

ASSEMBLY, No. 2089

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 25, 2008

Sponsored by:

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District 18 (Middlesex)

Assemblyman **JOHN F. MCKEON**

District 27 (Essex)

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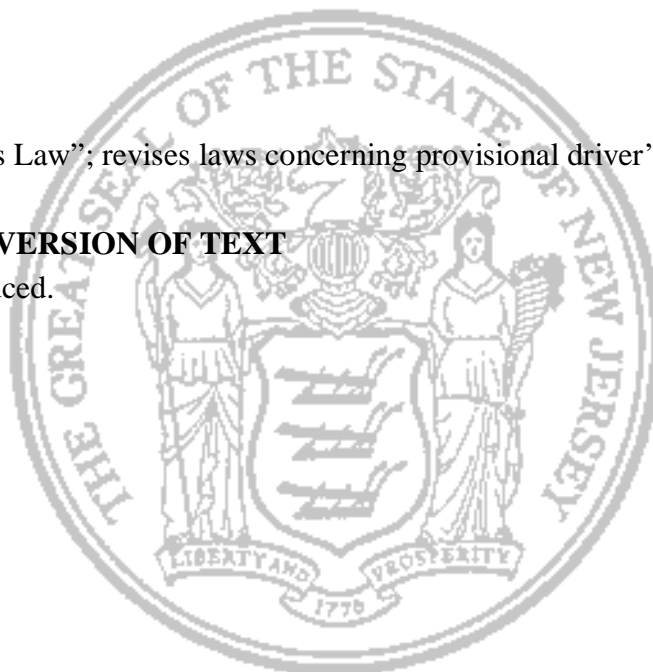
Assemblyman Cryan, Assemblywoman Wagner, Assemblymen L.Smith, Green, Vas, Chiappone, Johnson, Assemblywoman Vainieri Huttie, Assemblymen Diegnan, Merkt, Assemblywoman Casagrande, Assemblymen Giblin, O'Scanlon, Assemblywomen Voss, Handlin, Assemblymen Chivukula, Ramos, Rumpf, Van Pelt, Assemblywomen Quigley, 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.