

## CHAPTER 19

## COMPLIANCE AND SAFETY

## Authority

N.J.S.A. 17:29A-35, 39:2-3, 39:3-10, 39:3-10.4 et seq., 39:3-11, 39:3-13.4, 39:3-15, 39:3-15.1, 39:3-16, 39:4-50, 39:4-50.16 et seq., 39:5-30, 39:5-30.2, 39:5D-4, 39:5F-1 et seq. and 52:14B-1 et seq.; and Pub. L. 99-570.

## Source and Effective Date

R.2010 d.277, effective November 1, 2010.  
See: 42 N.J.R. 713(a), 42 N.J.R. 2966(a).

## Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Subchapters 1 through 9, 11, and 14 of Chapter 19, Compliance and Safety, expire on November 1, 2017. See: 43 N.J.R. 1203(a).

Pursuant to N.J.S.A. 52:14B-5.1d, the expiration of Subchapter 10, Point System and Driving During Suspension, Subchapter 12, Motor Vehicle Violations Surcharge System, and Subchapter 13, Motor Vehicle Violations Surcharge System; Supplemental Surcharges, was waived indefinitely, effective July 25, 2007. See: 39 N.J.R. 3779(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Subchapter 9, Suspension for Speeding, was repealed by R.1970 d.103, effective September 1, 1970.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Subchapter 6, Reciprocity Agreement Between Delaware and New Jersey, was repealed by R.1982 d.94, effective April 5, 1982.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Subchapter 2, Probationary Driver Licenses, was repealed by R.1983 d.242, effective June 20, 1983.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).

Pursuant to N.J.S.A. 52:14B-5.1d, 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).

Subchapter 6, Installation and Use of Ignition Interlock Devices, was adopted as new rules by R.2001 d.342, effective September 17, 2001. See: 33 N.J.R. 2445(a), 33 N.J.R. 3340(c).

Subchapters 1 through 9 and 11 of Chapter 19, Driver Control Service, were readopted as R.2005 d.47, effective January 5, 2005. As a part of R.2005 d.47, Chapter 19, Driver Control Service, was renamed Driver Management Bureau, effective February 7, 2005. See: 36 N.J.R. 4005(a), 37 N.J.R. 505(a).

Pursuant to Executive Order No. 1(2010), the expiration date of Subchapters 1 through 9 and 11 was extended from January 5, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulations or rules were readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 713(a).

Subchapters 1 through 9 and 11 of Chapter 19, Driver Management Bureau, were readopted as R.2010 d.277, effective November 1, 2010. As a part of R.2010 d.277, Chapter 19, Driver Management Bureau, was renamed Compliance and Safety; Subchapter 12, Motor Vehicle Insurance Surcharge, was renamed Motor Vehicle Violations Surcharge System; and Subchapter 13, Motor Vehicle Insurance Surcharge; Supplemental Surcharges, was renamed Motor Vehicle Violations Surcharge System; Supplemental Surcharges, effective December 6, 2010. See: Source and Effective Date. See, also, section annotations.

Subchapter 14, Driver Improvement Program and Probationary Driver Program, was adopted as new rules by R.2012 d.140, effective July 16, 2012. See: 44 N.J.R. 55(a), 44 N.J.R. 1993(c).

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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, suspensions 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 Commission has initiated administrative suspension action against a licensee

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 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 \$150.00.

(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 \$150.00.

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.

Amended by R.2009 d.219, effective July 6, 2009.

See: 41 N.J.R. 862(a), 41 N.J.R. 2681(a).

In (c) and (f), updated the fee amounts.

### 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.

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".

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

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

Substituted "Chief Administrator" for "Director" and "Motor Vehicle Commission" for "Division of Motor Vehicle".

Amended by R.2010 d.277, effective December 6, 2010.

See: 42 N.J.R. 713(a), 42 N.J.R. 2966(a).

Inserted "who are" and substituted "up to 36" for "12".

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

(a) The Chief Administrator 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 Motor Vehicle Violations Surcharge System.

(b) A driver, whose driving privilege has been denied, suspended or revoked by the Commission 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 Chief Administrator 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 Chief Administrator, or his or her designee. The Chief Administrator may, in his or her discretion, restore the driving privilege of a driver when the Chief Administrator is satisfied that an amount fixed by the Chief Administrator, 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 Chief Administrator 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 Chief Administrator, 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).

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), substituted "Commission" for "Division"; substituted "Chief Administrator" for "Director" throughout.

Amended by R.2010 d.277, effective December 6, 2010.

See: 42 N.J.R. 713(a), 42 N.J.R. 2966(a).

In (a), substituted "Motor Vehicle Violations Surcharge System" for "New Jersey Merit Rating Plan".

## **SUBCHAPTER 13. MOTOR VEHICLE VIOLATIONS SURCHARGE SYSTEM; SUPPLEMENTAL SURCHARGES**

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

(a) System surcharges shall be levied by the Motor Vehicle Commission 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).

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 "Motor Vehicle Commission" for "Division of Motor Vehicles".

Amended by R.2010 d.277, effective December 6, 2010.

See: 42 N.J.R. 713(a), 42 N.J.R. 2966(a).

In (a), substituted "System" for "Plan".

#### **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) System surcharges shall be levied by the Motor Vehicle Commission 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.

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 "Motor Vehicle Commission" for "Division of Motor Vehicles".

Amended by R.2010 d.277, effective December 6, 2010.

See: 42 N.J.R. 713(a), 42 N.J.R. 2966(a).

In (a), substituted "System" for "Plan".

### 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".

## SUBCHAPTER 14. DRIVER IMPROVEMENT PROGRAM AND PROBATIONARY DRIVER PROGRAM

### 13:19-14.1 Purpose and scope

The rules contained in this subchapter implement the provisions of the New Jersey Motor Vehicle Commission's Probationary Driver Program under N.J.S.A. 39:3-13.4 and the Driver Improvement Program under N.J.S.A. 39:5-30.2, including the requirements and procedures for the approval of providers and instructors, and the administration of remedial driver education courses.

### 13:19-14.2 Definitions

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

"Basic driver's license" means a license issued by this State or any other jurisdiction that authorizes a person to operate motor vehicles, other than commercial motor vehicles.

"Business day" or "business hours" means Monday through Friday, 9:00 A.M. to 5:00 P.M., and excludes State holidays.

"Certified instructor" means a person certified by the sponsor of the curriculum to provide instruction based on the curriculum.

"Chief Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Class" means a group of people enrolled for training as participants in a particular scheduled course.

"Classroom location" means each separate place approved by the Chief Administrator where classroom instruction is offered to participants.

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult, or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond, or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Course curriculum" means the complete classroom instruction program established or approved by the Chief Administrator for presentation to a class in order to provide each participant with the specified activities necessary for satisfactory completion of the remedial driver education course in question.

"Driver Improvement Program" or "DIP" means the program of remedial driver education established or approved by the Chief Administrator pursuant to N.J.S.A. 39:5-30.2 and N.J.A.C. 13:19-10.3.

"Driver's license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Driving school" means an organization licensed by the New Jersey Motor Vehicle Commission pursuant to N.J.S.A. 39:12-1 et seq., to provide instruction in the driving of motor vehicles and motorcycles.

"Location and scheduling coordinator" means a person designated by a provider to fulfill certain administrative responsibilities and meet recordkeeping and reporting requirements for, or in connection with, the scheduling of remedial driver education classes at one or more locations.

"Motor vehicle" includes all vehicles as defined by N.J.S.A. 39:1-1, and, for purposes of this subchapter, shall include motorized bicycles and motorcycles.

"Motor Vehicle Commission" or "Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L. 2003, c. 13 (N.J.S.A. 39:2A-4).

"Participant" means a person enrolled in a PDP or DIP course approved by the Chief Administrator.

"Person" includes an individual or any form of business entity, including, but not limited to, a corporation or a partnership.

"Personal information" means information that identifies an individual, such as an individual's photograph, Social Security number, driver identification or license number, name, address other than the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.



“Probationary driver” means an individual licensed in accordance with N.J.S.A. 39:3-13.4.

“Probationary Driver Program” or “PDP” means the program of remedial driver education established or approved by the Chief Administrator pursuant to N.J.S.A. 39:3-13.4(d).

“Provider” means a business entity, organization, or individual approved by the Chief Administrator to conduct a remedial driver education course.

“Remedial driver education” means a PDP or DIP course, or any similar remedial program approved by the Chief Administrator, but does not include driving instruction included under, and taught pursuant to, N.J.S.A. 39:12-1 et seq.

“Sponsor” means a person or organization that owns or creates a remedial driver education course approved by the Chief Administrator.

“Statewide safety organization” means an organization, approved by the Chief Administrator, licensed to do business and located within the State of New Jersey, or an educational institution, the purpose of which includes the promotion of safety in the operation of motor vehicles and/or motorcycles, and shall include, but is not limited to, the following: the National Safety Council and its recognized New Jersey chapters or branches; the American Automobile Association and its recognized New Jersey chapters or branches.

### 13:19-14.3 Remedial driver education curriculum

(a) The Chief Administrator may approve any Driver Improvement Program course that meets the following criteria:

1. The course shall provide at least three hours of instruction;
2. Not more than one hour of the three hours shall be conducted by use of audio-visual aids, including, but not limited to:
  - i. Films and/or videotapes;
  - ii. Slides; and/or
  - iii. Digital video discs;
3. Not more than 25 participants shall be scheduled in any given class; provided, however, that up to five participants, in addition to the 25 scheduled, may attend a class if they have failed to attend a previously scheduled class;
4. Visual aids such as, but not limited to, magnetic boards, flip charts, blackboards, and/or whiteboards shall be incorporated into the curriculum;
5. The curriculum content of any approved Driver Improvement Program must be appropriate for non-probationary drivers, must meet or exceed the standards of the National Safety Council’s “Attitudinal Dynamics of Driving” course or the American Automobile Association’s

Offender Version of The Driver Improvement Program, and shall be predicated on improving improper driving behavior using behavior modification, with course elements specifically addressing, at a minimum:

- i. The major causes of collisions including, but not limited to:
  - (1) Driver attitude;
  - (2) Driver inattention;
  - (3) Driver-related hazards;
  - (4) Hazards created by others;
  - (5) Alcohol and drug use;
  - (6) Failure to obey traffic control devices and road signs; and
  - (7) Reckless and irresponsible driving;
- ii. Collision statistics;
- iii. Collision-related injury and death statistics;
- iv. The consequences and risk factors involved in improper driver attitude and in irresponsible driver behavior;
- v. The skills necessary for the safe and lawful operation of a motor vehicle;
- vi. Collision preventability, including, but not limited to:
  - (1) Making proper observations;
  - (2) Reducing driver distractions;
  - (3) Accounting for roadway hazards;
  - (4) Accounting for the actions of other drivers;
  - (5) Accounting for different types of vehicles using the roadways;
  - (6) Maintaining a safe following distance;
  - (7) Changing lanes safely;
  - (8) Adverse weather conditions;
  - (9) Maintaining control in an emergency situation;
  - (10) Getting adequate sleep; and
  - (11) Proper vehicle maintenance;
- vii. Highway courtesy;
- viii. Taking responsibility for driving behavior;
- ix. Review of the major traffic laws of the State of New Jersey; and
- x. Respect for the State of New Jersey’s motor vehicle laws; and



6. The provider/applicant must provide the name, address, and telephone number of the individual or entity supplying any course materials to be used by the provider/applicant and certify that the provider/applicant has received permission to use materials owned or developed by such individual or entity if other than provider/applicant.

(b) The Chief Administrator may approve any Probationary Driver Program course that meets the following criteria:

1. The course shall provide at least four hours of instruction;

2. Not more than one hour of the four hours shall be conducted by use of audio-visual aids including, but not limited to:

- i. Films and/or videotapes;
- ii. Slides; and/or
- iii. Digital video discs;

3. Not more than 25 participants shall be scheduled in any given class; provided, however, that up to five participants, in addition to the 25 scheduled, may attend a class if they have failed to attend a previously scheduled class;

4. Visual aids such as magnetic boards, flip charts, blackboards, and/or whiteboards shall be incorporated into the curriculum;

5. The lesson plans for PDP shall utilize educational techniques designed to be facilitative in nature, encouraging interaction between participants and instructor as a method of instruction. Such techniques include, but are not limited to:

- i. Group discussion;
- ii. Group activities;
- iii. Role playing; and
- iv. Question and answer sessions;

6. The curriculum content of any approved Probationary Driver Program must be appropriate for probationary drivers, must meet or exceed the standards of the National Safety Council's "Alive at 25" program or Attitudinal Dynamics of Driving (for probationary drivers), and shall be predicated on improving improper driving behavior with course elements specifically addressing, at a minimum:

- i. The statistics showing injury and death rates in collisions involving young drivers (ages 15-24);
- ii. The reasons behind unsafe and irresponsible driving behaviors;
- iii. The risk factors and consequences of unsafe and irresponsible driving practices;

- iv. Alcohol and drug use as a collision factor;
- v. Cell phone use and texting while driving as a collision factor;
- vi. Seat belt safety;
- vii. The skills necessary for the safe and lawful operation of a motor vehicle;
- viii. Highway courtesy;
- ix. Collision preventability, including a discussion of the various hazards, both driver-created and hazards created by others;
- x. The magnitude of traffic collision problems and taking responsibility for driving behavior;
- xi. Review of the major traffic laws of the State of New Jersey; and
- xii. Respect for the State of New Jersey's motor vehicle laws; and

7. The provider/applicant must provide the name, address, and telephone number of the individual or entity supplying any course materials to be used by the provider/applicant and certify that the provider/applicant has received permission to use materials owned or developed by such individual or entity if other than provider/applicant.

#### 13:19-14.4 Provider license

Every person proposing to engage in the business of conducting a remedial driver education course shall have been issued a remedial driver education provider license and appropriate approval(s) by the Chief Administrator prior to engaging in such business. The Chief Administrator may only issue a remedial driver education provider license to a licensed driving school or a Statewide safety organization.

#### 13:19-14.5 Application for provider license; contents

(a) Application for a provider license to conduct a remedial driver education course shall be made on a form and in a format prescribed by the Chief Administrator.

(b) The application shall be accompanied by a remedial driver education provider license fee of \$250.00 payable to the Motor Vehicle Commission; \$25.00 shall be payable at the time the application is submitted and the remainder of the remedial driver education provider license fee shall be payable following approval of the application and prior to issuance of the provider license. The application shall include the following information:

- 1. The names, addresses, and business telephone numbers of the driving school or Statewide safety organization's principal(s), partner(s), or corporate officer(s), and the name, address and business telephone number of the

officer(s) or employee(s) who will serve as the location and scheduling coordinator(s);

2. The name, address, and telephone number of a registered agent designated to receive service of process on behalf of the applicant. The agent must be located and available at a physical street address within the State of New Jersey during normal business hours;

3. The name, address, and business telephone number of the individual(s) authorized to transmit remedial driver education course completion information to the Commission;

4. An individual applicant, and all principals, partners, and corporate officers shall, at the time of his or her initial application, submit documentation confirming that such individual applicant, partner, or corporate officer has submitted to a criminal history record check in accordance with rules promulgated by the New Jersey Division of State Police at N.J.A.C. 13:59. The Commission shall request the State Bureau of Identification (SBI) to attach an SBI number flag to the individual applicant's, principal's, partner's, and corporate officer's SBI number in accordance with N.J.A.C. 13:59-1.8. The applicant shall bear the cost of fingerprinting and the cost for the background check, including all costs of administering and processing the background check. The requirements of this paragraph do not apply to an individual applicant, principal, partner, or corporate officer who was previously fingerprinted using the Live Scan process and who has submitted to a criminal history check in connection with an application for a driving school license pursuant to N.J.S.A. 39:12-1 et seq.;

5. The address of the location where classes in remedial driver education will be conducted, and whether the location is owned by the applicant, or will be leased, rented, or otherwise secured from the owner, and the name, address, and telephone number of the owner;

6. The applicant's Federal Tax Identification Number;

7. The applicant's State Tax Identification Number;

8. The applicant's email address, address for inquiries, and provider telephone number;

9. Proof of workers' compensation insurance coverage for all employees by a mutual association or stock company authorized to write coverage on such risks in this State or written authorization by the Commissioner of Banking and Insurance to self-insure for workers' compensation pursuant to N.J.S.A. 34:15-77;

10. Whether the applicant will directly employ and/or contract with each certified instructor and, if so, a list of all certified instructors, a copy of the proposed agreement with each such certified instructor and, if applicable, proof of employment of each certified instructor by applicant;

11. Evidence that the proposed classroom(s) used to conduct remedial driver education courses meets all applicable zoning, fire, and safety regulations, codes, and standards for use as a classroom and meets the requirements of N.J.A.C. 13:19-14.14; and

12. The proposed curriculum to be used as the basis for the remedial driver education course(s) for which Commission approval is sought.

(c) When application is made by an individual, the application shall be signed and certified by the individual. In the case of a partnership, the application shall be signed and sworn to by all partners. In the case of a corporation, the application shall be signed and sworn to by the president and attested to by the secretary.

(d) The Chief Administrator or his or her designee shall have the authority to inspect the proposed classroom location(s) at any time, either prior to, or subsequent to, issuing approval for its use as a remedial driver education course location. If a proposed classroom location is in an existing public, private, or parochial school located in New Jersey, it is not subject to inspection by the Chief Administrator.

(e) The provider shall notify the Chief Administrator, in writing, prior to providing the approved course(s) at any additional or altered location. The provider must receive written approval from the Chief Administrator prior to providing the approved course(s) at any additional or altered location. The Chief Administrator or his or her designee shall have the authority to inspect the additional or altered location at any time, either prior to, or subsequent to, issuing approval for its use as a remedial driver education course location. If a proposed additional or altered classroom location is in an existing public, private, or parochial school located in New Jersey, it is not subject to inspection by the Chief Administrator.

(f) The provider shall submit a separate application conforming to the requirements of this subchapter, along with the \$25.00 fee set forth in (b) above, prior to providing any additional course(s) subsequent to the issuance of a provider license under this subchapter. The provider shall not provide any additional course(s) without the written approval of the Chief Administrator.

(g) An approved provider shall either assign to an employee, who must be a certified instructor, or contract with a certified instructor, to serve as an instructor at the location(s) established and approved by the Chief Administrator for remedial driver education. The provider named in the application and receiving the approval shall be responsible for ensuring the course is provided in compliance with this subchapter and shall make all filings or requests for approvals required or permitted by this subchapter.

(h) The provider must notify the Chief Administrator, in writing, within five business days of any change in the information submitted on the application including, but not

limited to, any partial or complete change in course curriculum.

### 13:19-14.6 Provider license term

(a) The initial provider license and every renewal thereafter, shall be valid for a period of two years from the date of initial issuance, and may be renewed upon application in accordance with the requirements of this subchapter. The Chief Administrator may issue a license for less than the two-year period for applicants applying in the middle of a licensing cycle, to coincide with the biennial licensing period. The fee for a license with an expiration date of less than the two-year licensing period shall be fixed by the Chief Administrator in an amount proportionately less than the fee established at N.J.A.C. 13:19-14.7.

(b) The licensee shall be assigned the same license number for the duration of the license.

### 13:19-14.7 Renewal of provider license

A provider who requests to renew its license to offer any of the programs under this subchapter shall submit a renewal application with a renewal license fee of \$250.00, not less than 30 days before the end of the license period. The renewal application must meet the requirements of an initial application and shall be on a form and in a format prescribed by the Chief Administrator.

### 13:19-14.8 Lost, mutilated, or destroyed provider license

(a) In the event a provider license, or duplicate thereof, is lost, mutilated, or destroyed, a duplicate license shall be issued upon proof of the loss, mutilation, or destruction, and payment of a fee of \$5.00 and, in the case of a mutilated license, upon surrender of such mutilated license. Such proof shall be submitted in the form of an affidavit including:

1. The date the license, or duplicate thereof, was lost, mutilated, or destroyed; and
2. The circumstances involving the loss, mutilation, or destruction of the license or duplicate thereof.

### 13:19-14.9 Denial, suspension, or revocation of provider license; administrative penalties

(a) After due notice in writing, in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Chief Administrator may deny issuance or renewal of a license or may suspend or revoke a license on the basis of any of the following criteria:

1. Any reason specified in this subchapter or failure of the applicant or licensee to comply, or continue to comply, with any of the provisions of this subchapter;
2. Failure of the applicant or licensee to provide information or documentation required by this subchapter or requested by the Chief Administrator, or concealment of

a material fact by the applicant or licensee, or the supplying of information that is untrue or misleading as to a material fact;

3. The conviction of an individual owner, or any partner, officer, director, or stockholder of a provider, or of an entity seeking provider licensure, of any offense in any jurisdiction that would be:

i. Any of the following offenses under the "New Jersey Code of Criminal Justice," P.L. 1978, c. 95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

- (1) All crimes of the first degree;
- (2) N.J.S.A. 2C:5-1 (attempt to commit an offense which is listed in this subparagraph);
- (3) N.J.S.A. 2C:5-2 (conspiracy to commit an offense which is listed in this subparagraph);
- (4) N.J.S.A. 2C:11-4b (manslaughter);
- (5) N.J.S.A. 2C:11-5 (vehicular homicide);
- (6) N.J.S.A. 2C:12-1b (aggravated assault);
- (7) N.J.S.A. 2C:13-1 (kidnapping);
- (8) N.J.S.A. 2C:14-1 et seq. (sexual offenses);
- (9) N.J.S.A. 2C:15-1 (robberies);
- (10) N.J.S.A. 2C:17-1a and b (crimes involving arson and related offenses);
- (11) N.J.S.A. 2C:17-2a and b (causing or risking widespread injury or damage);
- (12) N.J.S.A. 2C:18-2 (burglary);
- (13) N.J.S.A. 2C:20-1 et seq. (theft and related offenses);
- (14) N.J.S.A. 2C:21-1 et seq. (forgery and fraudulent practices);
- (15) N.J.S.A. 2C:21-4a (falsifying or tampering with records);
- (16) N.J.S.A. 2C:24-4 (child endangerment);
- (17) N.J.S.A. 2C:24-9 (use of minor to commit criminal offense);
- (18) N.J.S.A. 2C:27-1 et seq. (bribery and corrupt influence);
- (19) N.J.S.A. 2C:28-1 et seq. (perjury and other falsification in official matters);
- (20) N.J.S.A. 2C:30-2 and 3 (misconduct in office and abuse of office);
- (21) N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog);

(22) N.J.S.A. 2C:35-6 (employing a juvenile in a drug distribution scheme);

(23) N.J.S.A. 2C:35-7 (distributing, dispensing, or possessing a controlled dangerous substance or controlled substance analog on or within 1,000 feet of school property or bus);

(24) N.J.S.A. 2C:35-10 (possession, use or being under the influence of a controlled dangerous substance or a controlled substance analog, or failure to make lawful disposition of same);

(25) N.J.S.A. 2C:35-11 (distribution, possession or manufacture of imitation controlled dangerous substances); or

(26) N.J.S.A. 2C:35-13 (acquisition of controlled dangerous substances by fraud); or

ii. Any other offense under New Jersey or Federal law that indicates that licensure of the applicant or continued licensure of the licensee would be inimical to the licensing standards set forth in this subchapter;

4. The failure of an individual owner, or any partner, officer, director or stockholder of a provider, or of an entity seeking provider licensure, to notify the Commission that he or she has been arrested for, charged with, indicted for, or convicted of any of the offenses enumerated in (a)3 above within 14 days after the date of such event;

5. The commission, by an individual owner, or any partner, officer, director or stockholder of a provider, or of a person seeking provider licensure, of any act or acts that would constitute any offense under (a)3 above, even if such conduct has not resulted in a conviction, or has not or may not be prosecuted under the laws of this State; or

6. In the absence of a conviction, the Chief Administrator shall refuse to issue or shall revoke or suspend the license of any person arrested for, charged with, or indicted for any crime or other offense if the Chief Administrator determines that such person is of bad character or is morally unfit to retain the privilege of holding a driver education provider or instructor license, or is a potential danger to students.

(b) In addition to the authority to deny, suspend, or revoke a license, the Chief Administrator may impose a fine of not less than \$250.00 nor more than \$500.00 for a first offense and not less than \$500.00 nor more than \$1,000 for any subsequent offense upon the holder of a license for a violation of any provision of this subchapter.

#### **13:19-14.10 Provider license restoration**

(a) The fee specified in N.J.S.A. 39:3-10a shall be payable to the Commission for the restoration of a license that is suspended or revoked pursuant to this subchapter. Such license restoration fee shall be paid to the Commission before the license may be restored.

(b) Each suspension or revocation of any license pursuant to this subchapter shall continue in force and effect until such license is restored by the Chief Administrator.

(c) In the case of every suspension or revocation of a license for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Chief Administrator, in such form as the Chief Administrator may determine, and pay the license restoration fee specified in (a) above. The Chief Administrator may, upon notice and opportunity to be heard, deny any application for restoration of a license for good cause.

#### **13:19-14.11 Change of business ownership or interest**

(a) In the event of any change in ownership or interest in the business licensed under this subchapter, the person to whom the business or interest is to be transferred shall file application for a new provider license with the Chief Administrator within seven days of such change in ownership or interest. This shall include any sale or transfer of five percent or more of the capital stock of a corporation. In the event of a sale or transfer of less than five percent of the capital stock it shall not be necessary for the licensee to pay a new fee to the Chief Administrator.

(b) The Chief Administrator may, in his or her discretion, permit continuation of the provider license pending processing of the application. The licensee shall request, in writing, the Chief Administrator's permission to continue the business pending the processing of the application.

(c) In the event of a name change as a result of a sale or transfer, of all or part of a business, the existing provider license and copies thereof, and all other documents issued in connection with the license must be surrendered before a new license will be issued to the new owner.

#### **13:19-14.12 Surety bond**

A provider license, either initial or renewal, shall not be issued unless the applicant has filed with the Commission a surety bond in the amount of \$10,000, issued by a company authorized to transact surety business in this State and payable to the New Jersey Motor Vehicle Commission, which surety bond shall cover the provider's obligations and performance under this subchapter. The surety bond shall be filed with each initial application and each renewal application and shall cover the entire term of the license. If a surety bond is cancelled or terminated for any reason during the term of the license, the company that issued the surety bond shall immediately notify the Chief Administrator of such cancellation or termination. The licensee shall immediately obtain and file with the Chief Administrator a replacement surety bond that shall cover the remaining term of the license.

**13:19-14.13 Liability insurance**

Each applicant for a driver education provider license shall submit to the Chief Administrator proof of adequate insurance covering all business offices and classroom sites, whether owned, leased, or otherwise secured by the provider, for the protection of individuals using the premises and equipment during program instruction. The insurance must provide, at a minimum, \$1,000,000 single occurrence and \$2,000,000 in the aggregate, liability and medical payment protection to participants, and professional liability insurance. Insurance shall be provided from a company authorized to do business in the State of New Jersey. The provider shall provide an original certificate of insurance that requires the Chief Administrator to be given written notice by the insurer 30 days prior to the termination of coverage, and that names the Motor Vehicle Commission as an additional insured.

**13:19-14.14 Operating requirements**

(a) A provider's classroom facilities and equipment shall conform to the standards established by the Motor Vehicle Commission, be located in New Jersey, and meet all applicable State and local zoning, building, fire, health, and safety regulations.

(b) Classes may be conducted in classroom facilities located at public, private, or parochial schools, or other location(s) subject to the approval of the Chief Administrator, and shall be subject to the following standards. The class shall:

1. Provide a minimum per participant space of at least 15 square feet and be adequately lighted, heated, and ventilated;
2. Be equipped with desks or tables, electrical outlets, and a blackboard or similar device;
3. Be within a building containing bathroom facilities that accommodate both sexes;
4. Not be conducted from a location or conducted in such a manner as to give the appearance to the public that the business has an official connection with a Commission, facility, or authorized motor vehicle agency;
5. Not be conducted from a private residence, liquor store, bar, grocery store, restaurant, tent, temporary stand, or temporary address; and
6. Have posted on the premises a certificate identifying the maximum occupant capacity of the premises to be used as a classroom.

(c) All remedial driver education courses are subject to audit by the Chief Administrator or his or her designee, at any time and at the Chief Administrator's discretion. Failure to cooperate with an audit conducted under this subsection shall be grounds for suspension or revocation of provider's license issued pursuant to this subchapter.

(d) A provider shall:

1. Use only instructors licensed by the Commission and certified by the curriculum sponsor;
2. Be responsible for scheduling, and, where necessary due to the provider's need to reschedule, rescheduling participants for the appropriate remedial driver education course and ensure that there is an available class scheduled prior to participant's compliance date;
3. Notify the Chief Administrator, on a form and in a format to be specified by the Chief Administrator, of the names of the enrollees, and the date, time, and place of each scheduled class, within five business days of scheduling the class;
4. Notify the Chief Administrator, in writing, within two business days of the cancellation or rescheduling of any class;
5. Be responsible for providing to each participant, the necessary course materials, including instructional materials, workbooks, or aids as required by the approved course curriculum. All materials provided by the provider to a participant shall include the provider's name, phone number, and Commission-issued license number;
6. Use only the curriculum, instructional materials, and forms approved by the Chief Administrator;
7. Notify the Chief Administrator, in writing, of any changes or updates to the Commission-approved curriculum within five business days of the effective date of the change or update, and provide the reason for the change or update to the Commission-approved curriculum;
8. Maintain an attendance roster on a form and in a format to be supplied by the Commission for each class, which roster shall include:
  - i. The provider's name and license number;
  - ii. The instructor's name and signature;
  - iii. The instructor license number;
  - iv. Each participant's name, address, date of birth, permit or license number, and signature;
  - v. The name of the remedial driver education course taught;
  - vi. The date of the class;
  - vii. The date the class was completed by each participant; and
  - viii. Information detailing which participant(s) rescheduled, along with the date of the rescheduled class;
9. Comply with the requirements of all applicable State, local and Federal anti-discrimination laws and regulations including, but not limited to, the Americans with Disabilities Act (ADA);

10. Notify the Chief Administrator, in writing, of the identity of the individual(s) who will be authorized to transmit remedial driver education course completion information to the Commission;

11. Notify the Chief Administrator, in writing, by the end of the next business day, if the individual(s) authorized to transmit data to the Commission is(are) no longer employed by the provider or no longer authorized to transmit completion information to the Commission;

12. Require each participant in a remedial driver education course to present a government-issued driver's license or photo identification card immediately prior to the commencement of classroom instruction;

13. Immediately upon completion of the course and at the course location, issue to participants who successfully complete the course a certification of program completion that includes the following:

- i. The provider's name, address, and phone number, and the Commission-issued provider identification/license number;
- ii. The participant's full name as it appears on the assignment letter and driver's license or photo identification card;
- iii. The participant's date of birth;
- iv. The participant's driver's license number;
- v. The date the program was completed; and
- vi. The location where the program was completed; and

14. Monitor each instructor's driving record and:

- i. Immediately notify the instructor, if the instructor's driving record is unsatisfactory pursuant to the standards set forth in this subchapter;
- ii. Not schedule an instructor to teach remedial driver education who has an unsatisfactory driving record; and
- iii. Notify the Commission by letter, email, or facsimile of the action taken by the provider against the instructor. Upon notice to the provider, the Chief Administrator may require electronic transmittal of such information by the provider.

(e) Prior to enrollment and payment of any fees from the participant to the provider, the provider shall make available the following information, in writing or by electronic means, such as, but not limited to, a website or email, to program participants:

- 1. Classroom locations and course dates and times;
- 2. A notice of services provided, which shall include provider's license number and provider's established policy regarding the program, including information on:

- i. Scheduling, rescheduling, cancellations, and postponements; and

- ii. Course fees, administrative fees (limited to a maximum of \$25.00 for rescheduling; \$5.00 for materials; and \$25.00 for a dishonored check in addition to any bank fees charged in connection with the dishonored check), payment methods, and refunds;

- iii. The provider's behavior policy; and

- iv. The provider's privacy policy;

3. Notice that the updating of participant's driving record is dependent on the provider transmitting the remedial driver education course completion information to the Commission by the end of the next business day following completion of the program, pursuant to N.J.A.C. 13:19-14.16; and

4. Within 24 hours of payment of tuition, a receipt showing provider's license number and phone number, confirmation of class date, time and location, the course tuition charged to the participant, any administrative fees charged to the participant, and the amount paid by the participant.

(f) No provider shall issue a certification of completion to a participant who has not successfully completed the entire remedial driver education course.

#### 13:19-14.15 Privacy policy

(a) Prior to the commencement of a course of instruction in remedial driver education, each provider must submit to the Commission a copy of the provider's written privacy policy incorporating the New Jersey Drivers' Privacy Protection Act, N.J.S.A. 39:2-3.3 et seq., and the Federal Drivers' Privacy Protection Act of 1994, 18 U.S.C. §§ 2721 et seq.

(b) In accordance with the New Jersey Drivers' Privacy Protection Act, N.J.S.A. 39:2-3.3 et seq., and the Federal Drivers' Privacy Protection Act of 1994, 18 U.S.C. §§ 2721 et seq., the provider shall maintain in strictest confidence and not disclose to any person, firm, or corporation, personal information obtained from any participant, except as necessary, to perform its duties with respect to providing a remedial driver education course. A provider shall also take all steps necessary to protect personal information from theft and other unauthorized use while in its possession.

#### 13:19-14.16 Reporting and recordkeeping requirements

(a) The provider shall submit the attendance roster to the Chief Administrator for each class no later than the end of the second business day after the completion of each class. The attendance roster may be submitted by fax, email, overnight mail delivery, or, at the Chief Administrator's discretion and upon notice to the provider, by other electronic means to be specified by the Chief Administrator.

(b) Upon 24 hours notice to the provider by the Commission, the provider shall make a record of all registrations, attendance, and operational documents available for inspection by the Chief Administrator or the Chief Administrator's designee, between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday, at a time and place to be designated by the Chief Administrator or his or her designee.

(c) The Chief Administrator may, in his or her discretion and upon notice to the provider, require the provider to notify the Commission by electronic means, including entering information on a website or by email, of the successful completion by a participant of a remedial driver education course. In the event the Chief Administrator requires the provider to notify the Commission, by electronic means, of the successful completion of a remedial driver education course by a participant, the Chief Administrator will provide instructions and information necessary to comply with this requirement.

(d) The provider shall be responsible for completing and recording any official reports required by other public or private agencies. The provider shall:

1. Retain all participant enrollment forms, participation records, rosters, and completion records for at least three years from the participant's completion date;
2. Secure all program records, including any testing materials and answer templates, in a manner acceptable to the Chief Administrator that protects the participant's privacy and ensures the integrity of the testing materials;
3. Maintain completed course evaluation forms for a period of three years, which forms shall be included in those items subject to review by the Commission as set forth in this subchapter;
4. When necessary, correct all submitted participant completion reports and re-submit, by fax or email, the corrected documents to the Commission by the end of the next business day after discovery of the error. The Chief Administrator may, in his or her discretion, and upon notice to the provider, require submission of corrected reports by other electronic means to be specified by the Chief Administrator; and
5. Accept full responsibility and indemnify the Commission for any and all claims by program participants when the provider fails to:
  - i. Notify the Commission by no later than the end of the second business day after successful completion of the program by the participant; or
  - ii. Correct errors in transmitted participant completion information by the end of the next business day following notification of the error by the Commission.

### 13:19-14.17 Advertising

(a) Neither the provider nor the instructor may advertise, in a classroom or during instruction of a remedial driver education course, any of the other services offered by the provider. A provider may include a participant's name on a mailing list, with the written permission of the participant; the participant must supply participant's name and address to the provider for mailing list purposes, if the participant chooses to be on the provider's mailing list. Personal information obtained from the Commission, shall not be used by the provider or an instructor to construct a mailing list.

(b) Any advertisement for remedial driver education, in any medium, shall include the following statement: "[Name of provider] has been approved by the Chief Administrator of the Motor Vehicle Commission to offer this [name of remedial driver education course]." Provider shall not use the Commission's logo on any printed materials offered by provider and not generated by the Commission.

(c) Any advertising used by a provider in any medium shall contain the provider's remedial driver education provider license number and a telephone number.

(d) Any advertisement through any medium that cannot be changed, deleted, or withdrawn within a period of seven days or less, including classified telephone directory advertisements, shall require the approval of the Chief Administrator or his or her designee prior to printing. A copy of an advertisement that is subject to the requirements of this subsection shall be submitted to the Commission in writing.

### 13:19-14.18 Promotion of groups and associations

The provider shall not require that a participant join any organization, club, association, or other group as a requirement for enrollment or successful completion of a remedial driver education course and shall not permit solicitations for memberships in such groups, prior to the issuance of course completion documents and the dismissal of the class. The provider shall not use any of the participant's personal information for the purpose of marketing or selling the provider's products to the participant at any time.

### 13:19-14.19 Tuition

Each PDP and DIP provider may establish participant tuition for instruction, not to exceed the sum of \$75.00, in addition to any administrative fees imposed by the provider pursuant to this subsection for rescheduling, materials, and/or dishonored checks. Administrative fees are limited to the following: a maximum of \$25.00 for rescheduling; a maximum of \$5.00 for materials; and a maximum of \$25.00 for a dishonored check, in addition to any bank fees charged to the provider in connection with the dishonored check.



**13:19-14.20 Application for instructor license; contents**

(a) No person shall instruct a remedial driver education course unless such person is the holder of a valid instructor's license issued for such purpose by the Chief Administrator.

(b) Every applicant for an instructor's license shall:

1. Be 21 years old or older;
2. Be a graduate from a high school or possess a state high school equivalence certificate;
3. Be the holder of a driver's license issued by any state, provided the license is not suspended, revoked, or expired, and have at least three consecutive years of licensed driving experience on the public roads and highways;
4. Have no conviction for any of the offenses set forth at N.J.A.C. 13:19-14.9(a) within the past 10 years, in New Jersey or any other jurisdiction;
5. Have no record of a suspension or revocation on his or her driver's license, special learner's permit, examination permit, or probationary license during the past two years;
6. Have no conviction for a violation of N.J.S.A. 39:4-50 or 39:4-50.2, or a conviction or administrative determination of a substantially similar offense in any other jurisdictions during the past five years; and
7. Be the holder of an instructor certification issued by the sponsor of the curriculum to be used by the provider; the certification must have been issued within the two-year period prior to the date the application is submitted.

(c) When the suspension of an instructor applicant's driver's license occurring during the two-year period immediately prior to the date of review was imposed solely in connection with a parking offense, as a sanction for failure to meet a financial obligation, or to compel appearance before a court or administrative body, and the license was restored upon payment of the parking fine or financial obligation, or appearance before the court or administrative body, the Chief Administrator may issue the instructor license, provided the length of any such suspension does not, in the judgment of the Chief Administrator, render the applicant unable to demonstrate that he or she has at least four consecutive years of driving experience under the license submitted with the application and all other requirements are met.

(d) Any person who meets the requirements set forth in this subchapter pertaining to applicants for instructor licenses may apply in writing to the Chief Administrator for the issuance of an instructor license. The applicant shall sign and date the application, which shall include the following information:

1. The applicant's full name, residential address, and telephone number;

2. The applicant's driver's license number, the name of the issuing state, and a copy of the front and back of the license;

3. The location, dates of attendance, identity of the sponsor of the instructor certification course attended by the applicant, and a copy of the certification issued to the applicant, or a copy of the applicant's course completion certificate;

4. At the time of his or her initial application, documentation confirming that such applicant has submitted to a criminal history record check in accordance with rules promulgated by the New Jersey Division of State Police at N.J.A.C. 13:59. The Commission shall request that the State Bureau of Identification (SBI) attach an SBI number flag to the applicant's SBI numbers in accordance with N.J.A.C. 13:59-1.8. The applicant shall bear the cost of fingerprinting and the cost for the background check, including all costs of administering and processing the background check. The requirements of this paragraph do not apply to an applicant who was previously fingerprinted using the Live Scan process and submitted to a criminal history check in connection with an application for a driving school instructor license pursuant to N.J.S.A. 39:12-1 et seq.;

5. A statement by the applicant that he or she meets each of the requirements set forth in this section; and

6. In the case of an applicant who is the holder of a driver's license issued by another state or jurisdiction, a copy of the applicant's driving history certified by the motor vehicle licensing agency of that state or jurisdiction.

(e) Prior to commencement of any remedial driver education course, the instructor assigned to the class shall take attendance and record the same on the form and in the format provided by the Chief Administrator, obtain each participant's signature on the roster and all other information listed on the roster, ensure that each participant has all necessary classroom instructional materials, and require each participant to present a government or secondary school-issued photo identification confirming the identity of the participant.

**13:19-14.21 Instructor license fee; term**

The fee for the initial instructor license shall be \$75.00; the fee for renewal of the instructor license shall be \$75.00. The license and every renewal thereafter shall be valid for a period of two years from the date of initial issuance and may be renewed upon application in accordance with the requirements of this subchapter. The Chief Administrator may issue a license for less than the two-year period for applicants applying in the middle of a licensing cycle, to coincide with the biennial licensing period. The fee for a license with an expiration date of less than the two-year licensing period shall be fixed by the Chief Administrator in an amount proportionately less than the fee established at N.J.A.C. 13:19-14.22.

**13:19-14.22 Renewal of instructor license**

(a) An instructor seeking to renew his or her license to offer any of the programs under this subchapter shall submit a renewal application with a renewal license fee of \$75.00, not less than 30 days before the end of the license period.

(b) The renewal application must meet the requirements of an initial application and shall be on a form and in a format to be prescribed by the Chief Administrator.

**13:19-14.23 Possession of instructor license**

A valid instructor license shall be in the possession of the instructor at all times when he or she is conducting a remedial driver education course.

**13:19-14.24 Lost, mutilated, or destroyed instructor license**

(a) In the event an instructor license, or duplicate thereof, is lost, mutilated, or destroyed, a duplicate license shall be issued upon proof of the loss, mutilation, or destruction and payment of a fee of \$5.00 and, in the case of a mutilated license, upon surrender of such mutilated license. Such proof shall be submitted in the form of an affidavit indicating:

1. The date the license, or duplicate thereof, was lost, mutilated, or destroyed; and
2. The circumstances involving the loss, mutilation, or destruction of the license, or duplicate thereof.

**13:19-14.25 Denial, suspension, revocation, or refusal to renew instructor's license**

(a) The Chief Administrator or his or her designee may deny, suspend, or revoke an instructor license, or refuse to issue an instructor license or a renewal thereof, for any of the reasons specified in this subchapter, including those set forth at N.J.A.C. 13:19-14.9, or for failure to continue to meet the requirements set forth at N.J.A.C. 13:19-14.20(b), or for other good cause, after due notice in writing thereof, in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) The Chief Administrator or his or her designee may deny, suspend, or revoke an instructor license, or may refuse to issue an instructor license or a renewal thereof, if such instructor or applicant has accumulated seven or more points, within the five most recent years, by reason of convictions for violations of the motor vehicle laws, or has been convicted of a violation of N.J.S.A. 39:4-49.1, 39:4-50, or 39:4-50.2, or has incurred a conviction or administrative determination of a substantially similar offense in any jurisdiction. In addition to the authority to deny, suspend, or revoke a license, the Chief Administrator may impose a fine of not less than \$250.00 and not more than \$500.00 for a first offense and not less than \$500.00 and not more than \$1,000 for any subsequent offense upon the holder of a license for a violation of any provision of this subchapter.

**13:19-14.26 Instructor license restoration**

(a) The fee specified in N.J.S.A. 39:3-10a shall be payable to the Commission for the restoration of an instructor's license that is suspended or revoked pursuant to this subchapter. Such license restoration fee shall be paid to the Commission before the license may be restored.

(b) Each suspension or revocation of any instructor license pursuant to this subchapter shall continue in full force and effect until such license is restored by the Chief Administrator.

(c) In the case of every suspension or revocation of an instructor license for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Chief Administrator, in such form as the Chief Administrator may determine, and pay the license restoration fee specified in (a) above. The Chief Administrator may, upon notice and an opportunity to be heard, deny any application for restoration of an instructor's license for good cause.

**13:19-14.27 Written notice of suspension or revocation or refusal to grant or renew provider or instructor license**

The Chief Administrator shall notify the applicant or licensee, in writing, of any proposed denial, refusal to renew, suspension, or revocation of the license and the grounds thereof. Written notice shall be mailed to the place of business on record with the Commission. Unless the applicant or licensee files with the Chief Administrator a written request for a hearing in accordance with N.J.A.C. 13:19-14.28, the license shall be suspended or revoked on the date specified in such notice.

**13:19-14.28 Request for hearing**

(a) If an applicant or licensee has been notified in accordance with N.J.A.C. 13:19-14.27 of a proposed denial, refusal to renew, suspension, or revocation of its provider or instructor license, the applicant or licensee shall be entitled to an administrative hearing concerning such proposed denial, refusal to renew, suspension, or revocation provided the applicant or licensee has filed, and the Chief Administrator has received, a written request for a hearing within 25 days. The 25-day period shall commence on the date such notice was mailed to the applicant or licensee by the Commission in accordance with N.J.A.C. 13:19-14.27.

(b) Any written request for a hearing by an applicant or licensee shall be sent to the Business Licensing Services unit of the Commission at NJMVC, Business Licensing Services, 225 E. State Street, P.O. Box 168, Trenton, New Jersey 08666. The hearing request shall contain the following information:

1. The name, license number, place of business, and telephone number of the applicant or licensee;

2. A concise statement of facts constituting each ground of defense;

3. A specific admission, denial, or explanation of each fact alleged by the Commission in its notice, or, if without knowledge thereof, a statement to that effect. Any allegation in the Commission's notice that is not answered in accordance with this paragraph shall be deemed to have been admitted; and

4. A statement requesting a hearing.

(c) If the applicant or licensee does not file a written request for a hearing in accordance with (a) or (b) above, the denial, suspension, revocation, or refusal to renew the license shall be effective on the date specified in such notice. The licensee shall cease all remedial driver education activities effective on the date specified in such notice.

#### **13:19-14.29 Hearing procedure**

Any hearing concerning the denial, suspension, revocation, or refusal to renew a provider or instructor license shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

#### **13:19-14.30 Emergency disciplinary action**

(a) In the event of an emergent situation in which there is ongoing fraud or circumstances that would jeopardize the health, safety, or welfare of a student, the Chief Administrator may issue a preliminary suspension of the provider or instructor's license, which preliminary suspension shall take effect immediately upon its issuance.

(b) Along with the notice of preliminary suspension, the Commission shall issue a notice of preliminary hearing to be held by the Commission no later than the 10th day after mailing of the notice. At the preliminary hearing, the Commission will consider whether or not there exists probable cause to find that the alleged conduct that served as a basis for the preliminary suspension occurred, and whether or not that conduct constitutes sufficient basis to find an emergent situation justifying the imposition of a preliminary suspension.

(c) Along with the notice of preliminary suspension, the Commission shall issue a notice of proposed final suspension, revocation, or other agency action.

(d) The licensee shall be afforded an opportunity to request a hearing concerning the proposed final agency action pursuant to N.J.A.C. 13:19-14.29.