

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport)

Road Transport Legislation Amendment Bill 2011

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(Minister for Transport)

Road Transport Legislation Amendment Bill 2011

A Bill for

An Act to amend road transport legislation, 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 Legislation Amendment Act 2011*.

4 **2 Commencement**

- 5 (1) This Act (other than section 18) commences on a day fixed by the
6 Minister by written notice.

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

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

- 15 (2) Section 18 commences on the later of—
16 (a) the commencement of the *Road Transport (General)*
17 *Amendment Act 2010*, section 7; and
18 (b) the commencement of this Act, section 10.

19 **3 Legislation amended**

20 This Act amends the following legislation:

- 21 • *Road Transport (Driver Licensing) Act 1999*
22 • *Road Transport (General) Act 1999*
23 • *Road Transport (General) Regulation 2000*
24 • *Road Transport (Offences) Regulation 2005*
25 • *Road Transport (Vehicle Registration) Act 1999*.

1 **Part 2** **Road Transport (Driver**
2 **Licensing) Act 1999**

3 **4 New section 5A**

4 *in part 1, insert*

5 **5A Offence against this Act—application of Criminal**
6 **Code etc**

7 Other legislation applies in relation to an offence against this Act.

8 *Note 1 Criminal Code*

9 The Criminal Code, sch 2 applies to the following offence against this
10 Act (see Code, pt 2.1):

- 11 • s 31A (Offence—driving while right to drive suspended).

12 The chapter sets out the general principles of criminal responsibility
13 (including burdens of proof and general defences), and defines terms
14 used for an offence to which the Code applies (eg *conduct*, *intention*,
15 *recklessness* and *strict liability*).

16 *Note 2 Penalty units*

17 The Legislation Act, s 133 deals with the meaning of offence penalties
18 that are expressed in penalty units.

19 **5 Good behaviour alternative to licence suspension**
20 **Section 19 (1) and (2)**

21 *substitute*

- 22 (1) If a person is served with a notice of licence suspension under
23 section 18, the person may elect, as an alternative to undergoing the
24 period of licence suspension applying under the notice, to be of
25 good behaviour for a 12-month period.

- 1 (2) The election must be made by notice given to the road transport
2 authority in the period that—
- 3 (a) begins on the day the notice of licence suspension was served
4 on the person; and
- 5 (b) ends the day before the person’s licence suspension ends.
- 6 *Note* For how documents may be served, see the Legislation Act, pt 19.5.
- 7 (2A) The 12-month period of good behaviour under this section begins—
- 8 (a) for a person who makes an election on or before the day on
9 which the suspension of their licence is to begin—the day the
10 person’s licence suspension would have begun; or
- 11 (b) for a person who makes an election after the day on which the
12 suspension of their licence is to begin—the day the authority
13 receives notice of the election.

14 **6 Good behaviour alternative to licence ineligibility**
15 **Section 21 (1) and (2)**

- 16 *substitute*
- 17 (1) If a person is served with a notice of licence ineligibility under
18 section 20, the person may elect, as an alternative to undergoing the
19 period of licence ineligibility applying under the notice, to be of
20 good behaviour for a 12-month period.
- 21 (2) The election must be made by notice given to the road transport
22 authority in the period that—
- 23 (a) begins on the day the notice of licence ineligibility was served
24 on the person; and
- 25 (b) ends the day before the person’s licence ineligibility ends.
- 26 *Note* For how documents may be served, see the Legislation Act, pt 19.5.

- 1 (2A) The 12-month period of good behaviour under this section begins—
2 (a) for a person who makes an election on or before the day on
3 which the period of licence ineligibility is to begin—the day
4 the person’s licence ineligibility would have begun; or
5 (b) for a person who makes an election after the day on which the
6 period of licence ineligibility is to begin—the day the authority
7 receives notice of the election.

8 **7 New section 31A**

9 *insert*

10 **31A Offence—driving while right to drive suspended**

- 11 (1) A person commits an offence if—
12 (a) the person’s right to drive is suspended under a law of the
13 territory; and
14 (b) the person drives a vehicle in the ACT.
15 Maximum penalty: 20 penalty units.
16 (2) An offence against this section is a strict liability offence.

17 **8 Use of photographs and signatures** 18 **Section 36 (1) (e)**

19 *omit*

20 road transport legislation;

21 *substitute*

22 *Dangerous Goods (Road Transport) Act 2009* or the road transport
23 legislation;

1 **9 Disclosure of photographs and signatures by road**
2 **transport authority**
3 **Section 37 (1) (c)**

4 *omit*

5 road transport legislation or

6 *substitute*

7 *Dangerous Goods (Road Transport) Act 2009*, the road transport
8 legislation or

1 **Part 3** **Road Transport (General) Act**
2 **1999**

3 **10** **Suspension for nonpayment of infringement notice**
4 **penalties**
5 **Section 44 (8)**

6 *omit*

7 **11** **Seizure of licences**
8 **Section 59 (1)**

9 *substitute*

- 10 (1) A police officer or authorised person may, with no authority other
11 than this section, seize an Australian driver licence, public vehicle
12 driver authority card or external driver licence, or anything
13 resembling an Australian driver licence, public vehicle driver
14 authority card or external driver licence, if—
- 15 (a) it is produced to the police officer or authorised person by
16 someone representing it to be the person's Australian driver
17 licence, public vehicle driver authority card or external driver
18 licence; and
- 19 (b) the police officer or authorised person suspects on reasonable
20 grounds—
- 21 (i) that it has been obtained in contravention of the *Road*
22 *Transport (Driver Licensing) Act 1999*, section 29
23 (Obtaining licence by false statements etc), a
24 corresponding law (within the meaning of that Act) or the
25 law of an external territory or foreign country; or
- 26 (ii) that it is unlawfully in the person's possession; or

1 (iii) that it is required to be returned or surrendered to the road
2 transport authority under the road transport legislation; or

3 (iv) that it is defaced or altered.

4 **12 Section 59 (4)**

5 *substitute*

6 (4) The grounds on which a suspicion may be formed, sufficient to
7 authorise the seizure of an Australian driver licence, public vehicle
8 driver authority card or external driver licence or anything else (the
9 *licence or article*) under this section, include (but are not limited to)
10 any 1 or more of the following:

11 (a) a lack of resemblance between the person shown in a
12 photograph attached to or forming part of the licence, card or
13 article, purporting to be a photograph of the holder, and the
14 person who produced it;

15 (b) a lack of resemblance between a signature on the licence or
16 article, purporting to be the signature of the holder, and a
17 specimen signature provided by the person who produced the
18 licence or article;

19 (c) a refusal by the person, after producing the licence or article, to
20 comply with a requirement under subsection (2).

21 **13 Section 59 (5)**

22 *substitute*

23 (5) An Australian driver licence, public vehicle driver authority card,
24 external driver licence or anything else seized under this section
25 must be given to the road transport authority as soon as practicable
26 (but within 14 days) after the seizure.

1 **14 Section 59 (6)**

2 *after*

3 Australian driver licence

4 *insert*

5 , public vehicle driver authority card

6 **15 New section 59 (8)**

7 *insert*

8 (8) In this section:

9 *public vehicle driver authority card*—see the *Road Transport*
10 *(Driver Licensing) Regulation 2000*, dictionary.

11 **16 Immediate suspension of licence**
12 **New section 61B (5) (aa)**

13 *insert*

14 (aa) the chief police officer, or the DPP, gives written notice to the
15 person served with the suspension notice that states that the
16 proceeding for the suspension offence for which the suspension
17 notice was issued is to be withdrawn or discontinued; or

18 **17 New section 61B (6)**

19 *insert*

20 (6) If a person has surrendered their driver licence under a suspension
21 notice and the suspension notice ceases to have effect under
22 subsection (5) the road transport authority must return the driver
23 licence to the person as soon as practicable.

1 **18 Suspension of driver licence, registration etc for default**
2 **of court imposed fine**
3 **New section 84 (5) (d)**

4 *insert*

5 (d) if the person is the holder of an interstate driver licence or an
6 external driver licence—suspend the person’s right to drive a
7 vehicle in the ACT.

1 **Part 4** **Road Transport (General)**
2 **Regulation 2000**

3 **19** **New section 9C**

4 *in part 3, insert*

5 **9C** **Specimen signature—Act, s 59 (2)**

6 The following are prescribed as ways in which a police officer may
7 require a person to provide a specimen of his or her signature—

- 8 (a) in the police officer's official notebook; or
9 (b) on any other paper on which a signature can be reasonably
10 written.

1 **Part 5 Road Transport (Offences)**
2 **Regulation 2005**

3 **20 Schedule 1, part 1.5, new item 10A**

4 *insert*

10A	31A	driving while right to drive suspended	20	427	
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5 **21 Schedule 1, part 1.7, Item 5**

6 *omit*

1 **Part 6** **Road Transport (Vehicle**
2 **Registration) Act 1999**

3 **22 Section 30**

4 *substitute*

5 **30 Seizure of numberplates, registration labels etc**

6 (1) A police officer or authorised person may on reasonable grounds
7 seize—

8 (a) a numberplate or registration label attached to, or located in, a
9 registrable vehicle if the registration of the vehicle—

10 (i) has expired more than 15 days earlier; or

11 (ii) is cancelled; or

12 (b) a numberplate used in contravention of a regulation prescribed
13 for this section; or

14 (c) a numberplate, registration label or other document attached to,
15 or located in, a registrable vehicle if the numberplate,
16 registration label or other document is—

17 (i) not properly issued; or

18 (ii) properly issued for another registrable vehicle; or

19 (iii) fraudulently changed; or

20 (iv) changed in a way calculated to deceive; or

21 (d) anything resembling a numberplate, registration label or other
22 document that is attached to, or located in, a registrable vehicle
23 and is calculated to deceive.

24 (2) A police officer or authorised person may enter or access a vehicle
25 for the purpose of seizing something under subsection (1).

- 1 (3) A numberplate, other document, or anything resembling a
2 numberplate or other document seized under subsection (1) must—
- 3 (a) if likely to be required as evidence in a proceeding—be
4 retained for use as evidence; or
- 5 (b) in any other case—be given to the road transport authority as
6 soon as practicable.
- 7 (4) If something is given to the road transport authority under
8 subsection (3) the road transport authority may deal with the thing in
9 the way the authority considers appropriate.
- 10 (5) In this section:
- 11 ***other document***—
- 12 (a) means any document that relates to, or purports to relate to, the
13 registration of a vehicle; but
- 14 (b) does not include a registration label or anything resembling a
15 registration label.
- 16 **Example—*other document***
17 a registration certificate under the *Road Transport (Vehicle Registration)*
18 *Regulation 2000*, s 40
- 19 *Note* An example is part of the Act, is not exhaustive and may extend, but
20 does not limit, the meaning of the provision in which it appears (see
21 Legislation Act, s 126 and s 132).
- 22 ***properly issued*** means issued—
- 23 (a) by the road transport authority under this Act; or
- 24 (b) under a corresponding law.

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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