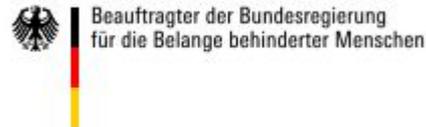


Legal compliance for the transportation of wheelchair users

Policy Document of the roundtable “Safe mobility for people with disabilities”





TÜV®

Seite 2



AMF-Bruns GmbH & Co KG, a German limited partnership
Federal Highway Research Institute (BAST)
Federal Government Commissioner for Matters Relating to Disabled Persons
Employers' Liability Insurance Association for Health Service and Welfare Work
Federal Association for the Physically Disabled and Persons with Multiple Disabilities
German Taxi and Hire Car Association
DEKRA Automobil GmbH
German Wheelchair Sports Association
The Johanniter (German non-profit organisation)
Köhler-Transfer GmbH & Co KG, a German limited partnership
Malteser Help Organisation (Non-profit)
Berlin Senate Administration for Health and Social Affairs
German Technical Inspection Association Hanse, a limited liability company
German Technical Inspection Association Hessen, a limited liability company
German Technical Inspection Association NORD Mobility, a limited liability company
German Technical Inspection Association Rhineland Motor Vehicles, a limited liability company
German Technical Inspection Association SÜD Car Service, a limited liability company
German Technical Inspection Association Thuringia Vehicles, a limited liability company
Association of Technical Inspection Agencies
VFMP - Association of Car Remodellers for Persons with Restricted Mobility

Initial situation

Based on the activities of

- Employers' Liability Insurance Association for Health Service and Welfare Work (BGW) and the German Wheelchair Sports Association (DRS) in the 2008 campaign initiative "safely mobile,"
- the German Federal Highway Research Institute (BAST) within the scope of the technical support of the DIN committee 75078 Part 1 and 2
- the German Association for Technical Inspection Associations (TÜV e.V.) within the scope of its 1st forum on mobility for disabled persons and the roundtable created therein
- the transportation services and / or their umbrella associations (aid organisations and private passenger transportation services), who have pointed out this problem in the past and continue to do so,

it became clear that, due to the differing legal systems and the lack of harmonisation, the safety of wheelchair users being transported by transportation services cannot be ensured at present.

Problem:

In Germany, registered motor vehicles must comply with the harmonised requirements of the European Union for the approval of motor vehicles. The framework directive 2007/46/EC defines a "wheelchair seat" as a "seat." Therefore, it is clear from the standpoint of the aforementioned regulation that a wheelchair must fulfil the same requirements that apply to any other seat in a vehicle, which of course is impossible.

The framework directive also defines that the vehicle owner obtain information regarding the fact that a wheelchair being used as a seat in a vehicle must be able to withstand the various forces exerted during various driving conditions. This can be met by the demonstration of conformity with the standards for wheelchairs (DIN EN 12183, DIN EN 12184). Although the test for suitability for use as a seat in a motor vehicle (stability) is a regular part of the testing in accordance with the aforementioned standards, it applies only to the "basic wheelchair." But as a rule, wheelchairs are individualised. Therefore, for reasons of product liability, there are no markings indicating that the use of the wheelchair, including the transport of the mobility-impaired person, is suitable for use as a seat in a vehicle. Furthermore, at the time of delivery, the wheelchair is not supplied with any securing devices (e.g. "Kraftknoten") for securing occupant restraint systems.

In order to ensure the legally compliant transport of wheelchair users by transportation services, it is necessary to establish a clear, but also a practically relevant definition of suitability, including the marking of wheelchairs, as well as the adaptation of national road traffic regulations. Then, in the work steps to follow, the European harmonisation of the technical guidelines is to be done.

For the first step at the national level, the undersigned of the policy paper drew up a proposal for a traffic law:

Problem-solving approach:

A proposal for binding traffic legislation was made to enable the safest possible transport of wheelchair users in motor vehicles and the ability of the persons involved to act on a legal basis, as well as to minimise the number of wheelchair users excluded from transportation in motor vehicles. The contents cover the following levels:

1. Wheelchair users shall in general be transferred from their wheelchairs to the vehicle's seats during transportation in motor vehicles.
2. Only in the event that this should be infeasible due to the extent of the disability or the potential endangerment of others, e.g. the transportation personnel, may the wheelchair user remain seated in the wheelchair during the trip. In this case, it is mandatory that
 - a. the wheelchair being used has been tested and approved by the manufacturer for use as a vehicle seat in accordance with DIN EN 12183 or DIN EN 12184 and
 - b. a wheelchair and occupant restraint system consisting of wheelchair and vehicle components in accordance with DIN 75078-2 be used.
3. Exceptions to numeral 2:
 - a. If, due to the extent of the disability, a wheelchair user cannot use a wheelchair approved by the manufacturer for use as a seat in accordance with DIN EN 12183 or DIN EN 12184, the person may be transported using a wheelchair that has been adapted and constructed especially for that individual, the basic configuration of which (chassis with functioning controls and standard seat construction) complies with DIN EN 12183 or DIN EN 12184. This individual adaptation and construction must be documented and verified by the specialty retailer and manufacturer. This exception does not apply to 2b.
 - b. If a wheelchair user is unable to use a wheelchair as described in 2 or 3a for transportation in motor vehicles, the person may be transported in a specially constructed wheelchair as defined by the EC Directive 93/42/EEC. In this case, the optimum wheelchair and personal restraint solution must be selected.

The manufacturer or his authorised representative established in the European Union must issue a statement for these custom designs which contains the data/specifications defined in the German Medical Product Act Appendix VIII – Section 2. The standards mentioned under numerals 2 and 3 are to be applied in their currently amended forms. An integral part of this statement includes the examination of the optimum restraint system for transportation in a motor vehicle.

This statement is to be presented to the transportation services driver.

In order to establish clearly defined national guidelines for transportation services and wheelchair users, the introduction of a wheelchair label based on the three levels given above similar to the fine particulate stickers (traffic light system) would be worthy of consideration.