

HOUSE BILL 619

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R4

2000 Regular Session
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By: **Delegates Mandel, Bobo, Bronrott, Cane, Dembrow, Dypski, Frush,
Goldwater, Grosfeld, Kagan, Kopp, V. Jones, Marriott, McIntosh,
Petzold, Pitkin, and Riley**

Introduced and read first time: February 9, 2000

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Medical Advisory Board - Safe Operation of Motor Vehicles**

3 FOR the purpose of requiring the Motor Vehicle Administration to appoint a Medical
4 Advisory Board; requiring the Administration, in conjunction with certain
5 entities, to define disorders or conditions that would impair an individual's
6 ability to operate a motor vehicle safely; specifying who may file certain reports
7 with the Board; authorizing the Administration to conduct an investigation to
8 determine if there is an underlying factual basis for certain reports; authorizing
9 the Administration to conduct certain examinations; authorizing the
10 Administration to suspend, revoke, refuse, or place restrictions on the license of
11 a driver under certain circumstances; allowing a driver whose disorder or
12 condition is temporary to petition the Administration for reinstatement of the
13 driver's license; granting immunity to certain persons who in good faith file a
14 report with the Board; granting immunity to certain persons under certain
15 circumstances; prohibiting reports to the Board from being used as evidence in a
16 civil or criminal trial, subject to certain exceptions; providing that persons who
17 violate certain reporting or confidentiality provisions are subject to certain
18 liability and penalties; and generally relating to the grounds and procedures for
19 the reporting and investigation of a driver who allegedly cannot operate a motor
20 vehicle safely.

21 BY repealing and reenacting, with amendments,
22 Article - Transportation
23 Section 16-118 and 16-119
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 1999 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Transportation

2 16-118.

3 (a) (1) The [Administrator may] ADMINISTRATION SHALL appoint a
4 Medical Advisory Board of qualified physicians and optometrists to enable the
5 Administration to comply properly with the provisions of this title regarding the
6 physical and mental condition of individuals who seek to drive on highways in this
7 State.

8 (2) The [Administrator] ADMINISTRATION also may appoint a medical
9 secretary to serve the Board.

10 (b) Each member of the Medical Advisory Board is entitled to compensation
11 for each meeting that the member attends. The compensation shall be paid out of
12 funds appropriated to the Administration.

13 (c) (1) The [Administrator] ADMINISTRATION may refer to the Medical
14 Advisory Board, for an advisory opinion, the case of any licensee or applicant for a
15 license, if the [Administrator] ADMINISTRATION has good cause to believe that the
16 driving of a vehicle by [him] THE LICENSEE OR APPLICANT would be contrary to
17 public safety and welfare because [of an existing or suspected mental or physical
18 disability] THE LICENSEE OR APPLICANT SUFFERS FROM A DISORDER OR
19 CONDITION THAT POTENTIALLY IMPAIRS SAFE DRIVING.

20 (2) The Board shall meet at the pleasure of the [Administrator]
21 ADMINISTRATION.

22 (d) (1) The records of the Medical Advisory Board:

23 (i) Are confidential;

24 (ii) May be disclosed only on court order; and

25 (iii) May be used only to determine the qualifications of an
26 individual to drive.

27 (2) A person may not use these records for any other purpose.

28 16-119.

29 (a) The ADMINISTRATION, IN CONJUNCTION WITH THE Department of Health
30 and Mental Hygiene, [together with] the Medical and Chirurgical [Faculty]
31 FACULTY, and the State Board of Examiners in Optometry, shall define:

32 (1) Disorders OR CONDITIONS characterized by lapses of consciousness;
33 [and]

34 (2) Disorders OR CONDITIONS that result in a corrected visual acuity
35 that fails to comply with the vision requirements of this subtitle; AND

1 (3) OTHER DISORDERS OR CONDITIONS THAT WOULD IMPAIR AN
2 INDIVIDUAL'S ABILITY TO OPERATE A MOTOR VEHICLE SAFELY.

3 (b) (1) [Except as provided in paragraph (2) of this subsection, any
4 physician and any other person authorized to diagnose, detect, or treat disorders
5 defined under subsection (a) of this section may report to the Medical Advisory Board
6 and to the subject of the report, in writing, the full name, date of birth, and address of
7 each individual 15 years old or older who has any such disorder.] A WRITTEN REPORT
8 MAY BE FILED WITH THE MEDICAL ADVISORY BOARD ON ANY DRIVER BY:

9 (I) A LAW ENFORCEMENT OFFICIAL;

10 (II) A PHYSICIAN;

11 (III) A REGISTERED NURSE;

12 (IV) A PHYSICAL OR OCCUPATIONAL THERAPIST;

13 (V) A PSYCHOLOGIST;

14 (VI) AN OPTOMETRIST;

15 (VII) A SOCIAL WORKER;

16 (VIII) A CHIROPRACTOR;

17 (IX) ANY OTHER PERSON AUTHORIZED TO DIAGNOSE, DETECT, OR
18 TREAT DISORDERS AND CONDITIONS DEFINED UNDER SUBSECTION (A) OF THIS
19 SECTION; OR

20 (X) ANY OTHER PERSON WHO:

21 1. IS AT LEAST 18 YEARS OLD; AND

22 2. HAS DIRECT KNOWLEDGE OF THE DRIVER'S ABILITY TO
23 OPERATE A MOTOR VEHICLE.

24 (2) [Unless authorized by the individual in writing, a report may not be
25 made from information derived from the diagnosis or treatment of any individual on
26 whom a confidential or privileged relationship is conferred by law.] THE EXISTENCE
27 OF A PSYCHOLOGIST PRIVILEGE OR A PSYCHIATRIST PRIVILEGE DOES NOT
28 PRECLUDE ANY PERSON SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION FROM
29 MAKING A REPORT UNDER THIS SECTION.

30 (c) (1) (I) BEFORE REQUIRING AN EXAMINATION OF A DRIVER UNDER
31 THIS SUBSECTION, THE ADMINISTRATION MAY INVESTIGATE A REPORT SUBMITTED
32 UNDER SUBSECTION (B) OF THIS SECTION TO DETERMINE IF THE REPORT HAS AN
33 UNDERLYING FACTUAL BASIS.

1 (II) AT THE CONCLUSION OF AN INVESTIGATION, THE
2 ADMINISTRATION MAY DISMISS A REPORT IF THE ADMINISTRATION FEELS THAT THE
3 REPORT HAS NO UNDERLYING FACTUAL BASIS.

4 (2) On receipt of a report under this section, the Administration shall:

5 [(1)] (I) As soon as practicable, arrange for an examination of each
6 reported [individual] DRIVER who holds a driver's license; and

7 (II) GIVE NOTICE OF THE EXAMINATION TO THE DRIVER.

8 (3) THE EXAMINATION MAY INCLUDE WRITTEN TESTS, TESTS OF
9 DRIVING SKILLS, TESTS OF VISION, TESTS OF HIGHWAY SIGN RECOGNITION, AND
10 ANY OTHER PHYSICAL OR MENTAL TESTS THAT THE ADMINISTRATION CONSIDERS
11 NECESSARY TO DETERMINE A DRIVER'S FITNESS TO DRIVE A MOTOR VEHICLE
12 SAFELY.

13 [(2)] (4) [If the individual] SUBJECT TO THE HEARING PROVISIONS
14 UNDER TITLE 12, SUBTITLE 2 OF THIS ARTICLE, IF THE DRIVER fails to meet the
15 requirements of this subtitle, [cancel] THE ADMINISTRATION SHALL SUSPEND,
16 REVOKE, OR REFUSE TO ISSUE OR RENEW [his] THE DRIVER'S license, OR SHALL
17 ISSUE TO THE DRIVER A LICENSE SUBJECT TO ANY RESTRICTIONS AUTHORIZED BY
18 THIS TITLE.

19 (5) IF AN EXAMINATION INDICATES A CONDITION THAT COULD
20 POTENTIALLY IMPAIR SAFE DRIVING, THE ADMINISTRATION MAY REQUIRE THE
21 DRIVER TO SUBMIT TO FURTHER PERIODIC EXAMINATIONS.

22 (6) THE FAILURE OF THE DRIVER TO SUBMIT TO AN EXAMINATION
23 WITHIN 30 DAYS AFTER THE DATE OF NOTICE SHALL BE GROUNDS FOR SUSPENSION,
24 DENIAL, OR REVOCATION OF THE DRIVER'S LICENSE BY THE ADMINISTRATION.

25 (7) (I) ANY DRIVER WHOSE DISORDER OR CONDITION IS TEMPORARY
26 MAY PETITION THE ADMINISTRATION FOR A TOTAL OR PARTIAL REINSTATEMENT OF
27 THE DRIVER'S LICENSE.

28 (II) A PETITION MADE UNDER SUBPARAGRAPH (I) OF THIS
29 PARAGRAPH SHALL BE ON A FORM PRESCRIBED BY THE ADMINISTRATION AND
30 ACCOMPANIED BY A STATEMENT FROM A HEALTH CARE PROVIDER AUTHORIZED TO
31 DIAGNOSE, DETECT, OR TREAT DISORDERS AND CONDITIONS DEFINED UNDER
32 SUBSECTION (A) OF THIS SECTION THAT THE TEMPORARY DISORDER OR CONDITION
33 NO LONGER INTERFERES WITH THE ABILITY OF THE DRIVER TO OPERATE A MOTOR
34 VEHICLE SAFELY.

35 (III) WITHIN 30 DAYS OF RECEIPT OF THE PETITION, THE
36 ADMINISTRATION SHALL RULE ON THE PETITION.

37 (d) (1) [The] SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, reports
38 made to the Administration under this section:

- 1 (i) Are confidential;
- 2 (ii) May be disclosed only on court order; and
- 3 (iii) May be used only to determine the qualifications of an
4 individual to drive.

5 (2) A person may not use these reports for any other purpose.

6 (e) (1) [A civil or criminal action may not be brought against any person
7 who makes a report under this section and who does not violate any confidential or
8 privileged relationship conferred by law.] ANY PERSON ACTING IN GOOD FAITH WHO
9 SUBMITS A REPORT UNDER THIS SECTION SHALL BE IMMUNE FROM ANY CIVIL OR
10 CRIMINAL LIABILITY ARISING FROM THE MAKING OF A REPORT.

11 (2) A MEMBER OF THE MEDICAL ADVISORY BOARD SHALL BE IMMUNE
12 FROM ANY CIVIL OR CRIMINAL LIABILITY ARISING FROM ANY OPINIONS OR
13 DECISIONS MADE WHILE ACTING IN GOOD FAITH AS A MEMBER OF THE BOARD.

14 (f) A report made under this section may not be used as evidence in any civil
15 or criminal trial, except in a legal action involving an alleged violation of [a
16 confidential or privileged relationship conferred by law] THE REPORTING OR
17 CONFIDENTIALITY PROVISIONS OF THIS SECTION.

18 (G) ANY PERSON WHO VIOLATES THE REPORTING OR CONFIDENTIALITY
19 PROVISIONS OF THIS SECTION IS SUBJECT TO THE LIABILITY AND PENALTIES
20 SPECIFIED IN §§ 10-626 AND 10-627 OF THE STATE GOVERNMENT ARTICLE.

21 (H) THE ADMINISTRATION SHALL KEEP RECORDS AND STATISTICS OF
22 REPORTS MADE AND ACTIONS TAKEN AGAINST LICENSEES UNDER THIS SECTION.

23 (I) THE ADMINISTRATION SHALL PROVIDE HEALTH CARE PROFESSIONALS
24 AND LAW ENFORCEMENT OFFICIALS WITH INFORMATION ABOUT THE REPORTING
25 POLICY AND THE PROCEDURES AUTHORIZED IN THIS SECTION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2000.