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Sen. Mantzavinos
Reps. Baumbach, Heffernan, Kowalko, Lambert, Lynn;
Sens. Gay, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 448

AN ACT TO AMEND TITLES 9, 21, AND 22 OF THE DELAWARE CODE RELATING TO ACCESSIBLE PARKING SPACES.

1 WHEREAS, the number and quality of accessible parking spaces for persons with disabilities varies widely
2 throughout the State; and

3 WHEREAS, federal standards for accessible parking do not meet the needs of most persons with disabilities using
4 accessible parking; and

5 WHEREAS, there is inconsistent application of existing standards for accessible parking spaces, and enforcement
6 of those standards is poor; and

7 WHEREAS, individuals in this State continue to park illegally in accessible parking spaces to the detriment of
8 persons with disabilities and the establishments that provide goods and services to those persons.

9 NOW, THEREFORE:

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

11 Section 1. Amend § 4183, Title 21 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 4183. Parking areas for vehicles being used by persons with disabilities.

14 (a) For purposes of this ~~section, the term~~ section:

15 (1) "Accessible parking space" means as defined in §4183A of this title.

16 (2) ~~"vehicle~~ "Vehicle being used by a person with a disability" means a vehicle; vehicle that meets both of the
17 following:

18 (1) ~~a. That displays~~ Displays a valid special license plate issued pursuant to § 2134 of this title on the rear
19 of the vehicle, or that displays a valid parking placard issued pursuant to § 2135 of this title on the front
20 windshield rearview mirror of the vehicle or, if there is no mirror, on the dashboard, or that displays a valid plate,
21 ~~placard~~ placard, or other item issued under a similar statute in another state or ~~country; and~~ country.

(2) ~~b. In which the~~ The person for whom the plate or placard is issued is either the operator or a passenger
or, in the case of an organization, in which a person who is entitled to obtain a permanent or temporary placard is a
passenger.

(b) With the exception of a vehicle being used by a person with a disability, it is unlawful to park on public or
private property any vehicle in any area ~~under the control of the Department of Transportation or a local authority within its~~
~~respective jurisdiction or under the control of an owner or lessee of private property~~ that is designated as a an accessible
parking space ~~or zone for persons with disabilities which limit or impair the ability to walk and that is conspicuously~~
~~marked as such. For purposes of this section, "conspicuously marked" means that a vertical sign has been placed at an~~
~~approximate height of at least 5 feet but no more than 7 feet when measured from the surface directly below the sign to the~~
~~top of the sign for each parking space or zone. The sign must substantially follow federal specifications that identify a~~
~~parking zone or space as one for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches~~
~~wide by 18 inches tall that includes the internationally recognized wheelchair symbol of access substantially follows federal~~
~~specifications. These requirements may not be construed to preclude additional markings, such as the international~~
~~wheelchair symbol or a striped extension area painted on the space or zone, or a tow-away warning sign.~~

(c) Upon the discovery on private property of a vehicle, other than a vehicle being used by a person with a
disability, in a ~~designated~~ an accessible parking space or zone for persons with disabilities, space, the owner or lessee of the
private property may cause the illegally parked vehicle to be removed to a private storage area maintained for the safe
storage of vehicles. Any costs of removal and storage must be borne by the owner or operator of the vehicle. Upon the
discovery of a vehicle illegally parked in a ~~designated~~ an accessible parking space or zone for persons with disabilities that
is under the control of the Department of Transportation or local authorities, the State Police, county ~~police~~ police, or
municipal police having jurisdiction may cause the illegally parked vehicle to be removed to a private storage area
maintained for the safe storage of vehicles. Any costs of removal and storage must be borne by the owner or operator of the
vehicle.

(d) In addition to unlawful parking on public or private property in a ~~space or zone designated for a vehicle being~~
~~used by a person with a disability,~~ an accessible parking space, all of the following acts are prohibited on both public and
private property and may be enforced pursuant to this section:

(1) Creating or using a counterfeit license plate or parking placard, as described in § 2134 or § 2135 of this
~~title;~~ title.

(2) Altering a license plate or parking placard issued pursuant to § 2134 or § 2135 of this ~~title;~~ title.

(3) Parking on a striped area or access aisle within or adjacent to ~~a space or zone designated for a vehicle being used by a person with a disability;~~ an accessible parking space.

(4) Being the person or organization to whom a license plate or parking placard has been issued pursuant to § 2134 or § 2135 of this title, allowing another to use the plate or ~~placard;~~ or placard.

(5) Parking a vehicle with a license plate or placard issued pursuant to § 2134 or § 2135 of this title in a ~~space or zone defined in subsection (b) of this section~~ an accessible parking space unless a person on whose behalf a special license plate or placard has been issued is being transported.

(f) (1) A person or organization who violates this section must receive a mandatory fine of ~~\$200~~ \$250 for a first offense, and for a subsequent like offense, a mandatory fine of ~~\$300~~ \$500 or a term of imprisonment of not less than 10 nor more than 30 days, or both.

(2) In addition, a person or organization who holds a valid special license plate or parking placard issued under § 2134 or § 2135 of this title and who violates paragraph (d)(1), (2), or (4) of this section may receive an additional penalty of up to a 6-month suspension or the permanent revocation of the plate or placard. If a plate is suspended or revoked under this subsection, the person may apply for and be issued a regular license plate.

(3) Minor variations of accessible parking space features, including the absence of a sign, shall not be a defense to prosecution under this section if the space is otherwise conspicuously marked.

Section 2. Amend Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4183A. Requirements for design, construction, and maintenance of accessible parking spaces.

(a) For purposes of this section:

(1) “Accessible parking space” means any parking space or parking zone designated by an owner or lessee of any public or private property for use by a “vehicle being used by or for a person with disability”, as defined in §4183 of this title.

(2) “Accessible route” means a continuous unobstructed path connecting all accessible elements.

(b) Where accessible parking spaces are provided, they shall be designed and constructed in compliance with the requirements of this section and with the applicable regulations promulgated by the United States Department of Justice and the United States Department of Transportation under the Americans with Disabilities Act, Titles II and III, the Guidelines for Pedestrian Facilities in Public Rights of Way, when such Guidelines are adopted and codified in the United States Code of Federal Regulations, any applicable building code adopted by any county or municipality, and any statewide building code, all as they may be amended.

81 (c) In addition to meeting the standards for accessible parking spaces in subsection (b) of this section, for any
82 applicable building code adopted by any county or municipality, and any statewide building code, all accessible parking
83 spaces shall meet the following requirements:

84 (1) For every 5 accessible parking spaces required by law, 1 additional space shall be reserved for
85 wheelchair and scooter users only, in addition to designating any required van accessible spaces. Compliance with
86 this subsection is not required if doing so would violate any applicable zoning or building code requirement
87 governing the minimum number of required parking spaces.

88 (2) Each accessible parking space must have a sign at least 12 inches wide and 18 inches tall that must be
89 clearly visible to a person parking in the space, at a minimum height of 60 inches, must be marked with the
90 International Symbol of Access, must indicate that the space is reserved for a vehicle being used by a person with
91 a disability, and must display the then current maximum fines established in § 4183(f) of this title.

92 (3) A van accessible space must have a sign marked with the words "Van Accessible." An accessible
93 parking space reserved for wheelchair or scooter users shall have a sign that includes the words
94 "Wheelchair/Scooter Users Only."

95 (4) All access aisles must have conspicuous signage to indicate that parking in and obstruction of the
96 access aisle is prohibited. The sign may not be located within the aisle and may neither obstruct nor interfere with
97 an accessible route.

98 (5) All access aisles must be marked with a blue painted border around the perimeter, and the area within
99 the blue border must be marked by 4 inch hatched lines painted diagonally on a 45 % angle to the blue border, in a
100 color contrasting the aisle surface.

101 (6) Unless prevented by local fire codes, accessible parking spaces must be placed on the shortest
102 accessible route to the accessible entrance.

103 (7) Accessible parking spaces and access aisles must be maintained so as to meet the requirements of this
104 section. Snow, ice and debris shall be removed as soon as is practicable. Access aisles must remain clear of all
105 obstructions, including without limitation, plowed snow, bicycle racks or shopping carts.

106 (8) Nothing in this subsection limits the use of signage with additional information, including a tow-away
107 warning.

108 (d) The obligation to design and construct accessible parking spaces consistent with this section extends to all new
109 spaces installed after [the effective date of this Act], and to any existing accessible parking spaces whenever they are
110 restriped, repainted, resurfaced, or otherwise altered after the effective date of this section. Accessible parking spaces that

are in full compliance with applicable federal regulations under the Americans with Disabilities Act and applicable building codes as of [the effective date of this Act] are not required to comply with this section until such spaces are restriped, repainted, resurfaced, or otherwise altered. Accessible parking spaces that are not in compliance with applicable federal regulations under the Americans with Disabilities Act and applicable building codes as of [the effective date of this Act] are required to comply with this section.

(e) No new accessible parking spaces may be installed, and no existing accessible parking spaces may be restriped, repainted, resurfaced or otherwise altered, until the county or municipal authority having jurisdiction over the construction or alteration of commercial buildings has issued a permit authorizing such action.

(f) Upon completion of the work subject to permit, the public agency issuing the permit shall verify compliance by either conducting an on- site inspection or independently confirming compliance by use of documentation and photographic evidence submitted by the entity to whom the permit was issued, provided that the documentation and photographic evidence is sufficient to adequately assess such compliance. The permitting agency may adopt a model form published by the State Council for Persons with Disabilities in consultation with the Architectural Accessibility Board to standardize submission of verifying documentation and photographic evidence. If the submitted documentation and photographic evidence is not sufficient to confirm compliance, an on-site inspection must be conducted.

(g) Nothing in this section requires a county or municipality to conduct code inspections apart from its usual and customary practice for promoting building code compliance, or prohibits such county or municipality from charging fees associated with permits and compliance verification.

(h) Nothing in this section prohibits any state, municipal, or local government or agency from adopting more stringent standards for accessible parking than those imposed by this section and applicable federal law, nor shall it prohibit any private or public entity from providing more accessible parking spaces than are required by this section or other applicable code or regulation.

Section 3. Amend §110, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 110. Parking spaces for use by persons with disabilities.

(a) The county government of each of the 3 Delaware counties ~~shall, on or before January 1, 2004,~~ and the municipal government of each incorporated municipality within ~~each county shall, on or before March 1, 2004,~~ the State shall adopt regulations or ordinances regarding the duty of individuals and artificial entities to erect construct and maintain signage on parking spaces or zones for use by persons with disabilities. accessible parking spaces consistent with § 4183A of Title 21.

(b) The county government of each of the 3 Delaware counties and the municipal government of each incorporated municipality within the State shall adopt regulations or ordinances requiring that no new accessible parking space shall be constructed and no existing accessible parking space shall be installed, restriped, repainted, resurfaced, or otherwise altered until the county government or municipality has issued a permit authorizing such action. Upon completion, the entity issuing the permit shall confirm compliance as set forth in § 4183A(f) of Title 21.

~~(b) (c) The signage regulations or ordinances adopted pursuant to subsection (a) and (b) of this section must include an enforcement provision, a penalty provision, and a provision which requires an enforcement officer to first issue a written warning to an individual or artificial entity who is required to erect and maintain signage, obtain a permit and to construct and maintain accessible parking spaces, but has failed to do so; so, consistent with the obligations under § 4183A of Title 21. If, after 30 days from the date that a warning is issued, the individual or artificial entity has not erected and/or maintained the required signage, obtained the appropriate permit or constructed or maintained the accessible parking spaces, the enforcement officer may issue a summons or apply for a warrant in the name of the offending individual or artificial entity.~~

(c) Each county government and the municipal government of each incorporated municipality within the State shall require that each lot with accessible parking spaces must display a sign with a contact number for the appropriate permitting agency.

Section 4. Amend §310, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 310 Parking spaces for use by persons with disabilities.

(a) The county government of each of the 3 Delaware counties ~~shall, on or before January 1, 2004,~~ and the municipal government of each incorporated municipality within ~~each county shall, on or before March 1, 2004,~~ the State shall adopt regulations or ordinances regarding the duty of individuals and artificial entities to erect construct and maintain ~~signage on parking spaces or zones for use by persons with disabilities; accessible parking spaces consistent with § 4183A of Title 21.~~

(b) The county government of each of the 3 Delaware counties and the municipal government of each incorporated municipality within the State shall adopt regulations or ordinances requiring that no new accessible parking space shall be constructed and no existing accessible parking space shall be installed, restriped, repainted, resurfaced, or otherwise altered until the county government or municipality has issued a permit authorizing such action. Upon completion, the entity issuing the permit shall confirm compliance as set forth in § 4183A(f) of Title 21.

170 ~~(b)~~ (c) The ~~signage~~ regulations or ordinances adopted pursuant to subsection (a) and (b) of this section must
171 include an enforcement provision, a penalty provision, and a provision which requires an enforcement officer to first issue a
172 written warning to an individual or artificial entity who is required to ~~erect and maintain signage, obtain a permit and to~~
173 construct and maintain accessible parking spaces, but has failed to do ~~so~~, so, consistent with the obligations under § 4183A
174 of Title 21. If, after 30 days from the date that a warning is issued, the individual or artificial entity has not ~~erected and/or~~
175 ~~maintained the required signage, obtained the appropriate permit or constructed or maintained the accessible parking~~
176 spaces, the enforcement officer may issue a summons or apply for a warrant in the name of the offending individual or
177 artificial entity.

178 (e) Each county government and the municipal government of each incorporated municipality within the State
179 shall require that each lot with accessible parking spaces must display a sign with a contact number for the appropriate
180 permitting agency.

181 Section 5. This bill shall be effective one year from the date of enactment.

SYNOPSIS

This Act adds provisions to Title 21 defining accessible parking spaces, incorporating federal standards for accessible parking spaces found in the Americans with Disabilities Act and applicable regulations. The Act also provides additional requirements that enhance these standards and better reflect the needs of persons with disabilities in Delaware. The Act increases the penalty associated with violating the statute that prohibits individuals who do not possess a parking placard or special license plate from parking in accessible parking spaces, or in the access aisles located next to accessible parking spaces. This Act adds provisions in Titles 9 and 22 to require county and municipal governments to adopt regulations and ordinances incorporating these requirements for accessible parking spaces, including the requirement that property owners have a permit and process to ensure compliance for new or modified accessible parking spaces, in order to increase compliance and uniformity statewide.