

Road Traffic Amendment (Blood Alcohol Content) Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

Road Traffic Amendment (Blood Alcohol Content) Bill 2019

A Bill for

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*.**

The Parliament of Western Australia enacts as follows:

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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.

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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.

s. 5

1 **5. Section 110 inserted**

2 After section 109 insert:

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

6 (1) In this section —

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

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

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

14 (a) a sample of the person's breath or blood was
15 provided or taken for analysis under Part V
16 Division 2 of the former Act; and

17 (b) the sample is to be used for the calculation of
18 the person's blood alcohol content for the
19 purposes of proceedings referred to in
20 section 70(1) of the Act.
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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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