

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2314

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED NOVEMBER 13, 2008

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Assemblyman Diegnan, Assemblywomen Stender, McHose and
Assemblyman Chiusano**

SYNOPSIS

“Kyleigh’s law;” requires holders of special learner’s permits, examination permits, and provisional driver’s licenses to display certain decals.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Transportation Committee.

(Sponsorship Updated As Of: 3/6/2009)

1 AN ACT concerning special learner's permits, examination permits,
2 and provisional driver's licenses, designated as "Kyleigh's Law,"
3 and amending various parts of the statutory law.
4

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

7
8 1. Section 6 of P.L.1977, c.25 (C.39:3-13.2a) is amended to
9 read as follows:

10 6. a. Any person to whom a special learner's permit has been
11 issued pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1), upon
12 successful completion of a State approved written examination, eye
13 examination, and an approved minimum six-hour behind-the-wheel
14 driving course, shall be entitled to retain the special learner's permit
15 in his own possession. The special learner's permit shall be
16 validated by the **[division]** commission for the purpose of driving a
17 motor vehicle on a public highway in this State after the holder has
18 successfully met the necessary examination requirements, and upon
19 the successful completion of a behind-the-wheel driving course.
20 Such person may operate a motor vehicle of the class for which a
21 basic driver's license is required except during the hours between
22 11:01 p.m. and 5:00 a.m. while in the company and under the
23 supervision, from the front passenger seat, of a licensed motor
24 vehicle driver of this State who is over 21 years of age and has been
25 licensed to drive a passenger automobile for at least three years.
26 Such special permit shall be valid until such person's seventeenth
27 birthday or until he qualifies for a provisional license. Except
28 during an instructional period of a behind-the-wheel driving course,
29 the holder of a special permit shall operate a passenger automobile
30 with only the following passengers: (1) the supervising passenger;
31 (2) persons who share the permit holder's residence; and (3) one
32 additional passenger who does not reside with the permit holder.
33 The holder of the special learner's permit 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. All occupants of the
39 automobile shall be secured in a properly adjusted and fastened seat
40 belt or child restraint system.

41 The chief administrator shall provide the holder of a special
42 learner's permit with two removable, transferable, highly visible,
43 reflective decals indicating that the driver of the vehicle may be the
44 holder of a special learner's permit. The decals shall be designed

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 by the chief administrator, in consultation with the Division of
2 Highway Traffic Safety in the Department of Law and Public
3 Safety. The chief administrator may charge a fee for the decals not
4 to exceed the actual cost of producing and distributing the decals.
5 The decals shall be displayed in a manner prescribed by the chief
6 administrator, in consultation with the Division of Highway Traffic
7 Safety in the Department of Law and Public Safety, and shall be
8 clearly visible to law enforcement officers. The holder of a special
9 learner's permit shall not operate a vehicle unless the decals are
10 displayed. The decal shall be removed once the driver's special
11 learner's permit period has ended.

12 b. When notified by a court of competent jurisdiction that a
13 special learner's permit holder has been convicted of a violation
14 which causes the permit holder to accumulate more than two motor
15 vehicle points or has been convicted of a violation of R.S.39:4-50;
16 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
17 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
18 N.J.S.2C:12-1; or any other motor vehicle-related law the
19 **[director]** chief administrator determines to be significant and
20 applicable pursuant to regulation, and in addition to any other
21 penalty that may be imposed, the **[director]** chief administrator
22 shall, without the exercise of discretion or a hearing, suspend the
23 holder's special learner's permit for 90 days. The **[director]** chief
24 administrator shall restore the permit following the term of the
25 permit suspension if the permit holder, regardless of age,
26 satisfactorily completes a remedial training course of not less than
27 four hours which may be given by the **[division]** commission, a
28 drivers' school licensed by the **[director]** chief administrator
29 pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any
30 statewide safety organization approved by the **[director]** chief
31 administrator. The course shall be administered pursuant to rules
32 and regulations promulgated by the **[director]** chief administrator
33 and subject to oversight by the **[division]** commission. The
34 authority of the **[director]** chief administrator to suspend, revoke,
35 or deny issuance of an initial or renewal license to operate a drivers'
36 school or an instructor's license, and to assess fines, pursuant to
37 P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations
38 related to the administration of a remedial training course. The
39 permit holder shall also remit a course fee prior to the
40 commencement of the course. If, after completion of the remedial
41 training course, the **[director]** chief administrator is notified by a
42 court of competent jurisdiction that the special learner's permit
43 holder has been convicted of any motor vehicle violation which
44 results in the imposition of any motor vehicle points or has been
45 convicted of a violation of R.S.39:4-50; section 2 of P.L.1981,
46 c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-

1 129; N.J.S.2C:11-5; subsection c. of N.J.S.2C:12-1; or any other
2 motor vehicle-related law the **[director]** chief administrator deems
3 significant and applicable pursuant to regulation, the **[director]**
4 chief administrator, without the exercise of discretion or a hearing,
5 shall also postpone the issuance of a basic license for 90 days.
6 When the **[director]** chief administrator is notified by a court of
7 competent jurisdiction that a special learner's permit holder has
8 been convicted of any alcohol or drug-related offense unrelated to
9 the operation of a motor vehicle and he is not otherwise subject to
10 any other suspension penalty therefor, the **[director]** chief
11 administrator shall, without the exercise of discretion or a hearing,
12 suspend the special learner's permit for six months.
13 (cf: P.L.2001, c.420, s.7)

14

15 2. R.S.39:3-13 is amended to read as follows:

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

25 The chief administrator, in his discretion, may issue for a
26 specified period of not less than one year a passenger automobile or
27 motorcycle-only examination permit to a person over 17 years of
28 age regardless of whether a person has completed a course of
29 behind-the-wheel automobile driving education pursuant to section
30 1 of P.L.1950, c.127 (C.39:3-13.1). An examination permit
31 applicant who is under 18 years of age shall obtain the signature of
32 a parent or guardian for submission to the commission on a form
33 prescribed by the chief administrator. The chief administrator shall
34 postpone for six months the driving privileges of any person who
35 submits a fraudulent signature for a parent or guardian.

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

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

24 The chief administrator shall provide the holder of an
25 examination permit with two removable, transferable, highly
26 visible, reflective decals indicating that the driver of the vehicle
27 may be the holder of an examination permit. The decals shall be
28 designed by the chief administrator, in consultation with the
29 Division of Highway Traffic Safety in the Department of Law and
30 Public Safety. The chief administrator may charge a fee for the
31 decals not to exceed the actual cost of producing and distributing
32 the decals. The decals shall be displayed in a manner prescribed by
33 the chief administrator, in consultation with the Division of
34 Highway Traffic Safety in the Department of Law and Public
35 Safety, and shall be clearly visible to law enforcement officers. The
36 holder of an examination permit shall not operate a vehicle unless
37 the decals are displayed. The decal shall be removed once the
38 driver's examination permit period has ended.

39 When notified by a court of competent jurisdiction that an
40 examination permit holder has been convicted of a violation which
41 causes the permit holder to accumulate more than two motor vehicle
42 points or has been convicted of a violation of R.S.39:4-50; section 2
43 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14);
44 R.S.39:4-129; N.J.S.2C:11-5; subsection c. of N.J.S.2C:12-1; or any
45 other motor vehicle-related law the chief administrator deems
46 significant and applicable pursuant to regulation, in addition to any
47 other penalty that may be imposed, the chief administrator shall,

1 without the exercise of discretion or a hearing, suspend the
2 examination permit holder's examination permit for 90 days. The
3 chief administrator shall restore the permit following the term of the
4 permit suspension if the permit holder satisfactorily completes a
5 remedial training course of not less than four hours which may be
6 given by the commission, a drivers' school licensed by the chief
7 administrator pursuant to section 2 of P.L.1951, c.216 (C.39:12-2),
8 or any Statewide safety organization approved by the chief
9 administrator. The course shall be subject to oversight by the
10 commission according to its guidelines. The permit holder shall
11 also remit a course fee prior to the commencement of the course.
12 The chief administrator also shall postpone without the exercise of
13 discretion or a hearing the issuance of a basic license for 90 days if
14 the chief administrator is notified by a court of competent
15 jurisdiction that the examination permit holder, after completion of
16 the remedial training course, has been convicted of any motor
17 vehicle violation which results in the imposition of any motor
18 vehicle points or has been convicted of a violation of R.S.39:4-50;
19 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.182
20 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5, subsection c. of
21 N.J.S.2C:12-1 or any other motor vehicle-related law the chief
22 administrator deems significant and applicable pursuant to
23 regulation. When the chief administrator is notified by a court of
24 competent jurisdiction that an examination permit holder has been
25 convicted of any alcohol or drug-related offense unrelated to the
26 operation of a motor vehicle and is not otherwise subject to any
27 other suspension penalty therefor, the chief administrator shall,
28 without the exercise of discretion or a hearing, suspend the
29 examination permit for six months.

30 An examination permit for a motorcycle or a commercial motor
31 vehicle issued to a handicapped person, as determined by the New
32 Jersey Motor Vehicle Commission after consultation with the
33 Department of Education, shall be valid for nine months or until the
34 completion of the road test portion of his license examination,
35 whichever period is shorter.

36 Each permit shall be sufficient license for the person to operate
37 such designated class of motor vehicles in this State during the
38 period specified, while in the company of and under the control of a
39 driver licensed by this State to operate such designated class of
40 motor vehicles, or, in the case of a commercial driver license
41 permit, while in the company of and under the control of a holder of
42 a valid commercial driver license for the appropriate license class
43 and with the appropriate endorsements issued by this or any other
44 state. Such person, as well as the licensed driver, except for a motor
45 vehicle examiner administering a driving skills test, shall be held
46 accountable for all violations of this subtitle committed by such
47 person while in the presence of the licensed driver. In addition to

1 requiring an applicant for an examination permit to submit
2 satisfactory proof of identity and age, the chief administrator also
3 shall require the applicant to provide, as a condition for obtaining
4 the permit, satisfactory proof that the applicant's presence in the
5 United States is authorized under federal law. If the chief
6 administrator has reasonable cause to suspect that any document
7 presented by an applicant as proof of identity, age, or legal
8 residency is altered, false, or otherwise invalid, the chief
9 administrator shall refuse to grant the permit until such time as the
10 document may be verified by the issuing agency to the chief
11 administrator's satisfaction.

12 The holder of an examination permit shall be required to take a
13 road test in order to obtain a provisional license. No road test for
14 any person who has been issued an examination permit to operate a
15 passenger vehicle shall be given unless the person has met the
16 requirements of this section. No road test for a provisional license
17 shall be given unless the applicant has first secured an examination
18 permit and no such road test shall be scheduled for an applicant
19 who has secured an examination permit for a passenger vehicle or a
20 motorcycle for which an endorsement is not required until at least
21 six months for an applicant under 21 years of age or three months
22 for an applicant 21 years of age or older shall have elapsed
23 following the validation of the examination permit for practice
24 driving or, in the case of an examination permit for other vehicles,
25 until 20 days have elapsed. In the case of an omnibus endorsement
26 or school bus, no road test shall be scheduled until at least 10 days
27 shall have elapsed. Every applicant for an examination permit to
28 qualify for an omnibus endorsement or an articulated vehicle
29 endorsement shall be a holder of a valid basic driver's license.

30 The required fees for special learners' permits and examination
31 permits shall be as follows:

- 32
- 33 Basic driver's license.....up to \$10
- 34
- 35 Motorcycle license or endorsement.....\$ 5
- 36
- 37 Omnibus or school bus endorsement.....\$25
- 38

39 The chief administrator shall waive the payment of fees for
40 issuance of examination permits for omnibus endorsements
41 whenever the applicant establishes to the chief administrator's
42 satisfaction that said applicant will use the omnibus endorsement
43 exclusively for operating omnibuses owned by a nonprofit
44 organization duly incorporated under Title 15 or 16 of the Revised
45 Statutes or Title 15A of the New Jersey Statutes.

46 The specified period for which a permit is issued may be
47 extended for not more than an additional 60 days, without payment

1 of added fee, upon application made by the holder thereof, where
2 the holder has applied to take the examination for a driver's license
3 prior to the expiration of the original period for which the permit
4 was issued and the chief administrator was unable to schedule an
5 examination during said period.

6 As a condition for the issuance of an examination permit under
7 this section, the chief administrator shall secure a digitized picture
8 of the applicant. The picture shall be stored in a manner prescribed
9 by the chief administrator and may be displayed on the examination
10 permit.

11 The chief administrator may require that whenever a person to
12 whom an examination permit has been issued has reconstructive or
13 cosmetic surgery which significantly alters the person's facial
14 features, the person shall notify the chief administrator who may
15 require the picture of the person to be updated.

16 Specific use of the examination permit and any information
17 stored or encoded, electronically or otherwise, in relation thereto
18 shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.) and
19 the federal Driver's Privacy Protection Act of 1994, Pub. L.103-
20 322. Notwithstanding the provisions of any other law to the
21 contrary, the digitized picture or any access thereto or any use
22 thereof shall not be sold, leased or exchanged for value.

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

24

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

27 4. a. The holder of a special learner's permit shall be entitled
28 to a provisional driver's license (1) upon attaining the age of 17
29 years, (2) upon the satisfactory completion of an approved behind-
30 the-wheel automobile driving education course as indicated upon
31 the face of the special permit over the signature of the principal of
32 the school or the person operating the drivers' school in which the
33 course was conducted, (3) upon the completion of six months'
34 driving experience with a validated special learner's permit in
35 compliance with the provisions of section 6 of P.L.1977, c.25
36 (C.39:3-13.2a), and (4) upon passing the road test pursuant to
37 R.S.39:3-10.

38 b. The holder of a provisional license shall be permitted to
39 operate the passenger automobile with only one additional
40 passenger in the vehicle besides persons with whom the holder
41 resides, except that this passenger restriction shall not apply when
42 either the holder of the provisional license or one other passenger is
43 at least 21 years of age. Further, the holder of the provisional
44 license who is under 21 years of age shall not drive during the hours
45 between 12:01 a.m. and 5 a.m.; provided however, that this
46 condition may be waived for an emergency which, in the judgment
47 of local police, is of sufficient severity and magnitude to

1 substantially endanger the health, safety, welfare, or property of a
2 person or for any bona fide employment or religion-related activity
3 if the employer or appropriate religious authority provides written
4 verification of such activity in a manner provided for by the
5 **【director】** chief administrator.

6 c. The holder of the provisional license shall not use any
7 interactive wireless communication device, except in an emergency,
8 while operating a moving passenger automobile on a public road or
9 highway. "Use" shall include, but not be limited to, talking or
10 listening on any interactive wireless communication device or
11 operating its keys, buttons, or other controls. In addition, the holder
12 of the provisional license shall ensure that all occupants of the
13 vehicle are secured in a properly adjusted and fastened seat belt or
14 child restraint system.

15 d. In addition to any other penalties provided under law, the
16 holder of a provisional license who accumulates more than two
17 motor vehicle points or is convicted of a violation of R.S.39:4-50;
18 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
19 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
20 N.J.S.2C:12-1; or any other motor vehicle law the **【director】** chief
21 administrator deems to be significant and applicable pursuant to
22 regulation shall, for the first violation, be required to satisfactorily
23 complete a remedial training course of not less than four hours
24 which may be given by the **【division】** commission, a drivers'
25 school licensed by the **【director】** chief administrator pursuant to
26 section 2 of P.L.1951, c.216 (C.39:12-2), or any Statewide safety
27 organization approved by the **【director】** chief administrator. The
28 course shall be administered pursuant to rules and regulations
29 promulgated by the **【director】** chief administrator and subject to
30 oversight by the **【division】** commission. The authority of the
31 **【director】** chief administrator to suspend, revoke, or deny issuance
32 of an initial or renewal license to operate a drivers' school or an
33 instructor's license, and to assess fines, pursuant to P.L.1951, c.216
34 (C.39:12-1 et seq.) shall apply to any violations related to the
35 administration of a remedial training course. The **【permit】** license
36 holder shall also remit a course fee prior to the commencement of
37 the course.

38 e. When notified by a court of competent jurisdiction that a
39 provisional license holder has been convicted of a second or
40 subsequent violation, in addition to any other penalties provided
41 under law, the **【director】** chief administrator shall, without the
42 exercise of discretion or a hearing, suspend the provisional license
43 for three months, and shall postpone eligibility for a basic license
44 for an equivalent period. In addition, when the **【director】** chief
45 administrator is notified by a court of competent jurisdiction that a
46 provisional license holder has been convicted of any alcohol or

1 drug-related offense unrelated to the operation of a motor vehicle,
2 and he is not otherwise subject to any other suspension penalty
3 therefor, the **[director]** chief administrator shall, without the
4 exercise of discretion or a hearing, suspend the provisional license
5 for six months.

6 f. The chief administrator shall provide the holder of a
7 provisional license with two removable, transferable, highly visible,
8 reflective decals indicating that the driver of the vehicle may be the
9 holder of a provisional license. The decals shall be designed by the
10 chief administrator, in consultation with the Division of Highway
11 Traffic Safety in the Department of Law and Public Safety. The
12 chief administrator may charge a fee for the decals not to exceed the
13 actual cost of producing and distributing the decals. The decals
14 shall be displayed in a manner prescribed by the chief
15 administrator, in consultation with the Division of Highway Traffic
16 Safety in the Department of Law and Public Safety, and shall be
17 clearly visible to law enforcement officers. The holder of a
18 provisional license shall not operate a vehicle unless the decals are
19 displayed. The decal shall be removed once the driver's provisional
20 license period has ended.

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

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

26

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

29 11. A fine of \$100 shall be imposed for violating the following
30 conditions of a special **[learners]** learner's permit, an examination
31 permit or a provisional driver's license:

- 32 a. supervision requirements for permit holders;
33 b. passenger restrictions;
34 c. hours of operation;
35 d. seat belt requirements;
36 e. interactive wireless communication device use restrictions;

37 **[or]**

38 f. any other violation of the conditions of a permit or
39 provisional license as the **[director]** chief administrator may
40 designate; or

41 g. decal requirements **[for permit and provisional license**
42 holders] .

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

44

45 5. This act shall take effect on the first day of the 13th month
46 after enactment, but the Chief Administrator of the New Jersey

- 1 Motor Vehicle Commission may take such anticipatory action
- 2 necessary to implement the provisions of this act.