

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC ORDINANCE 1971

EXPLANATORY MEMORANDUM

The main purpose of the proposed Motor Traffic Ordinance 1971 is to introduce breathalyzer tests in the Australian Capital Territory. The provisions of this Ordinance are based largely on the recommendations made by the Joint Committee on the Australian Capital Territory in its report of 23 May 1969 and follow generally the pattern of State legislation in this field.

The principal provisions of this legislation are as follows –

- (a) A new offence will be introduced for a person detected of driving a motor vehicle with a blood alcohol concentration of 0.08% or above;
- (b) A new offence will be created of driving a motor vehicle under the influence of intoxicating liquor or of a drug to such an extent as to render the driver incapable of having proper control of a motor vehicle;
- (c) Only members of the Police Force who have undertaken a special course approved by the Minister will be able to carry out breath tests;
- (d) A member of the Police Force will be empowered to require a person to submit to a breath test if he has reasonable cause to believe that the person has during the last preceding two hours
 - driven a vehicle with a blood alcohol concentration of 0.08% or has committed an offence of culpable driving;
 - driven a vehicle that was involved in an accident;
- (e) A more severe penalty will be provided where a person is convicted or driving with a blood alcohol concentration of 0.15% or above. Heavier penalties will also apply for second and subsequent offences.

The rights of suspected drivers will be protected by the following safeguards:

- (i) A person will be entitled to request a medical examination, a blood test and supplementary breath test;
- (ii) Members of the Police Force will be prohibited from using a breathalyzer where a test would be detrimental to a person's medical condition;
- (iii) Where a person is unable to take a breath test he will be bound to take a compulsory blood test unless a medical practitioner certifies to the contrary.

A person whose licence has been suspended will be able to apply to the Court for special licence to drive, subject to conditions, if such licence is essential for his employment.

The proposed Ordinance will also introduce the amphotometer which is a speed testing device, in the Territory. This device is being used effectively by the Police in the majority of the States.

This legislation has been discussed and cleared by the Australian Capital Territory Advisory Council, the Australian Capital Territory Bar Association and the Law Society of the Australian Capital Territory.

.....
(Minister's Initials).