

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Road Safety)

Road Transport Legislation Amendment Bill 2016

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Road Transport (General) Act 1999	
4	Police officer or authorised person may require people to disclose identity of driver Section 60 (1), penalty	3
5	New section 60A	3

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	Page	
6	Definitions—div 4.2	
	Section 61A, definition of <i>automatic disqualification provision</i> , new paragraph (aa)	5
7	Section 61A, definition of <i>immediate suspension offence</i>	5
8	Section 61A, definition of <i>immediate suspension offence</i> , new paragraph (aa)	5
9	Section 61A, definition of <i>immediate suspension offence</i> , paragraphs (a) to (e)	5
10	Section 61A, definition of <i>immediate suspension offence</i> , new paragraph (g)	6
11	Meaning of <i>first offender</i> and <i>repeat offender</i> —div 4.2	
	Section 61AA (5), definition of <i>relevant offence</i> , new paragraph (aa)	6
12	Section 61AA (5), definition of <i>relevant offence</i> , new paragraph (ca)	6
13	Automatic disqualification for certain other driving offences	
	New section 63 (1) (aa)	7
14	New section 63 (1) (ba)	7
15	Dictionary, definitions of <i>first offender</i> and <i>repeat offender</i>	7
Part 3	Road Transport (Offences) Regulation 2005	
16	Short descriptions, penalties and demerit points	
	Schedule 1, part 1.7, items 7 and 8	9
17	Schedule 1, part 1.12, new item 7A	11
18	Schedule 1, part 1.12, item 9	12
19	Schedule 1, part 1.13, item 72	13
Part 4	Road Transport (Safety and Traffic Management) Act 1999	
20	Offences against Act—application of Criminal Code etc	
	Section 5AA, note 1	14
21	New section 5AB	14
22	New section 5C	16
23	Furious, reckless or dangerous driving	
	Section 7 (1), penalty	16
24	Aggravated offence—furious, reckless or dangerous driving	
	Section 7A (1) (a) (i)	17

	Page	
25	Meaning of <i>first offender</i> and <i>repeat offender</i> —div 2.3 Section 10AA (5), definition of <i>impounding offence</i> , new paragraph (ba)	17
26	Impounding or forfeiture of vehicles on conviction etc for certain offences Section 10B (1)	17
27	Section 10B (6) (a)	18
28	Powers of police officers to issue surrender notices for motor vehicles Section 10BA (1)	18
29	Powers of police officers to seize and impound vehicles used in committing certain offences Section 10C (1) (a)	19
30	Section 10C (3)	19
31	New section 10C (3A) and (3B)	19
32	Section 10C (8), new definition of <i>garage</i>	20
33	Registered operator and interested people to be notified Section 10D (2)	20
34	Keeping of certain vehicles seized or surrendered Section 10E (6), definition of <i>relevant offence</i> , new paragraph (ba)	20
35	Dictionary, definitions of <i>first offender</i> and <i>repeat offender</i>	20
Part 5	Road Transport (Safety and Traffic Management) Regulation 2000	
36	Section 109 heading	22
37	Section 109 (1) and (2)	22

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Road Safety)

Road Transport Legislation Amendment Bill 2016

A Bill for

An Act to amend legislation about road transport

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 2016*.

4 **2 Commencement**

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

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

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • *Road Transport (General) Act 1999*
- 11 • *Road Transport (Offences) Regulation 2005*
- 12 • *Road Transport (Safety and Traffic Management) Act 1999*
- 13 • *Road Transport (Safety and Traffic Management)*
14 *Regulation 2000.*

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

3 **4 Police officer or authorised person may require people to**
4 **disclose identity of driver**
5 **Section 60 (1), penalty**

6 *substitute*

7 Maximum penalty:

- 8 (a) for an offence against the *Road Transport (Safety and Traffic*
9 *Management) Act 1999*, section 5C (Failing to stop motor
10 vehicle for police), for a first offender—100 penalty units,
11 imprisonment for 12 months or both; or
12 (b) for an offence against the *Road Transport (Safety and Traffic*
13 *Management) Act 1999*, section 5C, for a repeat offender—
14 300 penalty units, imprisonment for 3 years or both; or
15 (c) in any other case—20 penalty units.

16 **5 New section 60A**

17 *insert*

18 **60A Meaning of *first offender* and *repeat offender*—s 60**

- 19 (1) A person who is convicted or found guilty of a failing to identify or
20 stop offence is a *first offender* in relation to the offence if the person
21 is not a repeat offender in relation to the offence.

22 *Note* **Found guilty**, of an offence—see the [Legislation Act](#), dictionary, pt 1.

- 1 (2) A person who is convicted or found guilty of a failing to identify or
2 stop offence (the *relevant offence*) is a *repeat offender* in relation to
3 the offence if—
- 4 (a) the person has been convicted or found guilty of a failing to
5 identify or stop offence at any time before the relevant offence
6 was committed (whether or not the person has been convicted
7 or found guilty of the failing to identify or stop offence when
8 the person committed the relevant offence); or
- 9 (b) the person is convicted or found guilty of 1 or more failing to
10 identify or stop offences concurrently with being convicted of
11 the relevant offence, and 1 or more of the identification
12 offences were committed before the relevant offence.
- 13 (3) In this section:
- 14 *failing to identify or stop offence* means—
- 15 (a) an offence against section 60 (1) (which is about requiring
16 people to disclose the identity of a driver), if the requirement is
17 to give information about the driver of a motor vehicle who is
18 alleged to have committed an offence against the *Road*
19 *Transport (Safety and Traffic Management) Act 1999*,
20 section 5C (Failing to stop motor vehicle for police); or
- 21 (b) an offence against the *Road Transport (Safety and Traffic*
22 *Management) Act 1999*, section 5C (which is about failing to
23 stop a motor vehicle when asked or signalled to do so by a
24 police officer).

1 **6** **Definitions—div 4.2**
2 **Section 61A, definition of *automatic disqualification***
3 ***provision, new paragraph (aa)***

4 *before paragraph (a), insert*

5 (aa) section 60 (which is about requiring people to disclose the
6 identity of a driver), if the requirement is to give information
7 about the driver of a motor vehicle who is alleged to have
8 committed an offence against the *Road Transport (Safety and*
9 *Traffic Management) Act 1999*, section 5C (Failing to stop
10 motor vehicle for police);

11 **7** **Section 61A, definition of *immediate suspension offence***

12 *omit*

13 of the *Road Transport (Alcohol and Drugs) Act 1977*

14 **8** **Section 61A, definition of *immediate suspension offence,***
15 ***new paragraph (aa)***

16 *before paragraph (a), insert*

17 (aa) section 60 (Police officer or authorised person may require
18 people to disclose identity of driver), if the requirement is to
19 give information about the driver of a motor vehicle who is
20 alleged to have committed an offence against the *Road*
21 *Transport (Safety and Traffic Management) Act 1999*,
22 section 5C (Failing to stop motor vehicle for police);

23 **9** **Section 61A, definition of *immediate suspension offence,***
24 ***paragraphs (a) to (e)***

25 *before*

26 *section*

27 *insert*

28 *the *Road Transport (Alcohol and Drugs) Act 1977*,*

- 1 **10 Section 61A, definition of *immediate suspension offence*,**
2 **new paragraph (g)**
- 3 *insert*
- 4 (g) the *Road Transport (Safety and Traffic Management)*
5 *Act 1999*, section 5C (Failing to stop motor vehicle for police).
- 6 **11 Meaning of *first offender* and *repeat offender*—div 4.2**
7 **Section 61AA (5), definition of *relevant offence*, new**
8 **paragraph (aa)**
- 9 *insert*
- 10 (aa) an offence against section 60 (which is about requiring people
11 to disclose the identity of a driver), if the requirement is to give
12 information about the driver of a motor vehicle who is alleged
13 to have committed an offence against the *Road Transport*
14 *(Safety and Traffic Management) Act 1999*, section 5C (Failing
15 to stop motor vehicle for police);
- 16 **12 Section 61AA (5), definition of *relevant offence*, new**
17 **paragraph (ca)**
- 18 *insert*
- 19 (ca) an offence against the *Road Transport (Safety and Traffic*
20 *Management) Act 1999*, section 5C (Failing to stop motor
21 vehicle for police);

1 **13 Automatic disqualification for certain other driving**
2 **offences**
3 **New section 63 (1) (aa)**

4 *before paragraph (a), insert*

- 5 (aa) an offence against section 60 (which is about requiring people
6 to disclose the identity of a driver), if the requirement is to give
7 information about the driver of a motor vehicle who is alleged
8 to have committed an offence against the *Road Transport*
9 *(Safety and Traffic Management) Act 1999*, section 5C (Failing
10 to stop motor vehicle for police);

11 **14 New section 63 (1) (ba)**

12 *insert*

- 13 (ba) an offence against the *Road Transport (Safety and Traffic*
14 *Management) Act 1999*, section 5C (which is about failing to
15 stop a motor vehicle when asked or signalled to do so by a
16 police officer);

17 **15 Dictionary, definitions of *first offender* and *repeat***
18 ***offender***

19 *substitute*

20 ***first offender***—

- 21 (a) for section 60 (Police officer or authorised person may require
22 people to disclose identity of driver)—see section 60A; and
23 (b) for division 4.2 (Licence suspension, disqualification and
24 related matters)—see section 61AA.

- 1 *repeat offender*—
- 2 (a) for section 60 (Police officer or authorised person may require
- 3 people to disclose identity of driver)—see section 60A; and
- 4 (b) for division 4.2 (Licence suspension, disqualification and
- 5 related matters)—see section 61AA.

Part 3 Road Transport (Offences) Regulation 2005

16 Short descriptions, penalties and demerit points Schedule 1, part 1.7, items 7 and 8

substitute

7	60 (1) (a)			
7.1	<ul style="list-style-type: none"> for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for first offender 	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person—first offender	100pu/ 12 months prison/both	

Part 3

Road Transport (Offences) Regulation 2005

Section 16

7.2	<ul style="list-style-type: none"> for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for repeat offender 	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person—repeat offender	300pu/ 3 years prison/both		
7.3	<ul style="list-style-type: none"> in any other case 	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person	20	236	
8 8.1	<p>60 (1) (b)</p> <ul style="list-style-type: none"> for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for first offender 	other person not give particulars of driver required by police officer/authorised person—first offender	100pu/ 12 months prison/both		

8.2	<ul style="list-style-type: none"> for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for repeat offender 	other person not give particulars of driver required by police officer/authorised person—repeat offender	300pu/ 3 years prison/both		
8.3	<ul style="list-style-type: none"> in any other case 	other person not give particulars of driver required by police officer/authorised person	20	236	

17 Schedule 1, part 1.12, new item 7A

insert

7A	5C				
7A.1	<ul style="list-style-type: none"> first offender 	fail to stop motor vehicle for police—first offender	100pu/ 12 months prison/both		

Part 3 Road Transport (Offences) Regulation 2005

Section 18

7A.2	<ul style="list-style-type: none">repeat offender	fail to stop motor vehicle for police—repeat offender	300pu/ 3 years prison/both		
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18 Schedule 1, part 1.12, item 9

substitute

9 9.1	7 (1) <ul style="list-style-type: none">first offender, for aggravated offence (fail to stop for police)	aggravated offence (fail to stop for police)—drive furiously/recklessly/at speed dangerous/in way dangerous—first offender	300pu/ 3 years prison/both		
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9.2	repeat offender, for aggravated offence (fail to stop for police)	aggravated offence (fail to stop for police)—drive furiously/ recklessly/at speed dangerous/in way dangerous—repeat offender	500pu/ 5 years prison/both		
9.3	<ul style="list-style-type: none"> for other aggravated offence 	aggravated offence—drive furiously/ recklessly/at speed dangerous/in way dangerous	200pu/ 24 months prison/both		
9.4	<ul style="list-style-type: none"> in any other case 	drive furiously/ recklessly/at speed dangerous/in way dangerous	100pu/ 12 months prison/both		

19 Schedule 1, part 1.13, item 72*omit*

1 **Part 4** **Road Transport (Safety and**
2 **Traffic Management) Act 1999**

3 **20 Offences against Act—application of Criminal Code etc**
4 **Section 5AA, note 1**

5 *insert*

- 6 • s 5C (Failing to stop motor vehicle for police)

7 **21 New section 5AB**

8 *in division 2.1, before section 5A, insert*

9 **5AB Meaning of *first offender* and *repeat offender*—div 2.1**

- 10 (1) A person who is convicted or found guilty of a failing to stop
11 offence is a ***first offender*** in relation to the offence if the person is
12 not a repeat offender in relation to the offence.

13 *Note* ***Found guilty***, of an offence—see the [Legislation Act](#), dictionary, pt 1.

- 14 (2) A person who is convicted or found guilty of a failing to stop
15 offence (the ***relevant offence***) is a ***repeat offender*** in relation to the
16 offence if—

- 17 (a) the person has been convicted or found guilty of a failing to
18 stop offence at any time before the relevant offence was
19 committed (whether or not the person has been convicted or
20 found guilty of the failing to stop offence when the person
21 committed the relevant offence); or
- 22 (b) the person is convicted or found guilty of 1 or more failing to
23 stop offences concurrently with being convicted of the relevant
24 offence, and 1 or more of the failing to stop offences were
25 committed before the relevant offence.

- 1 (3) However, a person who is convicted or found guilty of a failing to
2 stop offence that was committed before the commencement of the
3 *Road Transport Legislation Amendment Act 2016*, section 21 (the
4 ***pre-commencement offence***) is a ***repeat offender*** in relation to the
5 offence only if—
- 6 (a) the person has been convicted or found guilty of a failing to
7 stop offence within 5 years before being convicted or found
8 guilty of the pre-commencement offence; or
- 9 (b) the person is convicted or found guilty of 1 or more failing to
10 stop offences concurrently with being convicted or found
11 guilty of the pre-commencement offence, and 1 or more of the
12 failing to stop offences were committed before the
13 pre-commencement offence.
- 14 (4) Subsection (3) and this subsection expire 5 years after the day this
15 section commences.
- 16 (5) In this section:
- 17 ***failing to stop offence*** means—
- 18 (a) an offence against section 5C (Failing to stop motor vehicle for
19 police); or
- 20 (b) an offence against section 7 (Furious, reckless or dangerous
21 driving) (the ***current offence***) that is an aggravated offence
22 because a circumstance mentioned in section 7A (1) (a) (i)
23 existed at the time of the current offence; or
- 24 (c) an offence against the *Road Transport (General) Act 1999*,
25 section 60 (1) (which is about requiring people to disclose the
26 identity of a driver), if the requirement is to give information
27 about the driver of a motor vehicle who is alleged to have
28 committed an offence against section 5C.

22 **New section 5C**

insert

5C **Failing to stop motor vehicle for police**

A person commits an offence if—

- 5 (a) the person is driving a motor vehicle; and
- 6 (b) a police officer asks or signals the person to stop the motor
7 vehicle; and
- 8 (c) the person fails to comply with the police officer's request or
9 signal as soon as practicable.

10 Maximum penalty:

- 11 (a) for an offence by a first offender—100 penalty units,
12 imprisonment for 12 months or both; or
- 13 (b) for an offence by a repeat offender—300 penalty units,
14 imprisonment for 3 years or both.

15 *Note* Automatic licence disqualification applies to an offence against this
16 section (see [Road Transport \(General\) Act 1999](#), s 63).

23 **Furious, reckless or dangerous driving**
Section 7 (1), penalty

substitute

20 Maximum penalty:

- 21 (a) for an aggravated offence by a first offender in which a
22 circumstance mentioned in section 7A (1) (a) (i) exists—
23 300 penalty units, imprisonment for 3 years or both; or
- 24 (b) for an aggravated offence by a repeat offender in which a
25 circumstance mentioned in section 7A (1) (a) (i) exists—
26 500 penalty units, imprisonment for 5 years or both; or
- 27 (c) for any other aggravated offence—200 penalty units,
28 imprisonment for 2 years or both; or

1 (d) in any other case—100 penalty units, imprisonment for
2 12 months or both.

3 **24 Aggravated offence—furious, reckless or dangerous**
4 **driving**
5 **Section 7A (1) (a) (i)**

6 *substitute*

7 (i) the person failed to comply, as soon as practicable, with a
8 request or signal given by a police officer to stop the
9 motor vehicle;

10 **25 Meaning of *first offender* and *repeat offender*—div 2.3**
11 **Section 10AA (5), definition of *impounding offence*, new**
12 **paragraph (ba)**

13 *insert*

14 (ba) section 5C (Failing to stop motor vehicle for police);

15 **26 Impounding or forfeiture of vehicles on conviction etc for**
16 **certain offences**
17 **Section 10B (1)**

18 *substitute*

19 (1) This section applies if a court convicts a person, or finds a person
20 guilty, of an offence against—

21 (a) section 5A (Races, attempts on speed records, speed trials etc);
22 or

23 (b) section 5B (Improper use of motor vehicle); or

24 (c) section 5C (Failing to stop motor vehicle for police).

- 1 (1A) The motor vehicle used by the person in committing the offence
2 is—
- 3 (a) for a first offender—to be impounded for 3 months, unless the
4 court otherwise orders under subsection (2); or
- 5 (b) for a repeat offender—forfeited to the Territory, unless the
6 court otherwise orders under subsection (2).

7 **27 Section 10B (6) (a)**

8 *after*
9 section 5B
10 *insert*
11 , section 5C

12 **28 Powers of police officers to issue surrender notices for**
13 **motor vehicles**
14 **Section 10BA (1)**

15 *omit everything after*
16 committing
17 *substitute*
18 an offence against—

19 (a) section 5A (Races, attempts on speed records, speed trials etc);
20 or

21 (b) section 5B (Improper use of motor vehicle); or

22 (c) section 5C (Failing to stop motor vehicle for police).

1 **29 Powers of police officers to seize and impound vehicles**
2 **used in committing certain offences**
3 **Section 10C (1) (a)**

4 *omit everything after*

5 offence

6 *substitute*

7 against—

8 (i) section 5A (Races, attempts on speed records, speed trials
9 etc); or

10 (ii) section 5B (Improper use of motor vehicle); or

11 (iii) section 5C (Failing to stop motor vehicle for police); or

12 **30 Section 10C (3)**

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

14 (3) The police officer may seize the motor vehicle from—

15 **31 New section 10C (3A) and (3B)**

16 *insert*

17 (3A) If subsection (1) (a) (iii) applies, the police officer may seize the
18 motor vehicle from a place other than a road or road related area or
19 other public place without the consent of the owner or occupier of
20 the place if the police officer believes on reasonable grounds that the
21 motor vehicle is at the place, but in seizing the vehicle may not—

22 (a) enter any building on the place, other than a garage, shed or
23 other structure where the police officer believes on reasonable
24 grounds that the motor vehicle is located; or

25 (b) remain at the place for longer than is necessary to seize the
26 vehicle or determine that the vehicle is not at the property.

Section 32

- 1 (3B) For subsection (3A) the police officer may use the force that is
2 necessary and reasonable in the circumstances to—
- 3 (a) enter a place or structure where the police officer believes on
4 reasonable grounds the motor vehicle is located; and
- 5 (b) seize the vehicle.

32 Section 10C (8), new definition of *garage*

6 *insert*

7 *garage* includes a garage attached to a residential building.

**33 Registered operator and interested people to be notified
Section 10D (2)**

9 *after*

10 section 5B (Improper use of motor vehicle)

11 *insert*

12 , section 5C (Failing to stop motor vehicle for police)

**34 Keeping of certain vehicles seized or surrendered
Section 10E (6), definition of *relevant offence*, new
paragraph (ba)**

13 *insert*

14 (ba) section 5C (Failing to stop motor vehicle for police); or

**35 Dictionary, definitions of *first offender* and *repeat
offender***

15 *substitute*

16 *first offender*—

17 (a) for division 2.1 (Speeding and other dangerous driving
18 offences)—see section 5AB; and
19
20
21
22
23
24
25

1 (b) for division 2.3 (Seizure, impounding and forfeiture of vehicles
2 for certain offences)—see section 10AA.

3 *repeat offender*—

4 (a) for division 2.1 (Speeding and other dangerous driving
5 offences)—see section 5AB; and

6 (b) for division 2.3 (Seizure, impounding and forfeiture of vehicles
7 for certain offences)—see section 10AA.

1 **Part 5** **Road Transport (Safety and**
2 **Traffic Management)**
3 **Regulation 2000**

4 **36** **Section 109 heading**

5 *substitute*

6 **109** **Additional police powers—removing parked cars**

7 **37** **Section 109 (1) and (2)**

8 *omit*

Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 18 February 2016.

2 **Notification**

Notified under the [Legislation Act](#) on 2016.

3 **Republications of amended laws**

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