

By Representative Starks

1                                   A bill to be entitled  
2           An act relating to impaired drivers; creating  
3           s. 322.2745, F.S.; authorizing the director of  
4           the Department of Highway Safety and Motor  
5           Vehicles to require a person who is licensed to  
6           submit to an examination if the director has  
7           reason to believe the person is incompetent or  
8           unqualified to retain the license; providing  
9           for license retention, suspension, denial, or  
10          revocation; providing a definition; providing  
11          for the elements of the examination; providing  
12          for reports to the director; providing for  
13          immunity for certain reports; providing for  
14          records; providing for report forms; providing  
15          a penalty for false reports; creating s.  
16          322.2746, F.S.; creating a Medical/Vision  
17          Advisory Board; providing duties limiting  
18          liability; providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Section 322.2745, Florida Statutes, is  
23 created to read:

24           322.2745 Authority to require examination of driver;  
25 retention, suspension, or denial of license.--

26           (1) The director of the department, having good cause  
27 to believe that an operator is incompetent or unqualified to  
28 retain his or her license, after giving 10 days' notice to  
29 such person in writing by certified mail directed to such  
30 person's present known address, may require the person to  
31 submit to an examination as prescribed by the director. Upon

1 conclusion of the examination, the director may allow the  
2 person to retain his or her license, may suspend, deny, or  
3 revoke the person's license, or may issue the person a license  
4 subject to restrictions. If an examination indicates a  
5 condition that potentially impairs safe driving, the director,  
6 in addition to action with respect to the license, may require  
7 the person to submit to further periodic examinations. The  
8 refusal or neglect of the person to submit to an examination  
9 within 30 days after the date of such notice shall be grounds  
10 for suspension, denial, or revocation of the person's license  
11 by the director. Notice of any suspension, denial, revocation,  
12 or other restriction shall be provided by certified mail. As  
13 used in this section, the term "denial" means the act of not  
14 licensing a person who is currently suspended, revoked, or  
15 otherwise not licensed to operate a motor vehicle. Denial may  
16 also include the act of withdrawing a previously issued  
17 license.

18 (2) The examination provided for in subsection (1) may  
19 include, but is not limited to, a written test and tests of  
20 driving skills, vision, highway sign recognition, and, if  
21 appropriate, a physical and/or mental examination.

22 (3) The director shall have good cause to believe that  
23 an operator is incompetent or unqualified to retain such  
24 person's license on the basis of, but not limited to, a report  
25 by:

26 (a) Any law enforcement officer;

27 (b) Any physician, physical therapist or occupational  
28 therapist, any chiropractic physician, any registered nurse,  
29 any psychologist or social worker, or any optometrist licensed  
30 by the state; or

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1       (c) Any member of the operator's family within three  
2 degrees of consanguinity, or the operator's spouse, who has  
3 reached the age of eighteen, except that no person may report  
4 the same family member pursuant to this section more than one  
5 time during a 12-month period.

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

16       (4) Any physician, physical therapist or occupational  
17 therapist, any chiropractor, any registered nurse, any  
18 psychologist or social worker, or any optometrist licensed by  
19 the state, may report to the department any patient diagnosed  
20 or assessed as having a disorder or condition that may prevent  
21 such person from safely operating a motor vehicle. Such report  
22 shall state the diagnosis or assessment and whether the  
23 condition is permanent or temporary. The existence of a  
24 physician-patient relationship shall not prevent the making of  
25 a report by such medical professionals.

26       (5) Any person who makes a report in good faith  
27 pursuant to this section shall be immune from any civil  
28 liability that otherwise might result from making the report.

29       (6) The department shall keep records and statistics  
30 of reports made and actions taken against driver's licenses  
31 pursuant to this section.

1       (7) The department shall develop a standardized form  
2 and provide guidelines for the reporting of cases and for the  
3 examination of drivers pursuant to this section. The  
4 guidelines shall be published and adopted as required by rule.  
5 The department shall also adopt rules as necessary to carry  
6 out the other provisions of this section. The director shall  
7 provide health care professionals and law enforcement officers  
8 with information about the procedures authorized in this  
9 section. The guidelines and rules implementing this section  
10 shall be in compliance with the Americans with Disabilities  
11 Act of 1990.

12       (8) Any person who intentionally files a false report  
13 pursuant to this section shall be guilty of a misdemeanor of  
14 the first degree, punishable as provided for in s. 775.082 or  
15 s. 775.083.

16       Section 2. Section 322.2746, Florida Statutes, is  
17 created to read:

18       322.2746 Medical/Vision Advisory Board created;  
19 duties.--

20       (1) In order to advise the director of the department  
21 on medical criteria for the reporting and examination of  
22 drivers with medical impairments, a Medical/Vision Advisory  
23 Board is hereby established within the department. The board  
24 shall be composed of three members appointed by the director.  
25 The members of the board shall be licensed physicians and  
26 residents of this state and shall serve at the pleasure of the  
27 director of the department. The members of the board shall  
28 receive no compensation for their services and shall not hire  
29 any staff personnel but shall be reimbursed for their actual  
30 and necessary expenses incurred in the performance of their  
31 official duties pursuant to s. 112.061. After the first full

1 year of operation of the advisory board, the board shall meet  
2 no more than four times per year.

3 (2) No civil or criminal action shall lie against any  
4 member of the Medical/Vision Advisory Board who acts in good  
5 faith in advising the department pursuant to the provisions of  
6 this chapter. Good faith shall be presumed on the part of  
7 members of the Medical/Vision Advisory Board in the absence of  
8 a showing of fraud or malice.

9 Section 3. This act shall take effect October 1, 2000.

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HOUSE SUMMARY

Authorizes the director of the Department of Highway Safety and Motor Vehicles, having good cause to believe that a motor vehicle operator is incompetent or unqualified to retain his or her license, to require the person to submit to an examination as prescribed by the director and upon conclusion of the examination to retain the license or to have the license suspended, denied, or revoked. Creates a Medical/Vision Advisory Board within the department to advise the director on medical criteria for the reporting and examination of drivers with medical impairment. See bill for details.