

# ASSEMBLY, No. 2089

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 25, 2008

**Sponsored by:**

Assemblyman **PETER J. BARNES, III**

District 18 (Middlesex)

Assemblyman **JOHN F. MCKEON**

District 27 (Essex)

**Co-Sponsored by:**

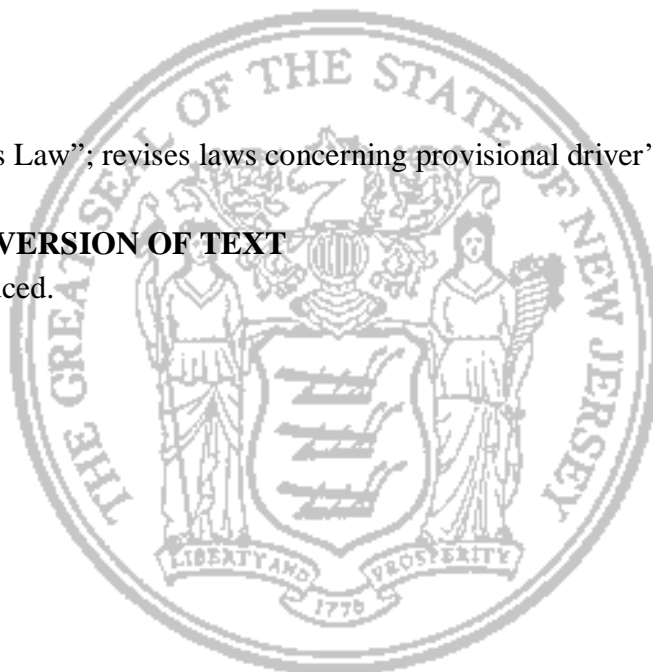
Assemblyman Cryan, Assemblywoman Wagner, Assemblymen L.Smith, Green, Vas, Chiappone, Johnson, Assemblywoman Vainieri Huttie, Assemblymen Diegnan, Merkt, Assemblywoman Casagrande, Assemblymen Giblin, O'Scanlon, Assemblywomen Voss, Handlin, Assemblymen Chivukula, Ramos, Rumpf, Van Pelt, Assemblywomen Quigley, Oliver, Assemblymen Wolfe, Albano, Rooney, DeAngelo, Coutinho, Assemblywoman Watson Coleman, Assemblyman Munoz, Assemblywoman Greenstein and Assemblyman Prieto

**SYNOPSIS**

“Kyleigh’s Law”; revises laws concerning provisional driver’s licenses.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 9/16/2008)

1 AN ACT concerning provisional driver licenses, designated as  
2 “Kyleigh’s Law,” and amending R.S.39:3-13, P.L.1950, c.127,  
3 and P.L.2001, c.420.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. R.S.39:3-13 is amended to read as follows:

9 39:3-13. The chief administrator may, in his discretion, issue to  
10 a person over 17 years of age an examination permit, under the  
11 hand and seal of the chief administrator, allowing such person, for  
12 the purpose of fitting himself to become a licensed driver, to  
13 operate a designated class of motor vehicles other than passenger  
14 automobiles and motorcycles of persons licensed to operate  
15 motorcycles only for a specified period of not more than 90 days,  
16 while in the company and under the supervision of a driver licensed  
17 to operate such designated class of motor vehicles.

18 The chief administrator, in his discretion, may issue for a  
19 specified period of not less than one year a passenger automobile or  
20 motorcycle-only examination permit to a person over 17 years of  
21 age regardless of whether a person has completed a course of  
22 behind-the-wheel automobile driving education pursuant to section  
23 1 of P.L.1950, c.127 (C.39:3-13.1). An examination permit  
24 applicant who is under 18 years of age shall obtain the signature of  
25 a parent or guardian for submission to the commission on a form  
26 prescribed by the chief administrator. The chief administrator shall  
27 postpone for six months the driving privileges of any person who  
28 submits a fraudulent signature for a parent or guardian. Upon  
29 issuance of an examination permit to an applicant who is under the  
30 age of 18, the chief administrator shall provide the parent or  
31 guardian who signed the form with an informational brochure which  
32 clearly sets forth the special rules which apply to a holder of an  
33 examination permit, a special learner’s permit or a provisional  
34 license.

35 For **[six months]** one year immediately following the validation  
36 of an examination permit, and until the holder passes the road test,  
37 the holder who is less than 21 years of age shall operate the  
38 passenger automobile or motorcycle only when accompanied by,  
39 and under the supervision of, a New Jersey licensed driver who is at  
40 least 21 years of age and has been licensed to drive a passenger  
41 automobile or motorcycle, as the case may be, for not less than  
42 three years. The holder of an examination permit who is at least 21  
43 years of age shall operate the passenger automobile or motorcycle  
44 for the first three months under such supervision and until the  
45 holder passes the road test. The supervising driver of the passenger

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 automobile shall sit in the front seat of the vehicle. Whenever  
2 operating a vehicle while in possession of an examination permit,  
3 the holder of the permit shall operate the passenger automobile with  
4 only one additional passenger in the vehicle excluding persons with  
5 whom the holder resides, except that this passenger restriction shall  
6 not apply when either the permit holder or one other passenger is at  
7 least 21 years of age. Further, the holder of the permit who is less  
8 than 21 years of age shall not drive during the hours between 12:01  
9 a.m. and 5 a.m.; provided, however, that this condition may be  
10 waived for an emergency which, in the judgment of local police, is  
11 of sufficient severity and magnitude to substantially endanger the  
12 health, safety, welfare or property of a person, or for any bona fide  
13 employment or religion-related activity if the employer or  
14 appropriate religious authority provides written verification of such  
15 activity in a manner provided for by the director. The holder of the  
16 examination permit shall not use any interactive wireless  
17 communication device, except in an emergency, while operating a  
18 moving passenger automobile on a public road or highway. "Use"  
19 shall include, but not be limited to, talking or listening on any  
20 interactive wireless communication device or operating its keys,  
21 buttons or other controls. The passenger automobile permit holder  
22 shall ensure that all occupants of the vehicle are secured in a  
23 properly adjusted and fastened seat belt or child restraint system.

24 When notified by a court of competent jurisdiction that an  
25 examination permit holder has been convicted of a violation which  
26 causes the permit holder to accumulate more than two motor vehicle  
27 points or has been convicted of a violation of R.S.39:4-50; section 2  
28 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14);  
29 R.S.39:4-129; N.J.S.2C:11-5; subsection c. of N.J.S.2C:12-1 or any  
30 other motor vehicle-related law the chief administrator deems  
31 significant and applicable pursuant to regulation, in addition to any  
32 other penalty that may be imposed, the chief administrator shall,  
33 without the exercise of discretion or a hearing, suspend the  
34 examination permit holder's examination permit for 90 days. The  
35 chief administrator shall restore the permit following the term of the  
36 permit suspension if the permit holder satisfactorily completes a  
37 remedial training course of not less than four hours which may be  
38 given by the commission, a drivers' school licensed by the chief  
39 administrator pursuant to section 2 of P.L.1951, c.216 (C.39:12-2)  
40 or any Statewide safety organization approved by the chief  
41 administrator. The course shall be subject to oversight by the  
42 commission according to its guidelines. The permit holder shall  
43 also remit a course fee prior to the commencement of the course.  
44 The chief administrator also shall postpone without the exercise of  
45 discretion or a hearing the issuance of a basic license for 90 days if  
46 the chief administrator is notified by a court of competent  
47 jurisdiction that the examination permit holder, after completion of  
48 the remedial training course, has been convicted of any motor

1 vehicle violation which results in the imposition of any motor  
2 vehicle points or has been convicted of a violation of R.S.39:4-50;  
3 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.182  
4 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5, subsection c. of  
5 N.J.S.2C:12-1 or any other motor vehicle-related law the chief  
6 administrator deems significant and applicable pursuant to  
7 regulation. When the chief administrator is notified by a court of  
8 competent jurisdiction that an examination permit holder has been  
9 convicted of any alcohol or drug-related offense unrelated to the  
10 operation of a motor vehicle and is not otherwise subject to any  
11 other suspension penalty therefor, the chief administrator shall,  
12 without the exercise of discretion or a hearing, suspend the  
13 examination permit for six months.

14 An examination permit for a motorcycle or a commercial motor  
15 vehicle issued to a handicapped person, as determined by the New  
16 Jersey Motor Vehicle Commission after consultation with the  
17 Department of Education, shall be valid for ~~nine months~~ one year  
18 or until the completion of the road test portion of his license  
19 examination, whichever period is shorter.

20 Each permit shall be sufficient license for the person to operate  
21 such designated class of motor vehicles in this State during the  
22 period specified, while in the company of and under the control of a  
23 driver licensed by this State to operate such designated class of  
24 motor vehicles, or, in the case of a commercial driver license  
25 permit, while in the company of and under the control of a holder of  
26 a valid commercial driver license for the appropriate license class  
27 and with the appropriate endorsements issued by this or any other  
28 state. Such person, as well as the licensed driver, except for a motor  
29 vehicle examiner administering a driving skills test, shall be held  
30 accountable for all violations of this subtitle committed by such  
31 person while in the presence of the licensed driver. In addition to  
32 requiring an applicant for an examination permit to submit  
33 satisfactory proof of identity and age, the chief administrator also  
34 shall require the applicant to provide, as a condition for obtaining  
35 the permit, satisfactory proof that the applicant's presence in the  
36 United States is authorized under federal law. If the chief  
37 administrator has reasonable cause to suspect that any document  
38 presented by an applicant as proof of identity, age or legal residency  
39 is altered, false or otherwise invalid, the chief administrator shall  
40 refuse to grant the permit until such time as the document may be  
41 verified by the issuing agency to the chief administrator's  
42 satisfaction.

43 The holder of an examination permit shall be required to take a  
44 road test in order to obtain a provisional license. No road test for  
45 any person who has been issued an examination permit to operate a  
46 passenger vehicle shall be given unless the person has met the  
47 requirements of this section. No road test for a provisional license  
48 shall be given unless the applicant has first secured an examination

1 permit and no such road test shall be scheduled for an applicant  
 2 who has secured an examination permit for a passenger vehicle or a  
 3 motorcycle for which an endorsement is not required until at least  
 4 **[six months]** one year for an applicant under 21 years of age or  
 5 three months for an applicant 21 years of age or older shall have  
 6 elapsed following the validation of the examination permit for  
 7 practice driving or, in the case of an examination permit for other  
 8 vehicles, until 20 days have elapsed. In the case of an omnibus  
 9 endorsement or school bus, no road test shall be scheduled until at  
 10 least 10 days shall have elapsed. Every applicant for an examination  
 11 permit to qualify for an omnibus endorsement or an articulated  
 12 vehicle endorsement shall be a holder of a valid basic driver's  
 13 license.

14 The required fees for special learners' permits and examination  
 15 permits shall be as follows:

- 16 Basic driver's license.....up to \$10
- 17 Motorcycle license or endorsement.....\$ 5
- 18 Omnibus or school bus endorsement.....\$25

19 The chief administrator shall waive the payment of fees for  
 20 issuance of examination permits for omnibus endorsements  
 21 whenever the applicant establishes to the chief administrator's  
 22 satisfaction that said applicant will use the omnibus endorsement  
 23 exclusively for operating omnibuses owned by a nonprofit  
 24 organization duly incorporated under Title 15 or 16 of the Revised  
 25 Statutes or Title 15A of the New Jersey Statutes.

26 The specified period for which a permit is issued may be  
 27 extended for not more than an additional 60 days, without payment  
 28 of added fee, upon application made by the holder thereof, where  
 29 the holder has applied to take the examination for a driver's license  
 30 prior to the expiration of the original period for which the permit  
 31 was issued and the chief administrator was unable to schedule an  
 32 examination during said period.

33 As a condition for the issuance of an examination permit under  
 34 this section, the chief administrator shall secure a digitized picture  
 35 of the applicant. The picture shall be stored in a manner prescribed  
 36 by the chief administrator and may be displayed on the examination  
 37 permit.

38 The chief administrator may require that whenever a person to  
 39 whom an examination permit has been issued has reconstructive or  
 40 cosmetic surgery which significantly alters the person's facial  
 41 features, the person shall notify the chief administrator who may  
 42 require the picture of the person to be updated.

43 Specific use of the examination permit and any information  
 44 stored or encoded, electronically or otherwise, in relation thereto  
 45 shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.) and  
 46 the federal Driver's Privacy Protection Act of 1994, Pub. L.103-  
 47 322. Notwithstanding the provisions of any other law to the

1 contrary, the digitized picture or any access thereto or any use  
2 thereof shall not be sold, leased or exchanged for value.

3 (cf: P.L.2003, c.204, s.4)

4

5 2. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to  
6 read as follows:

7 4. a. The holder of a special learner's permit shall be entitled  
8 to a provisional driver's license (1) upon attaining the age of 17  
9 years, (2) upon the satisfactory completion of an approved behind-  
10 the-wheel automobile driving education course as indicated upon  
11 the face of the special permit over the signature of the principal of  
12 the school or the person operating the drivers' school in which the  
13 course was conducted, (3) upon the completion of **【six months'】**  
14 one year's driving experience with a validated special learner's  
15 permit in compliance with the provisions of section 6 of P.L.1977,  
16 c.25 (C.39:3-13.2a) and (4) upon passing the road test pursuant to  
17 R.S.39:3-10.

18 b. The holder of a provisional license shall be permitted to  
19 operate the passenger automobile with only one additional  
20 passenger in the vehicle besides persons with whom the holder  
21 resides, except that this passenger restriction shall not apply when  
22 either the holder of the provisional license or one other passenger is  
23 at least 21 years of age. Further, the holder of the provisional  
24 license who is under 21 years of age shall not drive during the hours  
25 between 12:01 a.m. and 5 a.m.; provided however, that this  
26 condition may be waived for an emergency which, in the judgment  
27 of local police, is of sufficient severity and magnitude to  
28 substantially endanger the health, safety, welfare or property of a  
29 person or for any bona fide employment or religion-related activity  
30 if the employer or appropriate religious authority provides written  
31 verification of such activity in a manner provided for by the  
32 **【director】** chief administrator.

33 c. The holder of the provisional license shall not use any  
34 interactive wireless communication device, except in an emergency,  
35 while operating a moving passenger automobile on a public road or  
36 highway. "Use" shall include, but not be limited to, talking or  
37 listening on any interactive wireless communication device or  
38 operating its keys, buttons or other controls. In addition, the holder  
39 of the provisional license shall ensure that all occupants of the  
40 vehicle are secured in a properly adjusted and fastened seat belt or  
41 child restraint system.

42 d. In addition to any other penalties provided under law, the  
43 holder of a provisional license who accumulates **【more than】** two or  
44 more motor vehicle points or is convicted of a violation of  
45 R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992,  
46 c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of  
47 N.J.S.2C:12-1 or any other motor vehicle law the **【director】** chief  
48 administrator deems to be significant and applicable pursuant to

1 regulation shall, for the first violation, be required to satisfactorily  
2 complete a remedial training course of not less than four hours  
3 which may be given by the **[division]** commission, a drivers'  
4 school licensed by the **[director]** chief administrator pursuant to  
5 section 2 of P.L.1951, c.216 (C.39:12-2) or any Statewide safety  
6 organization approved by the **[director]** chief administrator. The  
7 course shall be administered pursuant to rules and regulations  
8 promulgated by the **[director]** chief administrator and subject to  
9 oversight by the **[division]** commission. The authority of the  
10 **[director]** chief administrator to suspend, revoke or deny issuance  
11 of an initial or renewal license to operate a drivers' school or an  
12 instructor's license, and to assess fines, pursuant to P.L.1951, c.216  
13 (C.39:12-1 et seq.) shall apply to any violations related to the  
14 administration of a remedial training course. The permit holder  
15 shall also remit a course fee prior to the commencement of the  
16 course.

17 e. When notified by a court of competent jurisdiction that a  
18 provisional license holder has been convicted of a **[second or**  
19 **subsequent]** motor vehicle violation, in addition to any other  
20 penalties provided under law, the **[director]** chief administrator  
21 shall, without the exercise of discretion or a hearing, suspend the  
22 provisional license for **[three]** five months, and shall postpone  
23 eligibility for a basic license for an equivalent period. In addition,  
24 when the **[director]** chief administrator is notified by a court of  
25 competent jurisdiction that a provisional license holder has been  
26 convicted of any alcohol or drug-related offense unrelated to the  
27 operation of a motor vehicle, and he is not otherwise subject to any  
28 other suspension penalty therefor, the **[director]** chief administrator  
29 shall, without the exercise of discretion or a hearing, suspend the  
30 provisional license for six months.

31 f. The chief administrator shall provide the holder of a  
32 provisional license with a removable orange colored hang tag  
33 indicating that the driver of the vehicle may be the holder of a  
34 provisional license. The hang tag, which shall be designed by the  
35 chief administrator, shall be prominently displayed in a manner  
36 prescribed by the chief administrator on any vehicle driven by the  
37 holder of a provisional license. The holder of a provisional license  
38 shall not operate a vehicle unless the hang tag is displayed. The  
39 hang tag shall be removed once the driver's provisional license  
40 period has ended.

41 g. A provisional license may be sent by mail and shall be  
42 clearly identifiable and distinguishable in appearance from a basic  
43 license by any name, mark, color or device deemed appropriate by  
44 the **[director]** chief administrator.

45 (cf: P.L.2001, c.420, s.8)

1       3. Section 11 of P.L.2001, c.420 (C.39:3-13.8) is amended to  
2 read as follows:

3       11. A fine of ~~【\$100】~~ \$500 shall be imposed upon the driver and  
4 an additional \$500 shall be imposed upon the parent or guardian of  
5 the driver for violating the following conditions of a special  
6 learners permit, an examination permit or a provisional driver's  
7 license:

- 8       a. supervision requirements for permit holders;
- 9       b. passenger restrictions;
- 10       c. hours of operation;
- 11       d. seat belt requirements;
- 12       e. interactive wireless communication device use restrictions;

13 **【or】**

14       f. any other violation of the conditions of a permit or  
15 provisional license as the director may designate; or

16       g. hang tag requirements, as required in section 4 of P.L.1950,  
17 c.127 (C.39:3-13.4).

18 (cf: P.L.2001, c.420, s.11)

19

20       4. This act shall take effect on the first day of the eighth month  
21 after enactment.

22

23

24

#### STATEMENT

25

26       This bill would enhance the laws concerning provisional driver's  
27 licenses. Specifically, the bill would:

28       1) require that the parent or guardian of a person under the age  
29 of 18 receive an informational brochure which clearly sets forth the  
30 special rules that apply to a holder of an examination permit or a  
31 provisional license;

32       2) require the chief administrator to issue an orange hang tag to  
33 be displayed when a vehicle is being driven by the holder of a  
34 provisional license;

35       3) require that an applicant for a provisional license wait one  
36 year after obtaining a learner's permit before being issued a  
37 provisional license;

38       4) increase the fine for a violation of the provisions of a special  
39 learners permit, an examination permit or a provisional driver's  
40 license from a fine of \$100 to a fine of \$500 for the driver and \$500  
41 for the parents of the driver;

42       5) change the threshold for requiring a remedial training course  
43 from more than two motor vehicle points to two or more motor  
44 vehicle points;

45       6) change the threshold for mandatory license suspension from  
46 two or more motor vehicle offenses to any motor vehicle offense;  
47 and

1       7) increase the mandatory license suspension from three  
2 months to five months.

3       The sponsor has introduced this bill in memory of Kyleigh  
4 Dalessio, a 16-year old honor student and recognized athlete from  
5 Long Valley, New Jersey who died in an accident involving a  
6 young driver with multiple passengers.