

Western Australia

Road Traffic Amendment Act (No. 2) 2007

As at 21 Dec 2007

No. 39 of 2007

Extract from www.slp.wa.gov.au, see that website for further information

Road Traffic Amendment Act (No. 2) 2007

CONTENTS

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Road Traffic Act 1974</i> amended		
Division 1 — Act amended		
3.	The Act amended in this Part	4
Division 2 — Amendments relating to breath analysis		
Subdivision 1 — Amendments not based on <i>Road Traffic Amendment Act 2006</i> having commenced		
4.	Section 59B amended	4
5.	Section 63 amended	4
6.	Section 64 amended	5
7.	Section 64AA amended	6
8.	Section 64A amended	7
9.	Section 65 amended	7
10.	Section 65A inserted	8
	65A. Using breath sample to find blood alcohol content	8
11.	Section 66 amended	9
12.	Section 68 amended	9
13.	Section 69 amended	10
14.	Section 71 amended	10

Contents

15.	Section 72 amended	11
16.	Section 98A amended	11
	Subdivision 2 — Amendments depending on Road Traffic Amendment Act 2006	
17.	Section 64AA amended	12
18.	Section 67 amended	12
	Division 3 — Amendments about driving incidents	
	Subdivision 1 — Amendments not based on Road Traffic Amendment Act 2006 having commenced	
19.	Division 1A inserted in Part V	12
	Division 1A — Terms used in this Part	
	49AA. Meanings of “bodily harm” and “grievous bodily harm”	12
20.	Sections 54, 55 and 56 replaced	13
	54. Bodily harm: duty to stop and give information and assistance	13
	55. Damage to property: duty to stop and give information	14
	56. Duty to report incidents involving bodily harm or damage to property	15
21.	Section 57 amended	17
22.	Section 59 amended	17
23.	Section 59A amended	18
24.	Section 73 amended	18
	Subdivision 2 — Amendments depending on Road Traffic Amendment Act 2006	
25.	Section 50 amended	18
	Division 4 — Amendments about graduated demerit point system for novice drivers	
26.	Section 104 amended	18
27.	Section 104IA inserted	20
	104IA. Excessive demerit points (novice driver) notice	20
28.	Section 104J amended	21
29.	Section 104O amended	21
30.	Section 104R amended	22
	Division 5 — Amendments about zero blood alcohol content for novice drivers	
31.	Section 63 amended	22

32.	Section 64 amended	22
33.	Section 64AA amended	23
34.	Section 64A amended	23
35.	Section 64AAA inserted	23
	64AAA. Novice driver driving with any blood alcohol content	23
36.	Section 66 amended	24
37.	Section 70 amended	24
38.	Section 71B amended	24
39.	Section 98 amended	24
	Division 6 — Other amendment	
40.	Section 111 amended	25
	Part 3 — <i>Young Offenders Act 1994</i> amended	
41.	The Act amended in this Part	26
42.	Schedule 1 amended	26



Western Australia

Road Traffic Amendment Act (No. 2) 2007

No. 39 of 2007

An Act to amend the *Road Traffic Act 1974* and in consequence to amend the *Young Offenders Act 1994*.

[Assented to 21 December 2007]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Road Traffic Amendment Act (No. 2) 2007*.

2. Commencement

This Act comes into operation as follows:

- (a) Part 1 — on the day on which this Act receives the Royal Assent (“**assent day**”);
- (b) Part 2 other than sections 6(2)(b)(ii), 17, 18 and 25 and Divisions 4, 5 and 6 — on a day fixed by proclamation;
- (c) section 6(2)(b)(ii) — on the day fixed under paragraph (b), except that it does not have effect at all if the *Road Traffic Amendment Act 2006* section 15(a) comes into operation first;
- (d) section 17 —
 - (i) on the day fixed under paragraph (b); or
 - (ii) if the day on which the *Road Traffic Amendment Act 2006* section 16 comes into operation is later — immediately after that section comes into operation;
- (e) section 18 —
 - (i) on the day fixed under paragraph (b); or
 - (ii) if the day on which the *Road Traffic Amendment Act 2006* section 18(1) comes into operation is later — immediately after that subsection comes into operation;
- (f) section 25 —
 - (i) on the day fixed under paragraph (b); or
 - (ii) if the day on which the *Road Traffic Amendment Act 2006* section 9(c) comes into operation is later — immediately after that provision comes into operation;

- (g) Part 2 Division 4 — on a day fixed by proclamation, being a day that is after the day on which the *Road Traffic Amendment Act 2006* section 31 comes into operation, and different days may be fixed for different provisions;
- (h) Part 2 Division 5 other than section 38 — on a day fixed by proclamation, being a day that is after section 9 and the *Road Traffic Amendment Act 2006* sections 17 and 31 have all come into operation;
- (i) section 38 —
 - (i) when the rest of Part 2 Division 5 comes into operation; or
 - (ii) if the day on which the *Road Traffic Amendment (Drugs) Act 2007* section 16 comes into operation is later — immediately after that section comes into operation;
- (j) Part 2 Division 6 — on the day after assent day;
- (k) Part 3 — on the day fixed under paragraph (b).

Part 2 — Road Traffic Act 1974 amended

Division 1 — Act amended

3. The Act amended in this Part

The amendments in this Part are to the *Road Traffic Act 1974**.

[* *Reprint 9 as at 10 March 2006.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2006, Table 1, and Acts
Nos. 77 of 2006 and 4 of 2007.]*

Division 2 — Amendments relating to breath analysis

Subdivision 1 — Amendments not based on *Road Traffic Amendment Act 2006* having commenced

4. Section 59B amended

Section 59B(5) is amended by deleting “percentage of alcohol in his blood of or exceeding 0.15%” and inserting instead —

“

blood alcohol content of or above 0.15g of alcohol per
100ml of blood

”.

5. Section 63 amended

Section 63(5) is amended by deleting “percentage of alcohol in his blood of or exceeding 0.15%” and inserting instead —

“

blood alcohol content of or above 0.15g of alcohol per
100ml of blood

”.

6. Section 64 amended

- (1) Section 64(1) is amended by deleting “the percentage of alcohol in his blood equals or exceeds 0.08%,” and inserting instead —
“
 having a blood alcohol content of or above 0.08g of alcohol per 100ml of blood
”.

- (2) The Table to section 64(2) is amended as follows:

- (a) by deleting the heading to the first column and inserting instead —

“

**Blood alcohol content
(g/100ml)**

”;

- (b) in the first column —

- (i) by deleting “%” in each place where it occurs;
(ii) by deleting “but <0.15”.

- (3) The note at the end of the Table to section 64(2) is amended by deleting “greater than or equal to” and inserting instead —

“ of or above ”.

- (4) Section 64(2a) is amended by deleting “percentage of alcohol in the blood” and inserting instead —

“ blood alcohol content ”.

Note: The heading to section 64 is to read “**Driving with blood alcohol content of or above 0.08**”.

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 2 Amendments relating to breath analysis

s. 7

7. Section 64AA amended

- (1) Section 64AA(1) is amended by deleting “the percentage of alcohol in his blood equals or exceeds 0.05%” and inserting instead —

“

having a blood alcohol content of or above 0.05g of alcohol per 100ml of blood

”.

- (2) The Table to section 64AA(2a) is amended as follows:

- (a) by deleting the heading to the first column and inserting instead —

“

**Blood alcohol content
(g/100ml)**

”;

- (b) in the first column —

- (i) by deleting “%” in each place where it occurs;
(ii) by deleting “but <0.08”.

- (3) The note at the end of the Table to section 64AA(2a) is amended by deleting “greater than or equal to” and inserting instead —

“ of or above ”.

Note: The heading to section 64AA is to read “**Driving with blood alcohol content of or above 0.05**”.

8. Section 64A amended

Section 64A(1) is amended by deleting “the percentage of alcohol in his blood equals or exceeds 0.02%” and inserting instead —

“
 having a blood alcohol content of or above 0.02g of alcohol per 100ml of blood
”.

Note: The heading to section 64A is to read “**Certain persons driving with blood alcohol content of or above 0.02**”.

9. Section 65 amended

Section 65 is amended as follows:

- (a) in the definition of “analyst”, by deleting “percentage” and inserting instead —

“ concentration ”;

- (b) in the definition of “breath analysing equipment”, by deleting “ascertaining the percentage of alcohol present in a person’s blood,” and inserting instead —

“
 the purpose of ascertaining a person’s blood alcohol content
”;

- (c) by deleting the definition of “percentage of alcohol” and inserting in the appropriate alphabetical position —

“
 “**blood alcohol content**” means the concentration of alcohol in a person’s blood, expressed in grams of alcohol per 100ml of blood;
”;

- (d) in the definition of “preliminary test”, by deleting “the percentage of alcohol in the blood of the person or an indication as to whether or not the percentage of alcohol

in the blood of a person equals or exceeds a predetermined percentage” and inserting instead —

“

a person’s blood alcohol content or an indication of whether or not a person’s blood alcohol content is of or above a predetermined level

”.

10. Section 65A inserted

After section 65 the following section is inserted —

“

65A. Using breath sample to find blood alcohol content

- (1) For the purposes of section 59B(5) and sections 63 to 73, inclusive, if the concentration of alcohol in a person’s breath is a particular number of grams of alcohol per 210 litres of breath the person’s blood alcohol content is to be regarded as being that number of grams of alcohol per 100ml of blood.
- (2) For the purposes of section 72(2)(a) and the definition of “breath analysing equipment” in section 65, apparatus is to be regarded as being for the purpose of ascertaining a person’s blood alcohol content by analysis of a sample of the person’s breath whether the apparatus gives the blood alcohol content directly as the analysis result or enables it to be derived under subsection (1).
- (3) For the purposes of the definition of “preliminary test” in section 65, apparatus is to be regarded as being for the purpose of providing an indication of the kind mentioned in that definition whether the apparatus gives the indication directly or enables it to be derived under subsection (1).

”.

11. Section 66 amended

- (1) Section 66(2)(a)(i) is amended by deleting “percentage of alcohol in the blood of the person equals or exceeds 0.05% of alcohol” and inserting instead —

“

person has a blood alcohol content of or
above 0.05g of alcohol per 100ml of
blood

”.

- (2) Section 66(11)(b) is amended by deleting “percentage of alcohol present in the blood of the person” and inserting instead —

“ person’s blood alcohol content ”.

12. Section 68 amended

- (1) Section 68(4)(a) is amended as follows:

- (a) by inserting after “analysis result and” —

“

the person’s blood alcohol content given by or
derived under section 65A from the analysis
result

”;

- (b) by deleting “percentage of alcohol present in the blood of the person” and inserting instead —

“ person’s blood alcohol content ”.

- (2) Section 68(8) is amended as follows:

- (a) by inserting after “analysis result and” —

“

the person’s blood alcohol content given by or derived
under section 65A from the analysis result

”;

- (b) by deleting “percentage of alcohol present in the blood of the person” and inserting instead —
“ person’s blood alcohol content ”.

13. Section 69 amended

Section 69(2) is amended as follows:

- (a) by deleting “percentage of alcohol found by the analyst to be present in” and inserting instead —
“ blood alcohol content of ”;
- (b) by deleting “percentage of alcohol present in the blood of the person” and inserting instead —
“ person’s blood alcohol content ”.

14. Section 71 amended

- (1) Section 71(1) is repealed and the following subsection is inserted instead —

“

- (1) In any proceeding such as is mentioned in section 70(1) a person’s blood alcohol content at any time which is or may be material in the proceeding (the “**material time**”) shall be calculated having regard to —
 - (a) the time of the person’s last drink containing alcohol taken at or before the material time; and
 - (b) the material time; and
 - (c) the time at which the sample of the person’s breath or blood was provided or taken for analysis (the “**time of sampling**”); and
 - (d) the person’s blood alcohol content at the time of sampling,

so as to give effect to the presumption that after a person’s latest drink containing alcohol the person’s blood alcohol content increases at the rate of 0.016g of alcohol per 100ml of blood per hour for a period of

2 hours and, after that period, decreases at the rate of
0.016g of alcohol per 100ml of blood per hour.

”.

- (2) Section 71(4) is amended by deleting “percentage” and inserting instead —

“ concentration ”.

Note: The heading to section 71 is to read “**Determination of blood alcohol content at material time**”.

15. Section 72 amended

- (1) Section 72(2) is amended by deleting paragraph (a) and “and” after it and inserting instead —

“

- (a) types of apparatus for the purpose of
ascertaining a person’s blood alcohol content
by analysis of a sample of the person’s breath;
and

”.

- (2) Section 72(3)(a) is amended by deleting “percentage” and inserting instead —

“ concentration ”.

16. Section 98A amended

Section 98A is amended as follows:

- (a) in subsection (2), by inserting before “ascertaining” —

“ the purpose of ”;

- (b) in subsection (2a), by inserting before “ascertaining” —

“ the purpose of ”.

Subdivision 2 — Amendments depending on *Road Traffic Amendment Act 2006*

17. Section 64AA amended

Section 64AA(2b) is amended by deleting “percentage of alcohol in the blood” and inserting instead —

“ blood alcohol content ”.

18. Section 67 amended

Section 67(3)(a)(i) is amended by deleting “relevant percentage of alcohol in the person’s blood exceeded 0.14%” in both places where it occurs and inserting instead —

“

person’s blood alcohol content were
above 0.14g of alcohol per 100ml of
blood

”.

Division 3 — Amendments about driving incidents

Subdivision 1 — Amendments not based on *Road Traffic Amendment Act 2006* having commenced

19. Division 1A inserted in Part V

After the heading to Part V the following Division is inserted —

“

Division 1A — Terms used in this Part

49AA. Meanings of “bodily harm” and “grievous bodily harm”

In this Part —

“**bodily harm**” has the meaning given in *The Criminal Code* section 1(1);

“grievous bodily harm” has the meaning given in
The Criminal Code section 1(1).

”.

20. Sections 54, 55 and 56 replaced

Sections 54, 55 and 56 are repealed and the following sections are inserted instead —

“

54. Bodily harm: duty to stop and give information and assistance

- (1) If a vehicle driven by a person (the **“driver”**) is involved in an incident occasioning bodily harm to another person, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsections (2) and (6).
- (2) If a vehicle driven by a person (the **“driver”**) is involved in an incident occasioning bodily harm to another person (a **“victim”**), the driver must ensure that each victim receives all the assistance, including medical aid, that is necessary and practicable in the circumstances.
- (3) A person who contravenes subsection (1) or (2) commits a crime.

Penalty: imprisonment for —

- (a) 20 years, if the incident occasioned death;
- (b) 14 years, if the incident occasioned grievous bodily harm but not death;
- (c) 10 years, in any other case.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years.

- (4) If in the opinion of the court an offence under subsection (3) is of a sufficiently serious nature the court may make an order disqualifying the offender

from holding or obtaining a driver's licence for such period as it thinks fit.

- (5) It is a defence to a charge of an offence under subsection (3) for the accused to prove that the accused was not aware of the occurrence of the incident.
- (6) If a vehicle driven by a person (the “**driver**”) is involved in an incident occasioning bodily harm to another person (a “**victim**”), the driver must, if required to do so by a victim, a representative of a victim, or a member of the Police Force, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle.
Penalty: a fine of 30 PU.
- (7) It is a defence to a charge of an offence under subsection (3) or (6) for the accused to prove that the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident.

55. Damage to property: duty to stop and give information

- (1) If a vehicle driven by a person (the “**driver**”) is involved in an incident in which any property is damaged, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsection (4).
Penalty: a fine of 30 PU.
- (2) If in the opinion of the court an offence under subsection (1) is of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.

- (3) It is a defence to a charge of an offence under subsection (1) for the accused to prove that the accused was not aware of the occurrence of the incident.
- (4) If a vehicle driven by a person (the “**driver**”) is involved in an incident in which any property is damaged, the driver must, if required to do so by a person whose property was damaged in the incident or a representative of that person or a member of the Police Force, give the driver’s name and address and, if known to the driver, the name and address of a responsible person for the vehicle.
Penalty: a fine of 30 PU.
- (5) It is a defence to a charge of an offence under subsection (1) or (4) for the accused to prove that the accused could not comply with a requirement in that subsection because of an injury suffered by the accused in the incident.

56. Duty to report incidents involving bodily harm or damage to property

- (1) If a vehicle driven by a person (the “**driver**”) is involved in an incident occasioning bodily harm to another person, the driver must report the incident forthwith to the officer in charge of a police station.
- (2) If a person contravenes subsection (1) and the incident occasioned death or grievous bodily harm, the person commits a crime.

Penalty: imprisonment for 10 years and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver’s licence for a period of not less than 12 months.

Summary conviction penalty: imprisonment for 12 months and in any event the court convicting

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 3 Amendments about driving incidents

s. 20

the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (3) If a person contravenes subsection (1) and the incident did not occasion death or grievous bodily harm, the person commits an offence.

Penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (4) If a vehicle driven by a person (the “**driver**”) is involved in an incident in which any property is damaged the driver must report the incident forthwith to the officer in charge of a police station.

Penalty:

- (a) for a first offence, a fine of 8 PU;
- (b) for a subsequent offence, a fine of 16 PU.

- (5) It is a defence to a charge of an offence under subsection (2), (3) or (4) for the accused to prove that —

- (a) the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident; or
- (b) a member of the Police Force attended at the scene of the incident and took the necessary particulars of the incident.

- (6) It is a defence to a charge of an offence under subsection (4) for the accused to prove —

- (a) that the accused had reasonable cause for believing that the total value of the damage did

not exceed the amount prescribed for the purposes of this subsection; and

- (b) that the owner, in each case, of any property damaged was present or represented at the place where and at the time when, or immediately after, the incident occurred.

”.

21. Section 57 amended

- (1) Section 57(1) is amended by deleting the penalty clause.
- (2) Section 57(2) is repealed and the following is inserted instead —

“

- (2) A person who is required under subsection (1) by a member of the Police Force to give information must not in response to the request give false information.

Penalty: applicable to subsections (1) and (2), a fine of 60 PU or imprisonment for 12 months.

”.

22. Section 59 amended

- (1) Section 59(1) is amended in the penalty clause by deleting “18 months” and inserting instead —

“ 3 years ”.

- (2) Section 59(2) is amended as follows:

- (a) by inserting at the end of paragraph (b) —
“ and ”;
- (b) by deleting “; and” at the end of paragraph (c) and inserting instead a full stop;
- (c) by deleting paragraph (d).

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 4 Amendments about graduated demerit point system for novice drivers

s. 23

(3) Section 59(3)(b) is amended by deleting “4 years” and inserting instead —

“ 10 years ”.

23. Section 59A amended

Section 59A(2) is amended as follows:

- (a) by deleting the semicolon at the end of paragraph (b) and inserting instead a full stop;
- (b) by deleting paragraph (c).

24. Section 73 amended

Section 73 is amended by inserting after “sections” —

“ 54, 55 and 56 and in sections ”.

Subdivision 2 — Amendments depending on *Road Traffic Amendment Act 2006*

25. Section 50 amended

Section 50 is amended by deleting “with whom the holder is authorised to drive under section 43(2)” and inserting instead —

“
under whose instruction the permit authorises the holder to drive
”.

Division 4 — Amendments about graduated demerit point system for novice drivers

26. Section 104 amended

Section 104 is amended as follows:

- (a) by inserting before “In this Part” at the beginning of the section the subsection designation “(1)”;

- (b) by inserting in their appropriate alphabetical positions —

“

“excessive demerit points (novice driver) notice”

means an excessive demerit points (novice driver) notice under section 104IA(2);

“novice driver” has the meaning given in subsection (2);

“novice driver (type 1)” means a novice driver who is not a novice driver (type 2);

“novice driver (type 2)” means a novice driver who has, for a period of at least 1 year or periods adding up to at least 1 year, held —

- (a) an Australian driver licence; or
- (b) a licence or other authorisation granted to the person by an external licensing authority authorising the person to drive a motor vehicle other than solely for the purpose of learning to drive it;

”;

- (c) by inserting at the end of the section the following subsections —

“

(2) For the purposes of this Part a person is a novice driver unless the person has, for a period of at least 2 years or periods adding up to at least 2 years, held —

- (a) an Australian driver licence; or
- (b) a licence or other authorisation granted to the person by an external licensing authority authorising the person to drive a motor vehicle other than solely for the purpose of learning to drive it.

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 4 Amendments about graduated demerit point system for novice drivers

s. 27

- (3) When deciding whether a person is a novice driver, or which type of novice driver a person is, a period for which the person held an Australian driver licence or other authorisation is to be regarded as not including any period for which the person, although holding an Australian driver licence or other authorisation, was excluded by law from driving under that authorisation.

”.

27. Section 104IA inserted

After section 104I the following section is inserted —

“

104IA. Excessive demerit points (novice driver) notice

- (1) In this section —

“**post-commencement demerit points**” means current demerit points other than those recorded for an offence committed before the day on which the *Road Traffic Amendment Act (No. 2) 2007* section 27 comes into operation.

- (2) If the number of post-commencement demerit points recorded in the demerit points register against a novice driver (type 1) reaches at least 4, or against a novice driver (type 2) reaches at least 8, the Director General is to give the novice driver, in accordance with section 104R, an excessive demerit points (novice driver) notice stating —
- (a) the day on which that number of post-commencement demerit points was reached; and
 - (b) the number of post-commencement demerit points reached on that day; and
 - (c) that the period of disqualification is 3 months; and

- (d) that the period of disqualification will commence on the day after the notice is given or a later day specified in the notice.
- (3) Post-commencement demerit points recorded against the person in the demerit points register on or before the day on which, according to the notice, the stated number of demerit points was reached are cancelled.
- (4) The person to whom the notice is given is disqualified from holding or obtaining a driver's licence for the period of 3 months specified in the notice.
- (5) Nothing in this section prevents the day on which the period of disqualification commences from being postponed under section 104M.
- (6) Regulations referred to in section 104O(7) may provide for all or some of the post-commencement demerit points cancelled under subsection (3) to be again recorded against the person.
- (7) Nothing in this section prevents section 104I from applying to a novice driver.

”.

28. Section 104J amended

Section 104J(2) is amended by deleting the full stop at the end of the subsection and inserting instead —

“ and must not be a novice driver. ”.

29. Section 104O amended

(1) Section 104O(2) is amended as follows:

(a) before paragraph (e), by inserting —

“

(da) the day on which an excessive demerit points (novice driver) notice was given, and the

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 5 Amendments about zero blood alcohol content for novice drivers

s. 30

number of demerit points and period of disqualification stated in it; and

”;

(b) after each of paragraphs (a) to (f), by inserting —
“ and ”.

(2) Section 104O(4) is amended by inserting after paragraph (a) —
“ or ”.

30. Section 104R amended

Section 104R(1) is amended by inserting before paragraph (b) —

“

(aa) an excessive demerit points (novice driver) notice; or

”.

Division 5 — Amendments about zero blood alcohol content for novice drivers

31. Section 63 amended

Section 63(6) is amended as follows:

(a) by inserting before “applied” —
“ or 64AAA ”;

(b) by inserting before the full stop —
“ or 64AAA ”.

32. Section 64 amended

Section 64(4) is amended as follows:

(a) by inserting before “applied” —
“ or 64AAA ”;

(b) by inserting before the full stop —

“ or 64AAA ”.

33. Section 64AA amended

Section 64AA(3) is amended as follows:

- (a) by inserting before “where” —
“ or 64AAA ”;
- (b) by inserting before “applied” —
“ or 64AAA ”.

34. Section 64A amended

After section 64A(3) the following subsection is inserted —

“

- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64AAA where, at the time of the alleged offence, the person charged was a person to whom that section applied.

”.

35. Section 64AAA inserted

After section 64A the following section is inserted —

“

64AAA. Novice driver driving with any blood alcohol content

- (1) A person who, being a novice driver, drives or attempts to drive a motor vehicle while having any blood alcohol content commits an offence.

Penalty: Not less than 2 PU or more than 6 PU.

- (2) In subsection (1) —
“**novice driver**” has the same meaning as it has in section 104(2).

Road Traffic Amendment Act (No. 2) 2007

Part 2 Road Traffic Act 1974 amended

Division 5 Amendments about zero blood alcohol content for novice drivers

s. 36

- (3) It is a defence to a charge of an offence under subsection (1) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following:
- (a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);
 - (b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

”.

36. Section 66 amended

Section 66(2)(a)(ii) is amended by inserting before “applies” —
“ or 64AAA ”.

37. Section 70 amended

Section 70(1) is amended by deleting “or 64A,” and inserting instead —
“ , 64A or 64AAA, ”.

38. Section 71B amended

Section 71B(1) is amended by inserting after “64A” —
“ , 64AAA ”.

39. Section 98 amended

Section 98(1a) is amended by deleting “64A” and inserting instead —
“ 64A(1) or 64AAA ”.

Division 6 — Other amendment

40. Section 111 amended

Section 111 is amended by inserting after subsection (2b) the following subsection —

“

- (2c) The regulations may make it an offence to contravene a condition imposed by or under the regulations, but this subsection does not limit the other consequences that the regulations may attach to a contravention.

”.

Part 3 — *Young Offenders Act 1994* amended

41. The Act amended in this Part

The amendments in this Part are to the *Young Offenders Act 1994**.

[* *Reprint 3 as at 15 July 2005.*

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 65 of 2006.]

42. Schedule 1 amended

Schedule 1 is amended under the heading for provisions of the *Road Traffic Act 1974* as follows:

- (a) in the description of an offence under section 64, by deleting “0.08%” and inserting instead —
“ 0.08g/100ml ”;
- (b) in the description of an offence under section 64AA, by deleting “0.05%” and inserting instead —
“ 0.05g/100ml ”;
- (c) in the description of an offence under section 64A, by deleting “0.02%” and inserting instead —
“ 0.02g/100ml ”.