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The State of South Carolina



Office of the Attorney General

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July 29, 1994

Captain A. M. Wade
Administrative Services
Police Department
City of North Charleston
Post Office Box 10100
North Charleston, South Carolina 29411

Dear Captain Wade:

By your letter of July 19, 1994, you have asked whether vehicles bearing "handicapped" license plates and vehicles bearing "disabled veteran" license plates are entitled to the same treatment with respect to parking in handicapped parking spaces and the payment of fines or fees therefor. As will be explained more fully below, this Office is of the opinion that vehicles bearing "disabled veteran" license plates should be treated identically to those bearing "handicapped" license plates with respect to parking.

Free parking for handicapped¹ persons is provided for by Article 18, Chapter 3 of

¹ The definition of "handicapped" for purposes of Article 18, Chapter 3 of Title 56 ("Free Parking for Handicapped Persons") is found in § 56-3-1950(2):

"Handicapped" means a person who:

(a) has an obvious physical disability that impairs the ability to walk or requires the use of a wheelchair, braces, walkers, or crutches;

(b) has lost the use of one or both legs;

(continued...)

REQUEST LETTER

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Title 56, South Carolina Code of Laws (1976 & 1993 Cum. Supp.). In general, S.C. Code Ann. § 56-3-1960 provides in relevant part:

(1) Any person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. ... As a condition to this privilege, a vehicle must display a distinguishing license plate which must be issued by the department [of Revenue and Taxation], pursuant to this section, Section 56-3-1910, or Section 56-3-1110, for vehicles registered to the disabled person. ...

In addition, § 56-3-1965 requires the following as to handicapped parking:

Those municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons.

A criminal penalty is provided for those who would be convicted of the unauthorized parking of a vehicle in a handicapped parking space; § 56-3-1970 provides in relevant part:

¹(...continued)

(c) suffers from lung disease to such an extent that he is unable to walk without the aid of a respirator;

(d) is disabled by an impairment in mobility; or

(e) is determined by the Social Security Administration or the Veterans Administration to be totally and permanently disabled.

A licensed physician shall certify that the total and permanent disability substantially impairs the ability to walk, unless the applicant is an agency or organization complying with Section 56-3-1910.

It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56-3-1960.

It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to § 56-3-1960. ...

The "distinguishing license plate" referenced above would be issued by the Department of Revenue and Taxation pursuant to § 56-3-1960, § 56-3-1910, or § 56-3-1110. Subsection (2) of 56-3-1960 provides for the issuance of a placard which, when properly displayed, extends all parking rights and privileges extended to a vehicle displaying a "distinguishing license plate."

The "distinguishing license plate" available pursuant to § 56-3-1960 would be issued upon a proper application accompanied by certification of a licensed physician that an individual is handicapped as defined in Article 18, Chapter 3 of Title 56 and that the handicap is permanent. Section 56-3-1910 provides for the issuance of a license plate for persons whose mobility is impaired and who are required to use a wheelchair; persons who are disabled by an impairment in mobility but are otherwise qualified for a driver's license; or persons or organizations transporting disabled persons as described in the statute. Finally, § 56-3-1110 authorizes the issuance of a disabled veteran's license plate for veterans who meet the statutory qualifications. Thus, there are several "distinguishing license plates" available to handicapped persons.

It is possible that a disabled veteran who is totally and permanently disabled could procure a license plate pursuant to § 56-3-1960, 56-3-1110, or 56-3-1910; the license plate issued thus would be a "distinguishing license plate." The vehicle bearing such "distinguishing license plate" would be entitled to park in metered or timed parking places without being subject to parking fees and fines, according to the plain and unambiguous language of § 56-3-1960.

It is our opinion that when a municipality has provided marked handicapped parking spaces in accordance with § 56-3-1965, the parking privileges of § 56-3-1960 would extend to those designated parking spaces as well. If a municipality has marked parking spaces and thus has appropriately designated certain space or spaces for handicapped parking, see § 56-3-1965, it would serve no useful purpose to place a parking meter there since only a vehicle with the "distinguishing license plate" or placard would

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be authorized to park there. If such a space had a parking meter, vehicles with the "distinguishing license plate" or the placard would be exempted from payment of parking fees or fines anyway. There may not always be sufficient designated handicapped parking spaces available, so that the vehicle bearing the "distinguishing license plate" must be parked elsewhere without paying a parking fee or fine. It would lead to absurd results to conclude that a vehicle bearing a "disabled veteran" license plate could be parked at a metered space free of charge (but perhaps a great personal inconvenience to the handicapped person), yet not be able to be parked at a designated handicapped parking space which could possibly better accommodate the mobility requirements of the handicapped person; we can discern no rational reason to make such a distinction.

Conclusion

Based on the foregoing, it is the opinion of this Office that a vehicle bearing a "disabled veteran" license plate would be entitled to the same parking rights and privileges as would a vehicle bearing a handicapped license plate.

With kindest regards, I am

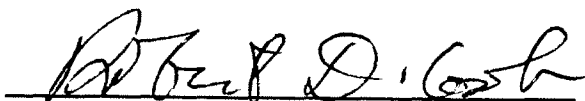
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
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