

LEGISLATIVE BILL 299

Approved by the Governor March 3, 1998

Introduced by Lynch, 13

AN ACT relating to handicapped parking; to amend sections 18-1736, 18-1737, and 18-1741.01, Reissue Revised Statutes of Nebraska, and section 81-1108.15, Revised Statutes Supplement, 1996; to change placement provisions for permits; to provide for designation of parking spaces; to provide for agreements for enforcement of handicapped parking statutes; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 18-1736, Reissue Revised Statutes of Nebraska, is amended to read:

18-1736. (1) A city or village may designate parking spaces for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to section 60-311.14, (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose motor vehicles display the permit specified in section 18-1739, and (d) such other motor vehicles, as certified by the city or village, which display the permit specified in section 18-1739. All such permits shall be displayed by attaching hanging the permit ~~to~~ from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. ~~When there is no rearview mirror, the~~ The permit shall be displayed on the dashboard only when there is no rearview mirror.

(2) If a city or village so designates a parking space, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space a sign as described in section 18-1737. In addition to such sign, the space may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space.

Sec. 2. Section 18-1737, Reissue Revised Statutes of Nebraska, is amended to read:

18-1737. (1) Any city or village, any state agency, and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility owned or operated by the city, ~~or~~ village, state agency, or person for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14, such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose motor vehicles display the permit specified in section 18-1739, and such other motor vehicles, as certified by the city or village, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space a sign which is in conformance with the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city, ~~or~~ village, or state agency providing onstreet parking or owning, operating, or providing an offstreet parking facility may cause the removal, from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this section if there is posted aboveground and immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(3) A person who parks a vehicle in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle

while it is parked in the designated space shall be guilty of a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction as defined in section 18-1741.01. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section. In the case of a privately owned offstreet parking facility, a city or village shall not require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to the city or village issuing the violator a handicapped parking infraction citation.

(4) For purposes of this section and section 18-1741.01, state agency means any division, department, board, bureau, commission, or agency of the State of Nebraska created by the Constitution of Nebraska or established by act of the Legislature, including the University of Nebraska and the Nebraska state colleges, when the entity owns, leases, controls, or manages property which includes offstreet parking facilities.

Sec. 3. Section 18-1741.01, Reissue Revised Statutes of Nebraska, is amended to read:

18-1741.01. (1) For purposes of sections 18-1741.01 to 18-1741.07, handicapped parking infraction shall mean the violation of any statute or ordinance regulating (a) the use of parking spaces designated for use by handicapped or disabled persons or (b) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990.

(2) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance or resolution approved by a governing board of a county, city, or village to exercise the authority to issue a citation for any handicapped parking infraction. Such authorization shall be carried out in the manner specified in sections 18-1741.03 and 18-1741.04.

(3) A state agency as defined in section 18-1737 which owns, leases, controls, or manages state property on which public parking is allowed may enter into an agreement with the governing board of the county, city, or village in which the state property or any portion of it is located to allow the political subdivision to enforce sections 18-1736 to 18-1741.07 on such state property.

Sec. 4. Section 81-1108.15, Revised Statutes Supplement, 1996, is amended to read:

81-1108.15. (1) The Division shall have the primary functions and responsibilities of statewide facilities planning, facilities construction, and facilities administration and shall adopt and promulgate rules and regulations to carry out this section.

(2) Facilities planning shall include the following responsibilities and duties:

(a) To maintain utilization records of all state-owned, state-occupied, and vacant facilities;

(b) To coordinate comprehensive capital facilities planning;

(c) To define and review program statements based on space utilization standards;

(d) To prepare or review planning and construction documents;

(e) To develop and maintain time-cost schedules for capital construction projects;

(f) To assist the Governor and the Legislative Fiscal Analyst in the preparation of the capital construction budget recommendations;

(g) To maintain a complete inventory of all state-owned, state-occupied, and vacant sites and structures and to review the proposals for naming such sites and structures;

(h) To determine space needs of all state agencies and establish space-allocation standards; and

(i) To cause a state comprehensive capital facilities plan to be developed.

(3) Facilities construction shall include the following powers and duties:

(a) To maintain close contact with and inspections of each project so as to assure execution of time-cost schedules and efficient contract performance if such project's total design and construction cost is more than

fifty thousand dollars;

(b) To perform final acceptance inspections and evaluations; and

(c) To coordinate all change or modification orders and progress payment orders.

(4) Facilities administration shall include the following powers and duties:

(a) To serve as state leasing administrator or agent for all facilities to be leased for use by the state and for all state-owned facilities to be rented to state agencies or other parties subject to section 81-1108.22. The division shall remit the proceeds from any rentals of state-owned facilities to the State Treasurer for credit to the State Building Revolving Fund and the Building Renewal Allocation Fund;

(b) To provide all maintenance, repairs, custodial duties, security, and administration for all buildings and grounds owned or leased by the State of Nebraska except as provided in subsection (5) of this section;

(c) To procure and manage office space and assign the remaining office space after the Executive Board of the Legislative Council has made its determination pursuant to subsection (1) of section 81-1108.21;

(d) To be responsible for adequate parking and the designation of parking stalls or spaces in offstreet parking facilities for the exclusive use of handicapped or disabled or temporarily handicapped or disabled persons pursuant to section 18-1737;

(e) To ensure that all state-owned, state-occupied, and vacant facilities are maintained or utilized to their maximum capacity or to dispose of such facilities through lease, sale, or demolition;

(f) To report monthly time-cost data on projects to the Governor and the Clerk of the Legislature;

(g) To administer the State Emergency Capital Construction Contingency Fund;

(h) To submit status reports to the Governor and the Legislative Fiscal Analyst after each quarter of a construction project is completed detailing change orders and expenditures to date. Such reports shall be required on all projects costing five hundred thousand dollars or more and on such other projects as may be designated by the division; and

(i) To submit a final report on each project to the Governor and the Legislative Fiscal Analyst. Such report shall include, but not be limited to, a comparison of final costs and appropriations made for the project, change orders, and modifications and whether the construction complied with the related approved program statement. Such reports shall be required on all projects costing five hundred thousand dollars or more and on such other projects as may be designated by the division.

(5) Subdivisions (4)(a) through (4)(e) of this section shall not apply to (i) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Aeronautics, the Department of Roads, and the Board of Educational Lands and Funds, (ii) buildings and grounds owned or leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (iii) facilities to be leased for nonoffice use by the Department of Roads, (iv) buildings or grounds owned or leased by the Game and Parks Commission if the application of such subdivisions to the buildings or grounds would result in ineligibility for or repayment of federal funding, (v) buildings or grounds of the state park system, state recreation areas, state historical parks, state wildlife management areas, or state recreational trails, or (vi) other buildings or grounds owned or leased by the State of Nebraska which are specifically exempted by the division because the application of such subdivisions would result in the ineligibility for federal funding or would result in hardship on an agency, board, or commission due to other exceptional or unusual circumstances.

(6) Each member of the Legislature shall receive a copy of the reports required by subdivisions (4)(f), (h), and (i) of this section by making a request for them to the administrator. The information on such reports shall be submitted to the division by the agency responsible for the project.

Sec. 5. Original sections 18-1736, 18-1737, and 18-1741.01, Reissue Revised Statutes of Nebraska, and section 81-1108.15, Revised Statutes Supplement, 1996, are repealed.