

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 711
SPONSOR(S): Davis
TIED BILLS:

Accessible Parking Spaces

IDEN./SIM. BILLS: SB 1202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	_____	<u>Suarez</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 711 requires a facility with five or more accessible parking spaces to set aside at least 20 percent of those parking spaces for the exclusive use of persons who have a disabled parking permit, who occupy a vehicle having an attached device to load or unload a wheelchair, and who require extra space to deploy a mobility device, lift, ramp, or other device to exit or enter such vehicle.

The bill requires such spaces to be posted with a yellow sign that bears the wheelchair emblem; the words, "VANS OR VEHICLES WITH ATTACHED WHEELCHAIR DEVICES ONLY"; and the penalty for illegal use of the space. The spaces must be marked for entry and exit on the passenger side of the vehicle.

A person without a disabled parking permit who parks in a space designated for vehicles with wheelchair devices is subject to a fine of \$250.

There is a fiscal impact to state and local governments and the private sector to comply with the increased number of required parking spaces for vehicles with attached wheelchair devices, the amount of which is indeterminate.

HB 711 shall take effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill requires public and private facilities to set aside a certain percentage of their parking spaces for vehicles with attached wheelchair devices and provides a penalty of \$250 for a person who parks in such a space without a permit.

Safeguard Individual Liberty- A person with a disabled parking permit who must use a mobility device, lift or ramp to enter and exit a vehicle is provided additional parking spaces for their use.

B. EFFECT OF PROPOSED CHANGES:

Section 553.5041, F.S., provides the criteria for parking spaces for persons with disabilities. The law specifies that if parking spaces are provided as self-parking for employees or visitors, accessible spaces must be included in these parking areas. These accessible spaces shall be designed and marked for the exclusive use of individuals who have a severe disability and have permanent or temporary mobility problems and who have been issued a disabled parking permit.¹ The number of accessible parking spaces must comply with the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.1 and include:

- One accessible parking space in the immediate vicinity of a publicly-owned or leased building that houses a governmental entity if public parking is not provided on the premises.
- One accessible parking space for each 150 metered on-street parking spaces provided by state agencies and political subdivisions.
- Additional parking spaces for persons with disabilities based on a demonstrated and documented need.²

According to s. 553.5041, F.S., parking access aisles must be no less than 5 feet wide and must be part of an accessible route to a building. Each accessible parking space must be no less than 12 feet wide and must be located on an accessible route that is no less than 44 inches wide so that users do not have to walk or wheel behind parked vehicles. Also, each parking space is required to be prominently outlined with blue paint to be clearly distinguishable as a parking space designated for persons who have disabilities. These spaces must also be posted with a permanent sign at least 84 inches above the ground to the bottom of the sign. The sign shall display the international symbol of accessibility and the caption, "PARKING BY DISABLED PERMIT ONLY", and state the penalty for illegal use of the space. These signs must also comply with ADAAG 4.30.

The federal ADAAG have been adopted as the law of this state by s. 553.503, F.S. They require one in every eight accessible spaces to be "van accessible".³ These spaces must provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to the space.⁴ These spaces must be marked with a sign that displays the symbol of accessibility and the caption "Van-Accessible".⁵ The ADAAG Appendix 4.6.3 discusses the width specifications for van accessible parking spaces. The increasing use of vans with side-mounted lifts or ramps by persons with disabilities resulted in revisions in specifications for parking spaces and adjacent access aisles. Typically, an accessible parking space is 8-foot wide with an adjacent 5-foot wide access aisle. These measurements are not sufficient to permit lifts or ramps to be deployed and still leave room for a person using a wheelchair or other mobility

¹ s. 553.5041(3), F.S.

² s.553.5041(4), F.S.

³ See ADAAG 4.1.2(5)(b)

⁴ See ADAAG 4.6.5

⁵ See ADAAG 4.6.4

aide to exit the lift platform or ramp. The “van accessible” parking space in the ADAAG requires an 8-foot wide space with an 8-foot wide adjacent access aisle, which is wide enough to maneuver and exit from a side mounted lift.

The federal ADAAG states that a sign is needed to alert van users to the presence of the wider aisle, but the space is not intended to be restricted to only vans. The ADAAG does not supersede state or local laws that provide greater or equal benefit to individuals with disabilities.

According to s. 553.513, F.S., it is the responsibility of each local government and each code enforcement agency to enforce the provisions of this act. Florida law provides for the imposition of a \$100 fine for illegally parking or obstructing a parking space designated for people with disabilities under s. 316.1955, F.S.⁶ A county or municipality may impose an additional fine in excess of the fine provided for pursuant to Florida law, but the total fine may not exceed \$250.⁷

Proposed Changes

HB 711 amends s. 553.5041, F.S., to require a facility with five or more accessible parking spaces to set aside at least 20 percent for the exclusive use of persons who have a disabled parking permit and require extra room to deploy a mobility or other device to enter or exit the vehicle. These spaces that provide extra room must be posted with a sign stating, “VANS OR VEHICLES WITH ATTACHED WHEELCHAIR DEVICES” and stating the penalty for illegal use of the space. This is an increase over the current requirement of one in eight accessible parking spaces to be “van accessible”, as provided in the ADAAG and adopted in statute.⁸ The spaces must be in compliance with the guidelines for van accessible parking spaces, as found in ADAAG 4.

The spaces must be marked to allow for entry and exit from the passenger side of the vehicles.

A person who illegally parks in a space dedicated to vehicles with attached wheelchair devices is subject to a \$250 fine.

C. SECTION DIRECTORY:

Section 1. Amends s. 553.5041, F.S., to provide for the reservation of accessible parking spaces for persons who require extra space to exit or enter a motor vehicle; require signage and specific markings; and provide for a penalty.

Section 2. Provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

⁶ s. 318.18(6), F.S.

⁷ s. 316.008(4), F.S.

⁸ s. 553.503, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

To the extent state and local governments and private entities must designate or modify parking spaces for persons with disabilities to accommodate larger spaces for vans or vehicles with attached wheelchair devices, costs will be incurred. However, the number of parking spaces required to be modified or created is indeterminate. The potential impact on state and local governments, as well as the private sector, could be significant.

Individuals who park in a designated parking space without a disabled parking permit are subject to a fine of \$250.

The bill may increase fine revenues collected by state and local governments, the amount of which is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill could require local governments to expend funds to reconfigure parking spaces to comply with the new van accessible parking space provisions. However, the number of local governments affected by these changes is unknown. Therefore, it is unknown whether the fiscal impact to local governments is significant.

The bill does not state whether it fulfills an important state interest, however it does appear that the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not consistently indicate whether an additional parking space created pursuant to this bill would be for the exclusive use of those bearing a disabled parking permit and requiring additional space to enter and exit a vehicle. The proposed amendment to s. 553.5041(7)(a)(1), F.S., requires that the newly created parking space be for the exclusive use of an individual who has a disabled parking permit, who occupies a van or other vehicle having an attached device to load or unload a wheelchair, and who requires extra space to deploy the mobility device, lift, ramp or other device to exit from or enter such vehicle. The proposed amendment to s. 553.5041(b), which would impose a penalty of \$250 if a person without a disabled parking permit parks in a space in violation of this section, does not address whether a person with a disabled parking permit who does not require additional space to deploy a mobility device would be subject to a penalty for parking in a space provided for by this section.

The signage requirement provided for in the proposed amendment to s.553.5041(7)(a)(2), F.S., is ambiguous to the extent that it does not appear to indicate whether a person with a disabled parking permit, but not otherwise requiring the additional space contemplated in this bill, would be subject to a penalty for parking in a space designated for "VANS OR VEHICLES WITH ATTACHED WHEELCHAIR DEVICES".

The bill, as presently drafted, may conflict with provisions of the American with Disabilities Act to the extent that the bill restricts access by disabled persons who are not mobility impaired.

D. STATEMENT OF THE SPONSOR

Statement of the Sponsor:

HB 711 provides an important benefit for disabled persons as it designates 1 in 5 disabled parking spaces (20 percent) a larger parking space for the specific use of vans or other vehicles that contain a wheelchair.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES