

SUBCHAPTER 3. MINIMUM WAGE RATES

12:56-3.1 Statutory minimum wage rates for specific years; general
 (a) Except as provided at N.J.A.C. 12:56-3.2, 3.3, 3.4, [and] 3.5, **and 3.7**, every employee shall, effective January 1, 2021, be paid not less than \$12.00 per hour or the minimum wage rate set by section 6(a)(1) of the Federal "Fair Labor Standards Act of 1938" (29 U.S.C. § 206(a)(1)), whichever is greater.
 (b)-(d) (No change.)

12:56-3.7 Statutory minimum wage rate; long-term care facility direct care staff members
Commencing November 1, 2020, an employee who is a long-term care facility direct care staff member shall be paid a minimum hourly wage rate that is not less than \$3.00 in excess of the minimum hourly wage specified at N.J.A.C. 12:56-3.1.

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION
Compliance and Safety
Motor Vehicle Violations Surcharge System
Proposed Amendments: N.J.A.C. 13:19-12.1, 12.11, and 12.12

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:2-3, 39:2A-21, and 39:2A-28; and P.L. 2019, c. 276.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021-013.

Submit comments by April 2, 2021, to:

Kate Tasch, Director
 Legal and Regulatory Affairs
 Motor Vehicle Commission
 225 East State Street
 PO Box 162
 Trenton, NJ 08666-0162
 or via email to: rulecomments@mvc.nj.gov.

The agency proposal follows:

Summary

P.L. 2019, c. 276, signed by Governor Murphy and effective on January 1, 2021, eliminated the use of mandatory driver license suspensions for a variety of non-moving violations, among them unpaid surcharges and some types of disorderly persons offenses. As a result of those changes, the Motor Vehicle Violations Surcharge System rules require amendments to eliminate the suspension of driving privileges for unpaid surcharges levied under N.J.S.A. 17:29A-35.b. Effective January 1, 2021, failure to satisfy surcharge obligations under the Motor Vehicle Violations Surcharge System will no longer result in the suspension of a driver’s license. Further, for payments made by credit card or electronic payment from a bank, driving privileges will no longer be suspended if the driver terminates payments through these forms of payment.

P.L. 2019, c. 276, eliminated mandatory driver’s license suspensions as a penalty for a variety of criminal and disorderly persons offenses that were unrelated to the safe operation of a motor vehicle. For several criminal and disorderly persons offenses, the driver’s license suspension was removed entirely, or the court or Chief Administrator of the Motor Vehicle Commission (Commission) was afforded discretion in determining whether to impose a suspension or how long a suspension is warranted. The statute requires the court or the Chief Administrator to consider the circumstances of the offense, whether the loss of driving privilege would result in extreme hardship to the individual, and whether

alternative means of transportation are readily available should the individual’s license be suspended.

Prior to January 1, 2021, the law concerning unpaid motor vehicle surcharges required the mandatory suspension of a driver’s license for failure to pay a motor vehicle surcharge when imposed for the accumulation of six or more motor vehicle points during the prior 36 months, an unsafe driving conviction, or a driving while intoxicated or refusal of testing conviction. Prior to January 1, 2021, drivers who had their licenses suspended based upon failure to pay surcharges could not have their license restored until at least five percent of each of their outstanding surcharge amounts were satisfied or the required installment paid. The amendments to the law eliminate the suspension of the driver’s license for failing to make surcharge payments.

The changes made to the law by the Governor and Legislature focused on consequences viewed as overly punitive and disproportionately impacting certain socioeconomic groups within New Jersey by making it more difficult to maintain employment and by increasing the amount of money due to fines and penalties for late or missed payments. Further, several amendments focused on eliminating the use of a penalty of mandatory driver’s license suspension for offenses that did not involve a moving violation or operation of a vehicle as part of the underlying offense. Now, drivers who previously would have had their driver’s license suspended are responsible for focusing on payment of the surcharges assessed. In circumstances where the driver is able to maintain their license, rather than having it suspended, the ability to pay outstanding surcharges due to the Motor Vehicle Commission (Commission) is anticipated to be enhanced as the individual is still able to travel to and from their place of employment, maintaining an income from which to set aside funds for repayment of surcharges.

The following is a summary of the rule amendments that the Commission is proposing:

N.J.A.C. 13:19-12.1 is proposed for amendment to remove the reference to suspension of driving privileges for failure to pay surcharges and confirm that the Chief Administrator is authorized to pursue unpaid surcharges through the collection mechanisms set forth at N.J.S.A. 17:29A-35.

N.J.A.C. 13:19-12.11 is proposed for amendment to remove the suspension of driving privileges for failure to pay surcharges and confirm that the Chief Administrator is authorized to pursue unpaid surcharges through the collection mechanisms set forth at N.J.S.A. 17:29A-35.

N.J.A.C. 13:19-12.12 is proposed for amendment to reflect that failure to pay surcharges may result in collection action pursuant to N.J.S.A. 17:29A-35, and to clarify the requirements for restoration of driving privileges that were suspended before January 1, 2021. The section is also amended to use more gender-neutral language.

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

Social Impact

The Commission anticipates that the proposed amendments will have a positive social impact on New Jersey drivers who will no longer have their license suspended due to financial surcharge obligations under the Motor Vehicle Violations Surcharge System. These drivers will now be able to operate their vehicle for themselves and their family, to travel to and from their employment, and to continue to participate in other aspects of society where the ability to operate a vehicle is necessary.

Economic Impact

The Commission anticipates that the proposed amendments will have a positive economic impact on New Jersey drivers who are able to legally travel to and from their place of employment, allowing the drivers who have financial obligations under the Motor Vehicle Violations Surcharge System to continue to earn income to satisfy such obligations to the Commission.

Jobs Impact

The Commission anticipates a positive jobs impact as drivers with financial obligations under the Motor Vehicle Violations Surcharge System will maintain their driver’s license rather than it being suspended,

which often results in loss of employment or loss of income because they are unable to commute to work or because a valid driver’s license is a condition of their employment.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not being proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Agriculture Industry Impact

The Commission does not anticipate that there will be any impact on the agriculture industry as a result of the proposed amendments.

Regulatory Flexibility Statement

The Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., defines a “small business” as any business in this State that employs fewer than 100 employees full-time, is independently owned and operated, and is not dominant in its field. The proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses. The proposed amendments may contribute to preventing job losses at small businesses as employees are able to travel to and from their employer and perform job tasks that may require a driver’s license.

Housing Affordability Impact Analysis

The proposed amendments will have no impact on housing affordability or on the average costs of housing because the proposed amendments pertain to motor vehicle surcharges.

Smart Growth Development Impact Analysis

The proposed amendments will have no impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to vehicle surcharges.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 12. MOTOR VEHICLE VIOLATIONS SURCHARGE SYSTEM

13:19-12.1 Failure to pay surcharge; Motor Vehicle Violations Surcharge System Bill

[(a) The Chief Administrator shall suspend the driving privileges of any person who fails to pay a surcharge levied under N.J.S.A. 17:29A-35b until said surcharge is paid to the Motor Vehicle Commission.]

(a) Any person who fails to pay a surcharge levied pursuant to N.J.S.A. 17:29A-35.b shall be subject to collection action pursuant to N.J.S.A. 17:29A-35, in addition to any other remedy provided by law.

(b) Surcharge notification shall be in the form of a “Motor Vehicle Violation Surcharge System Bill.” A person shall have 30 days from the date of surcharge notification to pay the surcharge before [his or her driving privileges are suspended by the Chief Administrator of the Motor Vehicle Commission] **collection action is taken pursuant to N.J.S.A. 17:29A-35, in addition to any other remedy provided by law.**

13:19-12.11 Driving while intoxicated surcharges; installments

Licenses who are surcharged for driving while intoxicated convictions may pay the surcharge in up to 36 monthly installments pursuant to a schedule established by the Chief Administrator of the Motor Vehicle Commission. Failure to adhere to the payment schedule will result in [the immediate suspension of the licensee’s driving privileges] **collection action pursuant to N.J.S.A. 17:29A-35, in addition to any other remedy provided by law.**

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

(a) [The] **In addition to any other remedy provided by N.J.S.A. 17:29A-35, and as otherwise provided by law, the** Chief Administrator may, in [his or her] **the Chief Administrator’s** discretion, issue a certificate of debt to the Clerk of the Superior Court in accordance with N.J.S.A. 17:29A-[35b(2)]**35.b(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 **prior to January 1, 2021**, in accordance with N.J.S.A. 17:29A-35 and N.J.A.C. 13:19-12.1 because of [his or her] **the** failure to pay an insurance surcharge, may make application to the Chief Administrator for the restoration of [his or her] driving privileges upon acknowledgement of [his or her] **an** 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] **in the Chief Administrator’s** 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] **for failure to comply with the terms fixed by the Chief Administrator, or a court of law, for satisfying a certificate of debt on an installment basis prior to January 1, 2021**, 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.