

1997  
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY

**Motor Traffic (Alcohol and Drugs) (Amendment) Bill 1997**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of  
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Minister for Urban Services**



ACT GOVERNMENT

## **Motor Traffic (Alcohol and Drugs) (Amendment) Bill 1997**

### **OUTLINE**

The objective of this Bill is to amend the *Motor Traffic (Alcohol and Drugs) Act 1977* to implement a range of measures to reform the law concerning penalties for drink-driving offences, the cancellation of licences, the disqualification of a driver and the grant of special licences. The reforms are intended to be consistent with changes made to the *Motor Traffic Act 1936*

### **Revenue Cost Implications**

The measures in this Bill and related amendments to the *Motor Traffic Act 1936* are expected to result in a decrease in fines collected in the order of \$100,000 pa.

## DETAILS OF THE BILL

### **PART I—PRELIMINARY**

**Formal provisions** Section 1, 2 and 3 provide for formal provisions for the short title, commencement and the definition of the principal act, the *Motor Traffic (Alcohol and Drugs) Act 1977*

### **PART II—AMENDMENTS OF PRINCIPAL ACT**

**Interpretation** This is a formal provision. A definition of "special driver" has been inserted to identify those drivers limited to a prescribed concentration of .02 grams of alcohol per 100 millilitres of blood. This includes unlicensed drivers and special licence holders.

**Detention for breath analysis**

This amendment simplifies the existing provision utilising the definition of "special driver".

**Prescribed blood alcohol concentration exceeded**

This amendment deletes the existing penalty for exceeding the prescribed blood alcohol concentration. The penalty is to be ascertained by reference to the new section 26

**Interpretation**

This is a formal provision. New definitions have been inserted for "disqualifying offence", "driving licence" and "repeat offender".

**Substitution - new s.26: Fines and Imprisonment**

The option previously available of allowing the lesser penalty of a traffic infringement notice to be issued in section 26A has been repealed. Section 28, which dealt with the imposition of a sentence of imprisonment, has also been repealed

A new penalty provision has been introduced. The provision imposes a graduated series of maximum financial and imprisonment penalties which increase in severity depending on the blood alcohol concentration and whether the offender is a repeat offender

**Conditional release of convicted person**

This amendment allows a court to allow a person to undergo an alcohol rehabilitation program approved by the Minister. The provision will allow the Courts the option to send a person to a program at the offenders expense instead of imposing a fine

**Substitution - Cancellation and Disqualification**

This amendment deletes existing provisions dealing with cancellation or suspension of a licence and disqualification from driving. These provisions are replaced by a series of provisions which impose a graduated series of default periods of disqualification which increase in severity depending on the blood alcohol concentration and whether the offender is a repeat offender. The court's discretion to depart from the default periods of disqualification are expressly limited by the introduction of minimum periods of disqualification.

The new sections provide for the time at which the disqualification is to take effect, notice to the Registrar of Motor Vehicles, and the effect of a finding on an existing special licence.

**Certificate evidence** This provision facilitates evidence of whether a person is not entitled to drive a motor vehicle.

**Oral evidence concerning s.41 certificate**

A reference to the offence of culpable driving has been deleted from the principal act.

**Substitution - Rehabilitation Programs**

The existing provision dealing with referral centres has been replaced by new provisions allowing the Minister to approve a program of therapy or education and permitting conditions to be imposed on such programs. Review of the exercise of the Minister's discretion by the AAT is provided.

**Right of arrested person to medical examination**

This provision increases the number of instances in which a police officer must advise an arrested person of their right to a medical examination.

**Repeal**

This amendment repeals section 48 which provided for charges for a number of offences

***PART III—TRANSITIONAL***

This part makes transitional provision in relation to existing suspensions, disqualifications and special licences.