

IN THE SENATE

SENATE BILL NO. 1397, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLE DRIVER'S LICENSES; AMENDING SECTION 49-326, IDAHO
2 CODE, TO PROVIDE THAT A PHYSICIAN WHO HAS REASON TO BELIEVE THAT A PERSON
3 IS INCOMPETENT TO DRIVE A MOTOR VEHICLE MAY SUBMIT A REPORT, TO PROVIDE
4 FOR NOTICE AND TO PROVIDE THAT IF A PHYSICIAN SUBMITS A REPORT IN GOOD
5 FAITH, NO PROFESSIONAL DISCIPLINARY PROCEDURE, NO MONETARY LIABILITY
6 AND NO CAUSE OF ACTION MAY ARISE AGAINST THE PHYSICIAN FOR SUBMISSION
7 OF THE REPORT.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 49-326, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE
13 DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the sus-
14 pension of a license or privileges, the department is authorized to suspend,
15 disqualify or revoke the license or privileges of a driver without prelimi-
16 nary hearing upon a showing by its records or other sufficient evidence that
17 the driver:

18 (a) Has committed an offense for which mandatory revocation, suspen-
19 sion or disqualification of license or privileges is required upon con-
20 viction, court order or administrative action;

21 (b) Has been convicted in any court in this state of an offense against
22 a municipal ordinance which would have been grounds for suspension, re-
23 vocation or disqualification of his driver's license or privileges had
24 the charge been prosecuted under a state law;

25 (c) Is incompetent to drive a motor vehicle;

26 1. Any person who in the opinion of the department, based upon rec-
27 ommendation of the person's personal physician, is afflicted with
28 or subject to any condition which brings about momentary or pro-
29 longed lapses of consciousness or control, which is or may become
30 chronic, or when the person is suffering from a physical or mental
31 disability or disease serving to prevent him from exercising rea-
32 sonable and ordinary control over a motor vehicle while operating
33 it upon the streets and highways, or any person who is unable to un-
34 derstand highway signs, warning, regulating or directing traffic,
35 is incompetent to drive a motor vehicle.

36 2. Any person who shall not have minimum visual acuity with or
37 without corrective lenses of 20/40 in at least one (1) eye as
38 determined by the Snellen system or other available systems is
39 incompetent to operate a motor vehicle, however, the department
40 shall have the authority to license such person upon the recom-
41 mendation of an ophthalmologist or qualified physician and upon
42 passage of a skills test. At 20/70 or more in both eyes with or

1 without corrective lenses the department may suspend the driver's
2 license and privileges. Any person who applies for or receives any
3 type of tax, welfare or other benefits or exemptions for the blind
4 shall be conclusively presumed incompetent to operate a motor
5 vehicle.

6 3. Any person, department, or political subdivision of the state
7 of Idaho who receives an application for any type of tax, welfare,
8 aid or other benefits or exemptions for the blind shall immedi-
9 ately forward the name, address, sex, date of birth, and date of
10 application of the applicant to the department.

11 4. Any physician who has reason to believe that a patient is in-
12 competent to drive a motor vehicle as defined in this subsection,
13 may submit a report to the department. Before submitting a report,
14 a physician should notify the patient or the patient's family of
15 the physician's concerns about the patient's ability to drive. If
16 a physician submits a report in good faith, no professional dis-
17 ciplinary procedure, no monetary liability and no cause of action
18 may arise against the physician for submission of the report;

19 (d) Has permitted an unlawful or fraudulent use of a driver's license;

20 (e) Has committed an offense in another state or jurisdiction as evi-
21 denced by a conviction, court order or administrative action, which if
22 committed in Idaho would be grounds for suspension, disqualification or
23 revocation;

24 (f) Has been convicted of the offense of reckless driving, or fleeing
25 or attempting to elude a peace officer, and providing that the operat-
26 ing privilege shall be suspended for a period of thirty (30) days upon
27 conviction and providing further, that if a second conviction occurs
28 within a two (2) year period of time from the time of the first convic-
29 tion, the suspension shall be for ninety (90) days, and if a third con-
30 viction shall occur within a three (3) year period of time from the time
31 of the first conviction, the period of suspension shall be for one (1)
32 year;

33 (g) Has failed to satisfy a judgment as set forth in chapter 12, title
34 49, Idaho Code;

35 (h) Has failed to maintain proof of financial responsibility as set
36 forth in chapter 12, title 49, Idaho Code;

37 (i) Has a driving record which shows a violation point count of twelve
38 (12) or more points in any consecutive twelve (12) month period;

39 (j) Is an habitual violator of traffic laws;

40 (k) Has been convicted of the offense of violation of a restricted
41 license and providing the driver's license and privileges be suspended
42 for a period of thirty (30) days;

43 (l) Has been convicted for the offense of leaving the scene of an acci-
44 dent involving damages to a vehicle, the period of revocation shall be
45 one (1) year;

46 (m) Has been convicted for the offense of leaving the scene of an acci-
47 dent resulting in injury or death, the period of revocation shall be one
48 (1) year;

1 (n) Is under the age of eighteen (18) years and is not satisfactorily
2 enrolled in school, has not received a waiver pursuant to or has not com-
3 pleted school as provided in section 49-303A, Idaho Code;

4 (o) Was cited under the age of seventeen (17) years and subsequently
5 received a conviction involving a moving traffic violation arising out
6 of the operation of a motor vehicle, and providing the driver shall be
7 sent a written warning from the Idaho transportation department for a
8 first conviction; the driver's license shall be suspended for a period
9 of thirty (30) days for a second conviction; and the driver's license
10 shall be suspended for a period of sixty (60) days for a third or sub-
11 sequent conviction; and providing further that no restricted driving
12 privileges shall be issued during any period of suspension hereunder.

13 (2) A violation point is assessed for conviction of any charge or with
14 proof of any infraction involving a moving traffic violation. A value of
15 one (1) point shall be given for a less serious violation and up to four (4)
16 points for a more serious violation. Conviction or proof of infraction for
17 only one (1) violation arising from one (1) occasion of arrest or citation
18 shall be counted in determining the violation point count.

19 (3) The department is authorized and directed to establish a violation
20 point count system for various moving traffic violations and infractions oc-
21 ccurring either within or without the state of Idaho, affecting all holders of
22 driver's licenses issued by the department.

23 (4) Notification of suspension, revocation, cancellation or dis-
24 qualification. Upon suspending, revoking, canceling or disqualifying the
25 driver's license or driving privileges of any person, the department shall
26 immediately notify the applicant or licensee in writing, at the licensee's
27 address on file with the department pursuant to section 49-320, Idaho Code.
28 Upon his request the department shall afford him an opportunity for a hearing
29 before a hearing officer appointed by the director. The hearing may be held
30 by telephone within twenty (20) days after receipt of the request, unless
31 this period is for good cause shown, extended by the hearing officer for
32 one ten-day period. The notice and hearing shall be required prior to the
33 imposition of additional suspension or disqualification periods beyond the
34 periods as set forth in this section. Upon a hearing the hearing officer may
35 administer oaths, may issue subpoenas for the attendance of witnesses and
36 the production of relevant books and papers, and may require a reexamination
37 of the licensee. Upon the hearing the department shall either rescind its
38 order or, with good cause, may affirm or extend the suspension or disqualifi-
39 cation of the driver's license or revoke the driver's license.

40 Whenever a driver's license, permit or driving privilege has been sus-
41 pended or revoked by the department as provided in this section, other than
42 as set forth in subsection (l) (c), (d), (g), (h), (m), (n) or (o) of this sec-
43 tion, the department may issue a temporary restricted permit restricting the
44 time, area and purpose of use. The application, eligibility requirements
45 and form of the temporary restricted permit shall be provided by administra-
46 tive rule. A temporary restricted permit may be issued to grant noncommer-
47 cial driving privileges, but no temporary restricted permit shall be issued
48 which grants driving privileges to operate a commercial motor vehicle.

49 (5) The department shall not suspend or revoke a driver's license or
50 privileges for a period of more than one (1) year, unless otherwise provided

1 by law. The provisions of this subsection shall not be applicable with re-
2 spect to the issuance of temporary restricted permits as provided in section
3 49-325, Idaho Code, nor shall it be applicable to those suspensions placed on
4 an individual's record for the purpose of administering suspensions ordered
5 to take effect after an individual's release from confinement or imprison-
6 ment pursuant to chapter 80, title 18, Idaho Code.

7 (6) The department shall not disqualify a driver for a period longer
8 than specified by 49 CFR part 383.