

Opposition to HB 2504

Here are some observations concerning HB 2504 *Modifying what qualifies as a disability for a disabled veteran free license plate*. (“Bill Tracking in Kansas - HB 2504 (2021-2022 Legislative Session) - FastDemocracy” n.d.)

1 AN ACT concerning motor vehicles; relating to **disabled veteran**
2 **distinctive license plates**; requiring that **a service-connected disability**
3 **be a physical disability** to qualify for a disabled veteran distinctive
4 license plate; amending K.S.A. 2021 Supp. 8-160 and repealing the
5 existing section.

6

7 Be it enacted by the Legislature of the State of Kansas:

8 Section 1. K.S.A. 2021 Supp. 8-160 is hereby amended to read as
9 follows: 8-160. As used in this act, the term "disabled veteran" means a
10 person who has served in the armed forces of the United States and who is
11 entitled to compensation for a **service-connected physical disability**
12 **producing limited mobility of at least 50%** and the laws administered by
13 the veterans administration or who is entitled to compensation for **the loss,**
14 **or permanent loss of use, of one or both feet or one or both hands, or for**
15 **permanent visual impairment of both eyes to a prescribed degree.**

16 Sec. 2. K.S.A. 2021 Supp. 8-160 is hereby repealed.

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the statute book.

Source: <https://fastdemocracy.com/bill-search/ks/2021-2022/bills/KSB00008586/>

Unauthorized Redefinition

The first problem is that HB 2504 seeks to re-define what a service-connected disability is. But 38 CFR § 3.1(k) says:

(k) Service-connected means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service. (“38 CFR § 3.1 - Definitions.,” n.d.)

There is no distinction between “physical” and “nonphysical” service-connected disability here.

Furthermore, 38 USC 4211(3) is no different and makes no such delineation between “physical” and “non-physical” disability:

The term "disabled veteran" means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under

laws administered by the Secretary, or (B) a person who was discharged or released from active duty because of a service-connected disability. (“38 USC 4211: Definitions” n.d.)

But disabled is disabled. We shouldn’t split hairs as this is a slippery slope.

The strawman argument made by HB 2504 in lines 11-15 is that only physical disabilities matter and that internal service-connected disabilities are “not real” (illegitimate) service-connected disabilities or are “less important” and therefore unworthy of recognition through the issuance of disabled veteran distinctive license plates.

Furthermore, HB 2504, in lines 11-15, appears to argue that to be deemed “legitimate”, physical service-connected disabilities must be observable and obvious to warrant the issuance of disabled veteran distinctive license plates.

However, we know that neither one of these assumptions in HB 2504, lines 11-15 are accurate and are based on faulty reasoning. The Department of Veterans Affairs recognizes hidden or invisible service-connected disabilities as legitimate as observable physical service-connected disabilities such as amputation or musculoskeletal injuries (faacerv 2014) based on Title 38:

38 CFR Book C, Schedule for Rating Disabilities

-
- [Supplements](#)
 - [Appendices](#)
 - [4.1 - 4.31](#) - Subpart A - General Policy in Rating
 - [Subpart B](#) - Subpart B - Disability Rating
 - [4.40 - 4.73](#) - The Musculoskeletal System
 - [4.75 - 4.84a-5](#) - The Organs of Special Sense
 - [4.85 - 4.87a](#) - Impairment of Auditory Acuity
 - [4.88 - 4.89](#) - Infectious Diseases, Immune Disorders and Nutritional Deficiencies
 - [4.96 - 4.97](#) - The Respiratory System
 - [4.100 - 4.104](#) - The cardiovascular System
 - [4.110 - 4.114](#) - The Digestive System
 - [4.115 - 4.115b](#) - The Genitourinary System
 - [4.116](#) - Gynecological Conditions and Disorders of the Breast
 - [4.117](#) - The Hemic and Lymphatic Systems
 - [4.118](#) - The Skin
 - [4.119](#) - The Endocrine System
 - [4.120 - 4.124a](#) - Neurological Conditions and Convulsive Disorders

- [4.125 - 4.130](#) - Mental Disorders
- [4.149 - 4.150](#) - Dental and Oral Conditions

Source: <https://www.benefits.va.gov/WARMS/bookc.asp>

Consequently, the Department of Veterans Affairs recognizes service-connected disabilities as relating to mental or physical injury despite what HB 2504 claims in lines 11-15.

Invisible Physical Service-Connected Injuries

In addition, due to its overly simplistic language, HB 2504 fails to consider that many service-connected disabilities, either incurred in or aggravated by military service, that can be both physical and hidden or invisible. The following is not an all-inclusive list of service-connected disabilities that could potentially be both physical and hidden or invisible (other than lost of limbs or blindness as claimed in HB 2504 lines 11-15):

1. Traumatic brain injury (TBI).
2. Posttraumatic stress disorder (PTSD) secondary to TBI.
3. Depression secondary to TBI.
4. Migraines secondary to TBI.
5. Vertigo secondary to TBI and/or ear damage.
6. Anxiety secondary to TBI and/or PTSD.
7. Circadian rhythm sleep disorder secondary to TBI and/or PTSD.
8. Obstructive sleep apnea (OSA) secondary to throat tissues and/or PTSD.
9. Epilepsy secondary to TBI and/or PTSD.
10. Fibromyalgia.
11. Irritable bowel syndrome (IBS).
12. Gastroesophageal reflux disease (GERD).
13. Bronchitis.
14. Spinal injuries.
15. Arthritis.
16. Systemic Exertion Intolerance Disease (SEID or chronic fatigue syndrome (CFS) secondary to insufficient mitochondrial energy production.
17. congestive heart failure.
18. Coronary artery disease (CAD / CHD), also known as Ischemic heart disease (IHD).
19. Congenital heart defects.
20. Hypertension.
21. Coronary heart disease.
22. Cardiomyopathy (heart muscle disease).
23. Cardiomegaly (enlarged heart).
24. Atherosclerosis (hardening of the arteries).

25. Arrhythmia (abnormal heart rhythm).
26. Heart infections.

PTSD or PTSI?

In addition to various invisible physical service-connected disabilities, I also suffer from PTSD with a 70% VA disability rating stemming from chronic traumatic stressors to include one from Desert Storm and another from Afghanistan. But HB 2504 does not consider posttraumatic stress disorder as a “real” disability, despite the statistically higher rates of cardiovascular, respiratory, musculoskeletal and neurological symptoms associated with PTSD (Mcfarlane et al. 1994) which could account for ambulatory limitations and can account for “unexplained physical symptoms” (Engel et al. 2000). Additionally, PTSD symptoms should be viewed as a *mental injury*, versus a *mental illness* or something pathological (Zimbardo et al., 2012).

However, scholars disagree that PTSD is mental only and this term is gradually being *phased out*: “in the case of combat veterans, posttraumatic stress should be termed PTSI (posttraumatic stress injury) rather than PTSD (posttraumatic stress disorder).” (Keynan and Keynan 2016). This is because more and more experts (Kamena and Galvez 2019) are realizing that what has been termed “PTSD” is a type of *brain damage* according to Erin Maynard is a writer, president of PTSD Survivors of America, and a passionate advocate for people living with PTSD. In PTSD/PTSI, the emotional trauma can have significant impact on the physical brain: “Both the amygdala and the mid-anterior cingulate cortex become over-stimulated when a person has PTSD. However, the hippocampus, right inferior frontal gyrus, ventromedial PFC, dorsolateral PFC, and orbitofrontal cortex all become hypoactive, some to the point of atrophy.” (Maynard 2014).

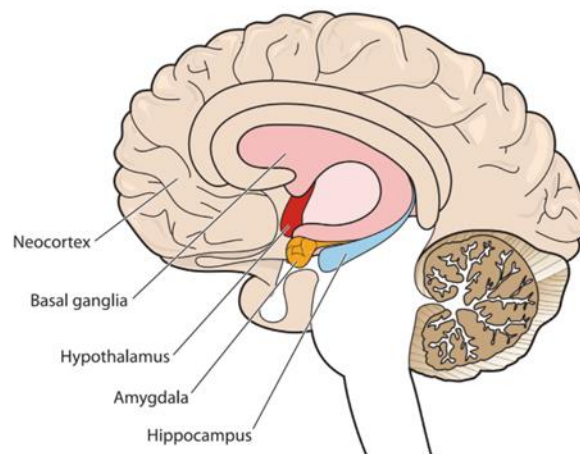


Fig. 1: Uniformed Services University of the Health Sciences, Source: <https://www.brainline.org/article/how-ptsd-affects-brain>

According to Dr. J. Douglass Bremner, Departments of Psychiatry and Behavioral Sciences and Radiology, and the Emory Center for Positron Emission Tomography, Emory University School of Medicine, Atlanta, Ga, and the Atlanta VAMC, Decatur, Ga, USA, “patients with post-traumatic stress disorder (PTSD) showing smaller hippocampal and anterior cingulate volumes, increased amygdala function, and decreased medial prefrontal/anterior cingulate function. In addition, patients with PTSD show increased cortisol and norepinephrine responses to stress.” (Bremner 2006).

Additionally, Dr. Todd Thatcher, DO, CMRO, who works with the Valley Behavioral Health’s Director of Nursing, explains on the website for Highland Springs Specialty Clinic that PTSD/PTSI physically alters the function of the brain to the point where “the amygdala becomes hyperactive....the hippocampus may be physically affected; studies have shown that in people suffering from PTSD, the volume of their hippocampus may be smaller than others.... Normally, the amygdala will sense a negative emotion, such as fear, and the prefrontal cortex will rationally react to this emotion. After trauma though, this rationality might be overridden and your prefrontal cortex will have a hard time regulating fear and other emotions. So, these three parts of the brain- the amygdala, the hippocampus, and the prefrontal cortex- are the most-affected areas of the brain from trauma.” (Thatcher 2019).

Therefore, should be more accurately termed as “posttraumatic stress injury.” This research was pioneered by Dr Frank Ochberg who believes post-traumatic stress injury (PTSI) is a “more relevant term.” (Ochberg and Abbot 2020).

PTSD Comorbidity and Physical Symptoms

HB 2504 does not consider comorbidity or the psychosomatic nature of mental service-connected disabilities. However, according to Dr. Madhulika A. Gupta, Department of Psychiatry, Schulich School of Medicine and Dentistry, University of Western Ontario, London, Ontario, Canada, PTSD or PTSI with a host of somatic symptoms that are “both (1) ‘ill-defined’ or ‘medically unexplained’ somatic syndromes, e.g. unexplained dizziness, tinnitus and blurry vision, and syndromes that can be classified as somatoform disorders (DSM-IV-TR); and (2) a range of medical conditions, with a preponderance of cardiovascular, respiratory, musculoskeletal, neurological, and gastrointestinal disorders, diabetes, chronic pain, sleep disorders and other immune-mediated disorders.” (Gupta 2013). It must be emphasized that, HB 2504, lines 11-15 notwithstanding, the word “somatic” means “of the body; bodily; physical.” (“Definition of Somatic | Dictionary.com” n.d.).

As for PTSD comorbidity, Dr. Bradley D. Grinage of the University of Kansas School of Medicine–Wichita, Wichita, Kansas explains that “Approximately 80 percent of patients with PTSD have at least one comorbid psychiatric disorder. The most common comorbid disorders include depression, alcohol and drug abuse, and other anxiety disorders” which, of course, include various attendant physical limitations (Grinage 2003).

HB 2504 is Too Selective

Lines 11-15 of HB 2504 is too selective and omit many other physical service-connected disabilities other than the permanent impairment of eyes, hands, and feet such as the entire kinetic chain (ankles, knees, lumbar, cervical joints), sciatic nerve, degenerative arthritis of the spine, and even paralysis. Therefore, HB 2504 is legislatively inadequate.

The Disability Parking Debate and Parking Vigilantes

I think I might understand where proponents of this bill might be coming from.

There is a finite number of handicapped parking spots that should be reserved only for those with actual ambulatory limitations. I get that.

I have a 100% permanent and total disability rating from the Department of Veterans Affairs even though I might appear “whole” outwardly upon first glance. But what they don’t understand is that both my feet are disabled, and only special orthotics and orthopedic shoes allow me to walk around...and there are limitations on how far and how much I can walk before I experience plantar fasciitis flare ups. I also had surgery on both feet, twice on the left one.

But, looking at me, nobody would be able to determine any of this, right?

I also suffer from 100% systemic exertion intolerance disease (SEID) or chronic fatigue syndrome, another “invisible” physical limitation.

The bottom line is that veterans with disability parking permits and placards are based on applications certified by a board-certified physician or clinician. This should continue to be the only litmus test for the issuance of disabled veteran distinctive license plates. HB 2504 is unnecessary and does not serve the public interest.

Conclusion

HB 2504 appears to be motivated by animus, virtue-signaling, and may even be self-serving. The proposed amendment to K.S.A. 2021 Supp. 8-160 is not warranted since the proposed new definition of “disabled veteran” contradicts the existing definition in United States Code, Code of Federal Regulations, and the Department of Veterans Affairs. Furthermore, HB 2504 is not rooted in scholarly or scientific rationale, omitting various other physical and mental service-connected disabilities which cause other limitations that support the issuance of disabled veteran distinctive license plates.

Legislation should do the best for the most citizens, but HB 2504 is divisive within the veterans’ community and seeks to discriminate between the veterans suffering from observable physical disabilities and those suffering from invisible unobservable physical or mental disabilities and that’s not only unconstitutional, it’s also unamerican.

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VETERANS CANNOT LIVE WITHOUT HONOR.



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