

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

No. 94 of 1988

An Act to amend the Traffic Act 1949-1985 in certain particulars

[ASSENTED TO 1ST DECEMBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Traffic Act Amendment Act 1988*.

(2) In this Act the *Traffic Act 1949-1985* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Traffic Act 1949-1988*.

2. Amendment of s. 16. Driving, etc., whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood. Section 16 of the Principal Act is amended by adding at the end of the section the following subsection:—

“(12) Section 24 of *The Criminal Code* does not apply to an offence under this section.”.

3. Amendment of s. 16A. Provisions with respect to breath tests and laboratory tests. Section 16A of the Principal Act is amended—

(a) by, in subsection (2) (a), omitting all words from and including the words “if he suspects” to and including the words “Act during the last preceding two hours”;

(b) in subsection (3), by—

(i) omitting the word “or” occurring after the words “be;” in paragraph (a);

(ii) in paragraph (b) omitting the words “case.” and substituting the words “case;”;

(iii) inserting after paragraph (b) the following word and paragraph:—
“or

(c) without limiting paragraph (b), as soon as practicable after he makes the request, at a place at which the member of the Police Force believes on reasonable grounds there is located a device approved by the Minister pursuant to this section for carrying out breath tests, if the member does not have such a device with him.”;

(c) by, in subsection (5)—

(i) inserting after the words “police station” where firstly and secondly occurring the words “or other place” in each case;

(ii) inserting after the words “police station” where thirdly occurring the words “or, as the case may be, other place”;

(d) by inserting after subsection (5) the following subsection:—

“(5A) If a person requested by a member of the Police Force under subsection (2) to provide a specimen of breath for a breath test by him—

elects not to provide the specimen;

or

fails to provide the specimen in the manner directed by the member of the Police Force who makes the request,

the person commits an offence against this Act unless, forthwith upon being so requested, he produces to the member of the Police Force who made the request his driver’s licence endorsed by an authorized officer or a District Superintendent or Superintendent that the medical practitioner named in the endorsement has certified in writing that by reason of a stated illness or disability such person is incapable of providing a specimen of his breath or the provision of such a specimen by him could adversely affect his health.”;

(e) in subsection (6), by—

(i) omitting the word “or” occurring after the words “section;” in paragraph (c);

(ii) omitting paragraph (d) and substituting the following paragraphs:—

“(ca) take the person to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath;

(d) if the person is already at a police station, detain him there or take him—

(i) to such other police station as is convenient and reasonable in the circumstances;

or

(ii) to a vehicle or vessel, such as is convenient and reasonable in the circumstances, where facilities are available for the analysis by a breath analysing instrument of a specimen of breath;

or

(e) if the person is already at a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath, detain him there or take him—

(i) to another such vehicle or vessel as is convenient and reasonable in the circumstances;

or

(ii) to a police station such as is convenient and reasonable in the circumstances.”;

(f) in subsection (8), by—

(i) in paragraph (a)—

(A) inserting in provision (iii) after the words “police station,” the words “or detained at or taken to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath,”;

(B) omitting the words “station or a” and substituting the words “station, vehicle, vessel,”;

(C) omitting the words “station or hospital” and substituting the words “station, vehicle, vessel, hospital”;

(ii) in paragraph (b) (ii), inserting after the words “police station” the words “, vehicle or vessel”;

(iii) in paragraph (g), omitting all words from and including the words “laboratory test” to and including the words “specimen, and where” and substituting the following words:—

“laboratory test where—

(i) the breath analysing instrument is or becomes defective precluding its satisfactory operation for the purpose of analysing the breath specimen;

(ii) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen;

(iii) the breath analysing instrument indicates to the authorized member of the Police Force operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen;

or

(iv) for any reason it is not possible to complete the analysis of the breath specimen,

and where”;

(g) in subsection (9), by—

(i) in paragraph (a)—

(A) inserting in provision (ii) after the words “station,” the words “vehicle or vessel,”;

(B) omitting the words “station or a” and substituting the words “station, vehicle, vessel,”;

(ii) in paragraph (b)—

(A) inserting after the words “police station,” where they first occur the words “vehicle, vessel,”;

(B) omitting the words “another police station, hospital or other place authorized under this section” and substituting the words “a place”;

(h) in subsection (15), by—

(i) in paragraph (a), omitting the words “(which may be by way of indication on a scale)”;

(ii) in paragraph (b) (iv), inserting after the word “number” the words “or name and model number”.

4. Amendment of s. 39. Driver to stop and supply name, etc., when required. Section 39 of the Principal Act is amended by—

(a) inserting after subsection (1) the following subsection:—

“(1A) For the purpose of giving effect to the provisions of paragraph (a) of section 16A (2), any member of the Police Force may require the driver of any motor vehicle or vessel to stop that motor vehicle or vessel.”;

(b) in subsection (2) (a), inserting after the words “vehicle,” where they twice occur the words “vessel,” in each case.

5. Amendment of s. 55A. Effect of disqualification on subsequent issue of driver's licence. Section 55A of the Principal Act is amended by omitting the words “shall cause” and substituting the words “may cause”.