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BILL



ANALYSIS

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Senate Bills 402 and 403 (as introduced 6-1-11)

Sponsor: Senator Tonya Schuitmaker

Committee: Transportation

Date Completed: 5-21-12

### **CONTENT**

**Senate Bill 402 would amend the Public Health Code to do the following:**

- Allow a physician 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 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 to recommend a period of license suspension.
- Provide immunity from criminal or civil liability for a physician who reported to the SOS or chose not to report to the SOS or warn a third party.

**Senate Bill 403 would amend the Michigan Vehicle Code to authorize the SOS to consider a report and recommendation submitted by a physician 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 would be confidential.**

The bills are tie-barred.

### **Senate Bill 402**

The bill provides that a physician would have no affirmative obligation to, but voluntarily could 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 who chose not to report to the SOS or warn a third party would be immune from any criminal or civil liability to the patient or third party who could have been injured by the patient's actions.

"Episode" would mean 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.

A physician could 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 would amend). In making the report, the physician would have to recommend a period of suspension as he or she determined appropriate. The recommended suspension period would have to 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 who made a report, acting in good faith and exercising due care as evidenced by documenting his or her file or medical record regarding an episode, would be immune from any civil or criminal liability resulting from the report to the patient or a third party who could 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.

Under the bill, the SOS could consider a written medical report and recommendation submitted under Senate Bill 402 from an applicant's personal physician, 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 would be confidential.

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

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

#### **Senate Bill 402**

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

#### **Senate Bill 403**

The bill would 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.