

(4) a bus while it is in operation within the state of Minnesota as to any Minnesota resident who is an insured as defined in section 65B.43, subdivision 5.

Sec. 3. Minnesota Statutes 1988, section 65B.49, is amended by adding a subdivision to read:

Subd. 9. FAMILY OR GROUP FAMILY DAY CARE PROVIDER COVERAGE. No plan of reparation security shall exclude coverage for a vehicle when used to transport children as part of a family or group family day care program.

Presented to the governor April 24, 1990

Signed by the governor April 24, 1990, 9:52 p.m.

CHAPTER 497—S.F.No. 838

An act relating to motor vehicles; providing for special license plates for disabled persons; setting fee for duplicate personalized license plates; amending Minnesota Statutes 1988, sections 168.012, subdivision 3a; 168.021, as amended; 168.12, subdivision 2a; 168.125, subdivision 2; 168.27, subdivision 2; 168.29; 169.01, subdivision 24a; 169.215; and 169.346; Minnesota Statutes 1989 Supplement, sections 168.011, subdivision 4; 168.012, subdivision 1; and 169.345; repealing Minnesota Statutes 1988, section 168.12, subdivisions 3 and 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1989 Supplement, section 168.011, subdivision 4, is amended to read:

Subd. 4. **MOTOR VEHICLE.** (a) "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, manufactured homes, and park trailers.

(b) "Motor vehicle" also includes an all-terrain vehicle, as defined in section 84.92, subdivision 8, which (1) has at least four wheels, (2) is owned and operated by a physically ~~handicapped~~ disabled person, and (3) displays both physically ~~handicapped~~ disabled license plates and a physically ~~handicapped~~ disabled certificate issued under section 169.345, subdivision 3.

(c) Motor vehicle does not include an all-terrain vehicle as defined in section 84.92, subdivision 8; except (1) an all-terrain vehicle described in paragraph (b), or (2) an all-terrain vehicle licensed as a motor vehicle before August 1,

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1985, in which case the owner may continue to license it as a motor vehicle until it is conveyed or otherwise transferred to another owner, is destroyed, or fails to comply with the registration and licensing requirements of this chapter.

Sec. 2. Minnesota Statutes 1989 Supplement, section 168.012, subdivision 1, is amended to read:

Subdivision 1. (a) The following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees, except as provided in subdivision 1c:

(1) vehicles owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, the state, or any political subdivision;

(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions;

(3) vehicles owned by nonprofit charities and used exclusively to transport ~~handicapped~~ disabled persons for educational purposes;

(4) vehicles owned and used by honorary consul or consul general of foreign governments.

(b) Vehicles owned by the federal government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall not be required to register or display number plates.

(c) Unmarked vehicles used in general police work and arson investigations, and passenger automobiles, pickup trucks, and buses owned or operated by the department of corrections shall be registered and shall display appropriate license number plates which shall be furnished by the registrar at cost. Original and renewal applications for these license plates authorized for use in general police work and for use by the department of corrections must be accompanied by a certification signed by the appropriate chief of police if issued to a police vehicle, the appropriate sheriff if issued to a sheriff's vehicle, the commissioner of corrections if issued to a department of corrections vehicle, or the appropriate officer in charge if issued to a vehicle of any other law enforcement agency. The certification must be on a form prescribed by the commissioner and state that the vehicle will be used exclusively for a purpose authorized by this section.

(d) Unmarked vehicles used by the department of revenue in conducting seizures or criminal investigations must be registered and must display passenger vehicle classification license number plates which shall be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the commissioner of revenue. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the purposes authorized by this section.

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(e) All other motor vehicles shall be registered and display tax exempt number plates which shall be furnished by the registrar at cost, except as provided in subdivision 1c. All vehicles required to display tax exempt number plates shall have the name of the state department or public subdivision on the vehicle plainly displayed on both sides thereof in letters not less than 2-1/2 inches high and one-half inch wide; except that each state hospital and institution for the mentally ill and mentally retarded may have one vehicle without the required identification on the sides of the vehicle. Such identification shall be in a color giving contrast with that of the part of the vehicle on which it is placed and shall endure throughout the term of the registration. The identification must not be on a removable plate or placard and shall be kept clean and visible at all times; except that a removable plate or placard may be utilized on vehicles leased or loaned to a political subdivision.

Sec. 3. Minnesota Statutes 1988, section 168.012, subdivision 3a, is amended to read:

Subd. 3a. **SPECIAL HANDICAPPED PERMITS.** Motorized golf carts and four-wheel all-terrain vehicles operated under permit and on roadways designated pursuant to section 169.045 are exempt from the provisions of this chapter.

Sec. 4. Minnesota Statutes 1988, section 168.021, as amended by Laws 1989, chapter 234, sections 1 and 2, is amended to read:

168.021 LICENSE PLATES FOR PHYSICALLY ~~HANDICAPPED~~ DISABLED PERSONS.

Subdivision 1. **SPECIAL PLATES; APPLICATION FOR ISSUANCE.** (a) When a motor vehicle registered under section 168.017, or a self-propelled recreational vehicle, is owned or primarily operated by a permanently physically ~~handicapped~~ disabled person or a custodial parent or guardian of a permanently physically ~~handicapped~~ disabled minor, the owner may apply for and secure from the registrar of motor vehicles two license plates with attached emblems, one plate to be attached to the front, and one to the rear of the vehicle. Application for the plates must be made at the time of renewal or first application for registration. When the owner first applies for the plates, the owner must submit a physician's statement on a form developed by the commissioner under section 169.345, or proof of physical ~~handicap~~ disability provided for in that section.

(b) The owner of a motor vehicle may apply for and secure a set of special plates for a motor vehicle if:

(1) the owner employs a permanently physically ~~handicapped~~ disabled person who would qualify for special plates under this section; and

(2) the owner furnishes the motor vehicle to the physically ~~handicapped~~

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disabled person for the exclusive use of that person, in the course of employment.

Subd. 1a. **SCOPE OF PRIVILEGE.** If a physically ~~handicapped~~ disabled person parks a vehicle displaying license plates described in this section or any person parks the vehicle for a physically ~~handicapped~~ disabled person, that person shall be entitled to park the vehicle as provided in section 169.345.

Subd. 2. **DESIGN OF PLATES; FURNISHING BY REGISTRAR.** The registrar of motor vehicles shall design and furnish two license number plates with attached emblems to each eligible owner. The emblem must bear the internationally accepted wheelchair symbol, as designated in section 16B.61, subdivision 5, approximately three inches square. The emblem must be large enough to be visible plainly from a distance of 50 feet. An applicant eligible for the special plates shall pay the motor vehicle registration fee authorized by law less a credit of \$1 for each month registered.

Subd. 2a. **PLATE RETURNS, TRANSFERS.** (a) When vehicle ownership is transferred, the owner of the vehicle shall remove the special plates from the vehicle and return them to the registrar. The buyer of the vehicle shall repay the \$1 credit for each month remaining in the registration period for which the special plates were issued. On returning the plates and repaying the remaining credit, the buyer is entitled to receive regular plates for the vehicle without further cost for the rest of the registration period.

(b) Notwithstanding section 168.12, subdivision 1, the special plates may be transferred to a replacement motor vehicle on notification to the registrar. However, the special plates may not be transferred unless the replacement motor vehicle (1) is registered under section 168.017 or is a self-propelled recreational vehicle, and (2) is owned or primarily operated by the permanently physically disabled person.

(c) The transferor shall not receive the \$1 credit for each month the replacement vehicle is registered until the time of renewal or first application for registration on the replacement vehicle.

Subd. 2b. **WHEN NOT ELIGIBLE.** On becoming ineligible for the special plates, the owner of the vehicle shall remove the special plates and return them to the registrar. The owner shall repay the \$1 credit for each month remaining in the registration period for which the special plates were issued. On returning the plates and repaying the remaining credit, the owner may receive regular plates for the vehicle without further cost for the rest of the registration period.

Subd. 3. **PENALTIES FOR UNAUTHORIZED USE OF PLATES.** (a) A person who uses the plates provided under this section on a motor vehicle in violation of this section is guilty of a misdemeanor, and is subject to a fine of \$500. This subdivision does not preclude a person who is not physically ~~handicapped~~ disabled from operating a vehicle bearing the plates if:

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(1) the person is the owner of the vehicle and permits its operation by a physically ~~handicapped~~ disabled person;

(2) the person operates the vehicle with the consent of the owner who is physically ~~handicapped~~ disabled; or

(3) the person is the owner of the vehicle, is the custodial parent or guardian of a permanently physically ~~handicapped~~ disabled minor, and operates the vehicle to transport the minor.

(b) A driver who is not ~~handicapped~~ disabled is not entitled to the parking privileges provided in this section and in section 169.346 unless parking the vehicle for a physically ~~handicapped~~ disabled person.

Subd. 4. **FEES; DISPOSITION.** All fees collected from the sale of plates under this section shall be deposited in the state treasury to the credit of the highway user tax distribution fund.

Subd. 5. **DEFINITIONS.** For the purposes of this section, the term "physically ~~handicapped~~ disabled person" has the meaning given it in section 169.345.

Subd. 6. **DRIVER'S LICENSE LAW NOT AFFECTED.** Nothing in this section shall be construed to revoke, limit, or amend chapter 171.

Sec. 5. Minnesota Statutes 1988, section 168.12, subdivision 2a, is amended to read:

Subd. 2a. **PERSONALIZED LICENSE PLATES.** Personalized license plates must be issued to an applicant for registration of a passenger automobile, van, ~~or~~ pickup truck, motorcycle, or self-propelled recreational vehicle, upon compliance with the laws of this state relating to registration of the vehicle and upon payment of a one-time fee of \$100 in addition to the registration tax required by law for the vehicle. The ~~commissioner~~ registrar shall designate a replacement fee for personalized license plates that is calculated to cover the cost of replacement. This fee must be paid by the applicant whenever the ~~law requires the~~ personalized license plates are required to be replaced by law. In lieu of the numbers assigned as provided in subdivision 1, personalized license plates must have imprinted on them a series of not more than ~~six~~ seven numbers and letters in any combination. When an applicant has once obtained personalized plates, the applicant shall have a prior claim for similar personalized plates in the next succeeding year that plates are issued if application is made for them at least 30 days before the first date that registration can be renewed. The commissioner of public safety shall adopt rules in the manner provided by chapter 14, regulating the issuance and transfer of personalized license plates. No words or combination of letters placed on personalized license plates may be used for commercial advertising, be of an obscene, indecent, or immoral nature, or be of a nature that would offend public morals or decency. The call signals or letters of a radio or television station are not commercial advertising for the purposes of this subdivision.

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Notwithstanding the provisions of subdivision 1, personalized license plates issued under this subdivision may be transferred to another motor vehicle owned or jointly owned by the applicant, upon the payment of a fee of \$5, which must be paid into the state treasury and credited to the highway user tax distribution fund. The registrar may by rule provide a form for notification.

Notwithstanding any law to the contrary, if the personalized license plates are lost, stolen, or destroyed, the applicant may apply and shall receive duplicate license plates bearing the same combination of letters and numbers as the former personalized plates upon the payment of a ~~\$5~~ the fee required by section 168.29.

Fees from the sale of permanent and duplicate personalized license plates must be paid into the state treasury and credited to the highway user tax distribution fund.

Sec. 6. Minnesota Statutes 1988, section 168.125, subdivision 2, is amended to read:

Subd. 2. **SPECIAL PLATES; EX-POW AND HANDICAPPED DISABILITY INSIGNIA.** The registrar shall issue special license plates bearing both the "EX-POW" and ~~handicapped disability~~ handicapped disabled insignia to any applicant who is entitled to the special license plates provided under this section and who is also entitled to special license plates for the physically ~~handicapped disabled~~ handicapped disabled under section 168.021 upon compliance with the provisions of both sections. The special license plates shall be of a design and size to be determined by the commissioner.

Sec. 7. Minnesota Statutes 1988, section 168.27, subdivision 2, is amended to read:

Subd. 2. **NEW MOTOR VEHICLE DEALER.** (a) No person shall engage in the business of selling new motor vehicles or shall offer to sell, solicit, or advertise the sale of new motor vehicles without first acquiring a new motor vehicle dealer license. A new motor vehicle dealer licensee shall be entitled thereunder to sell, broker, wholesale, or auction and to solicit and advertise the sale, broker, wholesale, or auction of new motor vehicles covered by the franchise and any used motor vehicles or to lease and to solicit and advertise the lease of new motor vehicles and any used motor vehicles and such sales or leases may be either for consumer use at retail or for resale to a dealer. A new motor vehicle dealer may engage in the business of buying or otherwise acquiring vehicles for dismantling the vehicles and selling used parts and remaining scrap materials under chapter 168A, except that a new motor vehicle dealer may not purchase a junked vehicle from a salvage pool, insurance company, or its agent unless the dealer is also licensed as a used vehicle parts dealer. Nothing herein shall be construed to require an applicant for a dealer license who proposes to deal in: (1) new and unused motor vehicle bodies; or (2) type A, B, or C motor homes as defined in section 168.011, subdivision 25, to have a bona fide contract or franchise in effect with either the first-stage manufacturer of the motor

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home or the manufacturer or distributor of any motor vehicle chassis upon which the new and unused motor vehicle body is mounted. The modification or conversion of a new van-type vehicle into a multipurpose passenger vehicle which is not a motor home does not constitute dealing in new or unused motor vehicle bodies, and a person engaged in the business of selling these van-type vehicles must have a bona fide contract or franchise with the appropriate manufacturer under subdivision 10. A van converter or modifier who owns these modified or converted van-type vehicles may sell them at wholesale to new motor vehicle dealers having a bona fide contract or franchise with the first-stage manufacturer of the vehicles.

(b) The requirements pertaining to franchises do not apply to persons who remodel or convert motor vehicles for medical purposes. For purposes of this subdivision, "medical purpose" means certification by a licensed physician that remodeling or conversion of a motor vehicle is necessary to enable a ~~handicapped~~ disabled person to use the vehicle.

Sec. 8. Minnesota Statutes 1988, section 168.29, is amended to read:

168.29 DUPLICATE PLATES.

In the event of the defacement, loss or destruction of any number plates, the registrar, upon receiving and filing a sworn statement of the vehicle owner, setting forth the circumstances of the defacement, loss, destruction or theft of the number plates, together with any defaced plates and the payment of the fee of \$5 shall issue a new set of plates, except for duplicate personalized license plates provided for in section 168.12, subdivision 2a. The registrar shall impose a fee to replace personalized plates not to exceed the actual cost of producing the plates.

The registrar shall then note on the registrar's records the issue of such new number plates and shall proceed in such manner as the registrar may deem advisable to cancel and call in the original plates so as to insure against their use on another motor vehicle.

Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a \$1 fee.

Sec. 9. Minnesota Statutes 1988, section 169.01, subdivision 24a, is amended to read:

Subd. 24a. **WHEELCHAIR.** For the purposes of this chapter "wheelchair" is defined to include any manual or motorized wheelchair, scooter, tricycle, or similar device used by a ~~handicapped~~ disabled person as a substitute for walking.

Sec. 10. Minnesota Statutes 1988, section 169.215, is amended to read:

Subdivision 1. **DESIGNATION OF CROSSINGS.** Local authorities may

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designate a ~~senior citizen or handicapped~~ crossing for senior citizens or disabled persons on any street or highway in the vicinity of a senior citizen housing project, senior citizen nursing home, or residential care facility for ~~handicapped disabled~~ persons on the basis of an engineering and traffic investigation prescribed by the commissioner and subject to the uniform specifications adopted pursuant to subdivision 2. Designation of a ~~senior citizen or handicapped~~ crossing for senior citizens or disabled persons on a trunk highway is subject to the written consent of the commissioner.

Subd. 2. **UNIFORM SPECIFICATIONS.** The commissioner shall adopt uniform specifications for ~~senior citizen or handicapped~~ crossings for senior citizens or disabled persons. The specifications shall include criteria for determining the need for a crossing and the type and design of traffic control devices or signals that may be used at the crossing. The specifications shall be incorporated as a part of the manual of uniform traffic control devices required pursuant to section 169.06.

Sec. 11. Minnesota Statutes 1989 Supplement, section 169.345, is amended to read:

169.345 PARKING PRIVILEGES FOR PHYSICALLY ~~HANDICAPPED~~ DISABLED.

Subdivision 1. **SCOPE OF PRIVILEGE.** A vehicle that prominently displays the certificate authorized by this section, or bears license plates issued under section 168.021, may be parked by or for a physically ~~handicapped~~ disabled person:

- (1) in a designated ~~handicapped~~ parking space for disabled persons, as provided in section 169.346; and
- (2) in a metered parking space without obligation to pay the meter fee.

For purposes of this subdivision, a certificate is prominently displayed if it is displayed on the dashboard in the left-hand corner of the front windshield of the vehicle with no part of the certificate obscured.

Notwithstanding clauses (1) and (2), this section does not permit parking in areas prohibited by sections 169.32 and 169.34, in designated no parking spaces, or in parking spaces reserved for specified purposes or vehicles. A local governmental unit may, by ordinance, prohibit parking on any street or highway to create a fire lane, or to accommodate heavy traffic during morning and afternoon rush hours and these ordinances also apply to physically ~~handicapped~~ disabled persons.

Subd. 2. **DEFINITIONS.** For the purpose of this section, "physically ~~handicapped~~ disabled person" means a person who:

- (1) because of disability cannot walk without significant risk of falling;

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(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory 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;

(5) has an arterial oxygen tension (PAO₂) of less than 60 mm/Hg on room air at rest;

(6) uses portable oxygen;

(7) 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;

(8) has lost an arm or a leg and does not have or cannot use an artificial limb; or

(9) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

Subd. 2a. **PHYSICIAN'S OR CHIROPRACTOR'S STATEMENT.** (a) The commissioner shall develop a form for the physician's or chiropractor's statement. The statement must be signed by a licensed physician or chiropractor who certifies that the applicant is a physically ~~handicapped~~ disabled person as defined in subdivision 2. The commissioner may request additional information from the physician or chiropractor if needed to verify the applicant's eligibility. The statement that the applicant is a physically ~~handicapped~~ disabled person must specify whether the disability is permanent or temporary, and if temporary, the opinion of the physician or chiropractor as to the duration of the disability. A physician or chiropractor who fraudulently certifies to the commissioner that a person is a physically ~~handicapped~~ disabled person as defined in subdivision 2, and that the person is entitled to the license plates authorized by section 168.021 or to the certificate authorized by this section, is guilty of a misdemeanor and is subject to a fine of \$500.

(b) The commissioner may waive the requirement of providing a statement of a licensed physician or chiropractor, if the applicant has previously filed with the commissioner a statement of a licensed physician or chiropractor certifying that the applicant has a permanent physical ~~handicap~~ disability.

Subd. 3. **IDENTIFYING CERTIFICATE.** (a) The division of driver and vehicle services in the department of public safety shall issue a special identifying certificate for a motor vehicle when a physically ~~handicapped~~ disabled applicant submits proof of physical ~~handicap~~ disability under subdivision 2a. The commissioner shall design separate certificates for persons with permanent and

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temporary disabilities that can be readily distinguished from each other from outside a vehicle at a distance of 25 feet. The certificate is valid for the duration of the person's disability, as specified in the physician's or chiropractor's statement, up to a maximum of six years. A person with a disability of longer duration will be required to renew the certificate for additional periods of time, up to six years each, as specified in the physician's or chiropractor's statement.

(b) When the commissioner is satisfied that a motor vehicle is used primarily for the purpose of transporting physically ~~handicapped~~ disabled persons, the division may issue without charge a special identifying certificate for the vehicle. The operator of a vehicle displaying the certificate has the parking privileges provided in subdivision 1 while the vehicle is in use for transporting physically ~~handicapped~~ disabled persons. The certificate issued to a person transporting physically ~~handicapped~~ disabled persons must be renewed every third year. On application and renewal, the person must present evidence that the vehicle continues to be used for transporting physically ~~handicapped~~ disabled persons.

(c) A certificate must be made of plastic or similar durable material, must be distinct from certificates issued before January 1, 1988, and must bear its expiration date prominently on its face. A certificate issued to a temporarily disabled person must display the date of expiration of the duration of the disability, as determined under paragraph (a). Each certificate must have printed on the back a summary of the parking privileges and restrictions that apply to each vehicle in which it is used. The commissioner may charge a fee of \$5 for issuance or renewal of a certificate, and a fee of \$5 for a duplicate to replace a lost, stolen, or damaged certificate.

Subd. 4. **UNAUTHORIZED USE; REVOCATION; PENALTY.** If a peace officer finds that the certificate is being improperly used, the officer shall report the violation to the division of driver and vehicle services in the department of public safety and the commissioner of public safety may revoke the certificate. A person who uses the certificate in violation of this section is guilty of a misdemeanor and is subject to a fine of \$500.

Sec. 12. Minnesota Statutes 1988, section 169.346, is amended to read:

169.346 PARKING FOR PHYSICALLY ~~HANDICAPPED~~ DISABLED; PROHIBITIONS; PENALTIES.

Subdivision 1. **PARKING CRITERIA.** A person shall not:

(1) park a motor vehicle in or obstruct access to a parking space designated and reserved for the physically ~~handicapped~~ disabled, on either private or public property;

(2) park a motor vehicle in or obstruct access to an area designated by a local governmental unit as a ~~handicapped~~ transfer zone for disabled persons; or

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(3) exercise the parking privilege provided in section 169.345, unless:

(i) that person is a physically ~~handicapped~~ disabled person as defined in section 169.345, subdivision 2, or the person is transporting or parking a vehicle for a physically ~~handicapped~~ disabled person; and

(ii) the vehicle visibly displays one of the following: a license plate issued under section 168.021, a certificate issued under section 169.345, or an equivalent certificate, insignia, or license plate issued by another state or one of its political subdivisions.

Subd. 2. **SIGNS; PARKING SPACES TO BE FREE OF OBSTRUCTIONS.** (a) ~~Handicapped~~ Parking spaces for physically disabled persons must be designated and identified by the posting of signs incorporating the international symbol of access in white on blue and indicating that the parking space is reserved for ~~handicapped~~ disabled persons with vehicles displaying the required certificate, license plates, or insignia. A sign posted for the purpose of this section must be visible from inside a vehicle parked in the space, be kept clear of snow or other obstructions which block its visibility, and be nonmovable or only movable by authorized persons.

(b) The owner or manager of the property on which the designated parking space is located shall ensure that the space is kept free of obstruction. If the owner or manager allows the space to be blocked by snow, merchandise, or similar obstructions for 24 hours after receiving a warning from a peace officer, the owner or manager is guilty of a misdemeanor and subject to a fine of up to \$500.

Subd. 3. **PENALTY.** A person who violates subdivision 1 is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$200. This subdivision shall be enforced in the same manner as parking ordinances or regulations in the governmental subdivision in which the violation occurs. Law enforcement officers have the authority to tag vehicles parked on either private or public property in violation of subdivision 1. A physically ~~handicapped~~ disabled person, or a person parking a vehicle for a ~~handicapped~~ disabled person, who is charged with violating subdivision 1 because the person parked in a ~~handicapped~~ parking space for physically disabled persons without the required certificate or license plates shall not be convicted if the person produces in court or before the court appearance the required certificate or evidence that the person has been issued license plates under section 168.021, and demonstrates entitlement to the certificate or plates at the time of arrest or tagging.

Sec. 13. **REPEALER.**

Minnesota Statutes 1988, section 168.12, subdivisions 3 and 4, are repealed.

Presented to the governor April 24, 1990

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Signed by the governor April 24, 1990, 9:54 p.m.

CHAPTER 498—S.F.No. 2051

An act relating to health; allowing a waiver of restrictions that may be placed upon controlling persons of a nursing home; amending Minnesota Statutes 1988, section 144A.04, subdivision 4; and by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 144A.04, subdivision 4, is amended to read:

Subd. 4. **CONTROLLING PERSON RESTRICTIONS.** (a) The controlling persons of a nursing home may not include any person who was a controlling person of another nursing home during any period of time in the previous two-year period:

(a) (1) during which time of control that other nursing home incurred the following number of uncorrected or repeated violations:

(1) (i) two or more uncorrected violations or one or more repeated violations which created an imminent risk to direct resident care or safety; or

(2) (ii) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule; or

(b) (2) who was convicted of a felony or gross misdemeanor punishable by a term of imprisonment of more than 90 days that relates to operation of the nursing home or directly affects resident safety or care, during that period.

(b) The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions related to the operation of the nursing home which incurred the uncorrected violations.

Sec. 2. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

Subd. 4a. STAY OF ADVERSE ACTION REQUIRED BY CONTROLLING PERSON RESTRICTIONS. (a) In lieu of revoking, suspending, or refusing to renew the license of a nursing home with a controlling person disqualified by subdivision 4, paragraph (a), clause (1), the commissioner may issue an order staying the revocation, suspension, or nonrenewal of the nursing home license. The order may, but need not, be contingent upon the nursing home's compliance with restrictions and conditions imposed on the license to ensure the proper operation of the nursing home and to protect the health, safety, comfort, treatment, and well-being of the residents in the home. The decision to issue an order for stay must be made within 90 days of the commissioner's

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