

FRANKLIN D. COOKE, JR.
STATE REPRESENTATIVE
16th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
Public Safety & Homeland Security, Chair
Corrections, Vice-Chair
Gaming & Parimutuels, Vice-Chair
Capital Infrastructure
Capital Improvement
Judiciary
Labor
Veterans Affairs

House Public Safety & Homeland Security Committee Meeting Minutes

3.19.24

House Committee Recording

Chair Cooke called the meeting to order at 11:03 a.m.

Members present:

Rep. Cooke, Chair

Rep. Osienski, Vice Chair

Rep. Collins

Rep. Johnson

Rep. Morris

Rep. Romer

Rep. Vanderwende

Chair Cooke introduced **HB 314, AN ACT TO AMEND TITLES 21 AND 24 OF THE DELAWARE CODE RELATING TO DRIVER'S LICENSES**. *Time Stamp 11:05 a.m.*

HB 314, sponsored by Rep. Matthews would remove a requirement that certain individuals who have experienced a loss of consciousness be reported to the Department of Motor Vehicles (DMV). The bill would also allow additional kinds of medical professionals to sign medical forms for the DMV. Additionally, this bill replaces "Medical Council of Delaware" with "Board of Medical Licensure and Discipline" and changes authority on driver's license status for individuals with a medical condition from the Secretary of Health and Social Services to the Secretary of Transportation.

411 Legislative Avenue, Legislative Hall, House of Representatives,
Dover, Delaware 19901 House Offices: Wilmington: (302) 577-8476

Dover: (302) 744-4351 Fax: (302) 739-2313

Email: FranklinD.Cooke@delaware.gov

Vice Chair Osienski, a cosponsor of the bill and presenting it for Rep. Matthews, stated that current Delaware statute requires physicians to report a patient's loss of consciousness due to a central nervous system (CNS) condition. He explained that, since this can lead to the loss of a driver's license, some patients may be hesitant to tell their physicians about instances of losing consciousness. Additionally, the existing statute may be discriminatory as it specifically restricts individuals with CNS conditions, but not those who may lose consciousness for other reasons, based on outdated and misguided beliefs about people with epilepsy.

Rep. Johnson voiced strong support for the bill.

Rep. Romer asked for clarification about the current process of reporting.

Rep. Collins shared that his wife had her driver's license revoked for several months after experiencing a seizure.

Rosanna Mena, Division of Motor Vehicles Medical Supervisor, responded to Rep. Romer, explaining that current law mandates that physicians report a patient's loss of consciousness due to a CNS condition. The DMV will then suspend the patient's license until a favorable medical report can be supplied.

Rep. Johnson shared personal anecdotes to emphasize that individuals with CNS-related losses of consciousness, like epilepsy, are unfairly restricted by the current statute.

Chair Cooke opened the floor for public comment.

Dr. Robert Varipapa, a neurologist from Dover, voiced support for the bill as it would solve two issues with the current statute. First, he reiterated that existing law is discriminatory as it focuses only on CNS-related loss of consciousness due to old prejudices against people with epilepsy. Additionally, he shared that mandatory reporting leads to unnecessary reports, causing a DMV backlog and placing the burden on patients and physicians to correct this. Mr. Varipapa noted that for other conditions where reporting is not mandated, he still reports patients when medically necessary, showing that removing the mandate would allow physicians the flexibility to make medically accurate decisions.

Robert Overmiller voiced support for the legislation.

Roseanne Valez, President of the Delaware Coalition of Nurse Practitioners, spoke on behalf of Dr. Susan Conaty-Buck and thanked the bill's sponsors for introducing the bill. She requested that the standards for driver's license reinstatement be clarified across all kinds of licensed providers and that the term "non-physician provider" be replaced by "licensed provider" in the bill.

A motion was made by Rep. Johnson and seconded by Rep. Collins to release HB 314 from committee, motion carried. Yes = 8 (Bush, Collins, Cooke, Johnson, Morris, Osienski, Romer, Vanderwende); No = 0; Absent = 0. The bill was released from committee with a F=3, M=5, U=0 vote.

Chair Cooke introduced **HB 328, AN ACT TO AMEND CHAPTER 371, VOLUME 83 OF THE LAWS OF DELAWARE RELATING TO MOTORCYCLE SAFETY**. *Time Stamp: 11:23 a.m.*

HB 328, sponsored by Rep. Short would extend a pilot program to allow LED pulsating headlights on motorcycles for motorcyclists' safety. The program is currently set to expire on January 1, 2025, but this bill would extend it until June 30, 2030.

Rep. Short stated that when the program was first enacted, no motorcycle company had devices that were compatible with LED lights. While the pilot program has been successful so far, it needs more time for more motorcyclists to be able to update their technology. Additionally, Rep. Short noted that pulsating lights are legal at the federal level, but having state legislation prevents confusion among Delaware law enforcement.

Chair Cooke opened the floor for public comment.

Robert Overmiller voiced support for the bill. No members of the public voiced opposition.

A motion was made by Rep. Collins and seconded by Rep. Vanderwende to release HB 328 from committee, motion carried. Yes = 8 (Bush, Collins, Cooke, Johnson, Morris, Osienski, Romer, Vanderwende); No = 0; Absent = 0. The bill was released from committee with a F=1, M=7, U=0 vote.

Chair Cooke introduced **HB 329, AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES**. *Time Stamp: 11:28 a.m.*

HB 329, sponsored by Rep. Hilovsky would increase the penalties for failing to yield to emergency or police vehicles using audible or visual signals and all stationary vehicles giving warning signals. Fines would increase from \$150 to \$500 for a first violation and from \$300 to \$1000 for a second violation. Subsequent violations would result in a \$2000 fine and a 90-day driver's license suspension. Additionally, it would clarify that when unable to yield, drivers must slow to 20 miles per hour below the posted speed limit.

Rep. Hilovsky shared that he hopes this bill will improve the safety of police, emergency crews, and citizens broken down on roads.

Rep. Romer asked how changes in road safety law get communicated to drivers and integrated into drivers' education. Rep. Hilovsky stated that he will find more information on this question and return to Rep. Romer with details. Chair Cooke also noted that an annual or semi-annual driver's manual would include updated law.

Rep. Bush asked if the requirement to slow to below the posted speed limit might slow down police or emergency vehicles rather than allow them to pass by. An official from the Delaware Volunteer Firefighters Association replied that slowing down when unable to yield, specifically when passing police and emergency vehicles that are already stopped at a scene, helps to prevent accidents and deaths at high speeds.

Rep. Collins voiced support for the bill but stated that the current code should be revised to differentiate police and emergency vehicles from other stationary vehicles like tow trucks or civilian vehicles with flashing lights. Rep. Hilovsky replied that he would be open to changing the language if the fire and police departments wanted that. Rep. Collins disagreed with imposing the same penalty for passing emergency vehicles as for passing civilians stopped for convenience.

Rep. Johnson reiterated Rep. Romer's concern about dissemination of law changes to Delawareans who have already held driver's licenses for many years. Jay Jones, Executive Manager of the Delaware Volunteer Firefighter Association (DVFA), stated that all 50 states have "move over" laws and these laws are advertised by the federal government, including via media ads and as decals on vehicles.

Rep. Romer echoed Rep. Collins' concern about penalties for not slowing to pass stationary civilians. Rep. Hilovsky noted that pulled-over civilians may need to get out of their vehicles and are thus in danger and Jay Jones concurred, stating that the tow truck industry previously asked to be included in "move over" laws to prevent accidents and deaths. Rep. Romer emphasized that her concern is regarding just a stationary civilian vehicle without an authorized vehicle like a tow truck. Rep. Hilovsky emphasized the safety risks of not slowing down regardless of the vehicle.

Rep. Bush clarified that the bill's requirement to slow down 20 miles per hour below the speed limit is regarding emergency vehicles trying to pass on the roads. Rep. Vanderwende, Rep. Morris, and Rep. Romer and another official from the Delaware Volunteer Firefighters Association briefly discussed this.

Chair Cooke opened the floor for public comment.

Robert Overmiller voiced support for the bill.

Mark Anderson, Manager of Safety and Security at Delaware Electric Cooperative, voiced support for the bill. He stated that the greatest risk for his employees is roadway safety due to distracted or unsafe motorists, particularly as traffic increases in areas with growing populations like Sussex County.

Jay Jones, Executive Manager of DVFA, expressed gratitude for this bill and voiced strong support.

Lisa Oberdorf, State Affairs Manager at Delmarva Power & Light, voiced support for the bill to improve safety for their employees and community.

Meryem Dede, of the Campaign to End Debtor's Prison, voiced opposition to the bill. She recognized a need to protect fire and police officers but stated that increased fines would not be an effective deterrent. She further noted that the increase in the penalty is only logical if this bill is aiming specifically to target repeat offenders. Ms. Dede stated that, including fees, a first offense could cost the offender nearly \$800, which many people cannot afford.

Lynne Kielhorn, of the Campaign to End Debtor's Prison, voiced opposition to the bill. Ms. Kielhorn emphasized Ms. Dede's point that this bill will not work to deter a first offense.

Additionally, she wondered how frequent repeat offenses are in Delaware. Ms. Kielhorn stated that in this instance, the Campaign to End Debtor's Prison would support a driver's license suspension over fines, as it is a more relevant penalty.

A motion was made by Vice Chair Osienski and seconded by Rep. Vanderwende to release HB 329 from committee, motion carried. Yes = 7 (Collins, Cooke, Johnson, Morris, Osienski, Romer, Vanderwende); No = 0; Absent = 1 (Bush). The bill was released from committee with a F=0, M=8, U=0 vote.

Chair Cooke adjourned the meeting at 12:04 p.m.

Respectfully submitted by:

Emma Crowell

Attendance List

- Dr. Robert Varipapa
- Rosanna Mena, Division of Motor Vehicles Medical Supervisor
- Robert Overmiller
- Mark Anderson, Manager of Safety and Security at Delaware Electric Cooperative
- Jay Jones, Executive Manager of the Delaware Volunteer Firefighter Association
- Lisa Oberdorf, State Affairs Manager at Delmarva Power & Light



OFFICERS

ROBERT J. VARIPAPA, M.D.
PRESIDENT

BHAVIN R. DAVE, M.D.
PRESIDENT-ELECT

BRIAN J. GALINAT, M.D.
VICE PRESIDENT

JAMES MONIHAN, M.D.
SECRETARY

SHALINI B. SHAH, M.D.
TREASURER

STEPHANIE GUARINO, M.D.
SPEAKER

MATTHEW J. BURDAY, D.O.
PAST PRESIDENT

MARK B. THOMPSON
EXECUTIVE DIRECTOR

March 19, 2024

Representative Matthews, Representative Cooke, Representative Osienki, and Members of the House Public Safety & Homeland Security Committee,

The Medical Society of Delaware strongly supports HB 314, which updates the outdated mandatory reporting requirements currently in force. Delaware is one of only six states that require mandatory reporting of loss of consciousness due to a central nervous system (CNS) condition. However, this mandatory reporting system is not functioning effectively, especially in emergency rooms, where individuals are often inappropriately reported, resulting in an overworked Division of Motor Vehicles (DMV) and a substantial backlog in physicians' offices.

For instance, a patient experiencing a simple fainting spell may be reported to the DMV, leading to a situation where it could take months to have their license reinstated.

Delaware's current legislation is discriminatory against individuals with epilepsy, likely stemming from the social climate of the 1940s and 1950s. Moreover, current legislation does not address loss of consciousness due to other etiologies nor does it address other medical conditions that may affect the ability to drive safely. For example, there is no requirement to report if someone experiences repeated loss of consciousness from a cardiac issue or in someone with severe dementia.

Mandatory reporting places physicians in the awkward role of a law enforcement officer. Consequently, patients may be hesitant to truthfully disclose seizures or other episodes of loss of consciousness to their physicians due to fear of losing their license. By removing the mandatory requirement, physicians can focus on treating patients.

With removal of the mandatory reporting requirement, out of concern for patient and public safety, physicians and other medical professionals should still report cases to DMV based on medical evidence, not only limited to repeated loss of consciousness but also other conditions such as dementia and stroke.

The Medical Society of Delaware commends the updated language in HB 314 and appreciates your support for this legislation.

Sincerely,

Robert Varipapa, MD
President, Medical Society of Delaware

Richard Henderson, MD
Chair, MSD Government Affairs Committee