

**DOCUMENTATION OF NEW YORK STATE
REGULATION REQUIRING DRIVERS WITH LEARNER'S PERMITS TO USE
SAFETY BELTS**

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New York State Regulation Requiring Drivers with
Learner's Permits to Use Safety Belts

1.0 Introduction

New York State recently enacted a regulation requiring that motor vehicle drivers with learner's permits use safety belts while operating a motor vehicle. The regulation is of special interest because it is the first of its kind in the United States. This report documents the procedures involved in enacting and implementing the new safety belt regulation. The body of the report describes the regulation, its administrative and legal history, the publicity surrounding its enactment, changes in enforcement and road test procedures, plans for evaluating the regulation's impact, prospects for further mandatory belt use requirements in New York State, and the potential for other states to enact similar regulations. Appendices include a list of contacts with New York State officials, a more detailed analysis of the legal basis for enacting similar regulations in other states, and a compilation of documents related to the enactment and implementation of the regulation in New York State.

The information in this report was obtained from telephone discussions held during June and July, 1983 with New York State government officials who have been involved with the processing, enforcement, publicity, and evaluation of the regulation:

- o Officials in the Department of Motor Vehicles were contacted because they were directly involved in initiating the regulation, determining any changes in Department procedures, and obtaining legislative approval for their actions.
- o The Governor's Traffic Safety Committee oversees all traffic safety measures in the state. Committee officials were helpful in clarifying the relationship between the Department of Motor Vehicles and the Legislature. They also discussed other safety belt-related measures pending throughout the state (e.g., Suffolk County's mandatory use bill).
- o State and local police were contacted to determine the enforcement mechanisms that are being used.

- o A road test inspector was contacted to determine if the safety belt regulation had any effect on licensing procedures.
- o Chief counsel in the Department of Motor Vehicles, staff counsel to a state senator, and an official in the Senate Transportation committee provided information on the extent of the powers of the Commissioner of Motor Vehicles. It was important to find out if other safety belt regulations could be initiated on the Commissioner's authority or whether they would require legislative action.
- o Officials of the Office of State Public Information described the information network that communicated the regulation to state officials and learner's permit applicants.
- o Agencies involved with evaluating Department of Motor Vehicles regulations were contacted to find out if any evaluation activities were planned. Evidence of the effectiveness of the regulation in increasing safety belt use in New York would be valuable to other states that might be interested in similar restrictions on drivers with learner's permits.
- o Officials from the National Highway Traffic Safety Administration (NHTSA) and the American Association of Motor Vehicle Administrators (AAMVA) provided information on the conditions and requirements for safety belt regulations in states other than New York.

In addition, TSC's legal staff reviewed the regulatory structure and statutory authority of 11 representative states to determine if the type of restriction placed on learning drivers in New York State could be easily enacted in other jurisdictions.

2.0 Summary

- o The new safety belt regulation was initiated on the direct authority of the New York State Commissioner of Motor Vehicles and required no legislative action. There were no major problems in enacting the regulation, and the direct costs of implementing it have been low.
- o Although this regulation is not expected to have a major impact on motor vehicle accident-related mortality, many New York State officials believe that it may be used as an intermediary step

toward further safety belt use regulations or legislation that may be more effective in reducing injuries and saving lives.

- o Enforcement of the new regulation has been minimal. This stems from the lack of adequate notification of enforcement officials, and the nature of enforcing a restriction that applies only to a small, not easily identifiable segment of the population.
- o The potential for enacting similar regulations in other states is uncertain. The final administrative decision to promulgate such regulations may rest upon public support for, or opposition to such a restriction.

3.0 Statement of the Regulation

Pursuant to the authority contained in Section 215(a), 501(5)(a)(iii) and 508(4) of the Vehicle and Traffic law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles as follows:

Part 4 is amended by adding thereto a new section, to be Section 4.5, to read as follows:
"4.5 Seat safety belts. No person holding a learner permit for a class 1,2,3,4,5 or 6 license shall operate a vehicle under the privilege granted by that permit unless he is wearing a seat safety belt."

This amendment shall take effect March 1, 1983.

4.0 Administrative and Legal History

The new regulation grew out of recommendations made in 1981 by the Governor's Task Force on Alcohol and Highway Safety. The Task Force, in conjunction with the legislative support of the State Senate Transportation Committee, proposed to mandate a requirement that all New York State drivers wear safety belts. Since there appeared to be little legislative or public support for mandating safety belt use for all licensed drivers, the proposal was dropped.

However, the Commissioner of Motor Vehicles thought that the heightened public awareness of safety belts created by the task force would make it possible

to generate sufficient legislative and public support for a limited safety belt regulation (i.e., one that applied only to beginning drivers). The Commissioner believed that promulgation of the learner's permit regulation would make it easier to introduce more extensive mandatory safety belt rules at a later date. In addition, it was believed that such a regulation would encourage young drivers to form a safety belt-wearing habit that would continue after they became fully licensed. Officials in the Department of Motor Vehicles believed that this type of restriction would "sensitize the population to safety belt use."

The New York State Vehicle and Traffic law confers authority on the Commissioner of Motor Vehicles to mandate restrictions on drivers with learner's permits and conditional licenses but not on drivers with standard licenses or on non-licensed people. Thus, in New York State a variety of restrictions, including mandatory use of safety belts, can be made administratively on learner's permit holders and do not require legislative action. Most other state legislatures have delegated some powers to the Commissioner of Motor Vehicles to regulate conditional licenses; a smaller number have provided explicit authority to regulate learner's permits, as is the case in New York State. (For a more detailed discussion of the legal basis for enacting similar restrictions in other states, see Appendix B.)

In accordance with legislative consent provisions of the New York State Administrative Procedures Act, a proposed regulation must be sent to the Legislature for review. The Legislature has the ultimate authority to veto regulations proposed by the Commissioner. In this case, the lack of response from the Legislature was taken as a sign of approval to enact the regulation.

5.0 Information Dissemination

Public hearings on the proposed safety belt regulation were held in December, 1982. Public hearings were not required, but the Commissioner thought that the hearings would promote support for the proposal and further increase awareness of the safety belt issue. At the hearings, the New York Medical Association, the New York State Coalition for Seat Belt Use, and the Highway Users Group were among the organizations voicing strong support for the new mandatory safety

belt regulation. The only organization expressing disapproval of the regulation was a group that also opposes mandatory helmet use for motorcyclists. In addition, some negative reaction surfaced in newspaper editorials.

A press release announcing the new regulation was sent to the Associated Press and to United Press International. The release contained information explaining the new regulation and the rationale behind it. Based on this information, many state newspapers wrote brief articles on the enactment of the regulation. (See Appendix C for examples.)

The Department of Motor Vehicles sent memos to all state law enforcement agencies and magistrates, and to all Department of Motor Vehicles offices issuing learner's permits. The memos explained the new licensing procedures, including the stamping of the new restriction on learner's permits. The state issues approximately 900,000 learner's permits each year. Every learner's permit applicant receives a brochure explaining the regulation, and informational posters are exhibited in all Department of Motor Vehicles offices. The memo to law enforcement officials included no guidance on enforcement procedures, but specified the section of the motor vehicle code to which a violation would apply. (See Appendix C for the texts of these documents.)

6.0 Procedural Changes

The only significant change in official procedure due to the promulgation of the regulation is that the restriction is stamped on all learner's permits. Police contacted for this research reported that there have been no major changes in enforcement procedures. Local police generally were unaware of the regulation's existence, despite the Department of Motor Vehicles memo that was sent to all police precincts. State police, while aware of the new restriction, noted that the regulation required no procedural changes because it is enforced only if a vehicle is pulled over for some other violation and the officer notices at that time that the learning driver is not wearing a safety belt. Since violations are processed under the already existing category of operating out of restriction, no changes in record keeping are required.

Road test examination procedures remain largely unchanged. Examiners may not legally consider safety belt use when evaluating a driving applicant's performance because New York State law is interpreted to negate any restrictions that apply to a learner's permit holder at the time of the road test. Comments about safety belt use are not recorded on the road test examiner's evaluation form. However, many examiners do not look favorably on a license applicant who does not use a safety belt during the road test examination, and some examiners ask applicants to buckle their belts during the test. Therefore, safety belt use often may be used subjectively by examiners to rate road test performance, but is not incorporated into formal evaluation procedures. (It should be noted that the road test examiner contacted for this research stated that many examiners do not use safety belts on the job because they believe that belts might hinder their ability to respond to an emergency situation caused by a license applicant's driving mistake.)

7.0 Enforcement

The penalty for violating the regulation is recorded under the heading of "Operating Out of Restriction" (which includes such offenses as driving without glasses if corrective lenses are required). The new regulation is enforced if a driver is pulled over for some other suspected violation. The maximum penalty is a \$50 fine and/or 15 days in jail. The reason that it is not practical for police to pull over young, un-belted drivers is that it is impossible to visually distinguish between beginning drivers and fully licensed drivers. Probable cause is needed before a motor vehicle can be stopped.

The Office of the Commissioner of Motor Vehicles believed that the new regulation would be difficult to enforce; however, it was hoped that the rule would be effective because it applied to impressionable, young drivers. The Department's idea was to get drivers into the habit of wearing safety belts at an early age with the hope that they would continue to use belts even after the regulation no longer applied.

In the first several months after enactment, there appears to have been no enforcement of the new regulation on the local level. The local police contacted

in Albany, Buffalo, and Watertown had not heard of the new restriction and did not remember receiving notification of it. The traffic safety officer in Nassau County did recall receiving a memo in February about the new regulation, but subsequently had not taken any action to implement it. When the Deputy Commissioner of Motor Vehicles was informed of the lack of enforcement activity, he stated that additional memos would be sent to law enforcement officials to make certain that local police were aware of this new safety belt regulation.

8.0 Evaluation

Currently, there is no plan for an overall evaluation of the regulation's impact by either the Department of Motor Vehicles or the Institute for Traffic Safety and Management of the State University of New York (Albany), which usually evaluates Department of Motor Vehicle regulations.

Some indication of the program's impact soon may be derived from an evaluation of records generated by the Traffic Safety Law Enforcement Division of the Department of Motor Vehicles. This organization currently is conducting a special data collection program in which the incidence and disposition of all traffic violations are tracked in 10 rural counties (soon to be extended to 30 counties). These counties include Cayuga, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, and Yates. Although no records of safety belt violations have been processed yet, representatives of the Department believed that they would be able to monitor safety belt violations because a special traffic ticket is issued in these areas. (Due to financial constraints there is a several month delay in ticket processing. As of late August, this information was not yet available.)

No official assessment has been made of the costs of the regulation to New York State. Unofficially, the costs are estimated to be extremely low. The major costs included producing the press release, printing posters, preparing and distributing memos to law enforcement officials and driving instructors (through the existing Department of Motor Vehicles communication network), holding the public hearing, and general administrative costs.

9.0 Prospects for Further Occupant Restraint Requirements in New York

The prospects for enacting additional mandatory safety belt use requirements in New York State are good. In fact, the child restraint law recently has been amended to cover children under the age of 10 (with full implementation in 1987). In addition, motor vehicle officials are now determining whether they have the authority to require safety belt use by those drivers with conditional licenses (i.e., licenses that restrict driving privileges to certain times of day and certain roads). Counsel for the Department of Motor Vehicles' Legal Bureau, however, stated that issuing the learner's permit regulation "had stretched the available powers of the Commissioner of Motor Vehicles," and believes that the enactment of any further restrictions would require legislative action.

The Senate Transportation Committee and the Senate generally support mandatory safety belt use rules. Nevertheless, any expression of public opposition to mandatory belt use laws would diminish the prospects for the enactment of additional safety belt use requirements. A bill requiring mandatory safety belt use for all adults was introduced in 1981, but did not progress out of committee because of insufficient legislative and public support.

10.0 Potential for Enacting Similar Restrictions in Other States

The regulatory structure and statutory authority of motor vehicle agencies in 11 selected states were reviewed to assess the potential for enacting regulations governing safety belt use by learner's permit holders. (The states reviewed were New York, California, Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Texas, and Vermont.) Of the states surveyed, only New York and California provide explicit authority for their motor vehicle departments to issue regulations setting restrictive conditions on learner's permits. Statutes in the other nine states authorize, to varying degrees, the imposition of restrictions on licenses issued to qualified drivers. In some states, the authority to impose restrictions on licensed drivers "in the interest of highway safety" may be considered adequate to support the imposition of a safety belt requirement applicable to learner's permit holders. In jurisdictions with statutes similar to those found in most of the states surveyed,

the authority to impose restrictions on licensed drivers probably would not support a regulation requiring learner's permit holders to wear safety belts.

Because regulatory agencies, including motor vehicle agencies, typically are given very broad authority to regulate in the public interest, public response to any proposed safety belt requirement is likely to influence whether action is initiated. If there is popular support for proposed regulatory action requiring beginning drivers to wear safety belts, the available statutory authority may be deemed sufficient for enacting the regulation.

11.0 Conclusions

The new restriction requiring drivers with learner's permits to use safety belts indicates that the state officially supports safety belt use. Many New York State officials believe that the learner's permit regulation will make the introduction of other safety belt use requirements easier in the future. The estimated cost of the learner's permit regulation is low, and the administrative procedures for implementing this regulation were relatively simple.

Since data are not yet available on the impact of the regulation in New York State, it may be premature to make recommendations regarding the promotion of similar restrictions in other states. Based on a review of the statutes of 11 selected states, it is unclear whether similar learner's permit restrictions could be implemented as easily through administrative action in other states. The prospects for establishing learner's permit safety belt restrictions ultimately may depend on public reaction to such proposals.

Appendix A

List of Telephone Contacts in New York State

Don Bardel, Director of The American Association of Motor Vehicle Administrators
Patrick Casale, N.Y. Traffic Safety Law Enforcement Division (a program within
Motor Vehicle Traffic Records)
Ray Day, State Public Information
Joe Donovan, Counsel for N.Y. Department of Motor Vehicles
Ray Dutcher, N.Y. State Police
Leslie Foschio, former Commissioner of Motor Vehicles for N.Y.
John Johnson, N.Y. Transportation Committee
Ernie Kitchen, Assistant Director of N.Y. Governor's Traffic Safety Committee
Mary-Jane McGuire, N.Y. Governor's Traffic Safety Committee
James McGuirk, Deputy Commissioner of N.Y. Department of Motor Vehicles,
Operations
Jim Nash, N.Y. road test inspector
Jerry Palisi, National Highway Traffic Safety Administration Representative,
Region II
Mitch Palley, Counsel for N.Y. State Senator Levy
Lawrence Preston, The Institute for Traffic Safety and Management at SUNY at
Albany
Local police, Albany, Buffalo, Watertown, and Nassau County

Appendix B

Legal Analysis of the Department of Motor Vehicle Enabling Statutes in 11 Selected States

1.0 INTRODUCTION

This memorandum considers whether motor vehicle departments in other states can promulgate administrative regulations similar to the recently enacted New York regulation on learner's permits. It reviews the regulatory structure, statutory authority, and recitation of purpose which produced the New York regulation, and compares this regulatory climate to that in ten other states—California, Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Texas and Vermont—to assess the potential for similar regulations governing seat belt use by learner's permit/holders.

Ever since the birth of administrative agencies in the United States in the 1930's, questions have arisen regarding the extent to which legislative and judicial powers can constitutionally be delegated to those agencies. As it became apparent that administrative agencies were a necessary part of our country's governmental system, the "delegation question" focused on the limitations placed on agencies' use of delegated legislative and judicial power rather than on the threshold question of whether such powers could constitutionally be delegated. The view expressed by Professor Davis in his treatise on administrative law is that today

A modern regulatory agency would probably be an impossibility if power could not be delegated with vague standards. Typically, a regulatory agency must decide many major questions that could not have been anticipated at the time of statutory enactment.

Davis, Administrative Law
§ 2.05, (West, 1972)

It is Professor Davis' opinion that the discretionary power delegated to agencies should be confined and guided through assurances of due process safeguards governing the use of delegated power rather than through attempts to delineate the extent of the power granted in the original statutory language.¹ Davis,

Administrative Law, § 2.10. Nevertheless, traditional legal analysis begins with an examination of the enabling statutes which grant regulatory authority to make an initial determination of whether the proposed action is within the general ambit of the regulatory power granted. (See, e.g., 73 C.J.S., Public Administrative Bodies and Procedure § 35.) The following sections present the results of this examination.

2.0 NEW YORK and CALIFORNIA LEARNER'S PERMIT REGULATIONS

Section 4.5 of the New York Code of Regulations Revised, vol. 15, was promulgated by the New York Commissioner of Motor Vehicles on December 8, 1982, in compliance with the legislative consent provisions of New York's State Administrative Procedure Act (SAPA) governing informal rule-making. (McKinney Consol. Laws, SAPA § 300.) The regulation provides that:

No person holding a learner's permit for a class 1,2,3,4,5 or 6 license shall operate a vehicle under the privilege granted by that permit unless he is wearing a seat safety belt.

In compliance with New York's SAPA, the Commissioner of Motor Vehicles issued a Regulatory Impact Statement summarizing the purpose of the new regulation:

Requiring learner'ss to wear seat belts will have an immediate benefit in fewer fatalities and less severe injuries to this group. It will also get learner'ss in the habit of wearing seat belts. If this becomes a life-long habit, we can expect fewer accident fatalities and less severe injuries.

¹Due process protection is provided by state (and federal) administrative procedure acts which require public notice of, and technical justification for, the proposed regulatory action. Most grants of regulatory authority to state motor vehicle departments surveyed for this memorandum contain express references to the state's administrative procedure act. This memorandum will contain no further references to the due process requirements of a particular state's administrative procedure act, but is written with the presumption that any regulatory action to require seat belt use must adhere to applicable procedural regulations.

This rationale is well-stated and concise. Its logic might be persuasive in inferring authority to require seat belt use in states which recite highway safety as an objective for regulatory action.

The New York Motor Vehicle Commissioner cited three sections of the New York Vehicle and Traffic Law (McKinney's Consolidated Laws) as authority for the learner's permit seat belt regulation. Section 215(a) provides general authority for the Commissioner to issue regulations in conformity with other federal and state law. Section 508(4) gives the Commissioner the authority to regulate "the issuance of licenses." Section 501(5) deals specifically with the issuance of learner's permits and provides:

5. Learners' permits. (a) A learner's permit shall be issued by the commissioner upon receipt of an application for a driver's license and after the passage of preliminary tests. Such permit shall be valid only

(i) for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made;

(ii) when the holder is under the immediate supervision and control of a person at least eighteen years of age who holds a license valid in this state for the operation of the type of vehicle being operated; and

(iii) in accordance with any additional restrictions prescribed by the commissioner and noted on such permit.
(emphasis added)

Section 501(5)(iii) provides express authority for the commissioner to make further regulations regarding the issuance of learner's permits.

This statutory statement of the commissioner's authority over learner's permit holders is much more explicit than in most other states surveyed. California is the only other state of the eleven surveyed that specifically authorizes the state motor vehicle department to regulate issuance of learner's permits:²

The department may further restrict learner's permits issued under subdivision (a) as it may determine to be appropriate to assure the safe operation of a motor vehicle by the permittee.

Cal. Vehicle Code
§ 12509(g)(West's)

This 1974 statutory provision is similar to earlier California legislation governing the issuance of junior permits to persons between the age of 14 and 18 which states that "The department shall impose restrictions upon junior permits appropriate to the conditions and area under which they are intended to be used." Cal. Vehicle Code § 12513(c) (West's) (1959). New York has similar restrictions applicable to driving in Nassau County. Vehicle and Traffic §§ 5015(b)(ii); 5013(d). Both statutes evince an intent to protect young drivers from potentially dangerous driving conditions.

3.0 REGULATORY ACTIONS "IN THE INTERESTS OF HIGHWAY SAFETY"

None of the other states surveyed grant the administrative official in charge of issuing learner's permits express authority to establish conditions on such permits. As discussed below, however, several states do authorize the imposition of restrictions on motor vehicle operator licenses "in the interests of highway safety." It may be possible to rely on such authority to support a safety belt requirement applicable to learner's permit-holders.

In Maine, the Registry of Motor Vehicles is an office of the Secretary of State. (Me. Rev. Stat. tit. 29, §§ 51, 51-A). The Secretary may:

in his discretion, after applicant has successfully passed all parts of an examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant...to drive a motor vehicle upon the public highways subject to the age and instruction qualifications of this section.

Me. Rev. Stat. tit. 29, § 532

²In California, the Department of Motor Vehicles is a division of the Business and Transportation Agency (Cal. Code § 1500 (West's)). Its commissioner has general authority to "adopt and enforce rules and regulations as may be necessary to carry out the provisions of the (California Vehicle) Code." Cal. Code § 1651 (West's).

Unlike the New York and California statutes, Maine's statutory authority provides a virtually unqualified right to a learner's permit. The phrase "in his discretion" probably cannot be construed to include authority to impose additional restrictions on learner's permits ("instruction permits") in the absence of a more specific statutory directive.

Another section of the Maine Vehicle Code provides general authority for the Secretary to impose restrictions on the issuance of motor vehicle operator licenses:

The Secretary of State may, after a complete examination or investigation, restrict the license of an operator so as to permit the operation of a specified vehicle or vehicles, operation during the daylight hours, within a designated area, or other restriction or condition the Secretary of State may deem to be in the interest of highway safety. (emphasis added)

Me. Rev. Stat. tit. 29 § 534

Section 534's authority to restrict operator licenses "in the interest of highway safety" might be construed as authority to require learners to wear safety belts if the recitation of purpose is sufficiently clear, and if the learner's permit is accepted to be a form of operator's license.

The statutory pattern of a motor vehicle chapter which contains one section granting in effect an unqualified right to a learner's permit and another section which grants the controlling authority power to issue restricted licenses is common among the states reviewed. In Vermont, for example, learner's permits are apparently automatically granted to persons fifteen years of age or over "after the applicant has successfully passed all parts of the driver license examination other than the driving test." Vt. Stat. Ann. tit. 23, § 615, 617³. But in later sections of Title 23, Vermont law grants the Commissioner of Motor Vehicles broad powers to issue regulations establishing conditions of driver licensing:

The Commissioner ... may prescribe what shall be requisite to obtaining or holding a license, by either an old or a new applicant, as to driving experience, mental and

physical qualifications, and any other matter or thing which, in his judgment, will contribute to the selection of safe and efficient operators.

Vt. Stat. Ann. tit. 23, § 631

The Commissioner may make regulations:

(a)...(4) In explanation of and in addition to, but not inconsistent with, the provisions of this title concerning any matter or thing which, in his judgment, may render the operation of motor vehicles safer and lessen motor vehicle accidents and resulting injuries or fatalities.

Vt. Stat. Ann. tit. 23, § 1001

4.0 GENERAL AUTHORITY TO RESTRICT LICENSES

All of the remaining states surveyed (Connecticut, Rhode Island, Massachusetts, New Hampshire, Texas, New Jersey and Pennsylvania) give their motor vehicle commissioners authority to issue learner's permits after applicants have met similar standard conditions (e.g., "after the applicant has successfully passed all parts of the examination other than the driving test," R.I. Gen. Laws 31-10-6).⁴ In the absence of more specific statutory direction, this authority is probably inadequate to support a regulation requiring safety belt use by learner's permit-holders.

These states also all have similarly worded statutes permitting the state motor vehicle commissioner to place restrictions on operator licenses.⁵ The restrictions so authorized, however, are to be imposed on a case-by-case basis in response to an individual operator's physical limitations, such as poor eyesight or a physical handicap. While a particular statute (e.g., the New Jersey statute set out in Footnote 5 below) may refer to "public safety" as an objective of the regulation of driver licensing, these statutes do not express a general objective of promoting highway safety that could support a safety belt requirement.

³The Vermont Commissioners of Motor Vehicles and of Public Safety "shall cooperate in carrying out the statutes, rules and regulations" under the Motor Vehicles title. Vt. Stat. Ann. tit. 23, § 101.

5.0 CONCLUSION

Of the states surveyed, only California and New York provide explicit authority for their motor vehicle departments to issue additional regulations setting restrictive conditions on learner's permits. Statutes in the other nine states surveyed authorize to varying degrees the imposition of restrictions on licenses issued to qualified drivers. In jurisdictions with statutory authority similar to that found in Maine and Vermont, the authority to impose restrictions on licensed drivers in the interests of highway safety may be considered adequate to support imposition of a safety belt requirement applicable to holders of learner's

⁴The Rhode Island Registrar of Motor Vehicles "shall supervise and direct the promotion of highway traffic safety" (R.I. Gen. Laws. 31-2-1) and is "authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of the Motor Vehicles Chapter." R.I. Gen. Laws 31-2-4. The recitation of regulatory power is substantially the same in the other states (see e.g. Mass. Gen. Laws Ch. 16, § 9), but in New Hampshire, the division of motor vehicles is within the department of public safety and regulations are subject to the Commissioner of Public Safety's approval (N.H. Rev. Stat. Ann. 260:1,2,3); in Texas, the Department of Highways and Public Transportation is under the administrative control of a Commission of three citizens (Tex. Code Ann. tit. 116, § 6663, 6664, 6666 (Vernon)); and in Pennsylvania, driver licensing is overseen by the state Department of Transportation. Pa. Con. Stat. Ann. tit. 71, § 511 (Purdon).

New Jersey issues two different kinds of learner's permits (N.J. Stat. Ann. 39:3-13,-13.1)-one for school use. Connecticut and New Hampshire allow persons sixteen and over to drive without a license or permit while being taught to drive by a licensed driver who meets statutory requirements. Conn. Gen. Stat. Ann. § 14-36; N.H. Rev. Stat. Ann. 262.13. See also Mass. Gen. Laws Ch. 90, § 8b; 75 Pa. Con. Stat. Ann. tit. 71, § 1505; Tex. Code Ann. tit. 116, Art. 668b, § 12b.

⁵For example:

Upon issuing an operator's or chauffeur's license, the registry shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the registry may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. R.I. Gen. Laws. 31-10-28 (see also N.H. Rev. Stat. Ann. 263.13 and Pa. Con. Stat. Ann. tit. 75 § 1512).

permits. However, a regulation issued under this type of statute and made applicable only to learners would raise the question of why the regulation is not applicable to licensed drivers as well. The real answer may lie in the licensing authority's assessment of public reaction to such a requirement applied to all licensed drivers. The bureaucratic response might be to avoid precipitating this question by not taking the initial action with respect to learners.

In jurisdictions with statutes similar to those found in the majority of states surveyed, the authority to impose operator-specific restrictions in driver licenses probably would not support a regulation requiring holders of learner's permits to use seat belts. Professor Davis' argument could be used in these jurisdictions to support imposition of a safety belt requirement on learner's permits: the power to establish such requirements must necessarily belong to an administrative agency statutorily charged with broad responsibility for all motor vehicle-related matters. It is a reasonable perspective that the power to regulate holders of learner's permits is an ordinary and reasonable function of the administrative agency to which a state has committed the broad responsibility of motor vehicle management, encompassing a vast range of subject matter. (see e.g., Mass. Gen. Laws Ann. ch. 90 (West's).) Recent federal policy directives and funding for the encouragement of safety belt use also support such a view.^b However, the efficacy of this approach ultimately may be determined by public response to the

"Whenever, in the interests of public safety, the director determines that good cause appears therefor he may, in issuing any driver's license, impose thereon:...b)...reasonable conditions or restrictions applicable to the applicant as the director may ascertain by tests approved by him to be appropriate to assure the safe operation of a motor vehicle by such applicant." N.J. Stat. Ann. 39:3-11.

The Department shall have the authority to impose restrictions suitable to the licensee's driving ability with respect to areas, location, roads and highways within this state, or with respect to the time of day or night that the licensee shall be permitted to drive a motor vehicle or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee." Tex. Code Ann. tit. 116, § 66876(b)(f).

requirement in a specific state. If there is popular support for the proposed regulatory action, the available statutory authority may more likely be construed in favor of permitting regulation.

⁶See, e.g., Surface Transportation Assistance Act of 1982, Title II: Federal Highway Safety Act, Sec. 203.(a)(1) P.L. 97-424, 1982 U.S Code Cong. & Ad. News 2097:

(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985.

....

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

Appendix C

List of Documents

- 1) Notice of the Regulation
- 2) Excerpts from New York State Motor Vehicle Enabling Statutes:
 - §210 Highway Safety Powers and Duties
 - §501-509 Licensing of Drivers
 - §215 Learner's Permits
- 3) Memos to Enforcement Agencies and Issuing Offices
- 4) Press release
- 5) Brochure to Learner's Permit Applicants
- 6) Relevant Page in Beginning Driver's Manual
- 7) Recommendations of the Governor's Task Force on Alcohol and Highway Safety
- 8) Senate Bill:
 - Occupant Restraint Requirements for Children up to the Age of Ten Years

STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES

Pursuant to the authority contained in Sections 215(a), 501(5)(a)(iii) and 508(4) of the Vehicle and Traffic Law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles as follows:

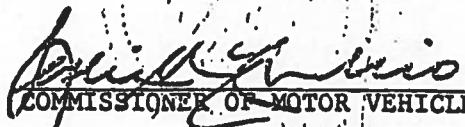
Part 4 is amended by adding thereto a new section, to be Section 4.5, to read as follows:

I	4.5	Seat safety belts. No person holding a learner permit
T		for a class 1, 2, 3, 4, 5 or 6 license shall operate a vehi-
A		cle under the privilege granted by that permit unless he is
L		wearing a seat safety belt.

This amendment shall take effect March 1, 1983.

EXPLANATION: Matter in italics is new regulation.

I hereby certify that the foregoing is an original of an amendment to the Regulations of the Commissioner of Motor Vehicles, promulgated January 10, 1983, pursuant to the authority contained in Sections 215(a), 501(5)(a)(iii) and 508(4) of the Vehicle and Traffic Law. I further certify that all of the requirements of the State Administrative Procedure Act have been complied with. Notice of Proposed Agency Action was published in the New York State Register on December 8, 1982.


COMMISSIONER OF MOTOR VEHICLES

DATED: ALBANY, NEW YORK
January 10, 1983

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finance, in service at the time this section takes effect, shall retain their present civil service classification and be transferred to the department of motor vehicles without further examination or classification, and such employees shall perform such duties therein as may be assigned to them by the commissioner.

§ 210. Highway safety powers and duties. The commissioner of motor vehicles shall have power to:

1. Formulate uniform highway safety programs and coordinate the efforts of all interested individuals and agencies engaged in safety education.

2. Conduct a highway safety and driver training program, in conjunction with any interested public or private agencies, as an aid to the national defense.

§ 211. Continuity of authority. The department of motor vehicles shall be deemed to constitute a continuation of the powers and duties of the bureau of motor vehicles in the department of taxation and finance and not a new authority for the purpose of succession to the rights, powers and duties and obligations hereby assigned to the department.

§ 212. Transfer of records and property. All books, papers and records of the bureau of motor vehicles in the department of taxation and finance shall be transmitted to the department of motor vehicles and the commissioner shall take possession thereof.

§ 213. Terms occurring in contracts and other documents. Whenever the bureau of motor vehicles in the department of taxation and finance is referred to or designated in any contract or document, such reference or designation shall be deemed to mean and refer to the department of motor vehicles.

§ 215. Rules and regulations. (a) General. Subject to and in conformity with the provisions of the vehicle and traffic law and the constitution and laws of the state, the commissioner may enact, amend and repeal rules and regulations which shall regulate and control the exercise of the powers of the department and the performance of the duties of officers, agents and other employees thereof.

(b) Vehicle equipment. If the commissioner and the attorney general shall determine that any provision of this chapter relating to required vehicle equipment has been preempted by a federal regulation or standard, the commissioner may, in his discretion, promulgate a regulation governing such item or items of equipment, in a manner consistent with such federal regulation or standard. Such regulation, when filed with the secretary of state, shall supersede the provisions of this chapter relating to the same item or items of equipment, provided that

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such regulation shall only remain in force and effect until thirty days after the next adjournment of a regular session of the legislature provided, however, that the authority to promulgate such regulation shall only be exercised if the federal regulation or standard involved does not take effect at a time when the legislature is in regular session, and the commissioner's regulation is promulgated and takes effect prior to the next ensuing regular session of the legislature.

§ 216. Automotive-medical research division. The commissioner shall establish an automotive-medical research division with such facilities and such expert assistants as are necessary to do medical and engineering research in the field of motor vehicle safety. The commissioner shall from time to time make reports and recommendations to the governor, and the legislature on the findings and studies of the agency. The commissioner shall be empowered to contract with the department of health for medical research necessary to carry out the purposes of this section, and, subject to the provisions of the state finance law, to take and administer for the state any grant, gift or bequest to be applied, principal or income, or both, for the purposes specified in such grant, to the maintenance and operation of a research program under this section.

§ 216-a. Statistics on driving while intoxicated. 1. The commissioner shall collect and analyze statistical information and data with respect to: (i) the number of persons charged with violating any of the provisions of section eleven hundred ninety-two of this chapter prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs; and (ii) the disposition of such charge and (iii) if a conviction was had thereon, the category of the offense for which such conviction was had, whether it resulted from a plea of guilty or after trial and the sentence thereon; and (iv) such other information as the commissioner shall deem relevant. Provided, however, that nothing herein shall be deemed to authorize the reporting or collecting of any information relating to the identity of any person so charged, and no such information shall be so reported to or collected by the commissioner.

2. The commissioner shall from time to time make reports and recommendations to the governor and the legislature based upon the compilation and analysis of the information and data made pursuant to this section.

§ 217. Record of hearings. At any hearing held by the commissioner, or a person deputized by him to conduct a hearing to determine whether any license or registration issued pursuant to this chapter or any privilege of operating or privilege of operation should be suspended or revoked, a mechanical or electronic recording device may be used for the making of a record of the proceedings.

ARTICLE 18
APPLICATION OF THIS TITLE

Section 500. Application of this title.

§ 500. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling:
a. Upon the licensing and regulation of drivers; and
b. On their use of public highways.

ARTICLE 19
LICENSING OF DRIVERS

Section

501. Drivers' licenses and learners' permits.

502. Requirements for licensing.

503. Period of validity of drivers' licenses, learners' permits and applications; required fees.

504. Form of license.

505. Duplicate and amended licenses and permits; change of address.

506. Reexamination of licenses.

507. Miscellaneous provisions.

508. Administrative procedures.

509. Violations.

§ 501. Drivers' licenses and learners' permits. 1. The commissioner shall issue classified drivers' licenses as provided in this article. Any such license shall be valid only for the operation of the type of vehicles specified for each such class of license.

2. Classes of licenses. (a) Class 1. Such license shall be valid for the operation of any passenger vehicle, any taxicab, any truck, any tractor, any truck-trailer combination, or any tractor-trailer combination.

(b) Class 2. Such license shall be valid for the operation of any bus, any passenger vehicle, any taxicab, or any truck having a maximum gross weight of eighteen thousand pounds or less.

(c) Class 3. Such license shall be valid for the operation of any passenger vehicle, any taxicab, any truck or any tractor.

(d) Class 4. Such license shall be valid for the operation of any passenger vehicle, any taxicab, or any truck having a maximum gross weight of eighteen thousand pounds or less.

(e) Class 5. Such license shall be valid for the operation of any passenger vehicle or any truck having a maximum gross weight of eighteen thousand pounds or less.

(f) Class 6. Such license shall be valid for the operation of any passenger vehicle or any truck having a maximum gross weight of eighteen thousand pounds or less by a person under eighteen years of age, subject to the restrictions contained in subdivision three of this section. Such license shall automatically become a class 5 license when the holder becomes eighteen years of age.

(g) Class 7. Such license shall be valid for the operation of motor-cycles.

(h) Class 8. Such license shall be valid for the operation of motor-cycles by a person under eighteen years of age. Such license shall automatically become a class 7 license when the holder becomes eighteen years of age.

3. Restrictions on use of class 6 and class 8 licenses. Class 6 and class 8 licenses shall not permit the holder to operate any motor vehicle

(a) within any city having a population of one million or more;

(b) from nine o'clock in the evening to five o'clock in the morning, other than going to and from a place of business where he is actually employed on a regularly scheduled basis in accordance with regulations promulgated by the commissioner, unless accompanied by a parent, guardian, or one in a position of loco parentis to the licensee;

(c) from nine o'clock in the evening to five o'clock in the morning, other than going to and from school, unless accompanied by a parent, guardian, or one in a position of loco parentis to the licensee;

(d) within the county of Nassau, except, under regulations promulgated by the commissioner,

(i) for the purpose of driving to and from a state approved cooperative work-study educational program, or

(ii) from five o'clock in the morning to nine o'clock in the evening, while the holder is actually enrolled in a high school or college driver education course approved by the commissioner, or within one year after such holder has successfully completed such course, when accompanied by a licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor.

4. Probationary licenses. Any driver's license shall be considered probationary until the expiration of six months following the date of issuance thereof, and thereafter as provided in section five hundred ten-b, but this subdivision shall not apply to renewals of a license, or, unless so provided by the commissioner, to a license for which a road test has been waived by the commissioner.

5. Learners' permits. (a) A learner's permit shall be issued by the commissioner upon receipt of an application for a driver's license and after the passage of preliminary tests. Such permit shall be valid only

(i) for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made;

(ii) for the operation of a type which could be operated by the holder of the class of license for which application is being made;

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(ii) when the holder is under the immediate supervision and control of a person at least eighteen years of age who holds a license valid in this state for the operation of the type of vehicle being operated; and

(iii) in accordance with any additional restrictions prescribed by the commissioner and noted on such permit.

(b) In addition to the restrictions contained in paragraph (a) of this subdivision, a learner's permit issued to a person applying for a class 6 or class 8 license shall not be valid for the operation of any motor vehicle

(i) from nine o'clock in the evening to five o'clock in the morning unless the holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher, or driving school instructor;

(ii) within any city having a population of one million or more or within the county of Nassau, except that under regulations promulgated by the commissioner the holder of such permit who is enrolled in a high school or college driver education course, approved by the commissioner may operate a motor vehicle within the county of Nassau from five o'clock in the morning to eight o'clock in the evening, when such person is accompanied by a licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor while the holder is actually enrolled in such course, or within one year after such holder has successfully completed such course, except that the prohibition against operation within any city having a population of one million or more or within the county of Nassau, shall not apply where the holder of such permit is under the immediate supervision and control of a person at least eighteen years of age who holds a license valid in this state for the operation of the type of vehicle being operated and such vehicle is equipped with dual controls as prescribed by the commissioner.

(c) The restrictions contained in paragraphs (a) and (b) of this subdivision shall apply to a learner's permit which has been issued to a person who has made application for a class 7 or class 8 license, except that the required supervising driver need exercise only general supervision and control over the learner as prescribed by regulation of the commissioner when the learner is operating a motorcycle.

§ 502. Requirements for licensing. 1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. The commissioner may also provide that the application procedure shall include the taking of a photo or photos of the applicant in accordance with rules and regulations prescribed by the commissioner.

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2. Age. Such application shall be accepted by the commissioner only if the applicant is at least eighteen years of age, except that an application shall be accepted if the applicant is at least seventeen years of age and submits acceptable proof of successful completion of a driver education course, approved by the state education department and the commissioner, and, except that an application for a class 6 or class 8 license shall only be accepted if the applicant is at least sixteen years of age and submits written consent of the applicant's parent or guardian to the issuance of such license. Upon receipt of withdrawal of such consent, any class 6 or class 8 license, or learner's permit or application for such license shall be cancelled.

3. Application for learner's permit. An application for a learner's permit when accepted, shall be included in the application for a license. Such application shall be accompanied by the fee prescribed by law which shall be included in the fee for the application for license.

4. Examinations. (a) Upon submission of an application for a driver's license, the commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable. Prior to the issuance of a learner's permit, the commissioner shall cause the applicant to take a test with respect to the laws relating to traffic and ability to read and comprehend traffic signs and symbols and such other matters as the commissioner may prescribe. Upon the passage of such tests, the commissioner may then issue a learner's permit.

(b) Upon successful completion of the examinations prescribed in paragraph (a) of this subdivision, and, if required by the commissioner, upon submission of proof acceptable to the commissioner that the applicant has satisfactorily completed a course prescribed by the commissioner of not less than three hours and not more than five hours, consisting of classroom driver training and highway safety instruction, or the equivalent thereof, the commissioner shall cause the applicant to take a road test in a vehicle of a type prescribed by the commissioner which shall be appropriate to the type of license for which application is made, except that the commissioner may, in his discretion, waive the road test requirements for certain classes of applicants.

5. Issuance of license. (a) Upon successful completion of the requirements set forth in subdivision four of this section, and upon payment of the fee prescribed by law, the commissioner shall issue an appropriate license to the applicant, except that the commissioner may refuse to issue such license

(i) if the applicant is the holder of a currently valid or renewable license to drive issued by another state or foreign country unless the applicant surrenders such license, or

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be so informed and his license shall continue to be valid. If he fails to pass, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, in suspending such license for a definite or indefinite period, or in revoking such license. If any such person fails after reasonable notice or refuses to submit to an examination, the commissioner may revoke his license or suspend it for an indefinite period solely because of such failure or refusal.

4. Any person holding a license issued pursuant to this chapter who suffers permanent loss of use of one or both hands or arms or of one or both feet or legs, or one eye shall, before operating any motor vehicle or motorcycle make report thereof to the commissioner, who shall take such reasonable action as may be proper under the provisions of this section.

5. Upon the permanent loss of use of both eyes a license issued under this article shall be null and void.

§ 507. Miscellaneous provisions. 1. Driver education. Notwithstanding any other provisions of this article, a class 5 or class 7 license, whichever is appropriate, may be issued to a minor seventeen years of age who has successfully completed a driver education course approved by the state education department and the commissioner in a high school or college. No such driver education course may be approved unless classroom training is provided by a person approved by the state education department and the commissioner. However, a school district may contract with one or more licensed drivers' schools to provide behind the wheel training, pursuant to regulations promulgated by the commissioner. The commissioner shall prescribe the requirements for licensing of such minors. A student enrolled in such an approved driver education course may operate a motor vehicle without holding a driver's license or a learner's permit while under the immediate supervision of an instructor in such course or a driver's school instructor providing behind the wheel training in such a course, provided such operation is in accordance with the rules established by the commissioner. Every student who successfully completes such course in a day, evening or summer school program offered by a public or private school shall receive certification of such completion on a certificate prescribed by the commissioner.

2. Failure to exhibit license. Failure by a licensee to exhibit a license valid for operation under this chapter, not including any record of convictions stub to any magistrate, motor vehicle license examiner, motor vehicle investigator, peace officer, acting pursuant to his special duties, or police officer shall be presumptive evidence that he is not duly licensed.

3. Record of convictions. The commissioner may cause to be record-

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ed on any license, on the record of convictions stub thereof, a record of all convictions of the licensee which occurred within the period of eighteen months preceding the issuance of the license as provided in section five hundred fourteen of this chapter.

4. Entry into military service. If any person who enters military service shall fail to give timely notification in writing of such entry to the commissioner, the commissioner may, in his discretion, refuse to renew such person's driver's license. If such license is not otherwise renewable under the provisions of this article.

5. Road tests. A motor vehicle license examiner or other agent designated by the commissioner, while engaged in conducting a road test is not deemed to be a supervising or an accompanying driver in relation to the applicant being tested.

§ 508. Administrative procedures. 1. The commissioner shall appoint agents to act in his behalf with respect to the acceptance of applications and the issuance of licenses and permits prescribed in this article, and he may prescribe the internal procedures to be followed by such agents with respect to such matters.

2. Any application required to be filed under this article shall be in a manner and on a form or forms prescribed by the commissioner. The applicant shall furnish all information required by statute and such other information as the commissioner shall deem appropriate.

3. License record. The commissioner shall keep a record of every license issued which record shall be open to public inspection during reasonable business hours. Neither the commissioner nor his agent shall be required to allow the inspection of an application, or to furnish a copy thereof, or information therefrom, until a license has been issued thereon.

4. The commissioner may promulgate regulations with respect to the administration of the provisions of this article.

§ 509. Violations. 1. Except while operating a motor vehicle during the course of a road test conducted pursuant to the provisions of this article, no person shall operate or drive a motor vehicle upon a public highway of this state or upon any sidewalk or to or from any lot adjacent to a public garage, supermarket, shopping center or car washing establishment or to or from or into a public garage or car washing establishment unless he is duly licensed pursuant to the provisions of this chapter.

2. Whenever a license is required to operate a motor vehicle, no person shall operate a motor vehicle unless he is the holder of a class of license which is valid for the operation of such vehicle.

3. Whenever a license is required to operate a motor vehicle, no person shall operate any motor vehicle in violation of any restriction contained on his license.

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PART 4

LEARNER'S PERMITS

(Statutory authority: VTL Sections 215, 508 sub.4)

Sec.

- 4.1 Use in road test area
- 4.2 Prohibition against use of learners' permits on certain highways
- 4.3 Notice of prohibition
- 4.4 Operation in dual-controlled vehicles in New York City and Nassau County by holders of certain learners' permits
- 4.5 Seat safety belt

Section 4.1 Use in road test area. No person holding a learner's permit shall operate or drive a motor vehicle in any area designated by the commissioner as a road test area except for the purpose of taking a road test.

4.2 Prohibition against use of learners' permits on certain highways. No person holding a learner's permit shall operate or drive a motor vehicle on any street or highway as set forth in this section.

(a) Restricted highways in New York City.

- (1) Any street located within a park
- (2) All bridges and tunnels under the jurisdiction of the Triborough Bridge and Tunnel Authority.

(b) Restricted highways in Westchester County.

- (1) Hutchinson River Parkway.
- (2) Cross County Parkway.
- (3) Saw Mill River Parkway.
- (4) Taconic State Parkway.

4.3 Notice of prohibition. Notification of restriction imposed under Section 4.2 of this Part shall be printed on a form attached to the learner's permit, and such form shall be a part of the learner's permit. However, failure of the permittee to have such form in his possession shall not constitute unlicensed operation or presumptive evidence of unlicensed operation.

4.4 Operation in dual-controlled vehicles in New York City and Nassau County by holders of certain learners' permits. (a) The holder of a learner's permit who is applying for a Class 6 driver's license may drive:

(1) in New York City or Nassau County between the hours of 5 a.m. and 8 p.m. in a car, including a limited use automobile, equipped with dual controls when accompanied by a licensed supervising driver who is at least 18 years of age;

(2) in New York City or Nassau County between the hours of 8 p.m. and 5 a.m. in a car, including a limited use automobile, equipped with dual controls when accompanied by a licensed parent, guardian, person in loco parentis to the permit holder, driver education teacher or driving school instructor acting as a supervising driver.

(b) The holder of a learner's permit who is applying for a Class 6 driver's license and who is enrolled in an approved high school or college driver education course, or who has successfully completed such a course within one year, may drive as provided in subdivision (a) of this section, except that he may drive in Nassau County between the hours of 5 a.m. and 8 p.m. in a car, including a limited use automobile, not equipped with dual controls, provided he is accompanied by a licensed parent, guardian, person in loco parentis to the permit holder, driver education teacher or driving school instructor acting as a supervising driver.

(c) A car, including a limited use automobile, equipped with dual controls means a passenger vehicle which is equipped with an additional braking device for the supervising driver which is in proper working condition.

4.5 Seat safety belts. No person holding a learner permit for a class 1, 2, 3, 4, 5 or 6 license shall operate a vehicle under the privilege granted by that permit unless he is wearing a seat safety belt. (Amended 3/1/83) (Effective 3/1/83)

STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
OFFICE OF THE COMMISSIONER

"P" & (1983)

Albany, New York

February 22, 1983

To: All Enforcement Agencies and Magistrates

Subject: Changes to the Commissioner's Regulations

Effective March 1, 1983, subdivision(a) of Section 49.2 is amended to read as follows:

(a) Every 1974 and newer motor vehicle offered for sale in New York State shall be equipped with seat safety belts and shoulder harness safety belts if required as original equipment or as a condition of importation by federal law or regulation. This Part shall not apply [to those motor vehicles not registered or registrable pursuant to subdivision (6) of Section 401 of the Vehicle and Traffic Law or] to those motor vehicles equipped with passive restraint systems (air bags), which conform to Federal Motor Vehicle Safety Standard 208 in all respects.

EXPLANATION: Matter underlined is new regulation; matter in brackets is old regulation to be omitted.

Also effective March 1, 1983, Part 4 is amended by adding a new section, to be Section 4.5 which reads as follows:

4.5 Seat safety belts. No person holding a learner permit for a class 1, 2, 3, 4, 5 or 6 license shall operate a vehicle under the privilege granted by that permit unless he is wearing a seat safety belt.

This amendment does not apply to Learner's Permits issued before March 1, 1983. The restriction "Safety Belt Required" will be stamped in the Restrictions box on Part 1 of the Learner's Permit (Form MV-500) of all Class 1, 2, 3, 4, 5 and 6 permits issued on and after March 1. The MV-500 may be revised to include this restriction at a later date.

This restriction is lifted when the Learner's Permit is endorsed as a Temporary License. The Motor Vehicle License Inspector or the Issuing Office Examiner who enters the Temporary License Endorsement stamp will cross out the restriction "Safety Belt Required." This restriction is validly removed only when the Temporary License Endorsement stamp is present.

This restriction applies to the operation of all motor vehicles for which seat safety belts or shoulder harness safety belts were required as original equipment. Safety belts are required in all passenger vehicles whose model year is designated as 1965 or newer. Tractors with a model year of 1972 or newer must have safety belts. Other commercial vehicles must have safety belts if they were required for original sale. This restriction also applies to older model year vehicles if the vehicles have been retrofitted with safety belts. Vehicles which are equipped with air bags may also be equipped with front seat safety belts. Anyone operating a motor vehicle equipped with air bags and front seat safety belts under the privilege granted by a Learner's Permit must wear a safety belt.

The operation of a motor vehicle in violation of this regulation is a violation of Section 509, subsection 3 of the Vehicle and Traffic Law.

Please bring this information to the attention of your staff.

LESLIE G. FOSCHIO
Commissioner

STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
OFFICE OF THE COMMISSIONER

"C" 6 (1983)

Albany, New York

February 22, 1983

To: All Issuing Offices

Subject: Safety Belt Restriction

The purpose of this memo is to inform you of the new Section 4.5 of the Regulations of the Commissioner requiring any person holding a Class 1, 2, 3, 4, 5 or 6 Learner's Permit to wear a safety belt while operating a vehicle under the privilege granted by this permit (see copy attached) and to provide you with the information you will need to answer questions from the public. This amendment takes effect on March 1, 1983 and applies only to permits and renewals of permits issued on and after March 1. The operation of a motor vehicle in violation of this regulation is a violation of Section 509, subsection 3 of the Vehicle and Traffic Law (operation of a motor vehicle in violation of a restriction contained on the license).

This restriction applies to the operation of all motor vehicles for which seat safety belts or shoulder harness safety belts were required as original equipment. Safety belts are required in all passenger vehicles whose model year is designated as 1965 or newer. Tractors with a model year of 1972 or newer must have safety belts. Other commercial vehicles must have safety belts if they were required for original sale. This restriction also applies to older model year vehicles if the vehicles have been retrofitted with safety belts. Vehicles which are equipped with air bags may also be equipped with front seat safety belts. Anyone operating a motor vehicle equipped with air bags and front seat safety belts under the privilege granted by a Learner's Permit must wear a safety belt.

The restriction "Safety Belt Required" must be stamped in the restriction box on Part 1 of the Learner's Permit (Form MV-500) of all Class 1, 2, 3, 4, 5 and 6 permits issued on and after March 1. The stamp should be placed in the top of the restriction box to allow room for additional restrictions. There is no need to stamp this restriction in the restriction box on Part 2 (the Road Test Appointment section). The MV-500 will not be revised at this time. Our present supply of this form will last approximately fourteen more months. We will consider revising this form in the future. Because this restriction must be entered on most learner permits, we have ordered stamps for all offices which issue learner's permits. The stamps are to be delivered to each office before March 1. If you have not received a stamp by that date, the restriction "Safety Belt Required" must be hand entered until the stamps arrive. Extra stamps may be requested from Forms Inventory Control, if necessary. We have ordered only a very small quantity of extra stamps, so we will appreciate your discretion in requesting them.

This restriction will be lifted when the road test is passed. In areas which give the informational road test, the Motor Vehicle License Inspector will cross out the restriction when he or she enters the Temporary License Endorsement stamp. In the areas which do not yet give informational road tests, the examiners must cross out the restriction when they enter the Temporary License Endorsement stamp. The M.V.L.I.'s will take over this function once they begin giving the informational road test. Please note that this restriction is validly removed only when the Temporary License Endorsement stamp is present.

Please bring this information to the attention of your staff.

LESLIE G. FOSCHIO
Commissioner

Attachment



LESLIE G. FOSCHIO
Commissioner



MARIO M. CUOMO
Governor

MARY ANN LAURICELLA
Associate Commissioner
for Public Affairs

Inquiries to: Mary Ann Lauricella

Phone: (518) 474-0877

January 31, 1983

For immediate release:

SEAT BELT REQUIREMENT FOR LEARNER'S PERMIT HOLDERS

Persons issued a learner's permit upon application for a driver's license on or after March 1, 1983, will be required to wear a seat safety belt while driving as a permit holder, State Motor Vehicles Commissioner Leslie G. Foschio today announced.

He signed the amendment to the Commissioner's Regulations following public hearings on the proposal last month.

"There is convincing evidence of the value and effectiveness of seat belts," Commissioner Foschio said. "Studies have shown that 50 percent of all deaths on the highway could be prevented if drivers and their passengers would buckle up."

He continued: "An immediate benefit of the new requirement is preventing injuries and saving lives among this group of inexperienced drivers, who are a high-risk segment of highway users."

In addition, Commissioner Foschio cited the requirement's long-term educational value. "It encourages seat belt usage as an important part of safe defensive-driving practices among New York's driver population."

(more)

ADD ONE--Seat Belt Requirement for Learner's Permit Holders

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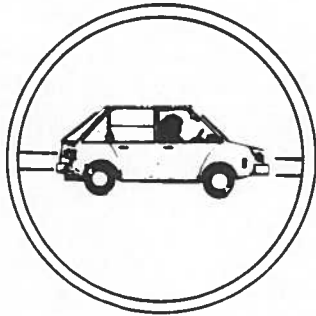
Violation of the requirement could subject the learner's permit to suspension.

During 1982, the Department of Motor Vehicles issued approximately 900,000 learner's permits.

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RN 2

WHEN MAY I PRACTICE DRIVING ?



RESTRICTIONS ON CLASS 6 & CLASS 8 LEARNERS' PERMITS

STATE OF NEW YORK
Mario M. Cuomo, Governor

DEPARTMENT OF MOTOR VEHICLES
John A. Passidomo, Commissioner

GENERAL LEARNER'S PERMIT RESTRICTIONS

A learner's permit allows you to practice driving in preparation for your driver's license road test, but *only if you are accompanied by a supervising driver who is at least 18 years old and who has a license which is valid in New York State for operating the practice vehicle.* In certain cases, this supervising driver must be your parent, guardian, a person in *loco parentis*, a driver education teacher or a certified driver school instructor.

A person in *loco parentis* is a person who, on a regular and extended basis, has assumed the character of your parent and is discharging parental duties due to the death, disability or absence of your natural parent.

If you are operating a vehicle under a Class 1, 2, 3, 4, 5 or 6 permit, you must wear your seat safety belts at all times.

No permit holder may drive in a road test area unless actually taking a road test conducted by the Department of Motor Vehicles.

No permit holder may drive in the following areas:

- on any street located in a park in New York City or on any bridge or tunnel in that city which is under the jurisdiction of the Triborough Bridge and Tunnel Authority.

- on any of the following roadways located in Westchester County: Hutchinson River Parkway, Cross County Parkway, Saw Mill River Parkway, Taconic State Parkway.

In addition, the Vehicle and Traffic Law and the Regulations of the Commissioner of Motor Vehicles place special restrictions on Class 6 and Class 8 permit holders. These restrictions are different in each of three geographic areas of New York State - New York City, Nassau County, and all other counties of the state. The restrictions on what vehicles and at what times you may practice driving in these three areas are described below.

WHAT VEHICLES YOU MAY PRACTICE DRIVING

With a Class 6 permit, you may practice driving a passenger vehicle, including a limited use automobile, a truck weighing 18,000 pounds or less, or a Class B or Class C limited use motorcycle (moped). Remember, however, that you cannot take a road test for a Class 6 license on a moped, and if you take the road test on a limited use automo-

bile, your license will not be valid for operating regular passenger vehicles or trucks.

Note: When the term "passenger vehicle" is used elsewhere in this pamphlet, it includes limited use automobiles and trucks weighing 18,000 pounds or less. Limited use motorcycles will be referred to as mopeds.

With a Class 8 permit, you may practice driving a regular motorcycle or any moped.

With a Class 8A permit, you may practice driving any moped.

With a Class 8B permit, you may practice driving a Class B or Class C moped.

For information on limited use automobiles and mopeds, consult the pamphlet "Limited Use Vehicles" (P-58.1) or the *Driver's Manual* (MV-21).

Note: The supervising driver for a motorcycle or moped learner does not have to ride on the practice vehicle, but may exercise general supervision by remaining within ¼ mile of the learner.

WHEN YOU MAY PRACTICE DRIVING

In New York City

With a Class 6 permit, you may practice driving a passenger vehicle equipped with dual controls* between 5 a.m. and 8 p.m. if accompanied by a supervising driver; between 8 p.m. and 5 a.m., the supervising driver must be your parent or guardian, a person in *loco parentis*, a driver education teacher or certified driving school instructor.

With a Class 6 or Class 8 permit, you may practice driving a moped appropriate to the class of permit you hold between 5 a.m. and 9 p.m. if accompanied by a supervising driver; between 9 p.m. and 5 a.m., the supervising driver must be your parent or guardian, a person in *loco parentis*, a driver education teacher or a certified driving school instructor.

You may practice driving a motorcycle equipped with dual controls* at any time in New York City if you are accompanied on the cycle by a supervising driver who has a license valid to operate a motorcycle.

In Nassau County

With a Class 6 permit, you may practice driving a passenger vehicle equipped with dual controls* between 5 a.m. and 8 p.m. if accompanied by a supervising driver; between 8 p.m. and 5 a.m., the supervising driver must be your parent or guardian,

a person in *loco parentis*, a driver education teacher or certified driving school instructor.

If you are enrolled in a state-approved high school or college driver education course (carry form MV-287** in addition to your permit), or if you have completed such a course within the last 12 months (carry form MV-287.1** in addition to your permit), you may practice driving a passenger vehicle without dual controls (Class 6 permit) or a regular motorcycle (Class 8 permit) between 5 a.m. and 8 p.m. accompanied by a supervising driver who is your parent, guardian, a person in *loco parentis*, a driver education teacher or a certified driving school instructor.

With a Class 6 or Class 8 permit, you may practice driving a moped appropriate to the class of permit you hold between 5 a.m. and 9 p.m. if accompanied by a supervising driver; between 9 p.m. and 5 a.m., the supervising driver must be your parent or guardian, a person in *loco parentis*, a driver education teacher or a certified driving school instructor.

You may practice driving a motorcycle equipped with dual controls* at any time in Nassau County if you are accompanied on the cycle by a supervising driver who has a license valid to operate a motorcycle.

In All Other Counties

Between 5 a.m. and 9 p.m. you may practice driving any vehicle appropriate to the class of permit you hold accompanied by a supervising driver. Between 9 p.m. and 5 a.m., the supervising driver must be your parent, guardian, a person in *loco parentis*, a driver education teacher or a certified driving school instructor.

* "equipped with dual controls" means the vehicle is equipped with an additional braking device for the supervising driver which is in good working order.

** forms MV-287 and MV-287.1 are issued by high schools and colleges, not by the Department of Motor Vehicles.



P-60 (5/83)

1-5 LEARNING TO DRIVE WITH A LEARNER'S PERMIT

A learner's permit is valid for one year from the date it is issued. You may renew a permit one time before being required to take the preliminary tests again.

The permit allows you to practice for your road test only in New York State and only under the supervision of a driver who is at least 18 years old and who holds a valid license to operate the practice vehicle.

You may not practice driving in a road test area or in locally restricted zones. A list of road test areas is available from your local Motor Vehicle office.

Learners under 18 years of age are subject to the special restrictions listed in the pamphlet "When May I Practice Driving?" (P-60), available at Motor Vehicle offices.

Persons who hold learner's permits for Class 1, 2, 3, 4, 5 or 6 licenses must wear seat safety belts when operating a vehicle under the privileges granted by that permit.

The Department of Motor Vehicles recommends that you have at least 20 hours of practice driving, with at least five hours in moderate to heavy traffic, before taking your road test.

Instruction and experience in practice driving can be gained through:

Professional Driving Schools - New York State licenses private schools to teach new drivers. These licensed schools provide professional behind-the-wheel

instruction and charge a fee for their services.

Most professional driving schools also offer the required classroom instruction (see Section 1-4) and some offer special driving instruction for motorcyclists, handicapped drivers and other special driving groups. These schools are usually listed in the telephone directory yellow pages under "Driving Instruction".

High School and College Driver Education - Driver education courses are offered in many of the state's high schools and colleges under the supervision of the State Education Department. Driver education courses include classroom, in-car and behind-the-wheel instruction.

A student who passes a driver education course is issued a "blue card" (MV-285), which exempts him or her from taking the road sign/written test, but not the vision and road tests.

A person who reaches age 17 and has a Class 6 or 8 license may exchange the license and a "blue card" for a Class 5 or 7 license. Holding a Class 6 or 8 license and a "blue card", does not mean you hold a Class 5 or 7 license. The Class 6 or 8 license and the card must be exchanged at a Motor Vehicle office.

A Class 5 or 7 license issued to a 17-year old may not be used to supervise a learner's permit holder, nor can it be used in other states where operation by



STATE OF NEW YORK
Hugh L. Carey, Governor

GOVERNOR'S ALCOHOL AND HIGHWAY SAFETY TASK FORCE

Leslie G. Foschio, Co-Chairman
Commissioner
NYS Department of Motor Vehicles

Sheila B. Blume, MD, Co-Chairman
Director
NYS Div. of Alcoholism & Alcohol Abuse

TO: The Honorable Hugh L. Carey
Governor of the State of New York

In response to your charge, this report outlines a new approach to solving the problem of the drunk driver in New York State.

It is the product of quite possibly the largest and most prestigious gathering of experts from across the country and synthesizes a broad range and exchange of information and opinion. It results from hard decisions made by professionals most knowledgeable about the problem and the range of previously tried approaches.

These efforts have produced recommendations that would change dramatically the patchwork, clumsy and ineffective approaches of the past, creating a new and dynamic system that is completely different from any other state or national effort.

What is offered is a comprehensive system from the classroom to the courtroom - a blueprint for getting each participant in the system to work together toward a common goal.

Citizens - parents, young people, individuals; institutions - schools, churches, businesses and fraternal and service organizations; the media - television, radio, newspapers and magazines; enforcement - police, prosecutors, defense attorneys, judges; treatment specialists - trainers and rehabilitators -- all must begin to function in unison if we are to put an end to drunk driving in our state.

The report proposes a system that is both innovative and challenging, one that should command action from our elected officials, private citizens, and institutions and the necessary resources to alleviate the problem of the drunk driver.

Sincerely,

Leslie G. Foschio
Commissioner
Department of Motor Vehicles

Sheila B. Blume, M.D.
Director
Division of Alcoholism and Alcohol Abuse



Executive Summary

The Governor's Alcohol and Highway Safety Task Force sets one clear goal: to reduce dramatically the incidence and tragic consequences of drunk driving in New York State. To achieve this goal, the Task Force recommends a comprehensive systems approach that will raise perception of risk through public education and increased detection and apprehension; cause swift removal of the license and certain application of substantial penalties; and, provide access to appropriate rehabilitation services. Operating within this framework, the Task Force's comprehensive program will:

Change from a one-track criminal proceedings system to a two track — administrative and criminal; reduce license action from six months to one week.

Enact legislation requiring that a driver who is alleged to be operating a motor vehicle with a blood alcohol concentration (BAC) of .10 or above would have five days within which to request an administrative hearing concerning whether he had such a blood alcohol concentration.

Provide for a mandatory 90-day license suspension upon either the waiver of the hearing or a finding that the driver operated a motor vehicle with a blood alcohol concentration of .10 or above.

Impose mandatory fines as a result of court action.

Mandate seven days in jail for driving while license is revoked/suspended for an alcohol offense.

Develop a statewide interdepartmental police DWI enforcement campaign.

Organize enforcement campaigns including systematic traffic check points and consistent, coordinated public information programs to raise the public perception of the risk of apprehension.

Expand the grounds for requesting that a driver be asked to submit to an alcohol impairment screening test.

Eliminate fingerprinting requirement (local option) to put more police on patrol.

➔ Mandate occupant restraint usage — all occupants of a motor vehicle be required to use seat belts to reduce crash fatalities and injuries.

Coordinate all alcohol and highway safety public information and education activities.

Encourage community level responsibility.

Ensure appropriate education programs for convicted drinking drivers.

Demonstrate new screening models to improve referral of problem drinkers to appropriate rehabilitation programs.

Support changes in improved design of vehicles and roadways.

Include research and evaluation function in all activities.

Encourage all alcohol and highway safety programs be user-funded.

STATE OF NEW YORK

Cal. No. 460

2191--B

1983-1984 Regular Sessions

IN SENATE

February 2, 1983

Introduced by Sens. LEVY, MARINO, TULLY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to requiring persons over the age of four and under the age of ten years who are passengers in motor vehicles to wear safety belts approved by the commissioner of motor vehicles

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivision one of section one thousand two hundred twenty-
2 nine-c of the vehicle and traffic law, as amended by chapter twenty-nine
3 of the laws of nineteen hundred eighty-two, is amended to read as
4 follows:
5 1. No person shall operate a passenger motor vehicle registered in
6 this state, nor shall the owner thereof knowingly permit a passenger
7 motor vehicle to be operated unless each passenger of such vehicle under
8 the age of four is restrained in a specially designed detachable or
9 removable seat which meets the Federal Motor Vehicle Safety Standards
10 set forth in 49 C.F.R. 571.213 or in the case of [a passenger over the
11 age of four but under the age of five is restrained in such seat or by a
12 safety belt approved by the commissioner.] other passengers it is
13 required that they be restrained in such seat or by a safety belt ap-
14 proved by the commissioner if they are under the age of:
15 seven years starting April first, nineteen hundred eighty-four;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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