



HANDICAPPER PARKING SPACES

House Bill 4495 (Substitute H-3) First Analysis (5-20-03)

**Sponsor: Rep. Edward Gaffney
Committee: Transportation**

THE APPARENT PROBLEM:

The Michigan Chapter of Paralyzed Veterans of America—one of 34 chapters nationwide whose membership totals 20,000—has reported that the parking aisles between the parking spaces that are designated for people with disabilities are sometimes used as parking spots. When these access aisles are blocked, vans that are equipped with chairlifts for wheelchair users cannot be operated, and disabled people are unable to leave or gain entrance to their vehicles.

In 2000, the legislature enacted Public Act 76 to authorize police officers to ticket a driver parked in an access aisle, and to have his or her vehicle removed at the owner’s expense. However, access aisles continue to be blocked.

Those who rely upon the parking spaces designated for people with disabilities have pointed out that parking within access aisles may be caused, in part, by drivers’ confusion about the purpose of the access lanes. They observe that the access lanes are not uniformly marked or painted—some are outlined in yellow or blue, some are cross-hatched in blue or white, some have ‘no parking’ painted within their borders.

When businesses and state or local governments re-stripe their parking lots, they are required to provide parking spaces for people with disabilities, as specified under the Americans with Disabilities Act (ADA). The ADA Standards for Accessible Design set the minimum number of accessible parking spaces each lot must have, based upon the total number of spaces provided, and the standards specify that there must be one van-accessible space for every eight parking spaces set aside for drivers with disabilities (but always at least one). The standards also specify the size of auto-accessible and van-accessible spaces and access aisles. However, the standards do not specify either the color or the manner in which the adjacent access lanes should be painted. Instead, a standard simply states that “access aisles shall be marked so as to discourage parking in them.” (See *BACKGROUND INFORMATION* below.)

Michigan law and uniform construction rules also are vague concerning the manner in which the access aisles should be painted. The single explicit reference to the design specifications is found in Chapter 5 of the 2000 Michigan Building Code which adopts the national standard concerning size of the access lanes, but makes no mention of their appropriate color or graphic design. (See *BACKGROUND INFORMATION* below.)

To establish a uniform design standard for the access aisles adjacent to van-accessible access parking spaces, legislation has been introduced.

THE CONTENT OF THE BILL:

House Bill 4495 would amend the Michigan Vehicle Code to establish requirements for certain handicapper parking spaces.

The bill specifies that upon construction of, resealing, or resurfacing of, existing handicapped van-accessible parking spaces required by law or rule, the parking spaces, curb cuts, and access aisles must conform to the specifications set for accessible and usable buildings and facilities, as prescribed in the American national standards 1998, ICC/ANSI A117.1

In particular, the bill specifies that the area between each van-accessible handicapped parking space that is required under these standards must be painted with blue diagonal stripes that are 4 inches wide and 24 inches center-to-center.

Under the bill, a person who intentionally violated this section would be responsible for a civil infraction and subject to a fine of not more than \$100, and an additional fine of \$100 for each 30-day period after the citation was issued during which the violation remained uncured. However, the total fine could not exceed \$1,000. As used in this section, “person” means a person as defined in section 40, who is the sole or part owner of a parking lot.

MCL 257.675e

BACKGROUND INFORMATION:

The ADA Standards for Accessible Design. The ADA design standards require that each accessible parking space have an adjacent access aisle in order to accommodate a wheelchair lift. An accessible parking space for a car must have an access aisle that is at least 60 inches wide, and the access aisle for a van-accessible space must be at least 96 inches wide. Though the act specifies that the parking space itself be clearly marked by a sign with the international symbol of accessibility mounted high enough so that it can be clearly seen while a vehicle is parked in the space, there are no rules or guidelines for marking the access aisles other than requiring that the boundary of the access aisle be marked and that the boundary be a curved or squared shape.

However, a handout published by the U.S. Department of Justice, Civil Rights Division, Disability Rights Section, on the re-stripping of parking lots does contain an illustration of a van accessible access aisle that is painted around the perimeter and that has diagonal stripes.

Michigan laws about parking spaces designated for people with disabilities. Section 1 of the Uniform Traffic Code (MCL 257.951) allows local units of government to adopt by reference a code or ordinance for the regulation of traffic within those units that has been promulgated by the director of the Department of State Police. Section 1 also specifies that a sign designating a parking space for persons with disabilities be 12 inches by 18 inches or larger, and be either blue or white and at a minimum contain the international handicapped symbol in contrasting colors of either blue or white in the center of the sign. The act does not, however, speak to how the access aisles should be marked.

Another statute, Public Act 235 of 1969, concerning the control of traffic in parking areas, requires that local units of government provide, by ordinance, for parking spaces specifically designated for people with disabilities, in numbers to conform with the requirements of Section 2 of Public Act 1 of 1966, an act concerning the "utilization of public facilities by the physically limited." ["Parking area" is defined in the act as "an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution, or similar building or location", and "shopping center" is defined as a minimum area of three acres of land on which is located one or more stores or business establishments and where there is a parking area.]

However, this act also does not specify how access aisles are to be marked.

Public Act 1 of 1966 states at section 2 that public facilities and facilities used by the public must meet the barrier free design requirements contained in the state construction code. Generally, references in state statutes to the state construction code refer to a set of rules promulgated every three years and published as the Michigan Building Code. Currently, the 2000 Michigan Building Code is used by members of the construction industry to ensure that projects meet federal and state building standards. [This code or set of rules, formerly promulgated by the State Construction Code Commission, is now regularly updated by the director of the Department of Consumer and Industry Services.]

Chapter 11 of the 2000 Michigan Building Code, entitled "Accessibility", specifies that buildings and facilities must be designed and constructed to be accessible in accord with the code and ICC/ANSI A117.1 (the same national standard referenced in the bill). The code also requires that buildings and structures, temporary or permanent, including their associated sites and facilities, be accessible to persons who have physical disabilities in accord with Public Act 1 of 1966, MCL 125.1352 et seq. Though the building code contains a table regarding the number of accessible parking spaces based upon the size of a parking lot, it does not mention access aisles or how to mark them.

However, in Chapter 5 of the 2000 Michigan Building code, entitled "General Site and Building Elements," accessible parking spaces and access aisles are addressed. With regard to marking access aisles, the standard simply states that "access aisles shall be marked so as to discourage parking in them."

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would increase the amount of fine revenue earmarked for distribution to local libraries under Section 8379 of the Revised Judicature Act. The magnitude of this increase is indeterminate. (HFA communication on 5-19-03)

ARGUMENTS:**For:**

When new parking lots are developed or when existing lots are repainted, current state and federal laws require that access aisles be made adjacent to accessible parking spaces. Access aisles serving cars must be 60 inches (or five feet) wide, while the access aisles serving vans must be 96 inches (or eight feet) wide. These access aisles are as important as the accessible parking spaces themselves, since the access aisles allow wheelchair users to get into and out of their cars, and also provide the space necessary to deploy a wheelchair lift from a lift-equipped van. If a vehicle parks illegally in an access aisle, a person in a wheelchair may either be trapped within or outside of his or her vehicle until the driver of the illegally parked car returns and moves it. This poses a significant hardship to wheelchair users, severely limiting their mobility.

Though recent legislation allows a police officer to ticket a car parked in an access aisle, and to have the car towed at the owner's expense, ways must be found to prevent illegal use of the access aisles so that offences do not occur. According to reports, some drivers unwittingly park in access lanes because they think they are parking spaces.

Though there are several state and federal laws that deal with various parking requirements for the physically disabled, nothing in any of the laws directly specifies how the access aisles should be marked or painted. Absent a uniform standard, various colors and designs are used.

This bill would provide a remedy. Under the bill, upon all new construction, resealing, or re-stripping of an existing parking lot, all van accessible access aisles would have to be painted with blue, diagonal stripes. By putting such a requirement in statute, those in the building trades will become more aware of a uniform system of marking the van accessible access aisles. As more and more parking spaces are properly and uniformly marked, there should be fewer occurrences of drivers parking vehicles in the van accessible access aisles.

Against:

A few questions arose when this legislation was introduced during the last legislative session:

Some argued that it seems unusual to place such a requirement in the Michigan Vehicle Code. The Vehicle Code primarily deals with the behavior of

drivers. For example, the legislation enacted in 2000 to make it a ticketable and towable offense if a driver parks in the access aisle adjacent to a handicapped parking space rightfully belongs in the Vehicle Code because it is meant to change the behavior of a driver. The bill, however, does not address drivers, but rather, those who own parking lots. It is unlikely that parking lot owners would look in the Vehicle Code for requirements about the design of parking lots. Would it be more effective to place the provision with statutes pertaining to building codes, or handicapped accessible design standards?

This legislation would require that the 96 inch (8 foot) access aisles adjacent to vans be striped diagonally in blue. Should the 60 inch (five foot) access aisles adjacent to the parking spaces for cars also be striped in blue?

Some have pointed out that it is not clear who would enforce the bill. The Department of Consumer and Industry Services, which regulates the building trades, would have little authority to enforce a violation of the Vehicle Code. Generally the Vehicle Code falls within the regulatory purview of the Office of the Secretary of State. However, the secretary of state has authority to restrict or suspend a driver's license, but would have little authority to require parking lot owners to properly stripe an access aisle. Who would enforce this law?

Perhaps the bill should be amended to address these issues, and also to establish an effective date so that governments and businesses will not be caught unaware during this construction season when contracts for this kind of work have already been arranged.

POSITIONS:

The Michigan Chapter of Paralyzed Veterans of America supports the bill. (5-15-03)

The Department of State Police is neutral on the bill. (5-15-03)

The Office of Secretary of State has no position on the bill. (5-15-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.