

## ALCOHOL & DRUG RELATED OFFENCES SENTENCING GUIDE

Guideline to relevant legislative TORUM provisions. In each case the actual penalty will depend on the individual circumstances of the offence and the offender and remains entirely within the discretion of the individual Magistrate.

DRIVE, IN CHARGE OR ATTEMPTS TO PUT IN MOTION A MOTOR VEHICLE	First Offence No previous	Repeat Offender within 5 years PART 3B "ALCOHOL IGNITION INTERLOCK" APPLIES AT END OF PERIOD OF DISQ. EXCEPT OFFENDER TO WHOM 79(2D) [TRAM, TRAIN, VESSEL] & 79(2AA) RELEVANT DRUG APPLIES [s.91I]				
<b>NO ALCOHOL LIMIT</b> 79A(1) 79(2A) learner, probationary or provisional licence holder or unlicensed driver (2K)(2M) motorbike rider holding class RE licence for a period of less than 1 year (2L)(2M) RE motorbike licence holder if learning to ride class R motorbike 79(2B) driver of motor vehicles stated in (2C) which includes truck, bus, articulated motor vehicle, taxi etc. 79(2D) driver of tram, train or vessel stated in (2E)	\$1400 / 3 months  Mandatory Disq: "A" 86(2)(e) Holder of learner, probationary, provisional or restricted licence or not holder of licence or 79E driver - Not < 3 m & not > 9 m.  "B" 86(2)(f) Otherwise not < 1 m & not > 9 m	1 previous no, general, mid limit or relevant drug	2 previous no, general, mid limit or relevant drug	1 previous high limit, OR 1 prev as set out below	1 previous no, general, mid limit AND 1 prev. as set out below	2 prev. high limit or 2 prev. as set out below or combination of any 2 prev.
		328A C/Code or convicted on indictment of offence in connection with or arising out of the driving of a motor vehicle				
		Max 79(2F) \$2000 / 6mths Mandatory Disq 86(2B) Not < 3 mths and not > 18 mths	Max 79(2G) \$2800 / 9mths Mandatory Disq 86(2D) 6 mths	Max 79(2H) \$3000 / 1 yr Mandatory Disq 86(2E) 9 mths	Max 79(2I) \$6000 / 18mths Mandatory Disq 86(2F) 1 year	Act is silent on this circumstance but see 79(2H) and 86(2E)
>.0 - .05	<b>350</b> Min. "A" / "B"	PENALTIES SAME AS FOR .05 GENERAL ALCOHOL LIMIT BELOW.				
79(2J) restricted licence holder, s79E driver or interlock driver.	Max. \$2000 / 6 mths	PENALTIES SAME AS FOR .10 MIDDLE ALCOHOL LIMIT BELOW.				
>.0 - .05	<b>500</b> Min. "A" / "B"	PENALTIES SAME AS FOR .10 MIDDLE ALCOHOL LIMIT BELOW.				
<b>GENERAL ALCOHOL LIMIT</b> 79(2)	Max 79(2) \$1400 / 3mths. Mandatory Disq Not < 1mth and not more > 9 mths	CONSIDER COMMUNITY BASED ORDER & DRINK DRIVING REHABILITATION PROGRAM				
.05 - .07	<b>350</b> 1 m / "A" 3m	<b>500</b> 4 m	<b>840</b> 7 m	<b>900</b> 10 m	<b>1200</b> 13 m	<b>1200</b> 16 m
.08 - .09	<b>490</b> 3 m / "A" 3m	<b>700</b> 6 m	<b>980</b> 9 m	<b>1050</b> 12 m	<b>1500</b> 15 m	<b>1500</b> 18 m
<b>RELEVANT DRUG</b> 79(2AA)	Max 79(2AA) \$1400 / 3mths. <b>350</b> Min "A" / "B"	PENALTIES SAME AS FOR .05 ABOVE. RELEVANT DRUGS : Methylendioxyamphetamine (MDMA- common names Ecstasy; Pinga; Eckie; E) Tetrahydrocannabinol (common names Cannabis resin, Hashish) Methylamphetamine (common names Crystal Meth; Ice; Crack) [s.172 Traffic Regulation 1962]				
<b>MIDDLE ALCOHOL LIMIT</b> 79(2A)	Max 79(1F) \$2000 / 6mths. Mandatory Disq 86(2)(ca) not < 3mths and not > 12 mths	CONSIDER COMMUNITY BASED ORDER & DRINK DRIVING REHABILITATION PROGRAM. LICENCE IS SUSPENDED s79B(1)(ab) FROM DATE CHARGED UNTIL CHARGE IS DEALT WITH BY A COURT & THAT PERIOD MAY BE TAKEN INTO ACCOUNT [s86(7)].				
.10 - .12	<b>600</b> 5 m	<b>800</b> 8 m	<b>1120</b> 11 m	<b>1200</b> 14 m	<b>1800</b> 17 m	<b>1800</b> 20 m
.13 - .14	<b>700</b> 7 m	<b>900</b> 10 m	<b>1260</b> 13 m	<b>1350</b> 16 m	<b>2100</b> 19 m	<b>2100</b> 22 m
<b>HIGH ALCOHOL LIMIT</b> (includes failing to supply) 79(3) & 80(11)	Max 79(1) \$2800 / 9 mths imp. Mandatory Disq 86 (1) 6months	Max 79(1D) \$3000 / 1 year Mandatory Disq 9 months	Max 79(1E) \$6000 / 18mths imp Mandatory Disq 1 year	Max79(1A)(1B) \$6000 / 18mths Mandatory Disq 86(1A) (1C) 1 year	Act is silent on this circumstance	Imprisonment must be imposed whole or part of punishment 79(1C)
Part 3B "Alcohol Ignition Interlock" applies except offender to whom 79(2D) applies [s91I (b) & (c)]	CONSIDER COMMUNITY BASED ORDER & DRINK DRIVING REHABILITATION PROGRAM. DRIVER LICENCE IS SUSPENDED UNDER s79B(1)(a) FROM DATE CHARGED UNTIL CHARGE IS DEALT WITH BY A COURT & THAT PERIOD MAY BE TAKEN INTO ACCOUNT [s86(7)]					Mandatory Disq 86(1B)(1D)(1E) 2yrs
.15 - .17	<b>980</b> 9 m	<b>1050</b> 12 m	<b>1500</b> 15 m	<b>1500</b> 18 m	<b>2100</b> 21 m	
.18 - .20	<b>1120</b> 12 m	<b>1200</b> 15 m	<b>1800</b> 18 m	<b>1800</b> 21 m	<b>2400</b> 24 m	
.21 +	If a fine is considered appropriate – consider an additional 1-2 penalty units and an additional 2-3 months disqualification					

# UNLICENSED DRIVING & OTHER RELATED OFFENCES SENTENCING GUIDE

All Penalty Norms are based on offence occurring at the half-way point of the relevant disqualification, suspension, restriction etc./ Early plea/ No aggravating facts

Offence	Penalty Norms	Mandatory Disqualification	Maximum Penalty	DISQ Cumulative with S79 offence	
Simpliciter 78(1)	\$ 150	No Mandatory Disqualification <i>-these categories are not mentioned in Act, but are used for TIN purposes - all come under 78(1)</i>	\$4000 or 1 Year	YES 90C(1)(c)	
Expired Licence < 1 Year	\$ 150				
Expired Licence > 1 Year	\$ 200				
Surrendered Licence	\$ 300				
Cancelled Due to incapacity	\$ 400				
Not Authorised to drive class of vehicle	\$ 300				
Non-Queensland Licence, after more than 3 months resident in QLD	\$ 200				
Never held a licence	\$ 400				
Repeat Offender 78(3)(h)	\$ 400 / 1m	1 - 6 Months	\$6000 or 18 Months	NO	
SPER Suspended 78(3)(f)	\$ 300 / 1m	6 Months			
Demerit Points Suspension 78(3)(b)	\$ 400 / 6m				
High Speed Suspension 78(3)(d)	\$ 500 / 6m				
Subject to Interlock Condition 78(3)(i)	\$ 400 / 3m	1 - 6 Months	\$6000 or 18 Months	YES 90C(1)(c)	
s79B suspension (following a UIL charge) 78(3)(l)	\$ Nominal / 2yrs	2 - 5 Years			
Disqualified by a Court Order 78(3)(a)	\$ 700 / 2yrs				
Disqualified by a Court Order - 2 <sup>nd</sup> Off.	\$ 1,000 / 2yrs	6 Months Minimum	\$1400 or 1 Year	NO	
24 hour suspension (following BAC charge) 80(22D), 86(4)	\$ Nominal / 6m				
S87 Restricted Licence 87(10),(10A)	\$ 200 / mand	Balance of order + 3 Months	\$2000	NO	
Special Hardship Order 119 DL Reg	\$ 200 / mand				
S79E Replacement Licence 100 DL Reg	\$ 200 / mand	Until original "Relevant Charge" is finalised			
Interlock condition : Drive vehicle not fitted with Interlock, or Fail to comply with exemption - first offence in 5 years - prior conviction in last 5 years 91W(1)(a),(2); 91X	\$ 300 / 3m	3 months	\$2800 \$6000		
	\$ 600 / 6m	6 months			
Interlock condition : Drive vehicle other than nominated vehicle - first offence in 5 years - prior conviction in last 5 years 91W(1)(b), (2)	\$ 300 / 3m	3 months	\$2800		
	\$ 600 / 6m	6 Months			
Fail to produce Interlock Exemption Certificate or Notify Change of Circumstances 91W(4), 91Y	\$ 300	No Mandatory Disqualification			
Specimen for "Road side" Breath Test 80(5A)	\$ 200	No Mandatory Disqualification	\$4000 or 6 Months		NO
Specimen of Breath, Blood, Urine for "Analysis" 80(11)	Refer to s79(1) "UIL" penalties	Same as S79(1) - "UIL"	Same as S79(1) - "UIL"		Cumulative with any s78 disq.
Generally 86(3) - (3F)	Penalty varies according to facts	6m minimum	\$10,000 or 3 Years	NO <i>But cumulative with disqualification under s78 if charge alleges "adversely affected by an intoxicating substance"</i>	
1 previous Dang Op or UIL in last 5 yrs		12m minimum			
2 previous Dang Op or UIL in last 5 yrs		2 yrs minimum	S328A, 552H CC		
1 previous BAC or 0 limit in last 5 yrs		9m minimum			
2 previous BAC or 0 limit in last 5 yrs		12m minimum			
"Unaccompanied" - Drive while not under direction of O licence holder 5(12) DL Reg	\$ 150	No Mandatory Disqualification	\$2,000	NO	
Drive without L Plates fitted 58 DL Reg	\$ 150				

READING	FIRST OFFENCE PLICENCE <25 YEARS OR UNLICD	FIRST OFFENDER OPEN LICENCE	1 PREVIOUS WITHIN		OR	1 PREVIOUS MAJOR WITHIN		2 PREVIOUS WITHIN		1 PREV MAJOR & 1 PREV MINOR WITHIN		2 PREVIOUS MAJOR WITHIN	
			2 YRS	5 YRS		2 YRS	5 YRS	3 YRS	5 YRS	3 YRS	5 YRS	3 YRS	5 YRS
>.0 - .05	\$200 3m		\$400 6m	\$300 5m		\$700 12m	\$600 10m	\$700 12m	\$600 10m	\$800 15m	\$700 13m	\$1000 18m	\$900 15m
.05 - .06	\$300 3m	\$200 1m	\$300 4m	\$250 3m		\$600 10m	\$500 9m	\$600 10m	\$500 9m	\$700 13m	\$600 12m	\$800 15m	\$700 13m
.07 - .08	\$400 4m	\$400 3m	\$700 6m	\$500 4m		\$900 11m	\$800 10m	\$900 11m	\$800 10m	\$1100 15m	\$900 13m	\$1200 19m	\$1000 17m
.09 - .10	\$600 5m	\$600 4m	\$800 8m	\$700 7m		\$1000 13m	\$900 11m	\$1000 13m	\$900 11m	\$1200 17m	\$1000 15m	\$1300 23m	\$1100 21m
.11 - .12	\$700 7m	\$700 6m	\$1000 11m	\$900 9m		\$1100 15m	\$1000 13m	\$1100 15m	\$1000 13m	\$1300 19m	\$1100 17m	\$1500 28m	\$1300 26m
.13 - .14	\$800 9m	\$800 8m	\$1200 15m	\$1100 13m		\$1300 18m	\$1100 16m	\$1300 18m	\$1100 16m	\$1500 21m	\$1300 19m	\$1600 36m	\$1500 32m
Penalty / disq range: BAC	\$1050 / 3m Min 3m Max 9m	\$1050 / 3m Min 1m Max 9m	\$1500 / 6m Min 3m Max 18m	\$2250 / 1yr Min 9m		\$2100 / 9m Min 6m	\$4500 / 18m Min 12m	Max seems to be \$2250 Min 9m					
.15 - .16	\$1100 11m	\$1000 10m	\$1300 16m	\$1200 14m		\$1600 19m	\$1400 17m	\$1600 19m	\$1400 17m	\$1700 24m	\$1500 22m	Imp 14-28 days + Fine # 48m	36m
.17 - .19	\$1300 13m	\$1200 12m	\$1400 18m	\$1300 16m		\$1800 21m	\$1600 19m	\$1800 21m	\$1600 19m	\$1900 26m	\$1700 24m	Imp 14-28 days + Fine # 48m	36m
.20 +	\$1600 16m	\$1500 15m	\$1800 20m	\$1600 18m		\$2000 24m	\$1800 21m	\$1900 24m	\$1750 21m	\$2100 28m	\$1900 26m	Imp 14-28 days + Fine # 48m	36m
Penalty / disq range: UIL	\$2100 / 9m Min 6m	Max \$2250 Min 9m	Max \$4500 / 18m Min 12m	Max \$2650 Min 12m									

**INCREASED DEPENDING UPON BAC AND / OR CIRCUMSTANCES OF OFFENCE**

**CONVICTION FOR DANGEROUS DRIVING TO BE TAKEN INTO ACCOUNT AS MAJOR OFFENCE IN THESE PENALTIES**

# IMPRISONMENT 14 TO 28 DAYS PLUS FINE AS PER ABOVE TABLE FOR BAC + 2 PREVIOUS MAJOR OR LONGER TERM OF IMPRISONMENT PARTIALLY

SUSPENDED. (Whole or part of punishment shall be imprisonment) Consider Drink Driving Program if available.

FAIL TO SUPPLY SPECIMEN BREATH / BLOOD Penalty as for Major Offence, subject to increase/reduction in Magistrate's discretion if circumstances warrant.

RESTRICTED LICENCE HOLDER CHARGED WITH .00 - .05 Max - \$1500 / 6m PLUS DISQUALIFICATION AS APPLICABLE

UIL ANIMAL / BICYCLE / OTHER - \$500 Max - \$3000 / 9m - No Licence disqualification

ROADSIDE SAMPLE REFUSAL if requested and person elects or fails to provide specimen - Charge on its own \$300 Max - \$3000 / 6m

S83 - DRIVING WITHOUT DUE CARE \$3000 / 6m

For additional previous convictions outside 5 year period consider additional penalty, depending on circumstances.

These are guidelines only. In each case the actual penalty depends on particular circumstances and is entirely within discretion of individual Magistrate. Adjustments of fine and disqualification above and below guidelines, taking into account legislated minimum and maximum penalty may well be appropriate.