

CHAPTER 19

DRIVER CONTROL SERVICE

Authority

N.J.S.A. 17:29A-35, 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, 39:5-30.1, 39:5-30.5, 39:5D-4, 39:5F-1 et seq., 52:14B-1 et seq. and Pub. L. 99-570.

Source and Effective Date

R.1994 d.468, effective August 17, 1994.
See: 26 N.J.R. 2738(a), 26 N.J.R. 3873(a).

Executive Order No. 66(1978) Expiration Date

Chapter 19, Driver Control Service, Subchapters 1 through 9 and Subchapter 11, expires on August 17, 1999. The Executive Order No. 66(1978) expiration date for Subchapters 10, 12, and 13 was waived by gubernatorial directive. See: 26 N.J.R. 2905(a).

Chapter Historical Note

Chapter 19 was filed and became effective prior to September 1, 1969.

1970 Revisions: Subchapter 9 "Suspension for Speeding" was rescinded effective September 1, 1970 as R.1970 d.103.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

1971 Revisions: Subchapter 1 became effective December 1, 1971 as R.1971 d.212. See: 3 N.J.R. 263(a).

1977 Revisions: Subchapter 10 became effective September 20, 1977 as R.1977 d.352. See: 9 N.J.R. 288(a), 9 N.J.R. 488(b).

1979 Revisions: Amendments to Subchapter 5 became effective as R.1979 d.220. See: 11 N.J.R. 198(a), 11 N.J.R. 356(a). Further amendments became effective September 17, 1979 as R.1979 d.367. See: 11 N.J.R. 19(b), 11 N.J.R. 579(b).

1981 Revisions: Amendments to Subchapter 5 became effective January 16, 1981 as R.1981 d.18. See: 12 N.J.R. 606(a), 13 N.J.R. 150(b).

1982 Revisions: Subchapter 2 formerly contained rules concerning probationary driver licenses. The subchapter was repealed effective June 20, 1983 by R.1983 d.242. See: 15 N.J.R. 501(b), 15 N.J.R. 1035(b). Subchapter 6 formerly contained rules concerning a reciprocity agreement between Delaware and New Jersey which became effective on July 1, 1961. This subchapter was repealed by R.1982 d.94, effective April 5, 1982. See: 14 N.J.R. 87(a), 14 N.J.R. 346(a).

1983 Revisions: Subchapter 11 became effective September 6, 1983 as R.1983 d.352. See: 15 N.J.R. 1009(a), 15 N.J.R. 1481(c). Amendments became effective September 6, 1983 as R.1983 d.360. See: 15 N.J.R. 1004(a), 15 N.J.R. 1481(b).

1984 Revisions: Subchapter 12 became effective February 6, 1984 as R.1984 d.18. See: 15 N.J.R. 2027(a), 16 N.J.R. 247(a). The Executive Order No. 66(1978) expiration date for Subchapter 10 was extended by gubernatorial waiver from March 5, 1984 to March 29, 1984. See: 16 N.J.R. 502(a). See: 16 N.J.R. 502(a) (March 19, 1984 New Jersey Register). The subchapter was readopted pursuant to Executive Order No. 66(1978), effective March 28, 1984 as R.1984 d.128. See: 16 N.J.R. 347(a), 16 N.J.R. 9210(a). Subchapter 13 became effective March 19, 1984 as R.1984 d.61. See: 16 N.J.R. 124(a), 16 N.J.R. 551(a). Amendments to Subchapter 1 became effective April 16, 1984 as R.1984 d.129. See: 15 N.J.R. 2143(a), 16 N.J.R. 918(a). Subchapter 5 was readopted with amendments effective June 29, 1984 as R.1984 d.310. See: 16 N.J.R. 1187(a), 16 N.J.R. 2003(a). Subchapter 4

became effective for readoption August 23, 1984 as R.1984 d.407. See: 16 N.J.R. 1694(a), 16 N.J.R. 2445(a).

1985 Revisions: Amendments became effective November 18, 1985 as R.1985 d.599. See: 17 N.J.R. 2231(a), 17 N.J.R. 2780(a). N.J.A.C. 13:19-13.3 was adopted as a New Rule effective September 16, 1985 as R.1985 d.482. See: 17 N.J.R. 893(a), 17 N.J.R. 2281(a).

1987 Revisions: Subchapter 9 became effective August 17, 1987 as R.1987 d.342. See: 19 N.J.R. 621(a), 19 N.J.R. 1562(a).

1989 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 19, Driver Control Service, was readopted as R.1989 d.493, effective August 18, 1989. 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).

Pursuant to Executive Order No. 66(1978), Subchapters 1 through 9 and Subchapter 11 of Chapter 19 were readopted as R.1994 d.468. See: Source and Effective Date. See, also, section annotations.

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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.

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
CN 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 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 Regal issues and presents arguments on those issues.

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
CN 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 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).

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 own behalf.

(b) No licensee, after having elected to represent himself at a prehearing conference, shall be granted another prehearing conference on the grounds that he 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).

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

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.

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 cardiovascu-

lar condition, he may require from such person on forms furnished by the Director:

1. A statement by the applicant or licensed driver of his 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.

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 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.

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 Committee to be applicable in the case.

13:19-4.6 Case referral

Upon application for restoration, the case may be referred to the Cardiovascular Committee as provided in section 3 (Review and recommendation) of this subchapter.

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 discretion, waive or change the interval report requirement of subsection (b) of this section.

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

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).

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).

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 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).

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).

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 appropriate notice and opportunity for hearing, 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 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.

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

(a) When it shall appear to the Director, upon information received or 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 may require from such person on forms approved by the Director:

1. A statement by the applicant or licensee of his 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.

13:19-5.4 Neurological Disorder Committee

(a) The Director shall appoint a Neurological Disorder Committee of three members to advise him 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.

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

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).

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).

13:19-5.6 Report of findings

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

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 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).

Case Notes

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).

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).

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 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).

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 re-

spond 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).

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 providing the individual submits:

1. A current statement of his 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).

13:19-5.9 Interval report 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 discretion, waive or change the interval report requirements of subsections (b) and (c) of this section.

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. (RESERVED)

SUBCHAPTER 7. RECIPROcity AGREEMENT BETWEEN CONNECTICUT AND NEW JERSEY

Subchapter Historical Note

The reciprocity agreement between Connecticut and New Jersey as contained in this Subchapter 7 of Chapter 19 became effective on February 1, 1966.

13:19-7.1 Purpose

(a) The Motor Vehicle Department, State of Connecticut, and the Division of Motor Vehicles, Department of Law and Public Safety, 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.

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 Manager, 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:

Manager, Regulatory Affairs
 Division of Motor Vehicles
 CN 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).

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

Section Number	Offense	Points	Section Number	Offense	Points
12. N.J.S.A. 39:4-57	Failure to observe direction of officer	2	44. N.J.S.A. 39:4-126	Failure to give proper signal	2
13. N.J.S.A. 39:4-66	Failure to stop vehicle before crossing sidewalk	2	45. N.J.S.A. 39:4-127	Improper backing or turning in street	2
14. N.J.S.A. 39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2	46. N.J.S.A. 39:4-127.1	Improper crossing of railroad grade crossing	2
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	47. N.J.S.A. 39:4-127.2	Improper crossing of bridge	2
16. N.J.S.A. 39:4-71	Operating a motor vehicle on a sidewalk	2	48. N.J.S.A. 39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2
17. N.J.S.A. 39:4-80	Failure to obey direction of officer	2	49. N.J.S.A. 39:4-128.1	Improper passing of school bus	5
18. N.J.S.A. 39:4-81	Failure to observe traffic signals	2	50. N.J.S.A. 39:4-128.4	Improper passing of a frozen dessert truck	4
19. N.J.S.A. 39:4-82	Failure to keep right	2	51. N.J.S.A. 39:4-129	Leaving the scene of an accident	2
20. N.J.S.A. 39:4-82.1	Improper operating of vehicle on divided highway or divider	2		No personal injury	2
21. N.J.S.A. 39:4-83	Failure to keep right at intersection	2		Personal injury	8
22. N.J.S.A. 39:4-84	Failure to pass right of vehicle proceeding in opposite direction	5	52. N.J.S.A. 39:4-144	Failure to observe "stop" or "yield" signs	2
23. N.J.S.A. 39:4-85	Improper passing on right or off roadway	4	53. N.J.S.A. 39:5D-4	Moving violation Out-of-State	2
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. 39:4-98 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			
37. N.J.S.A. 39:4-105	Failure to stop for traffic light	2			
38. N.J.S.A. 39:4-115	Improper turn at traffic light	3			
39. N.J.S.A. 39:4-119	Failure to stop at flashing red signal	2			
40. N.J.S.A. 39:4-122	Failure to stop for police whistle	2			
41. N.J.S.A. 39:4-123	Improper right or left turn	3			
42. N.J.S.A. 39:4-124	Improper turn from approved turning course	3			
43. N.J.S.A. 39:4-125	Improper "U" turn	3			

As amended, R.1983 d.360, eff. 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).

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.

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.

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.

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).

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

Points Accumulated	Period of Suspension
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

(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, eff. 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

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.

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).

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).

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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 constitutes said drivers' 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 suspension 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.

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).

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 under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical tests shall be required to satisfactorily complete a program of alcohol education or rehabilitation approved by the director.

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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
CN 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".

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".