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HOUSE BILL NO. 1163

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 1, 2024)

(Patron Prior to Substitute—Delegate Sickles)

A BILL to amend and reenact §§ 46.2-204, 46.2-315, and 46.2-322 of the Code of Virginia, relating to Department of Motor Vehicles; medical review.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-204, 46.2-315, and 46.2-322 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 an impairment that* will prevent his exercising reasonable and ordinary control over a motor vehicle while driving it on the highways. The Medical Advisory Board shall provide guidance and recommendations to the Department regarding any case of a person examined under the provisions of § 46.2-322 who appeals the outcome of the examination pursuant to § 46.2-321 if the basis for such appeal is related to the medical evidence in the case. However, appeals related to the examinee's (i) failure to follow procedures, (ii) failure to pass knowledge or behind-the-wheel tests, or (iii) evaluation by a driver rehabilitation specialist are not required to be referred to the Board. The Board shall submit to the Department its recommendations for consideration prior to the scheduled appeal proceedings. 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~~ *impairment* 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.

§ 46.2-315. Persons unable to exercise reasonable and ordinary control over a motor vehicle.

The Department shall not issue a driver's license to any person when, in the opinion of the Department, ~~the such~~ person is suffering from a ~~physical or mental disability or disease~~ *which an impairment that* will prevent his exercising reasonable and ordinary control over a motor vehicle while driving it on the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs.

The words ~~"disability or disease"~~ *term "impairment"* shall not mean inability of a person to hear or to speak, or both, when he has good vision and can satisfactorily demonstrate his ability to drive a motor vehicle and has sufficient knowledge of traffic rules and regulations.

§ 46.2-322. Examination of licensee believed unable to drive safely; suspension or restriction of license; license application to include questions as to abilities of applicant; false answers; examination of applicant; physician's, advanced practice registered nurse's, or physician assistant's statement.

A. If the Department has good cause to believe that a driver is ~~incapacitated~~ *impaired* 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, a physician assistant, an advanced practice registered nurse, a 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

60 physician, licensed advanced practice registered nurse, or licensed physician assistant and a report on the
61 results thereof. When it has completed its examination, the Department shall take whatever action may
62 be appropriate and may suspend the license or privilege to drive a motor vehicle in the Commonwealth
63 of the person or permit him to retain his license or privilege to drive a motor vehicle in the
64 Commonwealth, or may issue a license subject to the restrictions authorized by § 46.2-329. Refusal or
65 neglect of the person to submit to the examination or comply with restrictions imposed by the
66 Department shall be grounds for suspension of his license or privilege to drive a motor vehicle in the
67 Commonwealth.

68 C. The Commissioner shall include, as a part of the application for an original driver's license, or
69 renewal thereof, questions as to the existence of ~~physical or mental conditions that impair~~ *impairments*
70 *that affect* the ability of the applicant to drive a motor vehicle safely. Any person knowingly giving a
71 false answer to any such question ~~shall be~~ *is* guilty of a Class 2 misdemeanor. If the answer to any such
72 question indicates the existence of such condition, the Commissioner shall require an examination of the
73 applicant by a licensed physician, licensed physician assistant, or licensed advanced practice registered
74 nurse as a prerequisite to the issuance of the driver's license. The report of the examination shall contain
75 a statement that, in the opinion of the physician, physician assistant, or advanced practice registered
76 nurse, the applicant's physical or mental condition at the time of the examination does or does not
77 preclude his safe driving of motor vehicles.