

**STATE OF NEW JERSEY
MOTOR VEHICLE COMMISSION
CASE FILE NUMBER: KXXXX XXXXX 05432
OAL DOCKET NUMBER: MVH 14205-17**

IN THE MATTER OF :
STEPHEN KOO : **FINAL DECISION**

The Motor Vehicle Commission (Commission) hereby determines this consolidated matter comprised of three separate proposed suspension notices issued to respondent **STEPHEN KOO**. First, is a determination concerning two proposed suspension actions as to respondent's New Jersey driving privilege for the accumulation of an excessive number of points in violation of N.J.S.A. 39:5-30.8 and N.J.A.C. 13:19-10.1 et seq. Pursuant to N.J.A.C. 13:19-10.2(a)(1), respondent's New Jersey driving privilege is subject to two 30-day suspension periods. Next, is a determination concerning the proposed indefinite suspension of the New Jersey Commercial Driver License (CDL) **passenger-carrying endorsement (passenger endorsement)** of respondent, because he has twelve or more current points under the point system on his driving record, pursuant to N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-14.5(c)2. Prior to this consolidated final agency determination, I have reviewed and considered the Initial Decision of the Administrative Law Judge (ALJ). No exceptions were filed. Based upon the record presented, I shall affirm in part and modify in part the recommendation of the ALJ for the reasons stated herein.

In her Initial Decision, the ALJ finds that in light of the respondent's overall driving record and "[p]ursuant to the pertinent regulation, [] two 30-day suspension[s] would apply

in this case”, but further concludes and recommends based on mitigation noted in her decision that the suspension term “should be reduced to a total of fifteen-day suspension.” The ALJ notes that this suspension would be a suspension of respondent’s basic driving privilege (and, therefore, would apply to both his “personal” and CDL license). Initial Decision at 3.

Based on an independent and de novo review of the record, I concur and will not disturb that recommendation with respect to the two proposed “points” suspension actions. There is certainly a need for a rehabilitative suspension period to reform this driver’s driving behavior, as it is manifested in the twelve separate traffic violations (amassing 16 additional penalty-points to his cumulative point-total) which he committed in the less-than-two-year period between August 12, 2015 and June 26, 2017. See Certified Abstract of Driver History Record (Exhibit P-1). However, respondent has shown some recent improvement since that time period, in that he has not been convicted of another offense since that June 26, 2017 date. Thus, on balance, taking into consideration respondent’s need for his driving privileges weighed against the public interest in having drivers who obey the governing traffic laws at all times to ensure safety, I will accept the fifteen-day suspension period recommended by the ALJ as warranted and appropriate.

While I concur with the ALJ’s recommendation that the proposed suspensions for the accumulation of excessive points be reduced to a total fifteen-day suspension, I must modify the ALJ’s recommendation concerning the proposed indefinite suspension of respondent’s **passenger endorsement** on his commercial driver license (CDL), for having a cumulative point-total of twelve or more points. First, I will note that the ALJ’s

Initial Decision imprecisely refers to the Commission's proposed suspension action as one for his "commercial endorsement". Initial Decision at 2. This reference shall be clarified and re-stated: as it is a "passenger endorsement" on the commercial privilege (and not the underlying CDL itself) that is the subject of this proposed indefinite suspension.

Respondent's current point-total as of the date of this final agency decision stands at nineteen (19); it had been fifteen (15) at the time the Scheduled Suspension Notice for the passenger endorsement (BUS S CPPT; 05/26/217) indefinite suspension had been issued, but two additional traffic offense convictions were reported to the Commission since that date. Thus, pursuant to N.J.A.C. 13:21-14.5(c)(2), respondent was not at the time of the subject scheduled suspension notice, and still is not, qualified to hold a passenger-carrying endorsement on his CDL. The Chief Administrator may suspend the passenger-carrying endorsement on a CDL once the holder of the CDL has twelve or more points on his driving record and may keep that motorist's CDL passenger-carrying endorsement suspended until his point-total is below twelve. Gabe S. Barrentine v. New Jersey Division of Motor Vehicles, A-1055-94T1 (App. Div., February 29, 1996) (unpublished); Division of Motor Vehicles v. Anthony Profita, A-5073-92T2 (App. Div., August 24, 1994) (unpublished).

I have considered respondent's need for a passenger-carrying endorsement on his CDL. However, in addition to maintaining safety on the roads and highways of New Jersey, the Commission must always be concerned about the safety of bus/limousine passengers when it makes decisions concerning the granting, suspending or restoring of the passenger-carrying endorsement on a commercial driving privilege. I shall, therefore,

suspend respondent's passenger-carrying endorsement on his CDL indefinitely. He may seek restoration of his passenger-carrying endorsement on his CDL when his point-total on his driving record is below twelve points.

While I am sympathetic regarding the hardship that the respondent may suffer as a result of his New Jersey driving privilege being suspended, respondent must nevertheless appreciate the responsibility that he owes to the public under the motor vehicle laws. Motor vehicle license suspensions are primarily intended to protect the safety of the public by temporarily removing offenders from the highways of New Jersey. David v. Strelecki, 51 N.J. 563, 566 (1968); Cresse v. Parsekian, 43 N.J. 326, 328-29 (1964). Moreover, the respondent is reminded that the operation of a motor vehicle on New Jersey roads is a privilege, not a right. State v. Nunez, 139 N.J. Super. 28, 30 (Law Div. 1976); State v. Kabayama, 94 N.J. Super. 78, 82-83 (Law Div.), aff'd, 98 N.J. Super. 85 (App. Div. 1967), aff'd, 52 N.J. 507 (1968). A period of suspension of fifteen (15) days is both warranted and reasonable in the present case when public safety is balanced against respondent's need to maintain his driving privilege. The Commission notes that respondent's proposed suspension is intended to be rehabilitative rather than punitive in nature.

It is, therefore, on this 5th day of March, 2018, **ORDERED** that the New Jersey driving privilege of **STEPHEN KOO** be suspended for a total period of fifteen (15) days for accumulating an excessive number of points in a period less than two years in connection with the two separate proposed "points" suspension actions herein.

NOTE: The **effective date** of this fifteen-day suspension is set forth in the "**Order of Suspension**" which the Commission has included in this mailing.

Additionally, it is, on this 5th day of March, 2018, **ORDERED** that the passenger-carrying endorsement on the New Jersey Commercial Driver License of **STEPHEN KOO** be suspended indefinitely, as stated above.

A handwritten signature in black ink that reads "James D. Ashmore". The signature is written in a cursive style with a large initial 'J'.

Deputy Chief Administrator

Enclosure: Order of Suspension (effective date- March 29, 2018)
JDA: kw