

No. 1996-118

AN ACT

SB 1332

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the determination of driver or applicant incompetency and for certain judicial review and supersedeas.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1519 and 1550(a), (b) and (c) of Title 75 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1519. Determination of incompetency.

(a) General rule.—The department, having cause to believe that a licensed driver or applicant may not be physically or mentally qualified to be licensed, may **[obtain the advice of a physician who shall cause an examination to be made or who shall designate any other qualified physician. The licensed driver or applicant may]** *require the applicant or driver to undergo one or more of the examinations authorized under this subchapter in order to determine the competency of the person to drive. The department may require the person to be examined by a physician or a licensed psychologist designated by the department or may require the person to undergo an examination by a physician or a licensed psychologist of the person's choice. If the department designates the physician or licensed psychologist, the licensed driver or applicant may, in addition,* cause a written report to be forwarded to the department by a physician *or a licensed psychologist* of the driver's or applicant's choice. Vision qualifications **[shall]** *may* be determined by an optometrist or ophthalmologist. The department shall appoint one or more qualified persons who shall consider all medical reports and testimony **[and]** *in order to* determine the competency of the driver or the applicant to drive.

(b) Confidentiality of reports and evidence.—Reports received by the department for the purpose of assisting the department in determining whether a person is qualified to be licensed *and reports of examinations authorized under this subchapter* are for the confidential use of the department and may not be divulged to any person or used as evidence in any trial except that the reports **[may]** *and statistics and evaluations used by the department in determining whether a person should be required to be examined under this subchapter shall* be admitted in proceedings under **[subsection (c)]** and any physician or optometrist conducting an examination pursuant to subsection (a) may be compelled to testify concerning observations and findings in such proceedings. The party calling the physician or

optometrist as an expert witness shall be obliged to pay the reasonable fee for such testimony.] *section 1550 (relating to judicial review).*

(c) Recall or suspension of operating privilege.—The department shall recall the operating privilege of any person whose incompetency has been established under the provisions of this chapter. The recall shall be for an indefinite period until satisfactory evidence is presented to the department in accordance with regulations to establish that such person is competent to drive a motor vehicle. *The department shall suspend the operating privilege of any person who refuses or fails to comply with the requirements of this section until that person does comply and that person's competency to drive is established.* Any person aggrieved by recall or suspension of the operating privilege may appeal in the manner provided in section 1550 [(relating to judicial review)]. *The judicial review shall be limited to whether the person is competent to drive in accordance with the provisions of the regulations promulgated under section 1517 (relating to Medical Advisory Board).*

§ 1550. Judicial review.

(a) General rule.—Any person *who has been* denied a driver's license, *whose driver's license has been canceled* or whose operating privilege has been recalled, [canceled,] suspended, revoked or disqualified by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). *The appellant shall serve a copy of the petition for appeal, together with a copy of the notice of the action from which the appeal has been taken, upon the department's legal office.*

(b) Supersedeas.—

[(1) In the case of a recall, suspension, cancellation or revocation, the filing of the petition]

(1) (i) Except as provided in subparagraphs (ii) and (iii), filing and service of a petition for appeal from a suspension or revocation shall operate as a supersedeas[, and no recall, suspension, cancellation or revocation shall be imposed against such person] until final determination of the matter[.] by the court vested with the jurisdiction of such appeals.

(ii) The filing and service of a petition for appeal from denial, recall, suspension or cancellation of a driver's license under section 1503 (relating to persons ineligible for licensing), 1504 (relating to classes of licenses), 1509 (relating to qualifications for school bus driver endorsement), 1514 (relating to expiration and renewal of drivers' licenses), 1519 (relating to determination of incompetency) or 1572 (relating to cancellation of driver's license) shall not act as a supersedeas unless ordered by the court after a hearing attended by the petitioner.

(iii) Further review by another court shall not operate as a supersedeas unless a court of competent jurisdiction determines otherwise.

(2) In the case of a disqualification of the commercial operating privilege, the driver may petition to the court of common pleas of his county of residence, which court may grant a supersedeas ex parte upon a showing of reasonable likelihood of successful prosecution of the appeal.

(c) Proceedings of court.—The court shall set the matter for hearing upon **[30 days] 60 days'** written notice to the department and determine whether the **[petitioner is in fact the person whose operating privilege is subject to the recall, suspension, cancellation, revocation or disqualification.]** *petitioner's driver's license should be denied or canceled, the petitioner's operating privilege should be suspended, revoked or recalled or the petitioner's endorsement should be removed.*

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Section 2. The Department of Transportation shall publish in the Pennsylvania Bulletin guidelines for determining cause to initiate any of the examinations under 75 Pa.C.S. § 1519(a).

Section 3. This act shall take effect as follows:

- (1) The amendment of 75 Pa.C.S. § 1519 shall take effect in nine months.
- (2) Section 2 of this act shall take effect in nine months.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 7th day of October, A.D. 1996.

THOMAS J. RIDGE