

IN THE SENATE

SENATE BILL NO. 1397

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 AN  
3 INDIVIDUAL IS INCOMPETENT TO DRIVE A MOTOR VEHICLE MAY SUBMIT A REPORT  
4 AND TO PROVIDE THAT IF A PHYSICIAN SUBMITS A REPORT IN GOOD FAITH, NO  
5 PROFESSIONAL DISCIPLINARY PROCEDURE, NO MONETARY LIABILITY AND NO  
6 CAUSE OF ACTION MAY ARISE AGAINST THE PHYSICIAN FOR SUBMISSION OF THE  
7 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  
14 suspension of a license or privileges, the department is authorized to  
15 suspend, disqualify or revoke the license or privileges of a driver without  
16 preliminary hearing upon a showing by its records or other sufficient  
17 evidence that the driver:

18 (a) Has committed an offense for which mandatory revocation,  
19 suspension or disqualification of license or privileges is required  
20 upon conviction, 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,  
23 revocation or disqualification of his driver's license or privileges  
24 had 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  
27 recommendation of the person's personal physician, is afflicted  
28 with or subject to any condition which brings about momentary  
29 or prolonged lapses of consciousness or control, which is or may  
30 become chronic, or when the person is suffering from a physical  
31 or mental disability or disease serving to prevent him from  
32 exercising reasonable and ordinary control over a motor vehicle  
33 while operating it upon the streets and highways, or any person  
34 who is unable to understand highway signs, warning, regulating or  
35 directing traffic, is incompetent to drive a motor vehicle.

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

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

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

11 4. Any physician who has reason to believe that an individual  
12 is incompetent to drive a motor vehicle as defined in this  
13 subsection, may submit a report to the department. If a physician  
14 submits a report in good faith, no professional disciplinary  
15 procedure, no monetary liability and no cause of action may arise  
16 against the physician for submission of the report;

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

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

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

31 (g) Has failed to satisfy a judgment as set forth in chapter 12, title  
32 49, Idaho Code;

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

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

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

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

41 (l) Has been convicted for the offense of leaving the scene of an  
42 accident involving damages to a vehicle, the period of revocation shall  
43 be one (1) year;

44 (m) Has been convicted for the offense of leaving the scene of an  
45 accident resulting in injury or death, the period of revocation shall be  
46 one (1) year;

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

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

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

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

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

39 Whenever a driver's license, permit or driving privilege has been  
40 suspended or revoked by the department as provided in this section, other  
41 than as set forth in subsection (1)(c), (d), (g), (h), (m), (n) or (o)  
42 of this section, the department may issue a temporary restricted permit  
43 restricting the time, area and purpose of use. The application, eligibility  
44 requirements and form of the temporary restricted permit shall be provided  
45 by administrative rule. A temporary restricted permit may be issued to grant  
46 noncommercial driving privileges, but no temporary restricted permit shall  
47 be issued which grants driving privileges to operate a commercial motor  
48 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  
2 respect to the issuance of temporary restricted permits as provided in  
3 section 49-325, Idaho Code, nor shall it be applicable to those suspensions  
4 placed on an individual's record for the purpose of administering  
5 suspensions ordered to take effect after an individual's release from  
6 confinement or imprisonment 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.