

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1613

By: Gilbert

AS INTRODUCED

An Act relating to motor vehicles; amending Section 5, Chapter 276, O.S.L. 1999 (47 O.S. Supp. 2000, Section 11-1007.1), which relates to enforcement of handicap parking laws; authorizing municipalities to adopt certain ordinances and laws; modifying certain content of such ordinances and laws; authorizing certain security guards to issue citations and perform other functions; dedicating certain percentage of fine to fund such service; and providing an effective date.

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

SECTION 1. AMENDATORY Section 5, Chapter 276, O.S.L. 1999 (47 O.S. Supp. 2000, Section 11-1007.1), is amended to read as follows:

Section 11-1007.1 A. A city, town or municipality may, by adoption of a local law or ordinance, establish a civilian volunteer handicapped parking violation unit and/or a security guard handicapped parking unit to assist in the enforcement of handicapped parking laws or ordinances. Persons appointed to such units shall be volunteers, or security guards who are employed at malls or shopping centers, shall serve without compensation, and shall be authorized to provide evidence of violations of handicapped parking laws or ordinances to the appropriate law enforcement authority. Such evidence may include photographing a violation, provided that such photograph is taken in compliance with the requirements of this section.

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

1. Establish a training program of no less than two (2) hours in length and require each volunteer or security guard to participate in and complete such training program;

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

3. Establish uniform procedures for volunteers and security guards to follow in determining whether a violation has occurred;

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

5. If such local law or ordinance provides for the taking of photographs of violations:

- a. grant only the local law enforcement agency the authority to process or to contract for the processing of all film submitted by volunteers,
- b. require any photographs evidencing a violation to be available for inspection in any proceeding to adjudicate the liability for such violation,
- c. provide that a certificate, sworn to or affirmed by a technician employed by the municipality in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs produced from film submitted by volunteers, shall be prima facie evidence of the facts contained therein, and
- d. prohibit the use of such a photograph for any purpose other than as evidence of a handicapped parking violation; and

6. Provide the following with respect to notices of violation:

- a. a notice of violation shall be sent by first class mail to each person alleged to be liable as an owner

for a violation of a handicapped parking law or ordinance. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein,

- b. a notice of violation shall reference the law which was allegedly violated, and shall contain the name and address of the person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance, the license tag number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, and the identification number of the volunteer or security guard who recorded the violation,
- c. a notice of violation shall contain information advising the person charged of the manner and the time in which he or she may contest the violation alleged in the notice, and shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

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

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

2. To dedicate not less than twelve and one-half percent (12 1/2%) of any fine that resulted from citations or for violations of

the handicapped parking regulations, to be deposited in a special dedicated fund to be used by the local municipality for the sole purpose of establishing, maintaining and perpetuating a citizen volunteer handicapped parking violation unit; and

3. To dedicate not less than twelve and one-half percent (12 1/2%) of any fine that resulted from citations or for violations of the handicapped parking regulations, to be deposited in a special dedicated fund to be used by the local municipality for the sole purpose of establishing, maintaining and perpetuating a security guard handicapped parking violation unit.

SECTION 2. This act shall become effective November 1, 2001.

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