

FAQs About Learner's Permits & Junior Operator Licenses

Massachusetts Department of Transportation (MassDOT)
Registry of Motor Vehicles (RMV)

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For information on suspensions and other penalties for violations committed by Junior Operators, see the Mandatory JOL Permit and License Suspension charts in Chapter Two of the Driver's Manual
(http://www.massrmv.com/rmv/dmanual/chapter_2.pdf)

FAQs About Learner's Permits & Junior Operator Licenses

The Massachusetts Registry of Motor Vehicles (RMV)

The "Junior Operator License (JOL) Law" [generally, Sections 8 and 8B of Chapter 90 of Massachusetts General Laws] requires the state's youngest drivers to have more experience behind the wheel before a road test can be taken. The law is a "graduated license law" in that a new, young driver starts out with restrictions that are removed as the driver advances from the "learner's permit" phase through the "junior operator license" phase into a "full license." A JOL provides for restrictions for a period of time after the junior operator license is obtained and provides "enhanced penalties" for certain motor vehicle offenses committed by junior operators, such as speeding and racing and those involving alcohol or drugs. Operators over the age of 18 but under the age of 21 are also subject to special penalties if alcohol or drugs are involved. A driver ceases to be a junior operator when he or she turns age 18, although penalties will still apply for offenses committed while a junior operator.

The questions and answers contained in this material were prepared by the Legal Counsel's Office of the Massachusetts Registry of Motor Vehicles (RMV) to provide assistance to young drivers, their parents, members of the law enforcement community, Driver Education Instructors and RMV employees. Although the RMV obviously cannot prepare an answer for every potential question that may be raised concerning the law, we believe that the answers that have been provided represent fair, logical and detailed responses to the types of questions that we find are asked most frequently. The responses have been prepared based upon a careful reading of the provisions of the law and the inferences to be drawn from them. These responses represent the RMV's opinion of the relevant provisions of this law. The new questions and answers contained in this document supplement previous material relating to the JOL law. To the extent that a revised answer is provided for a question contained in an earlier version, the revised answer is intended to supersede the previous answer.

Chapter 259 of the Acts of 2010 requires Junior Operators to complete the Massachusetts Rider Education Program (MREP) basic rider course in order to obtain a Class M license.

Note: In this document, unless otherwise specified, "motor vehicle" refers to a passenger vehicle, not a motorcycle.

1. A Summary of JOL Requirements

Q. I am 16 1/2 years old and I heard that there is a law that requires driver education before I can get my driver's license. What does the law require?

A. If you apply for a Class D driver's license and are between the ages of 16 1/2 and 18 you must have possessed a learner's permit for at least six (6) months and will only be issued a "Junior Operator's License" (JOL), upon passing road test, and only if:

* You have successfully completed a driver education and training program approved by the Registrar which includes 30 hours of live classroom instruction, twelve (12) hours of behind-the-wheel training, six (6) hours in-car as an observer of another student driver, and a two (2) hour class attended by your parent or guardian on the content of driver education;

* You have completed at least an additional 40 hours of supervised behind-the-wheel driving (30 hours if you complete a driver skills development program) as shown by a certified statement provided by your parent or guardian;

* You have had a learner's permit for at least six (6) months; and

* You have had a "clean driving record" for a minimum of six (6) consecutive months immediately preceding the date you took your road test.

The most significant effects of the law's requirements and restrictions are on the operation of a motor vehicle by a person in possession of a "Junior Operator's License." A basic purpose of the law is to provide you with a supervised opportunity to develop good driving skills, while being free of possible distractions caused by having friends your own age present while

you are behind the wheel. Under the law, if you are a junior operator (between the ages of 16 1/2 and 18):

* You may not operate a motor vehicle, within the first six (6) months after receiving a "Junior Operator's License" while any passenger under the age of 18 is in the vehicle (other than yourself or an immediate family member), unless you are accompanied by a person who is at least 21 years old, has at least one year of driving experience, holds a valid driver's license from Massachusetts or another state and is occupying a seat beside you. A junior operator who violates the passenger restriction shall be subject to a license suspension of 60 days for a first offense with a reinstatement fee of \$100. The six (6) month passenger restriction period will stop running when the suspension begins and the remainder of the restriction period will start running again when the suspension is completed.

* As the holder of a "Junior Operator's License", you may not operate a motor vehicle during the hours of 12:30 a.m. to 5:00 a.m. unless accompanied by your parent or your legal guardian.

* You may not operate a motor vehicle requiring a commercial driver's license;

* Your "Junior Operator's License" will be suspended for a substantial period of time if you are under 18 years of age at the time certain driving offenses involving alcohol or drugs are committed.

* You will face a license suspension for all speeding or drag racing violations.

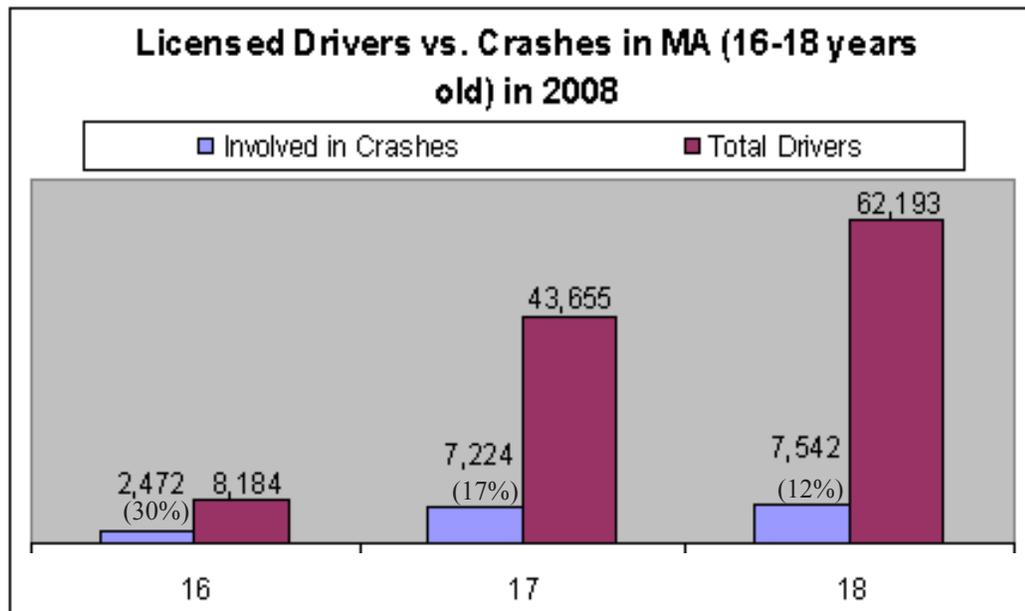
Note: To get a Class M (motorcycle) license, junior operators must complete the Massachusetts Rider Education Program (MREP) basic rider course, in addition to the requirements listed above.

2. Accident Rates for Young Drivers

Q. I am 16 1/2 and just got my JOL. I think I am a good driver but I am always hearing that kids my age have the worst accident rates. What are the facts?

A. State law requires a driver to file a report with the Registry of Motor Vehicles (RMV) for any crash involving a death, serious bodily injury or property damage in excess of \$1,000. The numbers below are obtained from these reports for the year 2008. The number of crashes in Massachusetts involving 16, 17, or 18 year old drivers is appalling. The youngest group of drivers, 16 year olds, has the highest percentage of serious accidents of those age groups.

- Three of every ten 16 year old drivers will be in a serious crash (30%).
- Almost one of every five 17 year old drivers will be in a serious crash (17%).
- More than one of every ten 18 year old drivers will be in a serious crash (12%).



To make matters worse, some drivers less than 21 years of age increase the chance of a crash by drinking and driving-even though it is illegal. The National Highway Traffic Safety Administration (NHTSA) reports that across the USA in 2003:

- 13% of 16 year old drivers killed in a crash were legally drunk;
- 18% of 17 year old drivers killed in a crash were legally drunk;
- 27% of 18 year old drivers killed in a crash were legally drunk.

3. Permit Holder 18 or Older Must be Accompanied by License Holder 21 or Over

Q. I am 18 years old but I am only now getting my first driver's license. I know that I will have to obtain a Learner's Permit. Will I have to be accompanied by a licensed driver over the age of 21 when I operate on my Learner's Permit?

A. By law, anyone who is operating a motor vehicle on a Learner's Permit, regardless of his or her age, must be accompanied by a licensed driver who is at least 21 years of age.

Note: This does not apply if you are operating a motorcycle on a Learner's Permit.

4. Parent Need Not Personally Supervise Additional Hours of Driving

Q. I am a single parent and my 17 year old son is going to apply for his "Junior Operator's License." He can go to the driver education course at school and that is not a problem. However, I work all day and I will probably not have the time to supervise the additional 40 hours of supervised behind-the-wheel driving (30 hours if the junior operator completes a driver skills development program). Can my brother do it? Can my brother and my uncle each supervise some of the required driving? Can I hire the driving school to do it?

A. You may designate your brother or any other person to supervise your son's additional 40 hours of supervised behind-the-wheel driving (30 hours if your son completes a driver skills development program) if your brother or the other person is a validly licensed driver over the age of 21 and has at least one (1) year of driving experience. Your brother and your uncle can split the driving supervision, since the law does not require that only one person provide the additional 40 hours of supervised behind-the-wheel driving (30 hours if your son completes a driver skills development program). You may also contract with any licensed driving school offering such services to supervise the additional 40 hours of supervised behind-the-wheel driving (30 hours if your son completes a driver skills development program). You must make sure that your son is receiving the required 40 hours of instruction (30 hours if your son completes a driver skills development program). You will have to certify, under oath, on your son's Driver's License application, that he did receive the 40 hours of supervised driving (30 hours if your son completes a driver skills development program).

5. Restrictions on Learner's Permit Holder

Q. What restrictions am I subject to when operating on my Learner's Permit?

A. The holder of a Learner's Permit may operate a motor vehicle upon any way when accompanied by an operator duly licensed by his state of residence, who is 21 years of age or over, who has had at least one year of driving experience and who is occupying a seat beside the driver.

- A Permit holder who is under the age of 18 may not operate a motor vehicle between the hours of 12:00 a.m. (midnight) and 5:00 a.m. unless accompanied by his parent or legal guardian, who must be a licensed operator with at least one year of driving experience and whose license or right to operate is not revoked or suspended.

- A Massachusetts Learner's Permit may not be valid out-of-state. The holder of a Learner's Permit may not operate in another state if it is in violation of that state's law.

- The holder of a motorcycle Learner's Permit (Class M) may not carry passengers and may not operate after sunset or before sunrise.

- The holder of a Learner's Permit must be in physical possession of the Permit when operating a motor vehicle.

6. Meaning of "Clean Driving Record"

Q. I know that I must have a "clean driving record" for the six (6) month period just before I take a road test. What would prevent me from having a "clean driving record?"

A. You would not have a "clean driving record," and you would not be allowed to take the road test if, within the six (6) months immediately preceding the date of the test:

- * You had any surchargeable incident under Massachusetts law or the law of another state (at-fault accidents, moving violations, etc.);

- * You had your Learner's Permit suspended for drug or alcohol related motor vehicle violations; or

- * You had been convicted for the violation of any drug or alcohol related laws in Massachusetts or in another state ("convicted" includes charges that are "continued without a finding" or "placed on file").

For the purposes of this section, an alternative disposition of a violation, including, but not limited to, having such violation continued without a finding, placed on file or a "responsible" finding on a civil motor vehicle infraction, shall be deemed to be a conviction. You may not take a road test until six months from the date of the arrest or issuance of the citation.

7. Measuring the Six Month Period for a "Clean Driving Record"

Q. I have had my Learner's Permit for over six (6) months. I recently was found at-fault in a car accident. Will I be subject to the requirement that my driving record must be "clean" for the six (6) month period immediately preceding the date of the road test?

A. Yes. The six (6) month period will be measured from the date of the "incident." In your case, that would be the date you were involved in the accident. If the holder of a Learner's Permit is under the age of 18, and is found "responsible" for a surchargeable accident (or "guilty" of a criminal motor vehicle violation), the six (6) month "clean" period will be measured from the "incident date," that is, the date the accident occurred. If the person is found "not responsible" or "not guilty" for the violation or the charges are dismissed, the person's driving record will be corrected to reflect the finding and the six (6) month "clean" period will be measured from the date of the most recent violation, or if none had been committed, from the date the Learner's Permit was obtained.

Note: A surchargeable accident is one in which you are more than 50 percent at fault. It is treated the same as a citation, that is, it runs from the "incident" date. The six (6) month period will re-start from the date of the accident, even though you may not be notified of the surcharge until some time after the accident has occurred. If you successfully appeal the surcharge, the RMV will correct its records to reflect the original six (6) month period in the same way as if you were found "not responsible" for a citation.

8. Seat Belt Violation: Effect on "Clean Driving Record"

Q. I am 17 and have had my Learner's Permit for almost six months with no accidents or moving violations. I plan to take the road test next month. I was recently a passenger in a car and did not have my seat belt on when the driver was pulled over for speeding. I was issued a citation for not wearing my seat belt. I plan to contest the citation in court. If I am found responsible for the citation, will I lose credit for the clean driving record I have had up until now?

A. No. You will not lose credit for your clean driving record because the seat belt citation is not a moving violation and is not an event subject to surcharge for insurance purposes. Note: If you are found responsible for the citation, but fail to pay it in the time required by the court, your Learner's Permit will have to be suspended by the Registrar.

A Further Note on the Seat Belt Law: You should be aware that the seat belt law was enacted for good reason: To save lives. You were lucky that you were not involved in an accident when your friend was speeding. The next

time, use good judgement and use your seatbelt. As a JOL holder you are subject to the seat belt law. The law applies to both operators and passengers. The law applies to any passenger vehicle built after mid-1966, and although there are some other exceptions (taxi, rural mail carriers, persons with medically certified physical limitations, etc.,) the seat belt law generally applies to all passenger vehicles being used for personal use. The law will be enforced if you are stopped by a police officer for a possible traffic violation. Any driver who is operating a motor vehicle without wearing a safety belt, or any passenger 16 years old or older who is not wearing a safety belt is subject to a \$25.00 fine. The driver is subject to an additional fine of \$25.00 for each passenger between the ages of 12 and 16 who is not wearing a safety belt.

9. Converting a Learner's Permit from Another State

Q. I am 17 and my family just moved here from another state. I have a valid Learner's Permit from that state and have already had it for six (6) months and have not had any violations, accidents or surcharges on my driving record. I completed that state's driver education program. May I take my road test and obtain a Massachusetts driver's license?

A. The law allows Massachusetts to accept a Learner's Permit from another state, if issued under a law similar to the Massachusetts Learner's Permit law. You will have to convert your out-of-state Learner's Permit to a Massachusetts Learner's Permit before you will be allowed to take the road test. In order to do so, you must present a certified copy of your driving record (the certification date cannot be more than thirty [30] days old), from the state that issued your Learner's Permit. You must have held the Learner's Permit for at least six (6) months (with a "clean driving record"-see question # 6) and meet all the other requirements of the new law. (Before you can take a road test, however, you must also either successfully complete a Massachusetts Driver Education Course or provide evidence that you have successfully completed such a course in your previous home state. To convert an out-of-state Driver's Education Certificate, read the response to question # 10. Please note that the Registrar will not accept a Driver's Education Certificate from a state that does not meet or exceed the number of hours of classroom and in-vehicle instruction required of Massachusetts residents.

Note: For a Class M license, in addition to everything listed above, you must also complete the Massachusetts Rider Education Program (MREP) basic rider course or convert a certificate issued by an approved Motorcycle Safety Foundation course.

10. Converting an Out-of-State Driver Education Certificate

Q. How do I convert my driver education certificate from the state I just moved from?

A. You may convert your out-of-state driver education certificate to a Massachusetts driver education certificate by obtaining an Application to Convert Out-of-State Driver Education Certificate from any RMV full-service branch (see the list at the back of the Driver's Manual) or by downloading it from the Internet at: www.massrmv.com and complying with the conversion requirements. The Registrar will allow the conversion to the Massachusetts Driver Education Certificate if she finds that the out-of-state driver education program you attended is comparable to the Massachusetts program, which currently consists of 30 hours of live classroom instruction, twelve (12) hours behind-the-wheel, six (6) hours of in-car observation, and a two (2) hour class attended by your parent or guardian on the content of driver education. If the out-of-state program qualifies, your new Massachusetts Driver Education Certificate will be mailed to you within two weeks of receipt of your out-of-state certificate. If you do not qualify, your out-of-state certificate will be returned to you along with a letter denying your application.

If you are applying for a motorcycle license and want to convert an out-of-state motorcycle driver's education certificate, see question #15.

11. Scheduling a Road Test Before End of Six-Month Learner's Permit Period

Q. I have had my Learner's Permit for five and one-half (5 1/2) months and I have not had any violations or surchargeable incidents during that period. I want to schedule my road test for next month and understand a convenient date is available. Can I call the Registry today to schedule the road test for next month or do I have to wait the two-weeks until I have had the Learner's Permit for the full six (6) months before I can even schedule a road test?

A. Although you have to hold the Learner's Permit for the full six (6) month period immediately preceding the taking of the road test, you can schedule a road test in advance. We can schedule the road test if the date and time requested is not already scheduled for that location, and if you will have completed the six (6) month period on or before the date the road test is scheduled.

You can schedule your road test online at www.massrmv.com. You can also call the RMV Telephone Center at 857-368-8000, M-F, 9:00 a.m.-5:00 p.m.

Note: If you receive a citation or incur a surchargeable event between the date you schedule the road test and the date you are scheduled to take the test, you will no longer be eligible and you will not be allowed to take the road test. If the RMV does not learn of the subsequent citation or surchargeable event until after you have taken and passed the test, a permanent license will not be issued to you. You

must re-establish a "clean driving record" for the required six-month period before you can re-take the road test.

Note: The RMV calculates six months as 184 days.

12. Road Test Fee

Q. Do I have to pay a separate fee each time I take a road test for my "Junior Operator's License?"

A. Yes. A fee for each scheduled road test is required. If you miss or fail the scheduled test or are rejected by the examiner, the fee is still required.

13. Number of Road Tests is Limited

Q. Is there a limit to the number of road tests a person can take with their Learner's Permit?

A. Yes. The law limits the holder of a Learner's Permit to six (6) road tests in a 12-month period. Learner's Permits expire at the end of two (2) years (or earlier if the holder has obtained a Driver's License), so a Permit holder who has been unsuccessful in six (6) road tests in the first year of the Permit cannot take the seventh (7th) road test until at least the 13th month. A person should take sufficient time and gain as much behind-the-wheel experience as possible with a qualified driver before reserving a spot for a road test.

14. No Operation of Commercial Motor Vehicles by Learner's Permit or JOL Holder

Q. My uncle has a trucking company that only makes local deliveries and he has been teaching me to drive one of his big trucks that weighs over 30,000 lbs. He said he will hire me as a part-time driver once I get my "Junior Operator's License". Will that be okay?

A. No. The type of vehicle you describe requires a commercial driver's license (CDL) because it weighs more than 26,000 pounds. Under the law, a junior operator is prohibited from operating a vehicle requiring a commercial driver's license. In fact, Massachusetts law has already been broken if you have been operating this vehicle in violation of the terms of your Learner's Permit. You must be 18 years of age to apply for a CDL Learner's Permit.

15. Getting a Class M License

Q. I hold a Class M permit. What must I do to get a Class M license?

A. If you are under the age of 18, you must complete all of the requirements needed to get a Class D license (see

question #1). In addition, you must also complete the Massachusetts Rider Education Program (MREP) basic rider course.

If you are 18 or older, you can either complete the MREP basic rider course or pass a Class M road test to get a Class M license.

If you moved here from another state and completed an equivalent motorcycle rider education course, you can convert the certificate. To do this, you must complete an Application to Accept an Out-of-State Motorcycle Rider Education Program Certificate and mail it to the address at the top of the form. This form is available on the RMV Internet site (www.massrmv.com).

16. Class D and M Permits Together

Q. Can I get both my Class D and Class M permits at the same time?

A. Yes. You will need to take two written exams (one for Class D and one for Class M) and pay two exam fees.

17. No JOL Issued Before 16 and 1/2

Q. I am almost 16. Can I obtain my "Junior Operator's License" when I turn 16?

A. No. The law requires that you be at least 16 1/2 to obtain a

“Junior Operator’s License.” You would have to obtain your Learner’s Permit at age 16, complete a driver’s education course, and drive for six (6) months without any surchargeable incidents or motor vehicle offenses before you would be eligible to apply for a “Junior Operator’s License” at age 16 1/2.

18. Penalty for Violation of Passenger Restriction

Q. I will be getting my “Junior Operator’s License” shortly. What is the penalty if I get caught driving with my friends who are under age 18 if I do not have a licensed driver aged 21 or over, in the car?

A. You may not operate a motor vehicle, within the first six (6) months after receiving your “Junior Operator’s License” while any person under the age of 18 is in the vehicle (other than yourself or an immediate family member), unless you are accompanied by a person who is at least 21 years old, has at least one year of driving experience, holds a valid driver’s license from Massachusetts or another state, and is occupying a seat beside you.

NOTE: If you violate the restriction against carrying a passenger under age 18, you will be subject to a license suspension of 60 days for a first offense, 180 days for a second offense and one year for a third or subsequent offense. Second and subsequent offenses also require you to take a Driver Attitudinal Retraining Course. The law requires the Registrar to impose this suspension in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed in connection with a violation committed at the time you were violating the passenger restriction. The Registrar has determined that the period of suspension for a violation of the passenger restriction must run after any other suspension has been completed. When your “Junior Operator’s License” is reinstated, you will still have the remainder of the six (6) month restriction period to complete that existed at the beginning of the suspension period. Note: While a violation of the “time restriction” between 12:30 am and 1:00 a.m. and between 4:00 a.m. and 5:00 a.m. is subject to “secondary enforcement” (see Q # 24), a violation of the passenger restriction is not. A violation of the passenger restriction is subject to “primary enforcement” and may be enforced at any time of day or night.

Note: If you get three surchargeable offenses within two years, you must complete a Driver Retraining Course or your license will be suspended indefinitely.

For more information on penalties, see the Mandatory JOL Permit and License Suspension charts in Chapter Two of the Driver’s Manual (http://www.massrmv.com/rmv/dmanual/chapter_2.pdf)

19. Who Are “Immediate Family Members”?

Q. Who is considered to be an “immediate family member” for purposes of the passenger restriction?

A. The statute does not define the term. Black’s Law Dictionary defines “immediate family member” as the term generally referring to one’s parents, wife or husband, children, and brothers and sisters. The RMV believes that step-brothers and step-sisters can reasonably be expected to be included. To date, however, no court decisions have yet decided how the term relates to a JOL holder.

20. No Passenger Restriction Exemption for JOL Driver Car-Pooling to School

Q. I heard that a new driver with a JOL is not subject to the passenger restriction during the times when he is driving his friends to and from high school in a car pool. Is this true?

A. No. The law does not provide an exemption from the passenger restriction for a JOL driver who is driving his friends to or from school. Similarly, there is no exemption from the passenger restriction to transport friends to or from a prom or other school-related activity.

21. Police Officer Knows if JOL Holder is Subject to the “Passenger Restriction”

Q. The back of my JOL says that “passenger restriction may apply if under 18.” How will a police officer who stops me know if I am subject to the restriction?

A. Once a person is stopped by a Police Officer, the officer normally checks the validity and status of the driver’s license by contacting the Registry of Motor Vehicles. If, as the driver, you possess a Junior Operator’s License and there are unrelated persons under the age of 18 in the vehicle, and no licensed driver 21 years of age or over supervising your driving from the front passenger seat, the Officer will make an additional query. The Officer will also ask the Registry (either through a computer link in the police car or through a computer terminal at the police station) if you are subject to the passenger restriction. The Registry data link will confirm that you are or are not subject to the restriction. If you are subject to the restriction, the police officer will attempt to determine if your passengers are related to you.

22. Parent Must Accompany JOL Holder Between 12:30am and 5am

Q. I am under 18 years of age. Does my parent need to be in the car with me between 12:30 a.m. and 5:00 a.m. when

I get my Junior Operator's License? What is the penalty if I get caught without my parent in the car?

A. If you are caught operating on a "Junior Operator's License" during those hours, without your parent present in the vehicle, you will be deemed to be operating a motor vehicle without being duly licensed. It is a criminal offense and you may be punished by a 60-day license suspension and \$100 reinstatement fee for a first violation, a 180-day suspension and \$100 reinstatement fee for a second violation, and a one-year suspension and \$100 reinstatement fee for any subsequent violations. Second and subsequent offenses also require you to take a Driver Attitudinal Retraining Course.

For more information on penalties, see the Mandatory JOL Permit and License Suspension charts in Chapter Two of the Driver's Manual (http://www.massrmv.com/rmv/dmanual/chapter_2.pdf)

23. Parent of JOL Holder Need Not be Licensed... Exception

Q. I am under 18 and I know that one of my parents must be in the car when I operate it with my "Junior Operator's License" between the hours of 12:30 a.m. and 5:00 a.m. My problem is that neither one of my parents has a Driver's License. Can I operate between 12:30 a.m. and 5:00 a.m., if accompanied by an unlicensed parent?

A. Yes. As a JOL holder you can legally operate between 12:30 a.m. and 5:00 a.m. if a parent is in the vehicle with you, even though your Mom or Dad is unlicensed. You are the holder of a JOL because you have passed a written test, completed a Driver Education program approved by the Registrar, completed a minimum of twelve (12) hours of behind-the-wheel driving in class and a minimum of an additional 40 hours of behind-the-wheel driving (30 hours if you complete a driver skills development program) supervised by a parent or guardian, and have demonstrated that you have the necessary skills to safely operate the vehicle, during an RMV supervised road test. Therefore, your parent does not have to be licensed. However, the law requires that at least one of your parents accompany you whenever you drive during the 12:30 a.m. to 5:00 a.m. time period, until you reach the age of 18. This requirement is to provide parental supervision during overnight hours when young, inexperienced drivers typically have a higher incidence of accidents and moving violations. Prior to obtaining the JOL (during the Learner's Permit stage) you were not a validly licensed driver so the law required your parent to be licensed in order to supervise your driving during the night hours.

Are you still subject to the passenger restriction? Note, that if you are still subject to the passenger restriction, the law prohibits you (at any time of day) from carrying a person under the age of 18 who is not an immediate family member, unless you are accompanied by a validly

licensed driver who is at least 21 or older and who has had his or her license for at least one year. If you are carrying a person under the age of 18, who is not an immediate family member, between 12:30 a.m. and 5:00 a.m., either the parent accompanying you must be validly licensed or you must also be accompanied by a person (seated beside you) who meets the above description of a validly licensed driver.

24. Time Restriction Violation Treated as Secondary Offense During Certain Hours

Q. I am afraid that I may be cited for driving without my parent in the car between the hours of 12:30 a.m. and 5:00 a.m., in violation of the restrictions of my "Junior Operator's License." I am 17 1/2 and I drive myself to work on weekend nights at "Burger World." On Friday nights, I usually get out of work at 12:00 a.m. and I can drive home in twenty minutes. Sometimes (but not too often) the boss keeps us later and I don't get out until 12:30 a.m. I do not want to lose my "Junior Operator's License" but I don't want to give up the job, either. Will I definitely be cited for violating the restriction if I am seen driving at 12:45 a.m.?

A. Section three (3) of the law says that between the hours of 12:30 a.m. and 1:00 a.m. and between 4:00 a.m. and 5:00 a.m., the provisions of the law shall be enforced by law enforcement agencies only when a junior operator of a motor vehicle has been lawfully stopped for a violation of the motor vehicle laws or some other offense. This is called "secondary enforcement." However, it is still illegal for you to operate during those times without a parent present in the car.

For more information on penalties, see the Mandatory JOL Permit and License Suspension charts in Chapter Two of the Driver's Manual (http://www.massrmv.com/rmv/dmanual/chapter_2.pdf)

25. "Enhanced Penalty" for Repeat Speeding or Drag Racing Violations

Q. I am 17 and I have already obtained my "Junior Operator's License." Will my license be suspended if I receive a conviction for speeding or drag racing?

A. Yes. The law requires a mandatory suspension, in addition to any other penalty, fine, revocation or requirement

that may be imposed, for a conviction of speeding or drag racing.

For speeding, you will receive a suspension of 90 days for a first offense, and one year for a second or subsequent offense for any combination of violations of the following laws:

- * Conviction for Speeding (speeding on a way) Massachusetts General Law, Chapter 90, Section 17; (c.90, §17)
- * Conviction for Speeding on certain highways (speeding on portions of Mass Pike, portions of I-91, portions of I-95). (c.90, §17A)
- * Conviction for violating special speed regulations (set by cities, towns, state highway department). (c .90, §18).

Note:

- The conviction need not occur while you are still under age 18, only the offense.
- The two findings do not have to be for the same offense.
- A "responsible" finding on a citation is deemed to be a "conviction."

For drag racing, you will receive a suspension of one year for a first offense and three years for a second or subsequent offense.

All speeding and drag racing violations also require you to take a Driver Attitudinal Retraining Course and a State Courts Against Road Rage (SCARR) Course.

26. Penalty for Breath Test Failure of Breath Test Refusal by a Motor Vehicle Operator Under the Age of 18

Q. I have heard that because I am under age 18 I face stiffer penalties if I fail a breath test or refuse to take one. Is that so?

A. All drivers under the age of 21 face "enhanced" penalties for operating a motor vehicle after consuming alcoholic beverages. Massachusetts law prohibits the consumption of alcohol by anyone under the age of 21. Operators under the age of 18 face even stiffer sanctions for operating a motor vehicle after consuming alcoholic beverages than individuals aged 18 to 21 who committ the same offense. These are the sanctions for a person under the age of 18.

Taking and Failing the Breath (Breathalyzer) Test:

- A breath test reading of .02 or above will result in a license suspension for any driver who is under the age of 18 at the time of the arrest.

- Generally, breath test readings of .02 to .05 will result in a 1 year license suspension. The suspension may be reduced to 180 days if the offender voluntarily enters and completes a Youth Alcohol Program recognized by the Department of Public Health.

- An offender who is under the age of 18 may be charged with OUI (Operating Under the Influence) if his/her breath test reading is .06 or higher. If charged, the offender will receive a 30 day suspension **in addition to** the one year suspension described above.

- If an offender is convicted of OUI or ordered by the court to enter a Driver Alcohol Education Program (DAEP), a 210 day suspension will be imposed **in addition to** the above described suspensions.

Refusing to Take a Breath (Breathalyzer) Test:

- An operator under the age of 18 who has been arrested for Operating Under the Influence (OUI), and **refuses to take a chemical test** (usually a breath test), faces two (2) separate license suspensions before the case even goes to court.

- The operator faces a one (1) year license suspension for the chemical test refusal - if he or she has no prior record of an OUI conviction. (If he or she has two prior OUI convictions before the most recent arrest, the suspension period for the refusal will be 18 months).

- In addition to the above penalty, the operator faces an additional one (1) year license suspension. The additional suspension applies to any operator under the age of 18 who refuses to take a chemical test of his or her breath or blood when arrested for Operating Under the Influence. This additional suspension may be reduced to a period of 180 days if the youthful offender voluntarily enters and completes a Youth Alcohol Program recognized by the Department of Public Health.

- If an offender is convicted of OUI or ordered by the court to enter a Driver Alcohol Education Program (DAEP), a 210 day suspension will be imposed **in addition to** the above described suspensions.

Regardless of whether the offender fails or refuses to take the test, it is important to note that the additional one (1) year suspension penalty is not affected by the outcome of the offender's court case or criminal charges, **even if the offender is found not guilty**. While there may be insufficient evidence for a criminal conviction, the law recognizes that an operator under the age of 21 (especially one under the age of 18) is prohibited from having any amount of alcohol in his or her system while operating a motor vehicle. The law requires a long period of license suspension but offers the opportunity for a briefer suspension if the offender enters and completes an alcohol counseling program. (Answer to # 26 amended for clarity purposes in January 2001)

27. "Enhanced Penalties" for JOL Criminal Violations

Q. Are there enhanced penalties for Junior Operators convicted of criminal moving violations?

A. Yes. The law specifies that a JOL holder who is convicted of any one of a number of serious motor vehicles offenses will receive an additional 180 days suspension for a first offense, and a one (1) year suspension for a second offense. (Note: both offenses need not be the same type): Those offenses include:

- * Operation Under the Influence
- * Operating to Endanger
- * Leaving the Scene of a personal injury or property damage accident
- * Drinking From an Open Container of an Alcoholic Beverage
- * Operation Under the Influence Causing Serious Bodily Injury
- * Motor Vehicle Homicide

NOTE: This enhanced penalty does NOT apply in cases where the Junior Operator has already received an enhanced penalty for failing or refusing a breath test (see previous question).

28. No Converting an Out-of-State License if Under 16 and 1/2

Q. I am 16 years and 3 months old and my family just moved here from another state which allows a person to obtain a driver's license at age 16. I have had my license for three (3) months. I know that as a Massachusetts resident I must get a Massachusetts Driver's License. Can I convert my out-of state driver's license to a Massachusetts license right now?

A. No. You are now a Massachusetts resident. A Massachusetts resident cannot obtain a full Massachusetts Driver's License before the age of 18. A person who is between the ages of 16 1/2 and 18 may, however, receive a Junior Operator's License (a driver's license containing age-appropriate restrictions) as early as 16 1/2 if he or she has successfully completed a driver education program approved by the Registrar. Note that as a Massachusetts resident you can no longer operate on the driver's license issued by your previous state of residence.

You will be eligible to convert to a Massachusetts Junior Operator's License when you become 16 1/2 but only if you have successfully completed a driver education program approved by the Registrar (see the Answer to Question # 10 if you have a driver education certificate from your previous state of residence). You will have to provide a

certified copy of your out-of-state driving record, which cannot be more than 30 days old. If you choose not to complete the driver education requirement you must wait until you are 18 years of age to obtain a Massachusetts driver's license. Avoiding the driver education program, however, would be depriving yourself of an important and valuable training experience.

Note: For a Class M license, in addition to everything listed on the previous page, you must also complete the Massachusetts Rider Education Program (MREP) basic rider course or convert a certificate issued by an approved Motorcycle Safety Foundation course.

29. Converting an Out-of-State License if 16 and 1/2 - 18

Q. I am 16 years and 9 months old and just moved here from another state. I received my driver's license in the other state when I was 16 1/2 and have not had a motor vehicle violation. When I convert to a Massachusetts Junior Operator's License will I be subject to the six (6) month passenger restriction or any of the other provisions of the JOL Law?

A. Yes. You will be subject to all of the provisions of the JOL Law, including the time restrictions, the enhanced penalties and the passenger restriction. However, the period of time you will be subject to the passenger restriction will depend on your driving record in the other state. You will have to provide a certified copy of your driving record (not more than 30 days old) from that state. If the record indicates that you have had a valid license for a full six (6) months, without suspension or revocation, you would not be subject to the passenger restriction at all. If the record indicates that you have only had your license for a portion of the six (6) months, without having been suspended or revoked, the Registrar may credit you for the that period of time towards the six (6) month passenger restriction. Therefore, since you have already been driving for three (3) months in the other state without suspension or revocation, you will only be subject to the passenger restriction in Massachusetts for an additional three (3) months.

Note: For a Class M license, in addition to everything listed above, you must also complete the Massachusetts Rider Education Program (MREP) basic rider course or convert a certificate issued by an approved Motorcycle Safety Foundation course.

30. Massachusetts JOL Law Not Applicable to Non-Residents (Two Examples)

Q. (i) I am a 17 year old resident of another New England state and I have a valid driver's license from that state. I

visit my friends in Lawrence and Haverhill quite often and I am wondering if the passenger restriction that applies to the Massachusetts "Junior Operator's License" will also apply to me when I drive my friends around in my car on Friday nights?

A. (i) No. The passenger restriction only applies to a person who holds a "Junior Operator's License" issued by the Commonwealth of Massachusetts. If you have restrictions on your home state's license, those same restrictions apply while you are operating in Massachusetts. Furthermore, you may be subject to licensing action by your own state if you operate a motor vehicle in Massachusetts in violation of the terms of your own state's license laws.

Q. (ii) I am a 17 1/2 year old resident of a neighboring state and I have a valid driver's license. I work at night as a cleaner at a shopping mall in Massachusetts and I usually get out of work at about 3:00 a.m. Am I going to be prohibited from driving home at 3:00 a.m. unless my parent is in the car with me?

A. (ii) No. The 12:30 a.m. to 5:00 a.m. time restriction for Junior Operators only applies to a licensed driver under the age of 18 who is licensed in Massachusetts. A driver under the age of 18 who is licensed in another state is not subject to the Massachusetts law. You should check your state's law to ensure that you are not operating in violation of any restrictions on your license.

31. Driving on a JOL in Other States

Q. Can I travel outside of Massachusetts on my "Junior Operator's License?"

A. Yes. It is a driver's license that is entitled to recognition in other states. Obviously, you must obey the traffic laws of the state you will be driving in. You should check with that state's Division of Motor Vehicles as other states may have more restrictive provisions for junior operators. You are subject to all of the provisions of the Massachusetts JOL law. If the Registrar receives information from the other state indicating that you were operating in violation of the Massachusetts passenger restriction, she may take action to suspend your "Junior Operator's License."

32. Non-Resident Student with Out-of-State License

Q. I am a 17 year old non-resident but I attend school in Massachusetts and live on campus. I have a driver's license from my home state. My car is registered in my home state but I keep it on campus. I have filled out the required forms and filed them with the local Police Department and the school indicating my status as a full-time student at the school and providing my vehicle's registration number. I have the required RMV windshield sticker for non-resident

students properly displayed. Am I subject to the JOL Law?

A. Since you are not the holder of a Massachusetts Junior Operator's License you are not subject to the passenger or time restrictions under Massachusetts law. You will be subject, however, to the Massachusetts law's enhanced penalties for operating a motor vehicle while under the influence of alcohol or drugs. You will also be subject to the more severe penalty for a minor purchasing or attempting to purchase alcoholic beverages. Check with your "home" state to determine what license restrictions, if any, you may be subject to under that state's laws.

33. Massachusetts Motorcycle Licenses Subject to JOL Law

Q. I am 16 1/2 years old and I want to get my Massachusetts Motorcycle License (Class M). Can I get the Class M without having to take Driver Education?

A. No. You cannot avoid the effects of the JOL law by seeking to obtain a Class M motorcycle license instead of a license for a Class D vehicle. You must meet all the requirements for a Class D passenger vehicle license, including the requirement that you successfully complete a driver education program approved by the Registrar and the additional 40 hours of supervised driving in a passenger vehicle. Once you have met all of these requirements, you must then complete the Massachusetts Rider Education Program (MREP) basic rider course to obtain a Class M Junior Operator's License.

An operator of a Motorcycle who holds a Junior Operator's License issued by the Commonwealth is subject to the same restrictions and enhanced penalties as if he or she were operating a Class D passenger vehicle. Since a motorcycle does not have room for both a passenger and a licensed, qualified operator over the age of 21, a JOL holder may not operate a motorcycle with an unrelated passenger under the age of 18 within the first six months of receiving a JOL.

Note: All motorcyclists benefit from professional rider training. The MREP basic rider course is required if you are under the age of 18. Graduates of approved rider training courses are exempt from the motorcycle road test and related fee. Call the RMV at 857-368-7270 or visit our website at www.massrmv.com for a free brochure.

34. Loss of JOL for Alcohol/ Drug Related Violations (Even if Not Operating a Motor Vehicle)

Q. My class was told by a police officer at a school assembly that we could lose our right to drive for alcohol or drug-related violations, even if we were not operating

a vehicle. Is this right?

A. Yes! If you are under 21 years of age, your right to drive will be suspended for six (6) months if you are convicted of buying, attempting to buy, or having someone buy alcoholic beverages for you. If you are convicted of possessing, carrying or transporting alcoholic beverages (without your parents present) your license will be suspended for three (3) months. The law does not require that you use a motor vehicle to obtain or transport such alcoholic beverages. Similarly, if you are convicted of any drug offense, whether in Massachusetts or another jurisdiction, Massachusetts law requires that your driver's license be suspended. Even if no motor vehicle was involved in the offense, the law requires that you lose your driving privileges for one (1) to five (5) years, depending on the conviction.

35. Loss of Driving Privileges for Use of False License/ID to Obtain Alcohol

Q. The DARE Officer at my school said we can also lose our right to drive if we are caught using a false or altered license or ID to obtain alcoholic beverages or to get into a bar, or even if we are caught in possession of such a license or ID. This can't be right, can it?

A. The DARE Officer is correct! You should be aware of a program of the RMV in cooperation with the ABCC (Alcoholic Beverages Control Commission). The two agencies have instituted a "Zero Tolerance Policy" regarding false identification cards or false driver licenses used to procure alcoholic beverages or to obtain access to places where such beverages are sold and/or served. Consequently, any person who manufactures, sells, uses or carries a false driver license or a false identification card (including an altered driver license or altered identification card issued by the RMV) will have his or her RMV issued Massachusetts Identification Card or Massachusetts Driver's License suspended for six (6) months (180 days), regardless of the outcome of any criminal proceeding imposing a greater or lesser penalty, or no penalty at all, for an incident involving the same document. If the person is convicted of the offense, there is a mandatory suspension of one year.

36. "Enhanced Penalty" for JOL Violation Applies Even if Holder Not Convicted Until After Turning 18

Q. I heard that if I was cited for a JOL speeding violation when I was 17, but didn't get "convicted" in court for the violation until I had turned 18, that the "enhanced penalty" cannot apply to me because, having turned 18, I was no longer subject to the JOL law at the time of conviction. Is this true?

A. No. You will be subject to the "enhanced penalty" since the violation was committed at a time when you were the holder of a Junior Operator's License. The RMV has enforced, and will continue to enforce, the JOL law by applying reasonable interpretations (where needed) of the law's provisions. The Legal Counsel of the RMV is of the opinion that the legislature intended that a penalty for an offense applies to a person who held a JOL at the time the offense was committed—even if the person reached age 18 prior to conviction or had obtained a "full license" by the time of conviction. In accordance with the law, the RMV will suspend the license for 90 days of any person convicted of a first speeding offense which was committed while the person was a "Junior Operator." A second or subsequent conviction will result in a one year suspension.

37. JOL Suspensions Extend Beyond Age 18

Q. Someone told me that my Driver's License could remain suspended for a passenger restriction committed while I was under 18, even after I reach age 18. This can't be right, can it?

A. Yes, it can. First of all, if your "Junior Operator's License" is suspended or revoked, for any reason, that suspension or revocation could extend beyond your 18th birthday, depending upon the length of the suspension or revocation. Secondly, a violation of the passenger restriction will result in a penalty of a license suspension of 60 days for a first offense, 180 days for a second offense and one year for a third. Since the law requires the Registrar to impose this suspension in addition to any other penalty, the period of suspension for a violation of the passenger restriction would be tacked on to the end of the existing suspension. Example: If your suspension for a separate motor vehicle violation would last until you were 18 years and three (3) months old, then an additional one year suspension for a third violation of a passenger restriction would extend the suspension until you are 19 years and three (3) months old.

38. Junior Operators Not Allowed to Use Cell Phones While Driving

Q. Can I use my cell phone while driving?

A. No. Effective September 30, 2010, the law prohibits drivers under the age of 18 from using cell phones while driving. This means that you are not allowed to use your cell phone to make or answer calls, send or look at text messages, send or look at emails, or anything else that your cell phone is capable of doing.

The ONLY time you can use your cell phone while driving is if you need to report an emergency.

Q. What if I park my car to make a phone call? Is that allowed?

A. Yes. If you park your vehicle on a part of the road not meant for driving (such as a parking space on the side of the road or in a parking lot), you can use your cell phone.