

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Road Transport (General) Amendment Bill 2011

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## Road Transport (General) Amendment Bill 2011

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### A Bill for

An Act to amend the *Road Transport (General) 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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J2010-702

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 (General) Amendment Act 2011*.

3 **2 Commencement**

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

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

7 **3 Legislation amended**

8 This Act amends the *Road Transport (General) Act 1999*.

9 *Note* This Act also amends the following legislation (see sch 1):

- 10 • *Road Transport (Offences) Regulation 2005*  
11 • *Road Transport (Safety and Traffic Management) Act 1999*.

1 **4 Offences against this Act—application of Criminal Code**  
2 **etc**  
3 **Section 5A, note 1**

4 *insert*

- 5 • section 58B (Police officer or authorised person may direct  
6 removal of thing covering person's face)

7 **5 New section 58B**

8 *insert*

9 **58B Police officer or authorised person may direct removal of**  
10 **thing covering person's face**

- 11 (1) A police officer or authorised person may direct a person (the  
12 *directed person*) to remove anything that covers all or part of the  
13 person's face to allow the officer or authorised person to—
- 14 (a) identify the directed person in the execution of the officer's or  
15 authorised person's functions under the road transport  
16 legislation; or
- 17 (b) carry out a test or analysis under the *Road Transport (Alcohol*  
18 *and Drugs) Act 1977*, part 2 (Examination of people for  
19 alcohol or drugs).
- 20 (2) Subsection (3) applies if a thing a person is directed to remove is  
21 worn by the person for genuine religious or cultural reasons.
- 22 (3) The directed person may ask the officer or authorised person to  
23 allow the person to remove the thing in either or both of the  
24 following ways:
- 25 (a) in front of a police officer or an authorised person who is the  
26 same sex as the directed person;
- 27 (b) at a place or in a way (or both) that gives the directed person  
28 reasonable privacy to remove the thing.

- 1 (4) If a request is made under subsection (3), the police officer or  
2 authorised person must take reasonable steps to comply with the  
3 request.
- 4 (5) A failure to comply with subsection (4) does not affect—  
5 (a) the validity of a thing done or not done by a police officer or  
6 authorised person under this section; or  
7 (b) the liability of a person under subsection (6).
- 8 (6) A person commits an offence if the person—  
9 (a) is given a direction under subsection (1); and  
10 (b) fails to comply with the direction.  
11 Maximum penalty: 30 penalty units.
- 12 (7) Strict liability applies to subsection (6) (b).
- 13 (8) It is a defence to a prosecution for an offence against subsection (6)  
14 if the defendant proves that the defendant had a medical reason for  
15 not removing the thing covering all or part of the person's face.
- 16 *Note* A defendant has a legal burden in relation to the matters mentioned in  
17 s (8) (see Criminal Code, s 59).

18 **6 New section 61AA**

19 *insert*

20 **61AA Meaning of *first offender* and *repeat offender*—div 4.2**

- 21 (1) A person who is convicted or found guilty of a disqualifying offence  
22 is a ***first offender*** in relation to the offence if the person is not a  
23 repeat offender in relation to the offence.

- 1 (2) A person who is convicted or found guilty of a disqualifying offence  
2 is a *repeat offender* in relation to the offence if—
- 3 (a) the person has been convicted or found guilty of a relevant  
4 offence committed at any time before the disqualifying offence  
5 was committed (whether or not the person had been convicted  
6 or found guilty of the relevant offence when the person  
7 committed the disqualifying offence); or
- 8 (b) the person is convicted or found guilty of 1 or more relevant  
9 offences concurrently with being convicted or found guilty of  
10 the disqualifying offence, and 1 or more of the relevant  
11 offences were committed before the disqualifying offence.
- 12 (3) However, a person who is convicted or found guilty of a  
13 disqualifying offence that was committed before the commencement  
14 of the *Road Transport (General) Amendment Act 2012*, section 6 is  
15 a *repeat offender* in relation to the offence only if—
- 16 (a) the person has been convicted or found guilty of a relevant  
17 offence within 5 years before being convicted or found guilty  
18 of the disqualifying offence; or
- 19 (b) the person is convicted or found guilty of 1 or more relevant  
20 offences concurrently with being convicted or found guilty of  
21 the disqualifying offence, and 1 or more of the relevant  
22 offences were committed before the disqualifying offence.
- 23 (4) Subsection (3) and this subsection expire 5 years after the day this  
24 section commences.
- 25 (5) In this section:
- 26 *disqualifying offence* means—
- 27 (a) for section 62 (Automatic disqualification for culpable  
28 driving)—an offence of culpable driving; or
- 29 (b) for section 63 (Automatic disqualification for certain other  
30 driving offences)—an offence mentioned in section 63 (1).

- 1            **relevant offence** means any of the following:
- 2            (a) an offence of culpable driving;
- 3            (b) an offence against the *Road Transport (Safety and Traffic*  
4            *Management) Act 1999*, section 5A (1) or (5) (which are about  
5            races, attempts on speed records, speed trials etc);
- 6            (c) an offence against the *Road Transport (Safety and Traffic*  
7            *Management) Act 1999*, section 5B (2) or (4) (which are about  
8            burnouts and other prohibited conduct);
- 9            (d) an offence against the *Road Transport (Safety and Traffic*  
10           *Management) Act 1999*, section 6 (1) (which is about negligent  
11           driving) that occasions death or grievous bodily harm (within  
12           the meaning of that section);
- 13           (e) an offence against the *Road Transport (Safety and Traffic*  
14           *Management) Act 1999*, section 7 (1) (which is about furious,  
15           reckless or dangerous driving);
- 16           (f) an offence against the *Road Transport (Safety and Traffic*  
17           *Management) Act 1999*, section 8 (1) or (2) (which are about  
18           menacing driving).
- 19           *Note*    **Found guilty**, of an offence, includes having the offence taken into  
20           account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding  
21           additional offences taken into account in sentencing) (see Legislation  
22           Act, dict, pt 1).

23    **7            Automatic disqualification for culpable driving**  
24    **Section 62 (1)**

25            *after*

26            convicts a person

27            *insert*

28            , or finds a person guilty,



1 **8 Section 62 (5)**

2 *omit*

3 **9 Automatic disqualification for certain other driving**  
4 **offences**  
5 **Section 63 (2)**

6 *after*

7 convicts a person

8 *insert*

9 , or finds a person guilty,

10 **10 Section 63 (5)**

11 *omit*

12 **11 Dictionary, new definitions**

13 *insert*

14 *first offender*, for division 4.2 (Licence suspension, disqualification  
15 and related matters)—see section 61AA.

16 *repeat offender*, for division 4.2 (Licence suspension,  
17 disqualification and related matters)—see section 61AA.

**Schedule 1** Other amendments  
**Part 1.1** Road Transport (Offences) Regulation 2005  
Amendment [1.1]

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1 **Schedule 1** Other amendments  
2 (see s 3)

3 **Part 1.1** Road Transport (Offences) Regulation 2005

4 **[1.1]** Schedule 1, part 1.7, new item 7A

5 *insert*

7A	58B (6)	fail to remove thing covering all or part of face as directed by police officer/authorised person	30		
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1 **Part 1.2** **Road Transport (Safety and**  
2 **Traffic Management) Act 1999**

3 **[1.2] New section 10AA**

4 *in division 2.3, before section 10A, insert*

5 **10AA Meaning of *first offender* and *repeat offender*—div 2.3**

6 (1) A person who is convicted or found guilty of an impounding offence  
7 is a ***first offender*** in relation to the offence if the person is not a  
8 repeat offender in relation to the offence.

9 (2) A person who is convicted or found guilty of an impounding offence  
10 (the ***relevant offence***) is a ***repeat offender*** in relation to the offence  
11 if—

12 (a) the person has been convicted or found guilty of an  
13 impounding offence committed at any time before the relevant  
14 offence was committed (whether or not the person has been  
15 convicted or found guilty of the impounding offence when the  
16 person committed the relevant offence); or

17 (b) the person is convicted or found guilty of 1 or more  
18 impounding offences concurrently with being convicted of the  
19 relevant offence, and 1 or more of the impounding offences  
20 were committed before the relevant offence.

21 (3) However, a person who is convicted or found guilty of an  
22 impounding offence that was committed before the commencement  
23 of the *Road Transport (General) Amendment Act 2012*, section 15  
24 (the ***pre-commencement offence***) is a ***repeat offender*** in relation to  
25 the offence only if—

26 (a) the person has been convicted or found guilty of an  
27 impounding offence within 5 years before being convicted or  
28 found guilty of the pre-commencement offence; or

- 1 (b) the person is convicted or found guilty of 1 or more  
2 impounding offences concurrently with being convicted or  
3 found guilty of the pre-commencement offence, and 1 or more  
4 of the impounding offences were committed before the  
5 pre-commencement offence.
- 6 (4) Subsection (3) and this subsection expire 5 years after the day this  
7 section commences.
- 8 (5) In this section:
- 9 *impounding offence* means an offence against any of the following  
10 sections:
- 11 (a) section 5A (Races, attempts on speed records, speed trials etc);  
12 (b) section 5B (Burnouts and other prohibited conduct);  
13 (c) section 8 (Menacing driving).
- 14 *Note* *Found guilty*, of an offence, includes having the offence taken into  
15 account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding  
16 additional offences taken into account in sentencing) (see Legislation  
17 Act, dict, pt 1).

18 **[1.3] Section 10B (10)**

19 *omit*

20 **[1.4] Section 25 (7)**

21 *omit*

22 **[1.5] Dictionary, new definitions**

23 *insert*

24 *first offender*, for division 2.3 (Seizure, impounding and forfeiture  
25 of vehicles for certain offences)—see section 10AA.

26 *repeat offender*, for division 2.3 (Seizure, impounding and  
27 forfeiture of vehicles for certain offences)—see section 10AA.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 8 December 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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