

NORTHERN TERRITORY OF AUSTRALIA

TRANSPORT LEGISLATION (ALCOHOL IGNITION LOCKS) AMENDMENT
ACT 2008

Act No. 32 of 2008

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 32 of 2008

An Act to provide for the use of alcohol ignition locks, and for other purposes

[Assented to 21 November 2008]
[Second reading 18 September 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Transport Legislation (Alcohol Ignition Locks) Amendment Act 2008*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Motor Vehicles Act

3 Act amended

This Part amends the *Motor Vehicles Act*.

4 Amendment of section 5 (Interpretation)

Section 5(1)

insert (in alphabetical order)

AIL, or ***alcohol ignition lock***, see section 19(1) of the *Traffic Act*.

AIL licence, see section 10(4A).

AIL period, see section 19(1) of the *Traffic Act*.

AIL vehicle, see section 10(4A).

approved AIL means an AIL approved under section 10(4E).

approved supplier means a supplier approved under section 10(4E).

mandatory period, see section 19(1) of the *Traffic Act*.

suspension notice, see section 26.

suspension period, see section 26.

5 Amendment of section 8A (Registrar may grant exemption)

After section 8A(4)

insert

- (5) The Registrar may exempt a resident of the Territory from holding a licence for a specified period if:
- (a) the person holds a licence to drive a vehicle fitted with an AIL (whether or not an approved AIL) under the law of another jurisdiction (whether or not in Australia); and
 - (b) that licence has effect during that period.

6 Amendment of section 10 (Granting of licences)

- (1) Section 10(1)

omit

commercial passenger vehicle or heavy vehicle

substitute

commercial passenger vehicle, heavy vehicle or AIL vehicle

(2) After section 10(4)

insert

(4A) The Registrar may, on the application of a person, grant the person a licence (***AIL licence***) to drive a vehicle (***AIL vehicle***) that is:

- (a) not a commercial passenger vehicle; and
- (b) fitted with an approved AIL; and
- (c) of a class specified in the licence.

(4B) The Registrar may do so only if:

- (a) the person is disqualified from obtaining a licence because of section 21(3)(b)(ii), 22(3)(b)(ii), 24(5)(b)(ii), 25(6A)(a)(ii) or (b)(ii), 29AAA(3A)(b)(ii), 29AAE(3)(b)(ii) or 29AAH(3)(b)(ii) of the *Traffic Act*; and
- (b) within 5 years immediately before the person applies for the AIL licence, the person held a licence to drive a motor vehicle (***previous licence***) that:
 - (i) was granted in the Territory or another jurisdiction (whether or not in Australia); but
 - (ii) was not a learner licence or its equivalent in another jurisdiction; and
- (c) the Registrar is satisfied this Act does not prevent the Registrar from granting the AIL licence.

Note

The Registrar may refuse to grant the licence because of section 102 or 102AA.

(4C) The AIL licence:

- (a) must relate to the same class of vehicle to which the previous licence relates; and
- (b) is subject to the same conditions of the previous licence and other conditions relating to the AIL prescribed by regulation (such as conditions relating to approved suppliers); and
- (c) has effect from the granting of the licence to the end of the AIL period; and
- (d) cannot be renewed.

- (4D) However, if 1 or more suspension periods apply to the person under suspension notices issued during the mandatory period or AIL period (whether or not before the granting of the AIL licence):
- (a) for a notice issued before or when the licence is granted – the licence may take effect only after the end of the suspension period to which it relates; and
 - (b) for a notice issued after the licence is granted – the licence is suspended during the suspension period to which it relates; and
 - (c) the licence has effect until the end of a period that:
 - (i) immediately follows the AIL period; and
 - (ii) is equal to the total of the suspension periods covered by paragraphs (a) and (b).

Example

If the person is subject to a suspension period of 3 months, the AIL licence ceases to have effect 3 months after the AIL period.

- (4E) For this section, the Registrar may, by *Gazette* notice approve:
- (a) an AIL; and
 - (b) a supplier of an AIL or of services relating to an AIL.

7 Amendment of section 104 (Duration of licences may be shorter)

After section 104(3)

insert

- (4) This section does not apply to an AIL licence.

8 Repeal and substitution of section 113

Section 113

repeal, substitute

113 Requirement to produce licence or give information

- (1) The driver of a motor vehicle must produce his or her licence to the Registrar, an inspector or police officer for inspection immediately after the Registrar, inspector or officer requests him or her to do so.

Maximum penalty: 20 penalty units.

- (2) The driver of a motor vehicle must state his or her name and address to the Registrar, an inspector or police officer immediately after the Registrar, inspector or officer requests him or her to do so.

Maximum penalty: 20 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant establishes a reasonable excuse.

Part 3 Amendment of Traffic Act

9 Act amended

This Part amends the *Traffic Act*.

10 Amendment of section 19 (Interpretation)

- (1) Section 19(1)

insert (in alphabetical order)

AIL, or **alcohol ignition lock**, means a device fitted to a motor vehicle that will prevent the starting of the vehicle unless:

- (a) a sample of a person's breath is given through the device; and
- (b) the sample indicates the person has a blood alcohol content of less than 0.02%.

AIL licence, see section 10(4A) of the *Motor Vehicles Act*.

AIL period, see sections 21(3)(b), 22(3)(b), 24(5)(b), 25(6A), 29AAA(3A)(b), 29AAE(3)(b) and 29AAH(3)(b).

AIL vehicle, see section 10(4A) of the *Motor Vehicles Act*.

approved AIL, see section 5(1) of the *Motor Vehicles Act*.

mandatory period, see sections 21(3)(b), 22(3)(b), 24(5)(b), 25(6A), 29AAA(3A)(b), 29AAE(3)(b) and 29AAH(3)(b).

- (2) After section 19(5)

insert

- (6) In this Part, a reference to a period for which a person is disqualified from obtaining a licence is a reference to such a period decided by the court ordering the disqualification.

11 Amendment of section 21 (High range blood alcohol content)

Section 21(3)

omit

all the words after "cancelled and"

substitute

the person is disqualified from:

- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
- (b) for a second or subsequent offence:
 - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and
 - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

Notes

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

12 Amendment of section 22 (Medium range blood alcohol content)

Section 22(3)

omit

all the words after "cancelled and"

substitute

the person is disqualified from:

- (a) for a first offence – obtaining a licence for a period that is at least 6 months; and

- (b) for a second or subsequent offence:
 - (i) obtaining a licence for a period (**mandatory period**) that is at least 12 months; and
 - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

Notes

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

13 **Amendment of section 24 (Some drivers to be zero alcohol)**

Section 24(5)

omit

all the words after "cancelled and"

substitute

the person is disqualified from:

- (a) for a first offence – obtaining a licence for a period that is at least 3 months; and
- (b) for a second or subsequent offence:
 - (i) obtaining a licence for a period (**mandatory period**) that is at least 6 months; and
 - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 6 months and not more than 3 years.

Notes

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

14 Amendment of section 25 (Driver of certain vehicles to be zero alcohol)

(1) Section 25(6)

omit

a person

substitute

a person who is not covered by subsection (2)

(2) After section 25(6)

insert

(6A) If a court finds a person covered by subsection (2) guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is cancelled and the person is disqualified from:

(a) for a second offence:

- (i) obtaining a licence for a period (**mandatory period**) that is at least 3 months; and
- (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 6 months and not more than 3 years; and

(b) for a subsequent offence:

- (i) obtaining a licence for a period (**mandatory period**) that is at least 6 months; and
- (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 6 months and not more than 3 years.

Notes

- 1 This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).
- 2 If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.

15 Amendment of section 29AAA (Driving under influence)

(1) Section 29AAA(3), after "relevant offence"

insert

relating to the influence of a drug only

(2) After section 29AAA(3)

insert

(3A) If a court finds a person guilty of a relevant offence relating to the influence of alcohol, or alcohol and a drug, but not a drug only, the person's licence to drive is cancelled and the person is disqualified from:

(a) for a first offence – obtaining a licence for a period that is at least 6 months; and

(b) for a second or subsequent offence:

(i) obtaining a licence for a period (**mandatory period**) that is at least 12 months; and

(ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

Notes

1 This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).

2 If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.

16 Amendment of section 29AAE (Offence of failing to submit to breath analysis)

Section 29AAE(3)

omit

all the words after "cancelled and"

substitute

the person is disqualified from:

- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
- (b) for a second or subsequent offence:
 - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and
 - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

Notes

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

17 Amendment of section 29AAH (Offence of failing to provide blood sample)

Section 29AAH(3)

omit

all the words after "cancelled and"

substitute

the person is disqualified from:

- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
- (b) for a second or subsequent offence:
 - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and
 - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

Notes

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*

2 If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.

18 New Part V, Division 9

After section 29AAY

insert

Division 9 Alcohol ignition locks

29AAYA Object of Division

The object of this Division is to enable certain persons disqualified from obtaining a licence under this Part to drive an AIL vehicle after the end of a mandatory period of the disqualification.

29AAYB Application of Division

This Division applies to a person who is:

- (a) disqualified from obtaining a licence because of section 21(3)(b)(ii), 22(3)(b)(ii), 24(5)(b)(ii), 25(6A)(a)(ii) or (b)(ii), 29AAA(3A)(b)(ii), 29AAE(3)(b)(ii) or 29AAH(3)(b)(ii); and
- (b) granted an AIL licence under section 10(4A) of the *Motor Vehicles Act*.

29AAYC Effect of holding licence

Despite any other provisions of this Act, the person may drive an AIL vehicle at a public place or on a public street while the AIL licence has effect.

Note

In general, the AIL licence has effect for the remains of the AIL period (see section 10(4C) and (4D) of the Motor Vehicles Act).

29AAYD Offences

- (1) While the AIL licence has effect, the person must not drive a motor vehicle at a public place or on a public street if it is not an AIL vehicle.

Maximum penalty: Imprisonment for 12 months.

- (2) While the AIL licence has effect, the person must not drive an AIL vehicle at a public place or on a public street if:
 - (a) the AIL fitted to the vehicle is not functioning properly; and

(b) the person knows the AIL is not functioning properly.

Maximum penalty: Imprisonment for 12 months.

(3) While the AIL licence has effect, the person must not drive an AIL vehicle at a public place or on a public street:

(a) if the AIL fitted to the vehicle is disengaged; or

(b) in a way that would hamper the proper functioning of the AIL.

Maximum penalty: Imprisonment for 12 months.

(4) The person must not contravene a condition of the AIL licence.

Maximum penalty: 20 penalty units.

(5) If a court finds a person guilty of an offence against subsection (1), (2) or (3):

(a) the AIL licence is cancelled; and

(b) the person is disqualified from obtaining a licence for the rest of the AIL period.

(6) An offence against subsection (1), (2) or (3) is an immediate suspension offence.

19 Amendment of section 31 (Driving while disqualified)

(1) After section 31(1)

insert

(1A) If a person is disqualified from obtaining a licence other than an AIL licence for an AIL period, the person must not apply for a licence other than an AIL licence during that period.

(1B) In addition, the person must not, during that period, drive a motor vehicle at a public place or on a public street except under an AIL licence.

Maximum penalty: Imprisonment for 12 months.

(2) Section 31(2), after "subsection (1)"

insert

or (1B)

20 Amendment of section 51 (Regulatory offences)

Section 51, after "other than sections"

insert

29AAYD(2),