

Can You Be Held Liable if Your Parent With Dementia Drives?

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Explore how states handle elderly drivers with cognitive decline, including license testing requirements, mandatory reporting and family interventions.

By Harry S. Margolis

Question:

My mother has early dementia. She is resistant to support and continues to drive. If she got into an accident, could I be held liable for her driving?

Response:

No, unless you took affirmative steps to enable your mother to drive, such as buying her a new car or arranging for its repair. No one is responsible for another person's actions in which they take no part.

The situation you are facing is not uncommon. So much of one's independence and ability to function in the world depends on being able to drive. As a result, most people are unwilling to give up their vehicles, especially if they don't recognize their deficits or feel they can be managed.

Different states have different rules around steps that may be taken to revoke someone's driver's license. In some, police officers and medical providers are required to inform the registry of motor vehicles if they believe a driver should no longer be driving. Others generally have no such requirement and, in fact, may not have the right to make a report since, if they could, anyone could ask the registry to investigate anyone else's driving.

Many states issue driver's licenses for shorter periods of time after a certain age, usually age 65. They also allow those 65 and over to request a driving test to make sure it's still safe for them to drive.

Some families use "self help" instead of legal intervention. They may hide the car keys or

disable a car, for instance, by removing a spark plug. This is often a good test of incipient dementia. If the car owner can get the keys replaced or the car operating again without any help, then perhaps they still have the capacity to drive. If they can't, then they probably shouldn't be driving.

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Harry S. Margolis practices elder law, estate and special needs planning at [Margolis Bloom & D'Agostino](#) in Wellesley, Massachusetts, and is the founder of [ElderLawAnswers.com](#) and co-founder of the Academy of Special Needs Planners as well as a fellow of [FreeWill.com](#). He is author of “[The Baby Boomers Guide to Trusts: Your All-Purpose Estate Planning Tool](#)” and answers consumer questions about estate planning issues at [www.AskHarry.info](#). Please post your estate planning questions there.
