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HOUSE BILL 2100

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State of Washington

61st Legislature

2009 Regular Session

By Representative Clibborn

1 AN ACT Relating to the certification of a driver's visual acuity by  
2 an ophthalmologist or optometrist; amending RCW 46.20.041 and  
3 46.20.305; and adding a new section to chapter 46.20 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.20.041 and 2005 c 274 s 306 are each amended to  
6 read as follows:

7 (1) If the department has reason to believe that a person is  
8 suffering from a physical or mental disability or disease that may  
9 affect that person's ability to drive a motor vehicle, the department  
10 must evaluate whether the person is able to safely drive a motor  
11 vehicle. As part of the evaluation:

12 (a) The department shall permit the person to demonstrate  
13 personally that notwithstanding the disability or disease he or she is  
14 able to safely drive a motor vehicle.

15 (b) The department may require the person to obtain a statement  
16 signed by a licensed physician or other proper authority designated by  
17 the department certifying the person's condition.

18 (i) The department's authority to require the person to obtain a  
19 statement signed by an ophthalmologist or optometrist is limited to

1 requiring the person to obtain a statement signed by the  
2 ophthalmologist or optometrist certifying the person's visual acuity  
3 and certifying whether the person has a visual condition that could  
4 impair his or her ability to safely operate a motor vehicle at night.

5 (ii) The statement is for the confidential use of the director and  
6 the chief of the Washington state patrol and for other public officials  
7 designated by law. It is exempt from public inspection and copying  
8 notwithstanding chapter 42.56 RCW.

9 ((+ii)) (iii) The statement may not be offered as evidence in any  
10 court except when appeal is taken from the order of the director  
11 canceling or withholding a person's driving privilege. However, the  
12 department may make the statement available to the director of the  
13 department of retirement systems for use in determining eligibility for  
14 or continuance of disability benefits and it may be offered and  
15 admitted as evidence in any administrative proceeding or court action  
16 concerning the disability benefits.

17 (2) On the basis of the evaluation the department may:

18 (a) Issue or renew a driver's license to the person without  
19 restrictions;

20 (b) Cancel or withhold the driving privilege from the person; or

21 (c) Issue a restricted driver's license to the person. The  
22 restrictions must be suitable to the licensee's driving ability. The  
23 restrictions may include:

24 (i) Special mechanical control devices on the motor vehicle  
25 operated by the licensee;

26 (ii) Limitations on the type of motor vehicle that the licensee may  
27 operate; or

28 (iii) Other restrictions determined by the department to be  
29 appropriate to assure the licensee's safe operation of a motor vehicle.

30 (3) The department may either issue a special restricted license or  
31 may set forth the restrictions upon the usual license form.

32 (4) The department may suspend or revoke a restricted license upon  
33 receiving satisfactory evidence of any violation of the restrictions.  
34 In that event the licensee is entitled to a driver improvement  
35 interview and a hearing as provided by RCW 46.20.322 or 46.20.328.

36 (5) Operating a motor vehicle in violation of the restrictions  
37 imposed in a restricted license is a traffic infraction.

1       **Sec. 2.** RCW 46.20.305 and 1999 c 351 s 3 are each amended to read  
2 as follows:

3       (1) The department, having good cause to believe that a licensed  
4 driver is incompetent or otherwise not qualified to be licensed may  
5 upon notice require him or her to submit to an examination.

6       (2) The department shall require a driver reported under RCW  
7 46.52.070 (2) and (3) to submit to an examination. The examination  
8 must be completed no later than one hundred twenty days after the  
9 accident report required under RCW 46.52.070(2) is received by the  
10 department unless the department, at the request of the operator,  
11 extends the time for examination.

12       (3)(a) The department may in addition to an examination under this  
13 section require such person to obtain a certificate showing his or her  
14 condition signed by a licensed physician or other proper authority  
15 designated by the department.

16       (b) The department's authority to require the person to obtain a  
17 certificate signed by an ophthalmologist or optometrist is limited to  
18 requiring the person to obtain a certificate signed by the  
19 ophthalmologist or optometrist certifying the person's visual acuity  
20 and certifying whether the person has a visual condition that could  
21 impair his or her ability to safely operate a motor vehicle at night.

22       (4) Upon the conclusion of an examination under this section the  
23 department shall take driver improvement action as may be appropriate  
24 and may suspend or revoke the license of such person or permit him or  
25 her to retain such license, or may issue a license subject to  
26 restrictions as permitted under RCW 46.20.041. The department may  
27 suspend or revoke the license of such person who refuses or neglects to  
28 submit to such examination.

29       (5) The department may require payment of a fee by a person subject  
30 to examination under this section. The department shall set the fee in  
31 an amount that is sufficient to cover the additional cost of  
32 administering examinations required by this section.

33       NEW SECTION. **Sec. 3.** A new section is added to chapter 46.20 RCW  
34 to read as follows:

35       An eye care provider licensed under chapter 18.71 or 18.53 RCW is  
36 not civilly or criminally liable for performing duties under this

1 chapter with regard to certifying a person's condition if the duties  
2 were performed in good faith.

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