

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport)

Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011

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2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport)

Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • *Crimes Act 1900*
- 12 • *Road Transport (Alcohol and Drugs) Act 1977*
- 13 • *Road Transport (Driver Licensing) Regulation 2000*
- 14 • *Road Transport (General) Act 1999*
- 15 • *Road Transport (Offences) Regulation 2005*
- 16 • *Spent Convictions Act 2000*.

1 **Part 2** **Crimes Act 1900**

2 **4** **Power to enter premises to arrest offender**
3 **Section 220 (4), definition of *relevant offence*,**
4 **paragraph (b) (iv)**

5 *omit*

6 Driving with prescribed drug in oral fluid or blood

7 *substitute*

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

1 **Part 3 Road Transport (Alcohol and**
2 **Drugs) Act 1977**

3 **5 Meaning of *public place***
4 **Section 4A**

5 *omit*

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

8 *substitute*

9 (a) the person is not the holder of an Australian driver licence, an
10 external territory driver licence or a foreign driver licence from
11 a recognised country; or

12 (aa) the person holds a foreign driver licence that—

13 (i) is not issued under the law of a recognised country; or

14 (ii) if the licence is issued under the law of a recognised
15 country—is a licence that corresponds to a licence
16 mentioned in paragraph (d); or

17 **7 Section 4B (3), new definitions**

18 *insert*

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

21 *recognised country*—see the *Road Transport (Driver Licensing)*
22 *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.

1 **10 Section 9 heading**

2 *substitute*

3 **9 Power to require alcohol screening test if vehicle**
4 **involved in accident—driver**

5 **11 New section 9A**

6 *insert*

7 **9A Power to require alcohol screening test if vehicle**
8 **involved in accident—driver trainer**

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

13 (a) if the police officer has reasonable cause to suspect that the
14 person was the driver trainer in the motor vehicle at the time of
15 the accident; or

16 (b) if—

17 (i) the police officer does not know or has doubt as to who
18 was the driver trainer in the motor vehicle at the time of
19 the accident; and

20 (ii) the police officer has reasonable cause to suspect that the
21 person was in the vehicle at the time of the accident.

- 1 **12 Section 10 heading**
- 2 *substitute*
- 3 **10 Power to require alcohol screening test for culpable**
- 4 **driving—driver and driver trainer**
- 5 **13 New section 10 (2)**
- 6 *insert*
- 7 (2) A police officer who has reasonable cause to suspect that a person
- 8 was the driver trainer in a motor vehicle involved in an offence of
- 9 culpable driving may require the person to undergo an alcohol
- 10 screening test in accordance with the directions of that officer.
- 11 **14 Detention for breath analysis**
- 12 **Section 11 (1) (a) and (b)**
- 13 *after*
- 14 section 9
- 15 *insert*
- 16 , section 9A
- 17 **15 Breath analysis**
- 18 **Section 12 (5), new example**
- 19 *insert*
- 20 **Example—written statement**
- 21 a print-out from the breath analysis instrument
- 22 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 23 does not limit, the meaning of the provision in which it appears (see
- 24 Legislation Act, s 126 and s 132).

- 1 **16 Section 13A**
- 2 *substitute*
- 3 **13A Power to require drug screening test if vehicle not**
- 4 **involved in accident—driver and driver trainer**
- 5 (1) A police officer may require a person to undergo 1 or more drug
- 6 screening tests in accordance with the directions of the officer if—
- 7 (a) the person is—
- 8 (i) the driver of a motor vehicle on a road or road related
- 9 area; or
- 10 (ii) the driver trainer in a motor vehicle on a road or road
- 11 related area; or
- 12 (b) the police officer has reasonable cause to suspect that, shortly
- 13 before the requirement is made, the person was—
- 14 (i) the driver of a motor vehicle on a road or road related
- 15 area; or
- 16 (ii) the driver trainer in a motor vehicle on a road or road
- 17 related area.
- 18 (2) The person must remain at the place where the drug screening test is
- 19 being carried out until the test is completed in accordance with the
- 20 police officer's directions.
- 21 (3) Nothing in this section prevents a police officer from requiring both
- 22 the driver and driver trainer to undergo a drug screening test.

1 **17 Section 13B heading**

2 *substitute*

3 **13B Power to require drug screening test if vehicle involved in**
4 **accident—driver**

5 **18 New section 13BA**

6 *insert*

7 **13BA Power to require drug screening test if vehicle involved in**
8 **accident—driver trainer**

9 (1) If a motor vehicle is involved in an accident on a road or road
10 related area, a police officer may require a person to undergo 1 or
11 more drug screening tests in accordance with the directions of the
12 officer—

13 (a) if the police officer has reasonable cause to suspect that the
14 person was the driver trainer in the motor vehicle at the time of
15 the accident; or

16 (b) if—

17 (i) the police officer does not know or has doubt as to who
18 was the driver trainer in the motor vehicle at the time of
19 the accident; and

20 (ii) the police officer has reasonable cause to suspect that the
21 person was in the vehicle at the time of the accident.

22 (2) The person must remain at the place where the drug screening test is
23 being carried out until the test is completed in accordance with the
24 police officer's directions.

- 1 **19 Section 13C heading**
- 2 *substitute*
- 3 **13C Power to require drug screening test for culpable**
- 4 **driving—driver and driver trainer**
- 5 **20 New section 13C (1A)**
- 6 *insert*
- 7 (1A) A police officer who has reasonable cause to suspect that a person
- 8 was the driver trainer in a motor vehicle involved in an offence of
- 9 culpable driving may require the person to undergo 1 or more drug
- 10 screening tests in accordance with the directions of that officer.
- 11 **21 Detention for oral fluid analysis**
- 12 **Section 13D (1) (a) and (b)**
- 13 *after*
- 14 section 13B
- 15 *insert*
- 16 , section 13BA
- 17 **22 Oral fluid—preliminary analysis**
- 18 **Section 13E (6), new example**
- 19 *insert*
- 20 **Example—written statement**
- 21 a print-out from the oral fluid analysis instrument
- 22 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 23 does not limit, the meaning of the provision in which it appears (see
- 24 Legislation Act, s 126 and s 132).

23 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).

**24 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

1 **25 Section 14 (1) (b)**

2 *after*

3 vehicle

4 *insert*

5 or the driver trainer in the motor vehicle

6 **26 Section 14 (3) (c) (i) to (iii)**

7 *substitute*

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

12 (ii) unless the officer has reasonable cause to suspect that the
13 person has committed, or was the driver trainer during
14 the commission of, an offence of culpable driving; or

15 (iii) unless the requirement is made immediately after a motor
16 vehicle driven by the person, or in which the person was
17 a driver trainer, has stopped at or near the place where the
18 person usually lives and the officer making the
19 requirement has followed the motor vehicle while it was
20 being driven on the road.

21 **27 Taking blood samples from people in custody**
22 **Section 15 (1)**

23 *after*

24 a hospital

25 *insert*

26 or sampling facility

1 **28 Section 15 (4)**
2 *after 1st mention of*
3 hospital
4 *insert*
5 or at the sampling facility

6 **29 Section 15 (4)**
7 *after last mention of*
8 hospital
9 *insert*
10 or at the facility

11 **30 Taking blood samples from people in hospital**
12 **Section 15AA (1) (c) (i)**
13 *after*
14 driver
15 *insert*
16 or driver trainer

1 **31 Medical examination—offence against s 24 or culpable**
2 **driving**
3 **Section 16 (1)**

4 *substitute*

5 (1) This section applies to a person who has been—

6 (a) required to undergo—

7 (i) an alcohol screening test, or to provide a sample of the
8 person's breath for analysis under section 12 (Breath
9 analysis); or

10 (ii) if it is practicable to do so—a drug screening test, or to
11 provide a sample of the person's oral fluid for analysis
12 under section 13E (Oral fluid—preliminary analysis); and

13 **Examples—impracticability**

14 1 drug screening device not readily available

15 2 drug screening test or oral fluid analysis cannot be
16 conducted before time limits for testing the person expire

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

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

23 **Examples—reasonable suspicion**

24 1 the way the person was driving

25 2 the way the person is behaving

26 3 a breath analysis the person was required to undergo indicates that a
27 prescribed concentration of alcohol is present in the person's breath

1 **32 Section 16 (2)**

2 *omit*
3 (other than a prescribed drug)
4 *insert*
5 , including a prescribed drug

6 **33 Section 16 (3)**

7 *after*
8 a hospital
9 *insert*
10 or sampling facility

11 **34 Section 16 (4) to (6)**

12 *after*
13 hospital
14 *insert*
15 or the sampling facility

- 1 **35 Analysis of body samples**
2 **Section 16A (2) (a) and (b)**
- 3 *omit*
4 (other than a prescribed drug)
5 *insert*
6 , including a prescribed drug
- 7 **36 Keeping of samples—request by DPP**
8 **Section 16C (1) (a)**
- 9 *omit*
10 a blood or a body sample
11 *substitute*
12 a blood, an oral fluid or other body sample
- 13 **37 Section 16C (1) (b) (ii)**
- 14 *after*
15 under
16 *insert*
17 section 13G (6) (Oral fluid—confirmatory analysis),

1 **38 Section 16C (4), definition of *preserved part*, new**
2 **paragraph (aa)**

3 *before paragraph (a), insert*

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

5 **39 Section 16C (4), definition of *preserved part*,**
6 **paragraph (b)**

7 *substitute*

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

10 **40 Destruction of samples**
11 **Section 16D (1)**

12 *after*

13 under

14 *insert*

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

16 **41 Section 16D (2)**

17 *after*

18 under

19 *insert*

20 section 13G (4) (b),

1 **42 New division 2.8**

2 *after section 18B, insert*

3 **Division 2.8 Search and seizure**

4 **18C Power to search person in custody**

5 (1) A police officer may search a person who is taken into custody
6 under the following sections and may take possession of anything
7 found in the person's possession:

8 (a) section 11 (Detention for breath analysis);

9 (b) section 13D (Detention for oral fluid analysis);

10 (c) section 15 (Taking blood samples from people in custody).

11 (2) For the purposes of the search, the officer may request the assistance
12 of another police officer of the same sex as the person being
13 searched.

14 (3) A person is entitled to the return of anything taken from the person
15 under subsection (1) when the person ceases to be in custody, other
16 than—

17 (a) a seizable item; or

18 (b) an item that may otherwise be seized or retained under another
19 territory law.

1 (4) In this section:

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

4 (a) requiring the person to remove only the person's overcoat,
5 coat, jacket or a similar article of clothing and any footwear,
6 gloves or headwear; and

7 (b) an examination of them.

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

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

13 **43 Prescribed concentration of alcohol in blood or breath**
14 **Section 19 (1) (a)**

15 *substitute*

16 (a) has been—

17 (i) the driver of a motor vehicle on a road or road related
18 area; or

19 (ii) the driver trainer in a motor vehicle on a road or road
20 related area; and

21 **44 Section 19 (5), definition of *relevant period***

22 *after*

23 vehicle

24 *insert*

25 or the driver trainer in the vehicle

1 **45 Defence if person did not intend to drive motor vehicle**
2 **Section 19A**

3 *omit*
4 public street in a public place

5 *substitute*
6 road or road related area

7 **46 Defence if special driver with lower concentration of**
8 **alcohol from allowable source**
9 **Section 19B (1) (b)**

10 *omit*
11 not more than

12 *substitute*
13 less than

14 **47 Section 20 heading**

15 *substitute*

16 **20 Prescribed drug in oral fluid or blood—driver or driver**
17 **trainer**

48 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.

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

after

vehicle

insert

or the driver trainer in the vehicle

1 **50 Refusing to provide breath sample**
2 **Section 22 (a)**

3 *substitute*

4 (a) has been—

5 (i) the driver of a motor vehicle on a road or road related
6 area; or

7 (ii) the driver trainer in a motor vehicle on a road or road
8 related area; and

9 **51 Refusing to provide oral fluid sample**
10 **Section 22A (1) (a)**

11 *substitute*

12 (a) has been—

13 (i) the driver of a motor vehicle on a road or road related
14 area; or

15 (ii) the driver trainer in a motor vehicle on a road or road
16 related area; and

17 **52 Failing to stay for drug screening test**
18 **Section 22B (1), note 1**

19 *after*

20 13B

21 *insert*

22 , s 13BA

1 **53 Refusing blood test etc**
2 **Section 23 (1) (a)**

3 *substitute*

4 (a) has been—

5 (i) the driver of a motor vehicle on a road or road related
6 area; or

7 (ii) the driver trainer in a motor vehicle on a road or road
8 related area; and

9 **54 Driver etc intoxicated**
10 **Section 24A (1)**

11 *omit*

12 public street

13 *substitute*

14 road

15 **55 Fines and imprisonment—s 19 offences**
16 **New section 26 (3)**

17 *insert*

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

1 **56 Automatic driver licence disqualification—first**
2 **offenders, s 19**
3 **Section 32 (2)**

4 *after*
5 special driver
6 *insert*
7 , other than a driver trainer,

8 **57 Automatic driver licence disqualification—repeat**
9 **offenders, s 19**
10 **Section 33 (2)**

11 *after*
12 special driver
13 *insert*
14 , other than a driver trainer,

15 **58 Automatic driver licence disqualification—offences other**
16 **than s 19**
17 **Section 34 (1) and (2)**

18 *after*
19 offender
20 *insert*
21 , other than a driver trainer,

1 **59 Evidentiary certificates—drug-related tests**
2 **Section 41AA (4) (a)**

3 *after*
4 nurse
5 *insert*
6 practitioner

7 **60 Evidentiary certificate—blood sample not taken**
8 **Section 41AC (b)**

9 *after*
10 hospital
11 *insert*
12 or sampling facility

13 **61 Evidence for insurance purposes**
14 **Section 41A (1) (i)**

15 *substitute*
16 (i) evidence that a statement was given to the person under section
17 13H (Oral fluid analysis statement), section 15B (Blood
18 analysis statement) or section 16B (Body sample statement);

19 **62 Section 41A (1) (j)**

20 *substitute*
21 (j) evidence of the contents of a statement given under
22 section 13H, section 15B, or section 16B;

- 1 **63 Section 41A (2)**
- 2 *before*
- 3 section 15B
- 4 *insert*
- 5 section 13H,
- 6 **64 Section 41A (5), definition of *relevant offence*,**
- 7 **paragraph (b)**
- 8 *omit*
- 9 Driving with prescribed drug in oral fluid or blood
- 10 *substitute*
- 11 Prescribed drug in oral fluid or blood—driver or driver trainer
- 12 **65 When police officer may move person's motor vehicle**
- 13 **Section 48 (1) (b)**
- 14 *after*
- 15 section 11,
- 16 *insert*
- 17 section 13D,

1 **66 Regulation-making power**
2 **New section 51 (2)**

3 *after the note, insert*

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

7 **67 Dictionary, note 3**

8 *insert*

- 9 • road
10 • road related area

11 **68 Dictionary, definition of *disqualifying offence*,**
12 **paragraph (b)**

13 *omit*

14 Driving with prescribed drug in oral fluid or blood

15 *substitute*

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

17 **69 Dictionary, new definitions**

18 *insert*

19 ***driver trainer***—see section 4BA.

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

22 **70 Dictionary, definitions of *public place* and *public street***

23 *omit*

1 **71 Dictionary, new definition of *sampling facility***

2 *insert*

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

7 **Examples—sampling facility**

8 1 a police station

9 2 a police vehicle equipped for the purpose of taking blood samples

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

13 **72 Further amendments, mentions of *public street or in a***
14 ***public place***

15 *omit*

16 public street or in a public place

17 *substitute*

18 road or road related area

19 *in*

- 20 • section 9
21 • section 13B
22 • section 18A, definition of *accident*
23 • section 24
24 • dictionary, definition of *accident*

1 **Part 4** **Road Transport (Driver**
2 **Licensing) Regulation 2000**

3 **73** **Meaning of *required medical standards***
4 **Section 15 (1)**

5 *omit*

6 Incorporated

7 **74** **Eligibility requirements for licence classes**
8 **Section 28 (3) (c) except note**

9 *substitute*

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

12 **75** **Provisional licence requirement for motorcycle licences**
13 **Section 29 (3) (c)**

14 *substitute*

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

17 **76** **Provisional licence requirement for car licences etc**
18 **Section 30 (3) (c)**

19 *substitute*

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

- 1 **77 Working out period a class or kind of licence has been**
2 **held**
3 **Section 68**
- 4 *omit*
- 5 external driver licence
- 6 *substitute*
- 7 external territory driver licence or a foreign driver licence issued
8 under the law of a recognised country
- 9 **78 New section 141**
- 10 *insert*
- 11 **141 Meaning of *recognised country***
- 12 (1) For this regulation, a *recognised country*, in relation to a foreign
13 driver licence, means a country listed as a recognised country by
14 Austroads and published on its website from time to time.
- 15 *Note* The list of recognised countries is available at
16 www.austroads.com.au/overseas.html
- 17 (2) The Legislation Act, section 47 (6) does not apply to the list of
18 recognised countries.
- 19 **79 Dictionary, new definitions**
- 20 *insert*
- 21 *Austroads* means Austroads Ltd ABN 16 245 787 323.
- 22 *recognised country*, in relation to a foreign driver licence—see
23 section 141.

1 **Part 5** **Road Transport (General) Act**
2 **1999**

3 **80** **Definitions—div 4.2**
4 **Section 61A, new definition of *driver trainer***

5 *insert*

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

8 **81** **Section 61A, definition of *immediate suspension offence***
9 **(or *suspension offence*), paragraph (a) (i)**

10 *after*

11 driver

12 *insert*

13 , other than a driver trainer,

14 **82** **Dictionary, new definition of *driver trainer***

15 *insert*

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

1 **Part 6 Road Transport (Offences)**
2 **Regulation 2005**

3 **83 Schedule 1 heading**

4 *substitute*

5 **Schedule 1 Short descriptions, penalties**
6 **and demerit points**

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

8 **84 Schedule 1, part 1.3, items 3 and 4, column 3**

9 *after*

10 doctor

11 *insert*

12 /authorised nurse practitioner

85 Schedule 1, part 1.3, items 6 to 19

1

2

substitute

6	19 (1)				
6.1	<ul style="list-style-type: none"> special driver, level 1, first offender 	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"> special driver, level 1, repeat offender 	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"> special driver, level 2, first offender 	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"> special driver, level 2, repeat offender 	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"> special driver, level 3, first offender—driver 	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"> special driver, level 3, first offender—driver trainer 	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"> special driver, level 3, repeat offender—driver 	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"> special driver, level 3, repeat offender—driver trainer 	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"> special driver, level 4, first offender—driver 	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"> special driver, level 4, first offender—driver trainer 	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"> special driver, level 4, repeat offender—driver 	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"> special driver, level 4, repeat offender—driver trainer 	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"> person other than special driver, level 1, first offender 	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"> person other than special driver, level 1, repeat offender 	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"> person other than special driver, level 2, first offender 	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"> person other than special driver, level 2, repeat offender 	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">• person other than special driver, level 3, first offender	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">• person other than special driver, level 3, repeat offender	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">• person other than special driver, level 4, first offender	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">• person other than special driver, level 4, repeat offender	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"> first offender 	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"> repeat offender—driver 	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"> repeat offender—driver trainer 	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">• first offender— driver	refuse to provide breath sample—first offender	30 pu/6 months prison/both		
8.2	<ul style="list-style-type: none">• first offender— driver trainer	refuse to provide breath sample—first offender	30 pu/6 months prison/both		
8.3	<ul style="list-style-type: none">• repeat offender— driver	refuse to provide breath sample—repeat offender	30 pu/12 months prison/both		
8.4	<ul style="list-style-type: none">• repeat offender— driver trainer	refuse to provide breath sample—repeat offender	30 pu/12 months prison/both		

9	22 (d)				
9.1	<ul style="list-style-type: none"> first offender— driver 	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"> first offender— driver trainer 	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"> repeat offender— driver 	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"> repeat offender— driver trainer 	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"> • first offender— driver 	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"> • first offender— driver trainer 	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"> • repeat offender — driver 	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"> • repeat offender— driver trainer 	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"> • first offender— driver 	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"> first offender — driver trainer 	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"> repeat offender—driver 	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"> repeat offender—driver trainer 	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		
13	23 (1)				
13.1	<ul style="list-style-type: none"> first offender—driver 	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"> first offender—driver trainer 	fail/refuse to permit blood sample to be taken—first offender	30 pu/6 months prison/both		

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13.3	<ul style="list-style-type: none"> repeat offender—driver 	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"> repeat offender—driver trainer 	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"> first offender—driver 	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"> first offender—driver trainer 	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"> repeat offender—driver 	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"> repeat offender—driver trainer 	behave in manner so impossible/impractical for blood sample to be taken—repeat offender	30 pu/12 months prison/both		
15	23 (3) (a)				
15.1	<ul style="list-style-type: none"> first offender—driver 	fail/refuse to submit to medical examination—first offender	30 pu/6 months prison/both		
15.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail/refuse to submit to medical examination—first offender	30 pu/ 6 months prison/both		
15.3	<ul style="list-style-type: none"> repeat offender—driver 	fail/refuse to submit to medical examination—repeat offender	30 pu/12 months prison/both		
15.4	<ul style="list-style-type: none"> repeat offender—driver trainer 	fail/refuse to submit to medical examination—repeat offender	30 pu/12 months prison/both		

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

17	24 (1)				
17.1	<ul style="list-style-type: none"> first offender 	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"> repeat offender 	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		

1 **Part 7 Spent Convictions Act 2000**

2 **86 How are traffic offences to be dealt with?**
3 **Section 14 (1), new definition of *driver trainer***

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

7 **87 Section 14 (4) (c)**

8 *after*
9 drivers
10 *insert*
11 and driver trainers

12 **88 Section 14 (4) (c)**

13 *after first mention of*
14 driving
15 *insert*
16 or driver training

17 **89 Section 14 (4) (c)**

18 *omit*
19 or driving
20 *insert*
21 and driving or driver training

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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