



Western Australia

Road Traffic Amendment (Blood Alcohol Content) Act 2019

As at 15 Aug 2019

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Road Traffic Amendment (Blood Alcohol Content) Act 2019

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Western Australia

Road Traffic Amendment (Blood Alcohol Content) Act 2019

No. 20 of 2019

An Act to amend the *Road Traffic Act 1974* to remove the back calculation of blood alcohol content and to make minor amendments to —

- **the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015*; and**
- **the *Road Traffic Legislation Amendment Act 2016*.**

[Assented to 15 August 2019]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Road Traffic Amendment (Blood Alcohol Content) Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the 28th day after that day.

Part 2 — Road Traffic Act 1974 amended

3. Act amended

This Part amends the *Road Traffic Act 1974*.

4. Section 71 replaced

Delete section 71 and insert:

71. Evidence of blood alcohol content for offences against s. 62B, 63, 64, 64AA, 64A and 64AAA

- (1) In any proceeding for an offence against section 62B the instructor is, in the absence of proof to the contrary, taken to have a particular blood alcohol content at the time of the driving instruction if it is proved that the instructor had the blood alcohol content —
 - (a) in the case where the sample was taken under section 66(8B), at any time within 12 hours after the time that the instructor was providing the instruction; or
 - (b) in any other case, at any time within 4 hours after the time that the instructor was providing the instruction.
- (2) In any proceeding for an offence against section 63, 64, 64AA, 64A or 64AAA the person charged is, in the absence of proof to the contrary, taken to have a particular blood alcohol content at the time of the driving or attempted driving if it is proved that the person had the blood alcohol content —
 - (a) in the case where the sample was taken under section 66(8B), at any time within 12 hours after the driving or attempted driving; or
 - (b) in any other case, at any time within 4 hours after the driving or attempted driving.

5. Section 110 inserted

After section 109 insert:

110. Savings provisions for the *Road Traffic Amendment (Blood Alcohol Content) Act 2019*

(1) In this section —

commencement day means the day on which the *Road Traffic Amendment (Blood Alcohol Content) Act 2019* section 4 comes into operation;

former Act means the *Road Traffic Act 1974* as in force immediately before commencement day.

(2) A person's blood alcohol content must be calculated in accordance with the former Act if —

- (a) a sample of the person's breath or blood was provided or taken for analysis under Part V Division 2 of the former Act; and
- (b) the sample is to be used for the calculation of the person's blood alcohol content for the purposes of proceedings referred to in section 70(1) of the Act.

Part 3 — Amendments to other Acts

Division 1 — *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* amended

6. Act amended

This Division amends the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015*.

7. Section 9 deleted

Delete section 9.

Division 2 — *Road Traffic Legislation Amendment Act 2016* amended

8. Act amended

This Division amends the *Road Traffic Legislation Amendment Act 2016*.

9. Section 64 deleted

Delete section 64.

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