

Grand Rapids man, 85, sues Secretary of State after driver's license is yanked

By John Agar - September 26, 2013 at 6:19 AM, updated September 30, 2013 at 7:19 AM



GRAND RAPIDS, MI – Carl Hainer figures his clean driving record ought to count for something. But as he battles to hang onto his driver's license at 85, he said his age is the only thing being scrutinized.

Acting as his own attorney, Hainer has filed a federal lawsuit against the Secretary of State after his driver's license was restricted earlier this year.

“I detected a vindictive attitude of the license bureau clerks to demean elderly people who are over twice their age,” Hainer wrote in the lawsuit. “I do not recognize the bureau clerk’s qualifications to fairly judge and restrict my auto driving rights.”

Hainer said he received a notice shortly after he turned 85 telling him that he had a medical condition that would prevent him from driving. Not knowing where that medical allegation originated, Hainer said he underwent a health and vision check that showed he had “no physical disability to impact driving.”

The Secretary of State’s Office said Hainer’s age had nothing to do with his license being restricted. His license was referred to the office for an examination, which resulted in the restriction allowing him to drive only with a driving instructor as a passenger.

A follow-up exam ended with the same result.

Every month, 400 people are **referred to the Michigan Secretary of State’s Office** to have their driver’s licenses reviewed. Most often, referrals come from police or family, concerned that the driver poses a risk to themselves and others on the road.

“These decisions are difficult for the people involved, but we have a responsibility to ensure people on the road are able to operate a vehicle safely,” SOS spokesman Fred Woodhams said.

Steven Gursten, a partner in **Michigan Auto Law**, said Hainer’s story will be told again and again with the graying of Michigan drivers.

In a few years, one in six motorists will be a senior citizen, he said.

“For a lot of elderly drivers, by taking away their right to drive, many of them feel it’s taking away their freedom,” Gursten said. “There is so much emotional importance put on their ability to be independent. It is extremely important for the senior citizens.”

Still, Gursten, whose firm is based in Farmington Hills with offices in Grand Rapids and elsewhere, said drivers who pose a risk to others need to be off the road.

“As far as personal liberties, I take that very seriously. It has to be balanced in some way with protecting the safety of the public.”

He suggested mandatory safety exams for drivers starting at 72. He said a quick examination could include a vision test, mental-health test for dementia and a test for physical ability, balance and coordination.

“You’re going to identify very quickly the senior citizens who really are unfit and too dangerous before they’re able to actually kill somebody,” Gursten said.

An older driver’s delayed reaction can make a big difference with a vehicle traveling 200 feet in a couple of seconds.

“The science is the science,” Gursten said.

Gursten isn’t optimistic. He doubted that older folks would like the idea. And they vote.

“You can’t say everybody over the age of 75 (can’t drive) but you try to prevent the horrific tragedies,” Gursten said. “You’ve really got to balance that out. Right now, we’re not there yet.”

State law allows re-examinations when there is reason to believe a driver may be unable to drive safely. The information can come from police, medical workers, Secretary of State workers and others, including family members.

The Secretary of State keeps the source of that information confidential. Hainer said he didn’t know who made the allegation that sparked his exam.

Hainer said he hasn’t had any problems driving. He drives only 10 miles a week: to the grocery store, pharmacy and credit union. Periodically, there are doctor visits.

His wife gave up driving a few years ago.

“The Michigan auto licensing bureau intruded into my life without cause with an accusation that I had a physical condition that would prevent me from safely operating a motor vehicle,” he wrote in his lawsuit.

“When that accusation was proven to be false, the bureau did not recognize my unblemished record of 70 years and continued to pursue me to restrict my driving license to justify their intrusion, ‘without probable cause,’ into my life.”

He said the two health checkups to prove he was fit to drive cost \$100.

He alleged the state seized his freedom to travel on Michigan roads. The Secretary of State, in response to the lawsuit, asked that it be dismissed because the state agency has immunity.

Hainer, who retired after 32 years as a manufacturing engineer with Lear Siegler, has a son who lives five miles away, and a daughter in Lowell.

“When you feel able to do for yourself, you don’t like to ask others to do it for you,” he said. “I can get along quite well. I don’t feel I need to be put on the sidelines or kicked to the curb quite yet.”

Source: http://www.mlive.com/news/grand-rapids/index.ssf/2013/09/post_437.html