

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 714

INTRODUCER: Senator Margolis

SUBJECT: Disabled Parking Permits

DATE: March 21, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Spalla</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<b>Pre-Meeting</b>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 714 revises laws relating to disability parking permits. The bill:

- expands the type of officials who may waive citations for disability permit parking violations by including the parking enforcement specialist or agency that issued the citation;
- revises the requirements for renewing or replacing a long-term disabled parking permit and includes prohibitions for certain violations;
- provides for random audits of disabled parking permit holders;
- requires the Department of Highway Safety and Motor Vehicles (DHSMV, department) to develop and implement a system to allow the reporting of abuses of disabled parking permits; and
- requires the department to develop and implement a public awareness campaign regarding how such abuse burdens disabled persons.

This bill substantially amends ss. 318.18 and 320.0848 of the Florida Statutes. This bill creates an unnumbered section of the Florida Statutes.

**II. Present Situation:**

Section 320.0848, F.S., authorizes the department and its agents to issue disabled parking permits to persons with impaired mobility. Such permits may be issued for a period of up to 4 years to any person with a long-term mobility impairment. Similarly, persons with a temporary mobility impairment may be issued a temporary disabled parking permit for a period of up to 6 months. A fee may be charged for the permit. However, no person may be charged a fee more frequently than once every 12 months.

A person applying for a disabled parking permit must be currently certified as being legally blind or as having any of the following conditions which would render the person unable to walk 200 feet without stopping to rest:

- The inability to walk without a brace, cane, crutch, prosthetic device, or other assistive device;
- The need to permanently use a wheelchair;
- Lung disease as measured within specified limits;
- Use of portable oxygen;
- A Class III or IV heart condition; or
- A severe limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition.

The certification must be made by a physician, podiatrist, optometrist, advanced registered nurse practitioner, or physician's assistant, any of which must be licensed under one of various chapters of Florida Statute. However, provisions are made to encompass certification by similarly-licensed physicians from other states, as well. The certification must include:

- The disability of the applicant;
- The certifying practitioner's name, address, and certification number;
- The eligibility criteria for the permit;
- Information concerning the penalty for falsification;
- The duration of the condition; and
- Justification for any additional placard issued.

The disabled parking permit must be a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning the applicant must have such identification at all times while using the parking permit. No person will be required to pay a fee for a parking permit for disabled persons more than once in a 12-month period.

Although a disabled parking permit must be renewed every four years, it does not expire under current law. The department allows for online and mail-in renewals, as well as replacements in the case of stolen or damaged permits, for persons certified as having a long-term disability. Currently, s. 320.0848, F.S., does not require persons who have a long-term disabled parking permit to apply for a renewal or a replacement permit in person or provide an additional certificate of disability.

Section 320.0848, F.S., allows for temporary disabled parking permits to be issued for the period of the disability as stated by the certifying physician, but not to exceed six months. A temporary parking permit for a disabled person must be a different color than the long-term permit (the long-term placard is blue, the temporary placard is red), and, similar to the long-term permit,

must display the permit expiration date, the state identification or driver's license number of the permit holder.

An application for a disabled parking permit is an official state document. The following statement is required to appear on each application immediately below the applicant's name and the certifying practitioner's name:

Knowingly providing false information on this application is a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes. The penalty is up to 1 year in jail or a fine of \$1000, or both.

A person who fraudulently obtains or unlawfully displays a disabled parking permit (or uses an unauthorized replica) is guilty of a 2nd degree misdemeanor. The penalty is up to 60 days in jail or a fine of \$500, or both.

A law enforcement officer may confiscate the disabled parking permit from any person who fraudulently obtains or unlawfully uses such a permit, including using the permit while the owner of the permit is not being transported. A law enforcement officer may confiscate any disabled parking permit that is expired, reported as lost or stolen, or defaced, or that does not display a personal identification number. However, the permit owner may apply for a new permit immediately.

The department tracks all disabled parking permits issued since 1999, including confiscations of the permit. According to DHSMV, the department conducts some auditing to ensure that driver licenses are only issued to living persons. However, programming is not specifically tailored to audit the records of persons to whom disabled parking permits have been issued.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 318.18(6), F.S., expanding the list of officials who can waive citations for illegally parking in a disability parking space. The bill allows the parking enforcement specialist or the agency that issued a parking citation to waive citations and sign affidavits of compliance.

Section 2 amends s. 320.0848, F.S., to require holders of disabled parking permits to renew in person and provide a current certificate of disability. Persons obtaining a replacement for a disabled parking permit must appear in person to submit the required application.

Current law allows law enforcement officers to confiscate the disabled parking permit of a person who has obtained it fraudulently or uses it unlawfully. The bill also authorizes parking enforcement specialists to confiscate fraudulently obtained or unlawfully used permits.

The bill requires a person who is found guilty of unlawful use of a permit (or who enters a plea of nolo contendere to the charge) to wait four years before applying for a new disabled permit if he or she had a prior finding of guilt or plea of nolo contendere to the charge.

The bill requires DHSMV to conduct random audits of disabled parking permit holders at least every six months. As a component of this audit, the department is required to:

- review the death records maintained by the Department of Health to ensure the permit holder is not deceased;
- review the number of times the permit has been confiscated or unlawfully used;
- determine if the permit has ever been reported lost or stolen; and
- determine the current status of the permit.

The department is directed to verify, at least annually, that the owner of each disabled parking permit has not died. If a permit owner is found to be deceased, the department is directed to promptly invalidate the decedent's permit. The department is also required to develop and implement a method by which abuse can be reported by telephone hotline, submission of an online form, or by mail.

Section 3 creates an unidentified section of Chapter 320, F.S., to require DHSMV to make a public announcement and conduct a public awareness campaign regarding the abuses of disabled parking permits and the burdens inflicted on disabled persons throughout the state. The campaign is to begin within 30 days after the effective date of this act and continue for not less than six months. Its purpose is to inform the public about:

- the requirement to appear in person to renew an expired disabled parking permit or replace a lost or stolen disabled parking permit;
- the implementation of the periodic disabled parking permit audit system; and
- the new complaint process for reporting abuses of disabled parking permits.

Section 4 establishes an effective date of July 1, 2011.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Permit holders will bear costs related to appearing in person at a Tax Collector's office and obtaining a current certification form from their physician every four years.

**C. Government Sector Impact:**

DHSMV estimates approximately 60 hours of programming would be needed to implement the provisions of the bill. Any costs to implement this bill will be absorbed within existing DHSMV resources.

Local Tax Collectors offices would see an increased workload due to the requirement that permit holders appear in person when renewing their permits.

**VI. Technical Deficiencies:**

DHSMV notes that additional time will be required to develop the public awareness campaign since 30 days is not sufficient time for development activities. The department recommends pushing back the roll out of the campaign for 120 days and continuing the campaign for 12 months rather than six.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.