



Transportation & Highway Safety Subcommittee

Meeting Packet

**Tuesday, January 17, 2012
12:35 PM - 1:30 PM
306 HOB**

**Dean Cannon
Speaker**

**Brad Drake
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Highway Safety Subcommittee

Start Date and Time: Tuesday, January 17, 2012 12:35 pm
End Date and Time: Tuesday, January 17, 2012 01:30 pm
Location: 306 HOB
Duration: 0.92 hrs

Consideration of the following bill(s):

HB 27 Disabled Parking Permits by Julien

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Friday, January 13, 2012.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, January 13, 2012.

NOTICE FINALIZED on 01/12/2012 16:15 by Manning.Karen

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: 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 <i>AS</i>	Kruse <i>MK</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

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;
- provides for random audits of disabled parking permit holders;
- requires the Department of Highway Safety and Motor Vehicles (DHSMV or 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.

The bill has an expected negative fiscal impact to DSHMV of approximately \$114,000 in nonrecurring costs and \$51,172 in recurring costs.

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

- 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.

The bill requires 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.

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; permits for certain providers of transportation services to persons who have disabilities; and audits of disabled parking permits.

Section 3 Requires DHSMV to conduct a public awareness campaign.

Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to DHSMV, the public awareness provisions of the bill would result in non-recurring start-up costs of approximately \$114,600 for printing and mailing. Implementation of the audit and reporting provisions of the bill would result in recurring costs of \$51,172 for salary, benefits, and other expenses accruing to one additional Senior Highway Safety Specialist position.

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

County tax collector offices will see additional workload due to the bill's requirement that disabled parking permit holders appear in person.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Disabled persons will be burdened by the cost of obtaining a current certification form from their physician every four years and the cost of traveling to a tax collector office to renew the permit.

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:

DHSMV suggests allowing a Power of Attorney to be used in the original issuance or renewal of a disabled parking permit.

DHSMV suggests that the audit of disabled parking permit holders be conducted annually and that the scope of the audit be clarified.

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

According to DHSMV, it will need additional time to develop programming in order to implement this bill and recommends a later implementation date.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to disabled parking permits; amending s. 318.18, F.S.; providing for a parking enforcement specialist or agency to validate compliance for the disposition of a citation issued for illegally parking in a space provided for people who have disabilities; amending s. 320.0848, F.S.; revising requirements for renewal or replacement of a disabled parking permit; prohibiting applying for a new disabled parking permit for a certain period of time upon a second finding of guilt or plea of nolo contendere to unlawful use of such permit; requiring the Department of Highway Safety and Motor Vehicles to audit disabled parking permit holders, verify certain information, and invalidate the permit of a deceased permitholder; directing the department to implement a means for reporting abuse of disabled parking permits; providing for the department to conduct a public awareness campaign; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(6) One hundred dollars or the fine amount designated by

29 county ordinance, plus court costs for illegally parking, under
 30 s. 316.1955, in a parking space provided for people who have
 31 disabilities. However, this fine will be waived if a person
 32 provides to the law enforcement agency or parking enforcement
 33 specialist or agency that issued the citation for such a
 34 violation proof that the person committing the violation has a
 35 valid parking permit or license plate issued pursuant to s.
 36 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848
 37 or a signed affidavit that the owner of the disabled parking
 38 permit or license plate was present at the time the violation
 39 occurred, and that such a parking permit or license plate was
 40 valid at the time the violation occurred. The law enforcement
 41 officer or agency or the parking enforcement specialist or
 42 agency, upon determining that all required documentation has
 43 been submitted verifying that the required parking permit or
 44 license plate was valid at the time of the violation, must sign
 45 an affidavit of compliance. Upon provision of the affidavit of
 46 compliance and payment of a dismissal fee of up to \$7.50 to the
 47 clerk of the circuit court, the clerk shall dismiss the
 48 citation.

49 Section 2. Paragraph (d) of subsection (1), paragraph (e)
 50 of subsection (2), and subsection (8) of section 320.0848,
 51 Florida Statutes, are amended, subsections (9) and (10) are
 52 renumbered as subsections (11) and (12), respectively, and new
 53 subsections (9) and (10) are added to that section, to read:

54 320.0848 Persons who have disabilities; issuance of
 55 disabled parking permits; temporary permits; permits for certain
 56 providers of transportation services to persons who have

57 disabilities.-

58 (1)

59 (d) Beginning October 1, 2012 ~~April 1, 1999~~, the
 60 department ~~of Highway Safety and Motor Vehicles~~ shall renew the
 61 disabled parking permit of any person certified as permanently
 62 disabled on the application if the person applies for renewal in
 63 person and provides a current certificate of disability pursuant
 64 to this subsection.

65 (2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM
 66 MOBILITY PROBLEMS.-

67 (e) To obtain a replacement for a disabled parking permit
 68 that has been lost or stolen, a person must appear in person,
 69 submit an application on a form prescribed by the department,
 70 and ~~must~~ pay a replacement fee in the amount of \$1.00, to be
 71 retained by the issuing agency. If the person submits with the
 72 application a police report documenting that the permit was
 73 stolen, there is no replacement fee.

74 (8) A law enforcement officer or a parking enforcement
 75 specialist may confiscate the disabled parking permit from any
 76 person who fraudulently obtains or unlawfully uses such a
 77 permit. A law enforcement officer or a parking enforcement
 78 specialist may confiscate any disabled parking permit that is
 79 expired, reported as lost or stolen, or defaced, or that does
 80 not display a personal identification number.

81 (a) ~~Beginning April 1, 1999~~, The permit number of each
 82 confiscated permit must be submitted to the department ~~of~~
 83 ~~Highway Safety and Motor Vehicles~~, and the fact that the permit
 84 has been confiscated must be noted on the permitholder's record.

HB 27

2012

85 If two permits issued to the same person have been confiscated,
 86 the department of ~~Highway Safety and Motor Vehicles~~ shall refer
 87 the information to the central abuse hotline of the Department
 88 of Children and Family Services for an investigation of
 89 potential abuse, neglect, or exploitation of the permit owner.

90 (b) A confiscated permit must be held as evidence until a
 91 judicial decision about the violation has been made. After a
 92 finding of guilt has been made or a plea of nolo contendere has
 93 been entered, the charging agency shall destroy the confiscated
 94 permit. A confiscated permit may not, under any circumstances,
 95 be returned to its registered owner after a finding of guilt has
 96 been made or a plea of nolo contendere has been entered in
 97 court. If a finding of guilt has been made or a plea of nolo
 98 contendere has been entered for fraudulent or other unlawful use
 99 of a disabled parking permit after a prior finding of guilt or
 100 plea of nolo contendere for fraudulent or other unlawful use of
 101 a disabled parking permit issued to the same registered permit
 102 owner, the permit owner may not apply for a new disabled parking
 103 permit for a period of 4 years. The permit number of each
 104 destroyed permit must be reported to the department, and the
 105 department must record in the real-time disabled parking permit
 106 database that the permit has been invalidated.

107 (9) (a) At least once every 6 months, the department shall
 108 randomly audit disabled parking permit holders to ensure that
 109 all required criteria for the ownership and possession of such
 110 permit are still valid. As a component of the audit, the
 111 department shall, at a minimum:

- 112 1. Review death records maintained by the Department of

113 Health to ensure that the permitholder has not died.

114 2. Review the number of times the permit has been
 115 confiscated for fraudulent or unlawful use, if at all.

116 3. Determine if the permit has ever been reported lost or
 117 stolen and, if so, determine the current status of the permit.

118 (b) At least annually, the department shall verify that
 119 the owner of each disabled parking permit has not died. Such
 120 verification shall include, but is not limited to, consultation
 121 with death records maintained by the Department of Health. If a
 122 disabled parking permit owner is found to be deceased, the
 123 department shall promptly invalidate the decedent's disabled
 124 parking permit.

125 (10) The department shall develop and implement a means by
 126 which persons can report abuse of disabled parking permits by
 127 telephone hotline or by submitting a form online or by mail.

128 Section 3. (1) The Department of Highway Safety and Motor
 129 Vehicles shall make a public announcement and conduct a public
 130 awareness campaign regarding the abuses of disabled parking
 131 permits and the burdens such abuses inflict on disabled persons
 132 throughout the state. The public awareness campaign shall also
 133 inform the public about:

134 (a) The requirement to appear in person to renew an
 135 expired disabled parking permit or replace a lost or stolen
 136 disabled parking permit.

137 (b) The implementation of the new periodic disabled
 138 parking permit audit system.

139 (c) The implementation of the new complaint process for
 140 reporting abuses of disabled parking permits.

HB 27

2012

141 (2) The public awareness campaign shall commence within 30
142 days after the effective date of this act and shall continue for
143 not less than 6 months.

144 Section 4. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 27 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Julien offered the following:
4

5 **Amendment**

6 Remove lines 62-69 and insert:
7 disabled on the application if the person provides a certificate
8 of disability issued within the last 12 months pursuant to this
9 subsection.

10 (2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM
11 MOBILITY PROBLEMS.—

12 (e) To obtain a replacement for a disabled parking permit
13 that has been lost or stolen, a person must submit an
14 application on a form prescribed by the department, provide a
15 certificate of disability issued within the last 12 months
16 pursuant to subsection (1),
17

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 27 (2012)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Julien offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 107-143 and insert:

7 (9) (a) Once every two years the Auditor General shall
8 compare the department's records of disabled parking permit
9 holders with death records maintained by the Department of
10 Health. The Auditor General shall forward a list of disabled
11 parking permit holders who are deceased to the department and
12 the department shall promptly invalidate the decedent's disabled
13 parking permit.

14 (10) The department shall develop and implement a means by
15 which persons can report abuse of disabled parking permits by
16 telephone hotline or by submitting a form online or by mail.
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Amendment No. 2

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T I T L E A M E N D M E N T

Remove lines 12-19 and insert:
such permit; requiring the Auditor General to compare disabled parking permitholders with death records, verify certain information and forward a report; requiring the Department of Highway Safety and Motor Vehicles to invalidate the permit of a deceased permitholder; directing the department to implement a means for reporting abuse of disabled parking permits; providing an effective date.