

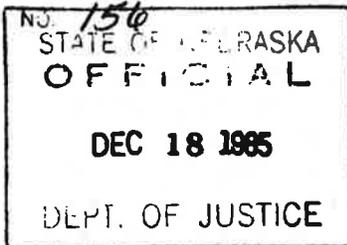
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

December 12, 1985



Senator Harry B. Chronister
State Capitol
P.O. Box 18
Lincoln, NE 68509

Dear Senator Chronister:

We have received a request from you for an Opinion interpreting Neb.Rev.Stat. §§60-311, 60-311.14, 18-1736, and 18-1738.01. It is our policy to provide legislators with opinions pertaining only to proposed or pending legislation, and not to provide opinions which interpret existing statutes. An exception to this policy is where the interpretation of the existing statutes relates directly to the proposed legislation. We find that to be the case in this instance.

Your Opinion request focuses on two issues: (1) May the parent or guardian of a disabled or physically handicapped person apply for license plates without having the disabled or handicapped person's name on the title of ownership?; and (2) Are individuals given the choice of using either handicapped license plates or a handicapped parking permit to entitle them to park in stalls designated for handicapped parking?

First, the parent or guardian of a disabled or physically handicapped person may not apply for license plates without having the disabled or handicapped person's name on the certificate of title. Neb.Rev.Stat. §60-311 (Reissue 1984) provides that the Department of Motor Vehicles shall furnish license plates to every person whose motor vehicle is registered. Registration of motor vehicles is based on the information contained in the certificate of title, and is issued solely in the name of the owner or owners of such vehicles. Neb.Rev.Stat. §60-302 (Reissue 1984).

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Issuance of disabled or handicapped license plates in lieu of the usual license plates is authorized by Neb.Rev.Stat. §60-311.14 (Reissue 1984):

(1) The Department of Motor Vehicles shall, without the payment of any fee except the fees required by section 60-311, issue license plates for one motor vehicle not used for hire, which plates shall carry the internationally accepted wheelchair symbol, which symbol is a representation of a person seated in a wheelchair surrounded by a border six units wide by seven units high, and such other letters or numbers as the Director of Motor Vehicles may prescribe, to any person who applies for such plates and provides that he or she is a disabled person. Such plates shall be used by such person in lieu of the usual license plates. For purposes of this section, disabled person shall mean a person who has permanently lost the use of two or more extremities.

(2) Any person who is not disabled but is physically handicapped as defined in section 18-1738 may receive license plates, as described in subsection (1) of this section, if he or she applies for such plates, furnishes proof that he or she is physically handicapped as defined in section 18-1738, and pays the fees required in Chapter 60, article 3. (emphasis added).

Section 60-311.14 does not authorize the issuance of disabled or handicapped license plates to any person other than the disabled or handicapped person. Thus, the name of the disabled or handicapped person who is applying for license plates under §60-311.14 must appear on the certificate of title.

Second, disabled or handicapped individuals are given the choice of using either handicapped license plates or a handicapped parking permit to entitle them to park in stalls designated for handicapped parking. Neb.Rev.Stat. §18-1736 (Reissue 1983) provides that a city or village may designate parking spaces for the exclusive use of

- (1) disabled persons whose vehicles display the distinguishing license plates issued to disabled persons pursuant to section 60-311.14;

- (2) disabled persons whose vehicles display a distinguishing license plate issued to a disabled person or paraplegic by another state;
- (3) such other handicapped persons, as certified by the city or village, whose vehicles display the identification as determined by the Department of Motor Vehicles; and
- (4) such other motor vehicles, as certified by the city or village, which display the identification as determined by the Department of Motor Vehicles.

The specifications for the identification or "permit," referred to in §18-1736(3) and (4) are enumerated in Neb.Rev.Stat. §18-1739 (Reissue 1984).

The issuance of permits entitling qualified individuals to park their motor vehicles in designated parking spaces are authorized by statute. Neb.Rev.Stat. §18-1738 (Reissue 1984) states in part:

The clerk of any city or village may take an application from physically handicapped persons or their parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purposes of transporting such holder to park in those spaces provided for by sections 18-1736 to 18-1741.

Similarly, Neb.Rev.Stat. §18-1738.01 (Reissue 1984) provides in part:

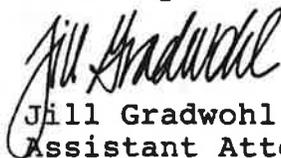
The clerk of any city or village may take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting physically handicapped persons to park in those spaces provided for by sections 18-1736 to 18-1741, if the motor vehicle is used primarily for the transportation of physically handicapped persons.

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Pursuant to §18-1736, an individual is entitled to park in designated handicapped parking stalls so long as he or she has either handicapped license plates or a handicapped permit on his or her motor vehicle.

Sincerely,

ROBERT M. SPIRE
Attorney General



Jill Gradwohl
Assistant Attorney General

JG:bmh

cc: Patrick J. O'Donnell
Clerk of the Legislature