



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 402 and 403 (as enacted)
Sponsor: Senator Tonya Schuitmaker
Senate Committee: Transportation
House Committee: Transportation

PUBLIC ACTS 354 & 355 of 2012

Date Completed: 1-4-13

CONTENT

Senate Bill 402 amended the Public Health Code to do the following:

- **Allow a physician or optometrist to report to the Secretary of State (SOS) or warn a third party regarding a patient's mental and physical qualifications to operate a motor vehicle safely.**
- **Allow a physician or optometrist to submit a report to the SOS to initiate or contribute to an examination of a license applicant's physical and mental qualifications to operate a motor vehicle safely, and require the physician or optometrist to recommend a period of license suspension.**
- **Provide immunity from criminal or civil liability for a physician or optometrist who reports to the SOS or chooses not to report to the SOS or warn a third party.**

Senate Bill 403 amended the Michigan Vehicle Code to authorize the SOS to consider a report and recommendation submitted by a physician or optometrist under Senate Bill 402 in an examination of a license applicant's physical and mental qualifications to operate a motor vehicle; and provide that the report is confidential.

The bills were tie-barred and took effect on December 13, 2012.

Senate Bill 402

The bill provides that a physician or an optometrist has no affirmative obligation to,

but voluntarily may report to the SOS or warn third parties regarding a patient's mental and physical qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of people and property due to an episode. A physician or optometrist who chooses not to report to the SOS or warn a third party is immune from any criminal or civil liability to the patient or third party who may have been injured by the patient's actions.

The bill defines "episode" as any of the following:

- An experience derived from a condition that causes or contributes to loss of consciousness, blackout, seizure, a fainting spell, syncope (a partial or complete loss of consciousness that is temporary), or any other impairment of the level of consciousness.
- An experience derived from a condition that causes an impairment of an individual's driving judgment.
- An experience derived from an impairment of an individual's vision.

The bill also permits a physician or optometrist to make a report and submit it to the SOS for the purpose of initiating or contributing to an examination of an applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of people and property pursuant to Section 309 of the Michigan Vehicle Code (the section that Senate Bill 402 amended). In making the report, the physician or optometrist must recommend a period of suspension as he or she determines appropriate. The

recommended suspension period must be at least six months in the case of a patient holding an operator's license, and at least 12 months in the case of a patient holding a commercial license.

A physician or optometrist who makes a report, acting in good faith and exercising due care as evidenced by documenting his or her file or medical record regarding an episode, is immune from any civil or criminal liability resulting from the report to the patient or a third party who may have been injured by the patient's actions.

Senate Bill 403

Section 309 of the Vehicle Code requires the Secretary of State, before issuing a license, to examine an applicant for an operator's or chauffeur's license who, at the time of the application, does not hold a valid, unrevoked license. In all other cases, the SOS may waive the examination unless it appears from the application, from the applicant's apparent physical or mental condition, or from any other information that has come to the SOS from another source, that the applicant does not possess the physical, mental, or other qualifications necessary to operate a motor vehicle in a manner as not to jeopardize the safety of people or property, or that the applicant is not entitled to a license under the Code.

The bill allows the SOS to consider a written medical report and recommendation submitted from an applicant's personal physician or optometrist under Section 5139 of the Public Health Code (the section enacted by Senate Bill 402) in making the examination regarding the applicant's physical and mental qualifications to operate a motor vehicle under Section 309 and Department of State rules regarding physical and mental standards for drivers. The bill provides that a report received by the SOS from a physician or optometrist is confidential.

MCL 333.5139 (S.B. 402)
257.309 (S.B. 403)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 402

The Department of State has indicated that the bill might result in more re-examinations for a driver license; however, the Department anticipates that any costs incurred from the implementation of this bill will be absorbed within the Department's annual appropriation.

Senate Bill 403

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.