

OPINION NO. 79-109

Syllabus:

1. Pursuant to R.C. 4511.69, a handicapped person or a person operating a motor vehicle for a handicapped person may park the motor vehicle in specially designated handicapped parking areas without displaying a special handicapped license plate on the motor vehicle.
2. R.C. 4511.69 permits parking in excess of the legal parking period under the conditions specified in that section only if a special handicapped license plate is displayed.

**To: Cooper Sontag, Administrator, Ohio Rehabilitation Services Commission,
Columbus, Ohio**
By: William J. Brown, Attorney General, December 27, 1979

I have before me your request for my opinion regarding the following question:

Does division (F) of Section 4511.69 of the Revised Code require that a motor vehicle bear a special handicapped license plate only if the vehicle is parked in excess of a legal time limit imposed by local authorities, or are the special plates also required whenever a vehicle is parked in a special location designated for use by handicapped persons pursuant to Section 4511.69(E)?

R.C. 4511.69(F) through (H) govern the designation and use of special parking spaces for handicapped persons and persons who are transporting handicapped persons. You indicated in your letter that R.C. 4511.69(F) contains two paragraphs from which your question has arisen. I assume that you have based your finding that division (F) contains two paragraphs on a reading of the original text of Amended House Bill No. 652,¹ the legislative source of R.C. 4511.69, as that bill was filed with the Secretary of State. The text of the bill reads, in pertinent part, as follows:

- (E) Special parking locations and privileges for the handicapped shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. Such locations shall be reasonably close to exits, entrances, elevators, and ramps.
- (F) No person who is not handicapped or operating a motor vehicle to transport a handicapped person shall stop, stand, or park any motor vehicle at special parking locations provided for the handicapped under this section.

When a motor vehicle bearing the special handicapped license plate provided in section 4503.105 of the Revised Code is being operated by or for the transport of a handicapped person, the motor vehicle shall be permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

- (H) As used in this section, "handicapped" means having lost the use of one or both legs, one or both arms, or any combination thereof, or being blind or deaf or so severely disabled as to be unable to move about without the aid of crutches or a wheelchair.

A careful reading of the text indicates that the alphabetical lettering contained within the act is out of sequence. It appears that the letter (G) has been omitted. Thus, division (F) appears to contain two paragraphs. The first paragraph prohibits non-handicapped persons from parking at special locations reserved for the handicapped, while the second permits vehicles bearing special handicapped license plates to park in excess of legal time limits imposed by local authorities.

¹House Bill No. 652 became effective on March 13, 1978.

My assumption that you are relying on the bill as filed is based on the fact that the act has not been reproduced in the major publications of the Revised Code as it was filed with the Secretary of State. In Page's Ohio Revised Code Annotated, the letter (G) has been inserted next to the second paragraph under division (F) and is explained as having been "inadvertently omitted." In Baldwin's publication of the Revised Code, the second paragraph of division (F) is footnoted and the footnote asks, "should this be '(G)'?"

Your question, asking whether the statute requires that the special plates be displayed whenever a vehicle is parked at one of the special locations, obviously stems from the grouping of the two subjects under one division. Had the second paragraph in the original text been labeled (G), an examination of the statute would have revealed that the two paragraphs were designed to deal with two separate concerns. The source of the confusion arising from the statute clearly seems to be a clerical error.

It is a well-settled rule that a statute is not to be defeated "on account of a mistake or error where the intent of the legislature can be collected from the whole statute." Stanton v. Frankel Brothers Realty, 117 Ohio St. 345 (1927). The obvious purpose of R.C. 4511.69, as concerns the paragraphs cited above, is twofold: 1) the establishment of special parking locations for the handicapped; and 2) the interference with local parking restrictions to the extent that handicapped persons displaying special license plates may park in excess of legal time limits.

Several factors support the finding of clerical error. Most importantly, the paragraph immediately following the second paragraph under division (F) in the original text is labeled (H) rather than (G).

It is also pertinent that there is no statute which requires handicapped persons or persons operating a motor vehicle for a handicapped person to purchase special license plates before they may use the specially designated parking spaces. R.C. 4511.69(F) merely prohibits persons who are not handicapped or operating a vehicle for a handicapped person from using the parking spaces. R.C. 4503.44, which governs automobile registration and license plates for handicapped persons, does not require that handicapped persons or persons transporting them purchase the special plates. It appears that the General Assembly intended to allow the individual to decide whether or not to display the specially marked license plates on his or her motor vehicle. Thus, purchase of the special license plates is discretionary. R.C. 4511.69(F) prohibits non-handicapped persons from using handicapped parking areas, but it does not prohibit any handicapped person without special license plates from using the special parking areas.

An examination of original House Bill 652 and its statutory predecessor, Senate Bill 162, also support a finding of clerical error. The paragraph groupings in the original House Bill and the Senate Bill are identical to those found in the Amended House Bill filed with the Secretary of State. The original House bill and Senate bill paragraphs, however, were not alphabetically lettered. The manner in which the text was divided into paragraphs indicates a legislative intent to deal with the subject in each paragraph separately.

General statutory construction presumes that the grammatical reading of a statute gives its correct sense. A "paragraph" is defined in Webster's New World Dictionary 1029 (library and office ed. 1972), as: "a distinct section or subdivision of a chapter, letter, etc., usually dealing with a particular point; it is begun on a new line, often indented." The subject matter of each paragraph, therefore, should be considered separately. If each paragraph under division (F) in Amended House Bill 652 is considered separately, then the license plate requirement in the second paragraph can in no way be thought to control the parking privileges found in the preceding paragraphs.

Finally, statutes granting a valuable right and grounded in humane public policy are usually given liberal construction. Cowen v. Wassman, 64 Ohio App. 84 (1939); State ex rel. Gaddis v. Industrial Commission, 133 Ohio St. 553 (1938). To

interpret R.C. 4511.69 to mean that only vehicles bearing special license plates may occupy parking places designated for the handicapped would work a hardship on the handicapped persons who do not own such license plates or who are transported by non-handicapped persons who have not purchased such plates.

Accordingly, it is my opinion, and you are advised, that:

1. Pursuant to R.C. 4511.69, a handicapped person or a person operating a motor vehicle for a handicapped person may park the motor vehicle in specially designated handicapped parking areas without displaying a special handicapped license plate on the motor vehicle.
2. R.C. 4511.69 permits parking in excess of the legal parking period under the conditions specified in that section only if a special handicapped license plate is displayed.