

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Road Transport Legislation Amendment Bill 2014

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Road Transport Legislation Amendment Bill 2014

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 2014*.

4 **2 Commencement**

5 (1) This Act (other than section 5) commences on the day after its
6 notification day.

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

9 (2) Section 5 commences on the later of—

10 (a) the commencement of the *Road Transport (Alcohol and*
11 *Drugs) Amendment Act 2014*, section 3; and

12 (b) the day after this Act's notification day.

13 **3 Legislation amended**

14 This Act amends the following legislation:

- 15 • [Road Transport \(Alcohol and Drugs\) Act 1977](#)
16 • [Road Transport \(General\) Act 1999](#)
17 • [Road Transport \(Offences\) Regulation 2005](#)
18 • [Road Transport \(Safety and Traffic Management\) Act 1999](#).

1 **Part 2** **Road Transport (Alcohol and**
2 **Drugs) Act 1977**

3 **4 Permitted use of samples**
4 **Section 18B, new paragraph (d)**

5 *insert*

6 (d) a proceeding for an offence against the *Road Transport (Safety*
7 *and Traffic Management) Act 1999*, section 7 (Furious,
8 reckless or dangerous driving).

1 **Part 3 Road Transport (General)**
2 **Act 1999**

3 **5 Definitions—div 4.2**
4 **Section 61A, definition of *immediate suspension offence***
5 **(or *suspension offence*), new paragraph (ba)**

6 *insert*

7 (ba) section 22C (Refusing to undergo screening test);

8 **6 Automatic disqualification for certain other driving**
9 **offences**
10 **Section 63 (1) (d)**

11 *after*

12 offence

13 *insert*

14 (including an aggravated offence)

15 **7 New section 63 (2A)**

16 *insert*

17 (2A) However, if a court convicts a person, or finds a person guilty, of an
18 aggravated offence mentioned in subsection (1) (d), the person is
19 automatically disqualified from holding or obtaining a driver licence
20 for 12 months or, if the court orders a longer period, the longer
21 period.

Part 4 Road Transport (Offences) Regulation 2005

8 Short descriptions, penalties and demerit points Schedule 1, part 1.12, item 9

substitute

9	7 (1)				
9.1	<ul style="list-style-type: none"> for an aggravated offence 	aggravated offence—drive furiously/recklessly/at speed dangerous/in way dangerous	200 pu/24 months prison/both		
9.2	<ul style="list-style-type: none"> in any other case 	drive furiously/recklessly/at speed dangerous/in way dangerous	100 pu/12 months prison/both		

1 **Part 5** **Road Transport (Safety and**
2 **Traffic Management) Act 1999**

3 **9** **Furious, reckless or dangerous driving**
4 **Section 7 (1), penalty**

5 *substitute*

6 Maximum penalty:

- 7 (a) for an aggravated offence—200 penalty units, imprisonment
8 for 2 years or both; or
9 (b) in any other case—100 penalty units, imprisonment for 1 year
10 or both.

11 **10** **New sections 7A and 7B**

12 *insert*

13 **7A** **Aggravated offence—furious, reckless or dangerous**
14 **driving**

- 15 (1) An offence committed by a person against section 7 (the *current*
16 *offence*) is an *aggravated offence* if—
17 (a) any of the following circumstances existed at the time of the
18 current offence:
19 (i) the person without reasonable excuse, failed to comply
20 with a request or signal given by a police officer to stop
21 the vehicle;
22 (ii) the person was driving with the prescribed concentration
23 of alcohol in their blood or breath;
24 (iii) the person was driving with a prescribed drug in their
25 oral fluid or blood;

-
- 1 (iv) the person was driving while under the influence of
2 intoxicating liquor or of a drug to such an extent as to be
3 incapable of having proper control of the vehicle;
- 4 (v) the person was driving at a speed that exceeded the speed
5 limit by more than 30%;
- 6 (vi) the person was driving in a way that put at risk the safety
7 of a vulnerable road user;
- 8 (vii) the person was driving with a person younger than
9 17 years old in the vehicle; or
- 10 (b) the person is a repeat offender.
- 11 (2) For subsection (1) (a) (ii), evidence may be given of the
12 concentration of alcohol in the person's blood or breath based on—
- 13 (a) for proof of the concentration of alcohol in the person's blood
14 or breath—an analysis of a sample of the person's breath
15 carried out in accordance with the *Road Transport (Alcohol
16 and Drugs) Act 1977*; or
- 17 (b) for proof of the concentration of alcohol in the person's
18 blood—an analysis of the sample of the person's blood carried
19 out at an approved laboratory and certified accurate by an
20 analyst in accordance with the *Road Transport (Alcohol and
21 Drugs) Act 1977*.
- 22 (3) For subsection (1) (a) (iii), evidence may be given that a person has
23 a prescribed drug in the person's oral fluid or blood based on—
- 24 (a) for proof of presence of a prescribed drug in the person's oral
25 fluid—an analysis of a part of a sample of the person's oral
26 fluid under the *Road Transport (Alcohol and Drugs) Act 1977*,
27 section 13G (Oral fluid—confirmatory analysis) that indicates
28 that a prescribed drug is present in the sample; or

- 1 (b) for proof of the presence of a prescribed drug in the person's
2 blood—an analysis of a part of a sample of the person's blood
3 under the *Road Transport (Alcohol and Drugs) Act 1977*,
4 section 15A (Analysis of blood samples) that indicates that a
5 prescribed drug is present in the sample.
- 6 (4) In this section:
- 7 *prescribed concentration*, of alcohol in a person's blood or breath—
8 see the *Road Transport (Alcohol and Drugs) Act 1977*, section 4C.
- 9 *prescribed drug*—see the *Road Transport (Alcohol and Drugs)*
10 *Act 1977*, dictionary.
- 11 *repeat offender*—a person is a *repeat offender* if—
- 12 (a) the person has been convicted or found guilty of an offence
13 against section 7 or the *Crimes Act 1900*, section 29 (Culpable
14 driving of motor vehicle) at any time before the current offence
15 was committed (whether or not the person has been convicted
16 or found guilty of the offence when the person committed the
17 current offence); or
- 18 (b) the person is convicted or found guilty of 1 or more offences
19 against section 7 or the *Crimes Act 1900*, section 29
20 concurrently with being convicted of the current offence, and
21 1 or more of the offences were committed before the current
22 offence.

1 **vulnerable road user** means a road user other than the driver of, or
2 passenger in, an enclosed motor vehicle.

3 **Examples—vulnerable road users**

- 4 1 pedestrians
5 2 cyclists
6 3 motorcyclists
7 4 riders of animals
8 5 users of motorised scooters
9 6 users of segways

10 *Note* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 [Legislation Act](#), s 126 and s 132).

13 **7B Alternative verdicts—furious, reckless or dangerous**
14 **driving—aggravated offence**

- 15 (1) This section applies if, in a prosecution for an aggravated offence
16 against section 7, the trier of fact is satisfied beyond reasonable
17 doubt that the defendant committed an offence against section 7 but
18 is not satisfied that the defendant committed the aggravated offence.
- 19 (2) The trier of fact may find the defendant guilty of an offence against
20 section 7 but not guilty of the aggravated offence charged, but only
21 if the defendant has been given procedural fairness in relation to that
22 finding of guilt.

23 **11 Dictionary, new definitions**

24 *insert*

25 **aggravated offence**, against section 7 (Furious, reckless or
26 dangerous driving)—see section 7A.

27 **road user**—see the [Australian Road Rules](#), rule 14.

28 *Note* The [Australian Road Rules](#) are accessible at
29 www.legislation.act.gov.au.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 May 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

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

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