

HOUSE No. 4238

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act RELATIVE TO SAFE DRIVING..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Said section 8 is hereby amended by inserting at the end of the 14th paragraph the
2 following:-

3 Notwithstanding any provision of the first paragraph of this section, an applicant for the
4 renewal of a license age seventy-five or older must pass an examination, to be developed by the
5 registrar in consultation with the medical advisory board established in section 8C of said chapter
6 90, to assess cognitive and physical ability and any other condition that might prevent such
7 applicant from operating a motor vehicle safely.

8 Any operator age seventy-five or older, whose license to operate a motor vehicle has
9 been suspended or revoked by the registrar pursuant to chapter 90 or section 113B of chapter
10 175, shall be entitled to appeal said suspension or revocation to the registrar. The registrar shall
11 determine the physical and mental capacity of the driver to operate a motor vehicle and shall
12 issue findings to support his determinations. The registrar may refer the matter to the medical
13 advisory board for an advisory opinion if a medical opinion is required to adjudicate the appeal.

14 If an operator age seventy-five or older has failed the examination for continued licensure
15 as provided for in this section, and the registrar determines that the suspension or revocation of
16 the license shall be upheld, the operator may petition the registrar for a road day, as prescribed
17 by the registrar, to demonstrate the requisite driving skills necessary for continued licensure.
18 Unless the registrar determines that permitting the driver to take a road test would present a
19 safety risk to the general public, the driver shall be permitted a road test to demonstrate
20 continued proficiency operating a motor vehicle. Based on the entirety of the record, the registrar
21 shall make a determination as to whether continued licensure is warranted. The registrar's
22 decision shall be conclusive and final upon an issuance of findings and determinations.

23 SECTION 2. Chapter 90 of the General Laws is hereby amended by inserting after
24 Section 22H the following new section:-

25 Section 22I. For the purposes of this section the following words shall, unless the context
26 clearly requires otherwise, have the following meanings:-

27 “Physician”, a person authorized or licensed to practice medicine or osteopathy in
28 accordance with the provisions of section two of chapter one hundred and twelve.

29 If a physician or law enforcement officer has good cause to believe that an operator is not
30 physically or medically capable to safely operate a motor vehicle, that person may make a report
31 to the registrar, requesting medical evaluation, as the registrar may prescribe. Said report must
32 state that the person reasonably and in good faith believes the driver cannot safely operate a
33 motor vehicle and must be based upon personal observation, physical evidence, or an
34 investigation by a law enforcement officer, which shall be described in the report.

35 Upon receipt of said report, the registrar shall immediately suspend license of said operator.
36 The registrar shall conduct a review within thirty days to determine the operator's capacity for
37 continued licensure to operate a motor vehicle.

38 A physician or law enforcement officer making a report to the registrar in good faith,
39 pursuant to this section, shall be immune from civil liability that might otherwise result from
40 making the report. All reports made and all medical records reviewed and maintained by the
41 registry under this section shall be kept confidential except upon order of a court of competent
42 jurisdiction.

43 The registrar shall provide health care professionals and law enforcement officers with
44 information about the procedures authorized in this section.

45 The registrar shall develop a public outreach campaign to provide information to drivers
46 on safe driving practices, techniques for self-testing, and local transportation alternatives.

47 SECTION 3. Section 113B of Chapter 175 of the General Laws is hereby amended by
48 inserting at the end of the section the following paragraph:-

49 Upon receiving notification from the merit rating board that a driver has had three or
50 more surchargeable incidents within the previous year, the registrar shall, after a hearing based
51 solely on the accuracy of the merit rating board's records, administer an examination, as
52 prescribed by the registrar subject to section 8 of chapter 90, to the driver within thirty days to
53 determine the driver's capacity for continued licensure to operate a motor vehicle.

54 SECTION 4. The registrar of motor vehicles shall implement the provisions of Section 1
55 no later than ninety days from the effective date of this act.