



SPONSOR: Rep. Viola & Rep. Hudson & Sen. Poore
Reps. Heffernan, Kowalko, Matthews, Ramone

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 200

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 (Two-thirds of all
11 members elected to each house thereof concurring therein):

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

14 § 4183 Parking areas for vehicles being used by persons with disabilities.

15 (a) For purposes of this section, the term "vehicle being used by a person with a disability" means a vehicle:

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

20 (2) In which the person for whom the plate or placard is issued is either the operator or a passenger or, in the
21 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 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 substantially complies with the requirements for an accessible parking space, as defined in § 4183A of this title.

(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 parking space or zone for persons with disabilities that~~ substantially complies with the requirements for an accessible parking space as defined in §4183A of this title, 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 parking space~~ that substantially complies with the requirements for an accessible parking space as defined in §4183A of this title or ~~zone for persons with disabilities~~ that is under the control of the Department of Transportation or local authorities, the State Police, county 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 in an accessible parking space or zone for persons with disabilities~~, 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;
- (2) Altering a license plate or parking placard issued pursuant to § 2134 or § 2135 of this title;

(3) Parking on a striped area or access aisle within or adjacent to a an accessible parking space that substantially complies with the requirements of § 4183A of this title. ~~or zone designated for a vehicle being used by a person with a disability;~~

(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

(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~~ in an accessible parking space that substantially complies with the requirements of § 4183A of this title, unless a person on whose behalf a special license plate or placard has been issued is being transported.

(e) A uniform parking summons may be attached to an unattended vehicle found in violation of this section by a person authorized to issue a summons for a violation of this section. It is prima facie evidence that the person or organization in whose name the unattended vehicle is registered is responsible for the violation. The owner or operator of the unattended vehicle may mail or deliver the summons and the designated fine and costs directly to the court identified on the summons instead of appearing before the court for arraignment on the charge, provided that the owner or operator identifies himself, herself or itself and that the summons and fine and costs are received by the court at least 2 days before the arraignment date designated on the summons.

(f) A person or organization who violates any provision of this section shall receive a mandatory fine of ~~\$100~~ \$250 for a first offense, and for a subsequent like offense, a mandatory fine of ~~\$200~~ \$500 or a term of imprisonment of not less than 10 nor more than 30 days, or both. In addition, a person or organization who holds a valid special license plate or parking placard issued pursuant to § 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 pursuant to this subsection, the person may apply for and be issued a regular license plate.

(g) The Superintendent of the State Police is authorized to appoint State Police Academy cadets to enforce this section within the unincorporated areas of each county. Cadets appointed pursuant to this subsection must be at least 18 years of age. The Superintendent may establish other qualifications considered necessary or desirable.

(h) A summons issued by a cadet appointed by the Superintendent pursuant to subsection (f) of this section has the same force and effect as a summons issued by the State Police.

(i) Fines collected from summonses issued by the State Police or by cadets appointed pursuant to subsection (f) of this section must be deposited into the General Fund.

(j) The authority of the State Police or a cadet appointed by the Superintendent to enforce this section is not limited by any jurisdictional agreement between the State Police and any local law-enforcement agency.

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 and redesignating accordingly:

Section 4183A Requirements for Design, Construction and Maintenance of Accessible Parking Spaces.

(a) “Accessible parking space” is defined as 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.

(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.

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

(1) Accessible parking spaces shall be a minimum of 108 inches wide, in addition to a mandatory 60 inch access aisle. Van accessible spaces shall be a minimum of 144 inches wide with an access aisle of 60 inches, or 108 inches wide if the access aisle is 96 inches wide.

(2) For every five accessible parking spaces required by law, one additional space shall be reserved for wheelchair and scooter users only, in addition to designating any required van accessible spaces.

(3) Each accessible parking space shall have a sign that shall be clearly visible to a person parking in the space, at a minimum height of 60 inches, shall be marked with the International Symbol of Access, shall indicate that the space is reserved for vehicles with plates and/or permits issued to persons with persons with disabilities under § 2134 and § 2135 of this title, and shall display the then current fines established in § 4183(f) of this title. Each accessible parking space shall be marked on both sides with a blue painted border.

(4) A van accessible space shall have an additional sign marked “Van Accessible” mounted below the sign. An accessible parking space reserved for wheelchair users shall have a sign that includes the words “Wheelchair/Scooter Users Only.”

(5) All access aisles shall have conspicuous signage to indicate that parking and obstruction of the access aisle is prohibited. Signs shall not obstruct or interfere with an accessible route and shall display the then current fines established in §4183(f) of this title.

(6) All access aisles shall be marked with a blue painted border around the perimeter; the area within the blue border shall be marked by 4 inch hatched lines painted diagonally on a 45 % angle to the blue border, in a color contrasting the aisle surface.

(7) All newly constructed or designed accessible parking spaces shall be designed and constructed such that a disabled driver or passenger will not be required to wheel or walk behind parked vehicles (other than their own). Unless prevented by local fire codes, accessible parking spaces shall be placed on the shortest accessible route to the accessible entrance.

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

(d) The obligation to design and construct accessible parking spaces consistent with this section extends to all newly installed spaces, and to any existing accessible parking spaces whenever they are restriped, repainted, resurfaced, or otherwise altered, effective six months from the date of enactment. All accessible parking spaces shall comply with this section not later than three years from the date of enactment.

(e) No new accessible parking spaces and no existing accessible parking spaces owned or leased by any private entity or person shall be installed, and no existing accessible parking spaces shall 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 and has inspected the installation or modification of the space to ensure that it has been constructed or modified in accordance with this section.

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:

§ 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~~ July 1, 2016, and the municipal government of each incorporated municipality within each county shall, on or before ~~March 1, 2004~~ July 1, 2016 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 shall, on or before July 1, 2016, and the municipal government of each incorporated municipality within each county shall, on or before July 1, 2016 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 and has inspected the construction or modification of the space to ensure that it is compliant.

(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~~ construct and maintain accessible parking spaces, but has failed to do 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~~ 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.

(e) (d) A municipality may elect to adopt accessible parking space regulations or ordinances of the county government of the county in which the municipality is located. A municipality which elects to do so may also adopt additional regulations or ordinances as required by its own particular conditions. Whether a municipality adopts its own accessible parking regulations or ordinances, or adopts the regulations or ordinances of the county along with additional regulations or ordinances to meet particular conditions, the municipality's adopted regulations or ordinances may not be less restrictive than those of the county.

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:

§ 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~~ July 1, 2016, and the municipal government of each incorporated municipality within each county shall, on or before ~~March 1, 2004~~ July 1, 2016, 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 shall, on or before July 1, 2016, and the municipal government of each incorporated municipality within each county shall, on or before July 1, 2016, 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 and has inspected the construction or modification of the space to ensure that it is compliant.

(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~~ construct and maintain accessible parking spaces, but has failed to do 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~~ 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.

(e) (d) A municipality may elect to adopt accessible parking space regulations or ordinances of the county government of the county in which the municipality is located. A municipality which elects to do so may also adopt additional regulations or ordinances as required by its own particular conditions. Whether a municipality adopts its own accessible parking regulations or ordinances, or adopts the regulations or ordinances of the county along with additional regulations or ordinances to meet particular conditions, the municipality's adopted regulations or ordinances may not be less restrictive than those of the county.

Section 5. This Act becomes effective 30 days after it enactment into law.

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 adding 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 of the Delaware Code 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 inspection for new or modified accessible parking spaces, in order to increase compliance and uniformity statewide.