

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 Committee on Transportation

BILL: SB 1472

INTRODUCER: Senator Farmer

SUBJECT: Disabled Parking Permits

DATE: January 23, 2018

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Jones | Miller | TR | Favorable |
| 2. | | | ATD | |
| 3. | | | AP | |

I. Summary:

SB 1472 requires that disabled parking permits, issued on or after July 1, 2018, display the applicant's photograph as it appears on his or her driver license or identification card. The photograph must be concealed by a movable flap or cover while the placard is displayed in the vehicle. The bill provides an exemption from this requirement for applicants who are certified by a physician as having a severe disability that prevents the applicant from physically visiting or being transported to obtain a driver license or identification card.

The bill adds a mandatory civil fine of \$250 for a person who fraudulently obtains or unlawfully displays a disabled parking permit that belongs to another person while occupying a disabled parking space or who uses an unauthorized replica of such permit, which is currently a second degree misdemeanor.

The bill adds that a person who commits the following offenses commits a noncriminal traffic infraction, punishable as a nonmoving violation with a \$250 fine:

- Knowingly providing a disabled parking permit to another person for its unlawful use; or
- Displaying an expired disabled parking permit.

The Department of Highway Safety and Motor Vehicles (DHSMV) will likely incur costs to redesign the disabled parking permit; however, such costs are indeterminate at this time.

The bill takes effect July 1, 2018.

II. Present Situation:

Section 320.0848, F.S., authorizes the DHSMV and its agents to issue disabled parking permits to persons with impaired mobility. Upon application and receipt of the fee,¹ a person with a long-term mobility impairment is issued a disabled parking permit for a period of up to four years. Similarly, a person with a temporary mobility impairment is issued a temporary disabled parking permit for a period of up to six months.²

Disabled parking permits allow an individual to stop, stand, or park a vehicle within designated accessible parking spaces when the vehicle is transporting the person to whom the disabled parking permit was issued.³

A person applying for a disabled parking permit must be 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:⁴

- Inability to walk without a brace, cane, crutch, prosthetic device, or other assistive device, when such device does not restore the ability to walk without severe limitations, or without the assistance of another person;
- The need to permanently use a wheelchair;
- A restriction by lung disease;⁵
- The use of portable oxygen;
- A restriction by cardiac condition;⁶ or
- A severe limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition.

A certificate of disability is required for a disabled parking permit and must be provided by a licensed physician, podiatrist, optometrist, advanced registered nurse practitioner, physician's assistant, or a similarly licensed physician from another state.⁷ The certificate of disability must include the:⁸

- Disability of the applicant;
- Certifying practitioner's name, address, and certification number;
- Eligibility criteria for the permit;

¹ There is no charge for a "permanent" disabled parking permit. A temporary parking permit is \$15; however, no person will be required to pay a fee for a disabled parking permit more than once in a 12-month period. See DHSMV, *HSMV 83039 - Application for Disabled Person Parking Permit* (Oct. 2015), available at <https://www.flhsmv.gov/pdf/forms/83039.pdf> (last visited Jan. 20, 2018) and s. 320.0848(1)(a), F.S.

² Section 320.0848(1)(a), F.S.

³ Section 316.1955(1), F.S.

⁴ Section 320.0848(1)(b)1., F.S.

⁵ The restriction must be "to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.";

s. 320.0848(1)(b)c., F.S.

⁶ The restriction must be "to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association.;" s. 320.0848(1)(b)e., F.S.

⁷ If a certification of disability is provided by a similarly licensed physician from another state, the application must also include documentation of the physician's licensure in the other state and a form signed by the out-of-state physician verifying their knowledge of Florida's eligibility guidelines; s. 320.0848(1)(b)2., F.S.

⁸ Section 320.0848(1)(c), F.S.

- Penalty for falsification by either the certifying practitioner or applicant;
- Duration of the condition that entitles the applicant for the permit;
- Justification for any additional placard;
- Statement, in bold letters: “A disabled parking permit may be issued only for a medical necessity that severely affects mobility;” and
- Signatures of the applicant’s physician or other certifying practitioner, applicant, and employee of DHSMV’s authorized agent which is processing the application.

To renew or replace a disabled parking permit that has been lost or stolen, the DHSMV requires an applicant to provide a certificate of disability issued within the last 12 months.⁹

A disabled parking permit is a placard that is visible from the front and the rear of a vehicle and must be hung from the vehicle’s rear-view mirror when the vehicle is parked in a designated accessible parking space.¹⁰ Each side of the placard displays the international symbol of accessibility, and a decal indicating the expiration date of the placard.¹¹ One side of the placard must display the applicant’s Florida driver license or identification card number, along with a warning that the applicant must have such identification at all times while using the permit.¹²

A law enforcement officer or parking enforcement specialist has the right to demand to be shown the person’s disabled parking permit and driver license or identification card, and may charge the person in control of the vehicle with resisting an officer without violence if the person refuses.¹³

Penalties for the Misuse of Disabled Parking Permits

A person who unlawfully stops, stands or parks his or her vehicle in a designated accessible disabled parking space may be charged with a noncriminal traffic infraction by an officer or parking enforcement specialist.¹⁴ Such infraction is a \$100 fine, plus court costs¹⁵, or a fine of up to \$250¹⁶ pursuant to a county or municipal ordinance.

⁹ A veteran considered permanently and totally disabled by the United States Department of Veteran Affairs (DVA) or Armed Forces may provide a DVA Form Letter 27-333, or its equivalent, issued within the last 12 months in lieu of a certificate of disability; Section 320.0848(2)(d), F.S.

¹⁰ DHSMV, *RS-38 Disabled Person Parking Permit* (June 16, 2015), available at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-38.pdf> at p. 9 (last visited Jan. 20, 2018).

¹¹ *Id.*

¹² An exemption may be obtained from this requirement by the certifying physician in cases where the severity of the disability prevents the person from physically visiting or being transported in order to be issued a driver license or identification card; s. 320.0848(2)(a), F.S.

¹³ Section 316.1955(1)(d), F.S.; s. 843.02, F.S., provides that a person who resists an officer without violence is guilty of a first degree misdemeanor.

¹⁴ Section 316.1955(1)(b), F.S.

¹⁵ Section 318.18(6), F.S. Court costs may increase the fine to \$178; *See* Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines* (July 1, 2017), available at http://www.flclerks.com/resource/resmgr/public_documents/2017_Distribution_Schedule_7.pdf (last visited Jan. 20, 2018).

¹⁶ Section 316.008(4), F.S.

Any person who fraudulently obtains or unlawfully displays a disabled parking permit that belongs to another person while occupying a disabled parking space, or who uses an unauthorized replica of such permit, is guilty of a second degree misdemeanor.¹⁷

Any person who knowingly makes a false or misleading statement on an application to obtain a disabled parking permit commits a first degree misdemeanor.¹⁸

III. Effect of Proposed Changes:

The bill requires disabled parking permits, issued on or after July 1, 2018, include a photograph of the applicant displayed on one side of the placard. Such photograph shall be a copy of the photograph that appears on the applicant's driver license or identification card, and must be concealed by a movable flap or cover while the placard is displayed in the vehicle.¹⁹

Individuals certified by a physician as having a severe disability that prevents the person from physically visiting or being transported to be issued a driver license or identification card is exempt from the photograph requirement.

The bill adds a \$250 mandatory civil fine for any person who fraudulently obtains or unlawfully displays a disabled parking permit that belongs to another person while occupying a disabled parking space, or who uses an unauthorized replica of such permit. This penalty is in addition to the second degree misdemeanor penalty.

The bill adds that a person who commits the following offenses commits a noncriminal traffic infraction, punishable as a nonmoving violation with a \$250 fine:²⁰

- Knowingly providing a disabled parking permit to another person for its unlawful use; or
- Displaying an expired disabled parking permit.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁷ Section 320.0848(7); ss. 775.082 and 775.083, F.S., provide that a second degree misdemeanor is punishable by up to 60 days in jail or a maximum fine of \$500.

¹⁸ Section 320.0848

¹⁹ 18 U.S.C. s. 2725(4) considers an individual's driver license or identification card photograph "highly restricted personal information." 18 U.S.C. s. 2721 prohibits the release of certain personal information from state motor vehicle records; however, such highly restricted personal information may be used by a law enforcement agency to carry out its functions, or any private person or entity acting on behalf of the agency in carrying out its functions.

²⁰ These fines are distributed as provided in s. 318.21, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who unlawfully use disabled parking permits will pay increased penalties if cited for certain violations.

C. Government Sector Impact:

DHSMV will likely incur costs to redesign the disabled parking permit; however, such costs are indeterminate at this time.

VI. Technical Deficiencies:

The bill does not provide distribution for the mandatory \$250 civil penalty added in s. 320.0848(7)(a), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.0848, 318.14, and 318.18.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.