



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: June 6, 2016

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, ^{DMP/P}Chairperson
State Council for Persons with Disabilities

RE: H.S. 1 for H.B. 200 (Accessible Parking)

The State Council for Persons with Disabilities (SCPD) has reviewed H.S. 1 for H.B. 200 which strengthens the enforcement process for the installation and alteration of accessible parking spaces for persons with disabilities in order to increase compliance and uniformity of such spaces statewide. In addition, it 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. SCPD strongly endorses legislation which will enhance accessible parking laws in Delaware and has the following observations.

Currently, the state of accessible parking for people with qualified disabilities is a disgrace in Delaware. One only has to simply observe parking lots around the state to know that a majority of accessible spaces are out of compliance with applicable laws. You may have even fielded complaints from constituents about inadequate parking for people with disabilities.

There is no uniformity regarding the size of spaces, size of access aisles, and signs for such spaces. Counties and municipalities have adopted different standards for compliance and building codes do not effectively address situations when an existing parking lot is repainted, resurfaced, repaved or restriped. This allows individuals and businesses to perpetuate the problem of poorly designed and installed parking spaces. Installation and maintenance of properly designed accessible spaces and parking lots impacts thousands of people across the state daily and should be subject to oversight. The Americans with Disabilities Act (ADA) does not truly provide an efficient or effective mechanism for enforcement of the construction and maintenance of accessible parking spaces. The administrative process is burdensome and slow, and the United States Department of Justice only accepts a fraction of the complaints it receives.

The federal court system is not equipped to handle these complaints in a timely, inexpensive and effective manner.

If accessible spaces do not comply with the law, police officers cannot ticket individuals who are illegally parked in those spaces. For example, current law requires that accessible spaces have a sign which identifies the accessible space. However, many spaces do not have a sign and law enforcement cannot issue a ticket since the space does not comply with the law. If they do issue a ticket and the space is not compliant, the ticket could be dismissed. Since many accessible spaces are non-compliant with the standards, police cannot adequately enforce Delaware's laws in this context. The result is that many people illegally park in accessible parking spaces and people with disabilities are being denied equal access to workplaces, businesses and public buildings and facilities.

SCPD collaborated with many impacted agencies and organizations at various stages of discussion regarding this legislation to address their issues and concerns. Some of those agencies included the following: State Chamber of Commerce, Central Delaware Chamber of Commerce, Delaware Association of Councils, Kent County, City of Dover, City of Harrington, Government Affairs and Economics Development Consulting; City of Newark, and the University of Delaware.

In addition to the House Substitute bill, an amendment to H.S. 1 for H.B. 200 has been submitted which removes the requirement for accessible parking spaces to comply with 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, because these would be covered under the ADA Accessibility Guidelines when adopted. It also removes provisions which could affect installation and maintenance costs that exceed the current statutory and regulatory requirements of the Americans with Disabilities Act, Titles II and III. Finally, the amendment clarifies that maintenance of accessible parking spaces refers to spaces located in parking lots and facilities.

The substitute bill and submitted amendment is the result of the aforementioned collaboration which addresses concerns in multiple contexts (e.g. removes provisions which could affect installation and maintenance costs that exceed the current statutory and regulatory requirements of the ADA, "softens" enforcement requirements for counties and municipalities, and clarifies roles for promoting compliance which addresses staffing concerns of jurisdictions) while still developing an effective bill which will improve, over time, the quality of accessible parking for persons with disabilities in Delaware and even the lack of access to such spaces due to people illegally parking in such spaces.

This bill is a first step in attempting to resolve the aforementioned issues and concerns over time by, in a nutshell, doing the following:

- Requiring public agencies to issue a permit for installation, restriping, repainting, resurfacing or altering an accessible parking space. Once the work is completed, public agencies must verify compliance by conducting an on-site inspection or independently

confirming compliance by photographic evidence. The law does not require public agencies to affirmatively go out and inspect existing parking lots, only to verify compliance after new work is completed.

- Incorporating the regulations under the ADA as the standard to use when installing or altering an accessible parking space and assessing compliance. This will, over time, ensure uniformity across the state.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on the proposed legislation.

cc: Mr. Brian Hartman, Esq.

AARP

Governor's Council on Aging and Adults with Physical Disabilities

Governor's Advisory Council for Exceptional Citizens

Developmental Disabilities Council

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