
By: **Delegate Mandel**
Introduced and read first time: February 13, 2004
Assigned to: Environmental 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 could 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 certain report with the Board; granting immunity to certain persons under
15 certain circumstances; prohibiting reports to the Board from being used as
16 evidence in a civil or criminal trial, subject to certain exceptions; providing that
17 persons who violate certain reporting or confidentiality provisions are subject to
18 certain liability and penalties; making stylistic changes; and generally relating
19 to the grounds and procedures for the reporting and investigation of a driver
20 who allegedly cannot operate a motor 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 (2002 Replacement Volume and 2003 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 MAY SUFFER 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 COULD 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 ADMINISTRATION 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) AN EMERGENCY MEDICAL TECHNICIAN;

18 (X) A PROFESSIONAL COUNSELOR, AS DEFINED IN § 9-109.1 OF THE
19 COURTS ARTICLE;

20 (XI) ANY OTHER PERSON AUTHORIZED TO DIAGNOSE, MONITOR, OR
21 TREAT DISORDERS AND CONDITIONS DEFINED UNDER SUBSECTION (A) OF THIS
22 SECTION; OR

23 (XII) ANY OTHER PERSON WHO:

24 1. IS AT LEAST 18 YEARS OLD; AND

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

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

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

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

8 (2) [On] SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, ON receipt
9 of a report under this section, the Administration shall[:

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

12 (2) If the individual fails to meet the requirements of this subtitle,
13 cancel his license].

14 (3) THE EXAMINATION MAY INCLUDE WRITTEN TESTS, TESTS OF
15 DRIVING SKILLS, TESTS OF VISION, TESTS OF HIGHWAY SIGN RECOGNITION, AND
16 ANY OTHER PHYSICAL OR MENTAL TESTS THAT THE ADMINISTRATION CONSIDERS
17 NECESSARY TO DETERMINE A DRIVER'S FITNESS TO DRIVE A MOTOR VEHICLE
18 SAFELY.

19 (4) SUBJECT TO THE HEARING PROVISIONS UNDER TITLE 12, SUBTITLE 2
20 OF THIS ARTICLE, IF THE DRIVER FAILS TO MEET THE REQUIREMENTS OF THIS
21 TITLE, THE ADMINISTRATION SHALL SUSPEND, REVOKE, OR REFUSE TO ISSUE OR
22 RENEW THE DRIVER'S LICENSE, OR SHALL ISSUE TO THE DRIVER A LICENSE
23 SUBJECT TO ANY RESTRICTIONS AUTHORIZED BY THIS TITLE.

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

27 (6) (I) ANY DRIVER WHOSE DISORDER OR CONDITION IS TEMPORARY
28 MAY PETITION THE ADMINISTRATION FOR A REINSTATEMENT OF AN UNRESTRICTED
29 OR RESTRICTED DRIVER'S LICENSE.

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

37 (III) WITHIN 30 DAYS OF RECEIPT OF THE COMPLETED PETITION,
38 THE ADMINISTRATION SHALL RULE ON THE PETITION.

39 (d) (1) The reports 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 THE 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, 2004.