



**House
Legislative
Analysis
Section**

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HEALTH CONSULTANTS ON DRIVERS

House Bill 5197 as introduced **RECEIVED**
First Analysis (11-2-89)

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Sponsor: Rep. Bart Stupak
Committee: Transportation

Mich. State Law Library

H.B. 5197 (11-2-89)

THE APPARENT PROBLEM:

The secretary of state's determination of whether a person is qualified to drive a motor vehicle safely is usually based on whether a license applicant can pass various examinations required during the application process. Obviously, in order to pass a written or road exam a person must be physically and mentally capable of doing so. In some instances, a person who has already been licensed to drive may later develop a condition (i.e. partial blindness, mental illness, etc.) that hinders that person from driving a vehicle safely. In making a medical determination, the Department of State consults qualified health professionals from various medical backgrounds who review the person's driving and medical history and advise the department either to deny or grant a license to a person under review. The secretary of state hires and utilizes health consultants by administrative rule. In order to "subcontract" for consultants' services, the secretary of state must go through the Department of Management and Budget's (DMB) extensive procurement procedures. Because the DMB requires departments to contract for the lowest possible bids, the secretary of state is hindered in getting the most qualified individuals as consultants. The Department of State requests legislation to validate its procurement of the most qualified individuals as health consultants.

THE CONTENT OF THE BILL:

The bill would amend the vehicle code to establish a health advisory consultant service within the Department of State made up of various physical and mental health professionals who would help the secretary of state determine whether a person was physically or mentally competent, based on his or her medical history, to operate a motor vehicle safely.

Designation of Consultants. The secretary of state could designate in writing up to 15 qualified individuals to serve as consultants, and, in determining consultants, would consider persons "demonstrating expertise" in family practice medicine, internal medicine, rehabilitation medicine, cardiology, physical therapy, occupational therapy, psychiatry, neurology, psychology, ophthalmology, optometry, and other disciplines utilized in the diagnosis, treatment, or rehabilitation of physical and mental disabilities that could affect a person's driving ability. A handicapper who was knowledgeable in functional limitations which could affect the safe operation of a vehicle, and driver evaluators or instructors specializing in driver education of the disabled and adaptive vehicle equipment instruction could also be designated as consultants. Each consultant would serve a 2-year term after the date of designation and could be redesignated three times.

Duties of Consultants. A consultant, upon the secretary of state's request, would:

- review medical and other records which contained information that could be relevant to a person's ability to safely drive a vehicle;
- prepare a written advisory opinion or report relative to a person's ability to drive a vehicle safely, which could include a recommendation on the department's subsequent administrative action;
- attend administrative hearings relative to drivers and the health aspects of safe driving; and
- advise the secretary of state on physical, vision, and mental standards for driver license applicants and examinations.

A duty assigned to a consultant would have to be performed within a reasonable period of time.

Confidentiality. A report or opinion prepared by a consultant for use by the secretary of state would be considered confidential, and could not be disclosed to an individual who was not employed by the department unless the person under review agreed to this in writing.

Reimbursement for Expenses. A consultant would be reimbursed for travel and other necessary expenses incurred in the performance of his or her duties. The secretary of state would have to establish and pay hourly rates for consultants performing assigned tasks; these rates would vary and be commensurate with the consultant's qualifications.

MCL 257.303b

FISCAL IMPLICATIONS:

According to the Department of State, the bill would not affect state expenditures. (11-1-89)

ARGUMENTS:

For:

The bill would codify the use of health consultants on drivers by the secretary of state. Apparently, the secretary of state has used health consultants for a number of years to help it determine whether a person with certain health problems is able to safely operate a vehicle. For instance, if a diabetic's low-blood-sugar blackout(s) while driving was brought to the secretary of state's attention, it would consult one or more of these health professionals for an opinion on whether the person presented a danger to himself or the public while driving. In most cases, up to three medical professionals from different fields are consulted to review each specific case. The consultants' resulting opinions are then made available only to the secretary of state. Confidentiality of an opinion would also be required under the bill. By subcontracting for health professionals' advice on a per-hour basis, the state is able to get expert advice on medical determinations of licensees without having to hire full-time medical professionals. The main purpose of the bill, though, is to clarify and validate the use of health consultants by the secretary of state for purposes of the procurement process.

POSITIONS:

The Department of State supports the bill. (10-31-89)