
ENGROSSED SUBSTITUTE SENATE BILL 5902

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Pridemore, Fraser, McAuliffe, Kline, Kohl-Welles, and McDermott)

READ FIRST TIME 02/26/09.

1 AN ACT Relating to promoting accessible communities for persons
2 with disabilities; amending RCW 29A.46.260 and 43.79A.040; reenacting
3 and amending RCW 46.16.381; adding a new section to chapter 50.40 RCW;
4 adding a new section to chapter 36.01 RCW; creating new sections; and
5 prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that when people who
8 have disabilities are welcomed and included as members of our
9 communities and provided with equal access to the opportunities
10 available to others, their participation enriches those communities,
11 enhances the strength of those communities' diversity, and contributes
12 toward the economic vitality of those communities. The legislature
13 further finds that more than nine hundred thousand Washington state
14 residents with disabilities continue to face barriers to full
15 participation that could be easily eliminated.

16 NEW SECTION. **Sec. 2.** (1) The accessible communities account is
17 created in the custody of the state treasurer. Two hundred dollars
18 from each full penalty imposed under RCW 46.16.381 (7), (8), and (9)

1 must be deposited into the account. When a reduced penalty is imposed
2 under RCW 46.16.381 (7), (8) and (9), the amount deposited in the
3 accessible communities account shall be reduced proportionally.

4 (2) The account is subject to the allotment procedures under
5 chapter 43.88 RCW, but an appropriation is not required for
6 expenditures. Only the commissioner may authorize expenditures from
7 the account.

8 (3) Expenditures from the account may be used for promoting greater
9 awareness of disability issues and improved access for and inclusion
10 and acceptance of persons with disabilities in communities in the state
11 of Washington, including:

12 (a) Reimbursing travel, per diem, and reasonable accommodation for
13 county accessible community advisory committee meetings and committee
14 sponsored activities including, but not limited to, supporting the
15 involvement of people with disabilities and disability organization in
16 emergency planning and emergency preparedness activities;

17 (b) Establishing and maintaining an accessible communities web
18 site;

19 (c) Providing training or technical assistance for county
20 accessible community advisory committees;

21 (d) A grant program for funding proposals developed and submitted
22 by county accessible community advisory committees to promote greater
23 awareness of disability issues and acceptance, inclusion, and access
24 for persons with disabilities within the community;

25 (e) Reimbursing the state agency that provides administrative
26 support to the governor's committee on disability issues and employment
27 for costs associated with implementing this act; and

28 (f) Programming changes to the judicial information system
29 accounting module required for disbursement of funds to this account.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.40 RCW
31 to read as follows:

32 (1) To the extent allowed by funds available from the accessible
33 communities account created in section 2 of this act, the governor's
34 committee on disability issues and employment shall:

35 (a) Determine eligibility of accessible community advisory
36 committees for reimbursement or for grant funding according to section
37 4 of this act; and

1 (b) Solicit proposals from active accessible community advisory
2 committees for projects to improve disability awareness and access for
3 persons with disabilities, and shall select projects for funding from
4 moneys available in the accessible communities account.

5 (2) The commissioner shall adopt rules to administer this section.

6 (3) To the extent allowed by funds available from the accessible
7 communities account created in section 2 of this act, the governor's
8 committee on disability issues and employment shall establish an
9 accessible communities web site to provide the following information:
10 Guidance, technical assistance, reference materials, and resource
11 identification for local governments, accessible community advisory
12 committees, and public accommodations; examples of best practices for
13 local initiatives and activities to promote greater awareness of
14 disability issues and access for persons with disabilities within the
15 community; and a searchable listing of local public accommodations that
16 have taken steps to be more disability friendly, including information
17 on the specific access features provided.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.01 RCW
19 to read as follows:

20 (1) A county has the option to expand the scope of an advisory
21 committee established and maintained under RCW 29A.46.260 to that of an
22 accessible community advisory committee.

23 (2) A county that has an active accessible community advisory
24 committee may be reimbursed within available funds from the accessible
25 communities account created in section 2 of this act for travel, per
26 diem, and reasonable accommodation expenses for the participation of
27 that committee's members in committee meetings and sponsored
28 activities.

29 (3) A county establishes that it has an active accessible community
30 advisory committee by submitting biennial assurances to the governor's
31 committee on disability issues and employment that:

32 (a) The decision to establish an accessible community advisory
33 committee was made by the county legislative authority, or by agents or
34 officers acting under that authority.

35 (b) The county auditor supports expanding the scope of the
36 committee established and maintained under RCW 29A.46.260 to that of an
37 accessible community advisory committee.

1 (c) Committee members include persons with a diverse range of
2 disabilities who are knowledgeable in identifying and eliminating
3 attitudinal, programmatic, communication, and physical barriers
4 encountered by persons with disabilities.

5 (d) The committee is actively involved in the following activities:
6 Advising on addressing the needs of persons with disabilities in
7 emergency plans; advising the county and other local governments within
8 the county on access to programs services and activities, new
9 construction or renovation projects, sidewalks, other pedestrian routes
10 of travel, and disability parking enforcement; and developing local
11 initiatives and activities to promote greater awareness of disability
12 issues, and acceptance, involvement, and access for persons with
13 disabilities within the community.

14 (4) Counties may form joint accessible community advisory
15 committees, as long as no more than one of the participating counties
16 has a population greater than seventy thousand.

17 **Sec. 5.** RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read
18 as follows:

19 (1) The legislature finds that the elimination of polling places
20 resulting from the transition to vote by mail creates barriers that
21 restrict the ability of many voters with disabilities from achieving
22 the independence and privacy in voting provided by the accessible
23 voting devices required under the help America vote act. Counties
24 adopting a vote by mail system must take appropriate steps to mitigate
25 these impacts and to address the obligation to provide voters with
26 disabilities an equal opportunity to vote independently and privately,
27 to the extent that this can be achieved without incurring undue
28 administrative and financial burden.

29 (2) Each county shall establish and maintain an advisory committee
30 that includes persons with diverse disabilities and persons with
31 expertise in providing accommodations for persons with disabilities.
32 The committee shall assist election officials in developing a plan to
33 identify and implement changes to improve the accessibility of
34 elections for voters with disabilities. The plan shall include
35 recommendations for the following:

36 (a) The number of polling places that will be maintained in order

1 to ensure that people with disabilities have reasonable access to
2 accessible voting devices, and a written explanation for how the
3 determination was made;

4 (b) The locations of polling places, drop-off facilities, voting
5 centers, and other election-related functions necessary to maximize
6 accessibility to persons with disabilities;

7 (c) Outreach to voters with disabilities on the availability of
8 disability accommodation, including in-person disability access voting;

9 (d) Transportation of voting devices to locations convenient for
10 voters with disabilities in order to ensure reasonable access for
11 voters with disabilities; and

12 (e) Implementation of the provisions of the help America vote act
13 related to persons with disabilities.

14 Counties must update the plan at least annually. The election
15 review staff of the secretary of state shall review and evaluate the
16 plan in conformance with the review procedure identified in RCW
17 29A.04.570.

18 (3) Counties may form a joint advisory committee to develop the
19 plan identified in subsection (2) of this section if (~~the total~~
20 ~~population of the joining counties does not exceed thirty thousand, and~~
21 ~~the counties are geographically adjacent~~) no more than one of the
22 participating counties has a population greater than seventy thousand.

23 **Sec. 6.** RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are
24 each reenacted and amended to read as follows:

25 (1) The director shall grant special parking privileges to any
26 person who has a disability that limits or impairs the ability to walk
27 or involves acute sensitivity to light and meets one of the following
28 criteria, as determined by a licensed physician, an advanced registered
29 nurse practitioner licensed under chapter 18.79 RCW, or a physician
30 assistant licensed under chapter 18.71A or 18.57A RCW:

31 (a) Cannot walk two hundred feet without stopping to rest;

32 (b) Is severely limited in ability to walk due to arthritic,
33 neurological, or orthopedic condition;

34 (c) Has such a severe disability, that the person cannot walk
35 without the use of or assistance from a brace, cane, another person,
36 prosthetic device, wheelchair, or other assistive device;

37 (d) Uses portable oxygen;

1 (e) Is restricted by lung disease to such an extent that forced
2 expiratory respiratory volume, when measured by spirometry is less than
3 one liter per second or the arterial oxygen tension is less than sixty
4 mm/hg on room air at rest;

5 (f) Impairment by cardiovascular disease or cardiac condition to
6 the extent that the person's functional limitations are classified as
7 class III or IV under standards accepted by the American Heart
8 Association;

9 (g) Has a disability resulting from an acute sensitivity to
10 automobile emissions which limits or impairs the ability to walk. The
11 personal physician, advanced registered nurse practitioner, or
12 physician assistant of the applicant shall document that the disability
13 is comparable in severity to the others listed in this subsection;

14 (h) Is legally blind and has limited mobility; or

15 (i) Is restricted by a form of porphyria to the extent that the
16 applicant would significantly benefit from a decrease in exposure to
17 light.

18 (2) The applications for parking permits for persons with
19 disabilities and parking permits for persons with temporary
20 disabilities are official state documents. Knowingly providing false
21 information in conjunction with the application is a gross misdemeanor
22 punishable under chapter 9A.20 RCW. The following statement must
23 appear on each application form immediately below the physician's,
24 advanced registered nurse practitioner's, or physician assistant's
25 signature and immediately below the applicant's signature: "A parking
26 permit for a person with disabilities may be issued only for a medical
27 necessity that severely affects mobility or involves acute sensitivity
28 to light (RCW 46.16.381). Knowingly providing false information on
29 this application is a gross misdemeanor. The penalty is up to one year
30 in jail and a fine of up to \$5,000 or both."

31 (3) Persons who qualify for special parking privileges are entitled
32 to receive from the department of licensing a removable windshield
33 placard bearing the international symbol of access and an individual
34 serial number, along with a special identification card bearing the
35 name and date of birth of the person to whom the placard is issued, and
36 the placard's serial number. The special identification card shall be
37 issued to all persons who are issued parking placards, including those
38 issued for temporary disabilities, and special parking license plates

1 for persons with disabilities. The department shall design the placard
2 to be displayed when the vehicle is parked by suspending it from the
3 rearview mirror, or in the absence of a rearview mirror the card may be
4 displayed on the dashboard of any vehicle used to transport the person
5 with disabilities. Instead of regular motor vehicle license plates,
6 persons with disabilities are entitled to receive special license
7 plates under this section or RCW 46.16.385 bearing the international
8 symbol of access for one vehicle registered in the name of the person
9 with disabilities. Persons with disabilities who are not issued the
10 special license plates are entitled to receive a second special placard
11 upon submitting a written request to the department. Persons who have
12 been issued the parking privileges and who are using a vehicle or are
13 riding in a vehicle displaying the placard or special license plates
14 issued under this section or RCW 46.16.385 may park in places reserved
15 for persons with physical disabilities. The director shall adopt rules
16 providing for the issuance of special placards and license plates to
17 public transportation authorities, nursing homes licensed under chapter
18 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior
19 citizen centers, private nonprofit agencies as defined in chapter 24.03
20 RCW, and vehicles registered with the department as cabulances that
21 regularly transport persons with disabilities who have been determined
22 eligible for special parking privileges provided under this section.
23 The director may issue special license plates for a vehicle registered
24 in the name of the public transportation authority, nursing home,
25 boarding home, senior citizen center, private nonprofit agency, or
26 cabulance service if the vehicle is primarily used to transport persons
27 with disabilities described in this section. Public transportation
28 authorities, nursing homes, boarding homes, senior citizen centers,
29 private nonprofit agencies, and cabulance services are responsible for
30 insuring that the special placards and license plates are not used
31 improperly and are responsible for all fines and penalties for improper
32 use.

33 (4) Whenever the person with disabilities transfers or assigns his
34 or her interest in the vehicle, the special license plates shall be
35 removed from the motor vehicle. If another vehicle is acquired by the
36 person with disabilities and the vehicle owner qualifies for a special
37 plate, the plate shall be attached to the vehicle, and the director

1 shall be immediately notified of the transfer of the plate. If another
2 vehicle is not acquired by the person with disabilities, the removed
3 plate shall be immediately surrendered to the director.

4 (5) The special license plate shall be renewed in the same manner
5 and at the time required for the renewal of regular motor vehicle
6 license plates under this chapter. No special license plate may be
7 issued to a person who is temporarily disabled. A person who has a
8 condition expected to improve within six months may be issued a
9 temporary placard for a period not to exceed six months. If the
10 condition exists after six months a new temporary placard shall be
11 issued upon receipt of a new certification from the person's physician.
12 The permanent parking placard and identification card of a person with
13 disabilities shall be renewed at least every five years, as required by
14 the director, by satisfactory proof of the right to continued use of
15 the privileges. In the event of the permit holder's death, the parking
16 placard and identification card must be immediately surrendered to the
17 department. The department shall match and purge its database of
18 parking permits issued to persons with disabilities with available
19 death record information at least every twelve months.

20 (6) Additional fees shall not be charged for the issuance of the
21 special placards or the identification cards. No additional fee may be
22 charged for the issuance of the special license plates except the
23 regular motor vehicle registration fee and any other fees and taxes
24 required to be paid upon registration of a motor vehicle.

25 (7) Any unauthorized use of the special placard, special license
26 plate issued under this section or RCW 46.16.385, or identification
27 card is a (~~traffic~~) parking infraction with a monetary penalty of
28 (~~two~~) four hundred fifty dollars.

29 (8) It is a parking infraction, with a monetary penalty of (~~two~~)
30 four hundred fifty dollars for a person to park in, block, or otherwise
31 make inaccessible the access aisle located next to a space reserved for
32 persons with physical disabilities. The clerk of the court shall
33 report all violations related to this subsection to the department.

34 (9) It is a parking infraction, with a monetary penalty of (~~two~~)
35 four hundred fifty dollars for any person to park a vehicle in a
36 parking place provided on private property without charge or on public
37 property reserved for persons with physical disabilities without a
38 placard or special license plate issued under this section or RCW

1 46.16.385. If a person is charged with a violation, the person shall
2 not be determined to have committed an infraction if the person
3 produces in court or before the court appearance the placard or special
4 license plate issued under this section or RCW 46.16.385 required under
5 this section. A local jurisdiction providing nonmetered, on-street
6 parking places reserved for persons with physical disabilities may
7 impose by ordinance time restrictions of no less than four hours on the
8 use of these parking places. A local jurisdiction may impose by
9 ordinance time restrictions of no less than four hours on the use of
10 nonreserved, on-street parking spaces by vehicles displaying the
11 special parking placards or special license plates issued under this
12 section or RCW 46.16.385. All time restrictions must be clearly
13 posted.

14 (10) (~~The penalties~~) Two hundred dollars from each full penalty
15 imposed under subsections (7), (8), and (9) of this section shall be
16 deposited in the accessible communities account created in section 2 of
17 this act. When a reduced penalty is imposed under subsections (7),
18 (8), and (9) of this section, the amount deposited in the accessible
19 communities account shall be reduced proportionally. The remaining
20 penalty amounts shall be used by that local jurisdiction exclusively
21 for law enforcement. The court may also impose an additional penalty
22 sufficient to reimburse the local jurisdiction for any costs it may
23 have incurred in removal and storage of the improperly parked vehicle.

24 (11) Except as provided by subsection (2) of this section, it is a
25 traffic infraction with a monetary penalty of two hundred fifty dollars
26 for any person willfully to obtain a special license plate issued under
27 this section or RCW 46.16.385, placard, or identification card in a
28 manner other than that established under this section.

29 (12)(a) A law enforcement agency authorized to enforce parking laws
30 may appoint volunteers, with a limited commission, to issue notices of
31 infractions for violations of this section or RCW 46.61.581.
32 Volunteers must be at least twenty-one years of age. The law
33 enforcement agency appointing volunteers may establish any other
34 qualifications the agency deems desirable.

35 (b) An agency appointing volunteers under this section must provide
36 training to the volunteers before authorizing them to issue notices of
37 infractions.

1 (c) A notice of infraction issued by a volunteer appointed under
2 this subsection has the same force and effect as a notice of infraction
3 issued by a police officer for the same offense.

4 (d) A police officer or a volunteer may request a person to show
5 the person's identification card or special parking placard when
6 investigating the possibility of a violation of this section. If the
7 request is refused, the person in charge of the vehicle may be issued
8 a notice of infraction for a violation of this section.

9 (13) For second or subsequent violations of this section, in
10 addition to a monetary fine, the violator must complete a minimum of
11 forty hours of:

12 (a) Community restitution for a nonprofit organization that serves
13 persons having disabilities or disabling diseases; or

14 (b) Any other community restitution that may sensitize the violator
15 to the needs and obstacles faced by persons who have disabilities.

16 (14) The court may not suspend more than one-half of any fine
17 imposed under subsection (7), (8), (9), or (11) of this section.

18 (15) For the purposes of this section, "legally blind" means a
19 person who: (a) Has no vision or whose vision with corrective lenses
20 is so limited that the individual requires alternative methods or
21 skills to do efficiently those things that are ordinarily done with
22 sight by individuals with normal vision; or (b) has an eye condition of
23 a progressive nature which may lead to blindness.

24 **Sec. 7.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read
25 as follows:

26 (1) Money in the treasurer's trust fund may be deposited, invested,
27 and reinvested by the state treasurer in accordance with RCW 43.84.080
28 in the same manner and to the same extent as if the money were in the
29 state treasury.

30 (2) All income received from investment of the treasurer's trust
31 fund shall be set aside in an account in the treasury trust fund to be
32 known as the investment income account.

33 (3) The investment income account may be utilized for the payment
34 of purchased banking services on behalf of treasurer's trust funds
35 including, but not limited to, depository, safekeeping, and
36 disbursement functions for the state treasurer or affected state
37 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to
2 financial institutions. Payments shall occur prior to distribution of
3 earnings set forth in subsection (4) of this section.

4 (4)(a) Monthly, the state treasurer shall distribute the earnings
5 credited to the investment income account to the state general fund
6 except under (b) and (c) of this subsection.

7 (b) The following accounts and funds shall receive their
8 proportionate share of earnings based upon each account's or fund's
9 average daily balance for the period: The Washington promise
10 scholarship account, the college savings program account, the
11 Washington advanced college tuition payment program account, the
12 accessible communities account, the agricultural local fund, the
13 American Indian scholarship endowment fund, the foster care scholarship
14 endowment fund, the foster care endowed scholarship trust fund, the
15 students with dependents grant account, the basic health plan self-
16 insurance reserve account, the contract harvesting revolving account,
17 the Washington state combined fund drive account, the commemorative
18 works account, the Washington international exchange scholarship
19 endowment fund, the toll collection account, the developmental
20 disabilities endowment trust fund, the energy account, the fair fund,
21 the family leave insurance account, the food animal veterinarian
22 conditional scholarship account, the fruit and vegetable inspection
23 account, the future teachers conditional scholarship account, the game
24 farm alternative account, the GET ready for math and science
25 scholarship account, the grain inspection revolving fund, the juvenile
26 accountability incentive account, the law enforcement officers' and
27 firefighters' plan 2 expense fund, the local tourism promotion account,
28 the pilotage account, the produce railcar pool account, the regional
29 transportation investment district account, the rural rehabilitation
30 account, the stadium and exhibition center account, the youth athletic
31 facility account, the self-insurance revolving fund, the sulfur dioxide
32 abatement account, the children's trust fund, the Washington horse
33 racing commission Washington bred owners' bonus fund and breeder awards
34 account, the Washington horse racing commission class C purse fund
35 account, the individual development account program account, the
36 Washington horse racing commission operating account (earnings from the
37 Washington horse racing commission operating account must be credited
38 to the Washington horse racing commission class C purse fund account),

1 the life sciences discovery fund, the Washington state heritage center
2 account, the reduced cigarette ignition propensity account, and the
3 reading achievement account. However, the earnings to be distributed
4 shall first be reduced by the allocation to the state treasurer's
5 service fund pursuant to RCW 43.08.190.

6 (c) The following accounts and funds shall receive eighty percent
7 of their proportionate share of earnings based upon each account's or
8 fund's average daily balance for the period: The advanced right-of-way
9 revolving fund, the advanced environmental mitigation revolving
10 account, the city and county advance right-of-way revolving fund, the
11 federal narcotics asset forfeitures account, the high occupancy vehicle
12 account, the local rail service assistance account, and the
13 miscellaneous transportation programs account.

14 (5) In conformance with Article II, section 37 of the state
15 Constitution, no trust accounts or funds shall be allocated earnings
16 without the specific affirmative directive of this section.

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