

## TRAFFIC (No. 2).

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No. 83 of 1970.

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### AN ACT to amend the Traffic Act, 1919-1970.

[Assented to 30th November, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Traffic Act Amendment Act (No. 2)*, 1970.

Reprinted as  
approved  
for reprint  
the 31st  
August, 1966,  
and further  
amended by  
Acts Nos.  
57 and 87  
of 1966, 56  
of 1967, 35  
and 57  
of 1968, 37  
and 48 of  
1969 and  
of 1970.

(2) In this Act the Traffic Act, 1919-1970, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Traffic Act, 1919-1970.

2. Section 32C of the principal Act is amended— S. 32C  
amended.

- (a) by adding after the word, “for” in line three of subsection (1), the passage, “an offence against section thirty-two AA of this Act or for”;
- (b) by deleting paragraph (c) of subsection (1) and substituting the following paragraph—
  - (c) the calculation, in accordance with the regulations, of—
    - (i) the percentage of alcohol that was present; or
    - (ii) the least and the greatest percentages of alcohol that could have been present,  
in the blood of the person at a time prior to the taking of a sample of his breath; ;
- (c) by deleting the word “and” appearing immediately after the passage, “analysis,” in line four of paragraph (f) of subsection (1);
- (d) by deleting paragraph (g) of subsection (1) and substituting the following paragraphs—
  - (g) the finding of a properly qualified analyst as to the percentage of alcohol that was present in the blood of the person at a time prior to the taking of the sample, based on the analysis of the analyst and such other relevant circumstances as are prescribed in relation to such a finding; and
  - (h) the finding of a properly qualified analyst as to the least and greatest percentages of alcohol that could have been present in the blood of the person at a time prior to the taking of the sample, based on the

analysis of the analyst and such other relevant circumstances as are prescribed in relation to such a finding. ;

- (e) by adding after paragraph (a) of subsection (2) the following paragraph—

(aa) purporting to be signed by a technologist of the Public Health Department certifying that specified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a blood sample but should not be used later than the specified date; ;

- (f) by adding after the word “taken” in line three of paragraph (b) of subsection (2), the words “in accordance with the regulations”;

- (g) by deleting paragraph (c) of subsection (2) and substituting the following paragraph—

(c) purporting to be signed by a properly qualified analyst, certifying that an analysis of an identified sample of blood disclosed the presence of a specified percentage of alcohol and setting out the analyst’s finding, based on the result of that analysis, that at a time prior to the taking of the sample, the blood of the person from whom it was taken contained—

(i) a specified percentage of alcohol; or

(ii) not less than a specified percentage of alcohol and not more than a specified percentage of alcohol,

as the case may be, ; and

- (h) by repealing and re-enacting subsection (4) as follows—

(4) Where evidence of the taking and analysis of a sample of a person's breath or blood and the calculation of an authorised person or the finding of a properly qualified analyst are accepted by the court in any proceeding such as is mentioned in subsection (1) of this section, and the calculation or finding is that—

- (a) the percentage of alcohol that was present in the person's blood at a specified time; or
- (b) the least percentage of alcohol that could have been present in the person's blood at a specified time,

was 0.15 per centum or more, the finding or calculation is conclusive evidence that the person was, at that time, under the influence of alcohol to such an extent as to be incapable of having proper control of a vehicle, horse, other animal or drove of animals. .

3. Section 32D of the principal Act is amended—

S. 32D  
amended.

- (a) by deleting paragraph (b) of subsection (1) and substituting the following paragraph—

- (b) providing for the assessment by a properly qualified analyst of—

- (i) the percentage of alcohol in blood; or
- (ii) the least and greatest percentages of alcohol in blood,

at a time prior to the time of taking a sample thereof, and the rates of increase and decrease to be used by the analyst in computing the variation of the blood alcohol con-

centration over a period or periods of time; ;

- (b) by deleting subparagraph (iii) of paragraph (c) of subsection (1) and substituting the following subparagraph—

(iii) the method of calculating—

(A) the percentage of alcohol that was present in the blood of a person; or

(B) the least and greatest percentages of alcohol that could have been present in the blood of a person,

at a time prior to the time of taking a sample of his breath, and the rates of increase and decrease to be used by the authorised person who took the sample in computing the variation of the blood alcohol concentration over a period or periods of time; ; and

- (c) by adding after the word “Force” in line three of subsection (4), the words “or an inspector”.
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