



Australian Capital Territory

# Road Transport Legislation Amendment Act 2014

A2014-25

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Australian Capital Territory

# Road Transport Legislation Amendment Act 2014

A2014-25

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An Act to amend legislation about road transport

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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 Legislation Amendment Act 2014*.

### 2 Commencement

- (1) This Act (other than section 5) 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)).

- (2) Section 5 commences on the later of—
- (a) the commencement of the *Road Transport (Alcohol and Drugs) Amendment Act 2014*, section 3; and
  - (b) the day after this Act's notification day.

### 3 Legislation amended

This Act amends the following legislation:

- *Road Transport (Alcohol and Drugs) Act 1977*
- *Road Transport (General) Act 1999*
- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Safety and Traffic Management) Act 1999*.



## Part 3 Road Transport (General) Act 1999

### 5 Definitions—div 4.2 Section 61A, definition of *immediate suspension offence* (or *suspension offence*), new paragraph (ba)

*insert*

(ba) section 22C (Refusing to undergo screening test);

### 6 Automatic disqualification for certain other driving offences Section 63 (1) (d)

*after*

offence

*insert*

(including an aggravated offence)

### 7 New section 63 (2A)

*insert*

(2A) However, if a court convicts a person, or finds a person guilty, of an aggravated offence mentioned in subsection (1) (d), the person is automatically disqualified from holding or obtaining a driver licence for 12 months or, if the court orders a longer period, the longer period.

## Part 4 Road Transport (Offences) Regulation 2005

### 8 Short descriptions, penalties and demerit points Schedule 1, part 1.12, item 9

*substitute*

9	7 (1)				
9.1	<ul style="list-style-type: none"> <li>for an aggravated offence</li> </ul>	aggravated offence—drive furiously/recklessly/at speed dangerous/in way dangerous	200 pu/24 months prison/both		
9.2	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	drive furiously/recklessly/at speed dangerous/in way dangerous	100 pu/12 months prison/both		

## Part 5 Road Transport (Safety and Traffic Management) Act 1999

### 9 Furious, reckless or dangerous driving Section 7 (1), penalty

*substitute*

Maximum penalty:

- (a) for an aggravated offence—200 penalty units, imprisonment for 2 years or both; or
- (b) in any other case—100 penalty units, imprisonment for 1 year or both.

### 10 New sections 7A and 7B

*insert*

#### 7A Aggravated offence—furious, reckless or dangerous driving

- (1) An offence committed by a person against section 7 (the *current offence*) is an *aggravated offence* if—
  - (a) any of the following circumstances existed at the time of the current offence:
    - (i) the person without reasonable excuse, failed to comply with a request or signal given by a police officer to stop the vehicle;
    - (ii) the person was driving with the prescribed concentration of alcohol in their blood or breath;
    - (iii) the person was driving with a prescribed drug in their oral fluid or blood;



- (iv) the person was driving while under the influence of intoxicating liquor or of a drug to such an extent as to be incapable of having proper control of the vehicle;
  - (v) the person was driving at a speed that exceeded the speed limit by more than 30%;
  - (vi) the person was driving in a way that put at risk the safety of a vulnerable road user;
  - (vii) the person was driving with a person younger than 17 years old in the vehicle; or
- (b) the person is a repeat offender.
- (2) For subsection (1) (a) (ii), evidence may be given of the concentration of alcohol in the person's blood or breath based on—
- (a) for proof of the concentration of alcohol in the person's blood or breath—an analysis of a sample of the person's breath carried out in accordance with the *Road Transport (Alcohol and Drugs) Act 1977*; or
  - (b) for proof of the concentration of alcohol in the person's blood—an analysis of the sample of the person's blood carried out at an approved laboratory and certified accurate by an analyst in accordance with the *Road Transport (Alcohol and Drugs) Act 1977*.
- (3) For subsection (1) (a) (iii), evidence may be given that a person has a prescribed drug in the person's oral fluid or blood based on—
- (a) for proof of presence of a prescribed drug in the person's oral fluid—an analysis of a part of a sample of the person's oral fluid under the *Road Transport (Alcohol and Drugs) Act 1977*, section 13G (Oral fluid—confirmatory analysis) that indicates that a prescribed drug is present in the sample; or

(b) for proof of the presence of a prescribed drug in the person's blood—an analysis of a part of a sample of the person's blood under the *Road Transport (Alcohol and Drugs) Act 1977*, section 15A (Analysis of blood samples) that indicates that a prescribed drug is present in the sample.

(4) In this section:

**prescribed concentration**, of alcohol in a person's blood or breath—see the *Road Transport (Alcohol and Drugs) Act 1977*, section 4C.

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

**repeat offender**—a person is a **repeat offender** if—

- (a) the person has been convicted or found guilty of an offence against section 7 or the *Crimes Act 1900*, section 29 (Culpable driving of motor vehicle) at any time before the current offence was committed (whether or not the person has been convicted or found guilty of the offence when the person committed the current offence); or
- (b) the person is convicted or found guilty of 1 or more offences against section 7 or the *Crimes Act 1900*, section 29 concurrently with being convicted of the current offence, and 1 or more of the offences were committed before the current offence.

**vulnerable road user** means a road user other than the driver of, or passenger in, an enclosed motor vehicle.

**Examples—vulnerable road users**

- 1 pedestrians
- 2 cyclists
- 3 motorcyclists
- 4 riders of animals
- 5 users of motorised scooters
- 6 users of segways

*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).

**7B Alternative verdicts—furious, reckless or dangerous driving—aggravated offence**

- (1) This section applies if, in a prosecution for an aggravated offence against section 7, the trier of fact is satisfied beyond reasonable doubt that the defendant committed an offence against section 7 but is not satisfied that the defendant committed the aggravated offence.
- (2) The trier of fact may find the defendant guilty of an offence against section 7 but not guilty of the aggravated offence charged, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

**11 Dictionary, new definitions**

*insert*

**aggravated offence**, against section 7 (Furious, reckless or dangerous driving)—see section 7A.

**road user**—see the [Australian Road Rules](#), rule 14.

*Note* The [Australian Road Rules](#) are accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 15 May 2014.

**2 Notification**

Notified under the [Legislation Act](#) on 12 June 2014.

**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 Legislation Amendment Bill 2014, which was passed by the Legislative Assembly on 3 June 2014.

Clerk of the Legislative Assembly

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