WEST virginia legislature

2024 regular session

Committee Substitute

for

House Bill 4315

By Delegate E. Pritt

[Originating in the Committee on the Judiciary;
Reported on January 23, 2024]

A BILL to amend §17B-3-13 of the Code of West Virginia, 1931, as amended, relating to requiring reports on diseases, disorders, disabilities or conditions affecting the ability of a person to competently drive a motor vehicle to the Division of Motor Vehicles; clarifying the persons responsible for reports; providing mandatory time frames for reports; providing that noncompliance or compliance is not evidence of negligence; providing definitions; and providing that the amendments to this section shall be known as "McKayla, Miranda, and Philip's Law".

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-13. Reports by health care providers on mental or physical disabilities to Division; no report to be based upon age; confidentiality of reports; scope of use of reports; civil and criminal immunity of health care provider for compliance; definitions.

(a) ~~Health~~ Unless contrary to federal law, health care providers, including all physicians, podiatrists, chiropractors, physician assistants, certified registered nurse practitioners, and other persons licensed and authorized pursuant to chapter thirty of the code to diagnose or treat diseases, disorders, disabilities or conditions, ~~may~~ shall notify the division in writing within 10 days of the diagnosis of the full name, date of birth and address of every person ~~fifteen~~ 15 years of age or older who suffers from a physical or mental disease, disorder, disability, condition or symptoms that prevents the person from safely operating motor vehicle, and which is either:

(1) Uncontrollable (either through medication, therapy, or surgery; or by driving device or technique);

(2) Controllable, but the patient does not comply with the recommendations of the health care provider for treatment or restricted driving; or

(3) Undiagnosed but the extent of driver impairment is potentially significant based on the patients symptoms.

(b) Any person in charge of every mental hospital, institution or clinic, or any alcohol or drug treatment facility, shall be considered a health care provider responsible to assure that reports are filed in accordance with this subsection.

(c) No such report by a health care provider shall be made solely on the basis of age.

~~(b)~~ (d) Reports, recommendations or opinions, findings or advice received or made by the division for the purpose of determining whether a person is qualified to be licensed to drive are for the confidential use of the division and exempt from provisions of ~~article one, chapter twenty-nine-b~~ §29B-1-1 *et seq.* of this code and may only be admitted in proceedings to either suspend, revoke or impose limitations on the use of a drivers license pursuant to ~~section six, subsection (a)(5), article three, chapter seventeen-b~~ §17B-3-6(a)(5) of this code or ~~section seven, article three, chapter seventeen-b~~ §17B-3-7 of this code, or to reinstate the drivers license.

~~(c)~~ (e) Reports, recommendations, opinions, findings or advice received or made by the division for the purpose of determining whether a person is qualified to be licensed to drive may not be used in any proceedings to establish or prove competencies other than qualifications to operate a vehicle.

~~(d)~~ (f) A health care provider who makes a notification pursuant to subsection (a) shall be immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of such notification if the health care provider has:

(1) Documented in the patients record the disease, disorder, disability, condition or symptoms which may impair the patients ability to drive a motor vehicle to a degree that precludes the safe operation of a motor vehicle;

(2) Informed the patient that their disease, disorder, disability, condition or symptoms may impair the patients ability to drive a motor vehicle to a degree that precludes the safe operation of a motor vehicle;

(3) Advised the patient that he or she should not operate a motor vehicle; and

(4) Disclosed to the patient that the health care provider ~~may~~ will notify the Commissioner of the patients condition and of the patients inability to safely operate a motor vehicle.

~~(e)~~ (g) ~~Compliance with or failure to comply with the requirements of this section does not constitute negligence, nor may compliance or noncompliance with the requirements of this section be admissible as evidence of negligence in any civil or criminal action.~~ Nothing within this section prevents investigation and/or enforcement by any boards or licensure bodies such as for professional discipline for noncompliance.

(h) For purposes of this section, “diseases, disorders, disabilities or conditions” means physical impairments characterized by lapses of consciousness or other cognitive, mental, or physical disabilities affecting the ability of a person to competently drive a motor vehicle.

(i) The amendments to this section enacted in the 2024 Regular Session of the Legislature shall be known as “McKayla, Miranda, and Philip’s Law”.

NOTE: The purpose of this bill is to require reports on diseases, disorders, disabilities or conditions affecting the ability of a person to competently drive a motor vehicle to the Division of Motor Vehicles.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.