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HOUSE BILL NO. 1494

Offered January 11, 2017

Prefiled December 15, 2016

A BILL to amend and reenact §§ 46.2-204, 46.2-322, and 54.1-2966.1 of the Code of Virginia, relating to examination of drivers believed incompetent.

Patron—Knight

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-204, 46.2-322, and 54.1-2966.1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-204. Medical Advisory Board.

For the purpose of enabling the Department of Motor Vehicles to comply with its responsibilities under this title, there is hereby created a Medical Advisory Board for the Department. The Board shall consist of seven licensed physicians currently practicing medicine in Virginia appointed by the Governor. Appointments to the Board shall be for four-year terms and vacancies shall be filled by appointment for the unexpired portion of a term. The Governor shall designate the chairman of the Board.

The Commissioner may refer to the Board for an advisory opinion the case of any person applying for a driver's license or renewal thereof, or of any person whose license has been suspended or revoked, ~~or of any person being examined under the provisions of § 46.2-322,~~ when he has cause to believe that such person suffers from a physical or mental disability or disease ~~which~~ that will prevent his exercising reasonable and ordinary control over a motor vehicle while driving it on the highways. ~~The Commissioner shall refer to the Board for an advisory opinion the case of any person being examined under the provisions of § 46.2-322.~~ In addition, the Board shall assist the Commissioner through the development of medical and health standards for use in the issuance of driver's licenses by the Department to avoid the issuance of licenses to persons suffering from any physical or mental disability or disease that will prevent their exercising reasonable and ordinary control over a motor vehicle while driving it on the highways.

The Board shall meet at the pleasure of the Commissioner. Each member shall serve without compensation but shall be reimbursed for his necessary expenses from funds appropriated to the Department of Motor Vehicles.

§ 46.2-322. Examination of licensee believed incompetent; suspension or restriction of license; license application to include questions as to physical or mental conditions of applicant; false answers; examination of applicant; physician's, nurse practitioner's, or physician assistant's statement.

A. If the Department has good cause to believe that a driver is incapacitated and therefore unable to drive a motor vehicle safely, after written notice of at least 15 days to the person, it may require him to submit to an examination to determine his fitness to drive a motor vehicle. If the driver so requests in writing, the Department shall give the Department's reasons for the examination, including the identity of all persons who have supplied information to the Department regarding the driver's fitness to drive a motor vehicle. However, the Department shall not supply the reasons or information if its source is a relative of the driver or a physician, physician assistant, nurse practitioner, pharmacist, or other licensed medical professional as defined in § 38.2-602 treating, or prescribing medications for, the driver.

B. As a part of its examination, the Department may require a physical examination by a licensed physician, licensed nurse practitioner, or licensed physician assistant and a report on the results thereof. *In cases where the driver's physician, nurse practitioner, or physician assistant submits the initial impaired driver report recommending that the person no longer operate a motor vehicle, as part of its examination the Department shall require the person to pass the knowledge and road skills tests or refer the driver for a complete driver evaluation conducted by a driver rehabilitation specialist prior to suspending such person's driver's license.* When it has completed its examination, the Department shall take whatever action may be appropriate and may suspend the license or privilege to drive a motor vehicle in the Commonwealth of the person or permit him to retain his license or privilege to drive a motor vehicle in the Commonwealth, or may issue a license subject to the restrictions authorized by § 46.2-329. Refusal or neglect of the person to submit to the examination or comply with restrictions imposed by the Department shall be grounds for suspension of his license or privilege to drive a motor vehicle in the Commonwealth.

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59 C. The Commissioner shall include, as a part of the application for an original driver's license, or
60 renewal thereof, questions as to the existence of physical or mental conditions that impair the ability of
61 the applicant to drive a motor vehicle safely. Any person knowingly giving a false answer to any such
62 question shall be guilty of a Class 2 misdemeanor. If the answer to any such question indicates the
63 existence of such condition, the Commissioner shall require an examination of the applicant by a
64 licensed physician, licensed physician assistant, or licensed nurse practitioner as a prerequisite to the
65 issuance of the driver's license. The report of the examination shall contain a statement that, in the
66 opinion of the physician, physician assistant, or nurse practitioner, the applicant's physical or mental
67 condition at the time of the examination does or does not preclude his safe driving of motor vehicles.

68 **§ 54.1-2966.1. Physicians reporting disabilities of drivers.**

69 A. Any physician who reports to the Department of Motor Vehicles the existence, or probable
70 existence, of a mental or physical disability or infirmity of any person licensed to operate a motor
71 vehicle which the physician believes affects such person's ability to operate a motor vehicle safely *and*
72 *poses a serious and imminent threat to the health or safety of such person or the public* shall not be
73 deemed to have violated the physician-patient privilege unless he has acted in bad faith or with
74 malicious intent.

75 B. *Any physician, nurse practitioner, or physician assistant who has reason to believe that the results*
76 *of an examination could lead to a revocation of the patient's driving privileges shall notify such patient*
77 *prior to such examination that his driving privileges may be revoked pending the results of the*
78 *examination.*