

CHAPTER 19

DRIVER CONTROL SERVICE

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

Chapter 19, Driver Control Service, expires on August 17, 2004.

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Subchapter 9, Suspension for Speeding, was repealed by R.1970 d.103, effective September 1, 1970.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Subchapter 6, Reciprocity Agreement Between Delaware and New Jersey, was repealed by R.1982 d.94, effective April 5, 1982.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Subchapter 2, Probationary Driver Licenses, was repealed by R.1983 d.242, effective June 20, 1983.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: Source and Effective Date. See, also, section annotations.

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

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SUBCHAPTER 1. ADMINISTRATIVE HEARINGS

13:19-1.1 Applicability

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

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

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

Added "including cases involving imposition of insurance surcharges pursuant to N.J.S.A. 17:29A-35" with other stylistic changes.

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

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

Amended by R.1994 d.486, effective September 19, 1994.

See: 26 N.J.R. 2522(a), 26 N.J.R. 3874(a).

Cross References

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

Case Notes

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

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

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

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

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

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

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

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

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

13:19-5.2 Physically unqualified pending hearing

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

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

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

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

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

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

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

In (a), neutralized gender references.

13:19-5.4 Neurological Disorder Committee

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

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

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

In (a), neutralized a gender reference.

13:19-5.5 Committee review of case

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

Case Notes

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

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

13:19-5.6 Report of findings

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

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

Neutralized a gender reference.

13:19-5.7 Committee recommendations

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

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

"two year" changed to "one year".

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

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

Case Notes

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

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

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

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

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

13:19-5.8 Restoration qualifications

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

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

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

13:19-5.9 Interval reports of seizures

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

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

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

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

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

13:19-5.10 Driver reexamination

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

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. RECIPROCITY AGREEMENT BETWEEN CONNECTICUT AND NEW JERSEY

13:19-7.1 Purpose

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

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

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

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

13:19-7.2 Reports of single conviction

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