

CHAPTER 19
DRIVER CONTROL SERVICE

Authority

N.J.S.A. 39:2-3, 39:3-10, 39:3-10.4 et seq., 39:3-11, 39:3-15, 39:3-15.1, 39:3-16, 39:5-30, 39:5D-4, 39:5F-1 et seq., 52:14B-1 et seq. and Pub. L. 99-570.

Source and Effective Date

R.1999 d.312, effective August 17, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 19, Driver Control Service, expires on February 13, 2005. See: 36 N.J.R. 4005(a).

Chapter Historical Note

Chapter 19, Driver Control Service, was adopted and became effective prior to September 1, 1969.

Subchapter 9, Suspension for Speeding, was repealed by R.1970 d.103, effective September 1, 1970. See: 2 N.J.R. 67(c), 2 N.J.R. 76(e).

Subchapter 1, Administrative Hearings, was adopted as R.1971 d.212, effective December 1, 1971. See: 3 N.J.R. 263(a).

Subchapter 10, Point System and Driving During Suspension, was adopted as R.1977 d.352, effective September 20, 1977. See: 9 N.J.R. 288(a), 9 N.J.R. 488(b).

Subchapter 6, Reciprocity Agreement Between Delaware and New Jersey, was repealed by R.1982 d.94, effective April 5, 1982. See: 14 N.J.R. 87(a), 14 N.J.R. 346(a).

Subchapter 2, Probationary Driver Licenses, was repealed by R.1983 d.242, effective June 20, 1983. See: 15 N.J.R. 501(b), 15 N.J.R. 1035(b).

Subchapter 11, Suspension for Out-of-State Convictions; Administrative Determinations and Bail Forfeitures for Driving While Under the Influence of Intoxicating Liquor or Drugs; Refusal to Submit to Chemical Test, was adopted as R.1983 d.352, effective September 6, 1983. See: 15 N.J.R. 1009(a), 15 N.J.R. 1481(c).

Subchapter 12, Motor Vehicle Insurance Surcharge, was adopted as R.1984 d.18, effective February 6, 1984. See: 15 N.J.R. 2027(a), 16 N.J.R. 247(a).

The Executive Order No. 66(1978) expiration date for Subchapter 10, Point System and Driving During Suspension, was extended by gubernatorial directive from March 5, 1984 to March 29, 1984. See: 16 N.J.R. 502(a).

Subchapter 13, Motor Vehicle Insurance Surcharge; Supplemental Surcharges, was adopted as R.1984 d.61, effective March 19, 1984. See: 16 N.J.R. 124(a), 16 N.J.R. 551(a).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Point System and Driving During Suspension, was readopted as R.1984 d.128, effective March 28, 1984. See: 16 N.J.R. 347(a), 16 N.J.R. 921(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Convulsive Seizures, was readopted as R.1984 d.310, effective June 29, 1984. See: 16 N.J.R. 1187(a), 16 N.J.R. 2003(a).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Cardiovascular Disorders, was readopted as R.1984 d.407, effective August 23, 1984. See: 16 N.J.R. 1694(a), 16 N.J.R. 2445(a).

Subchapter 9, Designation of State Official to be Notified by Drivers of Commercial Motor Vehicles Concerning Out-of-State Motor Vehicle Convictions, was adopted as R.1987 d.342, effective August 17, 1987. See: 19 N.J.R. 621(a), 19 N.J.R. 1562(a).

Pursuant to Executive Order No. 66(1978), Chapter 19, Driver Control Service, was readopted as R.1989 d.493, effective August 18, 1989, and Subchapter 3, Accident Claims, was repealed by R.1989 d.493, effective September 18, 1989. See: 21 N.J.R. 1817(b), 21 N.J.R. 3019(b).

The Executive Order No. 66(1978) expiration dates for Subchapter 10, Point System and Driving During Suspension, Subchapter 12, Motor Vehicle Insurance Surcharge, and Subchapter 13, Motor Vehicle Insurance Surcharge; Supplemental Surcharge, were waived by gubernatorial directive, effective June 29, 1994. See: 26 N.J.R. 2905(a).

Pursuant to Executive Order No. 66(1978), Subchapters 1 through 9 and Subchapter 11 of Chapter 19, Driver Control Service, were readopted as R.1994 d.468, effective August 17, 1994. See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Pursuant to Executive Order No. 66(1978), Subchapters 1 through 9 and Subchapter 11 of Chapter 19, Driver Control Service, were readopted as R.1999 d.312, effective August 17, 1999. See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a). See, also, section annotations.

Pursuant to N.J.S.A. 52:14B-1.5d, the expiration of Subchapter 10, Point System and Driving During Suspension, Subchapter 12, Motor Vehicle Insurance Surcharge, and Subchapter 13, Motor Vehicle Insurance Surcharge; Supplemental Surcharges, was waived indefinitely, effective June 28, 2001. See: 33 N.J.R. 2689(a).

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SUBCHAPTER 1. ADMINISTRATIVE HEARINGS

13:19-1.1 Applicability

The provisions of this subchapter shall apply to administrative hearings in cases involving denial, revocation, suspension or refusal to renew licenses, examination permits, special learner's permits, nondriver identification cards, motorized bicycle licenses, motorized bicycle learner's permits, or driving privileges, including cases involving imposition of insurance surcharges pursuant to N.J.S.A. 17:29A-35. However, the provisions of this subchapter shall not apply to hearings in fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30; requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A 39:5-30.

Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Added "including cases involving imposition of insurance surcharges pursuant to N.J.S.A. 17:29A-35" with other stylistic changes.
Amended by R.1993 d.389, effective August 2, 1993.
See: 25 N.J.R. 893(a), 25 N.J.R. 3503(a).
Amended by R.1994 d.486, effective September 19, 1994.
See: 26 N.J.R. 2522(a), 26 N.J.R. 3874(a).

Cross References

Applicability, see N.J.A.C. 13:26-2.1.

Case Notes

Delay of nine and one-half months between start of New Jersey licensee's driver's license suspension in New York and licensee's receipt of notice from New Jersey Division of Motor Vehicles concerning its intent to suspend license did not preclude Division from imposing additional reciprocal six-month license suspension pursuant to Interstate Driver License Compact, despite claim that delay rendered suspensions consecutive. *Boyd v. Division of Motor Vehicles*, 704 A.2d 1029, 307 N.J.Super. 356 (A.D. 1998).

13:19-1.2 Requests for hearings; disposition of hearing requests

(a) The proposed action to be taken against any licensee by the Division shall become effective on the date set forth in the notice except when otherwise specified, unless the licensee or his or her attorney shall make a request, in writing, for a hearing within 25 days from the date of notice.

(b) Requests for a hearing shall, except as specified by (c) below and by N.J.A.C. 13:19-12.2(b), be sent to the following address:

Division of Motor Vehicles
Driver Control Services
PO Box 134
Trenton, New Jersey 08666-0134

(c) Requests for a hearing by a person or entity whose business license (that is, motor vehicle dealer license, private inspection facility license, motor vehicle emission repair facility registration, motor vehicle emission inspector license, diesel emission inspection center license, auto body repair facility license, junk yard license, driving school license or driving school instructor's license) is proposed to be suspended or revoked shall be sent to the address specified by the Division in its notice of proposed suspension or revocation.

(d) Requests for a hearing shall specify all disputed material facts which the licensee or his or her attorney intends to raise at such hearing. Requests for a hearing shall also set forth all legal issues which the licensee or his or her attorney intends to raise, and shall present all arguments of **those issues** which the licensee wishes the Division to consider.

(e) Where a hearing request fails to set forth any disputed material fact and fails to set forth any legal issue or any argument on those issues, the request for a hearing shall be denied. The Division shall notify the licensee of this denial and the grounds thereof, and shall notify the licensee that the proposed action shall become effective on such date as the Division shall specify. Such notice shall constitute the final agency decision in the matter.

(f) Where a hearing request sets forth disputed material facts which the licensee or his or her attorney intends to raise at such hearing, the Director shall require the licensee to attend a prehearing conference conducted by designated employees of the Division.

(g) Where there are no disputed material facts and where a request for a hearing sets forth legal issues and presents arguments on those issues, the Director may either consider those legal issues and arguments on the basis of the written record and render a written determination which shall constitute the final agency decision in the matter; or may require the licensee to attend a prehearing conference conducted by designated employees of the Division; or may transmit the matter directly to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 1:1.

Amended by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

(d) and (e) added.

Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Added heading caption—"disposition of hearing requests", time limit for hearing request changed from 10 days to 25 days with other stylistic changes in (a). Deleted (b). Redesignated (c) as (b); added reference to N.J.A.C. 13:19-12.2(b); changed address of Division of Motor Vehicles. Added (c), (d) and (e). Redesignated (d) as (f); substituted "Upon request for a hearing pursuant to this section" with "Where a hearing request sets forth disputed material facts which the licensee or his or her attorney intends to raise at such hearing." Redesignated (e) as (g); text changed to describe procedure where there are no disputed material facts and where a request for a hearing sets forth legal issues and presents arguments on those issues.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (c), substituted a reference to private inspection facilities licenses for a reference to private inspection center licenses, and inserted a reference to motor vehicle emission repair facility registration, motor vehicle emission inspector licenses and diesel emission inspection center licenses.

13:19-1.3 Notification of prehearing conference date

The Division shall notify the licensee of the date, time and place of each prehearing conference scheduled pursuant to this subchapter.

Amended by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Amended to include cases where prehearing conference required.
Amended by R.1991 d.220, effective April 15, 1991.

See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Deleted language which provided for notification of prehearing conference date upon receipt of a hearing request in certain cases.

13:19-1.4 (Reserved)

Repealed by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

13:19-1.5 Adjournments; failure to appear

(a) No prehearing conferences shall be adjourned from the scheduled prehearing conference date except for good cause and upon order of the Director or an employee designated by the Director. All requests for adjournment must be made in writing, with the reasons specified therein, not later than seven days before the date scheduled for the prehearing conference. All requests shall be sent to the following address:

Division of Motor Vehicles
Driver Control Services
PO Box 134
Trenton, New Jersey 08666-0134
Attention: Prehearing Conference Scheduling Unit

(b) No request shall be granted for an adjournment unless good cause is shown.

(c) No request shall be granted for the adjournment of a prehearing conference that is made after the time as provided in (a) above unless the licensee can show good cause and upon order of the Director or an employee designated by the Director.

(d) In the event a licensee fails to attend a prehearing conference wherein an adjournment has not been granted, the proposed action against the licensee shall be taken and the licensee shall be deemed to have abandoned his or her request for a hearing.

Amended by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Language concerning failure to appear added.
Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Changed address of Division of Motor Vehicles in (a). Deleted "without further opportunity for a prehearing conference" in (d).

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (d), neutralized gender reference.

13:19-1.6 Representation by counsel

(a) At a prehearing conference before the Division, the licensee may be represented by a licensed New Jersey attorney at law, or may appear on his or her own behalf.

(b) No licensee, after having elected to represent himself or herself at a prehearing conference, shall be granted another prehearing conference on the grounds that he or she lacked representation by counsel. Nor shall any licensee be entitled to another prehearing conference upon any claim of inadequacy of representation by counsel at a prehearing conference.

Amended by R.1984 d.129, effective April 16, 1984.

See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Neutralized gender references throughout.

13:19-1.7 Driver improvement analyst

(a) The prehearing conference shall be conducted by the Director or by such departmental employee as the Director may designate.

(b) The person conducting such prehearing conference shall be referred to as a driver improvement analyst.

Amended by R.1984 d.129, effective April 16, 1984.

See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Language concerning driver improvement specialist and prehearing conference added.

Amended by R.1993 d.389, effective August 2, 1993.

See: 25 N.J.R. 893(a), 25 N.J.R. 3503(a).

13:19-1.8 Prehearing conference; purpose; conduct; report; transmittal to the Office of Administrative Law

(a) The purpose of the prehearing conference is to clarify disputed material facts and legal issues raised in the hearing request; to review the evidence upon which the licensee bases his or her claim; to ascertain the discovery needs of the licensee; to supply the licensee with any discovery to which the licensee may be entitled under the Uniform Administrative Procedure Rules; and to attempt to resolve the administrative action to be taken.

(b) A driver improvement analyst shall conduct a prehearing conference with each licensee who has been scheduled for such a conference pursuant to this subchapter and with the licensee's attorney, if the licensee is represented by an attorney, for the purpose of resolving the proposed administrative action. The driver improvement analyst shall produce any relevant materials the Division may have which relate to the proposed administrative action and the licensee shall be permitted to produce any document or other evidence which relates to the proposed administrative action.

(c) The driver improvement analyst shall prepare a conference report for each prehearing conference. The conference report shall contain information relevant to the proposed administrative action. If a resolution of the proposed administrative action is reached between the Division and the licensee, the licensee shall sign the conference report indicating that both parties agree to be bound by the terms of the resolution of the proposed administrative action contained therein. If a licensee accepts the resolution of the proposed administrative action, the licensee is deemed to have abandoned any further opportunity to be heard with regard to the proposed administrative action.

(d) If the parties cannot agree as to a resolution of the proposed administrative action, then the conference report shall so indicate. Where the Division and a licensee cannot reach a resolution of the proposed administrative action at the prehearing conference, the matter shall be transmitted to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 1:1 unless there are no disputed material facts and no legal issues or any argument on those issues raised at the conference. In the event there is no resolution of the proposed administrative action at the prehearing conference and there are no disputed material facts and no legal issues or any argument on those issues raised at the conference, the Division shall notify the licensee that the matter shall not be transmitted to the Office of Administrative Law and the grounds thereof and shall notify the licensee that the proposed action shall become effective on such date as the Division shall specify. Such notice shall constitute the final agency decision in the matter.

Amended by R.1984 d.129, effective April 16, 1984.

See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

(a), (b), and (c) added; previous language of section deleted.

Amended by R.1991 d.220, effective April 15, 1991.

See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Replaced language in (a) with new text. Substituted "specialist" with "analyst"; substituted "settlement" with "resolving the proposed administrative action"; substituted "proposed suspension" with "proposed administrative action"; added "who has been scheduled for such a conference pursuant to this subchapter without stylistic changes in (b). Substituted "proposal suspension" with "proposal administrative action"; substituted "settlement" with "resolution of the proposed administrative action"; added "opportunity to be heard with regard to the proposed administrative action" in (c). Substituted "settlement" with "resolution of the proposed administrative action"; substituted "parties" with "Division and a licensee"; substituted "an agreement" with a resolution of the proposed administrative action at the prehearing conference"; added text—"unless there are . . ." in (d).

Amended by R.1994 d.468, effective September 19, 1994.

See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Case Notes

Refusal of prosecutor to comply with discovery request required either that complaint be dismissed or that State agree to pay reasonable expenses incurred by defendant due to prosecutor's refusal to comply. *State v. Polasky*, 216 N.J.Super. 549, 524 A.2d 474 (Law Div.1986).

13:19-1.9 (Reserved)

Repealed by R.1984 d.129, effective April 16, 1984.

See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Case Notes

Division not required to prepare a verbatim record of suspension proceedings under former regulations; five-year license suspension ordered for involvement in fatal accident while intoxicated; factors for consideration in determining length of suspension (Division's Final Decision). *Div. of Motor Vehicles v. Exum*, 5 N.J.A.R. 298 (1983).

13:19-1.10 (Reserved)

Repealed by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

13:19-1.11 (Reserved)

Repealed by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

13:19-1.12 (Reserved)

Repealed by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

13:19-1.13 Procedures as to when opportunities to be heard are granted

(a) The Division shall not take administrative action against a person unless it has first afforded the person an opportunity to be heard in conformity with this subchapter except as set forth in (b), (c), and (d) below.

(b) When the administrative action proposed by the Division against any person is one wherein the Division has authority to act without first providing an opportunity to be heard, such action shall be valid, but the Division shall promptly afford the person an opportunity to be heard in conformity with this subchapter.

(c) No hearing shall be provided when the action taken by the Division is required by any law which prescribes a suspension or revocation of a license or a privilege and which requires no exercise of discretion on the part of the Division of Motor Vehicles. No hearing shall be provided when a license or privilege is suspended or revoked by order of a court of competent jurisdiction.

(d) When a license is not suspended or is restored with the distinct understanding that any subsequent moving violation will be cause for a summary suspension, the issue of any hearing provided with respect to a proposed suspension for such subsequent moving violation will be limited to:

1. Whether or not the licensee has been convicted of a subsequent moving violation; and
2. Determining whether or not the licensee received adequate notice that this license had been restored with that distinct understanding.

Amended by R.1984 d.129, effective April 16, 1984.
See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a).

Deleted subsection (d) and recodified (e) to (d).
Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Substituted "for a hearing" with "to be heard"; substituted "these provisions" with "this subchapter" in (a). Deleted "suspension or

revocation of a" in (c). Substituted "requested" with "provided" in (d).

Case Notes

Prior refusal to suspend driving privileges on basis of Maryland suspension operated to estop Division of Motor Vehicles from seeking later suspension in face of licensee's reliance. *Division of Motor Vehicles v. Hampton*, 95 N.J.A.R.2d (MVH) 93.

The Division of Motor Vehicles may conduct "pre-hearing conferences" in an attempt to informally dispose of license suspension proceedings with the consent of the parties. *Atty.Gen.F.O.1979, No. 22.*

SUBCHAPTERS 2 THROUGH 3. (RESERVED)**SUBCHAPTER 4. CARDIOVASCULAR DISORDERS****13:19-4.1 Cardiovascular Committee**

The Director, in consultation with the Medical Society of New Jersey, shall appoint a Cardiovascular Committee of specialists in cardiovascular disorders for the purpose of guiding him in making determinations as to whether persons are physically qualified to operate motor vehicles with safety.

Case Notes

No unconsciousness due to acute hypoglycemia for one year allowed reinstatement. *Division of Motor Vehicles v. Sereno*, 92 N.J.A.R.2d (MVH) 7.

13:19-4.2 Case history and physician's statement

(a) Where it shall appear to the Director upon information or investigation that any applicant for a driver license or licensed driver suffers or has suffered from a cardiovascular condition, the Director may require from such person on forms furnished by the Division:

1. A statement by the applicant or licensed driver of his or her case history;
2. A statement by a physician including all pertinent information relative to the applicant's or licensed driver's case including diagnosis, treatment and prognosis.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (a), neutralized gender references throughout, and substituted a reference to the Division for a reference to the Director at the end of the introductory paragraph.

13:19-4.3 Review and recommendation

(a) When the Director deems it necessary to refer a specific case to the Committee, all available information

including the applicant's or licensed driver's statement of his or her case history and the attending physician's report will be referred to the Cardiovascular Committee for review and recommendation.

(b) If in the opinion of the Committee it is advisable, the applicant or licensed driver may be required to be examined by a specialist in internal medicine or cardiology including x-ray and/or electrocardiogram.

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (a), neutralized a gender reference.

13:19-4.4 Findings report

The members of the Cardiovascular Committee will report their findings and recommendations to the Director and the Director will determine whether or not a person may be issued a driver license.

13:19-4.5 Consideration of restoration

When the Director has denied an applicant a driver license pursuant to this subchapter, restoration of the driving privilege may be considered; provided, however, the period of time has expired which is determined by the Director, upon consultation with the members of the Committee, to be applicable in the case.

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Inserted "Director, upon consultation with the members of the" preceding "Committee".

13:19-4.6 Case referral

Upon application for restoration, the case may be referred to the Cardiovascular Committee as provided for in N.J.A.C. 13:19-4.3.

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Changed N.J.A.C. reference.

13:19-4.7 Interval reports

(a) As a condition precedent to the issuance, retention or restoration of driving privileges pursuant to this subchapter, the individual must agree in writing to submit to the Director periodic reports on forms approved by the Director. The reports shall contain a statement of the individual's case history and a statement by the treating physician.

(b) These reports shall be submitted every six months from the date that approval is given to hold a driver license.

(c) The Director may, in his or her discretion, waive or change the interval report requirement of (b) above.

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (c), neutralized gender reference.

13:19-4.8 Driver reexamination

As a condition precedent to the issuance, retention or restoration of driving privileges, the Director may require that a motorist be given a driving test and examination at a Division of Motor Vehicles Driver Qualification Center.

SUBCHAPTER 5. CONVULSIVE SEIZURES

13:19-5.1 Satisfaction of physical qualifications

Any person 16 years of age or older who suffers or who has suffered from recurrent convulsive seizures, recurrent periods of impaired consciousness or from impairment or loss of motor coordination due to conditions such as, but not limited to, epilepsy, in any of its forms, shall as a prerequisite to the issuance of a learner's permit or driver's license, renewal of a driver's license or retention of a driver's license establish to the satisfaction of the Director that he has been free from recurrent convulsive seizures, recurrent periods of impaired consciousness or from impairment or loss of motor coordination for a period of one year with or without medication and that he is physically qualified to operate a motor vehicle.

As amended, R.1981 d.18, effective January 16, 1981.

See: 12 N.J.R. 606(a), 13 N.J.R. 150(b).

Freedom from impairments amended from two years to one.

Case Notes

Driver's license applicant, who had suffered seizure within year, had burden of persuasion on issue of whether he posed acceptable risk. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Negative recommendations of Neurological Disorder Committee regarding application for driver's license by person with seizure disorder was not binding on Director of the Department of Motor Vehicles. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Order suspending driver's license because of licensee's epileptic disorder, subject to licensee's reapplication after one-year seizure-free period, was properly based on conclusion that pattern of licensee's specific individual disorder posed safety risk. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Presumption created by regulation, that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year, was fair and reasonable. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Regulation establishing rebuttable presumption that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year, should require recommendations of Neurological Disorder Committee to respond with particularity directly to applicant's contentions. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Regulation that created rebuttable presumption that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year, required members of Neurological Disorder Committee to determine whether, despite occurrence of seizure within one year, applicant, because of specific characteristics of his disorder, can drive safely. *Division of Motor Vehicles v. Granziel*, 236 N.J.Super. 191, 565 A.2d 404 (A.D. 1989).

Suspension of driver's license was reversed when motorist's medical condition was determined not to impair his driving. *Division of Motor Vehicles v. Avallone*, 96 N.J.A.R.2d (MVH) 6.

No unconsciousness due to acute hypoglycemia for one year allowed reinstatement. *Division of Motor Vehicles v. Sereno*, 92 N.J.A.R.2d (MVH) 7.

Licensee under medication for seizures was physically able to operate motor vehicle. *Division of Motor Vehicles v. Nasti*, 92 N.J.A.R.2d (MVH) 4.

13:19-5.2 Physically unqualified pending hearing

When it shall appear to the Director that a licensed driver or an applicant for a learner's permit or driver's license suffers or has suffered from recurrent convulsive seizures, recurrent periods of impaired consciousness or from impairment or loss of motor coordination, the Director may, upon notice and an opportunity to be heard, suspend the driving privileges of, or refuse to issue a learner's permit or a driver's license to such person as physically unqualified to operate a motor vehicle with safety; provided, however, the Director may, in the exercise of his or her discretion, suspend such driver's license or refuse to issue such learner's permit or driver's license pending hearing, if it shall appear to the Director to be in the interest of public safety that immediate action be taken.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Substituted a reference to notice for a reference to appropriate notice, and neutralized a gender reference.

13:19-5.3 History of seizures and physician's report

(a) When it shall appear to the Director, upon information received or as a result of an investigation conducted, that a licensed driver or applicant for a learner's permit or driver's license suffers or has suffered from recurrent convulsive seizures, recurrent periods of impaired consciousness or from impairment or loss of motor coordination, he or she may require from such person on forms approved by the Director:

1. A statement by the applicant or licensee of his or her case history;
2. A statement by the treating physician, including diagnosis, treatment and prognosis;
3. Any other information which the Director may deem necessary to evaluate the motorist's qualification to operate a motor vehicle.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (a), neutralized gender references.

13:19-5.4 Neurological Disorder Committee

(a) The Director shall appoint a Neurological Disorder Committee of three members to advise him or her as to issuing licenses to persons suffering from recurrent convulsive seizures, recurrent periods of impaired consciousness or from impairment or loss of motor coordination.

(b) The Director shall appoint the Committee upon consultation with and advice of the Medical Society of the State of New Jersey.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (a), neutralized a gender reference.

13:19-5.5 Committee review of case

When the Director deems it necessary to refer a specific case to the Committee, all available information concerning the licensed driver or applicant, including the licensee's or applicant's statement of the case history and the treating physician's statement as to diagnosis, treatment and prognosis will be referred to the Committee for review, advice and recommendation.

Case Notes

Driver's license applicant, who had suffered seizure within year, had burden of persuasion on issue of whether he posed acceptable risk. *Division of Motor Vehicles v. Granziel*, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Negative recommendations of Neurological Disorder Committee regarding application for driver's license by person with seizure disorder was not binding on Director of the Department of Motor Vehicles. *Division of Motor Vehicles v. Granziel*, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

13:19-5.6 Report of findings

Each member of the Committee shall separately report his or her findings and recommendations to the Director of Motor Vehicles.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Neutralized a gender reference.

13:19-5.7 Committee recommendations

Notwithstanding the provisions of N.J.A.C. 13:19-5.1, the Director, upon consultation with the members of the Committee, may grant a learner's permit or initial driver's license or permit a motorist to retain his or her driver's license although such person may have suffered a seizure, period of impaired consciousness, or from impairment or loss of motor coordination within a one year period from the date of the Director's determination when the specific characteristics of a person's disorder do not adversely impact on the person's ability to safely operate a motor vehicle.

As amended, R.1984 d.310, filed June 29, 1984.
See: 16 N.J.R. 1187(a), 16 N.J.R. 2003(a).

"two year" changed to "one year".

Amended by R.1994 d.468, effective September 19, 1994.

See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).
Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).
Neutralized a gender reference.

Case Notes

Driver's license applicant, who had suffered seizure within year, had burden of persuasion on issue of whether he posed acceptable risk. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Negative recommendations of Neurological Disorder Committee regarding application for driver's license by person with seizure disorder was not binding on Director of the Department of Motor Vehicles. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Presumption created by regulation, that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year, was fair and reasonable. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Regulation establishing rebuttable presumption that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year should require recommendations of Neurological Disorder Committee to respond with particularity directly to applicant's contentions. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

Regulation that created rebuttable presumption that driver's license applicant's seizure disorder is not sufficiently controlled to permit him to drive safely unless he has been seizure-free for one year, required members of Neurological Disorder Committee to determine whether, despite occurrence of seizure within one year, applicant, because of specific characteristics of his disorder, can drive safely. Division of Motor Vehicles v. Granziel, 236 N.J.Super. 191, 565 A.2d 404 (A.D.1989).

13:19-5.8 Restoration qualifications

(a) When the Director has denied an applicant a driver's license or has suspended the license of a licensed operator pursuant to this subchapter, issuance or restoration may be considered provided the individual submits:

1. A current statement of his or her case history;
2. A current statement by the treating physician including diagnosis, treatment and prognosis;
3. A current report covering the results of an electroencephalographic examination, if required;
4. Satisfactory evidence that N.J.A.C. 13:19-5.1 or 13:19-5.5 have been complied with where applicable.

Amended by R.1994 d.468, effective September 19, 1994.
See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).
Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).
In (a)1, neutralized a gender reference.

13:19-5.9 Interval reports of seizures

(a) As a condition precedent to the issuance, retention, or restoration of driving privileges pursuant to this subchapter, the individual must agree in writing to submit to the Director periodic reports on forms approved by the Director. The reports shall contain a statement of the individual's case history and a statement by the treating physician.

(b) These reports shall be submitted every six months for a period of two years from the date that approval is given to hold a driver license.

(c) Subsequent reports shall be submitted on a yearly basis.

(d) The Director may, in his or her discretion, waive or change the interval report requirements of (b) and (c) above.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (d), neutralized a gender reference.

13:19-5.10 Driver reexamination

As a condition precedent to the issuance, retention or restoration of driving privileges, the Director may require that a motorist be given a driving test and examination at a Division of Motor Vehicles Driver Qualification Center.

SUBCHAPTER 6. INSTALLATION AND USE OF IGNITION INTERLOCK DEVICES

Authority

N.J.S.A. 39:4-50.16 et seq., specifically N.J.S.A. 39:4-50.21; P.L. 2000, c.83; 23 U.S.C. §164; and 23 C.F.R. §1275.4.

Source and Effective Date

R.2001 d.342, effective September 17, 2001.
See: 33 N.J.R. 2445(a), 33 N.J.R. 3340(c).

Subchapter Historical Note

Subchapter 6, Installation and Use of Ignition Interlock Devices, was adopted as new rules by R.2001 d.342, effective September 17, 2001.
See: Source and Effective Date.

13:19-6.1 Purpose and scope

(a) The purpose of this subchapter is to regulate the installation and use of ignition interlock devices ordered by the court to be installed pursuant to N.J.S.A. 39:4-50.16 et seq.

(b) This subchapter establishes procedures and requirements for the certification of breath alcohol ignition interlock devices (BAIIDs) and for the designation of approved BAID service centers by the Director of the Division of Motor Vehicle Services.

(c) This subchapter governs manufacturers and service centers of BAIIDs certified by the Director.

(d) This subchapter establishes procedures and requirements for the provision of certified BAIIDs at reduced rates to persons who qualify as indigent.

13:19-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Alcohol” means ethanol, also known as ethyl alcohol.

“Alcohol setpoint” means the breath alcohol concentration at which the BAIID is set to lock the ignition.

“BrAC” means breath alcohol concentration expressed as the percentage of weight over volume (% w/v) based upon grams of alcohol per 210 liters of breath.

“Breath alcohol ignition interlock device” or “BAIID” means a device designed to allow a vehicle ignition switch to start the engine when the BrAC test result is below the alcohol setpoint, while locking the ignition when the breath test result is at or above the alcohol setpoint, and which at minimum meet the specifications for performance and testing of the NHTSA Model Specifications.

“Director” means the Director of the Division of Motor Vehicles within the Department of Transportation.

“Division” means the Division of Motor Vehicle Services within the Department of Transportation.

“Indigent” means participation in any of the following governmental assistance programs: Aid to Families with Dependent Children; Supplemental Security Income; General Assistance; Women, Infants and Children; Pharmaceutical Assistance to the Aged; Medicaid; Food Stamps; Temporary Disability Insurance; or Unemployment Insurance.

“Manufacturer” means a business engaged in the manufacturing or assembling of BAIIDs.

“NHTSA Model Specifications” means National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 Fed. Reg. 11772-11787, as amended and supplemented.

“Optional feature” means any specification that the NHTSA Model Specifications do not specifically require or recommend.

“Safety feature” means any specification related to insuring that the BAIID will prevent a driver with a BrAC above the alcohol setpoint from driving.

“Service” means to install, calibrate, maintain, repair, remove, and otherwise perform work on a BAIID to ensure its proper performance.

“Service center” means a facility where BAIIDs certified under N.J.A.C. 13:19-6.7 are serviced.

“Tampering” means an overt, conscious attempt to physically disable or otherwise disconnect a BAIID from its power source and thereby allow a person with a BrAC above the setpoint to start the engine.

“Utility feature” means any specification related to insuring that the BAIID will function reliably and not interfere with driving by operators whose BrAC is below the alcohol setpoint.

13:19-6.3 Adoption and incorporation by reference NHTSA Model Specifications for BAIIDs

The Director hereby adopts and incorporates by reference the NHTSA Model Specifications.

13:19-6.4 Requirements for use of BAIIDs installed to meet sentencing requirements

(a) In order to have a driver license restored, an offender required by the court to have a BAIID installed as part of a sentence imposed under N.J.S.A. 39:4-50 and 39:4-50.17 shall have installed, in every motor vehicle the offender owns, leases, or regularly operates, a BAIID that has been certified by the Director under N.J.A.C. 13:19-6.7.

(b) The BAIID shall be installed at a service center designated by the Director under this subchapter.

(c) The offender shall take or shall have taken each vehicle in which a BAIID is installed to a service center designated by the Director at the service intervals required by the manufacturer of the BAIID, for periodic servicing and calibration.

(d) A BAIID installed as part of a sentence imposed under N.J.S.A. 39:4-50 and 39:4-50.17 shall not be removed until the date of the completion of the offender’s interlock sentence as designated on the driver license document, unless the offender first surrenders his or her drivers’ license to the Division.

13:19-6.5 Specifications for BAIIDs

(a) A BAIID installed to meet court-ordered sentencing requirements pursuant to N.J.S.A. 39:4-50 and 39:4-50.17 shall meet or exceed the specifications for performance and testing of the NHTSA Model Specifications.

(b) The alcohol setpoint of the BAIID shall be at 0.05 percent BrAC.

(c) The BAIID shall have a warning label affixed to it containing the following language: “Any person tampering with, circumventing, or misusing this Ignition Interlock System shall be subject to prosecution and/or civil liability.”

(d) The manufacturer’s required service interval shall not exceed 67 days.

13:19-6.6 Application for certification of BAIID

(a) A manufacturer seeking certification of a BAIID shall submit to the Director a completed application on a form prescribed by the Director.

(b) The manufacturer shall certify the following as to the BAIID for which the manufacturer seeks certification:

1. The installation and use of the BAIID shall not impede the safe operation of a vehicle in which it is installed;
2. The BAIID complies with the requirements of N.J.A.C. 13:19-6.5;
3. The manufacturer carries liability insurance meeting the requirements set forth in N.J.A.C. 13:19-6.8;
4. The manufacturer has a network of service centers in New Jersey that comply with N.J.A.C. 13:19-6.11;
5. The manufacturer provides training to its service center employees in the proper servicing of the BAIID and training to users of the BAIID in the proper operation and use of the BAIID; and
6. The manufacturer shall provide BAIIDs to indigents in accordance with N.J.A.C. 16:19-6.14.

(c) The manufacturer shall submit the following with its completed application:

1. A copy of the written instructions for servicing the BAIID that will be provided to service center employees, and a copy of the written instructions for proper operation and use of the BAIID that will be provided to the user of the BAIID;
2. Technical specifications descriptive of the BAIID's safety features, utility features, optional features and the manufacturer's required service interval;
3. A copy of the manufacturer's warranty of the BAIID;
4. A certificate of insurance from an insurance company licensed in New Jersey evidencing that the manufacturer holds liability insurance as required by N.J.A.C. 13:19-6.8;
5. A sample of the warning label it will affix to each BAIID to comply with N.J.A.C. 13:19-6.5(c);
6. Proof that the BAIID was tested by an approved ISO laboratory and was found to meet or exceed the NHTSA Model Specifications, or alternatively, proof that another state has certified or approved the BAIID as meeting or exceeding the NHTSA Model Specifications;
7. A list of all states that have certified or approved the BAIID for use in a program that requires a BAIID to meet or exceed the NHTSA Model Specifications, and the name, address and telephone number of the state official responsible for the certification or approval;
8. A list of all states that have revoked, suspended or denied certification or approval of the BAIID, the reasons for such actions, and the name, address and telephone number of the state official responsible for such actions;

9. A list of all service centers in the manufacturer's network that comply with N.J.A.C. 13:19-6.11, including the address of each, whether the facility is owned by the manufacturer or will be leased, rented, or otherwise secured from the owner and the name, address and telephone number of the owner; and

10. A list of employees that will provide services related to BAIIDs at the manufacturer's service centers.

13:19-6.7 Certification of BAIID by the Director; bonding requirement

(a) Except as provided in (b) below, the Director shall certify a BAIID pursuant to N.J.S.A. 39:4-50.20 provided the BAIID meets the requirements of N.J.A.C. 13:19-6.5, the manufacturer has filed a completed application containing the certifications and information required in N.J.A.C. 13:19-6.6, and the manufacturer's service center complies with the requirements of N.J.A.C. 13:19-6.11.

(b) In determining to grant certification, the Director shall take into consideration the denial, suspension, or revocation of certification or approval of a BAIID by another state for the same model BAIID in New Jersey. The Director shall deny certification if the Director determines that the circumstances or conditions another state found to exist as warranting denial, suspension, or revocation of certification or approval of the BAIID are relevant to New Jersey's program goals and have not been corrected or remedied to a degree that ensures that the goals of this subchapter and its authorizing legislation, as amended and supplemented from time to time, would be met.

(c) The Director shall notify the manufacturer in writing that the Director has certified, or that the Director has denied certification of, the BAIID. If the Director has denied certification, the notification shall state the reason for the denial.

(d) After certification of a BAIID, and before permitting the installation of the certified BAIID by its service centers, the manufacturer shall file with the Division a surety bond for \$10,000 that insures the Division against any monetary loss suffered because of a violation of these rules by the manufacturer and/or its service centers.

13:19-6.8 Liability insurance

The manufacturer of a BAIID that is the subject of an application for certification under N.J.A.C. 13:19-6.7 shall carry product liability insurance with minimum liability limits of one million dollars per occurrence, with three million dollars aggregate total. The liability covered shall include defects in product design and materials as well as in the work of manufacturing. The proof of insurance shall include a statement from the insurance company that the insurance company shall provide the Division with written notice of cancellation of the insurance 30 days before cancellation of the insurance.

13:19-6.9 Reports required from manufacturer after BAIID certification

(a) The manufacturer of a BAIID certified under N.J.A.C. 13:19-6.7 shall provide annually to the Division the following:

1. A certified statement that its manufacture of the certified BAIID has not been modified or altered in any way; and
2. A summary of all complaints received and corrective action taken by the manufacturer concerning the servicing or use of the certified BAIID, that shall be categorized by:
 - i. Customer error of operation;
 - ii. Faulty automotive equipment other than the BAIID;
 - iii. Apparent misuse or attempts to circumvent the BAIID causing damage;
 - iv. BAIID failure due to material defect, design defect, or workmanship errors in construction; and
 - v. Vehicle or BAIID failure due to service provided by the manufacturer's service center.

(c) The manufacturer of a BAIID certified under N.J.A.C. 13:19-6.7 shall notify the Division in writing if another state denies, suspends, or revokes certification or approval of the BAIID. This notification shall be made within 30 days after the manufacturer has received notice of the suspension, revocation, or denial of certification or approval of the BAIID, regardless of whether or not the manufacturer has sought review of the suspension, revocation or denial of certification or approval.

13:19-6.10 Revocation of certification of BAIID

(a) The Director shall revoke certification of a BAIID, and remove it from the list of approved BAIIDs, upon one or more of the following grounds:

1. Evidence of repeated device failures due to gross defects in design, materials, or workmanship during manufacture;
2. Termination of manufacturer's liability insurance;
3. Notification that the manufacturer is no longer in business;
4. Request of the manufacturer to remove its BAIID from the list of approved BAIIDs;
5. Evidence that the manufacturer is not in compliance with the provisions of this subchapter, and the determination that the noncompliance impairs the integrity, safety, consistency, or cost-effectiveness of, or public trust in, the program;
6. Evidence that the manufacturer repeatedly is not in compliance with the provisions of this subchapter, and the

determination that the repeated noncompliance impairs the integrity, safety, consistency, or cost-effectiveness of, or public trust in, the program;

7. Evidence that the BAIID was inaccurately represented to meet certification standards; or

8. Suspension, revocation or denial of certification or approval of a BAIID in another state.

(b) The effective date of revocation shall be 15 days after the Division sends notification thereof to the manufacturer by certified mail, except in cases where the Director determines immediate revocation is necessary for the safety and welfare of the public.

(c) Upon revocation of the Director's certification of a BAIID, the manufacturer shall be responsible for removal of all such BAIIDs from the vehicles of persons that had the BAIID installed to meet court-ordered sentencing requirements, for any costs connected with the removal, and for the cost of the installation of new BAIIDs that comply with this subchapter.

13:19-6.11 Service center requirements

(a) Each service center in a manufacturer's network shall be able to service the manufacturer's BAIID in accordance with accepted industry standards and according to the instructions provided by the manufacturer of the BAIID.

(b) Each service center shall:

1. Be configured to provide a secure area that is both physically and visually inaccessible to customers, in which to service BAIIDs;
2. Provide a waiting area in which persons may wait during BAIID servicing, and an area for customer training;
3. Display in a place visible to BAIID customers a sign provided by the Division that states "New Jersey Approved Ignition Interlock Service Center";
4. Be equipped with the necessary tools, test equipment, and manuals for servicing BAIIDs;
5. Have a secure area in which to maintain materials, records, supplies and equipment related to the servicing of BAIIDs;
6. Keep as confidential and shall not disclose program participants' personal and medical information provided to the Service Provider, except to the Division and to entities designated by the Division as authorized to receive the information;
7. Monitor BAIIDs periodically, at intervals of no more than 67 days;
8. Maintain records required to be made pursuant to this subchapter and shall provide an individual's data logger record, either in computerized or hard copy form

or both, for inspection by the Division's authorized representatives for at least five years after BAIID removal;

9. Create a written record and photograph evidence of tampering or attempted tampering with or circumvention or attempted circumvention of the proper operation of a device;

10. Provide ignition interlock devices at reduced rates to indigent persons in accordance with N.J.A.C. 13:19-6.14;

11. Operate during normal business hours;

12. Maintain a toll-free 24-hour emergency response telephone number;

13. Respond to requests for emergency response within 40 minutes of the request, and shall provide emergency service within 48 hours of the request;

14. Complete installation of a BAIID within seven days of a program participant's request;

15. Provide the program participant with a certificate of installation on a form provided by the Division upon completion and delivery of the BAIID installation;

i. The certificate of installation shall contain the following information:

(1) The service provider's name, address, and telephone number;

(2) The installer's signature;

(3) The date of installation;

(4) The name and address of the registered owner of the vehicle in which the device is installed;

(5) The name and address of the person required by the court to have the BAIID installed, if different than the owner; and

(6) The make, model, year, vehicle identification number and license plate number of the vehicle in which the BAIID is installed;

ii. The service center shall attach the service invoice to the certificate of installation;

16. Provide user orientation, training, and support;

i. Training shall take the form of written instructions and hands-on training for operation of the BAIID installed in the participant's vehicle;

ii. Training shall include instructions on routine user care, cleaning, and maintenance, and procedures in emergencies;

iii. The service center shall provide the participant with a list of vehicle repairs or malfunctions that may affect the operation of the BAIID and instructions and procedures to be followed in the performance of vehicle repairs to avoid affecting the operation of the BAIID; and

iv. The service center shall provide the program participant with its 24-hour emergency telephone number and a list of service providers' locations and telephone numbers; and

17. Provide periodic servicing and calibration to ensure proper operation of the device and its tamper-detection capabilities that shall include:

i. Recalibration and performance of all periodic service required by the manufacturer;

ii. Inspection of the BAIID's external wiring insulation, connections, and sheathing, including connections to the vehicle and tamper seals to ensure proper functioning of the device and for any perforations, cuts or other evidence of possible tampering;

iii. Written documentation and photographing of any evidence of attempts to tamper with the BAIID, such as perforations or cuts; and

iv. If a service center observes that a BAIID is inoperable in any respect, confirmation that the BAIID is in fully operating condition, and restoration to fully operating condition.

(c) Service center personnel:

1. That service BAIIDs shall have the training and skills necessary to provide such service and to provide user orientation and support;

2. Shall not have been convicted of a crime substantially related to their qualifications, functions, and duties as service provider employees, including, but not limited to, convictions for the following offenses:

i. Perjury;

ii. Any felony;

iii. Violation of probation; or

iv. For personnel employed by an applicant for approval as a service center, any alcohol or drug-related offense within the five years prior to the date of application for approval; for personnel hired by an applicant or approved service center after that date, any alcohol or drug-related offense within five years prior to their hiring date; and

3. Shall have no record of a driver license or registration revocation, suspension, or denial for a violation or violations of motor vehicle safety equipment laws within the last five years prior to the commencement of their employment.

13:19-6.12 Annual registration and review of certification of BAIID

(a) A manufacturer of a BAIID certified under N.J.A.C. 13:19-6.7 shall register the BAIID with the Director by January 30 of each year subsequent to the year in which the Director certified the BAIID on a form supplied by the Division.

(b) The registration form shall require the manufacturer to state that its certified BAIID and each service center in its network meets the requirements of this subchapter, as amended and supplemented.

13:19-6.13 (Reserved)**13:19-6.14 Indigent persons**

(a) An indigent person is eligible for a reduced installation charge and monthly leasing fees during the period the person is indigent.

(b) A person applying for reduced rates established at (c) below must present to the manufacturer or service provider proof that the person is indigent at the time of application. A valid participation card or a letter in original form from the governmental assistance program's sponsoring agency written on the agency's letterhead confirming participation in the governmental assistance program shall be acceptable forms of proof.

(c) The reduced rate for indigent persons is 50 percent of the installation charge and 50 percent of the monthly leasing fee.

13:19-6.15 List of approved BAIIDS and service centers

A list of the BAIIDS certified by the Director under N.J.A.C. 13:19-6.7, and of the service centers where the BAIIDS may be obtained and serviced, may be obtained by contacting the Division at the following address:

New Jersey Division of Motor Vehicle Services
 PO Box 134
 Trenton, NJ 08625-0134
 (609) 292-7500
 or by accessing the Division's website at
www.state.nj.us/mvs

**SUBCHAPTER 7. RECIPROcity AGREEMENT
 BETWEEN CONNECTICUT AND NEW
 JERSEY**

13:19-7.1 Purpose

(a) The Motor Vehicle Department, State of Connecticut, and the Division of Motor Vehicles, Department of

Transportation, of the State of New Jersey, cognizant of the need for uniformity and reciprocity in the administration and enforcement of their respective motor vehicle laws and regulations as related to the out-of-State violations of their respective operators, have determined that an effective agreement, followed by prompt administrative action on the part of both Connecticut and New Jersey, will establish a more uniform and positive method of driver control.

(b) It is recognized that effective driver control can be accomplished only if there is agreement to maintain uniform procedures of reporting with similar and concurrent actions of suspensions by either jurisdiction.

Amended by R.1999 d.312, effective September 20, 1999.

See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (a), substituted a reference to the Department of Transportation for a reference to the Department of Law and Public Safety.

13:19-7.2 Reports of single conviction

(a) Upon receipt of a report of conviction or forfeiture of any bail from a court for a moving violation of a motor vehicle law by a driver from the alternate state and revocation or suspension action is not taken by the motor vehicle authority of the state in which the violation occurred, a copy of the report will be forwarded to the motor vehicle authority of the home state of the driver.

(b) The motor vehicle authority of the home state of the driver will, upon receipt of a copy of the report, treat the report in the same manner as if the violation had occurred in the home state.

13:19-7.3 Revocation or suspension

(a) When revocation or suspension action is taken by the state where the violation occurred, a copy of the notice of revocation or suspension will be forwarded to the home state of the driver.

(b) Such notice will contain the reason for the action taken, the effective date, and the period of revocation or suspension. If revocation or suspension is based on court action, a copy of the court report will accompany the notice.

(c) The home state will upon receipt of a copy of notice of revocation or suspension, process and take action in the same manner as if the violation or reason for action had occurred in the home state and in accordance with its law, regulation or policy.

13:19-7.4 Speeding

(a) Upon receipt of a report of conviction or a forfeiture of any bail from a court for violation of the speeding laws by a driver from the alternate state, the state where the violation occurred will impose revocation or suspension of reciprocity driving privilege in accordance with its law, regulation or policy, and forward copy of notice to the driver's home state.

(b) The suspension order will be accompanied by a copy of the court report and will include the miles per hour the driver was traveling and the legal speed limit in the location where the violation was committed.

(c) The driver's home state will impose revocation or suspension in accordance with its law, regulation or policy.

(d) When suspension is imposed by the motor vehicle authority of the state in which the violation occurred, such suspension will be effective 30 days after the date of determination. A copy of the order will be transmitted to the motor vehicle authority of the home state of the driver 30 days prior to the effective date of the suspension.

(e) In order that the period of suspension will coincide as to timing and be concurrent, the motor vehicle authority of the home state will suspend making the effective date of the suspension the same as the suspension in the alternate state.

13:19-7.5 Failure to satisfy local court summons for moving violations

(a) When suspension is imposed by the motor vehicle authority of the state in which the violation occurred for failure to satisfy a local court summons, a copy of notice of suspension will be forwarded to the motor vehicle authority of the home state of the driver.

(b) Such notice will contain or be accompanied by information regarding the violation, the identity and address of the local court where the summons is returnable.

(c) Upon receipt of notice by the motor vehicle authority of the home state that one of its licensees has failed to satisfy a local court summons for a moving violation committed in the alternate state, the motor vehicle authority of the home state will suspend the license privilege of the driver until it is established that the summons has been satisfied.

13:19-7.6 Restoration

Upon restoration, the motor vehicle authority of the state in which the violation occurred will transmit to the motor vehicle authority of the home state of the driver a copy of the official notice of restoration.

SUBCHAPTER 8. RECIPROCITY AGREEMENT BETWEEN PROVINCE OF ALBERTA AND STATE OF NEW JERSEY

13:19-8.1 Scope of subchapter

This Subchapter contains a reciprocity arrangement between the Province of Alberta and the State of New Jersey, whereby each Province and State grants to the other full reciprocity, subject to restrictions as set out herein, as to motor vehicles operated within the Province of Alberta and the State of New Jersey.

13:19-8.2 Operation of vehicles

(a) Any legally registered resident, public service or commercial motor vehicle of either the Province of Alberta or the State of New Jersey, while engaged in through or interstate commerce, but not operating for hire between fixed termini in the province or state granting reciprocity, shall be permitted to operate in the other province or state on such interstate operations, on lawful business and on the same basis as permitted by the registration of its province or state of domicile without the payment of motor vehicle privilege license fees of any kind, including registration fees, license plate fees, compensation fees, ton mileage fees, gross vehicle weight tax fees or itinerant trip permit fees, provided that such operation shall not be in violation of the laws of the province or state extending such reciprocity.

(b) This agreement does not grant exemption from fuel use or autobus excise tax laws in effect in either jurisdiction; nor does this arrangement grant exemption from the requirement to be in possession of the necessary operating authority in the case of any motor vehicle transporting passengers, goods, wares or merchandise for compensation.

13:19-8.3 Termination

Either party may terminate this arrangement by giving 30 days' written notice to the other party.

13:19-8.4 Permits

The authorized representative of the province and state will formulate regulations governing the issuance of permits and methods of identification of the expected vehicles provided for in this subchapter.

SUBCHAPTER 9. DESIGNATION OF STATE OFFICIAL TO BE NOTIFIED BY DRIVERS OF COMMERCIAL MOTOR VEHICLES CONCERNING OUT-OF-STATE MOTOR VEHICLE CONVICTIONS

13:19-9.1 Designation of State official; notification

(a) The Assistant Director, Driver Control/Regulatory Affairs, is designated as the State official to be notified, pursuant to the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, concerning out-of-State motor vehicle convictions.

(b) A driver of a commercial motor vehicle, as defined in the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, shall submit within 30 days of conviction a notice concerning an out-of-State conviction(s) for a violation(s) of any law relating to motor vehicle traffic control to the following address:

Assistant Director, Driver Control/Regulatory Affairs
 Division of Motor Vehicles
 PO Box 174
 Trenton, New Jersey 08666-0174

Amended by R.1994 d.468, effective September 19, 1994.
 See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).
 Amended by R.1999 d.312, effective September 20, 1999.
 See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Substituted references to the Assistant Director, Driver Control/Regulatory Affairs for references to the Manager, Regulatory Affairs throughout.

Section Number	Offense	Points
15. N.J.S.A. 39:4-66.2	Operating a motor vehicle on public or private property to avoid a traffic control signal or sign	2
16. N.J.S.A. 39:4-71	Operating a motor vehicle on a sidewalk	2
17. N.J.S.A. 39:4-80	Failure to obey direction of officer	2
18. N.J.S.A. 39:4-81	Failure to observe traffic signals	2
19. N.J.S.A. 39:4-82	Failure to keep right	2
20. N.J.S.A. 39:4-82.1	Improper operating of vehicle on divided highway or divider	2
21. N.J.S.A. 39:4-83	Failure to keep right at intersection	2
22. N.J.S.A. 39:4-84	Failure to pass right of vehicle proceeding in opposite direction	5
23. N.J.S.A. 39:4-85	Improper passing on right or off roadway	4
24. N.J.S.A. 39:4-85.1	Wrong way on a one-way street	2
25. N.J.S.A. 39:4-86	Improper passing in no passing zone	4
26. N.J.S.A. 39:4-87	Failure to yield to overtaking vehicle	2
27. N.J.S.A. 39:4-88	Failure to observe traffic lanes	2
28. N.J.S.A. 39:4-89	Tailgating	5
29. N.J.S.A. 39:4-90	Failure to yield at intersection	2
30. N.J.S.A. 39:4-90.1	Failure to use proper entrances to limited access highways	2
31. N.J.S.A. 39:4-91 and 39:4-92	Failure to yield to emergency vehicles	2
32. N.J.S.A. 39:4-96	Reckless driving	5
33. N.J.S.A. 39:4-97	Careless driving	2
34. N.J.S.A. 39:4-97a	Destruction of agricultural or recreational property	2
35. N.J.S.A. 39:4-97.1	Slow speed blocking traffic	2
36. N.J.S.A. 39:4-97.2	Driving in an unsafe manner (points only assessed for the third or subsequent violation(s) within a five year period)	4
37. N.J.S.A. 39:4-98 and 39:4-99	Exceeding maximum speed 1-14 mph over limit	2
	Exceeding maximum speed 15-29 mph over limit	4
	Exceeding maximum speed 30 mph or more over limit	5
38. N.J.S.A. 39:4-105	Failure to stop for traffic light	2
39. N.J.S.A. 39:4-115	Improper turn at traffic light	3
40. N.J.S.A. 39:4-119	Failure to stop at flashing red signal	2
41. N.J.S.A. 39:4-122	Failure to stop for police whistle	2
42. N.J.S.A. 39:4-123	Improper right or left turn	3
43. N.J.S.A. 39:4-124	Improper turn from approved turning course	3
44. N.J.S.A. 39:4-125	Improper "U" turn	3
45. N.J.S.A. 39:4-126	Failure to give proper signal	2

SUBCHAPTER 10. POINT SYSTEM AND DRIVING DURING SUSPENSION

13:19-10.1 Point assessment

Any person who is convicted of any of the following offenses, including offenses, committed while operating a motorized bicycle, shall be assessed points for each conviction in accordance with the following schedule:

Section Number	Offense	Points
1. N.J.S.A. 27:23-29	Moving against traffic—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
2. N.J.S.A. 27:23-29	Improper passing—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	4
3. N.J.S.A. 27:23-29	Unlawful use of median strip—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
4. N.J.S.A. 39:3-20	Operating constructor vehicle in excess of 30 mph	3
5. N.J.S.A. 39:4-14.3	Operating motorized bicycle on a restricted highway	2
6. N.J.S.A. 39:4-14.3d	More than one person on a motorized bicycle	2
7. N.J.S.A. 39:4-35	Failure to yield to pedestrian in crosswalk	2
8. N.J.S.A. 39:4-36	Failure to yield to pedestrian in crosswalk; Passing a vehicle yielding to pedestrian in crosswalk	2
9. N.J.S.A. 39:4-41	Driving through safety zone	2
10. N.J.S.A. 39:4-52 and 39:5C-1	Racing on highway	5
11. N.J.S.A. 39:4-55	Improper action or omission on grades and curves	2
12. N.J.S.A. 39:4-57	Failure to observe direction of officer	2
13. N.J.S.A. 39:4-66	Failure to stop vehicle before crossing sidewalk	2
14. N.J.S.A. 39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2

Section Number	Offense	Points	
46. N.J.S.A. 39:4-127	Improper backing or turning in street	2	Proposed suspension of licensee's driving privileges denied. Division of Motor Vehicles v. Lombardi, 94 N.J.A.R.2d (MVH) 46.
47. N.J.S.A. 39:4-127.1	Improper crossing of railroad grade crossing	2	Proposed suspension of licensee's driving privileges denied; notice. Division of Motor Vehicles v. Frisoli, 94 N.J.A.R.2d (MVH) 43.
48. N.J.S.A. 39:4-127.2	Improper crossing of bridge	2	
49. N.J.S.A. 39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2	Proposed suspension of licensee's driving privileges for driving during a period of suspension; inadequate notice. Division of Motor Vehicles v. Daquino, 94 N.J.A.R.2d (MVH) 41.
50. N.J.S.A. 39:4-128.1	Improper passing of school bus	5	Driver's license was suspended for careless driving. Division of Motor Vehicles v. Peters, 94 N.J.A.R.2d (MVH) 28.
51. N.J.S.A. 39:4-128.4	Improper passing of a frozen dessert truck	4	Driver's license was properly suspended for reckless driving, careless driving, disregard of a traffic signal and improper lane change. Division of Motor Vehicles v. Rodriguez, 94 N.J.A.R.2d (MVH) 26.
52. N.J.S.A. 39:4-129	Leaving the scene of an accident		
	No personal injury	2	
	Personal injury	8	
53. N.J.S.A. 39:4-144	Failure to observe "stop" or "yield" signs	2	Driver's license was suspended; mitigating factors reduced period of suspension. Division of Motor Vehicles v. Burd, 94 N.J.A.R.2d (MVH) 23.
54. N.J.S.A. 39:5D-4	Moving violation Out-of-State	2	Insufficient evidence to establish that the driver operated her vehicle in a careless manner. Division of Motor Vehicles v. Keller, 94 N.J.A.R.2d (MVH) 20.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

Old point assessment list deleted and new list added.

Amended by R.1985 d.599, effective November 18, 1985.

See: 17 N.J.R. 2231(a), 17 N.J.R. 2780(a).

Added new 34. Renumbered old 34 through 52 to 35 through 53.

Amended by R.1993 d.486, effective October 4, 1993.

See: 25 N.J.R. 2646(a), 25 N.J.R. 4599(b).

Amended by R.1994 d.468, effective September 19, 1994.

See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Amended by R.2001 d.357, effective October 1, 2001.

See: 33 N.J.R. 1340(b), 33 N.J.R. 3453(b).

Added new 36; recodified old 36 through 53 as 37 through 54.

Administrative correction.

See: 33 N.J.R. 3907(a).

Proposed license suspension dismissed; insufficient evidence to establish careless driving, reckless driving, racing, or speeding. Division of Motor Vehicles v. Glock, 94 N.J.A.R.2d (MVH) 17.

License suspended for careless driving. Division of Motor Vehicles v. Barnes, 93 N.J.A.R.2d (MVH) 3.

Running stop sign was not careless driving. Division of Motor Vehicles v. Orzechowski, 92 N.J.A.R.2d (MVH) 17.

13:19-10.2 Point accumulation; period of suspension

(a) The Director shall, except for good cause, suspend a person's license to operate a motor vehicle and/or motorized bicycle in accordance with the following schedule:

Points Accumulated	Period of Suspension
1. 12 to 15 points in a period of two years or less	30 days
2. 16 to 18 points in a period of two years or less	60 days
3. 19 to 21 points in a period of two years or less	90 days
4. 22 to 24 points in a period of two years or less	120 days
5. 25 to 27 points in a period of two years or less	150 days
6. 28 or more points in a period of two years or less	not less than 180 days
7. 15 to 18 points in a period greater than two years	30 days
8. 19 to 22 points in a period greater than two years	60 days
9. 23 to 26 points in a period greater than two years	90 days
10. 27 to 30 points in a period greater than two years	120 days
11. 31 to 35 points in a period greater than two years	150 days
12. 36 points in a period greater than two years	not less than 180 days
13. 12 to 14 points in a period greater than two years	30 days

Case Notes

Legislative purpose in enacting statute concerning point system for motor vehicle violations was to recognize validity of then existing point system. No Illegal Points, Citizens for Drivers Rights, Inc. v. Florio, 264 N.J.Super. 318, 624 A.2d 981 (A.D.1993), certification denied 134 N.J. 479, 634 A.2d 526.

Point system for motor vehicle violations did not violate double jeopardy by imposing multiple punishment for same offense. No Illegal Points, Citizens for Drivers Rights, Inc. v. Florio, 264 N.J.Super. 318, 624 A.2d 981 (A.D.1993), certification denied 134 N.J. 479, 634 A.2d 526.

Statutory requirement that points for motor vehicle violations "shall" be imposed in open court did not require that points actually be assessed in open court rather than by Department of Motor Vehicles (DMV). No Illegal Points, Citizens for Drivers Rights, Inc. v. Florio, 264 N.J.Super. 318, 624 A.2d 981 (A.D.1993), certification denied 134 N.J. 479, 634 A.2d 526.

Amendment of municipal court complaint at Law Division trial de novo to related charge carrying greater penalty point total permitted, but point penalty limited to that under original charge. State v. Duthie, 200 N.J.Super. 19, 490 A.2d 323 (App.Div.1985), certification denied 101 N.J. 277, 501 A.2d 942 (1985).

Acceptance by licensee of offer to settle question of accumulated points by attending driver improvement school could not be unilaterally set aside by Division of Motor Vehicles in absence of fraud. Division of Motor Vehicles v. Clark, 95 N.J.A.R.2d (MVH) 84.

Proposed suspension of driver's license was denied despite involvement in a fatal accident. Division of Motor Vehicles v. Badran, 94 N.J.A.R.2d (MVH) 69.

(b) For good cause shown, the Director may in his discretion permit a person to attend a driver improvement course of the Division of Motor Vehicles in total or partial satisfaction of a period of suspension imposed under (a) above. In exercising his discretion, the Director shall consider the person's driving record, prior warnings or driver improvement school attendance, maturity and any other aggravating or mitigating factor.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

Deleted old text and added new text.

Case Notes

Arrest; operating motor vehicle when license was suspended; Fourth Amendment. *State v. Pierce*, 136 N.J. 184, 642 A.2d 947 (1994).

License suspension was warranted where fatal collision resulted from careless lane change. *Division of Motor Vehicles v. Hunt*, 96 N.J.A.R.2d (MVH) 42.

Motorist involved in fatal collision would face 12-month license suspension where motorist was driving erratically just prior to collision. *Division of Motor Vehicles v. Paynter*, 96 N.J.A.R.2d (MVH) 34.

License suspension was warranted for motorist who fatally struck pedestrian while making left turn, even though pedestrian was crossing street against red traffic light. *Division of Motor Vehicles v. Conosta*, 96 N.J.A.R.2d (MVH) 31.

License suspension was appropriate penalty for driver of group home minibus who backed over mentally disabled passenger just after passenger had exited bus. *Division of Motor Vehicles v. Adams*, 96 N.J.A.R.2d (MVH) 24.

18-month suspension of driving privileges was appropriate penalty for motorist whose careless driving at excessive speeds contributed to death of another driver. *Division of Motor Vehicles v. Nolan*, 96 N.J.A.R.2d (MVH) 12.

Flawed testimony of eyewitness required remand of suspension case for review of evidence with respect to collision without reference to testimony. *Division of Motor Vehicles v. Vann*, 95 N.J.A.R.2d (MVH) 97.

Carelessness in operation of school bus that led to fatal collision with motorcyclist warranted 360 day suspension of driving privileges. *Division of Motor Vehicles v. Cornwell*, 95 N.J.A.R.2d (MVH) 88.

Reckless driving prior to collision that resulted in fatal collision with decedent's vehicle warranted 29 month suspension of licensee's driving privileges. *Division of Motor Vehicles v. Hunt*, 95 N.J.A.R.2d (MVH) 85.

Leaving scene of accident after striking pedestrian and inflicting fatal injuries warranted 14 month suspension of driving privileges. *Division of Motor Vehicles v. Horn*, 95 N.J.A.R.2d (MVH) 78.

Inattention that led to fatal accident and careless driving violation warranted suspension of driving privileges for 12 months. *Division of Motor Vehicles v. Harris*, 95 N.J.A.R.2d (MVH) 71, affirmed 96 N.J.A.R.2d (MVH) 1.

Involvement in fatal intersectional collision, when licensee otherwise exercised due care and was neither wilful nor reckless, was not a basis for suspending driving privileges. *Division of Motor Vehicles v. Hall*, 95 N.J.A.R.2d (MVH) 66.

Carelessness in respect to fatal collision warranted 36 month suspension of driving privileges. *Division of Motor Vehicles v. Cream*, 95 N.J.A.R.2d (MVH) 59.

Altering driver's license to enable purchase of alcoholic beverages while underage warranted 15-day license suspension. *Division of Motor Vehicles v. Longworth*, 95 N.J.A.R.2d (MVH) 55.

Moving violations in connection with licensee's involvement in fatal collision demonstrated carelessness warranting license suspension for actions substantially contributing to accident. *Division of Motor Vehicles v. Schiavone*, 95 N.J.A.R.2d (MVH) 46.

Mere contributory fault with respect to intersectional collision that resulted in death of another was insufficient on which to base 15 month suspension of licensee's driving privileges. *Division of Motor Vehicles v. Hantsoulis*, 95 N.J.A.R.2d (MVH) 42.

License suspension was not warranted when driver was not culpable because pedestrian was already dead when vehicle came into contact with her. *Division of Motor Vehicles v. Scheps*, 95 N.J.A.R.2d (MVH) 34.

Suspension of driving privileges for 55 months was warranted by reason of involvement in fatal hit and run. *Division of Motor Vehicles v. Slavkovsky*, 95 N.J.A.R.2d (MVH) 25.

Reckless operation of bus prior to fatal accident was a proper basis on which to suspend driving privileges for a period of 62 months notwithstanding any inconvenience to licensee. *Division of Motor Vehicles v. Vann*, 95 N.J.A.R.2d (MVH) 15.

Careless driving leading to fatal collision was sufficient basis for suspension of driver's license for 120 days. *Division of Motor Vehicles v. Stroinski*, 95 N.J.A.R.2d (MVH) 12, affirmed 96 N.J.A.R.2d (MVH) 1, certification denied 144 N.J. 378, 676 A.2d 1093.

Fatal accident for which licensee was clearly culpable justified suspension of license to drive for three months for careless driving. *Division of Motor Vehicles v. Parise*, 95 N.J.A.R.2d (MVH) 7.

License suspension upheld against challenge that point accumulation scheme under statute and regulation was an ex post facto law as applied against licensee. *Div. of Motor Vehicles v. Katz*, 5 N.J.A.R. 1 (1981).

Petitioner's employment as surgical sales representative found not to be in nature of an essential service so as to qualify for driver improvement course as an alternative to license suspension due to penalty point accumulation; hospital supply needs in emergency may be otherwise met by petitioner's employer. *Div. of Motor Vehicles v. Morton*, 4 N.J.A.R. 95 (1982).

13:19-10.3 Driver improvement program attendance

(a) A person who is permitted to attend a driver improvement program of the Division of Motor Vehicles in total or partial satisfaction of suspension or revocation shall agree to attend each session of the assigned driver improvement program and to comply with all rules governing attendance, conduct, instruction, and examinations. A person who fails to comply with the foregoing requirements or who otherwise fails to successfully complete the assigned driver improvement program shall be subject to a driver license suspension for the period contained in the notice of proposed suspension. A person who successfully completes the assigned driver improvement program shall be officially warned with respect to future driving.

(b) A person whose driver license has been suspended, pursuant to N.J.A.C. 13:19-10.2 (Point accumulation; periods of suspension) may be required to attend and successfully complete a driver improvement program of the Division of Motor Vehicles as a condition for restoration of the driver license.

(c) The fee for attendance at a Division of Motor Vehicles driver improvement program shall be \$100.00.

(d) The Director is authorized to exercise discretionary authority to require any person who is licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b to attend a Probationary Driver Program whenever said person accumulates two or more violations of the motor vehicle law which result in the assessment of four or more points under N.J.A.C. 13:19-10.1 (Point assessment).

(e) A person who is required to attend a Probationary Driver Program shall agree to attend each session of the program and to comply with all rules governing attendance, conduct, instruction, and examinations. A person who fails to comply with the foregoing requirements or who otherwise fails to successfully complete the Probationary Driver Program shall be subject to a driver license suspension for the period contained in the notice of proposed suspension. A person who successfully completes the Probationary Driver Program shall be officially warned with respect to future driving.

(f) The fee for attendance at a Division of Motor Vehicles probationary driver program shall be \$100.00.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

Increased driver improvement program fee from \$20.00 to \$40.00.

Amended by R.1994 d.468, effective September 19, 1994.

See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Amended by R.1995 d.365, effective July 3, 1995.

See: 27 N.J.R. 1521(b), 27 N.J.R. 2592(b).

Increased the fees for attendance at the driver improvement program and probationary driver program from "\$40.00" to "\$100.00".

13:19-10.4 Advisory notice

(a) Whenever a person accumulates six or more points, the Division shall send an official notice advising the motorist of such status.

(b) Whenever a person who is licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b is first convicted of a motor vehicle violation requiring the assessment of points against the individual's driving record under N.J.A.C. 13:19-10.1 (Point assessment) the Division shall send an official notice advising the motorist of the status of the driving record.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

13:19-10.5 Reductions of point accumulation

Points recorded against the licensee shall be reduced in accordance with the provisions of N.J.S.A. 39:5-30.9.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

Deleted old text and added new text.

Case Notes

Acceptance by licensee of offer to settle question of accumulated points by attending driver improvement school could not be unilaterally set aside by Division of Motor Vehicles in absence of fraud. Division of Motor Vehicles v. Clark, 95 N.J.A.R.2d (MVH) 84.

13:19-10.6 Restoration; official warning; completion of Driver Improvement or Probationary Driver Program

(a) Persons whose licenses are restored after a suspension imposed under N.J.A.C. 13:19-10.2 or after a suspension imposed under this section, persons who are officially warned after an administrative hearing, and persons who successfully complete a Division Driver Improvement Program or Probationary Driver Program may retain their licenses upon the express condition and understanding that any subsequent violation of the Motor Vehicle Laws of the State of New Jersey committed within one year of the restoration, official warning, or warning following successful completion of a Driver Improvement or Probationary Driver Program shall, except for good cause, result in suspension of driving privileges for the following periods:

1. When the subsequent violation occurs within six months of the date of the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—90 days;

2. When the subsequent violation occurs more than six months but less than nine months after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—60 days;

3. When the subsequent violation occurs more than nine months but less than one year after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—45 days.

(b) A second violation of the Motor Vehicle Laws committed within one year of the restoration, official warning or warning following successful completion of a Driver Improvement or Probationary Driver Program shall, except for good cause, result in suspension of driving privileges for the following periods:

1. When the second violation occurs within six months of the date of the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—180 days.

2. When the second violation occurs more than six months but less than nine months after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—120 days.

3. When the second violation occurs more than nine months but less than one year after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program—90 days.

(c) Persons, licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b, who have been subject to a license suspension action under (a) or (b) above may be required to successfully complete additional programs of driver rehabilitation within the discretion of the Director.

As amended, R.1983 d.360, effective September 6, 1983.

See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

Added new (b) and recodified old (b) as (c).

Amended by R.1994 d.468, effective September 19, 1994.

See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Case Notes

Motorist who violated local ordinance during probationary period would not face suspension of driver's license. Division of Motor Vehicles v. Stancheck, 96 N.J.A.R.2d (MVH) 3.

Improper operation within one year of probationary period did not warrant suspension given to delay in posting offense. Division of Motor Vehicles v. Arian, 95 N.J.A.R.2d (MVH) 98.

13:19-10.7 Court ruling

The provisions of this subchapter shall not be affected by any revocation or suspension judicially imposed, except that no lesser period of revocation or suspension shall be imposed than that directed by the court.

13:19-10.8 Driving during period of suspension

(a) Whenever the driving privileges of an individual have been suspended or revoked for any reason, either judicially or administratively:

1. The operation of the motor vehicle by the individual during the period of suspension or revocation shall be cause for extending the period of revocation or suspension for an additional six months, or for some other period determined by the director.

2. Should information be received by the division after restoration of an individual's driving privileges that the individual operated a motor vehicle during the period of revocation or suspension, the director may revoke or suspend the individual's driving privileges for a period of six months, or for some other period which the director determines;

3. In addition to the revocation or suspension of an individual's driving privileges as provided for in paragraphs 1 and 2 above, the director may determine to suspend the motor vehicle registration privileges of an

owner-operator who operates a motor vehicle during a period of revocation or suspension of driving privileges. Such period of suspension of registration privileges shall coincide with the period of suspension of the individual's driving privileges, or for some other period to be determined by the director.

Case Notes

Prior administrative suspensions of driving privileges are not prior convictions which will support imposition of enhanced penalty for driving vehicle while on suspended or revoked list. *State v. Conte*, 245 N.J.Super. 629, 586 A.2d 353 (L.1990).

13:19-10.9 (Reserved)

As amended, R.1973 d.63, effective March 8, 1973.
See: 5 N.J.R. 52(b), 5 N.J.R. 119(b).

SUBCHAPTER 11. SUSPENSION FOR OUT-OF-STATE CONVICTIONS; ADMINISTRATIVE DETERMINATIONS AND BAIL FORFEITURES FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REFUSAL TO SUBMIT TO CHEMICAL TEST

13:19-11.1 Suspension period determined by N.J.S.A. 39:4-50 and 39:4-50.4a

(a) Out-of-state convictions, administrative determinations or bail forfeitures for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be given the same effect as if such conviction, administrative determination or bail forfeiture had occurred in this State.

(b) The driving privileges of a New Jersey licensee who incurs an out-of-State conviction or administrative determination for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be suspended for the minimum term specified in N.J.S.A. 39:4-50 or 39:4-50.4a. If the out-of-State conviction or administrative determination constitutes said driver's second, third or subsequent violation for operating while under the influence, a suspension shall be imposed under N.J.S.A. 39:4-50 corresponding to the number of the violation. If the out-of-State conviction or administrative determination for refusal to submit to a chemical test was a subsequent refusal or was in connection with said driver's subsequent offenses for operating while under the influence, a suspension shall be imposed for the term specified for subsequent offenses in N.J.S.A. 39:4-50.4a.

(c) The driving privileges of a New Jersey licensee who incurs an out-of-state bail forfeiture in connection with a charge of operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be suspended until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the Division of Motor Vehicles pursuant to N.J.S.A. 39:5F-1 et seq.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

In (b), inserted a reference to administrative determinations in the second sentence, and deleted "suspension" following "driver's" in the third sentence.

Case Notes

Driver's status as New Jersey licensee provided requisite authorization for Director of Motor Vehicles to suspend license for alcohol-related motor vehicle offense. *Matter of Johnson*, 226 N.J.Super. 1, 543 A.2d 454 (A.D.1988).

Occupational driving privileges may be granted to a New Jersey licensee whose reciprocity driving privileges were suspended by another state which, afterward, granted him occupational driving privileges. *New Jersey Div. of Motor Vehicles v. Egan*, 103 N.J. 350, 511 A.2d 133 (1986).

Power to suspend licenses of New Jersey drivers convicted of drunk driving in states not signatories to the Interstate Driver License Compact not diminished by statute permitting license revocation for Title 39 violation or "other reasonable grounds". *Div. of Motor Vehicles v. Kleinert*, 198 N.J.Super. 363, 486 A.2d 1324 (App.Div.1985).

Director has administrative authority to revoke or suspend the license of a driver convicted of drunk driving in any state, whether or not that state is a party to the Interstate Compact. *State v. Cromwell*, 194 N.J.Super. 519, 477 A.2d 408 (App.Div.1984).

Third DWI conviction warranted suspension for 3,600 days. *Division of Motor Vehicles v. Faraguna*, 92 N.J.A.R.2d (MVH) 34.

13:19-11.2 Alcohol education or rehabilitation program

A New Jersey resident who incurs an out-of-State conviction or administrative determination for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to a chemical test after arrest for operating while under the influence shall be required to satisfactorily complete a program of alcohol education or rehabilitation approved by the Director.

Amended by R.1999 d.312, effective September 20, 1999.
See: 31 N.J.R. 1440(a), 31 N.J.R. 2756(a).

Substituted "a chemical test after arrest for driving while under the influence" for "chemical tests" following "submit to".

SUBCHAPTER 12. MOTOR VEHICLE INSURANCE SURCHARGE

13:19-12.1 Failure to pay surcharge; Insurance Surcharge Bill

(a) The Director shall suspend the driving privileges of any person who fails to pay a surcharge levied under N.J.S.A. 17:29A-35b until said surcharge is paid to the Division of Motor Vehicles.

(b) Surcharge notification shall be in the form of an "Insurance Surcharge Bill." A person shall have 30 days from the date of surcharge notification to pay the surcharge before his or her driving privileges are suspended by the Director of the Division of Motor Vehicles.

Amended by R.1995 d.348, effective July 3, 1995.
See: 27 N.J.R. 1524(a), 27 N.J.R. 2591(a).

Changed a citation; substituted "driving" for "operating"; and substituted "Director" for "director".

13:19-12.2 Requests for hearings

(a) A licensee, or his or her attorney, may request a surcharge hearing in writing in accordance with the provisions of N.J.A.C. 13:19-1.

(b) All requests for a surcharge hearing shall be sent to the following address:

State of New Jersey
Automobile Insurance Surcharge and Collections
PO Box 136
Trenton, New Jersey 08666-0136

Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Added "or her"; substituted "shall have 15 days from the date of the surcharge notification" with "may request a surcharge hearing in writing in accordance with the provisions of N.J.A.C. 13:19-1." in (a). Added "surcharge"; changed zip code in address in (b).

13:19-12.3 (Reserved)

Repealed by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

13:19-12.4 (Reserved)

Repealed by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

13:19-12.5 (Reserved)

Repealed by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

13:19-12.6 (Reserved)

Repealed by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

13:19-12.7 (Reserved)

Repealed by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

13:19-12.8 Abandonment of hearing

If the licensee does not request a hearing in accordance with the provisions of N.J.A.C. 13:19-1 regarding the initial surcharge bill, or thereafter abandons the hearing request, the licensee shall not be granted a hearing on future billings for the convictions contained within the initial surcharge bill.

Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Substituted "to contest" with "in accordance with the provisions of N.J.A.C. 13:19-1 regarding"; substituted "have abandoned the right to" with "not be granted".

13:19-12.9 Conference resolutions or final decisions

Any resolution at a prehearing conference conducted in accordance with N.J.A.C. 13:19-1 regarding a surcharge bill or any final administrative decision shall be conclusive as to the issues contained in that resolution or decision, and shall preclude any hearing on those issues on future billings.

Amended by R.1991 d.220, effective April 15, 1991.
See: 22 N.J.R. 3446(a), 23 N.J.R. 1195(a).

Substituted "of a contested" with "conducted in accordance with N.J.A.C. 13:19-1 regarding a"; added "administrative"; deleted "after a contested case hearing"; deleted "the right to a"; added "any".

Case Notes

Driver may face high-risk insurance surcharge even though neither a resident nor a licensed driver in New Jersey. Division of Motor Vehicles v. Showman, 95 N.J.A.R.2d (MVH) 32.

13:19-12.10 (Reserved)

Repealed by R.1995 d.348, effective July 3, 1995.
See: 27 N.J.R. 1524(a), 27 N.J.R. 2591(a).

Section was "Indigents; installment payments".

13:19-12.11 Driving while intoxicated surcharges; installments

Licensees surcharged for driving while intoxicated convictions may pay the surcharge in 12 monthly installments pursuant to a schedule established by the Director of the Division of Motor Vehicles. Failure to adhere to the payment schedule will result in the immediate suspension of the licensee's driving privileges.

Amended by R.1995 d.348, effective July 3, 1995.
See: 27 N.J.R. 1524(a), 27 N.J.R. 2591(a).

Substituted "12 monthly installments" for "six monthly installments" and "driving privileges" for "operating privileges".

13:19-12.12 Certificate of debt; installment payments; failure to pay installment; suspension of driving privilege

(a) The Director may, in his or her discretion, issue a certificate of debt to the Clerk of the Superior Court in accordance with N.J.S.A. 17:29A-35b(2) identifying a person as indebted to the State of New Jersey under the New Jersey Merit Rating Plan.



(b) A driver, whose driving privilege has been denied, suspended or revoked by the Division in accordance with N.J.S.A. 17:29A-35 and N.J.A.C. 13:19-12.1 because of his or her failure to pay an insurance surcharge, may make application to the Director for the restoration of his or her driving privilege upon acknowledgement of his or her agreement to satisfy the certificate of debt on an installment basis at such times and in such amounts as may be fixed by the Director, or his or her designee. The Director may, in his or her discretion, restore the driving privilege of a driver when the Director is satisfied that an amount fixed by the Director, or his or her designee, has been paid in full or partial satisfaction of the principal amount of the certificate of debt, accrued interest and statutory collection costs.

(c) The Director may, in his or her discretion, deny, suspend or revoke a person's driving privilege when the person has failed to comply with the terms fixed by the Director, or his or her designee, or a court of law, for satisfying a certificate of debt on an installment basis. A driving privilege which has been denied, suspended or revoked pursuant to this subsection shall not be restored until the principal amount of the certificate of debt, accrued interest and statutory collection costs are satisfied in full by the driver.

New Rule, R.1995 d.348, effective July 3, 1995.
See: 27 N.J.R. 1524(a), 27 N.J.R. 2591(a).

SUBCHAPTER 13. MOTOR VEHICLE
INSURANCE SURCHARGE;
SUPPLEMENTAL SURCHARGES

13:19-13.1 Surcharges for three year period; convictions;
amounts

(a) Plan surcharges shall be levied by the Division of Motor Vehicles for convictions of violations set forth in (b) below which violations occurred on or after March 19, 1984, the effective date of the original regulation. The surcharges shall be annually assessed for a three year period.

(b) The following violations shall be subject to surcharges as indicated in (a) above for the amount set forth below:

- | | | |
|------------------------|--|----------|
| 1. N.J.S.A. 39:3-10 | Unlicensed driver | \$100.00 |
| 2. N.J.S.A. 39:3-40 | Driving while suspended | \$250.00 |
| 3. N.J.S.A. 39:4-14.3e | Failing to have insurance on motorized bicycle | \$100.00 |
| 4. N.J.S.A. 39:6B-2 | Failing to maintain liability insurance on motor vehicle | \$250.00 |

Amended by R.1985 d.482, effective September 16, 1985.
See: 17 N.J.R. 893(a), 17 N.J.R. 2281(a).
Amended by R.1994 d.468, effective September 19, 1994.
See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Case Notes

Statute authorizing imposition of surcharges on motorists convicted of violations for which motor vehicle points are not assessed did not limit Commissioner's authority to impose such surcharges to nonpoint offenses that pose direct threat to safety. State, Dept. of Law and Public Safety, Div. of Motor Vehicles v. Bigham, 119 N.J. 646, 575 A.2d 868 (1990).

13:19-13.2 Surcharges for three year period;
administrative violations; amounts

(a) Plan surcharges shall be levied by the Division of Motor Vehicles for violations resulting in license suspensions imposed administratively which are set forth in (b) below and which violations or suspensions have occurred on or after March 19, 1984, the effective date of the original regulation. The surcharge shall be assessed each year for a three year period and shall be in addition to the license restoration fee charged pursuant to N.J.S.A. 39:3-10a.

(b) The following violations resulting in administrative license suspensions shall be subject to surcharge as indicated in (a) for the amount set forth below:

- | | |
|---|----------|
| 1. Operating while suspended | \$250.00 |
| 2. Failure to maintain liability insurance on motor vehicle | \$250.00 |

Amended by R.1985 d.482, effective September 16, 1985.
See: 17 N.J.R. 893(a), 17 N.J.R. 2281(a).
Amended by R.1989 d.493, effective September 18, 1989.
See: 21 N.J.R. 1817(b), 21 N.J.R. 3019(b).

Deleted (c) regarding status of plan surcharges.

13:19-13.3 (Reserved)

New Rule, R.1985 d.482, effective September 16, 1985.
See: 17 N.J.R. 893(a), 17 N.J.R. 2281(a).
Repealed by R.1994 d.468, effective September 19, 1994.
See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Section was "Refund of surcharge; deletion of suspension".