

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 27 Disabled Parking Permits
SPONSOR(S): Julien and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 226

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson	Kruse
2) Economic Affairs Committee		Johnson	Tinker

SUMMARY ANALYSIS

HB 27 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;
- requires the Auditor General to compare disabled parking permit holders to death records and provide the Department of Highway Safety and Motor Vehicles (DHSMV) a report; and
- requires the DHSMV to develop and implement a system to allow the reporting of abuses of disabled parking permits.

The bill has an insignificant negative fiscal impact on state government and no fiscal impact on local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, s. 318.18(6), F.S., only allows a law enforcement agency to waive citations and sign affidavits of compliance for disabled parking permit violations.

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 four 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 six 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.
- 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:

"Any person who knowingly makes a false or misleading statement in an application or certification under section 320.0848, Florida Statutes, commits a misdemeanor of the first degree, punishable as provided in section 775.082 or 775.083, F.S. The penalty is up to one year in jail or a fine of \$1,000 or both."

A person who fraudulently obtains or unlawfully displays a disabled parking permit (or uses an unauthorized replica) is guilty of second 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.

Proposed Changes

The bill 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.

The bill amends s. 320.0848, F.S., requiring holders of disabled parking permits, beginning October 1, 2012, to provide a certificate of disability issued within the last 12 months when renewing a disabled parking permit.

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 the Auditor General, once every two years, to compare the DHSMV's records of disabled parking permit holders with the Department of Health's death records. The Auditor General is required to forward a list of disabled parking permit holders who are deceased to the DHSMV who shall promptly invalidate the decedent's disabled parking 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.

The bill has an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1 Amends s. 318.18, F.S. relating to the amount of penalties.

Section 2 Amends s. 320.0848, F.S., relating to persons who have disabilities; issuance of disabled parking permits; temporary permits; and permits for certain providers of transportation services to persons who have disabilities.

Section 3 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. The cost to the Auditor General to compare disabled parking permit holders to death records is unknown at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to DHSMV, it will need additional time to develop the means by which the public can report abuse of disabled parking permits.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Transportation & Highway Safety Subcommittee adopted two amendments and reported the bill favorably as a Committee Substitute. These amendments:

- Removed the requirement that applicants for disabled parking permits appear in person and replaced it with providing a certificate of disability issued in the last 12 months.
- Revised the audit provision to require the Auditor General to compare disabled parking permit holder names to death records once every two years and report to the DHSMV and removes the required public awareness campaign.