

1 HOUSE BILL NO. 1163

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Transportation

4 on _____)

5 (Patron Prior to Substitute--Delegate Sickles)

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

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 46.2-204, 46.2-315, and 46.2-322 of the Code of Virginia are amended and reenacted as**
10 **follows:**

11 **§ 46.2-204. Medical Advisory Board.**

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

17 The Commissioner may refer to the Board for an advisory opinion the case of any person applying
18 for a driver's license or renewal thereof, or of any person whose license has been suspended or revoked,
19 or of any person being examined under the provisions of § 46.2-322, when he has cause to believe that
20 such person suffers from ~~a physical or mental disability or disease which~~ an impairment that will prevent
21 his exercising reasonable and ordinary control over a motor vehicle while driving it on the highways. The
22 Medical Advisory Board shall provide guidance and recommendations to the Department regarding any
23 case of a person examined under the provisions of § 46.2-322 who appeals the outcome of the examination
24 pursuant to § 46.2-321 if the basis for such appeal is related to the medical evidence in the case. However,
25 appeals related to the examinee's (i) failure to follow procedures, (ii) failure to pass knowledge or behind-
26 the-wheel tests, or (iii) evaluation by a driver rehabilitation specialist are not required to be referred to the

27 Board. The Board shall submit to the Department its recommendations for consideration prior to the
28 scheduled appeal proceedings. In addition, the Board shall assist the Commissioner through the
29 development of medical and health standards for use in the issuance of driver's licenses by the Department
30 to avoid the issuance of licenses to persons suffering from any ~~physical or mental disability or disease~~
31 impairment that will prevent their exercising reasonable and ordinary control over a motor vehicle while
32 driving it on the highways.

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

36 **§ 46.2-315. Persons unable to exercise reasonable and ordinary control over a motor vehicle.**

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

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

45 **§ 46.2-322. Examination of licensee believed unable to drive safely; suspension or restriction**
46 **of license; license application to include questions as to abilities of applicant; false answers;**
47 **examination of applicant; physician's, advanced practice registered nurse's, or physician assistant's**
48 **statement.**

49 A. If the Department has good cause to believe that a driver is ~~incapacitated~~ impaired and therefore
50 unable to drive a motor vehicle safely, after written notice of at least 15 days to the person, it may require
51 him to submit to an examination to determine his fitness to drive a motor vehicle. If the driver so requests
52 in writing, the Department shall give the Department's reasons for the examination, including the identity
53 of all persons who have supplied information to the Department regarding the driver's fitness to drive a

54 motor vehicle. However, the Department shall not supply the reasons or information if its source is a
55 relative of the driver or a physician, a physician assistant, an advanced practice registered nurse, a
56 pharmacist, or other licensed medical professional as defined in § 38.2-602 treating, or prescribing
57 medications for, the driver.

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

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

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