

3 Senate Bill No. 246

4 SENATE BILL NO. 246 - By: BROWN of the Senate and KIRBY of the
5 House.

6 An Act relating to public safety; amending 47 O.S. 1991,
7 Sections 11-1007, as last amended by Section 1, Chapter 21,
8 O.S.L. 1997 and 15-112, as last amended by Section 1,
9 Chapter 94, O.S.L. 1997 (47 O.S. Supp. 1998, Sections 11-
10 1007 and 15-112), which relate to parking areas for
11 physically disabled persons and disability placards;
12 modifying amount of certain fines; providing expiration
13 dates for certain placards; authorizing a city, town or
14 municipality to establish a civilian volunteer handicapped
15 parking violation unit; providing for appointments to the
16 unit; establishing training programs for volunteers;
17 providing procedures for reporting of violations; setting
18 procedures for photographs to be used as evidence; setting
19 procedures for notices of violation; authorizing
20 confiscation of placards for certain violations; providing
21 for percentage of fine to be used for civilian volunteer
22 handicapped parking violation unit; providing for
23 codification; and providing an effective date.

24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

25 SECTION 1. AMENDATORY 47 O.S. 1991, Section 11-1007, as
26 last amended by Section 1, Chapter 21, O.S.L. 1997 (47 O.S. Supp.
27 1998, Section 11-1007), is amended to read as follows:

28 Section 11-1007. A. It shall be unlawful for any person to
29 place or park a motor vehicle in any parking space, wheelchair ramp,
30 wheelchair unloading area or any portion thereof that is designated
31 and posted as a reserved area for the parking of a motor vehicle
32 operated by or transporting a physically disabled person unless such

1 person has applied for and been issued a detachable insignia
2 indicating physical disability under the provisions of Section 15-
3 112 of this title, and such insignia is displayed as provided in
4 Section 15-112 of this title or in rules adopted pursuant thereto,
5 or has applied for and been issued a physically disabled special
6 license plate pursuant to the provisions of paragraph 8 of Section
7 1136 of this title, and such license plate is displayed pursuant to
8 the provisions of the Oklahoma Vehicle License and Registration Act.

9 B. Violation of these provisions shall be a misdemeanor and
10 upon conviction such person shall be fined not ~~more~~ less than Fifty
11 Dollars (\$50.00) and not more than One Hundred Dollars (\$100.00)
12 and, in addition thereto, such person shall pay any and all
13 reasonable and necessary charges incurred by the landowner or other
14 person in having any motor vehicle removed from the property and
15 stored.

16 SECTION 2. AMENDATORY 47 O.S. 1991, Section 15-112, as
17 last amended by Section 1, Chapter 94, O.S.L. 1997 (47 O.S. Supp.
18 1998, Section 15-112), is amended to read as follows:

19 Section 15-112. A. As used in this section:

20 1. "Physician" means any person holding a valid license to
21 practice medicine and surgery, osteopathic medicine, chiropractic,
22 podiatric medicine, or optometry, pursuant to the state licensing
23 provisions of Title 59 of the Oklahoma Statutes; and

1 2. "Physical disability" means an illness, disease, injury or
2 condition by reason of which a person:

3 a. cannot walk two hundred (200) feet without stopping to
4 rest,

5 b. cannot walk without the use of or assistance from a
6 brace, cane, crutch, another person, prosthetic
7 device, wheelchair or other assistance device,

8 c. is restricted to such an extent that the person's
9 forced (respiratory) expiratory volume for one (1)
10 second, when measured by spirometry, is less than one
11 (1) liter, or the arterial oxygen tension is less than
12 sixty (60) mm/hg on room air at rest,

13 d. must use portable oxygen,

14 e. has functional limitations which are classified in
15 severity as Class III or Class IV according to
16 standards set by the American Heart Association,

17 f. is severely limited in the person's ability to walk
18 due to an arthritic, neurological or orthopedic
19 condition, or

20 g. is certified legally blind.

21 B. 1. The Department of Public Safety shall issue a detachable
22 temporary placard indicating physical disability to any person who
23 submits an application on a form furnished by the Department and

1 certified by a physician, attesting that the applicant has a
2 physical disability, together with the fee required in subsection D
3 of this section. The attestation of the physician shall denote
4 "temporary" as the type of placard requested and shall indicate an
5 expiration date which the physician estimates to be the date of
6 termination of such physical disability; however, if the physician
7 certifies that the physical disability is permanent, the physician
8 shall denote "five-year" as the type of placard requested.

9 2. The person to whom such placard is issued shall be entitled
10 to the special parking privileges provided for in Section 15-111 of
11 this title; provided, however, the placard is properly displayed on
12 the parked vehicle.

13 C. Any placard issued by the Department of Public Safety shall
14 remain valid until:

15 1. The placard, if temporary, expires;

16 2. The person to whom the placard was issued requests a
17 replacement placard, whether a five-year or temporary, whereupon
18 such person shall pay to the Department the replacement fee
19 specified in subsection D of this section; or

20 3. The placard, whether a five-year or temporary, is no longer
21 needed by the person to whom such placard was issued for the
22 disability for which the placard was originally issued, whereupon
23 such placard shall be returned to the Department.

1 D. On and after July 1, 1995:

2 1. A five-year placard shall expire five (5) years from the
3 last day of the month in which the placard was issued. Upon the
4 expiration of a five-year placard, the person to whom such placard
5 was issued may obtain a subsequent placard by reapplying to the
6 Department, in the same manner as provided in subsection B of this
7 section. If the physician certifying the application attests that
8 the applicant's physical disability still exists, the physician
9 shall so denote on the application, and the expiration date shall be
10 extended an additional five (5) years;

11 2. A temporary placard shall indicate the expiration date which
12 the physician certifying the physical disability estimates to be the
13 date of termination of such physical disability, which shall not be
14 later than six (6) months from the date of issuance and upon which
15 date such placard shall expire and shall be returned to the
16 Department; provided, however, nothing in this paragraph shall be
17 construed to prevent the holder from applying for another placard,
18 as provided for in this section; and

19 3. In the event that a placard, whether a five-year or
20 temporary, is lost or destroyed, the person to whom such placard was
21 issued may apply in writing to the Department for a replacement
22 placard, which the Department shall issue with the same expiration
23 date as the original placard. The Department shall charge and the

1 applicant shall pay to the Department a replacement fee of Two
2 Dollars (\$2.00) for each replacement placard issued. On and after
3 January 1, 1998, all placards issued prior to October 31, 1990,
4 shall expire on the last day of the month in which the placard was
5 issued, and the person to whom such placard was issued may follow
6 the procedure provided for in subsection B of this section to obtain
7 a second or subsequent placard. All placards issued after October
8 31, 1990, and before July 1, 1995, shall expire in the year 2000 on
9 the last day of the month in which the placard was issued.

10 E. A physician may sign an application certifying that a person
11 has a physical disability, as provided in subsection B of this
12 section, only if care and treatment of the illness, disease, injury
13 or condition causing the physical disability of such person falls
14 within the authorized scope of practice of the physician.

15 F. The Department shall recognize handicap and disability
16 stickers issued by the Veterans Administration and federal military
17 bases in the same manner as the placard issued by the Department as
18 provided for in this section. For purposes of this section and
19 other sections of law relating to the physical disability placard,
20 the term "physical disability placard", "five-year placard" or
21 "temporary placard" shall include those handicap and disability
22 stickers issued by the Veterans Administration and federal military
23 bases.

1 G. The Department shall have the power to formulate, adopt and
2 promulgate rules as may be necessary to implement and administer the
3 provisions of this section, including, but not limited to,
4 prescribing the manner in which the five-year placard and the
5 temporary placard are to be displayed on a motor vehicle.

6 H. The Commissioner of Public Safety is hereby authorized to
7 enter into reciprocity agreements with other states for the purpose
8 of recognizing parking placards or license plates indicating
9 physical disability issued by those states.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 11-1007.1 of Title 47, unless
12 there is created a duplication in numbering, reads as follows:

13 A. A city, town or municipality may, by adoption of a local law
14 or ordinance, establish a civilian volunteer handicapped parking
15 violation unit to assist in the enforcement of handicapped parking
16 laws or ordinances. Persons appointed to such unit shall be
17 volunteers, shall serve without compensation, and shall be
18 authorized to provide evidence of violations of handicapped parking
19 laws or ordinances to the appropriate law enforcement authority.
20 Such evidence may include photographing a violation, provided that
21 such photograph is taken in compliance with the requirements of this
22 section.

1 B. A local law or ordinance enacted in accordance with the
2 provisions of this section shall:

3 1. Establish a training program of no less than two hours in
4 length and require each volunteer to participate in and complete
5 such training program;

6 2. Provide for the assignment of an identification number to
7 each volunteer, and provide official identification and equipment to
8 assist volunteer personnel in the conduct of their duties;

9 3. Establish uniform procedures for volunteers to follow in
10 determining whether a violation has occurred;

11 4. Establish procedures for the uniform reporting of
12 violations, which reporting shall include the identification number
13 of the volunteer making the report;

14 5. If such local law or ordinance provides for the taking of
15 photographs of violations: (i) grant only the local law enforcement
16 agency the authority to process or to contact for the processing of
17 all film submitted by volunteers; (ii) require any photographs
18 evidencing a violation to be available for inspection in any
19 proceeding to adjudicate the liability for such violation; (iii)
20 provide that a certificate, sworn to or affirmed by a technician
21 employed by the municipality in which the charged violation
22 occurred, or a facsimile thereof, based upon inspection of
23 photographs produced from film submitted by volunteers, shall be

1 prima facie evidence of the facts contained therein; and (iv)
2 prohibit the use of such a photograph for any purpose other than as
3 evidence of a handicapped parking violation; and

4 6. Provide the following with respect to notices of violation:
5 (i) a notice of violation shall be sent by first class mail to each
6 person alleged to be liable as an owner for a violation of a
7 handicapped parking law or ordinance. A manual or automatic record
8 of mailing prepared in the ordinary course of business shall be
9 prima facie evidence of the facts contained therein; (ii) a notice
10 of violation shall reference the law which was allegedly violated,
11 and shall contain the name and address of the person alleged to be
12 liable as an owner for a violation of a handicapped parking law or
13 ordinance, the license tag number of the vehicle involved in such
14 violation, the location where such violation took place, the date
15 and time of such violation, and the identification number of the
16 volunteer who recorded the violation; (iii) a notice of violation
17 shall contain information advising the person charged of the manner
18 and the time in which he or she may contest the violation alleged in
19 the notice, and shall also contain a warning to advise the persons
20 charged that failure to contest in the manner and time provided
21 shall be deemed an admission of liability and that a default
22 judgment may be entered thereon.

1 C. Upon a conviction of a local law or ordinance which complies
2 with the provisions of subsection B of this section, notwithstanding
3 any other law, the local law enforcement entity shall have the
4 authority:

5 1. To confiscate the placard if not valid or used fraudulently,
6 report the conviction, and send the placard to the Department of
7 Public Safety, who shall then revoke the privilege of using the
8 placard; and

9 2. To dedicate up to twelve and one-half percent (12 1/2%) of
10 any fine imposed resulting from citations or for violations of the
11 handicapped parking regulations, which shall be deposited in a
12 special dedicated fund to be used by the local municipality for the
13 sole purpose of establishing, maintaining and perpetuating a citizen
14 volunteer handicapped parking violation unit.

15 SECTION 4. This act shall become effective November 1, 1999.

16 COMMITTEE REPORT BY: COMMITTEE ON VETERANS, MILITARY AFFAIRS &
17 PUBLIC SAFETY, dated 2-9-99 - DO PASS, As Coauthored.