



Australian Capital Territory

# Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011

A2011-15

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Australian Capital Territory

# Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011

A2011-15

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An Act to amend legislation about driving under the influence of alcohol and drugs, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*.

### 2 Commencement

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

### 3 Legislation amended

This Act amends the following legislation:

- *Crimes Act 1900*
- *Road Transport (Alcohol and Drugs) Act 1977*
- *Road Transport (Driver Licensing) Regulation 2000*
- *Road Transport (General) Act 1999*
- *Road Transport (Offences) Regulation 2005*
- *Spent Convictions Act 2000*.



## Part 2 Crimes Act 1900

**4 Power to enter premises to arrest offender  
Section 220 (4), definition of *relevant offence*,  
paragraph (b) (iv)**

*omit*

Driving with prescribed drug in oral fluid or blood

*substitute*

Prescribed drug in oral fluid or blood—driver or driver trainer

## Part 3 Road Transport (Alcohol and Drugs) Act 1977

### 5 Meaning of *public place* Section 4A

*omit*

### 6 Meaning of *special driver* Section 4B (1) (a)

*substitute*

- (a) the person is not the holder of an Australian driver licence, an external territory driver licence or a foreign driver licence from a recognised country; or
- (aa) the person holds a foreign driver licence that—
  - (i) is not issued under the law of a recognised country; or
  - (ii) if the licence is issued under the law of a recognised country—is a licence that corresponds to a licence mentioned in paragraph (d); or

### 7 Section 4B (3), new definitions

*insert*

***Austroads***—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

***recognised country***—see the *Road Transport (Driver Licensing) Regulation 2000*, section 141.

**8 New section 4BA**

*insert*

**4BA Meaning of *driver trainer***

For this Act, *driver trainer* means a person mentioned in section 4B (1) (h), (i) or (j).

**9 Section 8**

*substitute*

**8 Power to require alcohol screening test if vehicle not involved in accident—driver and driver trainer**

- (1) A police officer may require a person to undergo an alcohol screening test in accordance with the directions of that officer if—
  - (a) the person is—
    - (i) the driver of a motor vehicle on a road or road related area; or
    - (ii) the driver trainer in a motor vehicle on a road or road related area; or
  - (b) the police officer has reasonable cause to suspect that, shortly before the requirement is made, the person was—
    - (i) the driver of a motor vehicle on a road or road related area; or
    - (ii) the driver trainer in a motor vehicle on a road or road related area.
- (2) Nothing in this section prevents a police officer from requiring both the driver and driver trainer to undergo an alcohol screening test.

**10 Section 9 heading**

*substitute*

**9 Power to require alcohol screening test if vehicle involved in accident—driver**

**11 New section 9A**

*insert*

**9A Power to require alcohol screening test if vehicle involved in accident—driver trainer**

If a motor vehicle is involved in an accident on a road or road related area, a police officer may require a person to undergo an alcohol screening test in accordance with the directions of that officer—

- (a) if the police officer has reasonable cause to suspect that the person was the driver trainer in the motor vehicle at the time of the accident; or
- (b) if—
  - (i) the police officer does not know or has doubt as to who was the driver trainer in the motor vehicle at the time of the accident; and
  - (ii) the police officer has reasonable cause to suspect that the person was in the vehicle at the time of the accident.

**12 Section 10 heading**

*substitute*

**10 Power to require alcohol screening test for culpable driving—driver and driver trainer****13 New section 10 (2)**

*insert*

- (2) A police officer who has reasonable cause to suspect that a person was the driver trainer in a motor vehicle involved in an offence of culpable driving may require the person to undergo an alcohol screening test in accordance with the directions of that officer.

**14 Detention for breath analysis  
Section 11 (1) (a) and (b)**

*after*

section 9

*insert*

, section 9A

**15 Breath analysis  
Section 12 (5), new example**

*insert*

**Example—written statement**

a print-out from the breath analysis instrument

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**16 Section 13A**

*substitute*

**13A Power to require drug screening test if vehicle not involved in accident—driver and driver trainer**

- (1) A police officer may require a person to undergo 1 or more drug screening tests in accordance with the directions of the officer if—
  - (a) the person is—
    - (i) the driver of a motor vehicle on a road or road related area; or
    - (ii) the driver trainer in a motor vehicle on a road or road related area; or
  - (b) the police officer has reasonable cause to suspect that, shortly before the requirement is made, the person was—
    - (i) the driver of a motor vehicle on a road or road related area; or
    - (ii) the driver trainer in a motor vehicle on a road or road related area.
- (2) The person must remain at the place where the drug screening test is being carried out until the test is completed in accordance with the police officer's directions.
- (3) Nothing in this section prevents a police officer from requiring both the driver and driver trainer to undergo a drug screening test.

**17 Section 13B heading**

*substitute*

**13B Power to require drug screening test if vehicle involved in accident—driver****18 New section 13BA**

*insert*

**13BA Power to require drug screening test if vehicle involved in accident—driver trainer**

- (1) If a motor vehicle is involved in an accident on a road or road related area, a police officer may require a person to undergo 1 or more drug screening tests in accordance with the directions of the officer—
  - (a) if the police officer has reasonable cause to suspect that the person was the driver trainer in the motor vehicle at the time of the accident; or
  - (b) if—
    - (i) the police officer does not know or has doubt as to who was the driver trainer in the motor vehicle at the time of the accident; and
    - (ii) the police officer has reasonable cause to suspect that the person was in the vehicle at the time of the accident.
- (2) The person must remain at the place where the drug screening test is being carried out until the test is completed in accordance with the police officer's directions.

**19 Section 13C heading**

*substitute*

**13C Power to require drug screening test for culpable driving—driver and driver trainer**

**20 New section 13C (1A)**

*insert*

- (1A) A police officer who has reasonable cause to suspect that a person was the driver trainer in a motor vehicle involved in an offence of culpable driving may require the person to undergo 1 or more drug screening tests in accordance with the directions of that officer.

**21 Detention for oral fluid analysis  
Section 13D (1) (a) and (b)**

*after*

section 13B

*insert*

, section 13BA

**22 Oral fluid—preliminary analysis  
Section 13E (6), new example**

*insert*

**Example—written statement**

a print-out from the oral fluid analysis instrument

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).



**23 Oral fluid—confirmatory analysis  
Section 13G (3)**

*substitute*

- (3) An analyst at the approved laboratory to which the sample is taken under subsection (2) must, as soon as practicable, arrange for the analysis of the sample at the laboratory or another approved laboratory to work out whether a prescribed drug is present in the sample.

**24 Section 13G (4)**

*omit*

The analyst

*substitute*

An analyst responsible for testing the sample

**25 New section 13H**

*in division 2.5, insert*

**13H Oral fluid analysis statement**

- (1) As soon as practicable after an analysis of a sample of a person's oral fluid is carried out under section 13G, the chief police officer must ensure the person is given a written statement that includes the following information:
- (a) the date and the time the oral fluid sample was taken;
  - (b) the unique identifying number on the tamper-evident seal;
  - (c) the result of the analysis;
  - (d) the address where the preserved part of the oral fluid sample is being held;

- (e) that the person will be notified, in writing, of a request (if any) by the DPP under section 16C (Keeping of samples—request by DPP);
- (f) that the person may, before the end of the period mentioned in section 13G (4) (b), ask the analyst to send the preserved part of the oral fluid sample to a laboratory nominated by the person, at the person's expense.

(2) In this section:

*preserved part*—see section 13G (4).

**26 Restrictions on tests etc under this part  
Section 14 (1)**

*omit*

, and a police officer must not begin or continue an analysis under section 12 or section 13E

**27 Section 14 (1) (b)**

*after*

vehicle

*insert*

or the driver trainer in the motor vehicle

**28 Section 14 (3) (c) (i) to (iii)**

*substitute*

- (i) unless the person was, or the officer has reasonable cause to suspect that the person was, the driver of or driver trainer in a motor vehicle when it was involved in an accident on a road or road related area; or

- (ii) unless the officer has reasonable cause to suspect that the person has committed, or was the driver trainer during the commission of, an offence of culpable driving; or
- (iii) unless the requirement is made immediately after a motor vehicle driven by the person, or in which the person was a driver trainer, has stopped at or near the place where the person usually lives and the officer making the requirement has followed the motor vehicle while it was being driven on the road.

**29**      **Taking blood samples from people in custody**  
**Section 15 (1)**

*after*

a hospital

*insert*

or sampling facility

**30**      **Section 15 (4)**

*after 1st mention of*

hospital

*insert*

or at the sampling facility

**31**      **Section 15 (4)**

*after last mention of*

hospital

*insert*

or at the facility

**32 Taking blood samples from people in hospital  
Section 15AA (1) (c) (i)**

*after*

driver

*insert*

or driver trainer

**33 Medical examination—offence against s 24 or culpable  
driving  
Section 16 (1)**

*substitute*

- (1) This section applies to a person who has been—
- (a) required to undergo—
- (i) an alcohol screening test, or to provide a sample of the person's breath for analysis under section 12 (Breath analysis); or
  - (ii) if it is practicable to do so—a drug screening test, or to provide a sample of the person's oral fluid for analysis under section 13E (Oral fluid—preliminary analysis); and

**Examples—impracticability**

- 1 drug screening device not readily available
- 2 drug screening test or oral fluid analysis cannot be conducted before time limits for testing the person expire

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) arrested on reasonable suspicion of having committed an offence against section 24 (Driving under the influence of intoxicating liquor or a drug) or an offence of culpable driving.

**Examples—reasonable suspicion**

- 1 the way the person was driving
- 2 the way the person is behaving
- 3 a breath analysis the person was required to undergo indicates that a prescribed concentration of alcohol is present in the person's breath

**34 Section 16 (2)**

*omit*

(other than a prescribed drug)

*insert*

, including a prescribed drug

**35 Section 16 (3)**

*after*

a hospital

*insert*

or sampling facility

**36 Section 16 (4) to (6)**

*after*

hospital

*insert*

or the sampling facility

**37 Analysis of body samples  
Section 16A (2) (a) and (b)**

*omit*

(other than a prescribed drug)

*insert*

, including a prescribed drug

**38 Keeping of samples—request by DPP  
Section 16C (1) (a)**

*omit*

a blood or a body sample

*substitute*

a blood, an oral fluid or other body sample

**39 Section 16C (1) (b) (ii)**

*after*

under

*insert*

section 13G (6) (Oral fluid—confirmatory analysis),

**40 Section 16C (4), definition of *preserved part*, new  
paragraph (aa)**

*before paragraph (a), insert*

(aa) in relation to an oral fluid sample— see section 13G (4); or

**41 Section 16C (4), definition of *preserved part*, paragraph (b)**

*substitute*

(b) in relation to a body sample (other than an oral fluid sample)—  
see section 16A (3).

**42 Destruction of samples  
Section 16D (1)**

*after*

under

*insert*

section 13G (4) (Oral fluid—confirmatory analysis),

**43 Section 16D (2)**

*after*

under

*insert*

section 13G (4) (b),

**44 New division 2.8**

*after section 18B, insert*

**Division 2.8 Search and seizure**

**18C Power to search person in custody**

- (1) A police officer may search a person who is taken into custody under the following sections and may take possession of anything found in the person's possession:
  - (a) section 11 (Detention for breath analysis);
  - (b) section 13D (Detention for oral fluid analysis);
  - (c) section 15 (Taking blood samples from people in custody).
- (2) For the purposes of the search, the officer may request the assistance of another police officer of the same sex as the person being searched.
- (3) A person is entitled to the return of anything taken from the person under subsection (1) when the person ceases to be in custody, other than—
  - (a) a seizable item; or
  - (b) an item that may otherwise be seized or retained under another territory law.



(4) In this section:

*search* means a search of a person or of anything in the person's possession, and may include—

- (a) requiring the person to remove only the person's overcoat, coat, jacket or a similar article of clothing and any footwear, gloves or headwear; and
- (b) an examination of them.

*seizable item* means a seizable item under the *Crimes Act 1900*, part 10.

*Note* A *seizable item* means anything that would present a danger to a person or that could be used to assist a person to escape from lawful custody (see *Crimes Act 1900*, pt 10).

#### **45 Prescribed concentration of alcohol in blood or breath Section 19 (1) (a)**

*substitute*

- (a) has been—
  - (i) the driver of a motor vehicle on a road or road related area; or
  - (ii) the driver trainer in a motor vehicle on a road or road related area; and

#### **46 Section 19 (5), definition of *relevant period***

*after*

vehicle

*insert*

or the driver trainer in the vehicle

**47 Defence if person did not intend to drive motor vehicle  
Section 19A**

*omit*

public street in a public place

*substitute*

road or road related area

**48 Defence if special driver with lower concentration of  
alcohol from allowable source  
Section 19B (1) (b)**

*omit*

not more than

*substitute*

less than

**49 Section 20 heading**

*substitute*

**20 Prescribed drug in oral fluid or blood—driver or driver  
trainer**

**50 Section 20 (1)**

*substitute*

- (1) A person commits an offence if the person—
- (a) has been—
    - (i) the driver of a motor vehicle on a road or road related area; or
    - (ii) the driver trainer in a motor vehicle on a road or road related area; and
  - (b) has, within the relevant period, a prescribed drug in the person's oral fluid or blood.

Maximum penalty:

- (a) for an offence by a first offender—10 penalty units; and
- (b) for an offence by a repeat offender—
  - (i) if the offender is the driver—25 penalty units, imprisonment for 3 months or both; and
  - (ii) if the offender is the driver trainer—20 penalty units.

**51 Section 20 (4), definition of *relevant period***

*after*

vehicle

*insert*

or the driver trainer in the vehicle

**52 Refusing to provide breath sample  
Section 22 (a)**

*substitute*

- (a) has been—
- (i) the driver of a motor vehicle on a road or road related area; or
  - (ii) the driver trainer in a motor vehicle on a road or road related area; and

**53 Refusing to provide oral fluid sample  
Section 22A (1) (a)**

*substitute*

- (a) has been—
- (i) the driver of a motor vehicle on a road or road related area; or
  - (ii) the driver trainer in a motor vehicle on a road or road related area; and

**54 Failing to stay for drug screening test  
Section 22B (1), note 1**

*after*

13B

*insert*

, s 13BA

**55 Refusing blood test etc  
Section 23 (1) (a)**

*substitute*

(a) has been—

- (i) the driver of a motor vehicle on a road or road related area; or
- (ii) the driver trainer in a motor vehicle on a road or road related area; and

**56 Driver etc intoxicated  
Section 24A (1)**

*omit*

public street

*substitute*

road

**57 Fines and imprisonment—s 19 offences  
New section 26 (3)**

*insert*

- (3) However, if the special driver convicted of an offence against section 19 (1) is a driver trainer, the person is not punishable by a penalty of imprisonment.

**58 Automatic driver licence disqualification—first offenders, s 19  
Section 32 (2)**

*after*

special driver

*insert*

, other than a driver trainer,

**59 Automatic driver licence disqualification—repeat offenders, s 19  
Section 33 (2)**

*after*

special driver

*insert*

, other than a driver trainer,

**60 Automatic driver licence disqualification—offences other than s 19  
Section 34 (1) and (2)**

*after*

offender

*insert*

, other than a driver trainer,

**61 Evidentiary certificates—drug-related tests  
Section 41AA (4) (a)**

*after*

nurse

*insert*

practitioner

**62 Evidentiary certificate—blood sample not taken  
Section 41AC (b)**

*after*

hospital

*insert*

or sampling facility

**63 Evidence for insurance purposes  
Section 41A (1) (i)**

*substitute*

- (i) evidence that a statement was given to the person under section 13H (Oral fluid analysis statement), section 15B (Blood analysis statement) or section 16B (Body sample statement);

**64 Section 41A (1) (j)**

*substitute*

- (j) evidence of the contents of a statement given under section 13H, section 15B, or section 16B;

**65 Section 41A (2)**

*before*

section 15B

*insert*

section 13H,

**66 Section 41A (5), definition of *relevant offence*, paragraph (b)**

*omit*

Driving with prescribed drug in oral fluid or blood

*substitute*

Prescribed drug in oral fluid or blood—driver or driver trainer

**67 When police officer may move person's motor vehicle  
Section 48 (1) (b)**

*after*

section 11,

*insert*

section 13D,



**68 Regulation-making power  
New section 51 (2)**

*after the note, insert*

- (2) The Executive may also make regulations under this Act, prescribing other areas that are road related areas for the purposes of this Act.

**69 Dictionary, note 3**

*insert*

- road
- road related area

**70 Dictionary, definition of *disqualifying offence*,  
paragraph (b)**

*omit*

Driving with prescribed drug in oral fluid or blood

*substitute*

Prescribed drug in oral fluid or blood—driver or driver trainer

**71 Dictionary, new definitions**

*insert*

***driver trainer***—see section 4BA.

***external territory driver licence***—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

**72 Dictionary, definitions of *public place* and *public street***

*omit*

**73 Dictionary, new definition of *sampling facility***

*insert*

***sampling facility*** means a facility prescribed by regulation to which a person may be taken for the purpose of having a blood sample taken by a doctor or nurse for analysis under part 2 (Examination of people for alcohol or drugs).

**Examples—sampling facility**

- 1 a police station
- 2 a police vehicle equipped for the purpose of taking blood samples

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**74 Further amendments, mentions of *public street or in a public place***

*omit*

public street or in a public place

*substitute*

road or road related area

*in*

- section 9
- section 13B
- section 18A, definition of ***accident***
- section 24
- dictionary, definition of ***accident***

## Part 4 Road Transport (Driver Licensing) Regulation 2000

### 75 Meaning of *required medical standards* Section 15 (1)

*omit*

Incorporated

### 76 Eligibility requirements for licence classes Section 28 (3) (c) except note

*substitute*

- (c) a foreign driver licence issued under the law of a recognised country that corresponds to that class or a higher class.

### 77 Provisional licence requirement for motorcycle licences Section 29 (3) (c)

*substitute*

- (c) a foreign driver licence issued under the law of a recognised country corresponding to a full motorcycle licence.

### 78 Provisional licence requirement for car licences etc Section 30 (3) (c)

*substitute*

- (c) a foreign driver licence issued under the law of a recognised country corresponding to an Australian driver licence of the class applied for or a higher class.

**79 Working out period a class or kind of licence has been held  
Section 68**

*omit*

external driver licence

*substitute*

external territory driver licence or a foreign driver licence issued under the law of a recognised country

**80 New section 141**

*insert*

**141 Meaning of *recognised country***

- (1) For this regulation, a *recognised country*, in relation to a foreign driver licence, means a country listed as a recognised country by Austroads and published on its website from time to time.

*Note* The list of recognised countries is available at [www.austroads.com.au/overseas.html](http://www.austroads.com.au/overseas.html)

- (2) The Legislation Act, section 47 (6) does not apply to the list of recognised countries.

**81 Dictionary, new definitions**

*insert*

*Austroads* means Austroads Ltd ABN 16 245 787 323.

*recognised country*, in relation to a foreign driver licence—see section 141.

## Part 5 Road Transport (General) Act 1999

### 82 Definitions—div 4.2 Section 61A, new definition of *driver trainer*

*insert*

*driver trainer*—see the *Road Transport (Alcohol and Drugs) Act 1977*, dictionary.

### 83 Section 61A, definition of *immediate suspension offence* (or *suspension offence*), paragraph (a) (i)

*after*

driver

*insert*

, other than a driver trainer,

### 84 Dictionary, new definition of *driver trainer*

*insert*

*driver trainer*, for division 4.2 (Licence suspension, disqualification and related matters)—see section 61A.

## **Part 6 Road Transport (Offences) Regulation 2005**

### **85 Schedule 1 heading**

*substitute*

## **Schedule 1 Short descriptions, penalties and demerit points**

(see ss 5, 6, 8, 17 and 18)

### **86 Schedule 1, part 1.3, items 3 and 4, column 3**

*after*

doctor

*insert*

/authorised nurse practitioner

**87 Schedule 1, part 1.3, items 6 to 19***substitute*

6	19 (1)			
6.1	<ul style="list-style-type: none"> <li>special driver, level 1, first offender</li> </ul>	special driver drive motor vehicle on road/related area with level 1 or more alcohol in blood—first offender	5	
6.2	<ul style="list-style-type: none"> <li>special driver, level 1, repeat offender</li> </ul>	special driver drive motor vehicle on road/related area with level 1 or more alcohol in blood—repeat offender	10	
6.3	<ul style="list-style-type: none"> <li>special driver, level 2, first offender</li> </ul>	special driver drive/driver trainer in motor vehicle on road/related area with level 2 or more alcohol in blood—first offender	5	
6.4	<ul style="list-style-type: none"> <li>special driver, level 2, repeat offender</li> </ul>	special driver drive/driver trainer in motor vehicle on road/related area with level 2 or more alcohol in blood—repeat offender	10	

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6.5	<ul style="list-style-type: none"> <li>special driver, level 3, first offender—driver</li> </ul>	special driver drive motor vehicle on road/related area with level 3 or more alcohol in blood—first offender	10 pu/6 months prison/both		
6.6	<ul style="list-style-type: none"> <li>special driver, level 3, first offender—driver trainer</li> </ul>	driver trainer in motor vehicle on road/related area with level 3 or more alcohol in blood—first offender	10		
6.7	<ul style="list-style-type: none"> <li>special driver, level 3, repeat offender—driver</li> </ul>	special driver drive motor vehicle on road/related area with level 3 or more alcohol in blood—repeat offender	10 pu/6 months prison/both		
6.8	<ul style="list-style-type: none"> <li>special driver, level 3, repeat offender—driver trainer</li> </ul>	driver trainer in motor vehicle on road/related area with level 3 or more alcohol in blood—repeat offender	10		
6.9	<ul style="list-style-type: none"> <li>special driver, level 4, first offender—driver</li> </ul>	special driver drive motor vehicle on road/related area with level 4 or more alcohol in blood—first offender	15 pu/9 months prison/both		
6.10	<ul style="list-style-type: none"> <li>special driver, level 4, first offender—driver trainer</li> </ul>	driver trainer in motor vehicle on road/related area with level 4 or more alcohol in blood—first offender	15		



6.11	<ul style="list-style-type: none"> <li>special driver, level 4, repeat offender—driver</li> </ul>	special driver drive motor vehicle on road/related area with level 4 or more alcohol in blood—repeat offender	20 pu/12 months prison/both		
6.12	<ul style="list-style-type: none"> <li>special driver, level 4, repeat offender—driver trainer</li> </ul>	driver trainer in motor vehicle on road/related area with level 4 or more alcohol in blood—repeat offender	20		
6.13	<ul style="list-style-type: none"> <li>person other than special driver, level 1, first offender</li> </ul>	drive motor vehicle on road/related area with level 1 or more alcohol in blood—first offender	5		
6.14	<ul style="list-style-type: none"> <li>person other than special driver, level 1, repeat offender</li> </ul>	drive motor vehicle on road/related area with level 1 or more alcohol in blood—repeat offender	10		
6.15	<ul style="list-style-type: none"> <li>person other than special driver, level 2, first offender</li> </ul>	drive motor vehicle on road/related area with level 2 or more alcohol in blood—first offender	5		
6.16	<ul style="list-style-type: none"> <li>person other than special driver, level 2, repeat offender</li> </ul>	drive motor vehicle on road/related area with level 2 or more alcohol in blood—repeat offender	10		

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6.17	<ul style="list-style-type: none"><li>• person other than special driver, level 3, first offender</li></ul>	drive motor vehicle on road/related area with level 3 or more alcohol in blood—first offender	10 pu/6 months prison/both		
6.18	<ul style="list-style-type: none"><li>• person other than special driver, level 3, repeat offender</li></ul>	drive motor vehicle on road/related area with level 3 or more alcohol in blood—repeat offender	10 pu/6 months prison/both		
6.19	<ul style="list-style-type: none"><li>• person other than special driver, level 4, first offender</li></ul>	drive motor vehicle on road/related area with level 4 or more alcohol in blood—first offender	15 pu/9 months prison/both		
6.20	<ul style="list-style-type: none"><li>• person other than special driver, level 4, repeat offender</li></ul>	drive motor vehicle on road/related area with level 4 or more alcohol in blood—repeat offender	20 pu/12 months prison/both		

7	20 (1)				
7.1	<ul style="list-style-type: none"> <li>first offender</li> </ul>	driver/driver trainer in motor vehicle on road/related area with prescribed drug in oral fluid or blood—first offender	10		
7.2	<ul style="list-style-type: none"> <li>repeat offender—driver</li> </ul>	driver of motor vehicle on road/related area with prescribed drug in oral fluid or blood—repeat offender	25 pu/3 months prison/both		
7.3	<ul style="list-style-type: none"> <li>repeat offender—driver trainer</li> </ul>	driver trainer in motor vehicle on road/related area with prescribed drug in oral fluid or blood—repeat offender	20		

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8	22 (c)				
8.1	<ul style="list-style-type: none"><li>• first offender— driver</li></ul>	refuse to provide breath sample—first offender	30 pu/6 months prison/both		
8.2	<ul style="list-style-type: none"><li>• first offender— driver trainer</li></ul>	refuse to provide breath sample—first offender	30 pu/6 months prison/both		
8.3	<ul style="list-style-type: none"><li>• repeat offender— driver</li></ul>	refuse to provide breath sample—repeat offender	30 pu/12 months prison/both		
8.4	<ul style="list-style-type: none"><li>• repeat offender— driver trainer</li></ul>	refuse to provide breath sample—repeat offender	30 pu/12 months prison/both		

9	22 (d)				
9.1	<ul style="list-style-type: none"> <li>first offender— driver</li> </ul>	fail/refuse to provide breath sample as directed by police officer—first offender	30 pu/6 months prison/both		
9.2	<ul style="list-style-type: none"> <li>first offender— driver trainer</li> </ul>	fail/refuse to provide breath sample as directed by police officer—first offender	30 pu/6 months prison/both		
9.3	<ul style="list-style-type: none"> <li>repeat offender— driver</li> </ul>	fail/refuse to provide breath sample as directed by police officer—repeat offender	30 pu/12 months prison/both		
9.4	<ul style="list-style-type: none"> <li>repeat offender— driver trainer</li> </ul>	fail/refuse to provide breath sample as directed by police officer—repeat offender	30 pu/ 12 months prison/both		

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10	22A (2) (a)				
10.1	<ul style="list-style-type: none"><li>• first offender— driver</li></ul>	refuse to provide sample of oral fluid for analysis—first offender	30 pu/6 months prison/both		
10.2	<ul style="list-style-type: none"><li>• first offender— driver trainer</li></ul>	refuse to provide sample of oral fluid for analysis—first offender	30 pu/6 months prison/both		
10.3	<ul style="list-style-type: none"><li>• repeat offender — driver</li></ul>	refuse to provide sample of oral fluid for analysis—repeat offender	30 pu/12 months prison/both		
10.4	<ul style="list-style-type: none"><li>• repeat offender— driver trainer</li></ul>	refuse to provide sample of oral fluid for analysis—repeat offender	30 pu/12 months prison/both		

11	22A (2) (b)				
11.1	<ul style="list-style-type: none"> <li>first offender— driver</li> </ul>	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—first offender	30 pu/6 months prison/both		
11.2	<ul style="list-style-type: none"> <li>first offender — driver trainer</li> </ul>	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—first offender	30 pu/6 months prison/both		
11.3	<ul style="list-style-type: none"> <li>repeat offender— driver</li> </ul>	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—repeat offender	30 pu/12 months prison/both		
11.4	<ul style="list-style-type: none"> <li>repeat offender— driver trainer</li> </ul>	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—repeat offender	30 pu/12 months prison/both		
12	22B	fail to stay for drug screening test	20		

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13	23 (1)				
13.1	<ul style="list-style-type: none"><li>• first offender— driver</li></ul>	fail/refuse to permit blood sample to be taken—first offender	30 pu/6 months prison/both		
13.2	<ul style="list-style-type: none"><li>• first offender— driver trainer</li></ul>	fail/refuse to permit blood sample to be taken—first offender	30 pu/6 months prison/both		
13.3	<ul style="list-style-type: none"><li>• repeat offender— driver</li></ul>	fail/refuse to permit blood sample to be taken—repeat offender	30 pu/12 months prison/both		
13.4	<ul style="list-style-type: none"><li>• repeat offender— driver trainer</li></ul>	fail/refuse to permit blood sample to be taken—repeat offender	30 pu/12 months prison/both		



14	23 (2)				
14.1	<ul style="list-style-type: none"> <li>first offender— driver</li> </ul>	behave in manner so impossible/impractical for blood sample to be taken—first offender	30 pu/6 months prison/both		
14.2	<ul style="list-style-type: none"> <li>first offender— driver trainer</li> </ul>	behave in manner so impossible/impractical for blood sample to be taken—first offender	30 pu/6 months prison/both		
14.3	<ul style="list-style-type: none"> <li>repeat offender— driver</li> </ul>	behave in manner so impossible/impractical for blood sample to be taken—repeat offender	30 pu/12 months prison/both		
14.4	<ul style="list-style-type: none"> <li>repeat offender— driver trainer</li> </ul>	behave in manner so impossible/impractical for blood sample to be taken—repeat offender	30 pu/12 months prison/both		

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15	23 (3) (a)				
15.1	<ul style="list-style-type: none"><li>• first offender— driver</li></ul>	fail/refuse to submit to medical examination—first offender	30 pu/6 months prison/both		
15.2	<ul style="list-style-type: none"><li>• first offender— driver trainer</li></ul>	fail/refuse to submit to medical examination—first offender	30 pu/ 6 months prison/both		
15.3	<ul style="list-style-type: none"><li>• repeat offender— driver</li></ul>	fail/refuse to submit to medical examination—repeat offender	30 pu/12 months prison/both		
15.4	<ul style="list-style-type: none"><li>• repeat offender— driver trainer</li></ul>	fail/refuse to submit to medical examination—repeat offender	30 pu/12 months prison/both		

16	23 (3) (b)				
16.1	<ul style="list-style-type: none"> <li>first offender— driver</li> </ul>	fail/refuse to give/permit taking of body sample—first offender	30 pu/6 months prison/both		
16.2	<ul style="list-style-type: none"> <li>first offender— driver trainer</li> </ul>	fail/refuse to give/permit taking of body sample—first offender	30 pu/6 months prison/both		
16.3	<ul style="list-style-type: none"> <li>repeat offender— driver</li> </ul>	fail/refuse to give/permit taking of body sample —repeat offender	30 pu/12 months prison/both		
16.4	<ul style="list-style-type: none"> <li>repeat offender— driver trainer</li> </ul>	fail/refuse to give/permit taking of body sample —repeat offender	30 pu/12 months prison/both		

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17	24 (1)				
17.1	<ul style="list-style-type: none"><li>first offender</li></ul>	drive vehicle on road/related area under influence of intoxicating liquor/drug incapable of proper control of vehicle—first offender	30 pu/6 months prison/both		
17.2	<ul style="list-style-type: none"><li>repeat offender</li></ul>	drive vehicle on road/related area under influence of intoxicating liquor/drug incapable of proper control of vehicle—repeat offender	30 pu/12 months prison/both		
18	24A	drive/ride/be in charge of vehicle/animal on road under influence of alcohol	50 pu/6 months prison/both		
19	47B	fail to comply with police officer's direction not to drive	10		

## Part 7 Spent Convictions Act 2000

### 88 How are traffic offences to be dealt with? Section 14 (1), new definition of *driver trainer*

*insert*

*driver trainer*—see the *Road Transport (Alcohol and Drugs) Act 1977*, dictionary.

### 89 Section 14 (4) (c)

*after*

drivers

*insert*

and driver trainers

### 90 Section 14 (4) (c)

*after first mention of*

driving

*insert*

or driver training

### 91 Section 14 (4) (c)

*omit*

or driving

*insert*

and driving or driver training

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 31 March 2011.

**2 Notification**

Notified under the Legislation Act on 12 May 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011, which was passed by the Legislative Assembly on 3 May 2011.

Clerk of the Legislative Assembly

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