



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN

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ATTORNEY GENERAL

Honorable Homer Garrison, Jr.
Director
Texas Department of Public Safety
Camp Mabry
Austin, Texas

Attention: Mr. J. B. Draper

Dear Sir:

Opinion No. 0-4975

Re: Under the provisions of Section 10, House Bill 20, Acts of the 47th Legislature, would the Texas Department of Public Safety be authorized to cause persons who are advanced in years or suffering from certain physical defects or nervous disorders to submit to an examination to determine their ability to operate a motor vehicle safely?

You have requested the opinion of this department on the above stated question.

House Bill 20, Acts of the 47th Legislature, cited by you is the current Texas Drivers' License Law. In the herein after quoted provision of said law, the word "department" refers to the Texas Department of Public Safety, and the word "Director" refers to the Director of that department.

Section 10 of the Act, relating to examination of applicants for drivers' licenses, provides as follows:

"The Department shall examine every applicant for an operator's, commercial operator's, or chauffeur's license, except as otherwise provided in this Section. Such examination shall be held in the county where the applicant resides or makes application within not more than ten (10) days from the date application is made. It shall include a test of the applicant's vision, his ability to understand highway signs in the English language regulating, warning, and directing traffic, his knowledge of the traffic laws of this State, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, and provided further that the

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Director shall have the authority to cause to be re-examined licensee in any case which in his judgment the licensee is incapable of operating a motor vehicle, said examination shall be held in the county of the licensee's residence unless otherwise agreed to by both parties to be held elsewhere."

Said House Bill 20 is now codified as Article 6687b, Vernon's Revised Civil Statutes of 1925.

Under the authority of this statute, it is our opinion that you, as director of the Department of Public Safety, are authorized to cause licensees who are advanced in years or suffering from physical defects or nervous disorders to submit to an examination to determine their ability to operate a motor vehicle safely whenever, in your judgment, the licensee is incapable of operating a motor vehicle. Under the statute, "incapable of operating a motor vehicle" means the lack of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and to operate such vehicle safely upon the highways.

Yours very truly

ATTORNEY GENERAL OF TEXAS

s/ W. R. Allen

By
W. R. Allen
Assistant

WRA:mp

APPROVED  C. 8, 1942

s/ GERALD C. MANN
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
BY B. W. B.
CHAIRMAN