

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Road Transport (Safety and Traffic Management) Amendment Bill 2011

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J2010-701

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## Road Transport (Safety and Traffic Management) Amendment Bill 2011

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### A Bill for

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999*, and for other purposes

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

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J2010-701

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **1 Name of Act**

2 This Act is the *Road Transport (Safety and Traffic Management)*  
3 *Amendment Act 2011*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written  
6 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 **3 Legislation amended**

16 This Act amends the *Road Transport (Safety and Traffic*  
17 *Management) Act 1999*.

18 *Note* This Act also amends the *Road Transport (General) Act 1999* (see  
19 sch 1).

20 **4 New division 6.1 heading and section 22AA**

21 *insert*

22 **Division 6.1 Definitions—pt 6**

23 **22AA Definitions—pt 6**

24 In this part:

25 *average speed*—see section 22B.

1            *average speed detection system*—see section 23A.

2            *average speed limit*, for a driver of a vehicle on a road between  
3            2 detection points if more than 1 speed limit applies between the  
4            points, means the average speed limit prescribed by regulation for  
5            the road between the points.

6            *detection point* means a point prescribed by regulation on a road by  
7            reference to which a vehicle's average speed can be worked out.

8            *relevant information*—see section 22A.

9            *shortest practicable distance*, between 2 detection points, means the  
10           distance prescribed by regulation as the shortest distance between  
11           the points that a vehicle's driver could use to travel on a road  
12           between the points without contravening this Act.

13           *speeding offence* means an offence—

14           (a) against a provision of the road transport legislation of failing to  
15           obey a speed limit; or

16           (b) prescribed by regulation.

17           **5            Section 22A**

18           *omit everything before paragraph (a), substitute*

19           **22A            Meaning of *relevant information*—pt 6**

20           (1) For this part, *relevant information*, for an image of a vehicle taken  
21           by a camera detection device, is—

1 **6 Section 22A (c)**

2 *omit*

3 a regulation

4 *substitute*

5 a provision of the road transport legislation

6 **7 Section 22A (c)**

7 *omit*

8 the regulation

9 *substitute*

10 the provision

11 **8 Section 22A (d)**

12 *omit*

13 a regulation

14 *substitute*

15 the road transport legislation

16 **9 New section 22A (2)**

17 *insert*

18 (2) For this part, *relevant information*, for an image of a vehicle, or a  
19 numberplate or anything else on a vehicle, taken by a average speed  
20 detection system, is—

21 (a) the date and time when, and place where, the image was taken;  
22 and

23 (b) any information prescribed by regulation; and

- 1 (c) any other information the road transport authority considers  
2 appropriate.

3 **10 New section 22B**

4 *insert*

5 **22B Meaning of *average speed*—pt 6**

- 6 (1) For this part, the *average speed* of a vehicle between 2 detection  
7 points is the speed worked out in accordance with the following  
8 formula and expressed in kilometres per hour rounded down to the  
9 next whole number:

$$\frac{SPD \times 3600}{T}$$

- 10 (2) In this section:

11 *SPD* means the shortest practicable distance between the detection  
12 points.

13 *T* means the time, expressed in seconds, that elapsed between the  
14 vehicle passing the first and second detection points.

15 **11 New division 6.2 heading**

16 *before section 23, insert*

17 **Division 6.2 Traffic offence detection devices—**  
18 **general**

1 **12 Use of camera detection devices**  
2 **Section 23 (1) (a)**

- 3 *omit*  
4 a regulation  
5 *substitute*  
6 a provision of the road transport legislation

7 **13 Section 23 (1) (b)**

- 8 *omit*  
9 a regulation  
10 *substitute*  
11 the road transport legislation

12 **14 New section 23A**

- 13 *insert*

14 **23A Use of average speed detection systems**

- 15 (1) An *average speed detection system* is a system designed to take  
16 complying images of vehicles at detection points and work out the  
17 average speed of vehicles between 2 detection points.
- 18 (2) A photographic or electronic image of a vehicle, or a numberplate or  
19 anything else on a vehicle, taken by an approved average speed  
20 detection system is a complying image if—
- 21 (a) the image shows the vehicle, numberplate or other thing; and  
22 (b) the relevant information for the image is indicated on the  
23 image; and



- 1 (c) for an electronic image—
- 2 (i) the system creates an electronic file that contains the
- 3 image and the relevant information for the image; and
- 4 (ii) the file is recorded in accordance with the regulations;
- 5 and
- 6 (iii) if a regulation requires the accuracy of the file to be
- 7 verified—the file is verified in accordance with the
- 8 regulation.
- 9 (3) This section does not—
- 10 (a) limit the matters that may be indicated on or shown by an
- 11 image taken by an approved average speed detection system;
- 12 or
- 13 (b) limit the information included in an electronic file created by
- 14 an approved average speed detection system; or
- 15 (c) require an approved average speed detection system to be
- 16 operated by a person.

17 **15 Section 24 (2)**

18 *substitute*

- 19 (2) A regulation may also make provision about—
- 20 (a) the meaning of codes and other information indicated on
- 21 images taken by approved camera detection devices or
- 22 approved average speed detection systems; and
- 23 (b) any other matter relating to average speed detection systems,
- 24 including the images taken by them.

1 **16 New sections 24A and 24B**

2 *insert*

3 **24A Average speed of vehicle is evidence of actual speed in**  
4 **certain circumstances**

- 5 (1) This section applies to a proceeding against a person for a speeding  
6 offence.
- 7 (2) The prosecution may rely on evidence of the average speed of the  
8 vehicle between 2 detection points as evidence of the actual speed of  
9 the vehicle between the detection points for the purpose of proving  
10 the offence.
- 11 (3) The following provisions apply in relation to the proceeding:
- 12 (a) the vehicle's average speed is admissible and is evidence of the  
13 actual speed at which the driver drove the vehicle on a road  
14 between the detection points;
- 15 (b) if more than 1 speed limit applied to the driver between the  
16 detection points, the average speed limit for the driver on a  
17 road between the points is taken to be the speed limit that  
18 applied to the driver at all times on the road between the  
19 points;
- 20 (c) for the purpose of working out the vehicle's average speed, the  
21 vehicle is taken to have travelled between the detection points  
22 by means of the shortest practicable distance regardless of the  
23 actual route taken.
- 24 (4) An offence evidenced by the average speed of a vehicle between  
25 2 detection points is taken to have been committed when the vehicle  
26 passed the 2nd detection point.

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1     **24B     Other forms of proof of speeding offences not excluded**  
2     **by s 24A**

3           (1) Section 24A is in addition to, and does not limit, any other form of  
4           proof of a vehicle's speed.

5           (2) Without limiting subsection (1), a court in a proceeding against a  
6           person for a speeding offence in which the prosecution is relying on  
7           evidence of the average speed of the vehicle may convict a person,  
8           or find a person guilty, of the offence by relying on evidence of the  
9           actual speed of the vehicle at a particular point of its journey  
10          between 2 detection points if the court is satisfied that—

11           (a) evidence in the proceeding (other than evidence establishing  
12           the average speed) establishes the actual speed at which the  
13           driver was driving, and the actual speed limit that applied to  
14           the driver at that point; and

15           (b) the use of the actual speed and actual speed limit rather than  
16           the average speed (and, if relevant, the average speed limit)  
17           demonstrates that the driver exceeded the speed limit by a  
18           greater speed than that indicated by the use of the average  
19           speed (and average speed limit).

20           **Example**

21           The average speed of a vehicle between 2 detection points is 120km/h along a  
22           length of road for which the speed limit is 90km/h. A police officer measured the  
23           speed of the vehicle at a point during that journey at 130km/h using an approved  
24           speed measuring device. The court may rely on the evidence obtained by the  
25           police officer rather than the average speed to convict a person of the speeding  
26           offence.

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

1 **17 Evidentiary certificates etc**  
2 **Section 25 (2) (c)**

3 *substitute*

4 (c) the recording or verification of an electronic file created by an  
5 approved camera detection device or an approved average  
6 speed detection system;

7 (d) the vehicle's average speed between stated detection points.

8 **18 Section 25 (3) (a)**

9 *substitute*

10 (a) that the traffic offence detection device is—

11 (i) an approved camera detection device; or

12 (ii) an approved speed measuring device; or

13 (iii) an approved average speed detection system;

14 **19 New section 25 (3) (da)**

15 *insert*

16 (da) if the device is an approved average speed detection system—

17 (i) that a stated image is an accurate copy of an image taken  
18 by the system at a stated date, time and place or is an  
19 accurate copy of 1 of a set of images taken by the system  
20 at stated places at a stated time or during a stated period;  
21 or

22 (ii) that stated images are accurate copies of a set of images  
23 taken by the system at stated places at a stated time or  
24 during a stated period.

1 **20 Section 25 (4)**

2 *after*  
3 approved camera detection device  
4 *insert*  
5 or an approved average speed detection system

6 **21 New section 25 (5) (ca)**

7 *insert*  
8 (ca) if the information indicates the average speed of the vehicle  
9 between 2 detection points—that the driver was driving the  
10 vehicle at that speed between the points;

11 **22 Section 25 (5) (e)**

12 *omit*  
13 a regulation  
14 *substitute*  
15 a provision of the road transport legislation

16 **23 Section 25 (6)**

17 *substitute*  
18 (6) If an image mentioned in subsection (4) is a copy of 1 of a series or  
19 set of images taken by an approved camera detection device or an  
20 approved average speed detection system at a time or during a  
21 period, subsections (4) and (5) apply to the image considered by  
22 itself and to the image considered with other images in the series or  
23 set.

1 **24 Section 27 heading**

2 *substitute*

3 **27 Inspection and purchase of images taken by traffic**  
4 **offence detection devices**

5 **25 Notice of intention to challenge certain issues**  
6 **Section 28 (1)**

7 *substitute*

8 (1) This section applies if a defendant in a proceeding for an offence  
9 against this Act intends to challenge the following:

10 (a) the maintenance, testing, sealing, use, accuracy or operating  
11 condition of a traffic offence detection device;

12 (b) a vehicle's average speed between 2 detection points.

13 **26 Section 28 (3) (c)**

14 *substitute*

15 (c) outline the grounds on which the defendant intends to make the  
16 challenge.

17 **27 New sections 29 and 29A**

18 *in part 6, insert*

19 **29 Use of images**

20 The road transport authority may use an image taken by a traffic  
21 offence detection device only for 1 or more of the following  
22 purposes:

23 (a) to assist in deciding whether a vehicle was driven in  
24 contravention of a provision of the road transport legislation  
25 about obeying the speed limit;

1 (b) in relation to the investigation of, or the conduct of a criminal  
2 proceeding for, an offence against the road transport  
3 legislation;

4 (c) a purpose allowed by another law in force in the ACT.

5 **29A Disclosure of images**

6 The road transport authority must ensure that an image taken by a  
7 traffic offence detection device is not disclosed by the authority to  
8 someone else except—

9 (a) to a person who can ask for a copy of the image under  
10 section 27; or

11 (b) to a police officer or authorised person; or

12 (c) for a purpose in relation to the investigation of, or the conduct  
13 of a criminal proceeding for, an offence against the road  
14 transport legislation; or

15 (d) in accordance with another law in force in the ACT.

16 **28 Dictionary, new definitions**

17 *insert*

18 ***approved average speed detection system*** means an average speed  
19 detection system approved under a regulation.

20 ***average speed***, of a vehicle between 2 detection points, for part 6  
21 (Traffic offence detection devices)—see section 22B.

22 ***average speed detection system***, for part 6 (Traffic offence detection  
23 devices)—see section 23A.

24 ***average speed limit***, for a driver of a vehicle on a road between  
25 2 detection points if more than 1 speed limit applies between the  
26 points, for part 6 (Traffic offence detection devices)—see  
27 section 22AA.

1            *detection point*, for part 6 (Traffic offence detection devices)—see  
2            section 22AA.

3            **29            Dictionary, definition of *indicated on***

4            *after*

5            approved camera detection device

6            *insert*

7            or an approved average speed detection system

8            **30            Dictionary, definition of *relevant information***

9            *substitute*

10           *relevant information*, for part 6 (Traffic offence detection  
11           devices)—

12           (a) for an image of a vehicle taken by a camera detection device—  
13           see section 22A (1); and

14           (b) for an image of a vehicle, or a numberplate or anything else on  
15           a vehicle, taken by an average speed detection system—see  
16           section 22A (2).

17           **31           Dictionary, new definitions**

18           *insert*

19           *shortest practicable distance*, between 2 detection points, for part 6  
20           (Traffic offence detection devices)—see section 22AA.

21           *speeding offence*, for part 6 (Traffic offence detection devices)—see  
22           section 22AA.



1 **32 Dictionary, definition of *traffic offence detection device***

2 *substitute*

3 *traffic offence detection device* means—

- 4 (a) an approved camera detection device; or  
5 (b) an approved speed measuring device; or  
6 (c) an approved average speed detection system.



**[1.4] Dictionary, definition of *camera-detected offence***

2 *after*

3 approved camera detection device

4 *insert*

5 or an approved average speed detection system

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**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](http://www.legislation.act.gov.au).

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