

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**MOTOR TRAFFIC (ALCOHOL AND DRUGS)
AMENDMENT BILL 1999**

EXPLANATORY MEMORANDUM

**Circulated by authority of
Paul Osborne MLA
Independent**

OUTLINE

The object of this Bill is to establish a series of minimum penalties for those who are convicted of a drink driving offence. Minimum periods of driver licence disqualification are listed separately for first offenders and repeat offenders, and for each of the four levels within those categories. Further, access to application for a special licence is restricted for some alcohol-related and non-alcohol-related offences.

The Principal Act establishes a disqualifying offence as being alcohol-related, either: exceeding the prescribed blood alcohol concentration; refusing to provide a breath sample; refusing to give a blood sample; driving while under the influence of intoxicating liquor or a drug; or any other offence proscribed by the regulations.

Repeat offenders are drivers who, within the previous 5 years, have been convicted of a disqualifying offence plus: another disqualifying offence; an alcohol-related offence in another jurisdiction; either contravening conditions of a special licence, dangerous driving, negligent driving, or driving while suspended or disqualified; or culpable driving.

CLAUSE NOTES

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill; specify that the Bill will commence upon being notified in the *Gazette*; and identify the title of the Act being amended.

Clause 4 amends section 31 of the Principal Act by declaring that a person's driving licence shall be disqualified if the holder is convicted of a disqualifying offence.

Clause 5 amends section 32 of the Principal Act which establishes penalties for first offenders. The table of penalties is amended by removing the list of maximum driving licence disqualification periods and replacing it with a list of default disqualification periods and minimum disqualification periods.

The clause provides for the court to apply a shorter period of disqualification than the default period, but any shorter period must be at least as long as the minimum period.

Clause 6 amends section 33 of the Principal Act which establishes penalties for repeat offenders. The table of penalties is amended by removing the list of maximum driving licence disqualification periods and replacing it with a list of default disqualification periods and minimum disqualification periods.

The clause provides for the court to apply a shorter period of disqualification than the default period, but any shorter period must be at least as long as the minimum period.

Clause 7 amends section 34 of the Principal Act by establishing that where a first offender is convicted of a disqualifying offence, other than exceeding the prescribed blood alcohol concentration, the person is disqualified from holding a driving licence for 3 years. A court may specify a shorter period of disqualification, but any shorter period must be of at least 6 months duration.

Further, where a repeat offender is convicted of a disqualifying offence, other than exceeding the prescribed blood alcohol concentration, the person is disqualified from holding a driving licence for 5 years. A court may specify a shorter period of disqualification, but any shorter period must be of at least 12 months duration.

Clause 8 amends section 35 of the Principal Act to establish that a driving licence is to be cancelled and the holder disqualified from driving upon conviction of a disqualifying offence.

Clause 9 amends section 36 of the Principal Act to establish that upon conviction of either a disqualifying offence, or other alcohol-related offence, the person's driving licence is to be cancelled.

Further, a person who is a repeat offender, other than because of having been convicted for an offence of dangerous or negligent driving, may not be granted a special licence during the period of the person's disqualification.

Clause 10 amends section 37 of the Principal Act to establish that upon conviction of either a disqualifying offence, or other alcohol-related offence, the person's special driving licence is to be cancelled.

FINANCIAL IMPLICATIONS

The Bill has no financial implications for the Territory.