

SENATE No. 1901

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to certain operators of motor vehicles..

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

1 SECTION 1. Section 22 of chapter 90 of the General Laws, as appearing in the 2002
2 Official Edition, is hereby amended by striking out subsection (b).

3 SECTION 2. Said chapter 90 is hereby further amended by inserting after section 22H
4 the following section:-

5 Section 22I (1) The registrar having good cause to believe that an operator is incompetent
6 or unqualified to retain his license, after giving 10 days notice to such person in writing by
7 registered or certified mail directed to his present known address may require him to submit to an
8 examination as prescribed by the registrar. Upon conclusion of the examination, the registrar
9 may allow the licensee to retain his license, or may suspend, deny or revoke the license of the
10 licensee, or may issue to the examinee a license subject to restrictions. If an examination
11 indicates a condition that potentially impairs safe driving, the registrar, in addition to action with
12 respect to the license, may require the licensee to submit to further periodic examinations. The
13 refusal or neglect of the licensee to submit to an examination within 30 days after the date of
14 such notice shall be grounds for suspension, denial or revocation of his license by the registrar,

15 an associate circuit or circuit court. Notice of any suspension, denial, revocation or other
16 restriction shall be provided by certified mail. As used in this section, the term “denial” means
17 the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to
18 operate a motor vehicle. Denial may also include the act of withdrawing a previously issued
19 license.

20 (2) The examination provided for in subsection I of this section may include, but is not
21 limited to, a written test and tests of driving skills, vision, highway sign recognition and, if
22 appropriate, a physical or mental examination.

23 (3) The registrar shall have good cause to believe that an operator is incompetent or
24 unqualified to retain his license on the basis of, but not limited to, a report by:

25 Any police officer, Any physician, physical therapist, occupational therapist, any
26 chiropractor, registered nurse or psychologist registered in the commonwealth.

27 Any member of the operator’s family within 3 degrees of consanguinity, or the
28 operator’s spouse, who has reached the age of 18, except that no person may report the same
29 family member pursuant to this section more than 1 time during a 12 month period. The report
30 must state that the person reasonably and in good faith believes the driver cannot safely operate a
31 motor vehicle and must be based upon personal observation or physical evidence which shall be
32 described in the report, or the report shall be based upon an investigation by a law enforcement
33 officer. The report shall be a written declaration in the form prescribed by the registry and shall
34 contain the name, address, telephone number, and signature of the person making the report.

35 Any physician, physical therapist, occupational therapist, chiropractor, registered
36 nurse, psychologist or social worker licensed in the commonwealth may report to the registry

37 any patient diagnosed or assessed as having a disorder or condition that may prevent such person
38 from safely operating a motor vehicle. Such report shall state the diagnosis or assessment and
39 whether the condition is permanent or temporary. The existence of physician-patient relationship
40 shall not prevent the making of a report by such medical professionals.

41 Any person who makes a report in good faith pursuant to this section shall be immune
42 from any civil liability that otherwise might result from making the report. All reports made and
43 all medical records reviewed and maintained by the registry under this section shall be kept
44 confidential except upon order of a court of competent jurisdiction or a review of the registrar's
45 action.

46 The registry shall keep records and statistics of reports made and actions taken against
47 drivers licensed under this section.

48 The registry shall in consultation with the department of public health develop a
49 standardized form provide guidelines for the reporting of cases and for the examination of
50 drivers under this section. The guidelines shall be adopted under chapter 40A. The registry shall
51 also adopt other rules and regulations to carry out this section. The registry shall provide health
52 care professionals and law enforcement officers with information about the procedures
53 authorized in this section. The guidelines and regulations implementing this section shall be in
54 compliance with federal Americans with Disabilities Act of 1990.

55 Any person who knowingly violates a confidentiality provision of this section or who
56 knowingly permits or encourages the unauthorized use of a report or reporting person's name in
57 violation of this section shall be guilty of a misdemeanor and shall be liable for damages in a
58 civil action.

59 All appeals of license revocations, suspensions, denials and restrictions shall be made
60 within 30 days after receipt of notice.

61 Any individual whose condition is temporary in nature as reported pursuant to subsection
62 4 shall have the right to petition the registrar for total or partial reinstatement of his license. Such
63 request shall be made on a form prescribed by the registry and accompanied by a statement from
64 a health care provider with the same or similar license as the health care providers who made the
65 initial report resulting in the limitation or loss of the drivers license. Such petition shall be
66 decided by the registrar within 30 days of receipt of the petition. Such decision may be appealed
67 pursuant to subsection 10.

68 In order to advise the registrar on medical criteria for the reporting and examination of
69 drivers with medical impairments a medical-vision advisory board is hereby established within
70 the registry. The board shall be composed of 3 members appointed by the registrar. The members
71 shall be licensed physicians and residents of the commonwealth.

72 Of the original appointees, one shall serve for a term of 2 years and 2 shall serve for
73 terms of 4 years. Subsequent appointees shall each serve for a term of 4 years or until their
74 successors are appointed and approved. Any vacancy shall be filled in the same manner as the
75 original appointment for the remainder of the term. The members of the board shall receive no
76 compensation for their services and shall not hire any staff personnel but shall be reimbursed for
77 their actual and necessary expenses incurred in the performance of their official duties. After the
78 first full year of operation of the advisory board, the board shall meet no more than 4 times per
79 year.

80 No civil or criminal action shall lie against any member of the medical-vision board who
81 acts in good faith in advising the registrar. Good faith shall be presumed on the part of members
82 in the absence of a showing of fraud or malice.