

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Buoniconti, Stephen (SEN)**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to certain operators of motor vehicles.

PETITION OF:

NAME:

Buoniconti, Stephen (SEN)

DISTRICT/ADDRESS:

Hampden

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO CERTAIN OPERATORS OF MOTOR VEHICLES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 22 of chapter 90 of the General Laws, as appearing in the 2002  
2 Official Edition, is hereby amended by striking out subsection (b).

3           SECTION 2. Said chapter 90 is hereby further amended by inserting after section 22H the  
4 following section:-

5           Section 22I (1) The registrar having good cause to believe that an operator is incompetent or  
6 unqualified to retain his license, after giving 10 days notice to such person in writing by  
7 registered or certified mail directed to his present known address may require him to submit to an  
8 examination as prescribed by the registrar. Upon conclusion of the examination, the registrar  
9 may allow the licensee to retain his license, or may suspend, deny or revoke the license of the  
10 licensee, or may issue to the examinee a license subject to restrictions. If an examination  
11 indicates a condition that potentially impairs safe driving, the registrar, in addition to action with  
12 respect to the license, may require the licensee to submit to further periodic examinations. The

13 refusal or neglect of the licensee to submit to an examination within 30 days after the date of  
14 such notice shall be grounds for suspension, denial or revocation of his license by the registrar,  
15 an associate circuit or circuit court. Notice of any suspension, denial, revocation or other  
16 restriction shall be provided by certified mail. As used in this section, the term “denial” means  
17 the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to  
18 operate a motor vehicle. Denial may also include the act of withdrawing a previously issued  
19 license.

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

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

25 Any police officer, Any physician, physical therapist, occupational therapist, any  
26 chiropractor, registered nurse or psychologist registered in the commonwealth.

27 Any member of the operator’s family within 3 degrees of consanguinity, or the operator’s  
28 spouse, who has reached the age of 18, except that no person may report the same family  
29 member pursuant to this section more than 1 time during a 12 month period. The report must  
30 state that the person reasonably and in good faith believes the driver cannot safely operate a  
31 motor vehicle and must be based upon personal observation or physical evidence which shall be  
32 described in the report, or the report shall be based upon an investigation by a law enforcement

33 officer. The report shall be a written declaration in the form prescribed by the registry and shall  
34 contain the name, address, telephone number, and signature of the person making the report.

35 Any physician, physical therapist, occupational therapist, chiropractor, registered nurse,  
36 psychologist or social worker licensed in the commonwealth may report to the registry any  
37 patient diagnosed or assessed as having a disorder or condition that may prevent such person  
38 from safely operating a motor vehicle. Such report shall state the diagnosis or assessment and  
39 whether the condition is permanent or temporary. The existence of physician-patient relationship  
40 shall not prevent the making of a report by such medical  
41 professionals.

42 Any person who makes a report in good faith pursuant to this section shall be immune from any  
43 civil liability that otherwise might result from making the report. All reports made and all  
44 medical records reviewed and maintained by the registry under this section shall be kept  
45 confidential except upon order of a court of competent jurisdiction or a review of the registrar's  
46 action.

47 The registry shall keep records and statistics of reports made and actions taken against drivers  
48 licensed under this section.

49 The registry shall in consultation with the department of public health develop a standardized  
50 form provide guidelines for the reporting of cases and for the examination of drivers under this  
51 section. The guidelines shall be adopted under chapter 40A. The registry shall also adopt other  
52 rules and regulations to carry out this section. The registry shall provide health care professionals  
53 and law enforcement officers with information about the procedures authorized in this section.

54 The guidelines and regulations implementing this section shall be in compliance with federal  
55 Americans with Disabilities Act of 1990.

56 Any person who knowingly violates a confidentiality provision of this section or who knowingly  
57 permits or encourages the unauthorized use of a report or reporting person's name in violation of  
58 this section shall be guilty of a misdemeanor and shall be liable for damages in a civil action.

59 All appeals of license revocations, suspensions, denials and restrictions shall be made within 30  
60 days after receipt of notice.

61 Any individual whose condition is temporary in nature as reported pursuant to subsection 4 shall  
62 have the right to petition the registrar for total or partial reinstatement of his license. Such  
63 request shall be made on a form prescribed by the registry and accompanied by a statement from  
64 a health care provider with the same or similar license as the health care providers who made the  
65 initial report resulting in the limitation or loss of the drivers license. Such petition shall be  
66 decided by the registrar within 30 days of receipt of the petition. Such decision may be appealed  
67 pursuant to subsection 10.

68 In order to advise the registrar on medical criteria for the reporting and examination of drivers  
69 with medical impairments a medical-vision advisory board is hereby established within the  
70 registry. The board shall be composed of 3 members appointed by the registrar. The members  
71 shall be licensed physicians and residents of the commonwealth.

72 Of the original appointees, one shall serve for a term of 2 years and 2 shall serve for terms of 4  
73 years. Subsequent appointees shall each serve for a term of 4 years or until their successors are  
74 appointed and approved. Any vacancy **shall** be filled in the same manner as the original

75 appointment for the remainder of the term. The members of the board shall receive no  
76 compensation for their services and shall not hire any staff personnel but shall be reimbursed for  
77 their actual and necessary expenses incurred in the performance of their official duties. After the  
78 first full year of operation of the advisory board, the board shall meet no more than 4 times per  
79 year.

80 No civil or criminal action shall lie against any member of the medical-vision board who acts in  
81 good faith in advising the registrar. Good faith shall be presumed on the part of members in the  
82 absence of a showing of fraud or malice.

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