

FIRST REGULAR SESSION

# SENATE BILL NO. 343

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DOLAN.

Read 1st time January 23, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0866S.021

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## AN ACT

To repeal sections 301.141 and 301.142, RSMo, and to enact in lieu thereof four new sections relating to the issuance of disabled license plates, windshield disabled hanging placards and the use of designated disabled parking spaces, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 301.141 and 301.142, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 301.138, 301.141, 301.142, and 304.601, to read as follows:

**301.138. 1. Any person, including a physically disabled person, may submit an application to the director of the department of public safety for authority to issue citations for violations of sections 301.141 to 301.143. A fee of fifty dollars shall accompany the application. The director shall, by rule and regulation, establish the qualifications which a person must meet in order to be certified and granted authority to issue citations for violations of sections 301.141 to 301.143.**

**2. A duly constituted peace officer has the authority and does not need a separate certification by the director of the department of public safety to issue citations for violations of sections 301.141 to 301.143.**

**3. The director of the department of public safety shall issue to any person who has made application and who meets the qualifications therefore as established by the director a certificate of authority to issue citations for violations of sections 301.141 to 301.143.**

**4. The director of the department of public safety, in conjunction with the**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

Missouri supreme court, shall prescribe forms for the issuance of citations for violations of sections 301.141 to 301.143.

5. The director of the department of revenue may, after due notice and hearing, suspend or revoke the right of any individual to have, use, or possess disabled license plates or disabled windshield placards who has violated any provision of sections 301.141 to 301.143 or who has failed to use due care to prevent nondisabled persons from violating any provision of sections 301.141 to 301.143.

6. A person who has been certified by the director of the department of public safety to issue citations for violations of sections 301.138 to 301.143 may enter upon any premise where motor vehicles are parked, who has personally observed any act which constitute any violation of sections 301.138 to 301.143 in order to issue and place on the vehicle a citation.

7. Any certified person, including any duly constituted peace officer, who issues a citation for a violation of sections 301.141 to 301.143 shall promptly forward a copy of such citation to the director of the department of public safety and to the director of revenue. A peace officer who issues a citation shall further forward a copy thereof directly to the appropriate prosecuting attorney.

8. The director of the department of public safety shall, in cases where a nonpeace officer has issued a citation, forward a copy of such citation to the appropriate county or municipal prosecuting attorney who may, at his discretion, initiate prosecution.

9. The prosecuting attorney receiving a citation for a violation of sections 301.141 to 301.143 shall advise the director of the department of public safety and the director of revenue as to the action, if any, which was taken; and, if prosecution was initiated, the court's final disposition.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

301.141. 1. Fraudulent procurement or use of disabled-person license plates or windshield placards shall be a class C misdemeanor. [It is a class C misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside

their scope of practice.]

**2. Any physician or other health care practitioner authorized to issue a physician's statement or certificate to enable persons to obtain disabled license plates or windshield hanging placards pursuant to section 301.142, who issues, signs or furnishes such statement or certificate to any person who does not meet one or more of the conditions set forth in subsection 1 of section 301.142, if there is no basis for the diagnosis given, or who issues, signs or furnishes such statement or certificate for a condition, the diagnosis of which is outside the scope of such health care provider's license, is guilty of a class D felony.**

301.142. 1. As used in [this section the term] sections 301.141 to 301.143, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Other authorized health care practitioner", includes only chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled" [means], a natural person who is [a] blind [person], as defined in section 8.700, RSMo, or a natural person with **medical** disabilities which [limit or impair the] **prohibits or limits, severely impairs one's** ability to **ambulate or** walk, as determined by a licensed physician **or other authorized health care practitioner** as follows:

[(1)] (a) The person cannot **ambulate or** walk fifty **or less** feet without stopping to rest; or

[(2)] (b) The person cannot **ambulate or** walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

[(3)] (c) Is restricted by [lung] **a respiratory or other** disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

[(4)] (d) Uses portable oxygen; or

[(5)] (e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

[(6) Is severely limited in the applicant's ability to walk due to an arthritic, neurological, or orthopedic condition.]

(f) **A person's age, in and of itself, shall not be a factor in determining whether such person is "physically disabled" or is otherwise entitled to disabled license plates and disabled windshield hanging placards within the meaning of sections 301.141 to**

301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

[2.] (7) "Temporarily disabled person" [means], a [physically] disabled person as defined in this section whose disability or incapacity [can be] is expected to last [for not] no more than one hundred eighty days.

[3.] 2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. A physician or other authorized health care practitioner may not delegate, authorize, or permit any other person, whether such person be a nurse, physician's assistant, or other person acting for, on behalf of, or in accordance with a physician or other health care practitioner's directives, to sign for or on behalf of a physician or other authorized health care practitioner whether by initials, facsimile, rubber stamp, or other means.

5. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement, that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days.

6. An applicant, or in the case of a minor, a person who has been adjudicated to be in need of a guardian, the authorized parent or legal guardian, who seeks or submits an application for disabled license plates and disabled windshield hanging placards hereby consents and authorizes their physician or other authorized health care practitioner to release any and all medical information, including copies of all

medical records concerning such person's medical condition to the physician's or other practitioner's respective licensing board, the director of the department of revenue, duly constituted law enforcement personnel, county and municipal prosecuting attorneys, and the courts, but only to the extent reasonably necessary so as to secure compliance with the provisions of sections 301.138 to 301.143.

7. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

8. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board in order to verify compliance with this section. All information obtained by the director or a professional licensing board following such inspection shall be held confidential and may only be disclosed to such law enforcement officials or other government employees in order to enforce the provisions of sections 301.138 to 301.143.

9. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to **primarily** transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, **a current physician's statement which has been issued within ninety days immediately preceding the date application is made** and [by] **proof of compliance with the** state motor vehicle laws relating to registration and licensing of motor vehicles shall be issued **or entitled to have renewed** motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "disabled" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. [Handicapped parking places may only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person. No vehicle shall park in the access aisle. Such parking violation shall be an infraction. The use of a vehicle displaying a disabled

license plate or windshield placard to park in a parking space designated for the disabled by a person not transporting the individual for whom the license or placard was issued shall be an infraction. Upon conviction thereof, violators shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars.

**4.] 10. The director shall further issue, upon request, to such applicant one, but may upon request and for good cause shown as the director of revenue may define by rule and regulation not more than two, single person removable disabled windshield hanging placard for use when a disabled person is occupying a vehicle or when a vehicle which does not bear the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person for whom the disabled motor vehicle license plate or disabled windshield hanging placard was issued.**

11. No additional fee shall be paid to the director [of revenue] for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "disabled" as prescribed in [subsection 3 of] this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

**[5.] 12. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard for use in motor vehicles which do not bear the permanent handicap symbol to be hung from the front, middle rearview mirror of a parked motor vehicle during the period of time and only when the vehicle is being used by a disabled person or when the vehicle is being used to pick up, deliver or collect a disabled person.** When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

13. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for each removable windshield placard shall be two dollars and the removable windshield placard shall be renewed every year. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard shall be issued to an applicant who has not been issued disabled person license plates.

14. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, one additional temporary windshield placard shall be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to [subsection 6 of] this section is supplied to the director of revenue at the time of renewal. [The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person.

6.] 15. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician **or other authorized health care practitioner** which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

16. [The physician's statement shall be on a form prescribed by the director of revenue which shall include the physician's license number. If it is the professional opinion of the physician who issues the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, this shall be noted on the statement. In such instances, the applicant shall present the physician's statement which states that the applicant's disability is permanent to the director of revenue the first time the applicant applies for license plates or a removable windshield placard. The applicant shall not be required to obtain a new physician's statement each time that the applicant applies for or renews license plates or a removable] **At the time the disabled plates or windshield hanging placards are issued, the director shall further issue to the disabled person or the entity who obtained the disabled plates or windshield hanging placard, a certificate, which shall be bound in plastic, which shall identify the name and address of the disabled person for whom the disabled plates or windshield hanging placard was issued. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. If the disabled person**

has a driver's license, the director may incorporate such certificate into and make it a part of such person's driver's license.

17. Thereafter, the applicant shall be required to present a new physician's statement once every four years in order to obtain either new, replacement, or the renewal of an existing disabled license plate or disabled windshield hanging placard[; but, the applicant shall present a physician's statement each time the applicant applies for a temporary windshield placard or renews a temporary windshield placard]. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director [may] **shall**, in cooperation with the boards which shall assist the director, establish a list of all [physicians' names] **physicians and other authorized health care practitioners** and of any other information necessary to administer this [subsection within the department of revenue if the director determines that such listing is necessary to carry out the provisions of this subsection] **section**.

[7.] 20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit an affidavit stating this fact, in addition to the physician's statement. The affidavit shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this affidavit with each application for license plates.

21. **The director of revenue shall retain all physician's statements and all other documents received in connection with a person's application for disabled license plates and disabled windshield placards.**

[8.] 22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

[9.] 23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of [such

person] the decedent or such other person who may come into or otherwise take possession, of the disabled license plates or disabled windshield placard shall return [the plates or placards or both] the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class A misdemeanor.

24. The director shall at least once a year before mailing or otherwise sending out notices and forms for the renewal of disabled license plates and disabled windshield hanging placards check with the bureau of vital statistics as to whether the holder of any disabled license plates or disabled windshield placards is deceased; and, for any person who was the holder of disabled license plates or disabled windshield placards is deceased, the director shall take all steps reasonably necessary to obtain the return of such plates and windshield placards so that the same may not be used by any other person. Any person who has possession of a disabled license plate or a windshield placard, who fails to return such disabled license plate or windshield placard to the director of revenue, upon request, shall be guilty of a class A misdemeanor.

25. The bureau of vital statistics shall cooperate with the director and shall timely furnish the director with such information as may be in its files so as to enable the director to carry out his or her responsibilities as provided in this section.

26. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

27. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

[10.] 28. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be two dollars.

[11. Beginning after September 1, 1998, and prior to August 31, 1999, the director of revenue shall authorize a one-time recertification and review of all permanent disabled person license plates and windshield placards, including physician's license numbers and related information that the director has on file pursuant to subsection 6 of this section to determine if such numbers and information are current and correct. The director shall require the presentation of a new physician's statement and other information deemed necessary by the director to administer the provisions of this section. The recertification and review shall be conducted in a manner as determined by the director.

12.] 29. All existing disabled windshield hanging placards shall expire, unless sooner suspended or revoked, as of September 30, 2004. Thereafter, the director of revenue shall not renew any pre-existing disabled windshield placards. From and after October 1, 2004, the director shall not issue, or otherwise renew a pre-existing windshield placard unless the applicant furnishes the director with a current physician's statement signed within ninety days immediately preceding the date the applicant submits a request for new disabled windshield hanging placards. Thereafter, an applicant must, even if the disability is considered to be permanent, obtain and furnish the director with a new, current physician's statement every four years.

30. All existing disabled license plates shall expire as of its first renewal date which follows from and subsequent to September 30, 2003. Thereafter, the director of revenue shall not issue or renew any pre-existing disabled license plates unless the applicant furnishes the director with a current physician's statement signed within ninety days immediately preceding the date the applicant submits a request for either new or to renew a pre-existing license plate. Thereafter, an applicant must, even if the disability is considered to be permanent, obtain and furnish the director with a new, current physician's statement every four years.

31. If the applicant shall fail to furnish the director with a new physician's statement as provided in subsections 30 and 31 of this section, the director shall cancel the registration of the disabled plates, shall cancel the registration of the hanging windshield placard, and shall request the return of such cancelled plates or windshield hanging placards.

32. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

33. The department of revenue shall renew permanent disabled license plates and windshield hanging placards issued pursuant to this section in the month in which they were originally issued, except upon the request of the disabled person.

304.601. 1. Designated disabled parking spaces may only be used when a disabled person, who has been issued disabled license plates or windshield hanging placards pursuant to the provisions of section 301.142, RSMo, or by those states with which the director has entered into reciprocity agreements as provided in subsection 23 of section 301.142, RSMo, is then, or immediately preceding being parked was an occupant of the motor vehicle bearing the disabled license plate or windshield hanging placard or in cases where the motor vehicle bearing the disabled license plate

or windshield hanging placard is then being used to deliver or collect one or more of the disabled persons for whom the disabled license plate or windshield hanging placard was issued.

2. The driver, or any occupant, of a motor vehicle bearing disabled license plates or a windshield hanging placard which is parked or has been observed to have been parking in a duly designated disabled parking space shall, upon request from any law enforcement officer or other duly constituted peace officer upon identification as such, produce the certificate issued to the disabled person or entity as provided for in section 301.142, RSMo, or such other authorization to show that the driver, or any occupant of the vehicle is lawfully entitled to use a designated disabled parking space. In cases where the certificate is not the driver's license of the disabled person or does not contain the photograph of the disabled person for whom the disabled plates or windshield hanging placard was issued, the driver or any occupant of the motor vehicle shall, in addition, produce other identification with a photograph of the disabled person for whom the disabled plates or windshield hanging placard was issued.

3. If the driver, or an occupant, of a motor vehicle which is parked or has been observed to have parked in a designated disabled parking space is unable to, or cannot, produce the certificate as provided for in section 301.142, RSMo, or other proper authorization showing that the vehicle is being used, or has been lawfully parking in a disabled parking space, the operator is guilty of an infraction and shall be fined not less than fifty dollars and not more than three hundred dollars. However, no person shall be found guilty of violating this section if the operator produces such a certificate to the court that was valid at the time of the citation for a person who was using the vehicle.

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