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Office of the  
**Minister for Police and  
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**30 MAR 2006**

Mr Jim Pearce MP  
Chairman  
Travelsafe Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Jim

I am pleased to provide the enclosed Queensland Police Service submission for the Travelsafe Committee's inquiry into vehicle impoundment for drink drivers.

Chief Superintendent Kerry Dunn of the State Traffic Support Branch is available on telephone 3238 6666 to assist with any enquiries concerning this matter.

I trust this information is of assistance.

Yours sincerely

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Encl

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**SUBMISSION BY THE  
QUEENSLAND POLICE SERVICE  
TO THE  
PARLIAMENTARY TRAVELSAFE COMMITTEE  
INQUIRY INTO VEHICLE IMPOUNDMENT FOR  
DRINK DRIVERS**



**FEBRUARY 2006**

## CONTENTS

	Page
1. Executive Summary	4
2. Background	8
3. Queensland Police Service view on Drink Driving	9
4. Issues for Comment	13
4.1 Do drink drivers in Queensland continue to drive illegally after being apprehended by police or disqualified by the courts?	13
4.2 Is this a significant number of drivers?	14
4.3 How often do drink drivers in Queensland continue to do this?	17
4.4 What are the costs and benefits of vehicle impoundment and forfeiture?	18
4.5 What are the costs and benefits of ignition key confiscation?	21
4.6 Should vehicle impoundment or key confiscation be used in Queensland to prevent drink drivers from repeating or continuing the offence?	22
4.7 Would other vehicle sanctions help reduce the amount of repeat drink driving? What sanctions?	23
4.8 Would these vehicle sanctions work in conjunction with vehicle impoundment and key confiscation?	26
4.9 Can other recidivist drink driving counter measures be used to improve the effectiveness of vehicle sanctions? How?	26
4.10 How effective are existing penalties under the <i>Transport Operations (Road Use Management) Act 1995</i> in reducing repeat drink driving?	30

4.11	Are the powers provided to police to manage drink driving under the <i>Transport Operations (Road Use Management) Act 1995</i> enough?	34
4.12	How effective is the <i>Police Powers and Responsibilities Act 2000</i> in reducing the number of individuals driving carelessly, dangerously, in racing or speed trials or in a way that makes unnecessary noise or smoke?	37
4.13	Should the <i>Police Powers and Responsibilities Act 2000</i> be amended to include drink driving as a 'prescribed offence' enabling police to impound drink drivers' vehicles?	38
4.14	What effect, if any, do successful appeals against licence suspension or disqualification have on drink driving behaviour and existing penalties for drink driving?	41
4.15	Should the appeals process for drink driving be tightened to reduce the incidence of successful appeals in Queensland?	43
4.16	Is vehicle impoundment and key confiscation legislation successful in reducing the number of recidivist drink drivers in other Australian jurisdictions and overseas?	44
4.17	Should Queensland introduce legislation that is consistent with the legislation in other Australian jurisdictions?	46
5.	References	48
	Appendices	50

## 1. Executive Summary

Despite very concerted efforts by police to detect and deter drink drivers, alcohol continues to rate highly as a contributing factor to death and injury on Queensland roads. Each year, a significant number of persons detected for drink driving in Queensland are repeat offenders. Overseas studies estimate that up to 70% of drink drivers continue to drive while their licences have been disqualified and many continue to drink and drive (McKnight and Voas, 2001).

To address high recidivism rates, deterrence theory has been a guiding principle throughout Australia and other countries in the development of many road safety countermeasures, particularly in the area of drink driving (Homel, 1988). In Queensland, deterrence from drink driving, repeat drink driving and disqualified driving is presently delivered in the form of:

- police presence;
- media campaigns (limited to drink driving);
- extensive random breath testing (RBT) operations;
- court appearance; and
- court imposed fines, licence disqualification, and imprisonment for continued offenders.

Since 2000, there has been a 37% increase in the number of drink drivers detected on Queensland roads with the number of persons who have two or more drink driving offences in the same calendar year also on the increase, presently at 3.5% per year. Research conducted by the Centre for Accident Research and Road Safety (CARRS-Q) suggests that 15.8% of drink drivers detected in 2004 had at least one previous drink driving offence in either 2004, 2003 or 2002.

The number of persons detected each year for disqualified driving in Queensland has increased consistently over the past six years with the number of disqualified drivers detected during 2005 representing an increase of 233% over the 2000 calendar year. Further research conducted by CARRS-Q indicates that many disqualified drivers are prepared to take the risk and continue to drive whilst disqualified.

With a view to stimulating debate over appropriate strategies to address the high recidivism rates amongst drink and disqualified drivers, the Parliamentary Travelsafe Committee released Issues Paper No. 10 in November 2005. The committee will investigate and report on whether:

- drink drivers in Queensland continue to drive illegally after being apprehended by police or disqualified from driving by the Courts;

- the incidence of repeat drink driving undermines the effectiveness of existing penalties for drink driving offences; and
- vehicle impoundment and/or ignition key confiscation are cost effective deterrents that will reduce drink driving recidivism,

with comments sought on 17 specific issues.

A panel consisting of senior members of State Traffic Support Branch and Regional Traffic Coordinators was formed to formulate responses to the issues. Input was also provided by the remaining traffic coordinators and Officers in Charge of Traffic Branches throughout the State.

The Queensland Police Service has provided comment on the issues with the following recommendations offered to address the level of drink driving in general, and reducing the recidivism rates amongst drink and disqualified drivers.

**Recommendation 1:** That government consider the introduction of a zero alcohol concentration to address the level of drink and disqualified driving in Queensland.

**Recommendation 2:** That consideration be given to expanding existing technology such as MINDA units through out the State and introducing new technologies such as Automatic Number Plate Recognition systems to assist police in the detection of unlicensed/disqualified drivers.

**Recommendation 3:** That consideration be given to the implementation of strategies that will increase the level of deterrence aimed at drink and disqualified driving recidivism.

**Recommendation 4:** That any legislation authorising the impoundment of vehicles from drink and disqualified drivers must place the onus for payment of towing and storage fees in the first instance on the vehicle owner.

**Recommendation 5:** The Queensland Police Service submits that the confiscation of vehicle ignition keys does not present as an effective means to deter drink and disqualified drivers from driving.

**Recommendation 6:** That legislation to allow for the impoundment of vehicles used to commit offences as outlined in recommendation 13 be considered for implementation in Queensland.

**Recommendation 7:** Research overseas indicates that alcohol ignition interlocks reduce levels of recidivism amongst drink drivers. The Queensland Police Service recommends that consideration be given to introducing alcohol ignition interlocks as a court imposed sanction to assist in reducing the number of recidivist drink drivers.

**Recommendation 8:** That consideration be given to introducing legislation requiring the compulsory carriage of driver licences in Queensland.

**Recommendation 9:** That consideration be given by licensing authorities (Queensland Transport) to examining the processes for managing the surrender/retrieval of driver licences to ensure licences are surrendered in accordance with the law.

**Recommendation 10:** That consideration be given to providing a range of rehabilitation programs which can be accessed by all convicted drink drivers, with the completion of an appropriate program mandatory in certain circumstances.

**Recommendation 11:** That a review of drink driving penalties be undertaken by Queensland Transport to enhance the deterrence value of sanctions delivered by the courts.

**Recommendation 12:** That consideration be given to providing powers to police within the *Transport Operations (Road Use Management) Act 1995* to address: wilfully altering a person's alcohol concentration; breath testing of passengers where the identity of the driver is unknown; compulsory blood testing of persons admitted to hospital as a result of a traffic crash; the time limitation to require a specimen of breath or blood; and alcohol or drug affected persons instructing learner drivers.

**Recommendation 13:** That the *Police Powers and Responsibility Act 2000* be amended to include additional 'prescribed offence' provisions allowing for the impoundment of vehicles for:

- any offence against sections 79(1) or 80(11) of the *Transport Operations (Road Use Management) Act 1995*, ie UIL or fail to provide;
- a second or subsequent drink driving offence within a ten year period;
- any drink driving offence whilst on a provisional licence, learner's permit or is unlicensed; and
- **any** offence of disqualified driving.

**Recommendation 14:** That further research be conducted to gain an understanding of public perceptions with respect to the eligibility criteria for restricted licences, and whether such perceptions or beliefs impact on their driving behaviour.

**Recommendation 15:** That consideration be given to limiting opportunities for appeals for restricted licence applications by lowering the upper alcohol concentration eligibility from 0.149 down to 0.099, ie persons with an alcohol concentration of 0.100 or greater would not be eligible to apply.

**Recommendation 16:** The Queensland Police Service does not support any changes to restricted licence eligibility criteria which will weaken the associated levels of general deterrence associated with the initiative.

**Recommendation 17:** That legislation similar to the New Zealand model with respect to the impoundment of motor vehicles used by drink and disqualified drivers, be considered appropriate for implementation in Queensland.



## 2. Background

Despite very concerted efforts by police to detect and deter drink drivers, alcohol continues to rate highly as a contributing factor to death and injury on Queensland roads. Each year, a significant number of persons detected for drink driving in Queensland are repeat offenders. Deterrence theory has been a guiding principle throughout Australia and other countries in the development of many road safety countermeasures, particularly in the area of drink driving (Homel, 1988).

The fundamentals of deterring alcohol and drug related driving offences are: perceived certainty, swiftness, and severity of penalties (Nicholas and Ross, 1990). Deterrence can be grouped into two types: general and specific. While general deterrence through extensive public awareness of the above fundamentals should decrease the rate of offences as the threat of the penalty deters the general public from committing the offence, specific deterrence aims to reduce recidivism by changing offender behaviour through the experience and future fear of the penalty (Raub, Lucke and Wark, (2003).

In Queensland, deterrence from drink driving, repeat drink driving and disqualified driving is presently delivered in the form of:

- police presence;
- media campaigns (limited to drink driving);
- extensive random breath testing (RBT) operations;
- court appearance; and
- court imposed fines, licence disqualification, and imprisonment for continued offenders.

In November 2005, the Parliamentary Travelsafe Committee announced that it would be conducting an inquiry into vehicle impoundment for drink drivers in Queensland. In this inquiry, the committee will examine and report on whether:

- drink drivers in Queensland who continue to drive illegally after being apprehended by police or disqualified from driving by the courts;
- the incidence of repeat drink driving undermines the effectiveness of existing penalties for drink driving offences; and
- vehicle impoundment and/or ignition key confiscation are cost effective deterrents that will reduce drink driving recidivism.

This submission addresses the Travelsafe Committee's inquiry into vehicle impoundment for drink drivers by:

- reviewing the current level of recidivism amongst drink drivers and disqualified drivers;
- identifying and discussing various intervention mechanisms imposed in other states and countries to reduce drink driver and disqualified driver recidivism;
- examining current drink driving legislation and the powers of police to adequately prevent persons from offending; and
- recommending future directions and strategies in order to reduce the incidence of drink driving and disqualified driving recidivism.

The content of this submission was produced following consultation with Regional Traffic Coordinators within the eight geographic police regions of Queensland.

### **3. Queensland Police Service view on Drink Driving**

While the Travelsafe terms of reference for this inquiry are limited to drink drivers who continue to drive after being suspended by police or disqualified by the court and the possible vehicle impoundment of vehicles or confiscation of ignition keys as a cost effective deterrent to repeat offenders, the Queensland Police Service considers it important to look at reasons why so many people drink drive in the first instance. If the number of persons who commit drink driving offences can be reduced, the 'at risk' group of disqualified drivers who continue to drive will also be reduced.

The Queensland Police Service believes reducing the alcohol concentration for the general driving population is a strategy worthy of consideration. This strategy will not only reduce the number of drink driving offences which lead to persons being disqualified, but will also require people to rethink their drinking habits prior to driving, offering an increased deterrence. Furthermore, overseas research has shown that a reduced alcohol limit can lead to a reduction in the number of high alcohol concentrations detected (Steen, 2005).

To support a lower general alcohol concentration, the following information is provided for the consideration of the Travelsafe Committee.

## Level and compositions of drink drivers in Queensland

Table 1 shows the number of persons detected for drink driving offences in Queensland for the past six years along with the number of breath tests performed each year.

**Table 1: Yearly drink driver detections in Queensland**

Year	Drink Driver Detections	Breath Tests	Ratio
2005	29761	2724739	1:91
2004	27738	2751603	1:99
2003	27034	2818805	1:104
2002	26301	2611109	1:99
2001	24641	2606119	1:106
2000	22249	2537697	1:114
<b>Average</b>	<b>157724</b>	<b>16050072</b>	<b>1:101.8</b>

Source: Queensland Police Service CRISP and TRACS databases

Despite current deterrence measures, the number of drink drivers detected in Queensland continues to grow, along with the number of persons detected for disqualified driving. As a comparison between the 2000 and 2005 calendar years, there has been an increase of 7.3% in the level of breath testing activity; whilst at the same time there has been an increase of 33.7% in the number of drink drivers detected. This could be explained to some extent by improved police intelligence and deployment strategies, however the underlying concern is that present deterrent mechanisms appear to be having limited impact on the drink driving culture.

In an operation 'Stopper' conducted over the early hours of Saturday 17th and Sunday 18<sup>th</sup> December 2005 between Metropolitan North and Metropolitan South police regions, 220 drink drivers were detected from 13,188 random breath tests. This equates to one detection for every 60 breath tests. This was despite public transport (bus and train) being available 24 hours a day.

Whilst the 'general alcohol limit' in Queensland is 0.05, it is contended that many people attempt to stay within the law, but for a number of reasons, including:

- confusion over the level of alcohol in drinks;
- confusion over the size of standard drinks;
- participation in 'shouts' with a loss of control over the ordering of heavy and lite drinks; and
- a lack of understanding of absorption and elimination rates,

a number of people unintentionally find themselves committing minor drink driving offences. It is common for police officers to hear the phrase '*I didn't think I would be over*' from drink drivers.

Table 2 provides a break down of drink driving detections over the past six years into various reading categories.

**Table 2: Number and percentage of drink drivers by reading category**

Year	<0.05	0.05 – 0.07	0.08- 0.14	>0.15	FPSB	Total
2005	1433 (4.8%)	7801 <b>(26.2%)</b>	12868 (43.12%)	6960 (23.4%)	699 (2.3%)	<b>29761</b>
2004	1399 (5.0%)	7065 <b>(25.4%)</b>	11914 (42.9%)	6664 (24.0%)	746 (2.7%)	<b>27788</b>
2003	1102 (4.1%)	6457 <b>(23.9%)</b>	11553 (42.7%)	7098 (26.3%)	824 (3.0%)	<b>27034</b>
2002	1100 (4.2%)	5939 <b>(22.6%)</b>	11517 (43.8%)	6881 (26.2%)	864 (3.3%)	<b>26301</b>
2001	939 (3.85%)	5940 <b>(24.1%)</b>	10905 (44.3%)	6168 (25.0%)	689 (2.8%)	<b>24641</b>
2000	727 (3.3%)	4949 <b>(22.2%)</b>	10015 (45.0%)	5888 (26.5%)	672 (3.0%)	<b>22249</b>

Source: Queensland Police Service CRISP database

Of interest from the above table is that over 26% of current detections fall into the narrow band of 0.05 to 0.07 lending support to the speculation that these persons may have miscalculated or misjudged their alcohol intake. Reducing the general alcohol concentration to zero would remove the need for any calculation or monitoring of alcohol intake by drivers. Queensland legislation currently requires persons under the age of 25 years who hold a provisional licence, learner's permit or who are unlicensed to have a zero alcohol concentration. This limit also applies to persons driving on a restricted licence and to persons driving certain categories of vehicles.

The 2003 Road Traffic Crashes in Queensland Report by Queensland Transport indicated that four (1.97%) vehicle controllers killed during 2003 had an alcohol level in the range of 0.05 to 0.07.

It is submitted that once persons are detected for drink driving, they then find themselves in a situation where they have to provide for families and attend to every day activity without the use of a vehicle. Unfortunately, a number of persons then take the risk of driving while disqualified and are subsequently detected for disqualified driving and continue to re-offend in the hope of avoiding detection.

### **Relative Risk**

Research conducted over the past forty years has demonstrated the link between increased alcohol concentrations and the increased crash risk. Zador, Krawchuk and Voas (2000) in the following table have assigned the relative risk of driver fatality for single vehicle crashes by age, gender and alcohol concentration.

**Table 3: Relative risk of driver fatality for single vehicle crashes, using within-group sober drivers for baseline relative risk (from Zador et al, 2000)**

Age and Gender	0.000	0.01-0.019	0.02-0.049	0.05-0.079	0.08-0.099	0.10-0.149	0.15+
Male 16-20	1.00	1.55	4.64	17.32	51.87	240.89	15559.85
Male 21-34	1.00	0.08	2.75	6.53	13.43	36.89	572.55
Male 35+	1.00	0.07	2.57	5.79	11.38	29.30	381.68
Female 16-20	1.00	1.35	2.86	7.04	14.91	42.63	738.36
Female 21-34	1.00	0.08	2.75	6.53	13.43	36.89	572.55
Female 35+	1.00	0.07	2.57	5.79	11.38	29.30	381.68

Source: Steen (2005)

Whilst the general alcohol limit in Queensland, as with other Australian jurisdictions is 0.050, Queensland is the only state which takes action at the level of 0.050. According to the relative risk table developed by Zador et al. (2000), the average risk for alcohol levels of 0.020 - 0.049 is on average 2.7 times greater than for drivers in the same category who have a zero alcohol concentration (not taking in account the risk for males under 20). This is a level and risk which the general motoring public in Queensland is permitted to drive at.

Factors not built into Zador's risk levels are fatigue, and the effects of medication and depressant drugs, which in combination with alcohol have an increased effect on the central nervous system affecting cognitive and psychomotor impairment, thus increasing the risk level of a crash.

A number of industries around the world have recognised the risk associated with low-level alcohol concentrations, and as such have implemented zero tolerance in the workplace. It is argued that a motor vehicle is no different to machinery used in industry and as such for optimum control, requires a person's motor skills to be unaffected by outside influences.

There are a number of inconsistencies in Queensland drink driving laws. The best example of this is legislation governing the alcohol concentration for taxi drivers. A taxi driver, because of the vehicle, must have a zero alcohol concentration at all times whilst driving the taxi. However, a person driving the family motor car can drive with an alcohol concentration up to 0.049 with the vehicle full of passengers, and present 2.7 times the risk to their self, their passengers and other road users. The only real difference between the family car and the taxi is that the taxi driver is paid.

Of the vehicle drivers killed during 2003, 4.4% (9) had an alcohol concentration in the range of 0.01 - 0.04, (Queensland Transport, 2005). Sixty six percent (6) of those killed in the 0.01 – 0.04 range were aged 30 years or over with one person aged under 21 (Queensland Transport, 2005). Similar figures were reported for 2002 and 2001.

In a literature review of drink driving levels throughout the world, Steen (2005), as part of research conducted by the Queensland Transport/Queensland Police Impaired Driving Legislation Review Working Group, identified eighteen countries with drink driving limits below 0.050.

Countries around the world with a zero limit include Armenia, Azerbaijan, Republic of Croatia, Czech Republic, Estonia, Hungary, Kyrgyzstan, Romania, Saudi Arabia and Slovak Republic. Japan, Norway, Russia and Sweden have a drink driving limit of 0.02.

Sweden introduced a 0.020 general alcohol limit in 1990 with evaluations showing a 9.7% reduction in fatal crashes, an 11% reduction in single vehicle crashes and a 7.5% reduction in all crashes. Norway reduced its legal limit to 0.020 in January 2001 resulting in a 22% drop in drink driving violations between 2000 and 2001. If similar results could be achieved in Queensland by lowering the general alcohol concentration, not only would the number of drink drivers be reduced, but the number of disqualified drivers would also be reduced, removing the opportunity for people to drive whilst disqualified.

Steen (2005) was unable to provide a clear unequivocal recommendation that either supports or opposes the lowering of the general alcohol limit in Queensland, but concluded that any decision to reduce the general alcohol limit is a social and political decision that *'...must weigh up, for all of the population, the importance of reducing alcohol related risks against relative freedom of behaviour...'*

It may be of interest to note that all Ministers of the Ministerial Council on Drug Strategy have endorsed the new draft National Alcohol Strategy 2005-2009. Recommendation 2A 'Prevent and reduce alcohol related harm' of the draft strategy supports the investigation of current evidence base and public interest in a range of measures to reduce alcohol related road injury, including establishing lower alcohol limits for all drivers.

**Recommendation 1:** That government consider the introduction of a zero alcohol concentration to address the level of drink and disqualified driving in Queensland.

## **4. Issues for comment**

### **4.1 Do drink drivers in Queensland continue to drive illegally after being apprehended by police or disqualified by the courts?**

The overwhelming evidence indicates that drink drivers in Queensland continue to drive after having their driver licence suspended by police or disqualified by the courts. Overseas studies estimate that up to 70% of drink drivers continue to drive while their licences have been disqualified and many continue to drink and drive (McKnight and Voas, 2001).

The offence of drink driving, especially for alcohol concentrations below 0.150 grams of alcohol in 210 litres of breath (BrAC) (150 milligrams of alcohol in 100 millilitres of blood) is perceived by the majority of the community to be a minor offence due to the leniency of the courts, the

attitude to drinking and the fact that motorists consider it a right and not a privilege to drive. Recidivist drink drivers often receive light penalties, which promotes risk taking and sympathy from other road users.

**Licence Suspension:** - All drivers in Queensland who record an alcohol concentration above their relevant legal limit are given a written notice in accordance with section 80(22A) of the *Transport Operations (Road Use Management) Act 1995* suspending their driver licence for a period of 24 hours. The suspension period is constant, irrespective of the alcohol concentration at the time of the offence, ie a person with an alcohol concentration of 0.050 BrAC receives the same suspension as a person with an alcohol concentration of 0.250 BrAC. Any person who continues to drive during the 24 hour suspension period, in addition to a possible second drink driving offence, commits an offence against section 80(22D) of the *Transport Operations (Road Use Management) Act 1995* which carries a penalty not exceeding \$1,050 or to imprisonment for a term not exceeding one year.

It is believed the catalyst for this Travelsafe inquiry was media reports of a male offender being caught for drink driving three times in a 24 hour period over the 2005 Easter period, and therefore driving whilst on suspension. This person drove with the intention of being caught so that he could be returned to prison.

**Licence Disqualification:** - A person's driver licence can be disqualified for a number of reasons, eg dangerous operation of a motor vehicle, driving without due care and attention and drink driving. Unfortunately, when a person is charged with disqualified driving, no coding exists which allows for the distinction between drink driver disqualified drivers and persons disqualified for other reasons. Whilst this inquiry relates to drink driving offences, the Travelsafe Committee should be aware that figures quoted in this submission may include disqualifications for offences other than drink driving.

#### **4.2 Is this a significant number of drivers?**

**Licence Suspension:** - Resulting from media reports of the three time offender over the Easter 2005 period, police research indicated that 85 persons were detected committing a second or third drink driving offence whilst on a 24 hour suspension during the period 1 January 2005 to 31 March 2005. However, due to offence coding, this research was unable to further identify persons who may have been detected driving during the 24 hour suspension period and who did not record a subsequent drink driving offence.

Further police research indicates that during 2005 a total of 321 persons were detected for subsequent drink driving offences during the 24 hour suspension period. This equates to 1.07% of all drink driving offences

detected during 2005. During the 2004 and 2003 calendar years, 266 (.096%) and 281 (1.04%) persons respectively were recorded with two or more drink driving offences within the 24 hour suspension period.

Persons driving on a 24 hour suspension may often go undetected if no other offences are committed when intercepted due to, but not confined to: -

- delays in updating police computer systems due to breath analysis operations being performed at the roadside;
- licence and/or criminal history checks not being performed for all interceptions, eg random breath testing operations; and
- police radio being out of range.

It is estimated that considerably more motorists drive during the 24 hour suspension period than are detected.

**Licence Disqualification:** - Table 4 outlines the numbers of persons detected and charged with disqualified driving over the past six years. As indicated earlier, the number of persons disqualified as a result of a drink driving offence cannot be determined.

**Table 4: Disqualified driver detections in Queensland**

Year	Total No. Disq. Arrest/Summons	Drink Drivers Detected
2005	10442	29761
2004	7709	27788
2003	6535	27034
2002	4831	26301
2001	3323	24641
2000	3134	22249

Source: Queensland Police Service CRISP database.

Over the six year period under review, there has been a 233% increase in the number of disqualified driving charges recorded in Queensland. Over the same period there was a 33.7% increase in the number of drink driving offences. The majority of persons are disqualified as a result of a drink driving offence, however the increase in the number of disqualified driving offences is not proportionate to the increase in the number of drink driving offences. This could be due to disqualified drivers taking the risk to drive whilst disqualified and being detected on one or more occasions.

Research conducted by Leal, Lewis and King (2005) examined drink driving offences committed during 2004 for alcohol concentrations at 0.050 BrAC or above. Table 5 summaries the previous drink driving convictions within a three year period for the 2004 drink drivers.



**Table 5: Previous drink driving breaches (N = 24661)**

	<b>N</b>	<b>%</b>
<b>2004 Drink Driving Breaches</b>		
1	23592	95.7%
2	969	3.9%
3	94	0.4%
4	6	0.02%
<b>Previous Drink Driving Breaches</b>		
<i>At least one in 2003</i>	1519	6.2%
<i>At least one in 2002</i>	1413	5.7%
<i>At least one in both 2002 &amp; 2003</i>	163	0.7%

Source: Leal et al (2005)

From this data it is conservatively estimated that 1991 drivers; consisting of persons with more than one offence during 2004 (1069); persons with offences in both 2002 and 2003 (163); and one half of the persons with at least one offence in 2003 (759), or a total of 8.07% of all persons detected for drink driving offences were disqualified as a result of previous drink driving offences when detected. This is assuming that all persons had been dealt with by the court for previous offences. It can also be concluded from this data that 3901 (15.8%) of persons detected had a previous drink driving offence. This figure is an under estimate of the true number of repeat offenders as the window of repeat offenders in this research was limited to a three year time period.

During a recent state wide operation 'Check It' run in November 2005 targeting defective vehicles, Townsville Traffic Branch officers detected 40 persons driving under disqualification. On Thursday 8 December 2005, a local Townsville operation detected one offender driving to court whilst disqualified and three offenders driving away from court immediately after being disqualified.

If the perceived risk of apprehension for disqualified driving is low and many offenders have learnt through experience that it is possible to evade detection, the threat of future disqualification will have minimal impact on many offenders. Hence, the effectiveness of licence actions as a specific deterrence would be greatly enhanced by improving the detection and apprehension of disqualified drivers. It is also likely that improvements in the detection of disqualified driving would also enhance the general deterrent effect of licence loss.

### **Tools to detect disqualified drivers**

Recidivism in disqualification/unlicensed offences is also evident to officers of the State Traffic Task Force (STTF) through the use of Mobile Integrated Network Data Access (MINDA) in vehicle terminals and the Queensland Transport Divisional Communication Room with detection rates for the last 12 months showing an increase of 150% for unlicensed drivers, including those disqualified. During the 12 month period to 31 December 2005, STTF personnel arrested/summonsed 359 persons for disqualified driving. An

added advantage of the MINDA systems is the increased ability of police to detect vehicle registration offences without the necessity to involve police communication room operators.

Not all police vehicles are fitted with MINDA units. When police officers do not have the ability to access MINDA units, their capacity to detect disqualified drivers is on occasions hampered by an inability to check licence details due to police radio congestion. Where radio congestion occurs and the person produces what appears to be a current driver license, the validity of the licence is normally accepted by police, leading offenders to believe there is a low risk of detection.

**Recommendation 2:** That consideration be given to expanding existing technology such as MINDA units through out the State and introducing new technologies such as Automatic Number Plate Recognition systems to assist police in the detection of unlicensed/disqualified drivers.

**Recommendation 3:** That consideration be given to the implementation of strategies that will increase the level of deterrence aimed at drink and disqualified driving recidivism.

#### **4.3 How often do drink drivers in Queensland continue to do this?**

Apart from the level of detections and relying on self reported data, the true level of non compliance is difficult to gauge.

In a study conducted by the Centre for Accident Research and Road Safety Queensland (CARRS-Q) (Watson, 2005) between June 2001 and April 2002, 309 unlicensed drivers, including disqualified drivers, were interviewed as they left the Brisbane Magistrates Court. Fifty two (16.8%) of the surveyed participants had appeared in court for a disqualified driving offence.

When interviewed regarding their driving behaviour, the 52 disqualified participants (primarily drink drivers) admitted that on average they each drove 11.4 times per week. Also of interest, 28.8% of the disqualified drivers surveyed admitted they continued to drive after being detected by police for the offence for which they had just appeared in court. This was only slightly lower than the number (30.5%) of all types of unlicensed drivers who admitted continuing to drive after detection.

Watson's research also suggested that 37.5% of disqualified drivers interviewed had driven at least once during their disqualification period when they believed they were over their respective legal alcohol limit.

It is considered the majority of the 'at risk group' will be at least tempted to drive whilst under suspension or disqualified. The perceived likelihood of being caught for unlicensed driving, including disqualified driving, was

significantly lower for being breath tested or caught speeding by a speed camera/radar, with 49% of all unlicensed/disqualified participants interviewed still in possession of their photo licence after court (Watson, 2005). This was considerably lower for disqualified drivers with only 13.5% still in possession of their licence.

#### **4.4 What are the costs and benefits of vehicle impoundment and forfeiture?**

**Costs:** The cost of impounding vehicles can be broken into several components. These include:

- police officer wages;
- towing fees;
- storage fees.

Costs indicated hereunder are based upon the experience from vehicle confiscations under the current 'hoon' legislation.

**Police Wages:** - The time police spend waiting for a tow company to arrive largely dictates the police wage component. It is estimated the average time spent by two police officers to attend to the tow and finalise all associated correspondence is 1.5 hours, which based on the wages of a Senior Constable 2.3 equates to approximately \$82.00 (including operational shift allowance). This figure would be increased if overtime was necessary waiting the arrival of a tow truck.

It should be noted that in some regions, tow trucks are not called, rather the vehicle is driven by the offender to the police holding yard, where the seizure commences. This procedure would not be possible for persons who are suspect drink or disqualified drivers.

**Towing Fees:** - Towing fees vary greatly from police region to police region. Some regions/districts have set agreements with tow companies, while others are at the mercy of individual tow companies.

Table 6 has been prepared to provide an indication of fees that are currently being charged by tow companies for the towing of vehicles impounded under the 'hoon' legislation.

**Table 6: Towing and storage cost for impoundments under 'hoon' legislation**

Region	Towing Fees		Storage Fees	
	Agreement Rate	No Agreement	Agreement Rate	No Agreement
Far Northern	N/A	\$250-\$280	N/A	\$50 per week
Northern				
Central	N/A	Average \$200	N/A	N/A police holding yard
North Coast	N/A	\$99.00 to \$239.00	N/A	N/A police holding yard
Metro North	\$225.95	N/A	30 days free then \$5.50 per day	N/A
Metro South	\$44.00	N/A	28 days free then \$5.50 per day	N/A
South Eastern				
Southern	\$40.00	\$200	N/A	N/A police holding yard

Source: Queensland Police Service Regional Traffic Coordinators

Under current Queensland 'Hoon' legislation all towing and storage costs are initially paid by the Queensland Police Service which is then left to recover costs from offenders. As of 12 January 2006, financial records indicate that the Queensland Police Service had expended \$198,410.57 for the towing and storage of vehicles impounded under the 'hoon' legislation. Of this, \$70,549.00 (35.6%) has been recovered through the State Penalty Enforcement Register.

**Storage Fees:** In a number of instances, impounded hoon vehicles are stored at police holding yards, where no storage fee is payable. The number of vehicles expected to be impounded as a result of drink driving or disqualified offences would, it is estimated, in the majority of cases exceed the capacity of most police holding yards. The storage fees for hoon impoundments, where applicable, have been included in table 6 above.

Based upon the current number of drivers who fall into categories (see issue 13 response) the Queensland Police Service has recommended for vehicle impoundment, it is estimated that 20,000 vehicles per year could be liable to impoundment. When police wages, towing fees and storages fees per impoundment, (approx. \$362.00 each based on the max. \$280.00 towing fee) are taken into account, it is estimated the cost per year for the impoundment of vehicles from drink and disqualified drivers would be in the vicinity of \$724,000.00. The cost to the Police Service could be reduced significantly if the New Zealand approach of 'owner onus' was applied for the payment of towing and storage fees prior to the return of the vehicle.

**Benefits:** The impounding of vehicles to deter people committing offences is used by a number of countries around the world. Sweedler, Stewart and Voas (2004) after conducting an evaluation of various impoundment programs concluded that impoundment programs have been successful wherever they have been used. Sweedler et al. identified New Zealand as one of the prominent users of a vehicle impoundment program with the following results achieved: -

- a fall in the proportion of fatalities attributed to unlicensed drivers from 10% of all fatalities (1998) to 6.9% (2000), and an equivalent fall of one-third in all casualties attributed to unlicensed drivers;
- a fall in the number of driving while disqualified offences by around one third; and
- the permanent removal of a large number of un-roadworthy vehicles from the road.

There are a number of benefits to impounding vehicles. These include:-

- provides a deterrent value to prevent offending and re-offending and addresses the deterrence elements of certainty, swiftness and severity;
- removes access to vehicle to prevent re-offending;
- a decrease in the number of fatalities attributed to unlicensed/disqualified drivers (based on New Zealand experience);
- a decrease in the number of disqualified driving offences (based on New Zealand experience); and
- has the potential to have old/un-roadworthy vehicles removed from the road (unclaimed).

**Problems/Issues:** - The impoundment of vehicles has a number of issues, both from a police and an owner prospective. These are summarised briefly: -

- vehicles being owned by third persons eg hire companies etc;
- impact on the family unit – driving kids to school etc;
- liability for damage to vehicles whilst impounded;
- vehicles remaining unclaimed;

- size of storage facility required, particularly around major centres; and
- recouping costs from offenders.

**Interstate Legislation:** - Several Australian jurisdictions currently have or are examining vehicle impoundment for various offences. These include:-

- New South Wales – *Road Transport (Safety and Traffic Management) Act 1999* - Section 30 'Power to prevent driving by persons who are under the influence of alcohol or other drugs';
- Victoria – impoundment legislation currently before parliament for a second offence of disqualified driving; and
- Western Australia – a paper has been prepared for presentation to the Road Safety Council detailing options for detailing with repeat offenders.

**Recommendation 4:** That any legislation authorising the impoundment of vehicles from drink and disqualified drivers must place the onus for payment of towing and storage fees in the first instance on the vehicle owner.

#### 4.5 What are the costs and benefits of ignition key confiscation?

The costs of ignition key confiscation would be confined to time taken by police to follow property handling procedures and security of keys.

**Benefits:** The possible benefits to be achieved by key confiscation appear to be very limited. Drivers in the majority of cases have access to a second set of keys, thereby reducing any real deterrent value to the concept.

**Problems/Issues:** Apart from the low deterrent value to be gained by confiscating vehicle ignition keys, it is argued that the confiscation of keys presents issues for police which out weigh any deterrent value gained. These issues are summarised briefly: -

- approx. 30,000 per year additional attendances at police stations for the collection of keys;
- approx. 30,000 per year additional property entries;
- liability for security of, and damage to vehicles left parked at the roadside, particularly if the vehicle contains items of value (e.g. work tools, expensive stereo systems);
- unclaimed property issues when keys are not collected;

- parking space and the impact on random breath testing operations when a large number of drink drivers are detected and keys confiscated; and
- identification issues to ensure the correct keys are returned to the correct owner.

**Interstate Legislation:** Several Australian jurisdictions provide police with power to confiscate ignition keys from drivers, including:-

- New South Wales – *Road Transport (Safety and Traffic Management) Act 1999* - Section 30 ‘Power to prevent driving by persons who are under the influence of alcohol or other drugs’; Advice from New South Wales police indicates that keys are not normally confiscated from drink drivers;
- Victoria – *Road Safety Act 1986* – Section 62 provides power for police to confiscate motor vehicle keys, however, police policy stipulates the keys must be entered into a police property book. Advice from Victoria police indicates the powers are not normally invoked unless there is some evidence that the offender will drive; and
- Tasmania – *Traffic Act 1925* – Section 41A. ‘Power of police officer to forbid incapable person to drive’. Police officers confiscate ignition keys for a period of time which is dependant upon the person’s alcohol concentration. Prior to the keys being returned the person must provide a specimen of breath for a breath test to show they are under the legal limit.

**Recommendation 5:** The Queensland Police Service submits that the confiscation of vehicle ignition keys does not present as an effective means to deter drink and disqualified drivers from driving.

#### **4.6 Should vehicle impoundment or key confiscation be used in Queensland to prevent drink drivers from repeating or continuing the offence?**

**Key Confiscation:** - It is the view of the Queensland Police Service that key confiscation will not prove to be an effective measure to prevent drink drivers from repeating or continuing to offend. As indicated earlier in response to issue five, the additional work for police and liability issues exceeds any deterrence benefit that may be gained by confiscating keys.

**Vehicle Impoundment:** - The Queensland Police Service believes that vehicle impoundment offers a very increased deterrent element and should at least be trialled in Queensland.

**Recommendation 6:** That legislation to allow for the impoundment of vehicles used to commit offences as outlined in recommendation 13 be considered for implementation in Queensland

#### **4.7 Would other vehicle sanctions help reduce the amount of repeat drink driving? What sanctions?**

A number of other vehicle sanctions are used throughout the world. The most successful of these sanctions is the fitting of an alcohol ignition interlock. Alcohol interlock devices are less invasive than other vehicle measures and enable the offender to have relatively normal access to their vehicle with few restrictions.

These devices are aimed at preventing a driver from driving after drinking by requiring a breath specimen to be given before the car will start. Ignition interlocks provide immediate feedback to the driver on inappropriate alcohol levels and effectively separate the acts of drinking and driving.

Interlock programs have been widely evaluated and there is an accumulating body of evidence to show that interlocks have a significant impact on recidivism rates, at least as long as the device is installed. It has been suggested that the fact that re-arrest rates increase after the interlock is removed should not discredit or discount the significant beneficial effects of interlock programs (Beirness, 2001).

Interlocks are not intended to replace existing sanctions, but to provide additional options for preventing drink driving and as an adjunct to education and treatment. Increasingly, researchers are concluding that improved results will be obtained from interlock programs when they are supported by legislation and integrated with remedial programs that include assessment, drink driving education and treatment for alcohol and other problems.

##### Alcohol interlock programs in North America and Canada

A comprehensive review of eight interlock programs in the United States conducted in 1999 demonstrated that interlock devices, while installed in vehicles, are effective in preventing drink driving. However, to date, no one study has demonstrated a reduction in crash risk attributable to an interlock program (ICADTS, 2001).

The findings of the eight United States studies conducted by Marques, Voas, Tippetts and Beirness (1999) are summarised in the following table.



**Table 7: US Interlock evaluations**

Jurisdiction	Authors/ Year	Characteristics of population	Findings: Recidivism with interlock	Findings: Recidivism after interlock	Comparison group
Cincinnati, Ohio	Elliot & Morese (1993)	First offenders >0.02% BAC plus multiple offenders	Interlocks 2.9% Non interlocks 8.4%	Interlocks 6.6% Non interlock 6.5%	Suspended
Oregon	Jones (1993)	Multiple offenders	Interlocks 5% Non interlocks 8%	Interlock 10.8% Non interlock 11.5%	Reinstated
North Carolina	Popkin et al (1993)	Second offenders	Interlocks 2.7% Restricted 7.1% Non interlocks 9.8%	Interlock same or higher than non interlock	Restricted licence and suspended
California	Peck (1987)	Second offenders	Interlocks 5% Non interlocks 8%		Suspended and restricted
Alberta	Weinrath (1997)	Multiple offenders	Interlocks 10% Non interlocks 25%	Interlock 7% Non interlock 11%	Suspended
West Virginia	Voas & Tippetts (1997)	First & second offenders	Interlocks 1.6% Non interlocks 6.4%	Interlock 10% Non interlock 10%	Licensed and suspended
Maryland (random assignment)	Beck et al (1999)	Second offenders	Interlocks 2.4% Non interlocks 6.7%	Interlock 3.5% Non interlock 2.6%	Licensed
Alberta	Voas et al (1999)	First & second offenders	Interlocks 8.5% Non interlocks 8.08% Ineligible 18.72%	Interlock 7.05% Non interlock 7.32% Reinstated 7.32% Ineligible 10.52%	Suspended and ineligible

Source: Beirness, D (2001) Best Practice for Alcohol Interlock Programs.

During the period offenders had an interlock installed in their vehicle, the repeat offence rate varied between 37% to 90% lower than among the comparison groups (Beirness, 2001). Once the interlocks were removed from the vehicle there was no difference in the recidivism rates for both interlock participants and the comparison group.

The predominant pattern of results across studies provides evidence that while interlocks are fitted to vehicles they effectively prevent repeat offences. However, once the interlock is removed, studies consistently show no residual effect in preventing drink driving.

Problems related to participation rates in interlock programs are common across all jurisdictions. The United States has more interlock programs than any other country and studies consistently report very low participation rates. In the 43 states with interlock enabling legislation, the installation rate rarely exceeds 10% of eligible drink drive offenders, with 2-3% being the most common (ICADTS, 2001)

The exception is when the interlock is required as an alternative to significant punishment such as imprisonment. After such a policy was introduced in Indiana, 62% of eligible offenders installed an interlock and the entire state's driving whilst impaired rates were reduced by 40% for first offenders and 22% for repeat offenders (ICADTS, 2001).

### Best practice for alcohol ignition interlock programs

An international workshop was held in Montreal in 2000 to identify best practice principles for alcohol interlock programs (Beirness, 2001). The workshop was attended by an international group of researchers, interlock manufacturers, policy makers and program specialist. The following best practice indicators for interlock programs were recommended: -

- interlock programs must be viewed as a coordinated set of activities to prevent impaired driving among participants and not just as a device installed in a vehicle;
- the program needs to be supported by strong, clear legislation;
- the selected interlock device must be alcohol specific and meet or exceed established performance standards;
- the program must be offered by a dedicated and committed interlock provider;
- the program should set participation criteria that includes as many drink drive offenders as possible;
- participation in the program by all eligible offenders should be mandatory, with provisions that allow early voluntary entry into the program;
- administrative authority for the program should reside with the agency responsible for driver licensing and control;
- participants should be monitored regularly, including a review of data from the interlock data recorder;
- the length of the program should be linked to participant's success; and
- the program should be integrated with other drink drive countermeasure programs and sanctions, particularly rehabilitation.

### Australian interlock programs

South Australia, Victoria and New South Wales have all enacted interlock legislation and have established alcohol interlock programs for repeat drink drivers and other high risk drink drive offenders. No formal evaluation of any Australian alcohol interlock program has been conducted as yet. Appendix 1 provides an overview of the operation of the interlock programs in South Australia, Victoria and New South Wales.

It is the view of the Queensland Police Service that the opportunity to fit an alcohol interlock device should be available to drink driving offenders as soon as possible after a drink driving conviction. The major aim of the Queensland Police Service is to reduce the level of drink driving amongst drink driving offenders. There is good evidence that fitting an alcohol interlock to a vehicle effectively separates the acts of drinking and driving. Once that separation has been achieved, opportunities for education and rehabilitation can be provided with the aim of improving longer term outcomes.

**Recommendation 7:** Research overseas indicates that alcohol ignition interlocks reduce levels of recidivism amongst drink drivers. The Queensland Police Service recommends that consideration be given to introducing alcohol ignition interlocks as a court imposed sanction to assist in reducing the number of recidivist drink drivers.

#### **4.8 Would these vehicle sanctions work in conjunction with vehicle impoundment and key confiscation?**

It is considered that the fitment of alcohol ignition interlocks to convicted drink driver's vehicles would be additional to vehicle impoundment and existing penalties.

Vehicle impoundment is an immediate police imposed action which focuses on the deterrence elements of swiftness and severity. Vehicle impoundment would only be effected if the person committed an offence listed as a 'prescribed offence'.

Alcohol ignition interlocks are considered as a rehabilitation sanction imposed by the court and would be available to all persons convicted of drink driving.

The interlock sanction would not be an option for disqualified drivers, in which case it would not be additional to vehicle impoundment.

#### **4.9 Can other recidivist drink driving counter measures be used to improve the effectiveness of vehicle sanctions? How?**

The Queensland Police Service believes there are three other measures which can be taken to improve the effectiveness of vehicle sanctions.

These are: -

- compulsory carriage of driver licence;

- improved process to remove a driver licence from an unlicensed person; and
- rehabilitation programs.

**Compulsory carriage of driver licence:** - It is of concern that many disqualified and unlicensed offenders are not being detected when they come into contact with police. Watson (2005) reported that 31.4% of participants in his study reported that they didn't have their licence checked at an RBT operation during the time they were driving unlicensed. The perceived risk for unlicensed driving is significantly lower than for drink driving or speeding (Watson, 2005).

A major impediment to more widespread licence checking in Australia is the lack of compulsory carriage of licence laws. For example, while police have the power to randomly check licences in Queensland, it is difficult to do so on a systematic basis because open licence holders, under section 49 of the *Police Powers and Responsibility Act 2000*, are afforded 48 hours to produce their driver licence to a police station. Currently Queensland legislation only requires provisional and learner licence holders, and truck drivers to produce their driver licence immediately on demand. New South Wales and Tasmania are the only states that currently require all drivers to carry their driver licence, which facilitates the checking of licences at RBT operations in those states.

Consequently, a strong argument exists for the national adoption of compulsory carriage of licence and for police to conduct more widespread, random checking of driver licences (eg at RBT and specific licence checking operations). Without these initiatives, it will remain very difficult to meaningfully improve the detection of unlicensed driving, and hence to heighten drivers perceived risk of apprehension. It is also interesting to note that a community survey conducted by the then Federal Office of Road Safety (FORS, 1996) found that 54% of Queensland respondents already believed that it was compulsory to carry their licence. In addition, 78% reported that they approved of compulsory licence carriage.

**Recommendation 8:** That consideration be given to introducing legislation requiring the compulsory carriage of driver licences in Queensland.

**Improved process to remove a driver licence from an unlicensed person:** A number of persons dealt with by the courts in Queensland retain possession of their driver licence which gives the impression that the offence is not serious. As mentioned previously, research conducted by Watson (2005) showed 13.5% of disqualified drivers interviewed after leaving court, still had possession of their photo licence. Watson's research also indicated that 54.1% of persons interviewed whose driver licence had been cancelled still had possession of their photo licence. Many of these participants claimed that they did not realise that they were meant to surrender their licence or that no one had requested it from them.

Section 130 of the *Transport Operations (Road Use Management) Act 1995* places an onus on the licensee to deliver a cancelled licence to an appointed person; or a registrar of the Supreme Court, Circuit Court, or District Court which recorded the conviction or made the order; or to the clerk of the court which recorded the conviction or made the order; or the officer in charge of the police station in the police division in which the address of the licensee as indicated on the licence in question is situated. The maximum penalty for non compliance is \$3,000.00.

While people continue to retain possession of their photo driver licence it is argued that there is an increased temptation to drive.

**Recommendation 9:** That consideration be given by licensing authorities (Queensland Transport) to examining the processes used for managing the surrender/retrieval of driver licences to ensure licences have been surrendered in accordance with the law.

**Rehabilitation programs:** The rationale for rehabilitation of drink driving offenders is based on the notion that the problems of drink driving are often mediated by underlying issues, most notably alcohol related problems and other psychological or social issues. Many rehabilitation programs direct attention to depression, hostility and coping skills as well as those problems related to alcohol.

Rehabilitation programs commonly comprise a number of elements including assessment, drink driving education and treatment. They appear to vary widely in their content and format ranging from short education courses through to therapeutic interventions involving medical treatment, counselling and psychotherapy. Increasingly, programs have tended to feature combinations of these models.

Differences exist in the way rehabilitation programs are provided and in many jurisdictions they are mandated by law and re-licensing is contingent upon their successful completion. In others, attendance is at the discretion of the court or is voluntary. In some jurisdictions, offenders are provided with the opportunity to off-set fines against the cost of the remedial program as an incentive to participate.

Traditionally, there have been difficulties establishing the effectiveness of drink driving rehabilitation programs and early research suggested that the effectiveness of such programs was minimal and possibly not cost effective (eg Sanson-Fisher et al, 1990).

However, contrary to previous negative reviews, a body of evidence is now confirming the effectiveness of drink driving rehabilitation programs with offenders, particularly when combined with licence actions (eg McKnight and Voas, 1991; Wells-Parker et al, 1995; DeYoung, 1997). The evidence suggests that these programs can be more effective in reducing alcohol specific offences and possibly alcohol related crashes, than licence actions on their own (Wells-Parker et al, 1995).

The most current review regarding the efficiency of drink drive rehabilitation programs is a meta-analysis by Wells-Parker et al. (1995). Programs included in this review encompassed a variety of interventions such as contact probation, counselling, general alcohol treatment, Alcoholics Anonymous (AA), psychotherapy and drink drive education. The main research questions addressed whether remediation was more effective than no remediation (ie legal sanctions only) and if so, what types of remedial interventions were the most effective.

The results found that there was a 7-9% reduction in recidivism and alcohol related crashes as a result of program attendance. Licensing sanctions alone tended to reduce non-alcohol related crashes. Combining rehabilitation with licensing sanctions resulted in the greatest reduction in all crashes.

It is well established that drink drivers are not a homogenous group and differ in relation to numerous personality, attitudinal and behavioural dimensions. Nevertheless, certain characteristics appear to be common among groups of offenders according to severity and type of problem in a bid to improve outcomes through effective matching of remedial intervention.

It is recommended that opportunities be provided to all drink driving offenders to participate in rehabilitation programs according to identified need and individual circumstances. It may be necessary to have a variety of programs available for the referral of drink driving offenders and generally referrals should be informed through individual assessment. At a minimum, the available programs should include drink driver education and alcohol treatment. Opportunities for brief and longer term treatment should be available.

It is recommended that:

- offenders convicted of repeat and high alcohol concentration drink driving offences be assessed by a medical practitioner to identify the most appropriate remedial intervention;
- offenders wishing to participate in an interlock program should be required to complete an education course during their interlock licence period;
- those offenders assessed with serious alcohol problems should be referred to alcohol treatment services and their progress monitored;
- those offenders assessed with serious alcohol problems should be required to commence alcohol treatment during the interlock period and where possible successfully complete treatment; and
- for those offenders assessed with alcohol problems, successful completion of alcohol treatment should be a condition of re-licence.

**Recommendation 10:** That consideration be given to providing a range of rehabilitation programs which can be accessed by all convicted drink drivers, with the completion of an appropriate program mandatory in certain circumstances.

#### **4.10 How effective are existing penalties under the *Transport Operations (Road Use Management) Act 1995* in reducing repeat drink driving?**

It is contended that offenders have no real idea of what penalties await them for repeat offences. This view is also supported by Watson (2005). In the majority of cases, it is estimated that people use the penalty handed down for a first offence as guide to future offences. If the penalty imposed is considered by the person to be minor, there is little deterrence from committing further offences.

The *Transport Operations (Road Use Management) Act 1995* provides minimum and maximum penalties for drink driving offences. Magistrates operate between these limits, taking into consideration the circumstances of each offence, however it is considered very rare for magistrates to actually impose the maximum penalty for any particular offence.

Appendix 2 has been prepared to provide a comparison of penalties that are provided for in sections 79 and 80 the *Transport Operations (Road Use Management) Act 1995* against the average of penalties that are awarded in the number three Brisbane Magistrates Court, and those that are provided for with the issue of a Breath/Blood Alcohol Concentration Offence Notice (BACON) under section 142A of the *Traffic Regulation 1962*. It should be noted that due to inefficiencies associated with the issue of BACON's, these infringement notices are no longer utilised by police.

Queensland legislation allows a fair degree of discretion on the part of magistrates, with the minimum and maximum penalties allowable spread over a fairly large alcohol concentration range, eg alcohol concentrations in the range of 0.050 to 0.149 carry the same minimum and maximum penalties. On that basis it would be reasonable to assume that a person at the upper end of the range (0.149) would receive the maximum penalty, however the fines imposed by the number 3 Magistrates Court is on average 23% lower than allowed for in legislation. A similar situation applies to disqualification periods imposed.

On examination of fines imposed for second offences, it is argued that the deterrence element of 'severity' is undermined through the small increase in monetary fines imposed. The average fines imposed in the number 3 Brisbane Magistrates Court for a second offence with an alcohol concentration in the range of 0.050 to 0.079 represent an increase of 25% over that imposed for the first offence. As discussed earlier, 25% of drink drivers detected in Queensland each year fall into this range. The small

increase in penalty does little to deter people from committing further offences.

The average penalties for a first time drink driving offence in the range of 0.050 to 0.079 are considered minor in nature and are lower than a number of fines attached to traffic infringement notices, eg seat belt - \$225.00; mobile phone - \$225.00; undue noise - \$240.00.

Penalties vary across Australian jurisdictions. Appendices 3.1 – 3.6 provide an indication of penalties across Australia and New Zealand. As a means of limiting Magistrate's discretion, Victoria and Western Australian legislation sets out minimum and maximum fines and disqualification periods for each alcohol level.

Table 8 has been prepared to show a comparison in legislated maximum penalties between jurisdictions for various offences.



**Table 8: Max. Drink Drive Penalty Comparisons**

Offence	Queensland		New South Wales		Victoria		ACT		Western Australia		New Zealand	
	Fine	Disq.	Fine	Disq	Fine	Disq.	Fine	Disq.	Fine	Disq.	Fine	Disq.
<b>0.049 BrAC</b> 1 <sup>st</sup> Offence	\$1050.00	9mths	\$1100.00	6mths	\$1257.72	6mths(M)	\$500.00	3mths	\$300.00	3mths(M)	No Offence	
2 <sup>nd</sup> Offence	\$1500.00	18mths	\$2200.00	Unlimited	\$2620.25	12mths(M)	\$1000.00	12mths	\$300.00	3mths(M)		
<b>0.079 BrAC</b> 1 <sup>st</sup> Offence	\$1050.00	9mths	\$1100.00	6mths	\$1257.72	6mths(M)	\$500.00	6mths	\$500.00	3mths(M)	No Offence	
2 <sup>nd</sup> Offence	\$1500.00	18mths	\$2200.00	Unlimited	\$2620.25	14mths(M)	\$1000.00	12mths	\$500.00	3mths(M)		
<b>0.149 BrAC</b> 1 <sup>st</sup> Offence	\$1050.00	9mths	\$2200.00	Unlimited	\$1257.72	14mths(M)	\$1000.00	12mths	\$1500.00	6mths(M)	\$4500.00	6mths*
2 <sup>nd</sup> Offence	\$1500.00	18mths	\$3300.00	Unlimited	\$2620.25	28mths(M)	\$1000.00	36mths	\$1500.00	12mths(M)	\$4500.00	\$6mths*
<b>≥ 0.150 BrAC</b> 1 <sup>st</sup> Offence	\$2100.00	6mths(M)	\$3300.00	Unlimited	\$1257.72	15mths(M)	\$1500.00	36mths	\$2500.00	6mths(M)	\$4500.00	6mths*
2 <sup>nd</sup> Offence	\$4500.00	12mths(M)	\$5500.00	Unlimited	\$2620.25	30mths(M)	\$2000.00	60mths	\$3500.00	2yrs(M)	\$4500.00	6mths*
<b>Fail to Provide Roadside</b> 1 <sup>st</sup> offence	\$3000.00	6mths	\$1100.00	Unlimited	\$1257.72	24mths(M)	\$3000.00		\$800	3mths(M)	\$4500.00	6mths*
2 <sup>nd</sup> Offence	\$3000.00	6mths	\$1100.00	Unlimited	\$2620.25	48mths(M)	\$3000.00		\$1400.00	6mths(M)	\$4500.00	6mths*
<b>Fail to Provide EBA</b> 1 <sup>st</sup> Offence	\$2100.00	6mths(M)	\$3300.00	Unlimited	\$1257.72	24mths(M)	\$3000.00		\$2500.00	6mths(M)	\$4500.00	6mths*
2 <sup>nd</sup> Offence	\$4500.00	12mths(M)	\$5500.00	Unlimited	\$2620.25	48mths(M)	\$3000.00		\$3500.00	2yrs(M)	\$4500.00	6mths*
<b>Disq. Driving</b> 1 <sup>st</sup> Offence	\$4500.00	Absolute	\$3300.00	Unlimited	\$3144.30		\$5000.00		\$2000.00	36mths	\$4500.00	6mths*
2 <sup>nd</sup> Offence	\$4500.00	Absolute	\$5500.00	Unlimited	Imp. 1mth		\$10000.00		\$4000.00	36mths	\$4500.00	6mths*

M = Minimum \* plus max. 3mths imp.

*Queensland Parliamentary Travelsafe Committee Inquiry into Vehicle Impoundment for Drink Drivers - Queensland Police Service Submission*

On the whole, Queensland compares favourably in terms of the maximum penalties that are legislated for in other states.

Information contained from Queensland Police Service CRISP database indicates a number of drivers commit repeat drink driving offences each year. Table 9 outlines the number of persons reported with two or more drink driving offences during the calendar year, for the past three years.

**Table 9: Recidivists drink driving offences in calendar year**

Police Region	2003	2004	2005
Far Northern	110	106	114
Northern	105	98	109
Central	90	96	138
North Coast	173	166	175
Metropolitan North	98	122	137
Metropolitan South	64	66	98
South Eastern	150	170	158
Southern	98	115	112
<b>Total</b>	<b>888</b>	<b>939</b>	<b>1041</b>

Source: Queensland Police Service CRISP database

The above data indicates there has been a 17.2% increase, over the three year period, of persons who have committed two or more drink driving offences in the same calendar year. Furthermore, the percentage of all drink drivers detected each year with one or more previous drink driving offences in the same year has increased from 3.28% in 2003 to 3.50% in 2005.

The optimum licence disqualification periods related to road safety is difficult to determine and some controversy exists in the literature. The effects of licence disqualification on crashes have been examined by a number of researches with different conclusions. Hingson (1996) concluded that 12 – 18 months was the optimal period, while Sadler et al. (1991) argued that lengths around three years were needed to produce traffic safety benefits. Siskind (1996) reported significant reductions in crash rates after the first six months of disqualification. However, collectively these studies suggest that periods between 12 – 18 months generally deliver better road safety benefits than shorter periods of 3 – 6 months (Sadler et al. 1991; Hingson, 1996; Siskind, 1996).

**Recommendation 11:** That a review of drink driving penalties be undertaken by Queensland Transport to enhance the deterrence value of sanctions delivered by the courts.

#### **4.11 Are the powers provided to police to manage drink driving under the *Transport Operations (Road Use Management) Act 1995* enough?**

Police in Queensland operate within the powers provided by sections 79, and 80 of the *Transport Operations (Road Use Management) Act 1995* and section 51 of the *Police Powers and Responsibility Act 2000* to enforce drink driving. On the whole the powers are sufficient to detain and prosecute 'straight forward' drink drivers, eg persons detained as a result of a random breath test interception.

There are however, occasions when the current powers provided are insufficient to detain and manage drink drivers in situations which are out of the 'norm'. The Queensland Police Service submits that additional powers and offences are necessary to address: -

- wilfully altering a person's alcohol concentration;
- breath testing of persons where the identity of the driver is unknown;
- compulsory blood testing of persons admitted to hospital as a result of a traffic crash;
- the limited time to require a specimen of breath or blood; and
- alcohol or drug affected persons instructing learner drivers.

Justification for the additional provisions is detailed below: -

**Wilfully altering alcohol concentration:** - incidents have occurred where the drivers of vehicles involved in a crash have left the scene before the arrival of police. There appears to be an increase in this type of incident where the absconding driver goes home or to some other place and consumes liquor on the pretext of settling their nerves. When police do eventually locate the person, the difficulty arises in establishing the person's alcohol concentration at the time of the incident.

Section 80(15G) of the *Transport Operations (Road Use Management) Act 1995* deems the result obtained from a breath analysis to be conclusive evidence of the person's alcohol concentration at the time the analysis was performed and at a material time in any proceeding if the analysis was made not more than two hours after such material time, and at all material times between those times. However, cases are being lost in court because the defence counsel have raised a doubt as to the person's alcohol concentration at the time of the incident by claiming that what the person had to drink after the incident actually put the person over the limit or put the person into a higher offence category. Other matters are not being pursued because of the difficulty in negating the claims of the quantity of liquor that has been drunk after the incident.

New South Wales legislation (see Appendix 4) provides for an offence of wilfully altering the alcohol concentration and carries a maximum penalty of \$3,300 with a minimum disqualification period of 12 months for a first offence. Whilst the New South Wales legislation is specific to altering the alcohol concentration after the roadside breath test and before the breath analysis, it is believed modified legislation could be linked to a reportable event, ie a traffic crash resulting in death of or injury to any person, or damage to any property.

Recommendation eight from the Parliamentary Travelsafe inquiry into Compulsory Blood Testing (Parliamentary Travelsafe Committee Report No. 22, December 1997) recommended an offence for persons who wilfully altered their alcohol concentration within four hours of the event. Queensland Transport has carriage of the *Transport Operations (Road Use Management) Act 1995*; however recommendation eight has never been implemented.

**Breath testing of persons where identity of driver is unknown:** - Section 80(2A) of the *Transport Operations (Road Use Management) Act 1995* provides power for police to require any person who the police officer believes on reasonable grounds was driving a motor vehicle at the time of an incident resulting in injury to or the death of any person, or damage to property to provide a specimen of breath for a breath test. Section 80(4) of the Act places a limitation of two hours on the requirement for the breath test.

Where a number of persons are in a vehicle at the time of a traffic incident, it is often difficult to establish who the driver was, particularly in the case of a serious incident and all persons have been thrown from the vehicle. Other situations arise where no one is willing to own up to being the driver at the time of the incident, making it difficult to prove that the police officer had reasonable grounds that any one particular person on in fact driving the vehicle.

Situations arise where police acting on reasonable grounds have breath tested the suspect driver, however it is established some time later after interviewing other passengers in the vehicle and possible witnesses, that some other person was in fact the driver. Where this occurs, if the breath test of the new alleged driver is not required within the time period set out in section 80(4), police have no power to take action against the driver for a drink driving offence. If police had power to initially breath test every person in the vehicle on arrival, this situation would be alleviated.

New Zealand legislation (see appendix 5) provides police with the power to breath test any person who was in the vehicle at the time. Similar legislation would enhance existing powers in Queensland.

**Blood testing of persons admitted to hospital as a result of traffic crash;** - In response to the Parliamentary Travelsafe Inquiry into compulsory blood testing, (Report No. 22, 1997) the Queensland Police Service recommended the introduction of compulsory blood testing for all drivers, motorcycle riders and pedestrians age 15 years and older attending hospital to receive treatment of injuries received in a traffic incident. Travelsafe recommendation 1 endorsed the Queensland Police Service recommendation, but Queensland Transport opposed the recommendation citing the low benefits that could be achieved from a high cost program.

Queensland remains on the outer, with all other Australian states, except for Tasmania, which have, or are implementing compulsory blood testing programs.

**Limited time to require a specimen of breath or blood:** - Sections 80(4) and 80(8D) of the *Transport Operations (Road Use Management) Act 1995* provide a time limitation of two hours for the requiring of breath and blood specimens. Given the size of Queensland, the Queensland Police Service has previously submitted to the Travelsafe Committee during the inquiry into Compulsory Blood Testing, that an increased time frame was necessary to allow breath and blood samples to be lawfully obtained.

The following scenario is provided as an example: - a traffic incident occurs in a remote area of Queensland. Police are busy attending to another tasking and it is one hour and forty five minutes before police can attend the scene. In the meantime, the driver has been taken by ambulance to hospital some 100 kilometres away. No other police are available to attend the hospital to require a blood specimen and as a police officer would be unable to attend at the hospital within the required two hours to make a requirement, no action can be taken with respect to a drink or drug driving offence.

The above scenario can also be applied as justification for compulsory blood testing.

Recommendation three of the Travelsafe inquiry into Compulsory Blood Testing stated '*that BAC readings from samples taken within four hours of the accident be accepted as prima facie evidence for a prescribed concentration of alcohol charge and that the BAC readings from samples taken within 12 hours of the accident be acceptable as supporting evidence*'. While this recommendation was made primarily from a compulsory blood testing perspective, the same issues arise in the current breath and blood testing environments.

The implementation of this Travelsafe recommendation would provide an extended period of time in which police could obtain a specimen of breath or blood.

**Alcohol or drug affected persons instructing learner drivers:** - Instances have occurred in Queensland where the person seated alongside a learner driver has been affected by liquor eg dad, who is under the influence, is seated beside his son who is driving on a learner's permit. Due to limitations of the legislation, police have been unable to take action against the instructing person.

Section 124(1)(t) of the *Transport Operations (Road Use Management) Act 1995* provides a definition of 'in charge' and states: - 'any person who appears, acts, or behaves as the driver, rider, or person having the possession, custody, care, or management of any vehicle, tram, train, vessel, or animal, or who uses or drives, or attempts to use or drive the same shall be presumed to be the person in charge thereof whether the person is or is not the real person in charge, and it is immaterial that by reason of circumstances not known to such person it is impossible to drive or otherwise use the same;'

In the case of *Pryor v Morgan, ex parte Pryor* [1970] QWN 13, it was ruled that the person seated in the passenger seat alongside the driver could not be in charge of the vehicle as it was not possible for two persons to be in charge.

New South Wales has legislation (see Appendix 6) which creates an offence for a person instructing a learner driver, to be affected by liquor. The introduction of similar legislation into Queensland would see an enhancement of existing powers.

**Recommendation 12:** That consideration be given to providing powers to police within the *Transport Operations (Road Use Management) Act 1995* to address: wilfully altering a person's alcohol concentration; breath testing of passengers where the identity of the driver is unknown; compulsory blood testing of persons admitted to hospital as a result of a traffic crash; the time limitation to require a specimen of breath or blood; and alcohol or drug affected persons instructing learner drivers.

#### **4.12 How effective is the *Police Powers and Responsibilities Act 2000* in reducing the number of individuals driving carelessly, dangerously, in racing or speed trials or in a way that makes unnecessary noise or smoke?**

Queensland's 'anti-hoon' legislation commenced on 4 November 2002. From that time to 31 December 2005 a total of 2383 vehicles have been confiscated for hooning type offences.

Over this same period, 51 (2.14%) offenders have been detected committing such offences on a second occasion.

Five (0.2%) offenders to date have committed three or more offences of this nature. This level of recidivism reinforces the success of the Queensland 'anti-hoon' legislation.

**Table 10: Impoundments under 'hoon' legislation**

Region	4/11/02 – 31/12/02	2003	2004	2005	Total
Far North	22	31	19	28	<b>100</b>
Northern	5	83	34	53	<b>175</b>
Central	13	59	53	49	<b>174</b>
North Coast	36	193	176	150	<b>555</b>
Southern	22	80	54	97	<b>253</b>
South Eastern	59	290	228	198	<b>775</b>
Metro North	11	55	54	60	<b>180</b>
Metro South	2	60	52	57	<b>171</b>
<b>Totals</b>	<b>170</b>	<b>851</b>	<b>670</b>	<b>692</b>	<b>2383</b>

On 1 July 2000, the Queensland Police Service implemented an innovative state-wide traffic return and complaints system (TRACS). This system acts as a management and intelligence system for the recording of complaints made by members of the public against road users.

In the twelve months immediately prior to the commencement date of the 'hooning' legislation, 570 hooning type complaints were recorded on TRACS. During the twelve months immediately after the introduction of the 'hooning' legislation, 1,228 hooning type complaints were recorded on TRACS. This increase in complaints being recorded could be explained by an increased knowledge of the complaints system by the general public and police officers.

Data from the TRACS system indicates that for the calendar year of 2005, a total of 1161 complaints were made by the general public concerning 'hooning' type anti-social driving behaviours. This represents a 3.2% reduction in public complaints compared to those reported in 2004.

**4.13 Should the *Police Powers and Responsibilities Act 2000* be amended to include drink driving as a 'prescribed offence' enabling police to impound drink drivers' vehicles?**

The deterrence value of current measures to prevent people drinking and driving on Queensland roads does not appear to have the desired effect.

Based on the Queensland Police Service comments to issues four and six, it is recommended that serious consideration be given to amending the *Police Powers and Responsibilities Act 2000* to include the impoundment of vehicles for a number of other proposed 'prescribed offences' relating to drink driving. These offences relate to persons who commit: -

- any offence against sections 79(1) or 80(11) of the *Transport Operations (Road Use Management) Act 1995*, ie UIL or fail to provide;
- a second or subsequent drink driving offence within a ten year period;
- any drink driving offence whilst on a provisional licence, learner's permit or is unlicensed; and
- **any** offence of disqualified driving.

The justifications for these additional 'prescribed offences' are:

**BrAC 0.150 or above** – There is an abundance of research to show that at high alcohol concentrations, the risk of involvement in a crash is sufficiently higher than at lower alcohol concentrations. Persons with high alcohol concentrations present a significant risk to themselves and other road users. Queensland Police records indicate that a constant 25% of all drink drivers detected each year, over the last five years, had an alcohol concentration equal to or exceeding 0.150.

Of vehicle controllers killed in Queensland during 2003, 51 (25%) had an alcohol concentration equal to or exceeding 0.150 (Queensland Transport, 2005). During the same year, 448 vehicle controllers who were injured in traffic crashes had an alcohol concentration of 0.150 or above (Queensland Transport, 2005). This represents 56.6% of injured vehicle controllers with a positive (above zero) alcohol concentration and 3.4% of all injured vehicle controllers during the year.

**Second drink drive offence** – present penalties and sanctions appear to have minimal effect in deterring persons from committing second and subsequent offences. Data compiled by Leal et al (2005) showed that 15.8% of drink drivers detected in 2004 had a previous drink driving offence in either 2004, 2003 or 2002. Given that Leal's research only examined previous convictions within a three year window, it is estimated that 25% is a truer indication of offenders with previous convictions within five years, the period which courts take into account for punishment. To add further deterrence, it is recommended that the period for previous convictions be extended from five years to ten years. The impoundment of vehicles at the time of detection for any second drink driving offence reinforces the 'swiftness' element to deterrence.

**Provisional licence holders etc** – the present legislation requires persons under the age of 25 years who hold a provisional licence or a learners permit or who are unlicensed to have a zero alcohol concentration. Present penalties and sanctions appear to have minimal effect in deterring persons from committing offences. By way of example, during an operation performed on the North Coast over New Year, one breath operator performed 21 breath analyses during the shift with 14, or 66.6% of persons



committing offences by breaching the requirements of their zero alcohol concentration.

**Disqualified Drivers** - present penalties and sanctions appear to have minimal effect in deterring persons from committing offences. In a study conducted by the Centre for Accident Research and Road Safety Queensland (CARRS-Q) between June 2001 and April 2002, 309 unlicensed drivers, including disqualified drivers, were interviewed as they left the Brisbane Magistrates Court. Fifty two (16.8%) of the surveyed participants had appeared in court for a disqualified driving offence.

When interviewed regarding their driving behaviour, the 52 disqualified participants (primarily drink drivers) admitted that on average they each drove 11.4 times per week. Also of interest, 28.8% of the disqualified drivers surveyed admitted they continued to drive after being detected by police for the offence for which they had just appeared in court. Watson (2005) found that 59.2% of disqualified drivers interviewed after leaving the Brisbane Magistrates Court owned vehicles, with a high portion (53.8%) indicating they drove for social or recreational purposes.

The New Zealand experience of impoundment of vehicles from disqualified drivers has produced some promising results with a reduction in disqualified driving offences by one third and a 3.1% drop in the proportion of fatalities attributed to unlicensed drivers.

It is suggested the impoundment period be on a tiered basis with permanent confiscation for **any combination** of three prescribed offences within a ten year period. It is recommended the impoundment period for a first offence for any of the proposed offences be for a period of 28 days, similar to New Zealand legislation.

**Recommendation 13:** That the *Police Powers and Responsibility Act 2000* be amended to include additional 'prescribed offence' provisions allowing for the impoundment of vehicles for:

- any offence against sections 79(1) or 80(11) of the *Transport Operations (Road Use Management) Act 1995*, ie UIL or fail to provide;
- a second or subsequent drink driving offence within a ten year period;
- any drink driving offence whilst on a provisional licence, learner's permit or is unlicensed; and
- **any** offence of disqualified driving.

#### **4.14 What effect, if any, do successful appeals against licence suspension or disqualification have on drink driving behaviour and existing penalties for drink driving?**

Section 87 'Issue of restricted licence to disqualified person' of the *Transport Operations (Road Use Management) 1995* makes provision for a court to issue a restricted driver licence to a person who has been disqualified for an offence under section 79 or 80(5A) of the Act. However, subsection (5) provides limitations on eligibility with the following persons being excluded:

- persons whose provisional or open licence has been suspended or cancelled, or the applicant has been disqualified from holding or obtaining a Queensland driver licence within five years before the application is made;
- persons who have been previously convicted of an offence against section 79 or 80(5A) in Queensland, or equivalent offence in another state, within a five year period;
- persons who have been disqualified for an offence whilst the person was engaged in an activity directly connected with the person's means of earning a livelihood;
- persons who have been disqualified for an offence committed when the person was driving a motor vehicle the person was not authorised under a provisional or open licence to drive;
- persons who have been disqualified for an offence committed when the person was the holder of a restricted licence;
- persons whose disqualification has resulted from an offence against section 79(1), (2A), (2B), (2D) or (2J) – ie alcohol concentration of 0.150 or above, or under 25yrs on a provisional licence, driving a class of vehicle which requires a zero limit, or driving on a restricted licence with an alcohol concentration above zero but less than 0.050;
- persons whose disqualification has resulted from an offence against section 79(2), but who in fact is a person who is required because of age and licence type or the vehicle being driven at the time of the offence to have a zero alcohol concentration;
- persons who do not hold a valid provisional or open licence at the time of disqualification.

Any person making an application for a restricted licence must satisfy the court they are a fit and proper person having regard to the safety of the other road users and the general public, and that refusal would cause

extreme hardship by depriving the person of his/her means of earning a livelihood.

Table 11 indicates the number of restricted licence approvals over the past four financial years, together with the number of persons detected for drink driving each year. It has not been possible to obtain the number of restricted licence applications as it is possible for a restricted licence to be approved without an application being recorded on the Queensland Wide Interlinked Courts (QWIC) computer system. The number of approvals by Magistrates Court District is contained in appendix 7.

**Table 11: Restricted licences in Queensland v drink driver detections**

Year	Approvals	Drink Drivers	Approval Ratio
2004/05	3405	29410	1:8.64
2003/04	3267	27104	1:8.30
2002/03	2911	27416	1:9.42
2001/02	2616	25149	1:9.61

Source: Justice Statistical Analysis Unit

The number of persons being granted a restricted licence has increased by 30.2% over the four financial years under review. At the same time, the ratio of detected drink drivers who have been issued with a restricted licence has increased from one in every 9.6 persons to one in every 8.6 persons detected for drink driving.

Queensland Transport data indicated that as 25 May 2005, there were 1176 restricted licences registered in Queensland (Farries 2005).

The actual impact, if any, that successful restricted licence applications have on deterrence is difficult to measure. It is expected many drivers are unaware of the restrictions on obtaining a restricted licence, and base their possibility of obtaining a restricted licence on the knowledge of other drivers who have been successful in obtaining one. Persons who do obtain restricted licences, communicate their experience to others in the work place and their circle of friends, giving an increased level of confidence to others that it is possible to drive within the law after a drink driving offence.

As deterrence theory is based upon the perceived certainty, swiftness and severity of penalties to deter offences, concern must be expressed that restricted licences weaken the specific and general deterrence effect of the licence suspension as the perceived certainty and severity may diminish. However, research conducted by Watson, Siskind and King (2000) concluded that the deterrence value of restricted licences was no different as a specific deterrent than full licence suspension.

Given that one in every 8.6 persons currently detected for drink driving is issued with a restricted licence, the Queensland Police Service expresses concern that this level of restricted licence approvals has the potential to

have a detrimental effect on drink driving behaviour and undermine deterrence.

**Recommendation 14:** That further research be conducted to gain an understanding of public perceptions with respect to the eligibility criteria for restricted licences, and whether such perceptions or beliefs impact on their driving behaviour.

#### **4.15 Should the appeals process for drink driving be tightened to reduce the incidence of successful appeals in Queensland?**

The number of restricted licences granted in Queensland each year has increased by over 30% in the last four years and currently represents 11.6% of all persons detected for drink driving each year.

It is considered that many more people make inquiries with their legal representatives with a view to obtaining a restricted licence, but due to their previous history or circumstances are advised they not eligible to apply.

The restrictions on obtaining a restricted licence after a conviction for 'drink driving' are much more stringent than those applied to good behaviour licences under sections 29 and 30D of the *Transport Operations (Road Use Management - Driver Licensing) Regulation 1999*.

There would appear to be very few ways of tightening the appeals process beyond the current eligibility criteria without invoking addition sanctions, such as alcohol ignition interlocks. Whilst this may not represent any great issue to a self employed person, companies may be reluctant to fit interlocks to company vehicles, particularly those shared with other drivers. Nevertheless, it is area that could be examined in more detail with a view to reinforcing the severity element of deterrence for those persons who depend on their driving licence to earn a livelihood. Farries (2005) reported that the three Australian States with interlock programs did not have provision for restricted licences.

One area where the Queensland Police Service believes the restricted licence application process can be tightened is through a reduction in the upper alcohol limit from 0.149 down to 0.099. As shown in Zador's relative risk table on page 12, the average relative risk of a fatality for a driver with an alcohol concentration in the range of 0.100 to 0.149 (not considering males under 20) is 35.00 times that of a person with a zero alcohol concentration. This is almost three times the average relative risk assigned to drivers with an alcohol concentration in the range of 0.080 to 0.099. Reducing the upper alcohol concentration reinforces the severity element of deterrence and forces people who depend on their driver licence for earning a livelihood to further rethink their drinking habits.

**Recommendation 15:** That consideration be given to limiting opportunities for appeals for restricted licence applications by lowering the upper alcohol concentration eligibility from 0.149 down to 0.099, ie persons with an alcohol concentration of 0.100 or greater would not be eligible to apply.

**Recommendation 16:** The Queensland Police Service does not support any changes to restricted licence eligibility criteria which will weaken the associated levels of general deterrence associated with the initiative.

#### **4.16 Is vehicle impoundment and key confiscation legislation successful in reducing the number of recidivist drink drivers in other Australian jurisdictions and overseas?**

As indicated previously in response to issues 4 (*What are the costs and benefits of vehicle impoundment and forfeiture*); and 5 (*What are the costs and benefits of ignition key confiscation*), several Australian jurisdictions have legislation enabling the confiscation of keys, or impoundment of vehicles or both, however due to the recent introduction of the legislation, or the powers not being strictly enforced, there is no research to show what impact these sanctions have in deterring recidivist drink drivers in Australia.

##### **New Zealand**

According to Sweedler et al. (2004), New Zealand has the most comprehensive vehicle sanction program in the world. This program has been running since May 1999 and has been credited for being responsible for: -

- a 38% reduction in the number of disqualified driving offences detected by police (mandatory licence carriage and photo licence introduced at the same time);
- a 34% reduction in the number of instances where a driver was convicted of both an alcohol and a disqualified driving offence committed on the same day;
- a 25% reduction in unlicensed and disqualified drivers involved in crashes since the introduction of vehicle impoundment, mandatory licence carriage and photo driver licences; and
- a fall in the proportion of fatalities attributed to unlicensed drivers from 10% of all fatalities (1998) to 6.9% (2000), and an equivalent fall of one-third in all casualties attributed to unlicensed drivers.

Relevant New Zealand impoundment legislation is provided in appendix 8. It should be noted the New Zealand legislation was amended, effective from 16 January 2006, to allow for the impoundment of vehicles from drink

drivers who commit an offence and have two or more previous convictions for drink driving within four years.

### **Canadian Programs**

Sweedler et al. (2004) also examined a number of Canadian jurisdictions that have impoundment programs, most operated administratively.

British Columbia: - In British Columbia, vehicles can be administratively impounded for 30 days when the driver does not have a valid licence. A large portion of the driving while prohibited offenders lost their licence because of driving whilst impaired. In 2001, 9,314 vehicle impoundment notices were issued in British Columbia (the province has approximately 2,700,000 licensed drivers), with a successful appeal rate of less than 5%. They have found that the cost of storage and disposal of unclaimed vehicles often exceeds the vehicle's value. It is reported that the program is very popular with police.

Manitoba: - Manitoba was the first province in Canada to undertake a vehicle impoundment program. Drivers who test over the 0.08% Blood Alcohol Concentration (BAC) or refuse to provide a sample at the roadside are subject to an immediate vehicle impoundment. The period of impoundment is based on the BAC level and the number of previous vehicle impoundments. For a BAC of 0.16% or less, the impoundment period is 30 days. For a BAC over 0.16% it is 60 days. The period of impoundment increases with every seizure and there is no maximum. Vehicles are also impounded for drivers caught driving whilst suspended, prohibited or disqualified. For the 12 month reporting period ending in March 2002, there were 3,636 vehicles seized and impounded as a result of suspension and/or alcohol related offences. The administratively run program has not reported any problems. There have been no evaluations of the program. In December 2002, new legislation went into effect that allows for the forfeiture of a vehicle upon conviction of a Criminal Code driving offence involving death or bodily harm, or upon conviction of three Criminal Code driving offences in five years.

Ontario: - Ontario has an administratively run vehicle impoundment program. Anyone detected driving while his or her licence is suspended for a driving related Federal Criminal Code of Canada conviction, including impaired driving has their vehicle automatically impounded for a minimum of 45 days. Vehicle owners are responsible for all towing and storage costs. Since the program was implemented in February 1999, over 5,100 vehicles have been impounded. No evaluations of the program have been conducted.

Quebec: - The Province of Quebec impounds vehicles for 30 days when driven by a driver without a license or while disqualified for impaired driving or any other offence. In 2002, 20,820 vehicles were impounded (there are 4,881,265 vehicles registered in Quebec). Of these, about 1,600 were for

the driving while suspended for an alcohol or drug offence. To date, there have been no evaluations of this impoundment program.

### **United States**

The growing recognition of the problem of vehicle operation by drivers whose licences have been suspended for driving while impaired and for other offences has led to the increasing use of vehicle sanctions for driving whilst impaired and for driving while suspended in the United States.

Approximately 14 States have impoundment laws that are widely used as sanctions for both driving whilst impaired and driving whilst suspended, with the length of the impoundment increasing with the number of previous offences. These have been shown to reduce recidivism while the vehicle is in custody and, to a lesser extent, even after the vehicle has been released (Voas, Tippetts and Taylor, 1997). DeYoung (1997) found that although vehicle impoundment reduced the recidivism of driving whilst suspended offenders, there was no evidence that it produced a general deterrent effect on the driving public as a whole.

#### **4.17 Should Queensland introduce legislation that is consistent with the legislation in other Australian jurisdictions?**

It is the view of the Queensland Police Service that Queensland legislation should be modified for the specific reasons of preventing offences occurring blatantly by recidivist offenders who show no or little concern for road safety or compliance.

As previously indicated, the value of impoundment legislation in other Australian jurisdictions in reducing recidivism has not been evaluated. However, apart from impoundment legislation, it is believed that specific legislation, namely:

- interlock legislation (South Australia, Victoria and New South Wales);
- wilfully altering an alcohol concentration (New South Wales);
- compulsory blood testing (all states except Tasmania); and
- drink driving legislation surrounding accompanying learner drivers (New South Wales),

should be considered for implementation into Queensland.

New Zealand legislation (see Appendix 8) for the impounding of vehicles from drink and disqualified drivers has a demonstrated ability to reduce recidivism amongst disqualified drivers is supported by the Queensland Police Service for implementation into Queensland.

**Recommendation 17:** That legislation similar to the New Zealand model, with respect to the impoundment of vehicles used by drink and disqualified drivers, be considered appropriate for implementation in Queensland.



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**Operation of Alcohol Interlock Programs in Australia**

*South Australia*

- introduced in 2001 and is available throughout the State;
- drivers who have their licence disqualified for a drink driving offence for six months or over can apply for an alcohol interlock licence after the half way point of their licence disqualification period;
- the legislation that supports the scheme is the *Road Traffic Act 1961* sections 48-53, and the *Road Traffic (Misc.) Regs 1990* sections 13B-13C;
- the Registrar of Motor Vehicles is responsible for the administration of the Alcohol Interlock Scheme;
- participation is voluntary and the driver bears all the costs in relation to installation, monthly rental, service and removal and mandatory counselling sessions. There is no fine waiver to offset participation;
- a drug and alcohol assessment is required if the person has had two or more drink driving offences within a three year period. The assessment must be completed before the person is eligible to apply for an alcohol interlock condition on their licence. If they are assessed as being alcohol or drug dependant, an interlock licence will not be issued;
- a condition of the interlock scheme is that participants must attend a minimum of two counselling sessions with the Drug and Alcohol Services Council at entry and exit from the scheme. The sessions are designed to assist people to correct their drink driving behaviour. The cost of the counselling sessions (\$55 each) is borne by the participant. Failure to attend may result in cancellation of the interlock licence;
- the duration of the alcohol interlock licence conditions is twice the number of days left in the disqualification period prior to issuing the interlock licence. For example, if three months disqualification remains, the interlock device must remain for six months;
- two interlock companies have been approved to install and service interlock devices in South Australia;
- services to install and download data from the interlock devices are provided monthly or two monthly. The download data report is sent to the Registrar of Motor Vehicles and to participants;

- if participants do not attend their service appointment within seven days after the due date the interlock device may lock the ignition and the vehicle cannot be started;
- the initial cost for entrance into the scheme is approx. \$400 and \$160 for monthly rental with an exit cost of \$150, plus \$55 for each of the two counselling sessions;
- there is a low income subsidy for eligible participants; and
- after eighteen months of operation, 100 participants had been involved in the program and 69 still had an interlock fitted to their vehicle.

### *New South Wales*

- in 2002, NSW amended the *Road Transport (Driver Licensing) Act 1998* to provide for the use of alcohol interlock devices as a partial alternative to licence disqualification for certain alcohol related offences;
- the model for the NSW interlock program has been developed to provide a new penalty for courts and to provide those convicted of drink driving with an option to address their drink driving behaviour and reduce their licence suspension period;
- the interlock program is offered on a voluntary basis with the incentives of a reduced licence disqualification period;
- the alcohol interlock condition is addition to the hierarchy of other countermeasures including licence disqualification, fines and the drink driver education *Sober Driver Program*;
- the program targets first offenders convicted of high or middle range alcohol concentrations and all repeat drink driver offenders who have had a drink drive conviction within the previous five years;
- the interlock program is only available via a court order and is offered as an alternative to a full disqualification period;
- the program includes a mandatory minimum disqualification period followed by a mandatory minimum interlock driver's licence;
- participants are expected to pay all the associated costs, estimated to be between \$1800 and \$2500 per year. Assistance is provided to low income earners through a means tested scheme;

- to obtain an interlock licence, participants have to:
  - consult a medical practitioner;
  - have an interlock installed in their vehicle by an approved installer;
  - submit to the Road Traffic Authority documentation of the medical consultation and certificate of interlock installation; and
  - complete the disqualification compliance period.

### *Victoria*

- Victorian alcohol interlock legislation came into effect in May 2002. The legislation is contained within the *Road Safety Act 1986*. The alcohol ignition interlock legislation applies to all repeat offenders and serious first time offenders. The interlock condition is involuntary and prescribed by law;
- the interlock condition for first offenders with a BAC >0.15 or non BAC offence, (including failing to provide a breath or blood specimen) applies for at least six months with a minimum licence suspension of 15 months;
- first offenders are defined as having one drink driving offence on or after 13 May 2002 and no other within the last 10 years;
- repeat offenders are defined as having at least one drink driving offence in the 10 years prior to the start date of 13 May 2002 and another on or after the start date;
- the interlock condition applies to repeat offenders with three or more offences, or two where the most recent involved a BAC >0.15, or a non BAC offence is for at least three years with a minimum licence cancellation period of 12 months;
- an interlock condition for at least six months is applied where the driver is convicted of two offences with the most recent being <0.15. In this case, the licence cancellation period is a minimum of 12 months;
- the interlock condition applies after the mandatory licence disqualification period and a court order is required before the interlock can be removed. Referral to treatment or completing drink driving education is required to obtaining a court order to remove the ignition interlock;
- the interlock condition is additional to all other requirements such as clinical assessment for alcohol problems (provided to approx. 3500 people per year), the Drink Driver Assessment and Education Program (provided to approximately 9000 people per year) required of all repeat drink drivers and serious first offenders. Assessment and drink drive education programs have been in place since 1990;

- participants apply to the Magistrates Court of Victoria for a licence restoration order (approx. 7000 apply each year), then apply to VicRoads for a new licence;
- participants lease the alcohol ignition interlock devices. Fees cover installation, servicing, downloading data and removal. Health care holders are subsidised \$50 per month;
- once the interlock is fitted, participants do not have any restriction on driving.

APPENDIX 2

Drink Driving Penalties – Queensland							
Licence Class	Alcohol Result Range	Legislation		Magistrates Court		Blood Alcohol Concentration Offence Notice (BACON)	
		Fine (\$A) Max	Disqual. (Mths) Max	Fine (\$A)	Disqual. (Mths)	Fine (\$A)	Disqual. (Mths)
Open Licence 1 <sup>st</sup> Offence	0.05 – 0.06	< 1050.00	1 – 9	200.00	1	100.00	1
	0.07 – 0.08			400.00	3	250.00	2
	0.09 – 0.10			600.00	4	400.00	3
	0.11 – 0.12			700.00	6	N/A	N/A
	0.13 – 0.14			800.00	8		
	0.15 – 0.16	< 2100.00	Min 6	1000.00	10		
	0.17 – 0.19			1200.00	12		
	0.20 +			1500.00	15		
Open Licence 2 <sup>nd</sup> Offence	0.05 – 0.06	< 1500.00	3 – 18	250.00	3	N/A	N/A
	0.07 – 0.08			500.00	4		
	0.09 – 0.10			700.00	7		
	0.11 – 0.12			900.00	9		
	0.13 – 0.14			1100.00	13		
	0.15 – 0.16	< 4500.00	Min 12	1400.00	17		
	0.17 – 0.19			1600.00	19		
	0.20 +			1800.00	21		
Under 25yrs (Provisional, L/P, Unlic.) 1 <sup>st</sup> Offence	0.02 – 0.04	<1050.00	3 – 9			100.00	3
	0.05 – 0.06	See Open Licence				100.00	3
	0.07 – 0.08					250.00	3
	0.09 – 0.10					400.00	3
Under 25yrs (Provisional, L/P, Unlic.) 2 <sup>nd</sup> Offence	0.02 – 0.04	<1500.00	3 – 18			N/A	N/A
	0.05 +	See Open Licence					

Special Veh,	0.02 – 0.04	<1050.00	3 – 9			100.00	1
Trains & Vessels	0.05 – 0.06	See Open Licence				100.00	1
1 <sup>st</sup> Offence	0.07 – 0.08					250.00	2
	0.09 – 0.10					400.00	3
Special Veh,	0.02 – 0.04	<1500.00	3 – 18			N/A	N/A
Trains & Vessels	0.05 +	See Open Licence					
2 <sup>nd</sup> Offence							
Restricted Licence	0.02 – 0.04	<1500.00	3 – 9			N/A	N/A
1 <sup>st</sup> Offence	0.05 +	See Open Licence					
Restricted Licence	0.02 – 0.04	<1500.00	3 – 18			N/A	N/A
2 <sup>nd</sup> Offence	0.05 +	See Open Licence					
Disqualified Driving 1 <sup>st</sup> Offence	N/A	< 4500.00	Disq. Absolutely 24 – 60	400.00 to 800.00		N/A	N/A
Disqualified Driving 2 <sup>nd</sup> Offence	N/A	< 4500.00	Disq. Absolutely 24 – 60	>1000.00		N/A	N/A
Drive whilst 24hr susp.	N/A	< 1050.00	Min 6			N/A	N/A



**TASMANIA  
DRINK DRIVING PENALTIES**

Offence Category		Maximum Fine	Maximum Disqualification
Novice Range PCA 0.001 – 0.019	First Offence	10 penalty units*	12 months
	Second or Subsequent Offence	20 penalty units	24 months
Special Range PCA 0.020 – 0.049	First Offence	As Above (One offence 0.001 – 0.049)	As Above
	Second or Subsequent Offence	As Above	As Above
Low Range PCA 0.050 – 0.079	First Offence	0.05 – 0.099 10 penalty units	12 months
	Second or Subsequent Offence	0.05 – 0.099 20 penalty units	24 months
Middle Range PCA 0.080 – 0.149	First Offence	0.10 – 0.149 20 penalty units	18 months
	Second or Subsequent Offence	0.10 – 0.149 40 penalty units	36 months
High Range PCA 0.150 and above	First Offence	30 penalty units	36 months
	Second or Subsequent Offence	60 penalty units	72 months
Refuse/Fail Breath Analysis	First Offence	30 penalty units	36 months
	Second or Subsequent Offence	60 penalty units	72 months
Refuse/Fail Roadside Breath Test	First Offence	10 penalty units	36 months
	Second or Subsequent Offence	n/a	n/a
Wilfully Alter PCA	First Offence	10 penalty units	36 months
	Second or Subsequent Offence	n/a	n/a
Disqualified Driving	First Offence	10 penalty units	36 months
	Second or Subsequent Offence	n/a	n/a

Source: Tasmania Police

\* - 1 penalty unit equals \$100.00

## NEW SOUTH WALES DRINK DRIVING PENALTIES

Offence Category		Maximum Fine	Maximum Disqualification
Novice Range PCA 0.001 – 0.019	First Offence	\$1,100	Min, 3mths, Max 6mths, Auto 6mths
	Second or Subsequent Offence	\$2,200	Min 6mths. Max unlimited (determination of court) Auto 12mths
Special Range PCA 0.020 – 0.049	First Offence	As above	As above
	Second or Subsequent Offence	As above	As above
Low Range PCA 0.050 – 0.079	First Offence	As above	As above
	Second or Subsequent Offence	As above	As above
Middle Range PCA 0.080 – 0.149	First Offence	\$2,200 &/or 9mths goal	Min 6mths; Max unlimited; Auto 12 mths. Immediate licence suspension
	Second or Subsequent Offence	\$3,300 &/or 12mths goal	Min 12mths; Max unlimited; Auto 3yrs. Immediate licence suspension
High Range PCA 0.150 and above	First Offence	\$3,300 &/or 18mths goal	Min 12mths; Max unlimited; Auto 3yrs. Immediate licence suspension
	Second or Subsequent Offence	\$5,500 &/or 2yrs goal	Min 2yrs; Max: unlimited; Auto 5yrs. Immediate licence suspension
Refuse/Fail Breath Analysis	First Offence	As with High PCA	As with High PCA
	Second or Subsequent Offence	As with High PCA	As with High PCA
Refuse/Fail Roadside Breath Test	First Offence	\$1,100	Min 12mths; Max unlimited; Auto 3yrs
	Second or Subsequent Offence	Same	Min 2yrs; Max unlimited; Auto 5yrs
Wilfully Alter PCA	First Offence	\$3,300 &/or 18mths goal	Min 12mths; Max unlimited; Auto 3yrs
	Second or Subsequent Offence	\$5,500 &/or 2yrs	Min 2yrs; Max unlimited; Auto 5yrs
Disqualified Driving	First Offence	\$3,300 &/or 18mths goal	Min 12mths; Max unlimited
	Second or Subsequent Offence	\$5,500 &/or 2yrs	Min 2 yrs; Max unlimited

Source: - New South Wales Police Service

## VICTORIA DRINK DRIVING PENALTIES

Offence Category		Maximum Fine	Maximum Disqualification																											
Novice Range PCA 0.001 – 0.019	Penalty unit =\$104.81	Current policy is no prosecution at this level	<b>ALL DISQUALIFICATIONS ARE SET AS MINIMUMS</b>																											
	First Offence	12 penalty units	6 months																											
	Second or Subsequent Offence	25 penalty units or 3 mths imp.	12 months																											
Special Range PCA 0.020 – 0.049	First Offence	12 penalty units	6 months																											
	Second or Subsequent Offence	25 penalty units or 3 mths imp.	12 months																											
Low Range PCA 0.050 – 0.079	First Offence	12 penalty units	From 0.070 as per schedule reproduced below.																											
	Second or Subsequent Offence	25 penalty units or 3 mths imp.	<table style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td>1<sup>st</sup></td> <td>2<sup>nd</sup></td> </tr> <tr> <td>.050to.059</td> <td>6</td> <td>12</td> </tr> <tr> <td>.060to.069</td> <td>6</td> <td>12</td> </tr> <tr> <td>.070to.079</td> <td>6</td> <td>14</td> </tr> </table>		1 <sup>st</sup>	2 <sup>nd</sup>	.050to.059	6	12	.060to.069	6	12	.070to.079	6	14															
	1 <sup>st</sup>	2 <sup>nd</sup>																												
.050to.059	6	12																												
.060to.069	6	12																												
.070to.079	6	14																												
Middle Range PCA 0.080 – 0.149	First Offence	12 penalty units	<table style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td>1<sup>st</sup></td> <td>2<sup>nd</sup></td> </tr> <tr> <td>.080to.089</td> <td>6</td> <td>16</td> </tr> </table>		1 <sup>st</sup>	2 <sup>nd</sup>	.080to.089	6	16																					
		1 <sup>st</sup>	2 <sup>nd</sup>																											
.080to.089	6	16																												
Second or Subsequent Offence	25 penalty units or 3 mths imp.	<table style="margin-left: auto; margin-right: auto;"> <tr> <td>.090to.099</td> <td>6</td> <td>18</td> </tr> <tr> <td>.100to.109</td> <td>10</td> <td>20</td> </tr> <tr> <td>.110to.119</td> <td>11</td> <td>22</td> </tr> <tr> <td>.120to.129</td> <td>12</td> <td>24</td> </tr> <tr> <td>.130to.139</td> <td>13</td> <td>26</td> </tr> <tr> <td>.140to.149</td> <td>14</td> <td>28</td> </tr> <tr> <td>.150to.159</td> <td>15</td> <td>30</td> </tr> </table>	.090to.099	6	18	.100to.109	10	20	.110to.119	11	22	.120to.129	12	24	.130to.139	13	26	.140to.149	14	28	.150to.159	15	30							
.090to.099	6	18																												
.100to.109	10	20																												
.110to.119	11	22																												
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.130to.139	13	26																												
.140to.149	14	28																												
.150to.159	15	30																												
High Range PCA 0.150 and above	First Offence	12 penalty units	<table style="margin-left: auto; margin-right: auto;"> <tr> <td>.160to.169</td> <td>16</td> <td>32</td> </tr> <tr> <td>.170to.179</td> <td>17</td> <td>34</td> </tr> <tr> <td>.180to.189</td> <td>18</td> <td>36</td> </tr> <tr> <td>.190to.199</td> <td>19</td> <td>38</td> </tr> <tr> <td>.200to.209</td> <td>20</td> <td>40</td> </tr> <tr> <td>.210to.219</td> <td>21</td> <td>42</td> </tr> <tr> <td>.220to.229</td> <td>22</td> <td>44</td> </tr> <tr> <td>.230to.249</td> <td>23</td> <td>46</td> </tr> <tr> <td>.24&amp; above</td> <td>24</td> <td>48</td> </tr> </table>	.160to.169	16	32	.170to.179	17	34	.180to.189	18	36	.190to.199	19	38	.200to.209	20	40	.210to.219	21	42	.220to.229	22	44	.230to.249	23	46	.24& above	24	48
	.160to.169	16	32																											
.170to.179	17	34																												
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.230to.249	23	46																												
.24& above	24	48																												
Second or Subsequent Offence	25 penalty units or 3 mths imp.																													
Refuse/Fail Breath Analysis	First Offence	12 penalty units	24 months																											
	Second or Subsequent Offence	25 penalty units or 3 mths imp.	48 months																											
Refuse/Fail Roadside Breath Test	First Offence	12 penalty units	24 month																											
	2nd or Sub. Offence	25 penalty units or 3 mths imp.	48 months																											

Wilfully Alter PCA	First Offence Second or Subsequent Offence		No corresponding offence
Disqualified Driving	First Offence  Second or Subsequent Offence	30 penalty units or 4 mths imp. Imprisonment for not less than 1month up to 2 years.	

Source: - Victoria Police Service

**WESTERN AUSTRALIA  
DRINK DRIVING PENALTIES**

<b>Offence Category</b>		<b>Maximum Fine</b>	<b>Maximum Disqualification</b>
Novice Range PCA 0.001 – 0.019	First Offence	<b>No Offence in WA</b>	
	Second or Subsequent Offence	<b>N/A</b>	
Special Range PCA 0.020 – 0.049	First Offence	<b>64A Road Traffic Act \$100 to \$300</b>	<b>Disqualified for not less than 3 months</b>
	Second or Subsequent	<b>As above</b>	
Low Range PCA 0.050 – 0.079	First Offence	<b>64AA RTA Fine up to \$200 See table in attachment</b>	
	Second or Subsequent		
Middle Range PCA 0.080 – 0.149	First Offence	<b>64 Road Traffic Act See Table 64 RTA See table</b>	
	Second or Sub. Offence		
High Range PCA 0.150 and above	First Offence	<b>63 Road Traffic Act Not less than \$800 or more than \$2500 or Imprisonment 9 months 2<sup>nd</sup> offence \$1500 to \$3500 3<sup>rd</sup> offence \$2000 to \$5000 or Imprisonment for 18 months</b>	<b>Not less than 6 months</b>
	Second or Subsequent Offence		<b>Not less than 2 years Permanent Disqualification</b>
Refuse/Fail Breath Analysis	First Offence	<b>\$800 to \$2500</b>	<b>Not less than 6 months</b>
	Second or Subsequent Offence	<b>2<sup>nd</sup> offence \$1500 to \$3500 or imprisonment for 9 months 3<sup>rd</sup> offence \$2000 to \$5000 or imprisonment 18 months</b>	<b>Not less than 2 years Permanently Disqualified</b>
Refuse/Fail Roadside Breath Test	First Offence	<b>67A RTA \$300 to \$800</b>	<b>Not less than 3 months</b>
	Second or Subsequent	<b>\$600 to \$1400</b>	<b>Not less than 6 months</b>
Wilfully Alter PCA	First Offence	<b>N/A in WA</b>	
Disqualified Driving	First Offence	<b>49 RTA \$400 to \$2000 and Imp for not more than 12 months \$1000 to \$4000 and imprisonment up to 18 months</b>	<b>Not less than 9 months or more than 3 years</b>
	Second or Subsequent Offence		<b>Not less than 9 months or more than 3 years</b>

Source: - Western Australia Police Service

Western Australia Drink Driving Legislated Penalties

Percentage of alcohol in blood		Penalty
≥ 0.05% but < 0.06%	Min: Max: Disq:	5 PU 10 PU 3 months
≥ 0.06% but < 0.07%	Min: Max: Disq:	6 PU 10 PU 3 months
≥ 0.07% but < 0.08%	Min: Max: Disq:	7 PU 10 PU 3 months

Percentage of alcohol in blood		1st offence	2nd offence	Subsequent offence
≥ 0.08% but < 0.09%	Min: Max: Disq:	8 PU 30 PU 3 months	16 PU 30 PU 6 months	16 PU 30 PU 6 months
≥ 0.09% but < 0.10%	Min: Max: Disq:	10 PU 30 PU 3 months	16 PU 30 PU 6 months	16 PU 30 PU 7 months
≥ 0.10% but < 0.11%	Min: Max: Disq:	10 PU 30 PU 4 months	20 PU 30 PU 6 months	20 PU 30 PU 8 months
≥ 0.11% but < 0.12%	Min: Max: Disq:	12 PU 30 PU 4 months	20 PU 30 PU 7 months	20 PU 30 PU 9 months
≥ 0.12% but < 0.13%	Min: Max: Disq:	12 PU 30 PU 5 months	24 PU 30 PU 8 months	24 PU 30 PU 10 months
≥ 0.13% but < 0.14%	Min: Max: Disq:	14 PU 30 PU 5 months	24 PU 30 PU 10 months	24 PU 30 PU 12 months
≥ 0.14% but < 0.15%	Min: Max: Disq:	14 PU 30 PU 6 months	24 PU 30 PU 12 months	24 PU 30 PU 14 months

**AUSTRALIAN CAPITAL TERRITORY  
DRINK DRIVING PENALTIES**

<b>Offence Category</b>		<b>Maximum Fine</b>	<b>Maximum Disqualification</b>
Level 1 0.001 – 0.019	First Offence	\$ 500	3 months
	Second or Subsequent Offence	\$ 1000	12 months
Level 1 0.020 – 0.049	First Offence	\$ 500	3 months
	Second or Subsequent Offence	\$ 1000	12 months
Level 2 0.050 – 0.079	First Offence	\$ 500	6 months
	Second or Subsequent Offence	\$ 1000	12 months
Level 3 0.080 – 0.149	First Offence	\$ 1000, 6 months imprisonment or both	12 months
	Second or Subsequent Offence	\$ 1000, 6 months imprisonment or both	3 years
Level 4 0.150 and above	First Offence	\$ 1500, 9 months imprisonment or both	3 years
	Second or Subsequent Offence	\$ 2000, 9 months imprisonment or both	5 years
Refuse/Fail Breath Analysis	First Offence	\$ 3000, 6 months imprisonment or both	
	Second or Subsequent Offence	\$ 3000, 12 months imprisonment or both	
Refuse/Fail Roadside Breath Test	First Offence	\$ 3000, 6 months imprisonment or both	
	Second or Subsequent Offence	\$ 3000, 12 months imprisonment or both	
Wilfully Alter PCA	First Offence Second or Subsequent Offence	No Offence in ACT	
Disqualified Driving	First Offence	\$ 5000, 6 month imprisonment or both	
	Second or Subsequent Offence	\$ 10000, 12 months imprisonment or both	

Source: ACT Police Service

**NEW ZEALAND  
DRINK DRIVING PENALTIES**

<b>Offence Category</b>		<b>Maximum Fine</b>	<b>Maximum Disqualification</b>
Novice Range PCA Under 20 years 0.031 – 0.080	First Offence	\$2,250	3 Months Disq. And Max 3 Months prison.
	Second or Subsequent Offence	Same	Same
Special Range PCA 0.020 – 0.049	First Offence	N/A	N/A
	Second or Subsequent Offence		
Low Range PCA 0.050 – 0.079	First Offence	N/A	N/A
	Second or Subsequent Offence		
0.081 – and above	First Offence or Second Offence	\$4,500	6 Months Disq. and Max 3 Months prison. (If 2nd offence within 4 years - immediate 28-day suspension of licence)
	Third or Subsequent Offence	\$6,000	More than 1 Year Disq. and Max 2 years prison. (If within 4 years - immediate 28-day vehicle impoundment)
High Range PCA 0.150 and above	First Offence	N/A	N/A
	Second or Subsequent Offence		
Refuse/Fail taking of Blood Sample for Analysis	First and second offence	\$4,500	6 Months Disq. and Max 3 Months prison. (If 2nd offence within 4 years - immediate 28-day suspension of licence)
	Third or Subsequent Offence	\$6,000	More than 1 Year Disq. and Max 2 years prison. (If within 4 years - immediate 28-day vehicle impoundment)
Refuse/Fail to await the result of Roadside Breath Test	First and second offence	\$4,500	6 Months Disq. and Max 3 Months prison. (If 2nd offence within 4 years - immediate 28-day suspension of licence)
	Third or Subsequent Offence	\$6,000	More than 1 Year Disq. and Max 2 years prison. (If within 4 years - immediate 28-day vehicle impoundment)



Refuse/Fail to Accompany for Evidential Breath or Blood Test	First and second offence	\$4,500	6 Months Disq. and Max 3 Months prison. (If 2nd offence within 4 years - immediate 28-day suspension of licence)
	Third or Subsequent Offence	\$6,000	More than 1 Year Disq. and Max 2 years prison. (If within 4 years - immediate 28-day vehicle impoundment)
Wilfully Alter PCA	First Offence Second or Subsequent Offence		
Disqualified Driving	First Offence and second offence	\$4,500	6 Months Disq. and Max 3 Months prison.  (Immediate 28-day vehicle impoundment in all cases).
	Third or Subsequent Offence	\$6,000	More than 1 Year Disq. and Max 2 years prison

Source: New Zealand Police Service

**New South Wales Road Transport (Safety and Traffic Management) Act  
1999 – Section 16**

**Offence – wilfully altering blood concentration following request for breath test or breath analysis.**

A person must not wilfully do anything to alter the concentration of alcohol in the person's blood:

- (a) between the time of the event referred to in section 13 (1) (a), (b) or (c) in respect of which the person has been required by a police officer to undergo a breath test and the time when the person undergoes that test, or
- (b) if the person is required by a police officer to submit to a breath analysis – between the time of the event referred to in section (1) (a), (b) or (c) in respect of which the person has been required by a police officer to undergo a breath test and the time when the person submits to the breath analysis.

Maximum penalty: 30 penalty units or imprisonment for 18 months or both (in the case of a first offence) or 50 penalty units or imprisonment for 2 years or both (in the case of a second or subsequent offence).

Source: - New South Wales Police Service

**New Zealand Land Transport Act 1998 - Section 68**

Who must undergo breath screening test: -

(1) An enforcement officer may require any of the following persons to undergo a breath screening test without delay:

- (a) A driver of, or a person attempting to drive, a motor vehicle on a road:
- (b) A person whom the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle:
- (c) If an accident has occurred involving a motor vehicle: -
  - (i) The driver of the vehicle at the time of the accident; or
  - (ii) If the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person whom the officer has good cause to suspect was in the motor vehicle at the time of the accident.

(2) An enforcement officer may not require a person who is in a hospital or doctor's surgery as a result of an accident involving a motor vehicle to undergo a breath screening test.

(3) A person who has undergone a breath screening test under this section must remain at the place where the person underwent the test until after the result of the test is ascertained, and an enforcement officer may arrest the person without warrant if the person refuses or fails to remain at that place.

(4) If an enforcement officer is entitled to require a person to undergo a breath screening test, the officer may also require that person to undergo a test using a passive breath-testing device, which test is one where the officer holds a passive breath-testing device near the person's mouth for the purpose of ascertaining whether or not there is any alcohol in the person's breath.

(5) The use or non-use of a passive breath-testing device does not of itself affect the validity of a breath screening test.

Source: - New Zealand Police Service

**New South Wales Road Transport (Safety and Traffic Management) Act  
1999 – Section 9**

**Presence of prescribed concentration of alcohol in person's blood**

(1A) Offence – novice range prescribed concentration of alcohol

If a person is the holder of a learner licence, or of a provisional licence issued under the *Road Transport (Driver Licensing) Act 1998*, in respect of a motor vehicle, the person must not, while there is present in his or her blood the novice range prescribed concentration of alcohol:

- (a) drive the motor vehicle, or
- (b) occupy the driving seat of the motor vehicle and attempt to put the motor vehicle in motion.

Maximum penalty: 10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence).

(1) Offence – special range prescribed concentration of alcohol

A person must not, while there is present in his or her blood the special range prescribed concentration of alcohol:

- (a) if the person is a special category driver in respect of a motor vehicle – driver the motor vehicle, or
- (b) if the person is a special category driver in respect of a motor vehicle – occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (c) if the person is a special category supervisor in respect of a motor vehicle and the holder of a driver licence (other than a provisional licence or a learner licence issued under the *Road Transport (Driver Licensing) Act 1998*) – occupy the seat in a motor vehicle next to a holder of a learner licence who is driving the vehicle.

Maximum penalty: 10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence).

(2) Offence – low range prescribed concentration of alcohol

A person must not, while there is present in his or her blood the low range prescribed concentration of alcohol:

- (a) drive a motor vehicle, or
- (b) occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (c) if the person is the holder of a driver licence (other than a provisional licence or a learner licence issued under the *Transport (Driver Licensing) Act 1998*) – occupy the seat in a motor vehicle next to a holder of a learner licence who is driving the vehicle.

Maximum penalty: 10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence).

(3) Offence – middle range prescribed concentration of alcohol

A person must not, while there is present in his or her blood the middle range prescribed concentration of alcohol:

- (d) drive a motor vehicle, or
- (e) occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (f) if the person is the holder of a driver licence (other than a provisional licence or a learner licence issued under the *Transport (Driver Licensing) Act 1998*) – occupy the seat in a motor vehicle next to a holder of a learner licence who is driving the vehicle.

Maximum penalty: 20 penalty units or imprisonment for 9 months or both (in the case of a first offence) or 30 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).

(4) Offence – high range prescribed concentration of alcohol

A person must not, while there is present in his or her blood the high range prescribed concentration of alcohol:

- (g) drive a motor vehicle, or
- (h) occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (i) if the person is the holder of a driver licence (other than a provisional licence or a learner licence issued under the *Transport (Driver Licensing) Act 1998*) – occupy the seat in a motor vehicle next to a holder of a learner licence who is driving the vehicle.

Maximum penalty: 30 penalty units or imprisonment for 18 months or both (in the case of a first offence) or 50 penalty units or imprisonment for 2 years or both (in the case of a second or subsequent offence).

Source: - New South Wales Police Service

## APPENDIX 7

### Number of Orders made for the issue of a Restricted Licence by Magistrates Court Location and Financial Year

**Reference Period:** 1 July 2001 to 30 June 2005 (inclusive)

<b>Court Location</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>Total</b>
Atherton	13	12	15	17	<b>57</b>
Aurukun	-	-	-	2	<b>2</b>
Ayr	12	14	11	18	<b>55</b>
Bamaga	2	-	1	-	<b>3</b>
Barcaldine	1	2	1	2	<b>6</b>
Beaudesert	28	32	36	41	<b>137</b>
Beenleigh	174	142	162	138	<b>616</b>
Biloela	10	8	19	11	<b>48</b>
Birdsville	-	1	1	1	<b>3</b>
Blackall	-	-	1	1	<b>2</b>
Blackwater	2	6	2	10	<b>20</b>
Boulia	1	3	4	3	<b>11</b>
Bowen	13	8	11	18	<b>50</b>
Brisbane	313	479	604	627	<b>2,023</b>
Bundaberg	31	27	38	38	<b>134</b>
Caboolture	47	27	54	49	<b>177</b>
Cairns	168	155	178	180	<b>681</b>
Caloundra	15	17	23	34	<b>89</b>
Charleville	6	8	2	1	<b>17</b>
Charters Towers	17	5	5	8	<b>35</b>
Childers	2	4	5	4	<b>15</b>
Chinchilla	1	7	2	5	<b>15</b>
Clermont	5	4	1	6	<b>16</b>
Cleveland	84	101	78	59	<b>322</b>
Cloncurry	1	4	10	5	<b>20</b>
Coen	-	-	1	-	<b>1</b>
Cooktown	3	1	6	12	<b>22</b>
Coolangatta	32	35	45	45	<b>157</b>
Cunnamulla	1	3	1	2	<b>7</b>
Dajarra	-	1	-	-	<b>1</b>
Dalby	4	12	14	10	<b>40</b>
Dirranbandi	1	-	1	-	<b>2</b>
Doomadgee	4	-	-	1	<b>5</b>
Emerald	20	17	31	13	<b>81</b>
Gatton	18	24	28	29	<b>99</b>
Gayndah	4	2	-	1	<b>7</b>
Gladstone	37	43	53	46	<b>179</b>
Goondiwindi	12	8	2	6	<b>28</b>
Gympie	23	23	20	31	<b>97</b>
Hervey Bay	19	33	36	39	<b>127</b>
Holland Park	55	71	81	115	<b>322</b>
Hughenden	-	1	-	1	<b>2</b>

Inala	67	71	83	61	<b>282</b>
Ingham	3	5	15	7	<b>30</b>
Innisfail	23	29	19	19	<b>90</b>
Ipswich	97	81	66	65	<b>309</b>
Julia Creek	-	-	2	1	<b>3</b>
Kingaroy	20	9	2	8	<b>39</b>
Kowanyama	-	-	-	1	<b>1</b>
Longreach	4	5	9	6	<b>24</b>
Mackay	53	71	77	64	<b>265</b>
Mareeba	20	13	11	11	<b>55</b>
Maroochydore	109	160	192	189	<b>650</b>
Maryborough	13	20	13	12	<b>58</b>
Millmerran	-	1	2	1	<b>4</b>
Mitchell	2	-	2	4	<b>8</b>
Monto	2	-	1	-	<b>3</b>
Moranbah	10	9	8	16	<b>43</b>
Mornington Island	-	-	-	2	<b>2</b>
Mossman	22	23	23	20	<b>88</b>
Mount Isa	13	8	5	16	<b>42</b>
Murgon	2	6	9	3	<b>20</b>
Nambour	9	9	16	21	<b>55</b>
Nanango	9	10	7	7	<b>33</b>
Noosa	80	66	86	122	<b>354</b>
Normanton	-	-	2	1	<b>3</b>
Oakey	5	1	5	5	<b>16</b>
Palm Island	2	-	-	1	<b>3</b>
Petrie	75	77	71	98	<b>321</b>
Pittsworth	2	2	1	2	<b>7</b>
Pormpuraaw	-	1	-	-	<b>1</b>
Proserpine	27	27	41	27	<b>122</b>
Quilpie	-	4	-	3	<b>7</b>
Redcliffe	48	42	54	47	<b>191</b>
Rockhampton	38	34	38	41	<b>151</b>
Roma	4	7	13	5	<b>29</b>
Sandgate	56	71	41	68	<b>236</b>
Sarina	4	5	1	4	<b>14</b>
Southport	357	424	459	496	<b>1,736</b>
St.George	4	3	6	6	<b>19</b>
Stanthorpe	6	10	10	7	<b>33</b>
Tambo	-	-	-	2	<b>2</b>
Taroom	-	4	2	1	<b>7</b>
Thursday Island	2	-	4	2	<b>8</b>
Toogoolawah	10	10	9	10	<b>39</b>
Toowoomba	44	58	57	64	<b>223</b>
Townsville	119	118	127	133	<b>497</b>
Tully	16	17	17	16	<b>66</b>
Warwick	12	5	22	11	<b>50</b>
Weipa	3	1	7	5	<b>16</b>
Winton	3	2	1		<b>6</b>
Woorabinda	1	-	-	-	<b>1</b>
Wynnum	24	37	31	48	<b>140</b>
Yarrabah	1	1	-	1	<b>3</b>



Yeppoon	16	14	17	16	<b>63</b>
<b>Total</b>	<b>2,616</b>	<b>2,911</b>	<b>3,267</b>	<b>3,405</b>	<b>12,199</b>

**Date:** 16 January 2006  
**Source:** Queensland Wide Interlinked Courts (QWIC) system  
**Notes:** The above data relates to the number of Orders made for the issue of a restricted licence under Section 87 (Issue of restricted licence to disqualified person) of the *Transport Operations (Road Use Management) Act 1995*.

**New Zealand Land Transport Act 1998.**

Section 96 Vehicle seized and impounded for 28 days in certain circumstances

(1) An enforcement officer must seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person drove the vehicle on a road while: -

- (a) the person was disqualified from holding or obtaining a driver licence authorising the person to drive that vehicle; or
- (b) the person's driver licence is for the time being suspended or was revoked; or
- (c) in the case of a person who was previously forbidden to drive because the person was an unlicensed driver or his or her driver licence had expired, the person did not hold a driver licence; or
- (d) the person---
  - (i) had a ---
    - (A) breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or
    - (B) blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood; or
    - (C) failed or refused to undergo a blood test, after having been required to requested to do so under section 72 or section 73; and
  - (ii) had been convicted of 2 or more previous offences against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) within the last 4 years.

[(1A) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person: -

- (a) operated the vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1); or
- (b) without reasonable excuse, operated the vehicle on a road in a manner that caused the vehicle to undergo sustained loss of traction in contravention of section 22A(3).]

[(1B) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle under subsection (1A) must, by means of a notice in the form approved for the purposes of section 115(1), direct that the vehicle is not to be driven on a road.]

[(1C) For the purposes of this Act and any other enactment, a notice given under subsection (1B) has effect as a notice given under section 115(1).]

[(1D) A notice under subsection (1B) may include a condition to the effect that the vehicle may continue to be driven to reach a specified place for repair or may

continue to be driven for a given time or under limitations as to speed or route or otherwise, unless the direction referred to in that subsection has been cancelled.]

(1E) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle because he or she believes on reasonable grounds that a person has undergone an evidential breath test and has been found to have a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath,---

- (a) must give the person a notice under subsection (2) even though the person has the right under section 70A to elect to have a blood test; and
- (b) a further notice is not required and must not be given under subsection (2) if the person undergoes a blood test and is found to have a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood."

(2) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle under this section must: -

- (a) Complete a notice in the prescribed form, or in a form to the same effect, acknowledging the seizure and impoundment, and setting out (if the particulars are reasonably ascertainable): -
  - (i) The name and address of the driver; and
  - (ii) The year and make of the vehicle, and its registration plate details or vehicle identification number; and
  - [(iia) if subsection (1A) applies, the date and time of the alleged offence; and]
  - (iii) The date and time of the seizure; and
  - (iv) The place where the vehicle is to be impounded; and
  - (v) An outline of the person's rights of appeal under sections 102 and 110; and
- (b) Give the driver a copy of the notice, unless the driver has left the scene; and
- (c) Give the registered owner of the vehicle a copy of the notice, if the registered owner is present at the time of the seizure, or as soon as practicable send a copy to the registered owner by ordinary post to the registered owner's last known place of residence or business or postal address, or address as recorded on the Register of Motor Vehicles; and
- (d) Cause a copy of the notice to be given to the storage provider who stores the motor vehicle; and
- (e) Retain a copy of the notice for 12 months.

(3) The owner of an impounded vehicle has the rights of appeal provided in sections 102 and 110.

(4) Personal property (other than property attached to or used in connection with the operation of the vehicle) present in a motor vehicle at the time of the seizure and impoundment must be released on request to a person who produces

satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle or personal property immediately before the vehicle was moved; and goods present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner's consent to such release.

(5) An enforcement officer does not have to seize or impound a motor vehicle if the officer has good cause to suspect that the vehicle is a stolen vehicle or had been converted, is a write-off, or has suffered severe damage.

(6) A vehicle to which a notice under this section relates must be released to the owner if?

- (a) The Police have decided finally that proceedings will not be taken against the person who drove the vehicle in circumstances referred to in subsection (1) [or operated the vehicle in circumstances referred to in subsection (1A),] or such proceedings have been taken and the person is acquitted; and
- (b) The vehicle has not already been released.

(6A) A vehicle to which a notice under this section relates must be released to the owner when the result of the blood test (if any) is notified to the person who drove the vehicle in circumstances referred to in subsection (1)(d) if---

- (a) the blood test shows that he or she had a blood alcohol concentration of, or less than, 80 milligrams of alcohol per 100 millilitres of blood; and
- (b) the vehicle has not already been released.

