

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 522
89TH GENERAL ASSEMBLY

Reported from the Committee on Consumer Protection, May 6, 1998, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 522 Do Pass.
ANNE C. WALKER, Chief Clerk
L2036.05C

AN ACT

To repeal sections 302.291 and 302.292, RSMo 1994, and to enact in lieu thereof two new sections relating to the reporting and examination of impaired drivers, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 302.291 and 302.292, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.291 and 302.292, to read as follows:

302.291. **1.** The director, having good cause to believe that an operator is incompetent or unqualified to retain his license, after giving ten days' notice to such person in writing by [registered] **certified** mail directed to his present known address, may require him to submit to an examination as prescribed by the director. Upon conclusion of the examination, the director may allow the licensee to retain his license, may suspend, **deny** or revoke the license of the licensee, or may issue to the examinee a license subject to restrictions as provided in section 302.301. **If an examination indicates a condition that potentially impairs safe driving, the director, in addition to action with respect to the license, may require the licensee to submit to further periodic examinations.** The refusal or neglect of the [operator] **licensee** to submit to [such] **an** examination **within thirty days after the date of such notice** shall be [ground] **grounds** for suspension, **denial** or revocation of his license by the director, an associate circuit or circuit court. **Notice of any suspension, denial, revocation or other restriction shall be provided by certified mail. As used in this section, the term "denial" means the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to operate a motor vehicle. Denial may also include the act of withdrawing a previously issued license.**

2. The examination provided for in subsection 1 of this section may include, but is not limited to, a written test and tests of driving skills, vision, highway sign recognition and, if appropriate, a physical and/or mental examination as provided in section 302.173.

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

- (1) Any certified peace officer;
- (2) Any physician, physical therapist or occupational therapist licensed under chapter

EXPLANATION—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

334, RSMo; any chiropractic physician licensed under chapter 331, RSMo; any registered nurse licensed under chapter 335, RSMo; any psychologist or social worker licensed under chapter 337, RSMo; or

(3) Any member of the operator's family within three degrees of consanguinity, or the operator's spouse, who has reached the age of eighteen, except that no person may report the same family member pursuant to this section more than one time during a twelve-month period.

The report must state that the person reasonably and in good faith believes the driver cannot safely operate a motor vehicle and must be based upon personal observation or physical evidence which shall be described in the report, or the report shall be based upon an investigation by a law enforcement officer. The report shall be a written declaration in the form prescribed by the department of revenue and shall contain the name, address, telephone number, and signature of the person making the report.

4. Any physician, physical therapist or occupational therapist licensed under chapter 334, RSMo, any chiropractor licensed under chapter 331, RSMo, any registered nurse licensed under chapter 335, RSMo, or any psychologist or social worker licensed under chapter 337, RSMo, may report to the department any patient diagnosed or assessed as having a disorder or condition that may prevent such person from safely operating a motor vehicle. Such report shall state the diagnosis or assessment and whether the condition is permanent or temporary. The existence of a physician-patient relationship shall not prevent the making of a report by such medical professionals.

5. Any person who makes a report in good faith pursuant to this section shall be immune from any civil liability that otherwise might result from making the report. Notwithstanding the provisions of chapter 610, RSMo, to the contrary, all reports made and all medical records reviewed and maintained by the department of revenue under this section shall be kept confidential except upon order of a court of competent jurisdiction or in a review of the director's action pursuant to section 302.311.

6. The department of revenue shall keep records and statistics of reports made and actions taken against driver's licenses under this section.

7. The department of revenue shall, in consultation with the medical advisory board established under section 302.292, develop a standardized form and provide guidelines for the reporting of cases and for the examination of drivers under this section. The guidelines shall be published and adopted as required for rules and regulations under chapter 536, RSMo. The department of revenue shall also adopt rules and regulations as necessary to carry out the other provisions of this section. The director of revenue shall provide health care professionals and law enforcement officers with information about the procedures authorized in this section. The guidelines and regulations implementing this section shall be in compliance with the Americans with Disabilities Act of 1990, as amended.

8. Any person who knowingly violates a confidentiality provision of this section or who knowingly permits or encourages the unauthorized use of a report or reporting person's name in violation of this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

9. Any person who intentionally files a false report under this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

10. All appeals of license revocations, suspensions, denials and restrictions shall be made as required under section 302.311 within thirty days after the receipt of the notice of revocation, suspension, denial or restriction.

11. Any individual whose condition is temporary in nature as reported pursuant to the provisions of subsection 4 of this section shall have the right to petition the director of the department of revenue for total or partial reinstatement of his or her license. Such request shall be made on a form prescribed by the department of revenue and accompanied by a statement from a health care provider with the same or similar license as the health care provider who made the initial report resulting in the limitation or loss of the driver's license. Such petition shall be decided by the director of the department of revenue within thirty days of receipt of the petition. Such decision by the director is appealable pursuant to subsection 10 of this section.

302.292. 1. In order to advise the director of revenue on medical criteria for the reporting and examination of drivers with medical impairments, a medical/vision advisory board is hereby established within the department of revenue. The board shall be composed of three members appointed by the director of the department of revenue. The members of the board shall be licensed physicians and residents of this state. Of the original appointees, one shall serve for a term of two years and two shall serve for terms of four years. Subsequent appointees shall each serve for a term of four years or until their successors are appointed and approved. Any vacancy shall be filled in the same manner as the original appointment for the remainder of the term. The members of the board shall receive no compensation for their services and shall not hire any staff personnel but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. After the first full year of operation of the advisory board, the board shall meet no more than four times per year.

2. No civil or criminal action shall lie against any member of the medical/vision advisory board of the department of revenue who acts in good faith in advising the department under the provisions of this chapter. Good faith shall be presumed on the part of members of the medical/vision advisory board in the absence of a showing of fraud or malice.

Section B. The provisions of this act shall become effective on January 1, 1999.

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