

WESTERN AUSTRALIA

ROAD TRAFFIC AMENDMENT ACT 1992

No. 13 of 1992

AN ACT to amend the *Road Traffic Act 1974* and for related purposes.

[Assented to 16 June 1992.]

The Parliament of Western Australia enacts as follows:

Short title

- 1.** This Act may be cited as the *Road Traffic Amendment Act 1992*.

Commencement

2. This Act shall come into operation 12 months after the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Road Traffic Act 1974** is referred to as the principal Act.

[* *Reprinted as at 4 April 1991.*

For subsequent amendments see Acts Nos. 19 of 1990, 37, 46 and 50 of 1991 and 1 of 1992 and Gazettes of 23 August and 22 November 1991.]

Section 5 amended

4. Section 5 of the principal Act is amended in subsection (1) by inserting before the definition of "vehicle" the following definition —

" "unrestricted licence" means a driver's licence that is not issued on probation; "

Section 45 amended

5. Section 45 of the principal Act is amended by repealing subsection (5).

Section 51 amended

6. Section 51 of the principal Act is amended in subsection (1) (a) (iii) by inserting after "62," the following —

" 64AA, "

Section 63 amended

7. Section 63 of the principal Act is amended by repealing subsection (6) and substituting the following subsection —

“ (6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64 or 64AA or, where, at the time of the alleged offence, he was a person to whom section 64A applied, an offence against that section. ”.

Section 64 amended

8. Section 64 of the principal Act is amended by repealing subsection (4) and substituting the following subsection —

“ (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 64AA or where, at the time of the alleged offence, he was a person to whom section 64A applied, an offence against that section. ”.

Section 64AA inserted

9. After section 64 of the principal Act the following section is inserted —

Driving with 0.05% blood alcohol content

“ **64AA.** (1) A person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.05 per centum commits an offence.

(2) A person convicted of an offence against this section is liable to a fine of not more than \$500.

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

Section 64A amended

10. Section 64A of the principal Act is amended —

(a) by inserting after the section designation “64A.” the subsection designation “(1)”;

(b) by deleting “A person who, being the holder of a driver’s licence issued on probation,” and substituting the following —

“ Except as provided in subsection (2), a person who ”;

and

(c) by inserting after the penalty provision in subsection (1) the following subsection —

“ (2) This section does not apply to a person who holds or has previously held an unrestricted licence or who has, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory. ”.

Section 66 amended

11. Section 66 of the principal Act is amended in subsection (2) by deleting paragraphs (a) and (aa) and “or” between those paragraphs, and substituting the following paragraph —

- “ (a) a person having provided a sample of his breath for a preliminary test —
- (i) it appears to a member of the Police Force that the preliminary test indicates that the percentage of alcohol in the blood of the person equals or exceeds 0.05 per centum of alcohol; or
 - (ii) it appears to a member of the Police Force that the preliminary test indicates that there is alcohol present in the blood of the person and the member of the Police Force has reasonable grounds to believe that the person does not hold, and has not previously held, an unrestricted licence and has not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory;
- ”.

Section 70 amended

12. Section 70 of the principal Act is amended in subsection (1) by inserting after “64” the following —

“ , 64AA ”.

Section 98 amended

13. Section 98 of the principal Act is amended by inserting after subsection (1) the following subsection —

“ (1a) In any prosecution or proceedings for an offence against this Act an averment in the complaint that the alleged offender did not hold, or had not previously held, an unrestricted licence or that the alleged offender had not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory, shall be deemed to be proved in the absence of proof to the contrary. ”.

Section 102 amended

14. Section 102 of the principal Act is amended in subsection (7) by deleting “section 103” and substituting the following —

“ sections 48, 51 (1) (a) and 103 ”.

Justices Act consequentially amended

15. Section 171BJ of the *Justices Act 1902** is amended by repealing subsection (2) and substituting the following subsection —

“ (2) Without limiting subsection (4), the making of an enforcement order does not constitute a conviction in respect of an alleged offence except that, if section 102 of the *Road Traffic Act 1974* is prescribed for the purposes of section 171BD of this Act, the making of an enforcement order or the payment, before an enforcement order is made, of the amount outstanding under this Part constitutes a conviction in respect of

the alleged offence for the purposes of sections 48, 51
(1) (a) and 103 of that Act. ”.

[* *Reprinted as approved 9 November 1984.*

*For subsequent amendments, see 1990 Index to
Legislation of Western Australia, pp. 81-82, Act No. 33
of 1991 and Gazette 13 December 1991.]*
