



Australian Capital Territory

Road Transport (General) Amendment Act 2012

A2012-7

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Road Transport (General) Amendment Act 2012

A2012-7

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

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

1 Name of Act

This Act is the *Road Transport (General) Amendment Act 2012*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

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

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

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

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

insert

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

5 New section 58B

insert

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

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

- (4) If a request is made under subsection (3), the police officer or authorised person must take reasonable steps to comply with the request.
- (5) A failure to comply with subsection (4) does not affect—
 - (a) the validity of a thing done or not done by a police officer or authorised person under this section; or
 - (b) the liability of a person under subsection (6).
- (6) A person commits an offence if the person—
 - (a) is given a direction under subsection (1); and
 - (b) fails to comply with the direction.
- (7) Strict liability applies to subsection (6) (b).
- (8) It is a defence to a prosecution for an offence against subsection (6) if the defendant proves that the defendant had a medical reason for not removing the thing covering all or part of the person's face.

Note A defendant has a legal burden in relation to the matters mentioned in s (8) (see Criminal Code, s 59).

6 New section 61AA

insert

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

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

- (2) A person who is convicted or found guilty of a disqualifying offence is a *repeat offender* in relation to the offence if—
- (a) the person has been convicted or found guilty of a relevant offence committed at any time before the disqualifying offence was committed (whether or not the person had been convicted or found guilty of the relevant offence when the person committed the disqualifying offence); or
 - (b) the person is convicted or found guilty of 1 or more relevant offences concurrently with being convicted or found guilty of the disqualifying offence, and 1 or more of the relevant offences were committed before the disqualifying offence.
- (3) However, a person who is convicted or found guilty of a disqualifying offence that was committed before the commencement of the *Road Transport (General) Amendment Act 2012*, section 6 is a *repeat offender* in relation to the offence only if—
- (a) the person has been convicted or found guilty of a relevant offence within 5 years before being convicted or found guilty of the disqualifying offence; or
 - (b) the person is convicted or found guilty of 1 or more relevant offences concurrently with being convicted or found guilty of the disqualifying offence, and 1 or more of the relevant offences were committed before the disqualifying offence.
- (4) Subsection (3) and this subsection expire 5 years after the day this section commences.
- (5) In this section:
- disqualifying offence* means—
- (a) for section 62 (Automatic disqualification for culpable driving)—an offence of culpable driving; or
 - (b) for section 63 (Automatic disqualification for certain other driving offences)—an offence mentioned in section 63 (1).

relevant offence means any of the following:

- (a) an offence of culpable driving;
- (b) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5A (1) or (5) (which are about races, attempts on speed records, speed trials etc);
- (c) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5B (2) or (4) (which are about burnouts and other prohibited conduct);
- (d) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1) (which is about negligent driving) that occasions death or grievous bodily harm (within the meaning of that section);
- (e) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 7 (1) (which is about furious, reckless or dangerous driving);
- (f) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 8 (1) or (2) (which are about menacing driving).

Note ***Found guilty***, of an offence, includes having the offence taken into account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding additional offences taken into account in sentencing) (see Legislation Act, dict, pt 1).

7 Automatic disqualification for culpable driving Section 62 (1)

after

convicts a person

insert

, or finds a person guilty,

8 Section 62 (5)

omit

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

after

convicts a person

insert

, or finds a person guilty,

10 Section 63 (5)

omit

11 Dictionary, new definitions

insert

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

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

Schedule 1 Other amendments
Part 1.1 Road Transport (Offences) Regulation 2005

Amendment [1.1]

Schedule 1 Other amendments

(see s 3)

Part 1.1 Road Transport (Offences) Regulation 2005

[1.1] Schedule 1, part 1.7, new item 5A

insert

5A	58B (6)	fail to remove thing covering all or part of face as directed by police officer/authorised person	30		
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Part 1.2 Road Transport (Safety and Traffic Management) Act 1999

[1.2] New section 10AA

in division 2.3, before section 10A, insert

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

- (1) A person who is convicted or found guilty of an impounding offence is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.
- (2) A person who is convicted or found guilty of an impounding offence (the *relevant offence*) is a *repeat offender* in relation to the offence if—
 - (a) the person has been convicted or found guilty of an impounding offence committed at any time before the relevant offence was committed (whether or not the person has been convicted or found guilty of the impounding offence when the person committed the relevant offence); or
 - (b) the person is convicted or found guilty of 1 or more impounding offences concurrently with being convicted of the relevant offence, and 1 or more of the impounding offences were committed before the relevant offence.
- (3) However, a person who is convicted or found guilty of an impounding offence that was committed before the commencement of the *Road Transport (General) Amendment Act 2012*, section 15 (the *pre-commencement offence*) is a *repeat offender* in relation to the offence only if—
 - (a) the person has been convicted or found guilty of an impounding offence within 5 years before being convicted or found guilty of the pre-commencement offence; or

(b) the person is convicted or found guilty of 1 or more impounding offences concurrently with being convicted or found guilty of the pre-commencement offence, and 1 or more of the impounding offences were committed before the pre-commencement offence.

(4) Subsection (3) and this subsection expire 5 years after the day this section commences.

(5) In this section:

impounding offence means an offence against any of the following sections:

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

(b) section 5B (Burnouts and other prohibited conduct);

(c) section 8 (Menacing driving).

Note **Found guilty**, of an offence, includes having the offence taken into account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding additional offences taken into account in sentencing) (see Legislation Act, dict, pt 1).

[1.3] Section 10B (10)

omit

[1.4] Section 25 (7)

omit

[1.5] Dictionary, new definitions

insert

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

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

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 December 2011.

2 Notification

Notified under the Legislation Act on 3 April 2012.

3 Republications of amended laws

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

I certify that the above is a true copy of the Road Transport (General) Amendment Bill 2012, which originated in the Legislative Assembly as the Road Transport (General) Amendment Bill 2011 and was passed by the Assembly on 20 March 2012.

Clerk of the Legislative Assembly

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