



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS



September 25, 1991

FILE NO. 91-038

MOTOR VEHICLES:
Handicapped Parking
Enforcement in Private
Parking Garage

Honorable Howard Carroll
State Senator, 1st District
180 North LaSalle Street
Suite 2800
Chicago, Illinois 60601

Dear Senator Carroll:

I have your letter wherein you inquire whether a local law enforcement officer's entry into a private, off-street parking facility to enforce the handicapped parking provisions of the Illinois Vehicle Code (Ill. Rev. Stat 1989, ch. 95 1/2, par. 1-100 et seq.), constitutes trespassing. For the reasons hereinafter stated, it is my opinion that local law enforcement officers may enter upon private property to enforce the handicapped parking provisions of the Illinois Vehicle Code without a trespass occurring.

My predecessor, in opinion on 85-002 (Ill. Att'y. Gen. Op. 85-002, issued March 13, 1985), advised that section 11-1301.3 of the Illinois Vehicle Code (see Ill. Rev. Stat. 1989, ch. 95 1/2, par. 11-1301.3) clearly prohibits the parking of unauthorized motor vehicles in parking spaces reserved, by the display of the appropriate signs, for handicapped parking. It was noted therein that the term "parking space", as used in section 11-1301.3 of the Code, includes both public and private parking facilities.

The opinion concluded that local law enforcement officers are under a duty to enforce the provisions of section 11-1301.3 of the Code for those areas designated as handicapped parking spaces on private, as well as public, property. The authority for local law enforcement officers to compel observance of handicapped parking reservations in private facilities is expressly conferred by section 11-1301.3 of the Code. Therefore, local law enforcement officers are authorized to enforce compliance with section 11-1301.3 of the Code in any private parking facility where parking spaces have been reserved by the placement of official designation signs. I concur with this conclusion.

It is well established in Illinois that when, in the performance of his or her duties, an officer of the law is required to enter upon private property, the officer's conduct, which would otherwise constitute a trespass, is justifiable as

long as there is legal authority for the act. (Linblom v. Ramsey (1874), 75 Ill. 246, 251; Paoli v. Mason (1945), 325 Ill. App. 197, 209.) As previously indicated, local law enforcement officers are legally authorized to enforce handicapped parking reservations in private facilities by the express provisions of section 11-1301.3 of the Code. Therefore, it is my opinion that the entry of a local law enforcement officer onto private property to enforce the handicapped parking provisions of the Illinois Vehicle Code would not constitute a trespass.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Roland W. Burris".

ROLAND W. BURRIS
ATTORNEY GENERAL