

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Road Transport (Alcohol and Drugs) Amendment Bill 2006

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Road Transport (Alcohol and Drugs) Amendment Bill 2006

A Bill for

An Act to amend the *Road Transport (Alcohol and Drugs) Act 1977*

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

1 **1 Name of Act**

2 This Act is the *Road Transport (Alcohol and Drugs) Amendment*
3 *Act 2006*.

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 *Road Transport (Alcohol and Drugs) Act 1977*.

10 **4 Sections 3 and 4**

11 *renumber as sections 2 and 3*

12 **5 New section 4**

13 *insert*

14 **4 Offences against Act—application of Criminal Code etc**

15 Other legislation applies in relation to offences against this Act.

16 *Note 1 Criminal Code*

17 The Criminal Code, ch 2 applies to the following offence against this
18 Act (see Code, pt 2.1):

- 19 • s 15AA (1).

20 The chapter sets out the general principles of criminal responsibility
21 (including burdens of proof and general defences), and defines terms
22 used for offences to which the Code applies (eg *conduct*, *intention*,
23 *recklessness* and *strict liability*).

24 *Note 2 Penalty units*

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

6 Section 6*substitute***6 Approval of operators, analysts and laboratories**

- (1) The chief police officer may authorise a police officer to carry out breath analyses if the officer has—
- (a) undergone a course approved by the Minister as a course for the instruction of police officers in the carrying out of breath analyses; and
 - (b) completed the course to the satisfaction of the chief police officer.
- (2) The Minister may appoint the analysts that the Minister considers necessary for this Act.
- (3) The Minister may approve a laboratory or other entity (however described) as an approved laboratory for this Act.
- (4) An authorisation, appointment or approval under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

7 Section 15AA heading*substitute***15AA Taking blood samples from people in hospital****8 Section 15AA (1)***substitute*

- (1) A person commits an offence if—
- (a) the person is a doctor or nurse; and
 - (b) the person attends to a person (the *patient*) in hospital; and

- 1 (c) the person believes, on reasonable grounds, that—
2 (i) the patient was a driver involved in an accident; and
3 (ii) the accident happened not longer than 6 hours before the
4 patient arrived at the hospital; and
5 (d) the person does not take a sample of the patient's blood for
6 analysis within 2 hours after the time the patient arrives at the
7 hospital.

8 Maximum penalty: 10 penalty units.

9 *Note* Section 17 contains defences to a prosecution for a breach of this
10 section.

11 **9 Analysis of blood samples**
12 **Section 15A (1)**

13 *omit everything after*

14 approved analyst,

15 *substitute*

16 the analyst must arrange for the analysis of the blood at an approved
17 laboratory to work out the concentration of alcohol in the blood.

18 **10 Section 15A (2)**

19 *omit everything before paragraph (b), substitute*

20 (2) If 2 sealed containers of a particular person's blood have been put in
21 a one-way box for collection by an approved analyst, the analyst
22 must—

- 23 (a) arrange the analysis of the blood in 1 of the containers at an
24 approved laboratory to work out the concentration of alcohol in
25 the blood; and

11 Section 15A (3)

omit everything after paragraph (b), substitute

the police officer may ask an analyst to arrange for the analysis of the sample to work out the concentration in the blood of any drug other than alcohol.

**12 Analysis of body samples
Section 16A (1)**

omit

shall analyse it

substitute

must arrange for analysis of the sample at an approved laboratory

13 Section 16A (2) (a)

omit

analyse

substitute

arrange for analysis of

**14 Exemptions from requirements to take blood samples or
carry out examinations
Section 17 (2) (b)**

omit

for a procedure under section 15 or 16—

substitute

for a procedure under section 15 (Taking blood samples from persons in custody), section 15AA (Taking blood samples from people in hospital) or section 16 (Medical examinations)—

1 **15 Prescribed blood alcohol concentration exceeded**
2 **Section 19 (2) (a) and (b)**

3 *substitute*

- 4 (a) an analysis of a sample of the person's breath carried out in
5 accordance with this Act; or
- 6 (b) an analysis of a sample of the person's blood carried out at an
7 approved laboratory and certified accurate by an approved
8 analyst; or
- 9 (c) any other analysis.

10 **16 Certificate of evidence**
11 **Section 41 (1) (h) (ii)**

12 *substitute*

- 13 (ii) that a sample from a sealed container to which was
14 attached a label purporting to be signed by a doctor or
15 nurse named in the certificate, and bearing the name of a
16 person stated in the certificate as the person from whom
17 the sample was taken and the date and time when the
18 sample was taken, was analysed at an approved
19 laboratory; and

20 **17 Section 41 (1) (h) (iv)**

21 *substitute*

- 22 (iv) the result of the analysis; and
- 23 (v) the analysis was accurate;

18 **New part 20***insert***Part 20** **Transitional—Road Transport
(Alcohol and Drugs) Amendment
Act 2006****100** **Meaning of *relevant commencement* for pt 20**

In this part:

relevant commencement means the commencement of the *Road Transport (Alcohol and Drugs) Amendment Act 2006*.**101** **Transitional—sample taken before relevant
commencement**

- (1) This Act as in force immediately before the relevant commencement continues to apply in relation to an analysis of a sample taken before the relevant commencement.
- (2) To remove any doubt, this section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

102 **Transitional—analyst certificates**

- (1) A certificate issued under section 41 (1) (h) before the relevant commencement continues to be evidence of the matters stated in the certificate.
- (2) A certificate may be issued under section 41 (1) (h) as in force immediately before the relevant commencement in relation to a sample if either or both of the following paragraphs apply:
 - (a) the sample was taken before the relevant commencement;

1 (b) the analysis of the sample was carried out, or started, before
2 the relevant commencement.

3 (3) To remove any doubt, this section is a law to which the Legislation
4 Act, section 88 (Repeal does not end effect of transitional laws etc)
5 applies.

6 **103 Expiry—pt 20**

7 This part expires 3 years after the day it commences.

8 **19 Dictionary, new definition of *approved laboratory***

9 *insert*

10 *approved laboratory* means a laboratory or other entity (however
11 described) approved by the Minister under section 6 (3) as an
12 approved laboratory.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

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