

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 Motor Vehicle Commission 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 may be required to attend and successfully complete a driver improvement program of the Motor Vehicle Commission as a condition for restoration of the driver license.

(c) The fee for attendance at a Motor Vehicle Commission driver improvement program shall be \$100.00.

(d) The Chief Administrator 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.

(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 Motor Vehicle Commission 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".  
Amended by R.2005 d.47, effective February 7, 2005.

See: 36 N.J.R. 4005(a), 37 N.J.R. 505(a).

In (b), deleted "(Point accumulation; periods of suspension)" following the N.J.A.C. reference; in (d), substituted "Chief Administrator" for "Director" and deleted "(Point assessment)" following the N.J.A.C. reference; substituted "Motor Vehicle Commission" for "Division of Motor Vehicles" throughout.

### 13:19-10.4 Advisory notice

(a) Whenever a person accumulates six or more points, the Commission 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, the Commission 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).

Amended by R.2005 d.47, effective February 7, 2005.

See: 36 N.J.R. 4005(a), 37 N.J.R. 505(a).

In (b), deleted "(Point assessment)" following the N.J.A.C. reference; substituted "Commission" for "Division" throughout.

### 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 Commission 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 and Traffic Law 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 Chief Administrator.

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).

Amended by R.2005 d.47, effective February 7, 2005.  
See: 36 N.J.R. 4005(a), 37 N.J.R. 505(a).

In (a), substituted "Commission" for "Division" and inserted "and Traffic" following "Motor Vehicle" in the introductory paragraph; in (c), substituted "Chief Administrator" for "Director".

#### 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 a 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 Chief Administrator.

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

3. In addition to the revocation or suspension of an individual's driving privileges as provided for in (a)1 and 2 above, the Chief Administrator 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 registration 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 Chief Administrator.

Amended by R.2005 d.47, effective February 7, 2005.

See: 36 N.J.R. 4005(a), 37 N.J.R. 505(a).

In (a), substituted "a" for "the" preceding "motor vehicle" in 1, substituted "as provided for in (a)1 and 2 above" for "as provided for in paragraphs 1 and 2 above" in 3, and substituted "Chief Administrator" and "Commission" for "director" and "division" respectively throughout.

#### 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).