

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senator Schuitmaker

ENROLLED SENATE BILL No. 402

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 5139.

The People of the State of Michigan enact:

Sec. 5139. (1) A physician or an optometrist has no affirmative obligation to but may voluntarily report to the secretary of state 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 persons and property due to an episode. A physician or an optometrist who chooses not to make a report to the secretary of state or warn third parties as provided for under this subsection is immune from any criminal or civil liability to the patient or third party that may have been injured by the patient's actions.

(2) A physician or an optometrist may make a report under this section and submit that report to the secretary of state 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 persons and property pursuant to section 309 of the Michigan vehicle code, 1949 PA 300, MCL 257.309. In making that report, the physician or optometrist shall recommend a period of suspension as determined appropriate by the physician or optometrist as follows:

- (a) In the case of a patient holding an operator's license, that the suspension be for at least 6 months or longer.
- (b) In the case of a patient holding a commercial license, that the suspension be for at least 12 months or longer.

(3) A physician or an optometrist making a report under subsection (2), 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 that may have been injured by the patient's actions.

(4) As used in this section:

(a) "Episode" means any of the following:

(i) An experience derived from a condition that causes or contributes to loss of consciousness, blackout, seizure, a fainting spell, syncope, or any other impairment of the level of consciousness.

(ii) An experience derived from a condition that causes an impairment of an individual's driving judgment.

(iii) An experience derived from an impairment of an individual's vision.

(b) "Optometrist" means that term as defined under part 174.

(c) "Physician" means that term as defined under part 170 or 175.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 403 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor