensed physical therapist, rehabilitation counselor, social service professional, or health care professional who can make the determination, meets one of the following criteria:

(a) cannot walk 200 feet without stopping to rest;

(b) is severely limited in ability to walk because of an arthritic, neurological, or orthopedic

1 condition;

2 (c) is so severely disabled that the person cannot walk without the use of or assistance from a
3 brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

4 (d) uses portable oxygen;

5 (e) is restricted by lung disease to such an extent that forced expiratory respiratory volume, when
6 measured by spirometry, is less than 1 liter per second or the arterial oxygen tension is less than 60 mm/hg
7 on room air at rest;

8 (f) has impairment because of cardiovascular disease or a cardiac condition to the extent that the
9 person's functional limitations are classified as class III or IV under standards accepted by the American
10 heart association; or

11 (g) has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs
12 the ability to walk and that is documented by the licensed physician or licensed physical therapist as being
13 comparable in severity to the other conditions listed in this subsection (1).

14 (2) A person who has a condition expected to improve within 6 months may be issued a temporary
15 placard for a period not to exceed 6 months but may not be issued a special license plate under
16 61-3-332(10)(g). If the condition exists after 6 months, a new temporary placard must be issued for the
17 time period prescribed by the applicant's physician, not to exceed 24 months, upon receipt of a new
18 certification from the disabled person's physician that the conditions specified in subsection (1) continue
19 to exist and are expected to continue for the time specified.

20 (3) An applicant may not receive more than one permit."

21

22 **Section 2.** Section 49-4-302, MCA, is amended to read:

23 **"49-4-302. Privileges of permitholder -- privilege for disabled veteran -- exemptions from time limits**
24 **-- requirements for special parking spaces.** (1) The parking permit issued under this part, when displayed,
25 entitles a person to park a motor vehicle in a special parking space reserved for a person with a disability,
26 whether on public property or on private property available for public use, when the person for whom the
27 permit was issued is using the special parking space to enter or exit the vehicle.

28 (2) ~~A vehicle other than one lawfully displaying a parking permit issued under this part or one~~
29 ~~displaying a distinguishing license plate or placard for a person with a disability that was issued by a foreign~~
30 ~~jurisdiction conferring the same parking privileges as conferred in subsection (1) and conveying a person~~

1 ~~with a disability or one displaying a specially inscribed license plate issued under 61-3-332(10)(c)(i)(A) and~~
 2 ~~conveying a 100% disabled veteran~~ may not be parked in a parking space on public or private property that
 3 is clearly identified by an official sign as being reserved for use by a person with a disability unless the
 4 vehicle is lawfully displaying a parking permit issued under this part, a distinguishing license plate or placard
 5 for a person with a disability that was issued by a foreign jurisdiction conferring parking privileges similar
 6 to those conferred in subsection (1), or a specially inscribed license plate issued under 61-3-332(10)(c)(i)(A)
 7 or 61-3-332(10)(g) and the reserved parking space is being used by the person for whom the permit, plate,
 8 or placard was issued, to enter or exit the vehicle.

9 (3) The governing body of a city, town, or county may exempt vehicles lawfully displaying parking
 10 permits issued under this part and vehicles lawfully displaying specially inscribed license plates issued under
 11 61-3-332(10)(c)(i)(A) or 61-3-332(10)(g) and parked in public places along public streets from any time
 12 limitation imposed upon parking, except in areas where:

- 13 (a) stopping, standing, or parking of all vehicles is prohibited;
 14 (b) only special vehicles may be parked; or
 15 (c) parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

16 (4) In accordance with subsection (2), the governing body of a city, town, or county or appropriate
 17 state agency may impose all, but not less than all, of the following requirements with respect to any special
 18 parking space constructed after September 30, 1985, and reserved for a person with a disability or a
 19 permitholder on ways of this state open to the public, as defined in 61-8-101:

20 (a) The space must be located on a smooth, level surface as near as practicable to building
 21 entrances or walkways that have curb cuts and appropriately designed ramps and access lanes to
 22 accommodate wheelchairs.

23 (b) If parallel to curbside, the parking space must be separated from an adjacent space, either in
 24 the front or the rear, by at least 5 feet of striped no-parking area.

25 (c) If at an angle to curbside, the parking space must be at least 8 feet wide and free of obstruction
 26 if located at the end of a line of angle parking spaces, and each other angle parking space designated for
 27 a person with a disability must be at least 13 feet wide.

28 (d) A parking space reserved for a person with a disability must be designated by a sign showing
 29 the international symbol of accessibility, indicating that a permit is required, and stating the penalty for a
 30 violation. In order to meet the penalty statement requirement, signs existing on October 1, 1993, must have

1 attached a decal stating the penalty for a violation. The sign must be attached to a wall or post in such a
2 way that it is not obscured by a vehicle parked in the space."

3

4 **Section 3.** Section 49-4-303, MCA, is amended to read:

5 **"49-4-303. Applications for permit.** (1) Applications for a special parking permit may be made to
6 the department of justice on forms provided by the department, ~~which~~ The forms must require sufficient
7 information to allow the department to determine eligibility for a permit. The application must require the
8 applicant to describe the nature and extent of the applicant's handicap and the reason that the applicant
9 is seeking a permit and must be accompanied by:

10 (a) a certificate from a licensed physician, licensed physical therapist, rehabilitation counselor,
11 social service professional, or health care professional, describing the extent of the applicant's disability,
12 including an opinion as to the necessity of issuing the applicant a permit; and

13 (b) a fee of \$1.

14 (2) Applications ~~shall~~ must be available at the office of the county treasurer in each county and
15 directly from the department.

16 (3) The department shall review each application and make a determination whether a permit
17 should be issued. An applicant denied a permit may request a hearing with the department and may
18 proceed under the contested case provisions of the Montana Administrative Procedure Act.

19 (4) A permit may not be issued for a period longer than 3 years."

20

21 **Section 4.** Section 49-4-305, MCA, is amended to read:

22 **"49-4-305. Expiration of permit.** (1) Except as provided in subsection (2), a permit expires on the
23 occurrence of either of the following:

24 (a) 4 3 years from the date of issuance, unless the permit was issued to a person who has a
25 condition expected to improve within 6 months. A permittee person may renew a permit if a licensed
26 physician certifies that the permittee's disability impairing mobility the person's mobility disability still exists
27 and that one of the criteria specified in 49-4-301 continues to be met.

28 (b) certification by a physician that the permittee's disability impairing mobility person's mobility
29 disability no longer exists or that the criteria specified in 49-4-301 can no longer be met.

30 (2) A permit issued before October 1, 1993, expires on:

1 (a) the death of the permittee; or

2 (b) certification by a physician that the ~~permittee's disability impairing mobility~~ person's mobility
3 disability no longer exists or that the criteria specified in 49-4-301 can no longer be met."

4 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB295, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the Department of Justice's duty to review handicap parking permit requests and to issue permits if warranted.

ASSUMPTIONS:

1. An increased number of handicap parking permits will be issued annually due to the expanded listing of professionals allowed to certify an individual's disability for handicap parking privileges. The extent of the increased workload is unknown at this time.
2. Increased expenditures during FY96 and FY97 are unknown at this time. The Department of Justice (DOJ) anticipates absorbing the costs in the present law budget.

FISCAL IMPACT:

It is anticipated that costs can be absorbed in present law base budget.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Reducing the handicap parking permit period from four years to three years will create an increased workload in the 1998/1999 biennium and approximately \$1,200 annually in increased operating expenditures.

Dave Lewis 2-7-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JUDY JACOBSON, PRIMARY SPONSOR DATE

Fiscal Note for SB0295, as introduced

SB 295

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INTRODUCED BY JACOBSON, QUILICI, SHEA, LYNCH

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~~(c) has a temporary physical disability that impairs driving ability or mobility when not in a motor vehicle to such an extent that the person needs to be driven by another person to a destination. has a disability that limits or impairs the ability to walk PERSON'S MOBILITY and who, as determined by a licensed physician, licensed physical therapist, rehabilitation counselor, social service professional, or health care professional who can make the determination, meets one of the following criteria:~~

(a) cannot walk 200 feet without stopping to rest;

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 2 condition;

3 (c) is so severely disabled that the person cannot walk without the use of or assistance from a
 4 brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

5 (d) uses portable oxygen;

6 (e) is restricted by lung disease to such an extent that forced expiratory respiratory volume, when
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 11 heart association; or

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 13 DISEASE OR PHYSICAL CONDITION that limits or impairs the ~~ability to walk~~ PERSON'S MOBILITY and that
 14 is documented by the licensed physician or licensed physical therapist as being comparable in severity to
 15 the other conditions listed in this subsection (1).

16 (2) A person who has a condition expected to improve within 6 months may be issued a temporary
 17 placard for a period not to exceed 6 months but may not be issued a special license plate under
 18 61-3-332(10)(g). If the condition exists after 6 months, a new temporary placard must be issued for the
 19 time period prescribed by the applicant's physician, not to exceed 24 months, upon receipt of a new
 20 certification from the disabled person's physician that the conditions specified in subsection (1) continue
 21 to exist and are expected to continue for the time specified.

22 (3) An applicant may not receive more than one permit."

23
 24 **Section 2.** Section 49-4-302, MCA, is amended to read:

25 **"49-4-302. Privileges of permitholder -- privilege for disabled veteran -- exemptions from time limits**
 26 **-- requirements for special parking spaces.** (1) The parking permit issued under this part, when displayed,
 27 entitles a person to park a motor vehicle in a special parking space reserved for a person with a disability,
 28 whether on public property or on private property available for public use, when the person for whom the
 29 permit was issued is using the special parking space to enter or exit the vehicle.

30 (2) A vehicle ~~other than one lawfully displaying a parking permit issued under this part or one~~

~~1 displaying a distinguishing license plate or placard for a person with a disability that was issued by a foreign~~
~~2 jurisdiction conferring the same parking privileges as conferred in subsection (1) and conveying a person~~
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~~4 conveying a 100% disabled veteran may not be parked in a parking space on public or private property that~~
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~~10 or placard was issued, to enter or exit the vehicle.~~

11 (3) The governing body of a city, town, or county may exempt vehicles lawfully displaying parking
 12 permits issued under this part and vehicles lawfully displaying specially inscribed license plates issued under
 13 61-3-332(10)(c)(i)(A) or 61-3-332(10)(g) and parked in public places along public streets from any time
 14 limitation imposed upon parking, except in areas where:

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16 (b) only special vehicles may be parked; or

17 (c) parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

18 (4) In accordance with subsection (2), the governing body of a city, town, or county or appropriate
 19 state agency may impose all, but not less than all, of the following requirements with respect to any special
 20 parking space constructed after September 30, 1985, and reserved for a person with a disability or a
 21 permitholder on ways of this state open to the public, as defined in 61-8-101:

22 (a) The space must be located on a smooth, level surface as near as practicable to building
 23 entrances or walkways that have curb cuts and appropriately designed ramps and access lanes to
 24 accommodate wheelchairs.

25 (b) If parallel to curbside, the parking space must be separated from an adjacent space, either in
 26 the front or the rear, by at least 5 feet of striped no-parking area.

27 (c) If at an angle to curbside, the parking space must be at least 8 feet wide and free of obstruction
 28 if located at the end of a line of angle parking spaces, and each other angle parking space designated for
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1 the international symbol of accessibility, indicating that a permit is required, and stating the penalty for a
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15 ~~(b) a fee of \$1.~~

16 ~~(2) Applications shall must be available at the office of the county treasurer in each county and~~
 17 ~~directly from the department.~~

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 19 ~~should be issued. An applicant denied a permit may request a hearing with the department and may~~
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 28 ~~physician certifies that the permittee's disability impairing mobility the person's mobility disability still exists~~
 29 ~~and that one of the criteria specified in 49-4-301 continues to be met.~~

30 ~~(b) certification by a LICENSED physician that the permittee's disability impairing mobility person's~~

1 mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met.

2 (2) A permit issued before October 1, 1993, expires on:

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6

-END-

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14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
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12 ~~(a) a certificate from a licensed physician, licensed physical therapist, rehabilitation counselor,~~
 13 ~~social service professional, or health care professional, describing the extent of the applicant's disability,~~
 14 ~~including an opinion as to the necessity of issuing the applicant a permit; and~~

15 ~~(b) a fee of \$1.~~

16 ~~(2) Applications shall must be available at the office of the county treasurer in each county and~~
 17 ~~directly from the department.~~

18 ~~(3) The department shall review each application and make a determination whether a permit~~
 19 ~~should be issued. An applicant denied a permit may request a hearing with the department and may~~
 20 ~~proceed under the contested case provisions of the Montana Administrative Procedure Act.~~

21 ~~(4) A permit may not be issued for a period longer than 3 years."~~

22
 23 **Section 3.** Section 49-4-305, MCA, is amended to read:

24 **"49-4-305. Expiration of permit.** (1) Except as provided in subsection (2), a permit expires on the
 25 occurrence of either of the following:

26 (a) 4 3 years from the date of issuance, unless the permit was issued to a person who has a
 27 condition expected to improve within 6 months. A permittee person may renew a permit if a licensed
 28 physician certifies that the permittee's disability impairing mobility the person's mobility disability still exists
 29 and that one of the criteria specified in 49-4-301 continues to be met.

30 (b) certification by a LICENSED physician that the permittee's disability impairing mobility person's

1 mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met.

2 (2) A permit issued before October 1, 1993, expires on:

3 (a) the death of the permittee; or

4 (b) certification by a LICENSED physician that the ~~permittee's disability impairing mobility~~ person's

5 mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met."

6 -END-