

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Motor Traffic (Alcohol and Drugs)
(Amendment) Bill 1991**

**A BILL
FOR**

**An Act to amend the *Motor Traffic (Alcohol and
Drugs) Act 1977***

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

Short title

- 5 1. This Act may be cited as the *Motor Traffic (Alcohol and Drugs) (Amendment) Act 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Motor Traffic (Alcohol and Drugs) Act 1977*.¹

Interpretation

- 10 3. Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of "approved breath analysing instrument" and substituting the following definition:

15 " 'approved breath analysing instrument' means an instrument of a type approved, or deemed to have been approved, by the Minister under subsection 5 (1);".

81103/91 Job No.: 1991/12 (T103/91)

Approval of instruments

4. Section 5 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“5. (1) Where the Minister is of the opinion that a particular type of instrument—

- (a) is designed and constructed to ascertain the concentration of alcohol present in a sample of a person’s breath and is capable of recording that concentration in grams per 100 millilitres of blood; and
- (b) is suitable for use in analyses under Part II,

the Minister may, by notice published in the *Gazette*, approve that type for the purposes of this Act.”.

Breath analysis

5. Section 12 of the Principal Act is amended by omitting from subsection (1) all the words after “that officer” and substituting “, samples of his or her breath sufficient for breath analysis.”.

Precautions for privacy

6. Section 13 of the Principal Act is amended by adding at the end the following subsection:

“(2) Subsection (1) does not apply where a breath analysis is carried out at a police station.”.

Refusal to provide breath samples for analysis

7. Section 22 of the Principal Act is amended by omitting “a sample” (wherever occurring) and substituting “samples”.

Certificate evidence

8. Section 41 of the Principal Act is amended—

- (a) by omitting paragraph (1) (aa);
- (b) by omitting subparagraphs (1) (a) (iia) and (iib);
- (c) by omitting subparagraphs (1) (b) (iia) and (iib);
- (d) by inserting after paragraph (1) (b) the following paragraph:

“(ba) a written statement referred to in subsection 12 (5), being a print-out from an approved breath analysing instrument, is evidence of the matters stated in the statement;”;

(e) by omitting from subsection (1) "*prima facie*" (wherever occurring) and "and of the facts on which they are based" (wherever occurring); and

(f) by omitting subsections (3) and (4).

5 **Schedule**

9. Schedule 2 to the Principal Act is repealed.

Saving

10. Where, immediately before the commencement of this Act, an instrument of a particular type was approved under subsection 5 (1) of the Principal Act, that type shall be deemed to have been approved by notice published in the *Gazette* under subsection 5 (1) of the Principal Act as amended by this Act, and subsection 27 (1) of the *Interpretation Act 1967* shall be taken to apply accordingly.

NOTE

1. Ordinance No. 17, 1977 as amended by No. 52, 1977; No. 46, 1978; No. 37, 1980; Nos. 16 and 29, 1981; No. 94, 1982; No. 63, 1984; Nos. 51 and 67, 1985; No. 9, 1987; Nos. 14, 23 and 24, 1989; Act No. 64, 1990.