



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: June 29, 2023

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

FROM: Mr. Benjamin Shrader, Chairperson 
State Council for Persons with Disabilities

RE: HB 175 (Accessible Parking)

The State Council for Persons with Disabilities (SCPD) has reviewed HB 175 which seeks to amend Titles 21 and 9 to: (1) incorporate federal standards for accessible parking spaces found in the Americans with Disabilities Act and applicable regulations; (2) add a requirement for a van only space in large parking lots; (3) increase 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; and (4) add 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 local governments require property owners to have a permit and to develop a process to ensure compliance for new or modified accessible parking spaces, in order to increase compliance and uniformity statewide.

The SCPD has the following observations:

- People with disabilities find that many locations have non-compliant accessible parking – no spots at all, spots in the wrong places or in insufficient numbers or types, or not properly marked by signage and paint.
- In addition, there is poor enforcement of existing parking laws limiting access to these spaces to people with appropriately issued placards and tags
- ADA enforcement requires filing a federal complaint or lawsuit, and many times the United States Department of Justice will reject parking complaints because of their capacity, and their priorities leaving individuals with almost no recourse, either against the violator who parks illegally, or the business or other location that has not provided parking consistent with either ADA standards or local building codes.

The SCPD notes:

- This bill amends 21 Del Code §4183 to define an “accessible parking space” and greatly simplifies §4183’s parking violation section by making it illegal for any vehicle “other than a vehicle being used by a person with a disability” to park in an accessible parking space. The bill authorizes towing for private property owners and for publicly- controlled spaces, clarifies that it is illegal to park in access aisles, and increases the fines to \$300 and \$500. Importantly it states that minor variations in parking space features, including the lack of a sign, are not a defense to a charge of parking illegally in an accessible parking space.
- New Section §4183A(b) states parking spaces must comply with ADA standards.¹ Section 4183A(d) incorporates ADA standards for required numbers of spaces, but adds the requirement that for every 5 required accessible spaces,² the lot must include, in addition to any required spaces, one van accessible space that is marked as reserved for wheelchair and scooter users only. This goes beyond what is required under ADA and building codes.
- The most significant changes are found in §§4183A(f) which require local authorities to issue a permit or require a certification from a licensed engineer or surveyor that a parking plan meets the requirements of the statute. There is the possibility of a fine of up to \$50,000 for a person who restripes, repaints or otherwise alters a parking lot without following the permit/certification process.

¹ <https://www.ada.gov/topics/parking/>;

² This would be in lots of at least 150 spaces. <https://www.ada.gov/topics/parking/>

The SCPD Council endorses this legislation.

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

cc: Ms. Marissa Band, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 175 Accessible Parking 06-29-23