



Queensland

# **Transport Operations (Road Use Management—Interlocks) Amendment Bill 2009**





## Queensland

# Transport Operations (Road Use Management—Interlocks) Amendment Bill 2009

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**2009**

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**A Bill**

for

***An Act to amend the *Transport Operations (Road Use Management) Act 1995****

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Clause 1      Short title</b>	2
This Act may be cited as the <i>Transport Operations (Road Use Management—Interlocks) Amendment Act 2009</i> .	3 4
<b>Clause 2      Commencement</b>	5
This Act commences on a day to be fixed by proclamation.	6
<b>Clause 3      Act amended</b>	7
This Act amends the <i>Transport Operations (Road Use Management) Act 1995</i> .	8 9
<b>Clause 4      Amendment of s 86 (Disqualification of drivers of motor vehicles for certain offences)</b>	10 11
Section 86—	12
<i>insert—</i>	13
‘(1H) If a person is convicted of a drink-driving offence committed after the commencement of this section (the <b>current conviction</b> ) and the court before whom the person is convicted is satisfied that, at the material time, the person was over the high alcohol limit and the person, within the period of 5 years before the current conviction, has been previously convicted more than once of a drink-driving offence involving a finding that, at the material time, the person was over the high alcohol limit, the person is disqualified absolutely by the current conviction and without any specific order from the date of the current conviction from holding or obtaining a Queensland driver licence.’.	14 15 16 17 18 19 20 21 22 23 24 25

<b>Clause 5</b>	<b>Amendment of s 87 (Issue of restricted licence to disqualified person)</b>	1
		2
	(1) Section 87(4), before ‘restrictions’—	3
	<i>insert—</i>	4
	‘conditions or’.	5
	(2) Section 87(4)(b)—	6
	<i>renumber</i> as section 87(4)(c).	7
	(3) Section 87(4)—	8
	<i>insert—</i>	9
	‘(b) which may include a condition that the applicant drive	10
	only a motor vehicle supplied with a prescribed alcohol	11
	interlock while the restricted licence is in force; and’.	12
	(4) After section 87(4)—	13
	<i>insert—</i>	14
	‘(4AA) For chapter 5, part 3B, divisions 3 to 5, a condition imposed	15
	under subsection (4)(b) is taken to be an alcohol interlock	16
	condition imposed under section 91J.’.	17
	(5) Section 87(7), ‘restrictions imposed’—	18
	<i>omit, insert—</i>	19
	‘conditions or restrictions imposed’.	20
	(6) Section 87(8)(b) and (10), before ‘restrictions’—	21
	<i>insert—</i>	22
	‘conditions or’.	23
<b>Clause 6</b>	<b>Insertion of new ch 5, pt 3B</b>	24
	Before part 4—	25
	<i>insert—</i>	26

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<b>‘Part 3B</b>	<b>Alcohol interlocks</b>	1
<b>‘Division 1</b>	<b>Preliminary</b>	2
<b>‘91I</b>	<b>Definitions for pt 3B</b>	3
	‘In this part—	4
	<i>alcohol interlock</i> , in relation to a motor vehicle, means a device, wired to the ignition system of the vehicle, that is capable of—	5 6 7
	(a) analysing a specimen of breath for the presence of alcohol; and	8 9
	(b) if a particular concentration of alcohol is detected by the device, preventing the vehicle from being started.	10 11
	<i>alcohol interlock condition</i> means a condition imposed in relation to a person by a court under section 91J or 91K.	12 13
	<i>Note—</i>	14
	See also section 87(4AA).	15
	<i>alcohol interlock driver</i> means a person in relation to whom an alcohol interlock condition is imposed.	16 17
	<i>drink-driving offence</i> means—	18
	(a) an offence against section 79(1) while under the influence of liquor; or	19 20
	(b) an offence against section 79(2), (2A), (2B) or (2J); or	21
	(c) an offence against section 80(11) for failing to provide a specimen of breath for analysis or a specimen of blood for a laboratory test; or	22 23 24
	(d) an offence against the Criminal Code, section 328A(1) or (4), when accompanied by the circumstance of aggravation that at the time of committing the offence the offender was adversely affected by an intoxicating substance and the following circumstances also applied—	25 26 27 28 29 30



- (i) the intoxicating substance was alcohol; 1
- (ii) the person was over the following alcohol limit— 2
  - (A) the general alcohol limit; 3
  - (B) for a person mentioned in section 79(2A), 4
    - (2B) or (2J)—the no alcohol limit. 5

***prescribed alcohol interlock*** means an alcohol interlock that 6  
is prescribed under a regulation as a prescribed alcohol 7  
interlock. 8

***prescribed supplier*** means an entity prescribed under a 9  
regulation to do the following if requested by the chief 10  
executive— 11

- (a) to supply a motor vehicle with a prescribed alcohol 12  
interlock; 13
- (b) to remove a prescribed alcohol interlock from a motor 14  
vehicle; 15
- (c) to provide a certificate, as mentioned in section 91R(3), 16  
relating to a prescribed alcohol interlock. 17

***subsequent licence*** means a Queensland driver licence, 18  
granted to a person who was disqualified from holding or 19  
obtaining a Queensland driver licence. 20

***supply***, in relation to a prescribed alcohol interlock, includes 21  
supply the interlock, fit it to a motor vehicle and, as necessary, 22  
maintain it. 23

## **‘Division 2                      Court order for alcohol interlock                      24**

### **‘91J      Court order about disqualification may include                      25** **alcohol interlock condition                      26**

- ‘(1) This section applies to a person if— 27
  - (a) the person is convicted of a drink-driving offence 28  
committed after the commencement of this section and 29  
the court before whom the person is convicted is 30  
satisfied that, at the material time, the person was over 31  
the high alcohol limit; and 32

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- (b) within the period of 5 years before the date of the conviction mentioned in paragraph (a), the person has not been convicted of a drink-driving offence involving a finding that, at the material time, the person was over the high alcohol limit; and
  - (c) the court makes an order disqualifying the person from holding or obtaining a Queensland driver licence.
- ‘(2) Also, this section applies to a person if—
  - (a) the person is convicted of a drink-driving offence committed after the commencement of this section and the court before whom the person is convicted is satisfied that, at the material time, the person was not over the high alcohol limit; and
  - (b) within the period of 5 years before the date of the conviction mentioned in paragraph (a), the person has been convicted of a drink-driving offence involving a finding that, at the material time, the person was not over the high alcohol limit; and
  - (c) the court makes an order disqualifying the person from holding or obtaining a Queensland driver licence.
- ‘(3) The court may order that, if the person is granted a subsequent licence, the licence is subject to the condition the person drive only a motor vehicle supplied with a prescribed alcohol interlock.
- ‘(4) Also, the order must state the following—
  - (a) a minimum period of at least 1 year, and a maximum period of not more than 4 years, for which the alcohol interlock condition will apply to the person after the person is granted a subsequent licence;
  - (b) whether the person is not to be over the no alcohol limit or the general alcohol limit when starting or operating the vehicle.
- ‘(5) For this section, a period before the date of a conviction may include a period before the commencement of this section.

**‘91K Court order about disqualification must include alcohol interlock condition**

- ‘(1) This section applies to a person if—
  - (a) the person is convicted of a drink-driving offence committed after the commencement of this section; and
  - (b) within the period of 5 years before the date of the conviction mentioned in paragraph (a) the person has been convicted of a drink-driving offence involving a finding that, at the material time, the person was over the high alcohol limit; and
  - (c) the court makes an order disqualifying the person from holding or obtaining a Queensland driver licence.
- ‘(2) The court must order that, if the person is granted a subsequent licence, the licence is subject to the condition the person drive only a motor vehicle supplied with a prescribed alcohol interlock.
- ‘(3) Also, the order must state the following—
  - (a) a minimum period of at least 1 year, and a maximum period of not more than 8 years, for which the alcohol interlock condition will apply to the person after the person is granted a subsequent licence;
  - (b) whether the person is not to be over the no alcohol limit or the general alcohol limit when starting or operating the vehicle.
- ‘(4) For this section, a period before the date of a conviction may include a period before the commencement of this section.

**‘91L Duration of alcohol interlock condition**

- ‘An alcohol interlock condition continues to apply to a person until the earlier of the following happens—
  - (a) the maximum period provided for in the condition ends;
  - (b) a court makes an order under section 91R for the removal of the condition.

[s 6]

<b>‘Division 3</b>	<b>Drink-driving education and rehabilitation</b>	1
		2
<b>‘91M</b>	<b>Alcohol intervention consultation</b>	3
‘(1)	This section applies to a person in relation to whom an alcohol interlock condition is imposed under section 91J.	4
		5
‘(2)	Before the end of the minimum period stated in the alcohol interlock order, the person must—	6
		7
(a)	attend, at the person’s own expense, a consultation with a doctor prescribed under a regulation for the purpose of discussing and giving advice to the person about the risks of alcohol consumption ( <i>alcohol intervention consultation</i> ); and	8
		9
		10
		11
		12
(b)	give the chief executive a certificate or other evidence from the doctor confirming the person attended an alcohol intervention consultation.	13
		14
		15
‘(3)	A certificate mentioned in subsection (2)(b) must be in the approved form.	16
		17
‘(4)	In this section—	18
	<i>alcohol interlock order</i> means an order made by a court under section 91J.	19
		20
<b>‘91N</b>	<b>Drink-driving rehabilitation course</b>	21
‘(1)	This section applies to a person in relation to whom an alcohol interlock condition is imposed under section 91K.	22
		23
‘(2)	Before the end of the minimum period stated in the alcohol interlock order, the person must—	24
		25
(a)	complete, at the person’s own expense, a prescribed drink-driving rehabilitation course; and	26
		27
(b)	give the chief executive a certificate or other evidence that the person has completed the prescribed course.	28
		29
‘(3)	A regulation may prescribe a course about the use of alcohol and driving a motor vehicle as a prescribed drink-driving rehabilitation course.	30
		31
		32

- ‘(4) A certificate mentioned in subsection (2)(b) must be in the approved form. 1  
2
- ‘(5) In this section— 3
- alcohol interlock order* means an order made by a court under section 91K. 4  
5

## ‘Division 4                      Offences and immobilisation orders 6

### ‘91O    Offences 7

- ‘(1) An alcohol interlock driver must not drive a motor vehicle— 8
- (a) in breach of the alcohol interlock condition imposed in relation to the driver; or 9  
10
- (b) if the vehicle has been started or operated in any of the following circumstances— 11  
12
- (i) while the prescribed alcohol interlock supplied by a prescribed supplier is disengaged; 13  
14
- (ii) in a way that does not comply with the manufacturer’s instructions for the use of the prescribed alcohol interlock; 15  
16  
17
- (iii) in a way other than by the driver blowing directly into the appropriate part of the prescribed alcohol interlock. 18  
19  
20
- Maximum penalty—30 penalty units or 4 months imprisonment. 21  
22
- ‘(2) Subsection (3) applies if— 23
- (a) an alcohol interlock driver contravenes an alcohol interlock condition by driving a motor vehicle with a type of alcohol interlock that is not a prescribed alcohol interlock or is not supplied by a prescribed supplier; and 24  
25  
26  
27
- (b) the alcohol interlock driver is charged with an offence against subsection (1)(a) in relation to the contravention. 28  
29
- ‘(3) It is a defence for subsection (1) if the alcohol interlock driver proves, as is relevant to the offence against that subsection, that the driver reasonably believed at the time of the 30  
31  
32

[s 6]

contravention that the type of alcohol interlock was a  
prescribed alcohol interlock or that the supplier was a  
prescribed supplier.

‘(4) A person must not assist an alcohol interlock driver to start or  
operate a vehicle, or interfere with a prescribed alcohol  
interlock supplied for a vehicle, in breach of the alcohol  
interlock condition imposed in relation to the alcohol  
interlock driver.

Maximum penalty—30 penalty units or 4 months  
imprisonment.

## ‘91P Immobilisation orders

- ‘(1) A court finding an alcohol interlock driver guilty, or  
convicting an alcohol interlock driver, of an offence against  
section 91O(1) may, if the court considers it appropriate to do  
so, order that the motor vehicle concerned be immobilised (an  
*immobilisation order*).
- ‘(2) The immobilisation order may—
- (a) be made subject to stated conditions; and
  - (b) be for a period stated in the order of not more than 1  
year; and
  - (c) state a way of immobilising the motor vehicle,  
including, for example, by using wheel clamps.
- ‘(3) Also, the immobilisation order must state that the alcohol  
interlock driver is liable to pay the costs of immobilising the  
vehicle, keeping it while it is immobilised and for removing  
the immobilising device.
- ‘(4) The court may make the immobilisation order whether the  
motor vehicle is owned by the alcohol interlock driver or  
another person.
- ‘(5) If the court considers the motor vehicle is owned by another  
person or another person may be substantially affected by the  
immobilisation order (each of whom is *the other person*), the  
court must not make the order unless—

- 
- (a) the other person is present before the court and is given an opportunity to give evidence about the other person's interest in the vehicle or how the other person will be affected by the order; or
  - (b) the court is satisfied the other person has been given written notice about the following—
    - (i) the time and date of the proceeding;
    - (ii) that the other person may appear before the court and give evidence about the other person's interest in the vehicle or how the other person will be affected by the order;
    - (iii) that the court may order the motor vehicle be immobilised.
  - ‘(6) If the other person is not present before the court and has not been given written notice as mentioned in subsection (5)(b), the court may adjourn the proceeding until the other person has been given notice.
  - ‘(7) In making the immobilisation order, but without limiting the matters the court may have regard to in considering whether it is appropriate to make the order, the court must have regard to—
    - (a) whether the offence against section 91O(1) happened without the knowledge or consent of the other person; and
    - (b) evidence about the nature of the other person's interest in the motor vehicle or the way the other person will be substantially affected by the order.
  - ‘(8) If the other person gives evidence about the other person's interest in the motor vehicle or the way the other person will be substantially affected by the immobilisation order, the person is to be treated as a witness and may be cross-examined.

[s 6]

<b>‘Division 5</b>	<b>Arranging for the supply or removal of prescribed alcohol interlock</b>	1 2
<b>‘91Q Prescribed supplier to fit prescribed alcohol interlock</b>		3
‘(1)	This section applies if an alcohol interlock driver has paid all of the fine, if any, imposed on the driver as a fine for the relevant drink-driving offence.	4 5 6
‘(2)	The alcohol interlock driver may, in the approved form, ask the chief executive to arrange for a motor vehicle to be supplied with a prescribed alcohol interlock.	7 8 9
‘(3)	A regulation may provide for matters in relation to—	10
(a)	how the chief executive is to deal with a request under subsection (2), including, for example, setting a fee for a prescribed supplier to supply a prescribed alcohol interlock if—	11 12 13 14
(i)	no fine was imposed on the driver for the relevant drink-driving offence; or	15 16
(ii)	the amount of the fine is less than the cost of a prescribed supplier supplying the motor vehicle with a prescribed alcohol interlock; or	17 18 19
(iii)	the driver asks for more than 1 motor vehicle to be supplied with a prescribed alcohol interlock; and	20 21
(b)	how arrangements are to be made for supplying a motor vehicle with a prescribed alcohol interlock.	22 23
‘(4)	In this section—	24
	<i>relevant drink-driving offence</i> , in relation to an alcohol interlock driver, means the drink-driving offence committed by the driver that allowed or required a court to impose an alcohol interlock condition in relation to the driver.	25 26 27 28



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**‘91R Application at end of minimum period stated in alcohol interlock condition**

‘(1) This section applies to an alcohol interlock driver after the end of the minimum period stated in the alcohol interlock order imposed on the driver under section 91J or 91K.

‘(2) The alcohol interlock driver may apply to the court for the removal of the alcohol interlock condition.

*Note—*

No application may be made before the end of the minimum period.

‘(3) The application must be accompanied by—

(a) a certificate, in the approved form, by a prescribed supplier that data collected by the prescribed alcohol interlock with which the driver’s motor vehicle is supplied does not indicate any improper attempt was made within the period of 6 months before the date of the certificate; or

(b) both of the following—

(i) a certificate, in the approved form, by a prescribed supplier that data collected by the prescribed alcohol interlock with which the driver’s motor vehicle is supplied does indicate an improper attempt was made within the period of 6 months before the date of the certificate;

(ii) an affidavit by the alcohol interlock driver about any improper attempt mentioned in the certificate.

‘(4) Also, the application must be accompanied by evidence that—

(a) if the alcohol interlock driver is a person to whom section 91J applies—the person has attended an alcohol intervention consultation as mentioned in section 91M; or

(b) if the alcohol interlock driver is a person to whom section 91K applies—the person undertook a prescribed drink-driving rehabilitation course as mentioned in section 91N.

[s 6]

- 
- Example of evidence—* 1
- a copy of a certificate given to the chief executive under section 91M or 91N 2  
3
- ‘(5) The registrar of the court must ensure a copy of the application and accompanying documents are given to the commissioner. 4  
5  
6
- ‘(6) The court may only make an order for the removal of the alcohol interlock condition if the court is satisfied the alcohol interlock driver complied with— 7  
8  
9
- (a) the alcohol interlock condition on his or her licence; and 10
- (b) the requirement applicable to the driver under section 91M or 91N. 11  
12
- ‘(7) For subsection (6), the court must— 13
- (a) consider the application and accompanying certificates and may refuse the application if there is a certificate as mentioned in subsection (3)(b)(i) and the court is not satisfied that the improper attempt was made— 14  
15  
16  
17
- (i) in circumstances that were reasonable; or 18
- (ii) by someone other than the alcohol interlock driver and the alcohol interlock driver was not involved with the improper attempt; and 19  
20  
21
- (b) consider any other evidence tendered by the applicant or the commissioner and any evidence of a doctor required by the court; and 22  
23  
24
- (c) have regard to— 25
- (i) the driver’s use of alcohol since the condition was imposed; and 26  
27
- (ii) the driver’s physical and mental condition at the time of the hearing of the application; and 28  
29
- (iii) the effect that making the order may have on the safety of the driver and the public. 30  
31
- ‘(8) In this section— 32
- improper attempt*** means an attempt to start or operate a motor vehicle supplied with an alcohol interlock that fails because a 33  
34

particular concentration of alcohol detected by the alcohol  
interlock prevents the motor vehicle from being started or  
operated.’. 1  
2  
3

**Clause 7      Amendment of s 131 (Reviews and appeals with respect  
to issue of licences etc.)** 4  
5

Section 131(2)— 6

*omit, insert—* 7

‘(2) A person who has been disqualified, by operation of law or an  
order, from holding or obtaining a Queensland driver licence  
absolutely or for a period of more than 2 years, may, at any  
time after the following period, apply for the disqualification  
to be removed— 8  
9  
10  
11  
12

(a) if the person was disqualified under section  
86(1H)—the expiration of 5 years from the start of the  
disqualification period; 13  
14  
15

(b) otherwise—the expiration of 2 years from the start of  
the disqualification period.’. 16  
17

**Clause 8      Amendment of sch 4 (Dictionary)** 18

Schedule 4— 19

*insert—* 20

‘***alcohol interlock***, for chapter 5, part 3B, see section 91I. 21

***alcohol interlock condition***, for chapter 5, part 3B and section  
87, see section 91I. 22  
23

***alcohol interlock driver***, for chapter 5, part 3B, see section  
91I. 24  
25

***drink-driving offence***, for chapter 5, part 3B and section  
86(1H), see section 91I. 26  
27

***prescribed alcohol interlock***, for chapter 5, part 3B, see  
section 91I. 28  
29

***prescribed supplier***, for chapter 5, part 3B, see section 91I. 30

***subsequent licence***, for chapter 5, part 3B, see section 91I. 31

[s 8]

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<i>supply</i> , in relation to a prescribed alcohol interlock, for	1
chapter 5, part 3B, see section 91I.’	2