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By: **Delegates Mandel, Benson, Hammen, Hubbard, Kaiser, Kullen, and  
Montgomery**

Introduced and read first time: February 11, 2005

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring rather than authorizing the Motor Vehicle  
4 Administrator to appoint a Medical Advisory Board; altering the circumstances  
5 under which the Administration may seek an advisory opinion from the Board;  
6 requiring the Department of Health and Mental Hygiene, together with certain  
7 entities, to define disorders or conditions that could impair an individual's  
8 ability to operate a motor vehicle safely; specifying who may file certain reports  
9 with the Board; granting immunity to certain persons under certain  
10 circumstances concerning the filing of certain reports; prohibiting reports to the  
11 Board from being used as evidence in a civil or criminal trial, subject to certain  
12 exceptions; providing that persons who violate certain reporting or  
13 confidentiality provisions are subject to certain liability and penalties; clarifying  
14 language; making stylistic changes; and generally relating to the grounds and  
15 procedures for reporting to the Administration concerning an individual's ability  
16 to operate a motor vehicle safely.

17 BY repealing and reenacting, with amendments,  
18 Article - Transportation  
19 Section 16-118 and 16-119  
20 Annotated Code of Maryland  
21 (2002 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article - State Government  
24 Section 10-626 and 10-627  
25 Annotated Code of Maryland  
26 (2004 Replacement Volume)

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

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**Article - Transportation**

2 16-118.

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

7 (2) The Administrator may also appoint a medical secretary to serve the  
8 Board.

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

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

19 (2) The Board shall meet at the pleasure of the Administrator.

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

21 (i) Are confidential;

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

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

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

26 16-119.

27 (a) The Department of Health and Mental Hygiene, together with the Medical  
28 and Chirurgical Faculty and the State Board of Examiners in Optometry, shall define:

29 (1) Disorders OR CONDITIONS characterized by lapses of consciousness;  
30 [and]

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

33 (3) OTHER DISORDERS OR CONDITIONS THAT COULD IMPAIR AN  
34 INDIVIDUAL'S ABILITY TO OPERATE A MOTOR VEHICLE SAFELY.

1 (b) (1) [Except as provided in paragraph (2) of this subsection, any  
2 physician and any other person authorized to diagnose, detect, or treat disorders  
3 defined under subsection (a) of this section may report to the Medical Advisory Board  
4 and to the subject of the report, in writing, the full name, date of birth, and address of  
5 each individual 15 years old or older who has any such disorder.] A WRITTEN REPORT  
6 CONCERNING AN INDIVIDUAL'S ABILITY TO SAFELY OPERATE A MOTOR VEHICLE  
7 MAY BE FILED WITH THE ADMINISTRATION BY:

8 (I) A LAW ENFORCEMENT OFFICIAL;

9 (II) A PHYSICIAN;

10 (III) A REGISTERED NURSE;

11 (IV) A PHYSICAL OR OCCUPATIONAL THERAPIST;

12 (V) A PSYCHOLOGIST;

13 (VI) AN OPTOMETRIST;

14 (VII) A SOCIAL WORKER;

15 (VIII) A CHIROPRACTOR;

16 (IX) AN EMERGENCY MEDICAL TECHNICIAN;

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

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

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

29 (c) On receipt of a report under this section, the Administration shall:

30 (1) As soon as practicable, arrange for an examination of each reported  
31 individual who holds a driver's license; and

32 (2) If the individual fails to meet the requirements of this subtitle, cancel  
33 [his] THE INDIVIDUAL'S license.

34 (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 **Article - State Government**

22 10-626.

23 (a) A person, including an officer or employee of a governmental unit, is liable  
24 to an individual for actual damages that the court considers appropriate if the court  
25 finds by clear and convincing evidence that:

26 (1) (i) the person willfully and knowingly permits inspection or use of  
27 a public record in violation of this Part III of this subtitle; and

28 (ii) the public record names or, with reasonable certainty, otherwise  
29 identifies the individual by an identifying factor such as:

- 30 1. an address;
- 31 2. a description;
- 32 3. a finger or voice print;
- 33 4. a number; or
- 34 5. a picture; or

1           (2)       the person willfully and knowingly obtains, discloses, or uses  
2 personal information in violation of § 10-616(p) of this subtitle.

3       (b)       If the court determines that the complainant has substantially prevailed,  
4 the court may assess against a defendant reasonable counsel fees and other litigation  
5 costs that the complainant reasonably incurred.

6 10-627.

7       (a)       A person may not:

8           (1)       willfully or knowingly violate any provision of this Part III of this  
9 subtitle;

10          (2)       fail to petition a court after temporarily denying inspection of a  
11 public record; or

12          (3)       by false pretenses, bribery, or theft, gain access to or obtain a copy of  
13 a personal record whose disclosure to the person is prohibited by this Part III of this  
14 subtitle.

15       (b)       A person who violates any provision of this section is guilty of a  
16 misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

17       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
18 effect October 1, 2005.