

Report No. 46, October 2006

Getting Tough on Drink Drivers



LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY TRAVELSAFE COMMITTEE

Getting Tough on Drink Drivers

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52ND PARLIAMENT

1ST SESSION

CHAIRMAN:

Mr Jim Pearce MP, Member for Fitzroy

DEPUTY CHAIRMAN:

Mr Chris Foley MP, Member for Maryborough

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Mr Glen Elmes MP, Member for Noosa

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51ST PARLIAMENT

1ST SESSION

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DEPUTY CHAIRMAN:

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FOREWORD

On behalf of the committee, I would like to thank the people who contributed to this inquiry by making submissions, participating in the public hearing, providing us with information at private meetings or supplying documents and advice.

I also acknowledge and sincerely appreciate the dedication of committee members and staff, particularly the committee's Senior Research Officer, Ms Lyndel Bates, in bringing this report to the Parliament.

I commend the report to the House.


Jim Pearce MP
Chairman

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ABBREVIATIONS

Abbreviation	Definition
ACT	Australian Capital Territory
ANPR	Automatic Number Plate Recognition
BAC	Blood Alcohol Concentration
CARRS-Q	Centre for Accident Research and Road Safety – Queensland
CTP	Compulsory Third Party
ICRO	Interlock Condition Removal Order
IPP	Interlock participation period
LRO	Licence Restoration Order
MAIC	Motor Accident Insurance Commission
NSW	New South Wales
NT	Northern Territory
PPAR Act	<i>Police Powers and Responsibilities Act 2000</i>
QPS	Queensland Police Service
QT	Queensland Transport
RACQ	Royal Automobile Club of Queensland Limited
RBT	Random Breath Testing
SA	South Australia
TO(RUM) Act	<i>Transport Operations (Road Use Management) Act 1995</i>
WA	Western Australia

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1: 27

That the *Police Powers and Responsibilities Act 2000* be amended to provide police officers with the discretionary power to require breath and/or blood tests from any and all vehicle occupants whom the police officers suspect, on reasonable grounds, were driving a vehicle under the influence of alcohol.

Ministerial Responsibility:
Minister for Police and Corrective Services

RECOMMENDATION 2: 28

That the *Transport Operations (Road Use Management) Act 1995* be amended to provide police officers with the power to conduct breath and/or blood testing of all suspected drink driving offenders for a period up to four hours from the time of driving.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 3: 41

That the *Police Powers and Responsibilities Act 2000* be amended by removing S58 (3), (4) and (5) so that all drivers in Queensland will be required to produce their driver licences for immediate inspection by police.

Ministerial Responsibility:
Minister for Police and Corrective Services

RECOMMENDATION 4: 44

That the *Transport Operations (Road Use Management) Act 1995* be amended to require all individuals convicted of drink driving in Queensland for the first time to attend a brief rehabilitation intervention designed to deter them from continuing to drink and drive. This intervention should be introduced initially on a trial basis.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 5: 45

That the *Transport Operations (Road Use Management) Act 1995* be amended to require all individuals convicted of a second drink driving offence in Queensland to attend an intensive rehabilitation program designed to reduce their drinking and separate their drinking and driving behaviours.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 6: 56

That the *Police Powers and Responsibilities Act 2000* be amended to give police officers the power to impound for 48 hours the vehicles driven by drink drivers apprehended whilst allegedly committing a second or subsequent drink driving offence within a five year period. The associated vehicle impoundment costs shall be borne by the alleged offender if convicted. Police officers shall be further authorised to apply to a court for an order to impound for three months the vehicles driven by individuals apprehended whilst allegedly committing a third drink driving offence within five years.

Ministerial Responsibility:
Minister for Police and Corrective Services

RECOMMENDATION 7: 56

That Queensland Transport establish a service to inform employers whether their employees or prospective employees hold current driver licences and the classes of licences held, and whether they have been convicted of a drink driving offence during the previous five years. This information shall only be provided by the department with the written consent of the employees.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 8: 67

That the *Transport Operations (Road Use Management) Act 1995* be amended to give the courts discretion to require that individuals convicted of drink driving offences and who are issued with a restricted licence, or repeat drink drivers returning to driving, attend a drink driving rehabilitation program and have alcohol ignition interlocks fitted to the vehicles that they drive. The costs to fit the interlocks or attend the rehabilitation programs shall be borne by the drink driving offenders.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 9: 68

That alcohol ignition interlocks shall remain fitted to the vehicles driven by drink driving offenders until such time as they have operated the vehicle for six months without being locked out by the interlock for a positive breath alcohol sample or other breach of the operating conditions. The decision to remove an alcohol ignition interlock from drink drivers' vehicles shall be made by Queensland Transport.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 10: 69

That Queensland Transport investigate methods to minimise the cost to low income individuals who are required by the courts to use alcohol ignition interlocks and/or attendance at drink driving rehabilitation programs.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 11: 71

That Queensland Transport should, in conjunction with other transport and research agencies, continue to research the effectiveness of restricted licences as a drink driving countermeasure, whether issuing these licences undermines the general deterrent effect of licence loss for repeat drink drivers and the effects of combining alcohol ignition interlocks with restricted licences.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 12: 72

That Queensland Transport investigate the likely implications of the introduction of smart card driver licences for repeat drink driving and other forms of illegal driving.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 13: 72

That Queensland Transport should evaluate the introduction of the agreed countermeasures recommended in this report including vehicle impoundment and rehabilitation programs (including the short intervention). These evaluations should consider both the process and the outcomes of the countermeasures.

Ministerial Responsibility:
Minister for Transport and Main Roads

RECOMMENDATION 14: 73

That ministers should report annually to Parliament on the implementation by their departments of agreed recommendations in this report.

Ministerial Responsibility:
Minister for Transport and Main Roads
Minister for Police and Corrective Services

PART 1 ~ INTRODUCTION

THE TRAVELSAFE COMMITTEE

1. The 52nd Legislative Assembly appointed the Travelsafe Committee on 11 October 2006 to monitor, investigate and report on all aspects of road safety and public transport in Queensland, in particular:
 - Issues affecting road safety including the causes of road crashes and measures aimed at reducing deaths, injuries and economic costs to the community;
 - The safety of passenger transport services, and measures aimed at reducing the incidence of related deaths and injuries; and
 - Measures for the enhancement of public transport in Queensland and reducing dependence on private motor vehicles as the predominant mode of transport.

TERMS OF REFERENCE FOR THE INQUIRY

2. The Travelsafe Committee of the 51st Parliament commenced their *Inquiry into vehicle impoundment for drink drivers* in November 2005. This inquiry fell directly within the committee's role to investigate and report on issues that affect road safety.
3. In the inquiry, the committee examined whether:
 - Drink drivers in Queensland continue to drive illegally after being apprehended by police or disqualified 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.
4. With the dissolution of the 51st Parliament on 15 August 2006, the Travelsafe Committee of the 51st Parliament ceased to exist. The 52nd Parliament appointed a Travelsafe Committee on 11 October 2006 with identical functions. This committee resolved to finalise this inquiry and table this report.

PURPOSE OF THIS REPORT

5. The committee has written this report to outline how the inquiry was conducted, record the research and findings provided to the committee and make recommendations to the Queensland Parliament. The committee believes that this report will help reduce the incidence of

repeat drink driving in Queensland and the deaths, injuries and economic costs associated with crashes that involve a drink driver.

THE CONTEXT OF THE INQUIRY

6. The committee conducted this inquiry within the context of ongoing work, particularly by Queensland Government agencies. It is worth noting here that two events had a strong influence on the commencement and conduct of this inquiry. The first event was a request by the Hon Judy Spence MP, Minister for Police and Corrective Services, that the Travelsafe Committee consider examining vehicle impoundment and ignition key confiscation. The Travelsafe Committee of the 51st Parliament considered this request and subsequently commenced this inquiry.
7. The second event was the Road Safety Summit hosted by the Hon Peter Beattie MP, Premier and Minister for Trade, on 21 and 22 February 2006. This summit resulted in the Queensland Government announcing a number of initiatives that had a direct impact on this inquiry.

INQUIRY PROCESS

8. The committee used a number of sources to obtain the information and ideas contained within this report. As well as using academic research, the committee spoke to individuals and organisations, in Queensland and other jurisdictions, that currently administer vehicle impoundment programs (either for drink driving or other offences). The research and other evidence that the committee used when compiling this report is referenced in the footnotes. The committee also actively encouraged public participation in the inquiry process.
9. When the Travelsafe Committee of the 51st Parliament announced the inquiry in November 2005, they released an issues paper, *Issues Paper No. 10: Inquiry into vehicle impoundment for drink drivers*, to promote informed discussion and encourage submissions. The committee published the issues paper on its website at <http://www.parliament.qld.gov.au/tsafe> and distributed 600 hard copies to interested groups and individuals. They placed an advertisement inviting submissions in *The Courier Mail*. A copy of this advertisement is at Appendix A.
10. The committee accepted submissions to the inquiry in a number of formats including traditional mail, email and fax. The committee received 47 submissions in response to the issues paper. Appendix B lists the organisations and individuals who made submissions.

11. The committee gathered further information on recidivist drink driving countermeasures during a visit to Wellington, New Zealand in November 2005. During this trip the committee chair attended the Australasian College of Road Safety Recidivist Drink and Unlicensed Driving Seminar. Committee members also met with Hon Harry Duynhoven, the New Zealand Minister for Transport Safety, the New Zealand Parliamentary Committee on Transport and Industrial Relations as well as representatives from the New Zealand Police, the Ministry of Transport and Land Transport New Zealand. Committee members also attended the annual Australasian Road Safety Research, Policing and Education Conference while in Wellington. Some speakers at this conference discussed drink driving and vehicle impoundment issues.
12. The committee held a public hearing in Brisbane on 31 March 2006 to hear evidence from representatives of Queensland Transport (QT), the Centre for Accident Research and Road Safety – Queensland (CARRS-Q), the Alcohol and Drug Foundation, the Royal Automobile Club of Queensland Limited (RACQ), Commerce Queensland, the Motor Accident Insurance Commission (MAIC) and the Queensland Police Service (QPS). A list of witnesses is provided at Appendix C. A copy of the advertisement for the public hearing is at Appendix D. The aim of the public hearing was to gather evidence from stakeholders on key issues regarding the possible implications of the implementation of vehicle impoundment and other vehicle sanctions in Queensland. The Chair raised issues on the committee's behalf with the Insurance Council of Australia at a meeting in Sydney on 3 April 2006.

RESPONSIBILITY OF MINISTERS

13. Section 107 (Ministerial response to committee report) of the *Parliament of Queensland Act 2001* requires the responsible minister or ministers to respond to recommendations contained in committee reports within three to six months of the report being tabled. A copy of this section is in Appendix E.

PART 2 ~ DRINK DRIVING

14. Alcohol is the most commonly used drug in Australia. It has short-term and long-term risks associated with its use. One of these risks is the effect of alcohol on driving and road crashes.
15. A minority of motorists are drink drivers who repeatedly drink alcohol and then drive illegally whilst impaired by the alcohol. In Queensland a repeat drink driver is a person who commits two or more drink driving offences in five years. Approximately 13 per cent of drink drivers in Queensland are repeat offenders. Repeat drink drivers are more likely to be involved in a crash when compared with first time offenders¹. Drink driving also has implications for motorists' insurance.

ALCOHOL

Alcohol consumption in Queensland and Australia

16. Alcohol is the most common drug used in Australian society. Australians have historically used alcohol to relax and at social activities. Most Australians (61 per cent) believe that regularly drinking alcohol is acceptable behaviour and many drink alcohol at least occasionally.²
17. As Table 1 shows, 82.4 per cent of people aged 14 years and older in Australia consumed alcohol during 2001. Alcohol consumption for individuals 14 years and older was slightly higher in Queensland with 83.1 per cent consuming alcohol during 2001.³
18. The table also shows how often people consume alcohol. For instance, more than one third of people in Queensland and nearly 40 per cent of people in Australia consume alcohol on a weekly basis. Another one third consumes it less than once a week. However, over eight per cent drink alcohol daily.⁴

¹ Queensland Transport, *Submission no. 44*, 2006, p. 12.

² Ministerial Council on Drug Strategy, *Alcohol in Australia: issues and strategies*, Commonwealth of Australia, Canberra, July 2001, p. 6.

³ Australian Institute of Health and Welfare, *2001 National drug strategy household survey, state and territory supplement*, AIHW cat no. PHE 37, Australian Institute of Health and Welfare, Canberra, 2002, p. 5.

⁴ Australian Institute of Health and Welfare, p. 5.

Table 1: Consumption patterns of alcohol for persons aged 14 years and over in Queensland and Australia, 2001

	Queensland		Australia	
	%	Cumulative %	%	Cumulative %
Daily	8.4	8.4	8.3	8.3
Weekly	37.8	46.2	39.5	47.8
Less than weekly	36.9	83.1	34.6	82.4
Ex-drinker (have had a full serve of alcohol before but not in the past 12 months)	8.5	91.6	8.0	90.4
Never a full serve of alcohol	8.4	100	9.6	100

Source: Australian Institute of Health and Welfare, 2001 *national drug strategy household survey, state and territory supplement*, PHE 37, Australian Institute of Health and Welfare, Canberra, 2002, p. 5.

19. Drinking patterns differ according to gender and on a regional basis. More men outside capital cities consume alcohol to harmful levels. The more remote a region, the larger the number of men who consume alcohol to hazardous levels. More women in small regional and remote areas with populations of less than 5,000 people also engage in dangerous drinking behaviours.⁵

Risks of harmful drinking behaviour

20. There are short-term and long-term risks associated with alcohol consumption. Short-term risks involve drinking on one occasion and the increased risk of falls, accidents and violence that occur as a result. Long-term risks occur over a longer period and lead to different health issues such as liver problems, cancers and dementia.⁶
21. *Risky drinking* is defined as drinking to a level where you are at significant risk of harm and *high risk drinking* is defined as drinking to a level where you are at substantial risk of serious harm with rapidly increasing risk.⁷ Risky drinking is also known as binge drinking. Table 2 below shows the risky and high risk drinking levels in terms of standard drinks for men and women.

⁵ Ministerial Council on Drug Strategy, *Alcohol in Australia*, p. 3.

⁶ Australian Institute of Health and Welfare, p. 5.

⁷ National Health and Medical Research Council, *Australian alcohol guidelines: health risks and benefits*, National Health and Medical Research Council, Canberra, 2001, p. 4.

Table 2: Number of standard drinks causing long and short term harm for men and women(* amount applies to average and over size women only: 160cm+ and 50kg+)⁸

	Risky Drinking (standard drinks/day)	High Risk (standard drinks/day)
Men	7 – 10	11 +
Women*	5 – 6	7 +

Source: National Health and Medical Research Council, *Australian alcohol guidelines: health risks and benefits*, Canberra, NHMRC, 2002, p. 5.

22. Problems related to excessive alcohol use include health consequences such as dependence and alcoholism, cirrhosis, foetal alcohol syndrome, other trauma such as assaults, child and spousal abuse and neglect, homicide, suicide, drowning, other violent crime and property damage.⁹ There are also social consequences including aggressive behaviour, family disruption and reduced productivity.¹⁰ Table 3 below shows some of the public health risks associated with drinking to excess.¹¹ Road traffic crashes are included as one of the acute harms. Acute and chronic harms are associated with drinking to risky and high risk levels.
23. Alcohol misuse is widespread in Australia. Approximately one per cent of the population know a close family member with a serious alcohol problem.¹² Queenslanders are more likely to drink excessively when compared to other Australians. In Queensland, 36 per cent of persons aged 14 years and over have had at least one episode of short-term risky drinking behaviour (or binge drinking) in the past 12 months. This compares to 34.4 per cent of persons aged 14 years and over nationally.¹³ These episodes of binge drinking involved males drinking seven or more standard drinks on one occasion and females drinking five or more standard drinks on one occasion. A standard drink was defined as 10 grams or 12.5 millilitres of pure alcohol.¹⁴

⁸ National Health and Medical Research Council, p. 3.⁹ J Grube & K Stewart, Preventing impaired driving using alcohol policy, *Traffic Injury Prevention*, 5, 2004, p. 199; Alcohol and Drug Foundation - Queensland, *Travelsafe – drink driving and impoundment public hearing: transcript of proceedings*, Queensland Parliament, Brisbane, 31 March 2006, p. 11.¹⁰ Ministerial Council on Drug Strategy, *Alcohol in Australia*, p. 7.¹¹ Queensland Health, *Young women and alcohol campaign: “make up your own mind about drinking”, background paper including formative research and evaluation results*, Queensland Government, Brisbane, 2006, p. 4, downloaded from: www.health.qld.gov.au.¹² Y Tai, J Saunders & D Celermajor, Collateral damage from alcohol abuse: the enormous costs to Australia, *Medical Journal of Australia*, 168, 1998, p. 6.¹³ Australian Institute of Health and Welfare, p. 6.¹⁴ Australian Institute of Health and Welfare, p. 6.

Table 3: Short-term and long-term harms associated with risky and high risk drinking**Short-Term (Acute) Harms:**

Physical injury, psychological harms and death arising from:

- | | |
|---------------------------------------|--|
| ▪ Falls and other injuries | ▪ Unprotected sex leading to the transfer of sexually transmitted diseases |
| ▪ Physical assaults | ▪ Alcohol overdose |
| ▪ Sexual assault | ▪ Interaction with other drugs |
| ▪ Domestic violence | ▪ Dehydration |
| ▪ Road traffic crashes | ▪ Sleep disturbances |
| ▪ Occupational and machinery injuries | ▪ Raised blood pressure |
| ▪ Fire | ▪ Shortness of breath |
| ▪ Drowning | |

Long-Term (Chronic) Harms:

- | | |
|---|--|
| ▪ Alcoholic liver cirrhosis | ▪ Alcoholic poly neuropathy – nerve damage leading to loss of sensation, pins and needles and possibly muscle weakness |
| ▪ Alcohol dependence | ▪ Stroke |
| ▪ Epilepsy | ▪ Female breast cancer |
| ▪ Hypertension | ▪ Cancers of the mouth, throat and oesophagus |
| ▪ Chronic pancreatitis | ▪ Oesophageal varices |
| ▪ Brain damage including dementia and short term memory loss | ▪ Reduced sexual potency and capacity in men |
| ▪ Alcoholic cardiomyopathy – weakened heart muscle that impairs the efficiency of the heart to pump blood | |

Source: Adapted from Queensland Health, Make up your own mind about drinking, *Background paper including formative research and evaluation results*, Queensland Government, Brisbane, 2006, downloaded from www.health.qld.gov.au.

24. In 1996, estimates suggested that 4.9 per cent of the total burden of injury and disease in Australia was related to alcohol consumption. The two leading causes contributing to this figure were road crashes and liver cirrhosis.¹⁵ Table 4 below shows the number of years of life lost due to each of the related conditions. It also estimates the benefits of alcohol consumption. From the table, while there are clear benefits and disbenefits associated with alcohol consumption, it results overwhelmingly in more years of life lost than it saves.

¹⁵ C Mathers, T Vos, & C Stevenson, *The burden of disease and injury in Australia*, AIHW cat. no. PHE 17. Canberra: AIHW, 1999, p. 110.

Table 4: The attributable burden of alcohol consumption by condition in Australia, 1996

Cause	Deaths	Years of Life Lost
ALCOHOL BENEFIT		
Hypertension	-130	-876
Ischaemic heart disease	-4,480	-38,994
Stroke	-2,509	-18,652
Gallstones	-39	-322
Total	-7,157	-58,844
ALCOHOL HARM		
Alcohol dependence/abuse	406	4,308
Road traffic accidents	510	12,647
Cirrhosis of the liver	710	10,525
Stroke	639	6,466
Breast cancer	289	4,374
Suicide and self-inflicted injury	228	5,128
Cancer of mouth and pharynx	267	3,480
Colorectal cancer	417	4,545
Homicide and violence	139	3,173
Accidental falls	223	2,986
Larynx cancer	120	1,372
Fires	64	1,232
Inflammatory heart disease	86	1,231
Liver cancer	133	1,600
Drowning	69	1,485
Hypertension	136	1,022
Poisoning	41	1,013
Pancreatitis	42	441
Occupational injury	4	78
Suffocation and inhalation	9	173
Total	4,492	67,005
Net burden of alcohol consumption	-2,631	8,395

Source: C Mathers, T Vos & C Stevenson, *The burden of disease and injury in Australia*, PHE 17. AIHW, Canberra, 1999, p. 111.

Effect of alcohol on driving

25. Alcohol affects the part of the brain that controls highly integrated tasks.¹⁶ Driving requires the brain to effectively manage a number of jobs in a coordinated manner.

¹⁶ E Ogden & H Moskowitz, Effects of alcohol and other drugs on driver performance, *Traffic Injury Prevention*, 5, 2004, p. 186.

26. Alcohol begins to affect a person's driving from the lowest Blood Alcohol Concentration (BAC) that it is possible to measure. As the amount of alcohol in a person's system increases, the effect of alcohol on driving is amplified. Every person's driving is affected by alcohol.¹⁷
27. The effects of alcohol on driving continue after a person's BAC has returned to zero. Research using driving simulators has shown that drivers may continue to exhibit signs of impairment up to three hours after all alcohol has been metabolised by the body.¹⁸
28. As well as increasing a drink driver's risk of crashing, alcohol increases their risk of injury in a crash. Research suggests that alcohol increases the severity and extent of injury that individuals experience when compared with what would have occurred to a non-drinker.¹⁹

RECIDIVIST DRINK DRIVING

29. Drink drivers are often divided into two categories: *social drinkers* and *heavy drinkers*.²⁰ Social drinkers are individuals who drink moderate amounts of alcohol and very rarely drink excessively. Although they may drive over the legal BAC limit occasionally, it is not at a high BAC level. Social drinkers are generally assumed to be rational people who comply with the law. They are not seen to deliberately break the law by drinking and driving. Social drinkers will not drink and drive if they believe that they will be caught and punished. If caught, they are unlikely to repeat the offence.²¹
30. In Queensland, the legal BAC limit is 0.05 per cent. The QPS suggests that many drivers attempt to stay below this limit. However, social drinkers may unintentionally commit a drink driving offence. This is because they may be confused over the level of alcohol in drinks, the size of a standard drink, fail to understand how fast alcohol is absorbed into, and eliminated from, a person's system and participate in 'shouts'.²²

¹⁷ Ogden & Moskowitz, p. 186.

¹⁸ Ogden & Moskowitz p. 190.

¹⁹ Ogden & Moskowitz p. 190.

²⁰ H Simpson, D Beirness, R Robertson, D Mayhew & J Hedlund, Hard core drinking drivers, *Traffic Injury Prevention*, 5, 2004, p. 261.

²¹ Simpson, Beirness, Robertson, Mayhew & Hedlund, p. 261.

²² Queensland Police Service, *Submission no. 47*, 2006, p. 10.

31. In contrast, heavy drinkers drink frequently and excessively. They often drive after drinking, generally with a high BAC.²³ Heavy drinkers are more likely to have a substance misuse problem or an alcohol problem.²⁴ It is more difficult for authorities to manage the drink driving behaviour of heavy drinkers with current countermeasures. For instance, random breath testing and licence disqualification are not as effective for reducing the drink driving behaviour of heavy drinkers.²⁵
32. It is difficult to clearly describe the heavy drinker group. Although heavy drinkers are often young and male, they are not a homogenous group and differ from each other in many ways. They are different ages, have different criminal histories, may or may not use illegal drugs, may display hostility and aggression, be stressed, frustrated, angry or depressed and have difficulties with impulse control.²⁶ As a result, it is more difficult to identify members of this group and provide an early intervention to reduce their crash risk.
33. Research conducted in North America suggests that heavy drinkers who drive are a small proportion of drivers. For example, these drivers account for less than 1 per cent of drivers on the road at night on the weekend. Despite their low representation in the driver group, these drivers account for approximately 35 per cent of drivers in alcohol-related fatal crashes and approximately 66 per cent of drink driver fatalities.²⁷ Countermeasures targeted at this small group of drivers can have a significant impact on drink driving crashes and the road toll generally.
34. The definition of a recidivist drink driver is an arbitrary decision made in each jurisdiction. In Queensland, a repeat or recidivist drink driver is defined as a person who commits two or more drink driving offences within a five-year period.²⁸ In other states different timeframes for assessing if a second offence is a repeat offence apply. For instance, in Western Australia (WA) and Victoria, a 10 year time frame is used.²⁹ The committee considers that using a five year time frame is appropriate for Queensland.

²³ Simpson, Beirness, Robertson, Mayhew & Hedlund, p. 261.

²⁴ Alcohol and Drug Foundation - Queensland, p. 12.

²⁵ Centre for Accident Research and Road Safety – Queensland, *Travelsafe – drink driving and impoundment public hearing: transcript of proceedings*, Queensland Parliament, Brisbane, 31 March, 2006, p. 11.

²⁶ J Freeman, *Influencing Recidivist Drink Drivers' Entrenched Behaviours: The Self-reported outcomes of three countermeasures*, Unpublished Doctoral Thesis, Queensland University of Technology, 2004, pp. 4-5.

²⁷ Simpson, Beirness, Robertson, Mayhew & Hedlund, p. 267.

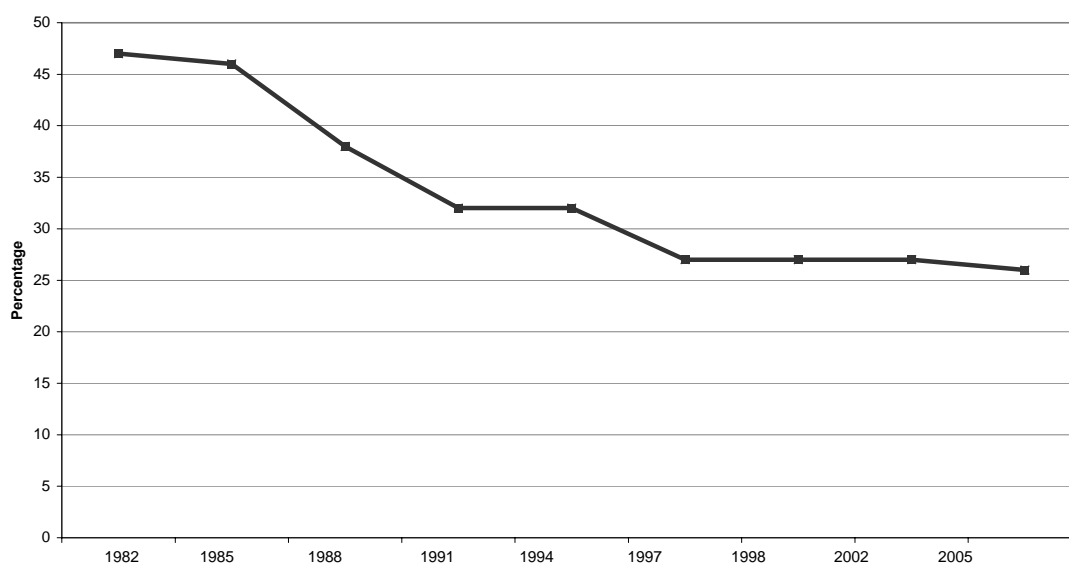
²⁸ Queensland Transport, *Submission no. 44*, p. 11.

²⁹ Office of Road Safety, *Submission no. 36*, 2006, p.8; s51(1B) *Road Safety Act 1986* (Vic).

NUMBER OF DRINK DRIVERS

35. Drink driving declined dramatically throughout the 1980s in a number of countries including Great Britain (a decline of 50 per cent), France (39 per cent), Germany (37 per cent), Netherlands (28 per cent), Canada (28 per cent) and United States of America (29 per cent). Drink driving rates declined by 32 per cent in Australia.³⁰ Possible reasons for these declines include improved laws, enhanced enforcement, increased public awareness, lifestyle changes, demographic shifts and economic conditions. However, these falling rates of drink driving did not continue in most countries throughout the early 1990s. It was not until the mid 1990s that drink driving began to fall again, albeit at a much slower rate.³¹
36. A similar trend can be seen in Queensland. As shown in figure 1, the number of drivers and motorbike riders killed with a BAC above 0.05 per cent fell dramatically during the 1980s. The number of fatalities has not changed considerably since 1990.³²

Figure 1: Percentage of fatally injured drivers and motorcycle riders with a BAC of 0.05 grams per 100ml or greater, Queensland, 1982 to 2005



M Sheehan, Impaired driving, *Presentation to Road Safety Summit*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au on 1 June 2006, 21 February, 2006, p. 6.

³⁰ B Sweedler, M Biecheler, H Laurell, G Kroj, M Lerner, M Mathijssen, D Mayhew & R Tunbridge, Worldwide trends in alcohol and drug impaired driving, *Traffic Injury Prevention*, 5, 2004, p. 175.

³¹ B Sweedler, The worldwide decline in drinking and driving: Has it continued?, *Proceedings of the 15th International Conference on Alcohol, Drugs and Traffic Safety*, 2000, p. 5.

³² M Sheehan, Impaired driving, *Presentation to Road Safety Summit*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au, 21 February, 2006, p. 6.

37. As Queensland Transport notes in their submission, the number of drink driving offences may not reflect the full extent of drink driving in the community. This is because drink driving detections are influenced by the amount and pattern of enforcement and the offenders' attempts to evade detection. Drivers may drink drive without being detected.³³ Similarly, not all drink drivers are involved in crashes.
38. Research into drink driving behaviour indicates that a small number of licensed drivers may account for the majority of drink driving trips. This Swedish research suggests that three per cent of licensed drivers account for 80 per cent of all impaired driving trips.³⁴

REPEAT DRINK DRIVER OFFENCES

39. As outlined earlier, a repeat drink driver in Queensland is defined as a driver who commits two or more offences within a five-year period.³⁵ Table 5 shows the number of repeat drink drivers detected between January 2002 and June 2005. This data was provided in the Queensland Transport submission and is for two or more offences within three and half years rather than five years. This means that some repeat drink drivers will be excluded from the analysis because they may have committed a second offence within five years but outside the three and half years worth of data recorded in the table. The table shows that just over 13 per cent of drink drivers were repeat offenders.³⁶
40. Table 5 indicates that most (70,736 people or 86.6 per cent) offenders committed only one drink driving offence during the three and a half years examined. However, a substantial number of offenders (9,142 people or 11.2 per cent) committed a second drink driving offence in this time period. The numbers fall dramatically for offenders who commit three offences, although they still constituted 1,405 people, or 1.7 per cent of offenders.³⁷
41. The apparent dramatic drop in the number of offenders who commit two drink driving offences compared to those who commit three drink driving offences may be due to a number of factors. This fall in the number of offenders may be due to an existing countermeasure working effectively to discourage repeat drink driving. However, it may also be due to the timeframe used to measure the recidivism rates. If the offences and offenders were measured over a longer time period, this would allow more time for repeat offenders to be identified and convicted by the QPS.³⁸ It is important to note that in some individual cases, a person

³³ Queensland Transport, *Submission no. 44*, p. 11.

³⁴ B Bjerre, Primary and secondary prevention of drink driving by the use of alcolock device and program: Swedish experiences, *Accident Analysis and Prevention*, 37, 2005, p. 1146.

³⁵ Queensland Transport, *Submission no. 44*, p. 11.

³⁶ Queensland Transport, *Submission no. 44*, p. 12.

³⁷ Queensland Transport, *Submission no. 44*, p. 12.

³⁸ B Watson, *Personal communication*, 2006.

may commit multiple offences such as being over the BAC limit and refusing to be tested in the same event.³⁹ This means that they are classified as a repeat drink driver even though both offences relate to the same drink driving situation.

Table 5: Drink driving offences and offenders in Queensland, January 2002 to June 2005

Number of offences	Number of offenders	Per cent of offenders	Total offences	Per cent of offences
1	70,736	86.6	70,736	74.5
2	9,142	11.2	18,284	19.3
3	1,405	1.7	4,215	4.4
4	291	0.4	1,164	1.2
5 or more	106	0.1	582	0.6
	81,680	100	94,981	100

Source: Queensland Transport, *Submission no. 44*, 2006, p. 12.

42. Many drink drivers re-offend within a very short timeframe. In 2004 and 2005, 4,690 offenders committed a total of 10,335 offences.⁴⁰ Of the 10,335 offences, 5,645 were second or subsequent offences.
43. Table 6 shows that nearly one third of these repeat offences detected (1,756 offences or 31.1 per cent) occurred within one week of the initial offence. There were 4,899 offences or 86.8 per cent within one year of the initial offence. Of the drink drivers within this analysis, 955 had committed three or more offences during 2004 and 2005.⁴¹

Table 6: Time interval between repeat impaired driving offences, Queensland 2004-2005

Days between offences	Number repeat offences	Per cent repeat offences	Cumulative per cent
0 – 7 days	1756	31.1	31.1
8 – 30 days	552	9.8	40.9
31 – 90 days	727	12.9	53.8
91 – 180 days	745	13.2	67.0
181 – 365 days	1119	19.8	86.8
366 – 540 days	547	9.7	96.5
541 – 730 days	199	3.5	100
Total repeat offences	5645	100	100

Source: Queensland Transport, *Response to questions taken on notice at the public hearing*, 2006, p. 1.

44. During 2004 and 2005, 1,357 people committed a repeat drink driving offence on the same day. The majority of these (881 offences) were for refusing to provide a breath or blood sample when required. These offenders may be charged with two offences: failing to provide a breath or blood sample and driving under the influence.⁴² There were also 323

³⁹ Queensland Transport, *Submission no. 44*, p. 11.

⁴⁰ Queensland Transport, *Response to Questions Taken on Notice at the Public Hearing*, 2006, p. 1.

⁴¹ Queensland Transport, *Response to Questions*, p. 1.

⁴² Queensland Transport, *Response to Questions*, p. 1.

offences for driving while under the 24 hour suspension. Again, these offenders could be charged with two offences.⁴³

Range of drink driving offences in Queensland

45. The term *drink driving* covers a range of offences outlined in the *Transport Operations (Road Use Management) Act 1995* (TO(RUM) Act). Breaching parts of sections 79 or 80 of this act constitutes an offence. This includes driving a vehicle while under the influence of liquor or a drug. A copy of these sections of the Act is provided in Appendix F. Table 7 below provides a breakdown of the number and range of drink driving offences detected in Queensland between January 2002 and June 2005. As the table demonstrates, most offences (61,990 offences or 65.27 per cent of the offences) were at, or above, 0.05 per cent BAC but under 0.15 per cent BAC. However, 20,290 offences or 21.36 per cent were driving over 0.15 per cent BAC, a high level offence.⁴⁴

Table 7: Drink driving offences in Queensland, January 2002 to June 2005

Code	Offence Description	No. Offences	%
2381	DRIVE UNDER INFLUENCE OF LIQUOR (UNDER 0.15%)	61990	65.27
2380	DRIVE UNDER INFLUENCE OF LIQUOR (OVER 0.15%)	20290	21.36
2382	DRIVE UNDER INFLUENCE OF LIQUOR (NO READING)	2505	2.64
2368	PCA UNDER .07 LESS THAN .09 WHILE HOLDER OF OPEN LICENCE	1614	1.70
2367	PCA UNDER .05 LESS THAN .07 WHILE HOLDER OF OPEN LICENCE	1504	1.58
2384	FAIL TO SUPPLY BREATH SPECIMEN	1445	1.52
2369	PCA UNDER .09 LESS THAN .11 WHILE HOLDER OF OPEN LICENCE	1113	1.17
2383	FAIL TO SUPPLY ROADSIDE TEST	936	0.99
2370	PCA UNDER .13 LESS THAN 0.15 WHILE HOLDER OF OPEN LICENCE	844	0.89
2371	PCA UNDER .13 LESS THAN 0.15 WHILE HOLDER OF OPEN LICENCE	720	0.76
2419	DRIVE UNDER THE INFLUENCE OF LIQUOR OTHER THAN MOTOR VEHICLE	512	0.54
2362	PCA .07 LESS THAN .09 WHILE HOLDER OF P, L OR UNLICENCED	315	0.33
2361	PCA .05 LESS THAN .07 WHILE HOLDER OF P, L OR UNLICENCED	297	0.31
2363	PCA .09 LESS THAN .11 WHILE HOLDER OF P, L OR UNLICENCED	215	0.23
2385	FAIL TO SUPPLY BLOOD SPECIMEN	207	0.22
2364	PCA .11 LESS THAN .13 WHILE HOLDER OF P, L OR UNLICENCED	169	0.18
2365	PCA .13 LESS THAN .15 WHILE HOLDER OF P, L OR UNLICENCED	127	0.13
2360	PCA UNDER .05 WHILE HOLDER OF P, L OR UNLICENCED	120	0.13
2366	PCA UNDER .05 WHILE HOLDER OF OPEN LICENCE	52	0.05
2570	DRIVE UNDER INFLUENCE OF LIQUOR WITH RESTRICTED LICENCE	6	0.01
Total		94981	100

Source: Queensland Transport, *Submission no. 44*, 2006, p. 15.

⁴³ Queensland Transport, *Response to Questions*, p. 2.

⁴⁴ Queensland Transport, *Submission no. 44*, p. 15.

Drink driving and disqualified drivers

46. Under the TO(RUM) Act the driver's licence of a person suspected of a drink driving offence is suspended for 24 hours. Between January 2002 and June 2005, 590 people were detected driving while under this suspension. These drivers may or may not have been over the legal BAC limit. More drivers may drive while under this suspension who are not detected by police officers.⁴⁵ Table 8 outlines the number of people detected driving under a 24 hour suspension by year from January 2002 to June 2005.

Table 8: Number of people detected driving under a 24 hour suspension in Queensland, January 2002 to June 2005

DRIVE WHILE UNDER 24 HR SUSPENSION OFFENCES	2002	2003	2004	2005*	Total
	192	141	166	91*	590

*incomplete year: 1 January – 30 June 2005

Source: Queensland Transport, *Submission no. 44*, 2006, p. 17.

47. Some drivers who have their licences disqualified for drink driving continue to commit drink driving offences. Queensland Transport undertook a brief analysis of offenders who were disqualified for drink driving between January 2002 and June 2005. They found that a substantial proportion (5,080 people or 65 per cent) of these disqualified drivers (who were disqualified for drink driving) were detected drink driving on a subsequent occasion while their licence was still disqualified.⁴⁶
48. A recent Queensland study by CARRS-Q attempted to measure the amount of driving undertaken by unlicensed drivers. This study surveyed more than 300 unlicensed driving offenders as they left the Brisbane Magistrates Court. Most of the disqualified drivers in this sample lost their licence for drink driving. This group reported that they made on average 11.4 trips each week as a disqualified driver.⁴⁷

CURRENT PENALTIES FOR DRINK DRIVING

49. A number of submissions to the inquiry suggested that existing penalties for drink driving are ineffective.⁴⁸ For instance, some submissions stated that the sentences were too light⁴⁹ or not enforced effectively.⁵⁰ There was also substantial support for the argument that existing penalties and

⁴⁵ Queensland Transport, *Submission no. 44*, p. 17.

⁴⁶ Queensland Transport, *Submission no. 44*, p. 20.

⁴⁷ B Watson, *The psychosocial characteristics and on-road behaviour of unlicensed drivers*. Unpublished doctoral thesis, Queensland University of Technology, Brisbane, 2004, p. 49.

⁴⁸ H Stallman, *Submission no. 9*, 2006, p. 1; G Peet, *Submission no. 10*, 2006, p. 1; D Westlake, *Submission no. 11*, 2006, p. 1; M Edwards, *Submission no. 16*, 2006, p. 1; P Bond, *Submission no. 17*, 2006, p. 1; S Blair, *Submission no. 18*, 2006, p. 1; G Chamberlin, *Submission no. 19*, 2006, p. 1; J Osman, *Submission no. 20*, 2006, p. 1; K Weisz, *Submission no. 40*, 2006, p. 1; K Cork, *Submission no. 41*, 2006, p. 41; Name withheld, *Submission no. 7*, 2006, pp. 3-4

⁴⁹ Stallman, p. 1; Westlake, p. 1; Edwards, p. 1.

⁵⁰ Blair, p. 1.

sanctions are effective for most people but their effectiveness may be limited for repeat offenders.⁵¹

50. All Australian jurisdictions have drink driving laws. In Queensland, the TO(RUM) Act specifies the minimum and maximum penalties that can be given to a person who is convicted of a drink driving offence. Table 9 compares the maximum drink driving fines and disqualifications in Queensland and other jurisdictions. The table indicates that Queensland's maximum penalties are already among the toughest in Australia.
51. Magistrates are able to apply penalties within these limits, after considering the individual circumstances of each case. The QPS in their submission state it is rare for magistrates to impose the maximum penalty.⁵² The submission provides data on maximum penalties provided for in the TO(RUM) Act and the average penalties imposed on offenders in the number three Brisbane Magistrates Court. The data provided below in Table 10 provides data on the number and severity of penalties imposed for the first and second offences. The table shows that open licence holders who commits their first drink driving offence with a recorded BAC of 0.05 to 0.06 can be fined up to \$1,050 and have their licence disqualified for between one and nine months under the legislation. However, the average penalty imposed in the number three Brisbane Magistrates Court for this type of offence was a fine of \$200 and a one month licence disqualification. The table also shows that higher order drink driving offences tended to attract higher range offences.

⁵¹ V Alsop, *Submission no. 13*, 2006, p. 1; M Prior, *Submission no. 14*, 2006, p. 1; P Cook, *Submission No. 27*, 2006, p. 2; Royal Automobile Club of Queensland, *Submission no. 31*, 2006, p. 31; Legal Aid Queensland, *Submission no. 38*, 2006, p. 4; B Watson & A Nielson, *Submission no. 45*, Centre for Accident Research and Road Safety – Queensland, 2006, p. 4.

⁵² Queensland Police Service, *Submission no. 47*, p. 30.

Table 9: Comparison of Queensland's maximum legislated drink driving penalties with other jurisdictions

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

M = Minimum * plus max. 3mths imp

Source: Queensland Police Service, *Submission no. 47*, 2006, p. 32.

Table 10: Comparison of potential penalties in the TO(RUM) Act and the average penalties provided in the number three Brisbane Magistrates Court

Licence Class	Alcohol Result Range	Legislation		Magistrates Court	
		Fine (\$A) Max	Disqual. (Mths) Max	Fine (\$A)	Disqual. (Mths)
Open Licence	0.05 – 0.06	< 1050.00	1 – 9	200.00	1
1 st Offence	0.07 – 0.08			400.00	3
	0.09 – 0.10			600.00	4
	0.11 – 0.12			700.00	6
	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	0.05 – 0.06	< 1500.00	3 – 18	250.00	3
2 nd Offence	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.)	0.02 – 0.04	< 1050.00	3 – 9		
1 st Offence	0.05 – 0.06	See Open			
	0.07 – 0.08	Licence			
2 nd Offence	0.09 – 0.10				
	0.05 +	< 1500.00	3 – 18		
Under 25yrs (Provisional, L/P, Unlic.)	0.02 – 0.04	See Open			
2 nd Offence	0.05 +	Licence			

Source: Adapted from Queensland Police Service, *Submission No. 47*, 2006, pp. 54-55.

52. The range of penalties within the TO(RUM) Act allows magistrates to sentence convicted offenders while taking into account a range of other factors that impact on their behaviour. However, the committee believes that further options need to be considered to modify the behaviour of repeat drink drivers. Introducing or amending drink driving penalties is one option. Parts three, four and five of this report consider how the behaviour of repeat drink drivers can be modified.

DRINK DRIVING RELATED CRASHES IN QUEENSLAND

53. Repeat offenders are more likely to be involved in an alcohol-related crash than first time offenders.⁵³ However, it is hard to quantify the number of crashes that relate to repeat drink driving. This is because it is difficult to separately identify drivers who were originally disqualified for a drink driving offence.⁵⁴
54. Table 11 below compares the number of crashes between 2000 and 2005 by year, licence status and the BAC level of the driver. The table indicates that a large proportion (27.8 per cent) of disqualified drivers that were involved in crashes between 2000 and 2005 had an illegal BAC. This compares to a small number of non-disqualified drivers crashing with an illegal BAC (3.6 per cent of non-disqualified drivers).⁵⁵ Based on these figures, disqualified drivers have very high crash risks and are a prime target for countermeasures.

Table 11: Drivers involved in crashes in Queensland by year, licence status and BAC, 2000 to 2004

Driver Groupings	BAC* Category	2000		2001		2002		2003		2005		Total	
		n	%	n	%	n	%	n	%	n	%	n	%
Disqualified drivers	Over	75	27.8	96	25.9	151	34.8	150	29.1	150	23.3	622	27.8
	Under or zero	195	72.2	274	74.1	283	65.2	365	70.9	495	76.7	1612	72.2
Non-disqualified drivers	Over	1160	3.4	1321	3.5	1391	3.7	1420	3.7	1444	3.6	6736	3.6
	Under or zero	32532	96.6	36151	96.5	36504	96.3	36725	96.3	38416	96.4	180328	96.4
All drivers	Over	1235	3.6	1417	3.7	1542	4.0	1570	4.1	1594	3.9	7358	3.1
	Under or zero	32727	96.4	36425	96.3	36787	96	37090	95.9	38911	96.1	181940	96.9

*Over = illegal BAC; Under = non-illegal BAC or zero BAC

Source: Adapted from Queensland Transport, *Submission no. 44*, 2006, p. 22.

Alcohol and related crash costs

55. Alcohol costs the Australian community billions of dollars. One estimate by researchers from New South Wales (NSW) universities, suggests that the cost of alcohol consumption in Australia in 1998 and 1999 was AU\$7.5 billion.⁵⁶ Figure 2 below provides a breakdown of this cost which includes workplace related costs, household labour costs, health care, road crashes, fires, crimes, resources used in abusive consumption, loss of life, pain and suffering.⁵⁷ Another estimate provided to the committee at their public hearing suggests that the cost of alcohol related problems is AU\$4.5 billion per year.⁵⁸

⁵³ Watson & Nielson, p. 10.

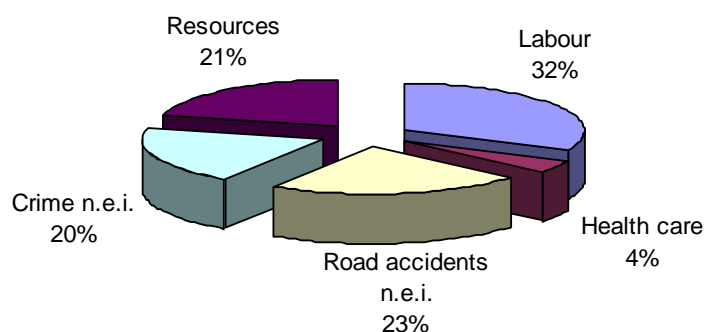
⁵⁴ Queensland Transport, *Submission no. 44*, p. 22.

⁵⁵ Queensland Transport, *Submission no. 44*, p. 22.

⁵⁶ D Collins & H Lapsley, *Counting the cost: estimates of the social cost of drug abuse in Australia in 1998-99*, Monograph Series No. 49, Commonwealth Government of Australia, Canberra, 2002, pp. 58-59.

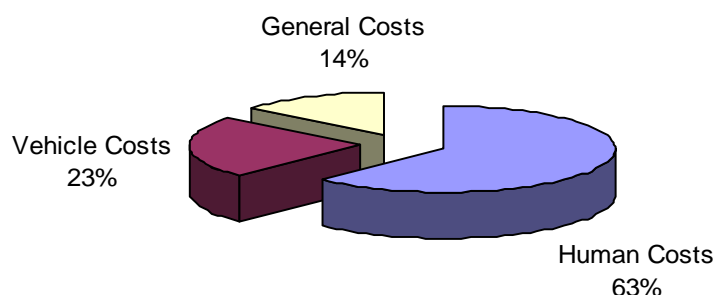
⁵⁷ Collins & Lapsley, pp. 58-59.

⁵⁸ Alcohol and Drug Foundation - Queensland, p. 11-12.

Figure 2: Social costs of alcohol abuse in Australia 1998-1999

Source: Adapted from D Collins & H Lapsley, *Counting the cost: estimates of the social cost of drug abuse in Australia in 1998-99*, Monograph Series No. 49, Commonwealth Government of Australia, Canberra, 2002, pp. 58-59.

56. As noted in Figure 2 above, road crashes may account for a quarter of all alcohol costs. During 1998 and 1999, road crashes that could be attributed to alcohol cost Australians approximately \$3.4 billion.⁵⁹ As shown in Figure 3, this included the human costs such as medical, ambulance and hospital care, vehicle costs such as repairs and general costs such as travel delays and insurance administration.⁶⁰

Figure 3: Costs of alcohol related road crashes in Australia 1998-1999

Source: D Collins & H Lapsley, *Counting the cost: estimates of the social cost of drug abuse in Australia in 1998-99*, Monograph Series No. 49, Commonwealth Government of Australia, Canberra, 2002, p. 54.

⁵⁹ Collins & Lapsley, p. 54.

⁶⁰ Collins & Lapsley, p. 54.

INSURANCE IMPLICATIONS

57. There are significant insurance implications for drink drivers and their passengers in the event of a crash. Insurance companies support blood alcohol and breath testing of drivers as a road safety countermeasure.⁶¹ MAIC is the statutory body responsible for regulating and managing Queensland's Compulsory Third Party (CTP) scheme and the nominal defendant scheme. MAIC funds research into the causes and prevention of crashes, injury prevention and the provision of rehabilitation services.⁶²
58. In their evidence, MAIC stated at the public hearing that if an individual receives injuries as a result of the negligent driving of a drink driver, they retain full access to compensation under the CTP scheme. However, if the injured person was intoxicated or knowingly entered a vehicle with a driver they knew was intoxicated, their damages may be reduced.⁶³
59. Drink driving also affects claims for property damage. Insurance policies usually exclude claims where the driver was over the legal BAC limit at the time of the crash. In some cases, the exclusion also applies if the person refuses to take a legal test for alcohol or drugs. In these cases, the insurance company may reduce or refuse to pay a claim as well as cancel the policy.⁶⁴
60. Drink driving also affects a person's likelihood that they will obtain insurance. When applying for insurance, prospective customers are asked a number of questions relating to their driving history. This includes questions about any loss of licence, cancellation, suspension or amended licence conditions. They are also asked about convictions for a criminal offence. Depending on the insurer, the answers to these questions may result in an extra premium or a refusal to provide insurance.⁶⁵

⁶¹ Insurance Council of Australia, *Submission no. 45*, 2006, p. 1.

⁶² Motor Accident Insurance Commission, *Travelsafe – drink driving and impoundment public hearing: transcript of proceedings*, Queensland Parliament, Brisbane, 31 March, 2006, p. 23.

⁶³ Motor Accident Insurance Commission, p. 23.

⁶⁴ Insurance Council of Australia, p. 1.

⁶⁵ Insurance Council of Australia, p. 1.

PART 3 ~ GENERAL DRINK DRIVING COUNTERMEASURES

61. Strategies to reduce alcohol-impaired driving usually emphasise law enforcement and deterrence, incapacitation of offenders (through incarceration or vehicle sanctions) and changing the social norms relating to drinking and driving.⁶⁶ This chapter provides an overview of deterrence theory, which underpins several drink driving countermeasures. It then discusses key countermeasures such as random breath testing (RBT), public health and mass media campaigns that are targeted at the broader driving public to discourage drink driving.

DETERRENCE THEORY

62. Deterrence theory helps explain the effectiveness of road safety measures targeted at drink drivers. Deterrence operates by instilling a fear of punishment into the community to inhibit potential criminals from committing illegal acts, including drink driving.⁶⁷
63. When faced with a decision about whether or not to drink and drive, individuals independently assess the perceived risks and consequences associated with breaking the law against the sacrifice involved in not driving. The perceived consequences may be physical, material, or social stigma and guilt related.⁶⁸ For instance, any driver may consider a complex combination of factors, including availability of public transport, access to a designated driver, probability of apprehension, peer group pressure, severity of penalties and sanctions, or increased crash risk, when making a decision about whether to drink and drive. Individuals are more likely to be deterred from drinking and driving if they perceive that sanctions for this behaviour are certain, swift and, to some extent, severe.⁶⁹

⁶⁶ J Grube, & K Stewart, p. 199.

⁶⁷ R Homel, *Policing and punishing the drink driver: A study of general and specific deterrence*, Springer-Verlag, New York, 1988, p. 22.

⁶⁸ A Delaney, B Lough, M Whelan & M Cameron, *A review of mass media campaigns in road safety*, Monash University Accident Research Centre, Melbourne, 2004, p. 14-15.

⁶⁹ J Nichols & H Ross, The effectiveness of legal sanctions in dealing with drinking drivers, *Surgeon-General's Workshop on Drunk Driving: Background Papers*, US Department of Health and Human Services, Washington, 1989, p. 93.

64. There are two types of deterrence: specific and general. Measures that operate as a *general deterrence* against drink driving reduce the occurrence of drink driving behaviour within the wider community through the fear of penalties.⁷⁰ Examples of general deterrence measures include RBT, public education and public health measures. *Specific or targeted deterrence* refers to countermeasures that impact on individual offenders.⁷¹ These include vehicle and licence sanctions, fines, imprisonment, offender monitoring and rehabilitation. Some countermeasures act as both general and specific deterrents.
65. For a countermeasure to act effectively as a general deterrent, the community must recognise that the countermeasure is a highly probable consequence of carrying out the behaviour. For instance, a visible police presence can increase the community's perception that the probability of detection for drink driving is high. Blood alcohol testing data indicate that 99 per cent of Queensland's driving population do not drink and drive.⁷² This low rate of drink driving behaviour within the wider community could be attributable to the introduction of general deterrence measures such as RBT and public education.

RANDOM BREATH TESTING

66. RBT was introduced in Queensland in 1988 based on its successful reduction of road fatalities in other Australian states such as NSW.⁷³ A 1993 Queensland study into the effectiveness of RBT found an 18 per cent drop in fatal crashes as a direct result of its introduction.⁷⁴ Between 1988 and 1993 the average number of alcohol-related fatal crashes fell by 20 per cent (from 100 to 73), and serious injury alcohol-related crashes fell by 11 per cent (from 531 to 473).⁷⁵ The study estimated that \$21.6 million dollars was saved each year between 1988 and 1993 through the reduction in fatal and serious injury crashes as a result of RBT. It concluded that RBT was a cost effective countermeasure to drink driving.⁷⁶ In order to sustain successful results, RBT must be highly visible, well publicised and intensely enforced.⁷⁷

⁷⁰ Homel, p. 28.

⁷¹ Homel, p. 28.

⁷² I Johnston, Key directions for the future, *Presentation to Road Safety Summit*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au, 21 February, 2006.

⁷³ B Watson, G Fraine, & L Mitchell, Enhancing the effectiveness of RBT in Queensland, *Alcohol Related Road Crashes Conference: Conference Proceedings*, Centre for Crime Policy & Public Safety, 1994, p 32.

⁷⁴ Watson, Fraine & Mitchell, p 43.

⁷⁵ Watson, Fraine & Mitchell, p 46.

⁷⁶ Watson, Fraine & Mitchell, p 47.

⁷⁷ Watson, Fraine & Mitchell, p 34.

67. The QPS conducts RBT at one of the highest rates in Australia.⁷⁸ The level of testing has intensified over recent years with the level of testing increasing by 7.3 percent since 2000. Consequently, the number of offenders detected since 2000 has also increased by 33.7 per cent, with 29,761 drink driving offenders detected in Queensland in 2005.⁷⁹
68. Factors such as peer pressure, lack of exposure and successfully evading detection undermines the effectiveness of RBT.⁸⁰ Additionally, there is some confusion regarding the role of RBT enforcement.⁸¹ While some individuals and organisations measure success through the preventative impact on the road toll, some traffic police see their goal as the apprehension of high quotas of offenders. The emphasis on quotas can be problematic, especially since low detection levels may be more indicative of the program's success as a deterrent.
69. As a result, QPS are using intelligence to a greater degree to detect high risk times and areas for police operations.⁸² Police are targeting their resources more effectively. For instance, when conducting a stationary RBT operation, police may lock down access to and from a certain location and use mobile police patrols to detect drink drivers who try to use back streets to escape. Mobile RBTs have a higher incidence of positive tests than stationary operations⁸³ because they target offenders who evade testing, presumably due to guilt. While stationary RBTs provide the visibility needed for general deterrence, the use of mobile patrols may also influence community perceptions about the inability to avoid detection.⁸⁴
70. Submissions to this inquiry indicate a high level of support for a greater police presence on the roads, including visible RBT campaigns which give the community the impression that if they drink and drive they will be caught. The RACQ advocates an increase in police resources dedicated to enforcement, both random and during high risk times, combined with increased education about the risk of detection. The RACQ also state that 84 per cent of RACQ members support increased RBT operations and 90 per cent support an increase in road patrols and police presence.⁸⁵
71. The committee believes that highly visible, well-publicised and intensely enforced RBT is integral to reducing alcohol-related road trauma. The committee supports the QPS maintaining the high level of RBT operations in Queensland.

⁷⁸ S Hart, B Watson & R Tay, Barriers and facilitators to the effective operation of RBT in Queensland, *Road Safety Research, Policing and Education Conference – from research to action: Conference Proceedings*, Sydney: NSW Roads and Traffic Authority, 2003, p 137 and Centre for Accident Research and Road Safety – Queensland, *Hearing transcript*, p. 17.

⁷⁹ Queensland Police Service, *Submission no. 47*, p 10.

⁸⁰ Watson, Fraine & Mitchell, p 34.

⁸¹ Hart, Watson & Tay, p 141.

⁸² Centre for Accident Research and Road Safety – Queensland, *Hearing transcript*, p. 17.

⁸³ Queensland Police Service, *Response to questions taken on notice at the public hearing*, 2006, p. 1.

⁸⁴ Queensland Police Service, *Response to questions*, p. 1.

⁸⁵ Royal Automobile Club of Queensland, p. 33.

72. In addition to existing enforcement methods, the committee notes that new technologies may help QPS officers when enforcing traffic laws. Automatic Number Plate Recognition (ANPR) technology uses pattern recognition software to identify vehicles that are of interest to police. The QPS supported the introduction of this technology in Queensland.⁸⁶ The committee did not investigate ANPR as part of this inquiry but considers that this form of technology has the potential to improve traffic enforcement. The committee may consider ANPR in future inquiries.

Legislative Issues

73. This inquiry concentrated on the road safety benefits of countermeasures targeted at the small percentage of offenders who are not deterred by countermeasures such as RBT. However, the committee identified concerns in the legislative framework in which breath testing operates. Accordingly, the committee has sought to resolve some of these concerns.

Breath testing of all vehicle occupants

74. In Queensland police officers have the power to stop a vehicle in order to breath test the driver under the *Police Powers and Responsibilities Act 2000* (PPRA Act).⁸⁷ They do not have the power to breath test other occupants of the vehicle.⁸⁸ Police may encounter difficulties with identifying the driver in crashes. This means they may inadvertently test the wrong occupant, only to discover the true identity of the driver at a later time.⁸⁹ At the committee's hearing, the QPS identified this issue as a legal technicality that allows some drink drivers to escape punishment.⁹⁰
75. In Victoria, NSW and WA, police may breath test any occupant of a vehicle they suspect has committed an offence.⁹¹ This discretionary power assists in preventing drink drivers from avoiding punishment by claiming they were a passenger.
76. The committee accepts that police officers need discretionary powers to breath test all vehicle occupants.
77. The committee believes that the material evidence required will ensure that police officers are reasonably certain of an individual's guilt when they proceed with this course of action. This will prevent them from testing occupants of vehicles without due cause.

⁸⁶ Queensland Police Service, *Submission no. 47*, p. 17.

⁸⁷ s. 60, *Police Powers and Responsibilities Act 2000*.

⁸⁸ Queensland Police Service, *Travelsafe – drink driving and impoundment public hearing: transcript of proceedings*, Queensland Parliament, Brisbane, p. 26.

⁸⁹ Queensland Police Service, *Hearing transcript*, p. 27.

⁹⁰ Queensland Police Service, *Hearing transcript*, p. 27.

⁹¹ s. 55, *Road Safety Act 1986* (Victoria); s. 66, *Road Traffic Act 1974* (WA); s.13, *Road Transport (Safety and Traffic Management) Act 1999* (NSW).

RECOMMENDATION 1:

That the *Police Powers and Responsibilities Act 2000* be amended to provide police officers with the discretionary power to require breath and/or blood tests from any and all vehicle occupants whom the police officers suspect, on reasonable grounds, were driving a vehicle under the influence of alcohol.

Ministerial Responsibility:

Minister for Police and Corrective Services

Time limits for breath or blood testing

78. In Queensland, breath or blood testing must take place within two hours of the offender driving.⁹² Police must follow certain procedures to prepare a case against offenders; otherwise the case may be dismissed in court. In some circumstances, especially in rural areas, police may experience difficulties in arriving at the scene, or hospital, within the required two hour timeframe.⁹³ This may be due to the need to travel extensive distances or attend other, more urgent, police work. In such circumstances, police cannot test or charge an individual with drink driving even if they know the person has offended.
79. This issue was the subject of an inquiry by the Travelsafe Committee of the 48th Parliament Second Session and is discussed in detail in the report from that inquiry, No. 22 *Compulsory BAC Testing*. The report recommended that blood alcohol tests conducted during a four hour window after a crash be admitted as *prima facie* evidence of a drink driving offence.⁹⁴ The government's response rejected this recommendation.
80. One submitter to the vehicle impoundment inquiry gave an example of a situation he witnessed in relation to this legislative requirement. Police arrived at the hospital following a crash, but were unable to breath or blood test the person who caused the incident even though the person was probably intoxicated. This is because, due to the priority of other urgent matters, police arrived after the two hour window in which testing can be performed. In this case, the offender was not charged despite causing the crash.⁹⁵

⁹² s. 80, *Transport Operations (Road Use Management) Act 1995*.

⁹³ Queensland Police Service, *Hearing transcript*, p. 26.

⁹⁴ Travelsafe Committee, *Compulsory BAC testing*, Report No. 22, Travelsafe Committee, Brisbane, 1997, p. 52.

⁹⁵ Name withheld, p. add 2.

81. Other Australian jurisdictions such as NSW, the Northern Territory (NT) and Australian Capital Territory (ACT) also have a two hour limit. In Victoria, a person is not required to provide a breath or blood sample if more than three hours have passed since driving.⁹⁶ In WA, the requirement period is up to four hours.⁹⁷ However, in South Australia (SA), the timeframe within which blood or breath testing can be performed is up to eight hours following the driving episode. Table 12 below shows the requirements for breath or blood testing in Australia:

Table 12: Legislated timeframes for breath and blood testing requirement in Australia

State	QLD	NSW	Vic	Tas	SA	WA	NT	ACT
Breath	2 hrs	2 hrs	3hrs	3hrs	8 hrs	4 hrs	2 hrs	2 hrs
Blood	2 hrs	Up to 12 hrs for a traffic crash	3hrs	Commence within 3 hrs and complete in 4 hrs	8 hrs	4 hrs	12 hrs after the occurrence and within 4 hrs of entering hospital	2 hrs after arrival at hospital
Legislation	TO(RUM) Act 1995	Transport Traffic Management Act 1999	Road Safety Act 1986	Road Safety Alcohol and Drug Act 1970	Road Traffic Act 1961	Road Traffic Act 1974		Road Transport (Alcohol and Drug) Act

Source: Adapted from Queensland Police Service, *Personal correspondence*, 2006.

82. The committee believes that in some cases two hours is not sufficient time for police to breath or blood test an individual after a crash or driving event. The committee acknowledges that drink drivers' BAC will begin to reduce after two hours following the last drink; nevertheless, some serious high end offenders are likely to still have indictable BAC levels after this time. The committee believes that identifying these offenders will help to address their drink driving. For this reason, the committee suggests an amendment to the legislation to enable police to breath and blood test individuals within four hours of driving. The committee believes that increasing the required time limit for testing to four hours will support operational policing.

RECOMMENDATION 2:

That the *Transport Operations (Road Use Management) Act 1995* be amended to provide police officers with the power to conduct breath and/or blood testing of all suspected drink driving offenders for a period up to four hours from the time of driving.

Ministerial Responsibility:

Minister for Transport and Main Roads

⁹⁶ s. 55, *Road Safety Act 1986* (Victoria).

⁹⁷ s. 66, *Road Traffic Act 1974* (WA).

PUBLIC HEALTH MEASURES

83. As noted in Part 2, drinking alcohol is considered an acceptable part of daily life for many Australians. Strategies that address the drinking component of drinking and driving will have an impact on drink driving related crashes as well as other alcohol-related problems.⁹⁸
84. Public health measures aim to reduce overall alcohol consumption throughout the community. These measures recognise that alcohol-related problems are faced by, not only those with severe alcohol dependency, but also moderate drinkers who engage in heavy drinking on a more episodic basis, or binge drinking.⁹⁹ Reducing overall consumption means that all types of drinkers consume less alcohol. It also reduces their drinking in risky situations.
85. There are a range of public health measures that can reduce drinking levels within the community. These measures may be:
 - Economic - such as reducing availability through pricing and taxes;
 - Retail - such as reducing availability through marketing practices and conditions of sale;
 - Social - such as reducing the amount of alcohol that is available through non-commercial sources, such as parties; and
 - Regulatory - such as using advertising restrictions to limit the promotion of alcohol.They may also attempt to change individual and community norms and beliefs about drinking.¹⁰⁰
86. The federal government has a strategy to help manage the social norms relating to drinking. An objective of its *National Alcohol Strategy* is to “facilitate safer and healthier drinking cultures” by increasing community awareness of the risks associated with drinking and regulating the use of alcohol.¹⁰¹ The strategy recognises that the normalisation of alcohol use within everyday culture and its ready availability contribute to unsafe drinking levels within Australian society.
87. The strategy acknowledges the need to change the culture of drinking for all adult Australians. The key recommendations to influence social change include:
 - Maintaining strict regulation of advertising that promotes high levels of consumption through the *Alcohol Beverages Advertising Code*;
 - Investigating the use of self-induced intoxication as a legal defence for some criminal activity with a view to abolishing this defence;
 - Considering raising the price of alcohol through higher taxes based on alcohol content;

⁹⁸ J Grube & K Stewart, p. 199.

⁹⁹ J Grube & K Stewart, p. 199.

¹⁰⁰ J Grube & K Stewart, p. 199.

¹⁰¹ Ministerial Council on Drug Strategy, *National alcohol strategy 2006 – 2009: towards safer drinking cultures*, Commonwealth Government of Australia, Canberra, 2006, p. 27.

- Strengthening the regulation of the availability of alcohol and liquor licence; and
 - Developing social marketing campaigns to reduce the acceptability of intoxication within the community.¹⁰²
88. The Queensland Government's *Make up your own mind about drinking* campaign aims to counteract the peer pressure to drink experienced by some young women. In 2005 and 2006, the "make up your own mind", "not the end of the world" and "not drinking tonight" messages have appeared in television, cinema, magazine and other advertising.¹⁰³ These social marketing messages attempt to change peer group norms about excessive drinking.
89. An evaluation of the *Make up your own mind about drinking* campaign has showed favourable results. The majority of young women surveyed had seen the advertising. As a result, many of them were reportedly reducing their drinking levels and this group showed a 9 to 12 per cent reduction in risky drinking behaviour.¹⁰⁴
90. One submission to this inquiry lobbied for changing community perceptions of acceptable drinking levels as a way to combat drink driving.¹⁰⁵ The committee recognises that the *National Alcohol Strategy* and the *Make up your own mind about drinking* campaign should help achieve this. Alcohol consumption and risk taking are corresponding behaviours and, as a result, influencing social norms about alcohol may help deter more people from drinking, which could reduce drink driving related road trauma. The committee encourages and supports the work of the Queensland and federal governments in this area.

MASS MEDIA CAMPAIGNS AND DRINK DRIVING

91. Mass media publicity campaigns that highlight legislative changes in relation to drink driving work well in conjunction with enforcement to alter beliefs and behaviours.¹⁰⁶ Studies have shown that mass media campaigns that are persuasive and emotive can impact significantly on the crash rate, especially in relation to fatal crashes.¹⁰⁷ One study showed that road safety media campaigns targeting alcohol use reduced crashes by 6.9 per cent during the run of the campaign and up to 30 per cent following the campaign's completion.¹⁰⁸ However, the results of this study, and others like it, may be confounded by the inability to disentangle the concurrent effect of supporting activities, such

¹⁰² Ministerial Council on Drug Strategy, *National alcohol strategy*, p. 30-31.

¹⁰³ Queensland Health, p. 2.

¹⁰⁴ Queensland Health, p. 3.

¹⁰⁵ Cook, p. 1.

¹⁰⁶ Watson, Fraine & Mitchell, p 32.

¹⁰⁷ Delaney, Lough, Whelan & Cameron, p. xv-xvi & p. 30.

¹⁰⁸ Delhomme 1999 in Delaney, Lough, Whelan & Cameron, p. 29.

as enforcement, from the effect of the campaign.¹⁰⁹ In addition, research suggests that highly emotive advertising should also provide suitable coping strategies in order to create a more effective campaign.¹¹⁰

92. Further evidence for the effectiveness of media campaigns in reducing road crashes can be found in Victorian research that considered the combined effect of both publicity and enforcement. This research found, on average, a 9.7 per cent reduction in alcohol-related crashes between 1990 and 1996 as a result of these measures collectively.¹¹¹ A later Victorian study into the effect of publicity campaigns on young male drivers has also confirmed that publicity campaigns are effective in reducing serious crashes.¹¹²
93. Queensland Transport has devised and delivered numerous statewide mass media campaigns across television, radio and print media. The department also distributes information to hotels through the Australian Hotels Association and runs billboard advertising.¹¹³ Queensland Transport aims to reduce the incidence of drink driving in the community by using these publicity campaigns to:
 - Create awareness about the consequences of drink driving;
 - Increase awareness about number of standard drinks and levels of alcohol consumption related to the 0.05 BAC limit;
 - Increase awareness of public transport options as an alternative to driving;¹¹⁴ and
 - Increase the community's awareness of enforcement measures such as RBT operations,¹¹⁵ particularly during peak times,¹¹⁶ such as the Christmas and Easter holidays.
94. A recent campaign, *Enough is enough*, launched during Easter 2006, included a series of television advertisements advising of imminent policy changes targeting a range of offences including drink driving. These measures resulted from the 2006 Road Safety Summit as part of the State Government's Campaign 300. Other examples of Queensland Transport media campaigns that target drink driving include:
 - *Drink driving – it's hard to live with*, conducted over Easter 2003;
 - *Drink drive – you're a loser*, from December 2004; and
 - *A little bit over – you're a loser*, which commenced during Christmas 2005 and is continuing until June 2006.¹¹⁷

¹⁰⁹ Delaney, Lough, Whelan & Cameron, p. 31.

¹¹⁰ R Tay, B Watson, O Radbourne & B De Young, The influence of fear arousal and perceived efficacy on the acceptance and rejection of road safety advertising messages, *Road Safety Research, Policing and Education Conference*, 2001, p. 1.

¹¹¹ Delaney, Lough, Whelan & Cameron, p. 39.

¹¹² R Tay, The effectiveness of enforcement and publicity campaigns on serious crashes involving young male drivers: Are drink driving and speeding similar?, *Accident Analysis and Prevention*, 37(5), 2005, p. 928.

¹¹³ Queensland Transport, *Response to questions*, p. 3.

¹¹⁴ Queensland Transport, *Anti-drink driving public education campaign*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au, 2006, p. 1.

¹¹⁵ Watson, Fraine & Mitchell, p 32.

¹¹⁶ Queensland Transport, *Anti-drink driving*, pp. 1-2.

95. To evaluate the effectiveness of these campaigns, Queensland Transport employs market research companies to conduct consumer research. Feedback from a survey regarding the *A little bit over – you're a loser* campaign has indicated that 83 per cent of respondents were less inclined to risk excessive drinking after seeing the advertisement.¹¹⁸ While this provides important information regarding interviewee opinions, research suggests that there is also a third person effect. This effect occurs when individuals support the advertising message for other people, but not necessarily themselves.¹¹⁹
96. Many submissions to this inquiry identified the need for increased public education about the risks associated with drinking, the risk of detection and ways to self-assess levels of intoxication. Submissions, including RACQ's also suggested that the introduction of new measures should be accompanied by education about these measures.¹²⁰

¹¹⁷ Queensland Transport, *Travelsafe – drink driving and impoundment public hearing: transcript of proceedings*, Queensland Parliament, Brisbane, 2006, p. 7.

¹¹⁸ Queensland Transport, *Hearing Transcript*, p. 8.

¹¹⁹ R Tay, Mass media campaigns reduce the incidence of drinking and driving, *Evidence Based Health Care and Public Health*, 9, 2005, p. 28.

¹²⁰ Office of Road Safety, p.16; Royal Automobile Club of Queensland, p. 27.

PART 4 ~ SPECIFIC DRINK DRIVING COUNTERMEASURES

97. The term *specific deterrence* refers to reducing the recurrence of offending behaviour through sanctions that punish the offender directly.¹²¹ In this case, the drink driving offender is deterred from repeating the offence because of the consequences they experience and the fear of future punishment. Examples of specific deterrence measures include licence disqualification, rehabilitation programs, incarceration, offender monitoring and vehicle sanctions, such as impoundment. These measures may apply to first time and recidivist drink drivers.
98. It is the committee's view that while the implementation of general deterrence measures must continue in order to inhibit the broader community from drink driving, there is a role for strong countermeasures that specifically target the small proportion of repeat offenders who are not deterred by general means. This part discusses specific drink driving countermeasures and their application.

LICENCE SANCTIONS

99. Licence sanctions refer to a range of countermeasures that place restrictions on an individual's driver licence. This can include prohibiting all driving by suspending or revoking the driver's licence as well as restricting the driving that can occur (for example, only allowing driving to and from work).¹²² Licence sanctions are a relatively inexpensive punishment option that operates effectively to punish individual drink drivers. The punishment of licence disqualification discourages many convicted drink drivers from repeating the offence.¹²³ While a proportion of offenders continue to drive unlicensed during disqualification periods, most people agree that licence sanctions effectively reduce crashes and drink driving recidivism.¹²⁴

¹²¹ Homel, p. 29.

¹²² Nichols & Ross, p. 94.

¹²³ B Watson & V Siskind, The effectiveness of licence restrictions for drink drivers, *Road Safety Research and Enforcement Conference*, Hobart, Tasmania, 1997, p. 1.

¹²⁴ Nichols & Ross, p 103.

100. Licence sanctions vary across jurisdictions. They can be mandatory or discretionary, fully imposed or conditional, administrative or court ordered, immediate or delayed. Other variations include the timeframe between detection and when the disqualification is imposed and the length of the sentence.¹²⁵ The way that authorities impose this licence sanction can influence its effectiveness as a deterrent.

Licence disqualification

101. Licence disqualification occurs when a person loses their right to hold or obtain a driver's licence. This normally occurs under a court order.¹²⁶ Australian research suggests that licence disqualification is an effective countermeasure for drink drivers, at least while the licence is disqualified.¹²⁷ This is despite evidence suggesting that up to 75 per cent of suspended drivers continue to drive to some extent.¹²⁸ In Victoria¹²⁹ and WA¹³⁰ over 30 per cent of survey participants admitted to driving while their licence was disqualified. In Queensland, a sample of disqualified drivers reported making an average of 11.4 trips per week.¹³¹ The continued driving by those whose licences have been disqualified may partially reflect the primary limitation of this countermeasure, which is the inability of police to enforce this sanction effectively.¹³²
102. In Queensland under the TO(RUM) Act, a person who is convicted of a drink driving offence can be disqualified by the courts from holding or obtaining a Queensland driver's licence for a period depending on whether it is their first or repeat offence (refer to Part 2, Table 10, for a comprehensive overview of disqualification periods).¹³³ If the convicted offender then drives after a disqualification is issued, they commit two offences: drink driving (if the BAC was over the legal limit) and disqualified driving.
103. Research suggests that it is important to consider the period of licence disqualification. A study of lifetime driver's licence revocation for drink drivers who caused death or injury in Taiwan showed that many offenders continued to drive at reduced levels and only 16.8 per cent of offenders gave up driving completely. This group comprised drivers who were mainly elderly and low income earners. The loss of licence also meant they had reduced capacity to earn a living, which created further

¹²⁵ Nichols & Ross, p 102.

¹²⁶ Watson, *Psychosocial Characteristics*, p. xxii.

¹²⁷ V Siskind, Does license disqualification reduce reoffence rates?, *Accident Analysis and Prevention*, 28(4), 1996, p. 524.

¹²⁸ R Voas, A Tippetts & J Lange, Evaluation of a method for reducing unlicensed driving: The Washington and Oregon license plate sticker laws, *Accident Analysis and Prevention*, 29(5), 1997, p. 627.

¹²⁹ Robinson in Watson & Nielson, p. 12.

¹³⁰ D Smith & G Maisey, *Survey of driving by disqualified and suspended drivers in Western Australia*, CR94, Federal Office of Road Safety, Canberra, 1990, p. i..

¹³¹ Watson & Nielson, p. 12.

¹³² R Voas, A Tippetts & E Taylor Temporary vehicle immobilization: evaluation of a program in Ohio, *Accident Analysis and Prevention*, 29(5), 1997, p. 635.

¹³³ s. 86 *Transport Operations (Road Use Management) Act 1995*.

social problems. The study concluded that whereas short-term licence restrictions may deter the majority of drivers from repeating the offence through the threat of being caught while unlicensed, long-term licence revocation with no hope of rehabilitation offers little incentive or motivation not to drive unlicensed.¹³⁴

104. The committee believes that the Queensland system of disqualifying a drink driver's licence is adequate. The committee suggests that licence disqualification should be used with a range of other measures to help enforce drink driving laws and help drink drivers to manage their behaviour more effectively.

Immediate Licence Suspension

105. Immediate licence suspension involves the driver losing their right to drive immediately after they are detected allegedly committing an offence. In California, a study of drink drivers' behaviour showed a significant decrease in self-reported drink driving episodes following a policy change to a system of immediate licence suspension. This study also confirmed other research that showed a reduction in drink driving related crashes in California due to immediate licence suspension.¹³⁵ The length of the suspension period is not provided, although this probably affects the success of this countermeasure.
106. Victorian police have the power to suspend a driver's licence on the spot until the court hearing for some drink driving offences.¹³⁶ Immediate licence suspension applies for a repeat offence, refusal to be tested and offences involving drivers with a blood alcohol content over 0.15.¹³⁷
107. In Queensland, the TO(RUM) Act regulates the penalties for drink driving. Section 80 of the Act specifies that if a person tests positive to a BAC of 0.05 per cent or over, or fails to provide a specimen for testing, police officers may arrest that person and suspend their licence for 24 hours. The person is also served a notice to appear in court for sentencing. Queensland Transport statistics show that between 1 January 2004 and 31 December 2005, 31.1 per cent (n= 1756) of repeat offences occurred within seven days of the prior offence. These included 323 offences of driving while under the 24 hour suspension.¹³⁸
108. Usually, an alleged drink driver who records an illegal BAC result under 0.15 appears before a magistrate, on average, about two weeks after they have been detected drink driving.¹³⁹ This period between committing the offence and the experience of punishment, in which the drink driver may continue to drive, may not effectively discourage the

¹³⁴ H Chang, T Hugh Woo & C Tseng, Is rigorous punishment effective? A case study of lifetime license revocation in Taiwan, *Accident Analysis & Prevention*, 38 (2), 2006, p. 269.

¹³⁵ S Campostrini, D Holtzman, D McQueen & E Boaretto, Evaluating the effectiveness of health promotion policy: changes in the law on drinking and driving in California, *Health Promotion International*, 21(2), 2006, pp. 133-134.

¹³⁶ Victoria Police, *Submission no. 24*, 2006, p. 2.

¹³⁷ Royal Automobile Club of Queensland, p. 24.

¹³⁸ Queensland Transport, *Response to questions*, p. 2.

¹³⁹ Queensland Police Service, *Hearing transcript*, p. 25.

drink driver from repeating the offence. As outlined earlier, effective penalties should be imposed as soon as practicable after the offence is committed in order to ensure the greatest impact. Therefore, the lack of immediacy in sentencing by the courts may impact on the recidivism rates of offenders. A recent Queensland survey of 166 convicted drink drivers, the majority of whom were repeat offenders, found that only 15 per cent thought the time between apprehension and conviction was swift.¹⁴⁰

109. Media reports and submissions to this inquiry cite examples of repeat drink drivers who re-offend during the period between being apprehended and sentenced by the courts.¹⁴¹ Submissions identified immediate licence suspension as a possible countermeasure to drink driving,¹⁴² although some submissions noted that licence loss might increase the number of unlicensed drivers in Queensland.¹⁴³ Submissions from QPS and others also support compulsory licence checks when a person is stopped at the roadside by police officers.¹⁴⁴
110. Amendments to the TO(RUM) Act made by the *Maritime and Other Legislation Amendment Act 2006* provide for the immediate suspension of a driver's licence until a court hearing for repeat drink drivers and those with a high range (over 0.15) BAC.¹⁴⁵ The committee supports this change. The committee notes that introducing immediate licence suspension in California resulted in fewer self-reported drink driving incidents. The changes also bring the TO(RUM) Act in line with the Victorian system that allows police to suspend an alleged offender's driving licence until the court hearing for a number of offences including repeat drink driving, refusal to be tested and high range offences.
111. The committee acknowledges that some people may disagree with this measure due to the perceived impact on civil liberties resulting from presuming that the alleged drink driver is guilty before they are sentenced by a court. The committee also notes that this measure may increase unlicensed driving though believes that the deterrent effect of immediate licence suspension will far outweigh the negative consequences of the measure.

Restricted licences

112. A person's livelihood may be affected by licence disqualification. This may lead to further problems within the community, such as loss of income and family breakdown. In rural areas, disqualifying people from driving may impact upon whole communities. In this type of situation,

¹⁴⁰ J Freeman, P Liossis & L David, Deviance and deterrence: an investigation into a group of recidivist drink drivers' self-reported offending behaviours. *Australian and New Zealand Journal of Criminology*, 39(1), 2006, p1.

¹⁴¹ D Sharp, *Submission no. 39*, 2006, p. 2; Royal Automobile Club of Queensland, p. 9.

¹⁴² M Coghlan, *Submission no. 22*, 2006, p. 1; Royal Automobile Club of Queensland, p. 24.

¹⁴³ S Mason, *Submission no. 6*, 2005, pp. 3-4; B Dawson, *Submission no. 35*, 2006, p. 3; AMA Queensland, *Submission no. 37*, 2006, p. 1; Legal Aid Queensland, p. 4; Watson & Nielson, p. 15.

¹⁴⁴ Name withheld, p. 3; Queensland Police Service, *Submission no. 47*, p. 27.

¹⁴⁵ s. 143 *Maritime and Other Legislation Amendment Act 2006*.

restricted licences may be imposed by the courts to minimise hardship while still penalising the offenders.

113. The need to drive for work often leads to unlicensed drivers continuing to drive.¹⁴⁶ A restricted licence (also known as a work licence in Queensland) enables a disqualified driver to drive in circumstances where not having a licence would cause hardship to the offender.¹⁴⁷ Most Australian jurisdictions do not allow disqualified drivers to apply for a restricted (i.e. work or daylight driving) licence.¹⁴⁸
114. In Queensland, an offender may make an application for a restricted licence at the time the offence is heard in court. The offender is eligible for a restricted licence only for a first offence and if their BAC was below 0.15 per cent. They must also have held a valid drivers licence at the time of the offence.¹⁴⁹ The magistrate may also consider hardship reasons in making the decision to grant a restricted licence.¹⁵⁰ Restricted licences have strict conditions imposed on their use. These conditions may include time and purpose of driving. For example, the restriction may specify that an offender can only drive for work purposes and within certain hours.
115. Once the courts grant a restricted licence, the restricted licence order must be registered with Queensland Transport. The offender's licence is then cancelled and they are issued with a Restricted Provisional Licence identified by the condition X1. Regardless of the period of the restricted licence order, the individual must hold the provisional licence for a minimum of 12 months after the disqualification, maintain a zero BAC and carry the provisional licence when they drive. In some cases, magistrates may require that the offender completes a log book or meets other conditions such as the class of vehicle that they may drive, the purpose for which the vehicle may be driven or the times during which the vehicle may be driven. If these conditions are not complied with, the restricted licence is automatically cancelled. The offender must then be disqualified from driving for an additional three months and may be required to pay a fine.¹⁵¹

¹⁴⁶ Watson, *Psychosocial Characteristics*, p. iv.

¹⁴⁷ Watson & Nielson, p. 16.

¹⁴⁸ Watson & Siskind, p. 2.

¹⁴⁹ Queensland Transport, *Submission no. 44*, p. 98.

¹⁵⁰ Queensland Transport, *Hearing transcript*, p. 4.

¹⁵¹ Queensland Transport, *Submission no. 44*, pp. 98-99.

116. Queensland Transport state that 1,193 restricted provisional licences were registered with them as at 22 November 2005. It also appears as if the number of successful applications for a restricted licence is increasing. In 2001, 72 per cent of applications were successful. By 2004, this had increased to 84 per cent. Queensland Transport suggest this may be because legal advisors are screening out those individuals whose applications are unlikely to be successful rather than an increase in the number of people applying.¹⁵² The QPS state that one in 8.6 people currently detected drink driving is provided with a restricted licence. The QPS suggest that providing this many people with a restricted licence undermines the deterrent effect of the punishment.¹⁵³
117. Queensland research has found that there is no difference between the re-offence rates of drink drivers granted restricted licences and those who had their full licence disqualified.¹⁵⁴ However, restricted licences did not deliver the same reductions in overall offences and crashes.¹⁵⁵
118. Some submissions to the inquiry argue that requiring a licence for work is not a justification for the provision of a restricted licence.¹⁵⁶ However, the Queensland Law Society and Legal Aid in their submissions stated that restricted licences prevent a range of social harms such as extra familial stress and economic turmoil for low-range offenders and their families while still providing a punishment for the offender.¹⁵⁷
119. The committee believes that restricted licences have an important role to play in ensuring that there is balance between punishing drink drivers and other social justice considerations such as maintaining employment.

Appeals

120. Disqualified drivers are unable to appeal against a licence disqualification; they must appeal against their conviction or sentence generally.¹⁵⁸ Appeals differ to restricted licences. Appeals are heard on matters of law or harshness of sentencing.¹⁵⁹ Research suggests that successful appeals may undermine the deterrence effect of licence sanctions.¹⁶⁰ This is because drink drivers may see it as easy to win an appeal, or see the consequences of drink driving as insignificant.

¹⁵² Queensland Transport, *Submission no. 44*, pp. 99-100.

¹⁵³ Queensland Police Service, *Submission no. 47*, pp. 42-43.

¹⁵⁴ Watson & Siskind, p. 6.

¹⁵⁵ Watson & Nielson, p. 16.

¹⁵⁶ Westlake, pp.1-2;

¹⁵⁷ Cook, p. 2; Queensland Law Society, *Submission no. 33*, 2006, p. 1; Legal Aid Queensland, p. 5.

¹⁵⁸ Queensland Transport, *Submission no. 44*, p. 97.

¹⁵⁹ Queensland Transport, *Hearing transcript*, p. 4.

¹⁶⁰ Watson & Siskind, p 2.

121. Three submissions argued against changing the appeals process,¹⁶¹ particularly as the right to appeal is a fundamental right within our legal system.¹⁶² Other submitters felt that successful appeals have a negative effect on licence sanctions and that the appeals process needs tightening.¹⁶³
122. In Queensland, appeals are quite rare. Figures provided to Queensland Transport from the Department of Justice and Attorney-General show that, of the 27,079 convicted drink drivers in the 2004-05 period, 16 appealed their sentence and only six were successful.¹⁶⁴ The committee does not believe there is a need to make the appeals process more restrictive.

Compulsory Licence Carriage

123. The primary aim of compulsory licence carriage is to reduce the amount of unlicensed driving. Individuals who continue to drive after a drink driving conviction and licence disqualification are driving unlicensed. As well as reducing the incidence of unlicensed driving, compulsory licence carriage would enable the more effective policing of lower BAC limits for various driver groups.¹⁶⁵ All learner, provisional, heavy vehicle and commercial drivers in Australia must carry their licence at all times. In NSW, Tasmania and New Zealand, all drivers must carry their licence.¹⁶⁶ Open licence holders in Queensland, if required by police to present their licence, have 48 hours to present their licence to a nominated police station.¹⁶⁷ Research suggests that 56 per cent of Queenslanders believed that compulsory licence carriage is already a requirement for all licence holders.¹⁶⁸ The committee notes that the Queensland Transport and QPS submissions support compulsory carriage of licence for all drivers.¹⁶⁹ Queensland Transport note that compulsory carriage of licence requirements may improve the deterrence value of vehicle sanctions, while also tightening any loop holes which exist to avoid the enforcement of sanctions.¹⁷⁰

¹⁶¹ Osman, p. 2; J Fraser, *Submission no. 29*, 2006, p. 2.

¹⁶² Cairns Community Legal Centre, *Submission no. 42*, 2006, p. 4.

¹⁶³ Edwards, p. 2; Bond, p. 2; Blair, p. 2; Coghlan, p. 1; J Purcell, *Submission no. 23*, 2006, p. 2; Cork, p. 2.

¹⁶⁴ Queensland Transport, *Response to questions*, p. 1.

¹⁶⁵ Queensland Transport, *Submission no. 44*, p. 80.

¹⁶⁶ Queensland Transport, *Submission no. 44*, p. 80.

¹⁶⁷ s. 58(3) *Police Powers and Responsibilities Act 2000*.

¹⁶⁸ Queensland Transport, *Hearing transcript*, p. 7.

¹⁶⁹ Queensland Transport, *Submission no. 44*, p. 80; Queensland Police Service, *Submission no. 47*, p. 27.

¹⁷⁰ Queensland Transport, *Submission no. 44*, p. 81

124. There is a need for more effective scrutiny of drivers' licences, particularly as unlicensed drivers may not be apprehended, even when encountered by police officers. A 2004 Queensland study of unlicensed drivers found that over one third of drivers surveyed did not have their licence checked when intercepted by police officers.¹⁷¹ Compulsory licence carriage will only improve detection of unlicensed drivers if there is more widespread checking of drivers licences.¹⁷² However, police find it difficult to conduct licence checks in Queensland as there is no compulsory carriage of licences for open licence holders.¹⁷³
125. Previous Travelsafe Committees have examined the issue of compulsory carriage of licences. Queensland Transport believes that the introduction of smart card licences will enhance compulsory licence carriage. At the committee's public hearing, Queensland Transport officials advised that the department is in the process of introducing smart card licences and that Queensland drivers will be using them within approximately three years.¹⁷⁴
126. Smart card licences will allow Queensland Transport to record a person's licence status and any restrictions that apply to the licence. These details could then be accessed using a card reader that would be installed in every police car. This means that a person's licence can note that they are a disqualified driver or driving on a restricted licence but the person is still able to use their driver's licence for a range of other purposes, including identification.¹⁷⁵
127. Other submitters agreed with Queensland Transport and the QPS that compulsory licence carriage should be introduced.¹⁷⁶ However, the Legal Aid submission opposed this measure on the grounds that it would have very limited benefits. Legal Aid submitted that police can quickly and easily conduct licence checks already, people who drive unlicensed do not expect to be caught, and that this measure would increase suspicion of police and disrespect for the law.¹⁷⁷ Only one submission questioned the link between drink driving and compulsory licence carriage.¹⁷⁸

¹⁷¹ Watson, *Psychosocial Characteristics*, p. 223.

¹⁷² Watson & Nielson, pp. 25-26.

¹⁷³ Queensland Police Service, *Submission no. 47*, p. 27.

¹⁷⁴ Queensland Transport, *Hearing transcript*, p. 7.

¹⁷⁵ Queensland Transport, *Hearing transcript*, p. 6.

¹⁷⁶ Name Withheld, p. 3; Royal Automobile Club of Queensland, p. 29; Watson & Nielson, p. 26.

¹⁷⁷ Legal Aid Queensland, pp. 3-4.

¹⁷⁸ Mason, pp. 2-4.

128. The committee believes that all drivers should be required to carry their licences with them when driving. Compulsory carriage of licence is an important tool to help detect unlicensed drivers, including those who have lost their licence for drink driving. The committee suggests that this measure should be relatively easy to implement given that more than half of Queenslanders already believe that compulsory carriage of licence exists in Queensland. The committee welcomes the introduction of smart licences in Queensland as a valuable tool for driver management in Queensland.

RECOMMENDATION 3:

That the *Police Powers and Responsibilities Act 2000* be amended by removing S58 (3), (4) and (5) so that all drivers in Queensland will be required to produce their driver licences for immediate inspection by police.

Ministerial Responsibility:

Minister for Police and Corrective Services

FINES

129. Fines are commonly used to punish drink drivers, and are often combined with licence sanctions. Scandinavian research shows reductions in fatal crashes resulting from the use of heavy fines, though there has not been sufficient research to determine whether a system of heavy fines has a greater deterrent effect than the more lenient systems used in the United States and Australia.¹⁷⁹ Fines have the additional benefit of providing a source of funding for other drink driving countermeasures.¹⁸⁰ These can include enforcement, rehabilitation and public education. The courts may reduce a monetary fine by the amount the cost of a rehabilitation program. This occurs in Queensland when drink driving offenders attend the *Under the Limit* drink driving rehabilitation program.¹⁸¹
130. The committee supports the reduction of monetary fines for drink drivers to meet their costs associated with their participation in other proven countermeasures.

¹⁷⁹ Nichols & Ross, p. 107.

¹⁸⁰ Nichols & Ross, p. 107.

¹⁸¹ Queensland Transport, *Submission no. 44*, p. 73.

REHABILITATION PROGRAMS

131. A drink driving offence is likely to indicate that an individual has an alcohol problem.¹⁸² Approximately 60 per cent of convicted drink drivers in Sweden are alcohol dependent.¹⁸³ In the United States this figure is around 70 per cent.¹⁸⁴
132. Research evidence suggests that rehabilitation programs produce a reduction in repeat drink driving offences and alcohol related crashes of approximately seven to nine per cent.¹⁸⁵ Rehabilitation programs may be more productive and less costly than a prison term. Furthermore, evidence suggests that rehabilitation programs combined with punitive actions such as licence disqualification have the greatest impact on recidivism.¹⁸⁶
133. Researchers have classified drink driving rehabilitation programs into three categories: education-based programs, psychotherapeutic programs and combination programs.¹⁸⁷ Education-based programs provide information about alcohol, the associated risks and the effects on driving. This type of program assumes that people drink and drive because they lack the knowledge to make an effective decision.¹⁸⁸ Psychotherapeutic programs are treatment programs that target an offender's drinking issues. This type of program is based on the assumption that drink driving occurs because of the person's drinking issues.¹⁸⁹ Combination programs are treatment programs that combine both education and psychotherapeutic elements to address both the drinking and the driving.¹⁹⁰ Studies have found that rehabilitation of drink drivers should address the attitudes that contribute to the decision to drink and drive.¹⁹¹

¹⁸² Bjerre, *Primary and secondary prevention*, p. 1145.

¹⁸³ B Bjerre, An evaluation of the Swedish Ignition Interlock Program, *Traffic Injury Prevention*, 4, 2003, p. 102.

¹⁸⁴ Miller & Windle in Bjerre, *Primary and secondary prevention*, p. 1145.

¹⁸⁵ E Wells-Parker, R Bangert-Drowns, R McMillen & M Williams, Final results from a meta-analysis of remedial interventions with drink/drive offenders, *Addiction*, 90, 1995, p. 923.

¹⁸⁶ M Ferguson, M Sheehan, J Davey & B Watson, *Drink driving rehabilitation: the present context*, Australian Transport Safety Bureau, 1999, p. 9.

¹⁸⁷ Ferguson, Sheehan, Davey & Watson, pp. 15-16.

¹⁸⁸ Popkin in Ferguson, Sheehan, Davey & Watson, p. 15.

¹⁸⁹ Popkin in Ferguson, Sheehan, Davey & Watson, p. 16.

¹⁹⁰ Ferguson, Sheehan, Davey & Watson, p. 16.

¹⁹¹ S Baum, M Sheehan, M Ferguson & C Schonfeld, Drink driving as a social problem: comparing the attitudes and knowledge of drink driving offenders and the general community, *Road Safety Research, Policing and Education Conference*, Wellington New Zealand, November, 1998, p. 1.

134. In NSW and Victoria there are dedicated rehabilitation programs. These include the NSW *Sober Driver Program* and the Victorian *Drink Driver Education Program*.¹⁹² The WA Government is proposing a model that provides rehabilitation for individuals who do not comply with the alcohol interlock scheme.¹⁹³ In Queensland, under Section 82 of the TO(RUM) Act, the courts can order offenders to attend and complete a training program during the licence disqualification period.¹⁹⁴
135. The CARRS-Q *Under the Limit* treatment program offers a structured rehabilitation option for convicted drink drivers. The program is a sentencing option offered to convicted drink drivers in conjunction with a probation order.¹⁹⁵ It is structured into 11 weekly ninety minutes sessions based on best practice models of treating problem drinking and drink driving. Failure to attend or complete the program results in a breach of probation. An evaluation of the program by CARRS-Q has confirmed that offenders who undertake it are less likely to drink drive, although, it does not appear that the amount of alcohol that they drink reduces.¹⁹⁶ Participation in the *Under the Limit* program costs \$500 and this amount is paid by the offender, in lieu of a fine or partial fine.¹⁹⁷
136. The Alcohol and Drug Foundation Queensland has a *Driving with Care* program that focuses on the rehabilitation of the drink driver and separating drinking behaviour from driving. The program was designed and developed in the United States of America and is based on cognitive and social skills training as well as looking at other aspects of drink driving. To date the *Driving with Care* program has not been offered in Queensland.¹⁹⁸
137. Drink driving rehabilitation programs may also be delivered via distance education to individuals who live in rural and remote locations. An evaluation of the *Under the Limit* program by distance education in Queensland suggests that the participants experienced few difficulties in interacting with the course facilitator and that the program had a minimal impact on participant's other commitments. Participants reported that the lessons were easy to understand. After the program was completed, 75 per cent of participants believed that they would avoid offences in the future. However, 25 per cent believe that they would drink and drive again.¹⁹⁹

¹⁹² Queensland Transport, *Submission no. 44*, p. 75.

¹⁹³ Office of Road Safety, p. 1.

¹⁹⁴ Queensland Transport, *Submission no. 44*, p. 72.

¹⁹⁵ Watson & Nielson, p. 24.

¹⁹⁶ M Ferguson, C Schonfeld, M Sheehan & V Siskind, *The impact of the 'Under the Limit' drink driving rehabilitation program on the lifestyle and behaviour of offenders*, report no. CR187, Australian Transport Safety Bureau, Canberra, 2001, p. 32.

¹⁹⁷ Centre for Accident Research and Road Safety – Queensland, *Hearing transcript*, p. 13.

¹⁹⁸ Alcohol and Drug Foundation - Queensland, p. 13.

¹⁹⁹ J Freeman, C Schonfeld & C Edmonston, Drink driving rehabilitation: An investigation into the self-reported effectiveness of a distance-education drink driving rehabilitation program for a group of drink drivers, *Journal of the Australasian College of Road Safety*, 17(1), 2006, p.36.

138. A brief rehabilitation intervention for first time offenders may dissuade a number of these people from continuing to drink and drive. This intervention may signal to some people that a change in their behaviour is needed.²⁰⁰ It could also provide strategies to help effect that change and information regarding the consequences of continuing to drink and drive. Research suggests that heavy drinkers who receive a brief intervention were two times more likely to moderate their drinking when compared to heavy drinkers who did not complete the intervention.²⁰¹ This research refers to drinking behaviour, not drink driving.
139. There is considerable public support for rehabilitation programs. Many submissions supported the provision of rehabilitation programs for repeat drink drivers.²⁰² Additionally, surveys of RACQ members indicated that 84 per cent support the introduction of special programs for serious and/or repeat offenders.²⁰³
140. The committee notes the empirical support for rehabilitation programs, their use in other states, the existence of at least two programs in Queensland and the strong public support for this countermeasure. The committee supports the trialling of a brief intervention for individuals who are convicted for the first time of a drink driving offence in Queensland. This intervention should provide information on the consequences of any subsequent decision to drink and drive, and offenders should be required to sign an acknowledgement certifying that they understand these consequences.
141. The committee also supports a requirement that all individuals convicted of a second or subsequent drink driving offence attend a more comprehensive rehabilitation program that focuses on both drinking and separating drinking from driving. The committee believes that these programs can be funded by the individuals attending them with an equivalent reduction in their fines.

RECOMMENDATION 4:

That the *Transport Operations (Road Use Management) Act 1995* be amended to require all individuals convicted of drink driving in Queensland for the first time to attend a brief rehabilitation intervention designed to deter them from continuing to drink and drive. This intervention should be introduced initially on a trial basis.

Ministerial Responsibility:

Minister for Transport and Main Roads

²⁰⁰ Centre for Accident Research and Road Safety – Queensland, *Hearing transcript*, p. 15.

²⁰¹ A Wilk, N Jense & T Havighurst, Meta-analysis of randomized control trials addressing brief interventions in heavy alcohol drinkers, *Journal of General Internal Medicine*, 12(5), 1997, p. 274.

²⁰² Mason, pp. 2-4; Alsop, p. 1; Cook, p. 1; Royal Automobile Club of Queensland, pp. 27-28; Legal Aid Queensland, p. 3; Watson & Nielson, p. 25; Queensland Police Service, *Submission no. 47*, p. 30.

²⁰³ Royal Automobile Club of Queensland, p. 28.

RECOMMENDATION 5:

That the *Transport Operations (Road Use Management) Act 1995* be amended to require all individuals convicted of a second drink driving offence in Queensland to attend an intensive rehabilitation program designed to reduce their drinking and separate their drinking and driving behaviours.

Ministerial Responsibility:

Minister for Transport and Main Roads

VEHICLE SANCTIONS

142. Vehicle sanctions are another countermeasure that specifically targets the drink driving offender rather than the general driving population. Vehicle sanctions include vehicle immobilisation, impoundment and confiscation, licence plate confiscation and special vehicle plates, cancelling the offender's registration and alcohol ignition interlocks. These countermeasures will be discussed in detail in Part 5.

PART 5 ~ VEHICLE SANCTIONS

143. This part discusses vehicle sanctions for drink drivers including vehicle impoundment and forfeiture, vehicle immobilisation, registration cancellation, special vehicle plates and alcohol ignition interlocks.

VEHICLE IMPOUNDMENT AND FORFEITURE

144. Vehicle impoundment is the removal of an offender's vehicle to a storage facility for a specified period. In practice, impoundment may occur on an incremental basis. That is, the vehicle is confiscated for increasing time periods for each subsequent offence leading eventually to forfeiture. Vehicle forfeiture is the permanent removal of an individual's vehicle. In jurisdictions where forfeiture is used, it is mainly employed for serious or repeat drink driving offences.²⁰⁴
145. Vehicle impoundment reduces drink driving recidivism while the vehicle is impounded and, to a lesser extent, after it has been released. This may be because there is a deterrent effect (people disliked the punishment of losing their car so they are motivated to not get caught again) or an incapacitation effect from the loss of their vehicle. Those offenders who do not reclaim their vehicle may be less likely to drink and drive as they no longer have a vehicle.²⁰⁵ However, vehicle impoundment only appears effective for individuals who commit the drink driving offences. It does not appear to affect the driving behaviour of the general public.²⁰⁶
146. Research conducted in Hamilton County, Ohio in the United States of America found that recidivism rates for drink drivers were reduced by between 60 per cent and 70 per cent while the vehicle impoundment countermeasure was in place. After the impoundment sanction was removed, recidivism continued to occur at a rate of between 33 per cent and 50 per cent less than the amount of recidivism in the control group.²⁰⁷

²⁰⁴ B Watson, Review of potential countermeasures to recidivist drink driving and unlicensed driving, *ACRS Recidivist Drink and Unlicensed Driving Seminar*, Brisbane, 2005.

²⁰⁵ R Voas, A Tippetts & E Taylor, Temporary vehicle impoundment in Ohio: A replication and confirmation, *Accident Analysis and Prevention*, 30(5), 1998, p. 654.

²⁰⁶ DeYoung in R Voas, J Fell, A McKnight & B Sweedler, Controlling impaired driving through vehicle programs: An overview, *Traffic Injury Prevention*, 5, 2004, p. 293.

²⁰⁷ R Voas & D DeYoung, Vehicle action: Effective policy for controlling drunk and other high-risk drivers?, *Accident Analysis and Prevention*, 34, 2002, p. 267.

147. There are a number of practical considerations when implementing vehicle impoundment or forfeiture. In some cases an offender, found guilty of a repeat drink driving offence, may sell or transfer ownership of the vehicle before it is impounded.²⁰⁸ For this reason, it is important that the vehicle is taken at the time the drink driving offence is detected. Another issue that influences the effectiveness of vehicle impoundment or forfeiture as a countermeasure is the generally low value of vehicles driven by repeat drink drivers. Drivers of low-value vehicles may decide to abandon the vehicle rather than reclaim it.²⁰⁹ Research conducted in California suggests that as many as 50 per cent of vehicles impounded by the authorities for 30 days were not retrieved by the owner.²¹⁰
148. Impounding a vehicle owned by someone other than the drink driver is more complicated. Research suggests that up to 50 per cent of vehicles driven by suspended drivers are owned, either wholly or partially, by a non-offender.²¹¹ One method to manage this situation is to release the vehicle to the owner, provided the owner pays towing and storage costs and signs an agreement that acknowledges that if the offender is apprehended driving that vehicle again, it will be forfeited.²¹²
149. The costs of vehicle impoundment can be another impediment to the use of this type of countermeasure. Vehicle impoundment can be expensive for both offenders and the authorities. Offenders may find that they are unable to afford to pay the costs of storing the vehicle.²¹³ Authorities are generally responsible for the towing and storage bills if the vehicle is not collected by the offender. This may become expensive. North American research identified that vehicle impoundment was under-utilised as a countermeasure, partially due to the cost of storing a vehicle. In some cases, the storage costs may exceed the value of the car.²¹⁴ Generally speaking, jurisdictions with a successful vehicle impoundment program require a service fee when the vehicle is returned. This fee helps offset the costs incurred by the authorities to run impoundment and forfeiture programs.²¹⁵
150. Vehicle forfeiture is generally not regarded as self-funding because the proceeds made from the confiscated vehicles do not cover the costs involved in removing the vehicle.²¹⁶

²⁰⁸ Voas, Fell, McKnight & Sweedler, p. 295.

²⁰⁹ Voas, Fell, McKnight & Sweedler, p. 295.

²¹⁰ R Peck & R Voas, Forfeiture programs in California: why so few?, *Journal of Safety Research*, 33, 2002, p. 254.

²¹¹ Voas & DeYoung, p. 269.

²¹² Voas, Fell, McKnight & Sweedler, p. 295.

²¹³ Voas, Fell, McKnight & Sweedler, pp. 296-297.

²¹⁴ Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, p. 636.

²¹⁵ Voas & DeYoung, p. 269.

²¹⁶ Queensland Transport, *Submission no. 44*, p. 42.

151. As an example of costs, in New Zealand the owner pays towing and storage costs for the impounded vehicle. These fees vary according to the weight of the vehicle and the time of day and distance it is towed. Fees are regulated by the government.²¹⁷ However, an indicative cost is NZ\$52.50 for towing the vehicle and NZ\$300 for the impoundment. It generally costs NZ\$12 per day after the first three days. Costs increase if the vehicle weight is more than 3.5 tonnes, is towed more than ten kilometres or is towed outside normal working hours.²¹⁸ To indicate the likely impoundment costs within Australia, the average cost of a 48 hour impoundment under Queensland's hooning legislation (discussed below) is \$200. The QPS is currently responsible for this cost.²¹⁹
152. Concerns regarding natural justice may also be an issue for vehicle impoundment programs. Successful impoundment programs generally remove the vehicle at the time of the offence. Delaying this action until after the court case may allow offenders to sell the vehicle or transfer ownership. However, removing a vehicle at the time of the offence does not allow a person to be found guilty before they are punished.²²⁰ One solution to this problem has been to prohibit offenders from transferring vehicle titles if they are arrested for a drink driving offence.²²¹ This means that they are unable to circumvent the impoundment laws by selling their vehicle before it is removed or forfeited.
153. Even if the legislative and regulatory structure for a vehicle impoundment and forfeiture system exists in a jurisdiction, the forfeiture penalty (as opposed to the impoundment penalty) is rarely applied. For instance, in California in the United States of America, police will actively enforce vehicle impoundment provisions but not vehicle forfeiture provisions.²²² There may not be a need to include or actively enforce a vehicle forfeiture program. Some research suggests that long-term impoundment programs may achieve some of the benefits of forfeiture, particularly as a significant number of vehicles remain unclaimed at the end of the impoundment term.²²³ If the unclaimed vehicles are old and no longer roadworthy, there may be road safety benefits in the vehicles remaining unclaimed and no longer driven on the road.²²⁴

²¹⁷ Land Transport New Zealand, *Impoundment of your vehicle at the roadside*, Factsheet 63, Land Transport New Zealand, Wellington, April, 2006, downloaded from www.landtransport.govt.nz.

²¹⁸ Queensland Transport, *Submission no. 44*, p. 31.

²¹⁹ Queensland Transport, *Submission no. 44*, p. 31.

²²⁰ Watson & Nielson, p. 20.

²²¹ Voas; Voas, Tippetts & Taylor & Peck & Voas in Watson & Nielson, p. 20.

²²² Peck & Voas, p. 247.

²²³ Queensland Transport, *Submission no. 44*, p. 42.

²²⁴ Queensland Transport, *Submission no. 44*, p. 39.

154. Several countries including the United States of America, Canada and New Zealand have vehicle impoundment laws.²²⁵ Research in different jurisdictions and using different groups of high risk drivers shows that vehicle impoundment reduces crashes and can be successfully implemented in different jurisdictions.²²⁶
155. Several Australian states including NSW, Tasmania and Victoria have systems that allow immediate impoundment of a vehicle when an impaired driving offence is detected. However, this is generally only used when the other options for dealing with the offender are unsuitable. The WA system allows the impoundment of vehicles by the courts for street racing or unlicensed driving. The WA Government is currently considering introducing court-ordered impoundment for drink driving offences.²²⁷
156. Queensland police officers have the power to impound vehicles for hooning offences under the PPAR Act, but not for drink driving.²²⁸

Queensland's anti-hooning legislation

157. Under Queensland's anti-hooning legislation, police officers have the power to confiscate offenders' vehicles. Sections 58-61 of the PPAR Act give police officers the legislative power to impound, for 48 hours, the vehicle of a person who they reasonably suspect has committed or is committing a prescribed offence in relation to the vehicle. The prescribed offences covered by this act include a speed trial, a race between vehicles or a burn out.²²⁹ The offences include:
 - Dangerous operation of a vehicle (under s. 328A of the *Criminal Code*);
 - Careless driving of a motor vehicle (under s. 83 of the TO(RUM) Act);
 - Racing and speed trials on roads (under s. 85 of the TO(RUM) Act); and
 - An offence against the TO(RUM) Act that involves wilfully starting a vehicle, or driving a vehicle in a way that makes unnecessary noise or smoke.²³⁰

Outside of these specific circumstances, police officers in Queensland have no power to impound a vehicle for other offences such as drink driving.

²²⁵ Voas, Fell, McKnight & Sweedler, p. 295.

²²⁶ Voas & DeYoung, p. 268.

²²⁷ Queensland Transport, *Submission no. 44*, p. 24.

²²⁸ Queensland Police Service, *Hearing transcript*, p. 27.

²²⁹ Schedule 4, *Police Powers and Responsibilities Act 2000*, p. 425.

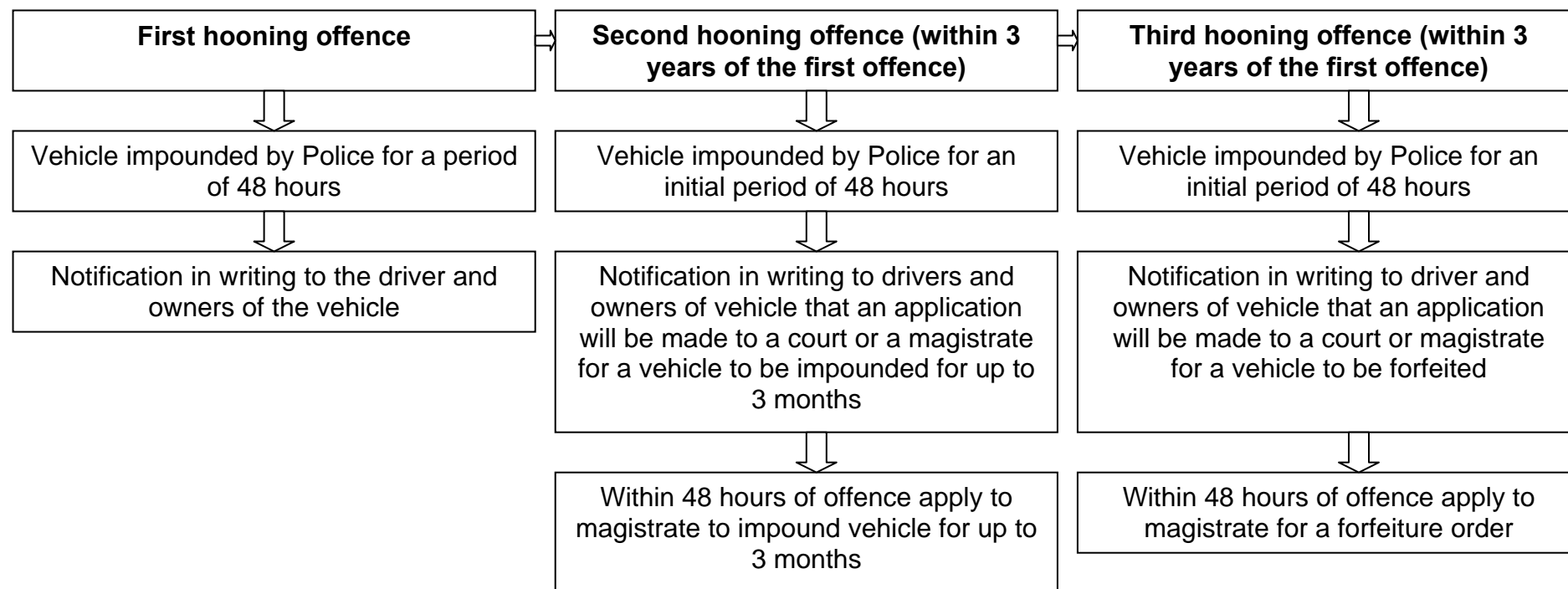
²³⁰ Schedule 4, *Police Powers and Responsibilities Act 2000*, p. 425

158. Figure 4 below outlines the process for impounding or forfeiting a vehicle under Queensland's anti-hooning legislation. The PPAR Act requires that the police officer notify the driver of the vehicle as well as all owners of the vehicle in writing as soon as practicable after the vehicle has been impounded. The notice must state how the owner of the impounded vehicle can recover their vehicle, that the vehicle is impounded for 48 hours, that the owner must provide evidence that they own the vehicle before it can be returned and that if the driver is found guilty of the offence, the driver will be required to pay the costs of the impoundment. The notice must also state the penalty if the vehicle is removed illegally from where it is being stored.²³¹
159. For a second offence, a court may impound a vehicle for three months. A second or subsequent offence occurs if a police officer reasonably suspects that the driver has previously been charged with committing a hooning offence and this charge has not been resolved or the driver of the impounded vehicle has been found guilty of committing a hooning offence.²³² Second and subsequent offences must be committed within three years of a previous offence in order to be considered a further offence. If three years has elapsed, the hooning offence is considered a first offence.²³³ A third or subsequent offence enables the court to permanently confiscate the vehicle.

²³¹ ss 59E-59F, *Police Powers and Responsibilities Act 2000*.

²³² s.59G, *Police Powers and Responsibilities Act 2000*.

²³³ L Folkman, Queensland's anti-hoon legislation and policing methods used to prevent hooning behaviour, *Road Safety Research, Policing and Education Conference*, Wellington, New Zealand, 2005, p. 8.

Figure 4: Policing approach for Queensland's anti-hooning legislation

Source: ss59A – 59X *Police Powers and Responsibilities Act 2000*; L Folkman, Queensland's anti-hoon legislation and policing methods used to prevent hooning behaviour, *Road Safety Research, Policing and Education Conference*, Wellington, New Zealand, 2005, pp. 8 – 10.

160. The PPAR Act includes provisions that allows individuals to avoid having their vehicle impounded or forfeited. These provisions apply if impounding or forfeiting would cause severe financial or physical hardship for the owner of the vehicle or when the offence occurred in circumstances where the innocent owner of the vehicle had not given permission for their vehicle to be used for the offending activity. The PPAR Act allows for the provision of alternative penalties if the impoundment or forfeiture does not take place as a result of these defences.²³⁴
161. The PPAR Act also enables police officers to impound a vehicle for a mechanical inspection if it is involved in a crash where a person is injured, killed or property is damaged.²³⁵ After this time, the vehicle is returned to the owner or insurance company for repairs.²³⁶
162. The QPS has impounded 2,383 vehicles since 4 November 2002.²³⁷ Table 13 below shows the number of vehicles impounded since November 2002 by year and police region. Almost a third (775) of these impoundments occurred in the South Eastern Region.

Table 13: Impoundments by the Queensland Police Service under the anti-hooning legislation, Queensland, 2002-2005.

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

Source: Queensland Police Service, *Submission no. 47*, 2006, p. 38.

163. The QPS state in their submission that the anti-hooning legislation effectively deters drivers from hooning behaviour. Of the 2,383 vehicles that have been impounded since 2002, 51 individuals (2.14 per cent) committed hooning offences for a second time. Only five people (0.2 per cent) have committed three or more offences.²³⁸ However, focus group research with car enthusiasts suggests that they are concerned that the application of the legislation by Queensland police officers involves too much discretion on the part of the police officer.²³⁹

²³⁴ Folkman, p. 9.

²³⁵ s. 60, s. 61(c) & Schedule 4, *Police Powers and Responsibilities Act 2000*.

²³⁶ Queensland Transport, *Submission no. 44*, p. 89.

²³⁷ Queensland Police Service, *Submission no. 47*, p. 38.

²³⁸ Queensland Police Service, *Submission no. 47*, pp. 37-38.

²³⁹ K Armstrong & D Steinhardt, Understanding street racing and hoon culture, *Journal of the Australasian College of Road Safety*, 17(1), 2006, p. 41.

164. Queensland Transport state that it is difficult to compare the deterrence effect of the current impoundment provisions with the enforcement that was occurring prior to the enactment of this amendment to the PPAR Act. This is because, prior to the introduction of the impoundment legislation, enforcement occurred on a more *ad hoc* basis. Hooning offences were dealt with in isolation when detected, for example by providing an infringement notice and fine. This makes it difficult to quantify whether there has been a decrease in this behaviour since 2002. However, Queensland Transport also state that the low numbers of repeat hooning offenders may indicate that the PPAR legislation operates successfully. This inference needs confirmation with an evaluation of the longer term trend.²⁴⁰
165. The provision of vehicle impoundment and forfeiture as punishment for hooning behaviour are expensive for the QPS. The QPS has spent almost \$200,000 towing and impounding vehicles since the anti-hooning legislation was introduced in Queensland in 2002. Of this, only \$70,000 has been repaid by offenders. The QPS incurs the costs for impounding a car for the initial 48 hours, pending the outcome of the offender's court proceedings.²⁴¹ The Police Minister is considering changes to the impoundment laws in order to reduce the financial costs to the QPS.²⁴²
166. It is important to note that the impacts of vehicle impoundment or vehicle forfeiture for individuals engaging in hooning behaviour compared with drink drivers are likely to be different. This is because the psychological and socio-demographics are likely to be different for these two groups.²⁴³

Future of vehicle impoundment in Queensland

167. A number of presenters at the Road Safety Summit on Tuesday 21 and Wednesday 22 February 2006 supported the introduction of vehicle impoundment for recidivist drink drivers. They included Professors Ian Johnston and Mary Sheehan, respective directors of Australia's leading road safety research centres, Monash University Accident Research Centre and CARRS-Q.²⁴⁴ At the conclusion of the summit, the Premier announced that the Queensland Government would introduce legislation to impound the vehicles of a range of offenders including repeat drink, disqualified and unlicensed drivers as well as those who drive unregistered vehicles.²⁴⁵ Queensland Transport state in their submission that impounding vehicles of repeat drink drivers will help protect other

²⁴⁰ Queensland Transport, *Submission no. 44*, p. 86.

²⁴¹ Folkman, p. 9.

²⁴² S Wardill, Hoons guzzle cash, *The Courier Mail*, Brisbane, 2 May, 2006, p. 3.

²⁴³ Watson & Nielson, p. 19.

²⁴⁴ Queensland Government, *Road Safety Summit*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au, 21 February, 2006, pp. 8 & 21.

²⁴⁵ Queensland Government, *Road Safety Summit*, Queensland Government, Brisbane, downloaded from www.roadsafety.qld.gov.au, 22 February, 2006, p. 17.

road users and also help deter this group from further drink driving offences.²⁴⁶

168. The committee notes significant public support for vehicle impoundment in the inquiry submissions, particularly in relation to the potential for this measure to reduce danger on the roads by way of restricting repetitive drink driving.²⁴⁷ Suggestions regarding the length of vehicle impoundment varied and ranged from two days to 12 months.²⁴⁸
169. The committee supports the Queensland Government's decision to implement vehicle impoundment for repeat drink drivers. The committee believes this is an appropriate countermeasure for individuals who commit a drink driving offence, whether it is a high-range or low-range offence. The committee further believe that all repeat drink drivers should have their vehicles impounded for 48 hours and that the cost for this impoundment should be borne by the offender. If the offender disputes the drink driving charge and is found not guilty, the QPS becomes responsible for the costs of the initial 48 hour impoundment. If an individual commits a third drink driving offence, the committee concludes that the QPS should be able to apply to a court to have the vehicle impounded for three months.
170. The committee believes that it is appropriate to allow owners of vehicles to appeal the impoundment if they were unaware or could not stop the person from driving the vehicle. If the vehicle is returned to the owner, they should be required to certify that, if that person is caught driving the vehicle again, it will be forfeited.
171. The committee also believes that commercial vehicles should not be exempt from vehicle impoundment. However, they recognise that businesses must be able to check the licence status of employees who utilise company vehicles. For this reason, the committee recommends that Queensland Transport establish a service that enables employers, with the permission of the employees or prospective employees, to check the licence status of those who will use company vehicles. This service should not provide detailed information regarding the person's driving record. Employers should only be able to confirm that employees or prospective employees hold valid driver's licences, the classes of licences held and whether they have been convicted of drink driving within the previous five years. This will enable employers to make an informed decision about who may or may not drive company vehicles.

²⁴⁶ Queensland Transport, *Submission no. 44*, p. 32

²⁴⁷ B Mackenzie, *Submission no. 1*, 2005, p. 5; M Clayden, *Submission no. 2*, 2005, p. 1;

²⁴⁸ O McKay, *Submission no. 12*, 2006, p. 1; M Elliott, *Submission no. 26*, 2006, p. 2

RECOMMENDATION 6:

That the *Police Powers and Responsibilities Act 2000* be amended to give police officers the power to impound for 48 hours the vehicles driven by drink drivers apprehended whilst allegedly committing a second or subsequent drink driving offence within a five year period. The associated vehicle impoundment costs shall be borne by the alleged offender if convicted. Police officers shall be further authorised to apply to a court for an order to impound for three months the vehicles driven by individuals apprehended whilst allegedly committing a third drink driving offence within five years.

Ministerial Responsibility:

Minister for Police and Corrective Services

RECOMMENDATION 7:

That Queensland Transport establish a service to inform employers whether their employees or prospective employees hold current driver licences and the classes of licences held, and whether they have been convicted of a drink driving offence during the previous five years. This information shall only be provided by the department with the written consent of the employees.

Ministerial Responsibility:

Minister for Transport and Main Roads

IGNITION KEY CONFISCATION

172. Ignition key confiscation is a penalty that occurs when the key that operates a vehicle is taken from the driver. The purpose of this penalty is to prevent an impaired person from driving and potentially causing crashes. It also aims to deter other individuals from engaging in certain driving behaviours such as drink driving.²⁴⁹ The effectiveness of this countermeasure is not known as there have been no evaluations to date.²⁵⁰
173. Within Australia, police officers in NSW, Tasmania and Victoria have the power to remove ignition keys from drink drivers.²⁵¹ However, the number of keys confiscated appears small. For instance, in NSW, only one key was confiscated in 2002 and 2004, and four in 2003. Victoria does not record the number of confiscations. In their submission, Queensland Transport suggested that Victorian police use key confiscation as a last option.²⁵²

²⁴⁹ Queensland Transport, *Submission no. 44*, p. 42.

²⁵⁰ Watson & Nielson, p. 2.

²⁵¹ J Spence, *Personal correspondence*, Minister for Police and Corrective Services, Brisbane, 9 June, 2005, p. 1.

²⁵² Queensland Transport, *Submission no. 44*, p. 46.

174. Although ignition key confiscation is not used in Queensland, police officers have a number of other options that they can use to prevent individuals from driving after they have been apprehended and still under the influence of alcohol. Police officers are able to issue a notice that suspends an impaired driver's licence for a period of 24 hours from the time of taking the breath test or blood test if they have been driving above the legal blood alcohol limit.²⁵³ However, there are limitations with this system. Police have difficulty identifying which individuals are subject to this 24 hour suspension. A licence check will identify if a suspension is in place but only if the suspension is entered into the electronic database quickly. This offence is normally detected if a person is caught for a subsequent drink driving or other traffic offence or are involved in a crash. Individuals may also be identified if the same officer sees the offender driving.²⁵⁴ Police officers also have the power to order individuals not to drive.²⁵⁵ However, this power is rarely used.²⁵⁶
175. The QPS does not support the introduction of ignition key confiscation. They argue that the potential benefits appear limited, particularly if drivers have access to a second set of keys. They also identify a number of problems with this countermeasure including:
- An additional 30,000 (approximately) visits to police stations to collect ignition keys;
 - An additional 30,000 (approximately) property entries;
 - Responsibility for the security of, and damage to, vehicles left parked at the roadside, particularly if they contain valuable items such as work tools or expensive stereo systems;
 - Unclaimed property issues when keys are not collected;
 - Difficulties with 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 that keys are returned to the correct owner.²⁵⁷
176. A majority of submissions support key confiscation,²⁵⁸ though many considered it effective only in combination with other sanctions.²⁵⁹

²⁵³ s. 80(22A) *Transport Operations (Road Use Management) Act 1995*.

²⁵⁴ Queensland Transport, *Submission no. 44*, p. 43.

²⁵⁵ s. 58 *Police Powers and Responsibilities Act 2002*.

²⁵⁶ Queensland Transport, *Submission no. 44*, p. 43.

²⁵⁷ Queensland Police Service, *Submission no. 47*, pp.21-22.

²⁵⁸ MacKenzie, p. 5; Name withheld, p. 2; Peet, p. 1; McKay, p. 1; Alsop, p. 1; Blair, p. 1; Chamberlin, p. 1; Coghlan, p. 1.

²⁵⁹ Mackenzie, p. 5; Alsop, p. 1; Chamberlin, p. 1

177. Given the lack of QPS support, the lack of research evidence that it is an effective countermeasure and its apparent limited use in other jurisdictions, the committee does not believe there are sufficient benefits to outweigh the costs of introducing ignition key confiscation as a drink driving countermeasure in Queensland.

VEHICLE IMMOBILISATION

178. Vehicle immobilisation contrasts with vehicle impoundment and forfeiture to the extent that it allows the offender's vehicle to be stored on or adjacent to their property, thus removing storage costs.²⁶⁰ However, it is normally combined with at least a minimal amount of impoundment. The vehicle is impounded by the authorities at the time of the offence and the offender must then organise the delivery of the vehicle to their own property as well as its immobilisation.²⁶¹ The authority charges a service fee when removing the immobilisation device.²⁶² Research suggests that offenders whose vehicles were immobilised had reduced drink driving offences, even after the immobilisation device was removed.²⁶³
179. Immobilisation can be achieved by applying a number of devices. These include using anti-theft steering wheel locks or tyre boot immobilising devices. The anti-theft steering wheel lock can be removed by cutting through the steering wheel, removing the steering wheel and attached lock and replacing it with a spare steering wheel from another source such as a wrecker's yard. The tyre boot device is more difficult to remove and cheaper than the steering wheel lock, however, it takes longer to install.²⁶⁴
180. There are problems with vehicle immobilisation. Judges in one United States jurisdiction suggested that immobilisation was difficult to administer, unfair to the offender's family and did not have much impact.²⁶⁵ Additionally, vehicle immobilisation laws may not be applied consistently to all offenders. In one North American county, the law was applied variably because:
- Differing interpretations of the law by police, prosecutors and judges;
 - Use of alternate, easier-to-process charging codes by some police;
 - Difficulty accessing and interpreting driver records to determine eligibility;
 - Dismissal or reduction of cases to ease prosecutor caseloads and paper;

²⁶⁰ Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, p. 636.

²⁶¹ Voas, Fell, McKnight & Sweedler, p. 293.

²⁶² Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, p. 636.

²⁶³ Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, p. 640.

²⁶⁴ Queensland Transport, *Submission no. 44*, p. 50.

²⁶⁵ Voas & DeYoung, p. 265.

- Lack of personnel and backlogs in the driver record system sometimes resulted in failure to apply the appropriate vehicle sanctions to eligible vehicles at the time of arrest; and
 - Exclusion of vehicles that were not owned by the offender.²⁶⁶
181. Two submissions to the committee's inquiry supported the introduction of vehicle immobilisation for a number of reasons, including overcoming the problems of spare keys in the case of key confiscation²⁶⁷ and the cost of storage in the case of vehicle impoundment.²⁶⁸
182. The committee does not support vehicle immobilisation based on the evidence regarding their use, but concludes that Queensland Transport should continue to monitor vehicle immobilisation schemes in other jurisdictions for developments that may improve their potential benefits.

REGISTRATION CANCELLATION

183. Registration cancellation occurs when the registration of a vehicle is cancelled for the same period as the driver's licence is suspended. It does not normally apply when a spouse also uses the car or the vehicle is owned by more than one person.²⁶⁹ Registration cancellation appears to have a limited effect on drink drivers as the authorities are generally unable to retrieve the registration sticker. As a result, many offenders continue to use the vehicle.²⁷⁰
184. Submissions to this inquiry suggested that registration cancellation is an unpopular option. Submitters also raised concerns regarding number plate theft²⁷¹ and that drivers who are prepared to drive drunk or unlicensed may be just as willing to drive unregistered.²⁷²
185. Queensland Transport suggest that the road safety value of registration cancellation is less than for vehicle impoundment or forfeiture. This is because the vehicle is still available to be driven, although it is easier to identify.²⁷³
186. The committee notes that registration cancellation is not the most effective countermeasure for managing the behaviour of repeat drink drivers and does not support its introduction at this time.

²⁶⁶ Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, p. 636.

²⁶⁷ Name withheld, p. 2.

²⁶⁸ Legal Aid Queensland, p. 3.

²⁶⁹ Voas, Fell, McKnight & Sweedler, p. 293.

²⁷⁰ Voas in Voas, Fell, McKnight & Sweedler, p. 293.

²⁷¹ Name withheld, p. 2

²⁷² Legal Aid Queensland, p. 3.

²⁷³ Queensland Transport, *Submission no. 44*, p. 55.

SPECIAL VEHICLE PLATES AND PLATE IMPOUNDMENTS

187. Special vehicle identification plates can be used to enable police to identify vehicles of interest with greater ease. It is generally used to identify the vehicles that a disqualified or suspended driver is likely to drive. In some cases, the special vehicle plate may be a sticker. These special plates or stickers make it easier for police to conduct their traffic enforcement duties and have been shown to discourage drivers without a licence from driving as they are more likely to be caught.²⁷⁴
188. Vehicle plate impoundment occurs when the licence plates of a vehicle are removed and destroyed.²⁷⁵ Some states in the United States of America allow 'family plates' to be attached to vehicles in order to allow family members to drive but deter the offender from driving the vehicle. The family plates highlight to police officers that an offender may be driving the vehicle and allows them to stop the car to check the driver.²⁷⁶
189. North American research suggests that marking vehicle licence plates reduces offences for certain groups of offenders.²⁷⁷ In Oregon, a police officer places a striped sticker over the registration label when apprehending a suspended driver. In many cases, the driver was suspended for driving under the influence. The sticker could be removed by paying a small fee and buying a new registration label. However, this could only occur if the owner had a valid driver's licence. This meant that non-offender owners could clear their vehicle immediately while offender owners were unable to do this until they were properly licensed. Some offender owners were able to remove the sticker by transferring ownership of the vehicle to another person rather than waiting until full driving privileges were returned.
190. The use of these stickers reduced crash and offence rates in Oregon. It also reduced offences including driving while suspended and driving under the influence for individuals with suspended licences.²⁷⁸ However, a similar sticker program in Washington was not as effective. This may be because the law was less intensively enforced. The sticker was only placed on vehicles in Washington if the offender owned the vehicle. This meant that there were less stickers placed on cars.²⁷⁹
191. Confiscation of plates from vehicles owned by third-time drink driving offenders in Minnesota reduced recidivism. Drivers whose plates were confiscated by a police-issued vehicle plate impoundment had an eight per cent recidivism rate at 12 months and a 13 per cent recidivism rate at 24 months. This compares to a recidivism rate of 16 per cent at 12

²⁷⁴ Voas, Tippetts & Lange, p. 628.

²⁷⁵ Voas, Fell, McKnight & Sweedler, p. 294.

²⁷⁶ Voas, Fell, McKnight & Sweedler, pp. 293-294.

²⁷⁷ Voas, Tippetts & Lange, pp. 632-633.

²⁷⁸ Voas, Tippetts & Lange, pp. 627-633.

²⁷⁹ Voas, Tippetts & Lange, pp. 632-633.

months and 26 per cent at 24 months for individuals whose vehicle plates were not confiscated.²⁸⁰

192. Vehicle plate impoundment does not appear as effective when applied as a court-imposed sanction. This is because vehicle plate impoundment by the courts is rare. More plates are seized when the process is administrative, allowing the police officer to take the plates when the offender is arrested. This appears to be more effective in reducing the number of repeat drink drivers.²⁸¹
193. The RACQ support the introduction of vehicle number plate confiscation in conjunction with a family plate option. They also note the need to conduct a public awareness campaign to explain the purpose of family plates.²⁸²
194. Although the evidence suggests that vehicle plate sanctions such as special vehicle plates and plate impoundments reduce offences, vehicle impoundment appears more effective.²⁸³
195. The committee does not believe that it is appropriate to introduce vehicle plate sanctions at the current time given the other measures such as impoundment and interlocks it has recommended which have a stronger basis. The committee also notes that special plates and stickers may be more effective in the United States where there is no RBT and police must have reasonable cause to stop motorists.

ALCOHOL IGNITION INTERLOCKS

196. Alcohol ignition interlocks are devices that can reliably identify people who are over the legal alcohol limit and prevent them from operating the motor vehicle in which they are installed.²⁸⁴ Drivers blow into the alcohol ignition interlock before starting the vehicle. If their breath alcohol reading is below a pre-set limit, the interlock allows the vehicle to be started. If their reading is above the pre-set limit, the interlock blocks all attempts to start the vehicle for a set time. Alcohol ignition interlocks have a number of benefits. These include reducing the risk that an offender will lose their job and allowing other family members to use the car because they will still have access to their vehicle.²⁸⁵
197. Researchers suggest that interlock technology is widely available but is not being used enough to maximise the benefits.²⁸⁶ Researchers believe that alcohol ignition interlocks should be part of a system that manages drink driving offenders. This type of vehicle sanction should be part of a

²⁸⁰ Department of Public Safety in Voas, Tippetts & Taylor, *Temporary vehicle immobilization*, pp. 635-636.

²⁸¹ Voas & DeYoung, p. 265.

²⁸² Royal Automobile Club of Queensland, p. 23.

²⁸³ Watson & Nielson, p. 21.

²⁸⁴ D Beirness, H Simpson & R Robertson, International symposium on enhancing the effectiveness of alcohol ignition interlock programs, *Traffic Injury Prevention*, 4, 2003, p. 179.

²⁸⁵ Voas, Fell, McKnight & Sweedler, p. 294

²⁸⁶ B Sweedler, Preventing alcohol crashes: the role of ignition interlocks, *Traffic Injury Prevention*, 4, 2003, p. 177.

continuum of punishments that drink drivers progress along before returning to a fully licensed status.²⁸⁷ Alcohol ignition interlocks could be combined with rehabilitation and other sanctions.²⁸⁸ Alcohol ignition interlocks are applied either through the judicial system (the courts) or administratively (through transport departments). Offenders are normally required to install the interlocks before they are able to renew their licences.²⁸⁹

198. Alcohol ignition interlocks incorporate a range of features that reduce the likelihood that they will be tampered with. Alcohol ignition interlocks can require breath pulse codes. This means that the driver is required to provide a series of short and long breath pulses prior to their breath sample. Alcohol ignition interlocks can also require rolling retests. Rolling retests are second and subsequent breath tests after the vehicle has started.²⁹⁰ The most likely method a drink driver can use to avoid the alcohol ignition interlock is to drive a different vehicle. However drivers with an alcohol ignition interlock who also have access to other vehicles, are still less likely to be caught committing further offences.²⁹¹
199. There is flexibility with the parameters that can be set for these devices. For instance, they can be set at 0.05 BAC for open licence holders or at zero BAC for provisional licence holders.²⁹² Other parameters that can be set for these devices include:
 - The time delay after a failed attempt to start the vehicle before a second attempt can be made;
 - How many failed attempts constitute a major fail;
 - When rolling retests occur;
 - The time that elapses between a failed rolling retest and the second attempt at a rolling retest;
 - Consequences of a failed rolling retest; and
 - Consequences of a major fail.²⁹³
200. Several elements of alcohol ignition interlock programs may act as a disincentive for drink drivers. Firstly, offenders may perceive that they are expensive to install and maintain.²⁹⁴ As an example, Draeger Safety Pacific Pty Ltd advise that the cost (GST inclusive), under the Victorian alcohol ignition interlock program, is \$120 to install the device in a standard vehicle. It then costs \$140 per month for the monitoring or \$90 per month for concession card holders. Removal is \$80. Using the

²⁸⁷ R Voas & P Marques, Barriers to interlock implementation, *Traffic Injury Prevention*, 4, 2003, p. 186.

²⁸⁸ Sheehan, Watson, Schonfeld, Wallace & Partridge in Watson & Nielson, p. 23.

²⁸⁹ Sheehan, Watson, Schonfeld, Wallace & Partridge in Watson & Nielson, p. 23.

²⁹⁰ J Coben & G Larkin, Effectiveness of ignition interlock devices in reducing drunk driving recidivism, *American Journal of Preventive Medicine*, 16(Suppl 1), 1999, p. 82.

²⁹¹ Voas, Fell, McKnight & Sweedler, p. 294

²⁹² M Sheehan, C Schonfeld, B Watson, M King, V Siskind & J Freeman, *Implementation of a Trial of Alcohol Ignition Interlocks in Queensland*, Centre for Accident Research and Road Safety, Brisbane, 2006, p. 1.

²⁹³ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 9.

²⁹⁴ D Beirness, P Marques, R Voas & A Tippetts, The impact of mandatory versus voluntary participation in the Alberta ignition interlock program, *Traffic Injury Prevention*, 4, 2003, p. 196.

Victorian pricing, installing an interlock for a six month period would cost \$1050 or \$750 for a concession card holder. To voluntarily purchase a unit, without monitoring, costs \$1,793.²⁹⁵

201. Evaluations of alcohol ignition interlocks suggest that they reduce recidivism rates by up to 60 per cent.²⁹⁶ Unfortunately, the effect of the reducing the drink driving behaviour does not last after the ignition interlock device is removed.²⁹⁷ Alcohol ignition interlocks could be combined with other countermeasures such as rehabilitation or other sanctions.²⁹⁸ This may make them more effective.
202. Some jurisdictions within the United States of America, Canada and Europe use alcohol ignition interlocks. The use of interlocks in Europe appears to be expanding.²⁹⁹ An evaluation of the alcohol ignition program operating reported that recidivism was reduced by 80 per cent for first time offenders and 74 per cent for repeat offenders, while the interlock was fitted to the vehicle.³⁰⁰ However, participation in the interlock program was voluntary which may have affected the results.³⁰¹ A randomised interlock trial conducted in Maryland found a 60 per cent reduction in recidivism rates by drink driver offenders who attended Alcohol Anonymous meetings and had an interlock installed compared with those who completed a drink driving rehabilitation program.³⁰²
203. In Australia, three states have interlock programs – South Australia, Victoria and NSW. All Australian programs have a limit of zero or near zero (0.02 per cent) BAC limits and are monitored by the relevant transport authority in each state.³⁰³ All Australian programs require that individuals who participate in an alcohol ignition interlock program participate in a rehabilitation or education program. The WA Government is currently developing legislation and an interlock program.³⁰⁴
204. Table 14 below provides details regarding the number of alcohol ignition interlocks in use in Australia today. Victoria has the most alcohol ignition interlocks fitted which probably reflects the mandatory nature of the program in that state.

²⁹⁵ Draeger Safety Pacific Pty Ltd, *Personal correspondence*, 13 April, 2006, p. 2.

²⁹⁶ Coben & Larkin, p. 85.

²⁹⁷ Beirness, Marques, Voas & Tippetts, p. 195.

²⁹⁸ Watson & Nielson, p. 23.

²⁹⁹ Voas, Fell, McKnight & Sweedler, pp. 296-297.

³⁰⁰ Vezina in Watson & Nielson, p. 22.

³⁰¹ Watson & Nielson, p. 22.

³⁰² Beck, Rauch and Baker in Watson & Nielson, p. 22.

³⁰³ Queensland Transport, *Submission no. 44*, p. 62.

³⁰⁴ Queensland Transport, *Submission no. 44*, p. 62.

Table 14: Alcohol ignition interlock use in Australia as at March/April 2005

South Australia	Victoria	New South Wales
Commenced July 2001	Commenced May 2002	Commenced September 2003
114	1108	130
Voluntary	Mandatory	Voluntary

Source: Queensland Transport, *Submission no. 44*, 2006, p. 62.

South Australia

205. South Australia was the first state to implement an alcohol ignition interlock program in Australia in 2001. The program is voluntary and offenders commence half-way through their licence disqualification period. Participants then have an alcohol ignition interlock for twice the remaining suspension period. Individuals who are learner drivers, motorbike riders, alcohol or drug dependent or have committed a high BAC level or repeat offence are ineligible to participate in the program. A person's alcohol or drug dependence must be assessed and they are counselled on entry to and exit from the program. Participants in South Australia are charged a \$30 administrative fee on a monthly basis.
206. The low participation rate for this program suggests that this voluntary approach is ineffective, and that the early return to driving is not a strong enough incentive to encourage offenders to participate.³⁰⁵

New South Wales

207. The NSW program commenced in 2003. Participation is voluntary and only available to lower risk offenders. When being sentenced, the offender requests that they be allowed to participate in the program. Offenders with two or more offences within the previous five years are ineligible for the program. They are also ineligible if they have defaulted on a fine, are a learner driver or are seeking restoration of a heavy vehicle or motorbike licence. Offenders with a BAC level between 0.05 and 0.08 are ineligible to participate for their first offence.
208. Participation in the program generally results in a shorter disqualification period and an interlock participation period (IPP) that is four times the length of the disqualification period. Service providers must notify the NSW transport authority, the Roads and Traffic Authority, if the alcohol ignition interlock has been tampered with.³⁰⁶

³⁰⁵ Queensland Transport, *Submission no. 44*, p. 63.

³⁰⁶ Queensland Transport, *Submission no. 44*, p. 63.

Victoria

209. The Victorian program commenced in 2002. It is mandatory for first time offenders with a high BAC reading and repeat offenders. Participating offenders in Victoria do not receive a reduction in their disqualification period. Instead, the interlock period is added to this time. In order to participate in the program, offenders must complete the disqualification period, a clinical assessment 12 months prior to the end of disqualification, an eight hour drink drive education course, a second clinical assessment and then apply to the court for a Licence Restoration Order (LRO). This LRO enables the offender to apply to Vicroads, the Victorian transport authority, for an Interlock licence. This type of licence is only valid while driving a vehicle equipped with an alcohol ignition interlock. Minimum interlock periods are specified ranging from six months for two drink driving offences when the last offence is equal to or lower than 0.15 per cent BAC, to three years for three or more offences. The offender must complete an Interlock Condition Removal Order (ICRO) in order to demonstrate that they are 'fit and proper to have the interlock removed'.³⁰⁷

Alcohol ignition interlocks in Queensland

210. A trial of alcohol ignition interlocks in Queensland commenced in February 2001.³⁰⁸ Magistrates assigned drink drivers to participate in the interlock trial. Using the *Penalties and Sentences Act 1992*, magistrates placed offenders on a probationary order. Conditions of the probationary order included completion of a rehabilitation program and the installation of an alcohol ignition interlock device.
211. For the evaluation of the trial, offenders on the probationary order were compared with drink driving offenders who completed the rehabilitation program but did not install an alcohol ignition interlock. Individuals who participated in the trial had their licence disqualified for the minimum period. They completed a rehabilitation program, *Under the Limit*, during this time. An alcohol ignition interlock was installed at the end of the disqualification period. The ignition interlock remained in place for 1.5 times the normal disqualification period.³⁰⁹
212. The researchers conducting the trial concluded that ignition interlocks have the potential to reduce drink driving recidivism. They suggest that interlocks 'incapacitate' the drink drivers from offending and for some individuals encourage changes in their drink and driving behaviours. This is supported by the low existing recidivism rates for those who completed the interlock trial compared with those who just completed the rehabilitation program. The researchers also found that a number of

³⁰⁷ Queensland Transport, *Submission no. 44*, p. 63.

³⁰⁸ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 4.

³⁰⁹ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 6.

strategies are required to target the behaviour of repeat drink drivers as this behaviour is entrenched.³¹⁰

Future of alcohol ignition interlocks in Queensland

213. In February 2006 and following the Road Safety Summit, the Queensland Government announced that alcohol ignition interlocks would be required for all individuals returning to driving after their second drink-driving offence over the 0.15 BAC limit. This countermeasure is designed to work in conjunction with vehicle impoundment.³¹¹ Submissions to the committee's inquiry support the introduction of alcohol ignition interlocks.³¹² The committee believes that alcohol ignition interlocks have a role in managing repeat drink driving in Queensland based on their proven effectiveness in reducing recidivism and cost-effectiveness as demonstrated in the trial.
214. Queensland Transport supports the use of alcohol ignition interlocks as an administrative rather than a judicial process in order to help overcome the reluctance of some courts to require offenders to use alcohol ignition interlocks.³¹³ In contrast, the QPS recommends that alcohol ignition interlocks be imposed as a judicial measure by the courts.³¹⁴
215. The committee believes that alcohol ignition interlocks should be imposed by the courts. This will enable magistrates to use their discretion when applying this countermeasure. This is important in a large decentralised state like Queensland. Individuals in remote communities may find it difficult to access servicing centres on a regular basis. Magistrates are best placed to make a considered assessment of the circumstances in each case to ensure a reasonable punishment. This should not create additional work for the courts, as all alleged offenders already appear before magistrates.
216. CARRS-Q suggest that there is an opportunity to enhance the restricted licence by requiring individuals with this type of licence to fit an alcohol ignition interlock.³¹⁵ Magistrates grant restricted licences with conditions attached, including maintaining a zero BAC. Technological advancements are now able to ensure that this condition is met, reducing the chances of the convicted drink driver repeating the offence. For these reasons, the committee believes that all individuals provided with a restricted licence should fit an alcohol ignition interlock to the vehicle that they will use while driving on this licence. Fitting this device to the vehicle will ensure that the car is unable to be started if the offender has been drinking.

³¹⁰ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 33.

³¹¹ Queensland Government, *Road Safety Summit*, 22 February, p. 17.

³¹² Mason, pp. 2-4; Name withheld, p. 2; Chamberlin, p. 1; Royal Automobile Club of Queensland, pp. 19-20; AMA Queensland, p. 2; Legal Aid Queensland, p. 3.

³¹³ Queensland Transport, *Submission no. 44*, p. 66.

³¹⁴ Queensland Police Service, *Submission no. 47*, p. 26.

³¹⁵ Centre for Accident Research and Road Safety – Queensland, *Hearing transcript*, p. 11.

217. The committee also considered whether repeat drink drivers should have alcohol ignition interlocks fitted when they are returning to driving. The committee believes that alcohol ignition interlocks have an important role to play in ensuring that repeat drink drivers are not able to re-offend. The committee believes that alcohol ignition interlocks should remain fitted to the drink driver's vehicle for a period dependent upon the severity of the drink driving offence. The interlocks should only be removed after the driver has operated the vehicle satisfactorily for six months without being locked out. Queensland Transport should decide when this has been achieved and, therefore, when the ignition interlock is removed. Requiring offenders to not be locked out for a minimum period should help encourage the offender to change their drinking and driving behaviours.
218. In order to further support repeat drink drivers, the committee believes that alcohol ignition interlocks should be used as part of a wider rehabilitation program that includes education. The committee discussed the use of rehabilitation programs in Part 5 of this report. No alcohol ignition interlock should be fitted to a drink driver's vehicle as a punishment or rehabilitation tool unless it is part of a wider program to assist the offender.
219. The committee believes that a number of measures can be used to reduce the likelihood that individuals will circumvent the alcohol ignition interlock system. This includes placing an identifying code on the individual's driver licence. The 'I' code was used during the trial of alcohol ignition interlocks in Queensland.³¹⁶ This code would act as a signal to police officers who would then know that special licence conditions applied. During the trial of alcohol ignition interlocks in Queensland, individuals with an 'I' code were only able to drive vehicles with an interlock installed and the offender was required to carry documentation stating the conditions of the licence.³¹⁷

RECOMMENDATION 8:

That the *Transport Operations (Road Use Management) Act 1995* be amended to give the courts discretion to require that individuals convicted of drink driving offences and who are issued with a restricted licence, or repeat drink drivers returning to driving, attend a drink driving rehabilitation program and have alcohol ignition interlocks fitted to the vehicles that they drive. The costs to fit the interlocks or attend the rehabilitation programs shall be borne by the drink driving offenders.

Ministerial Responsibility:

Minister for Transport and Main Roads

³¹⁶ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 7.

³¹⁷ Sheehan, Schonfeld, Watson, King, Siskind & Freeman, p. 7.

RECOMMENDATION 9:

That alcohol ignition interlocks shall remain fitted to the vehicles driven by drink driving offenders until such time as they have operated the vehicle for six months without being locked out by the interlock for a positive breath alcohol sample or other breach of the operating conditions. The decision to remove an alcohol ignition interlock from drink drivers' vehicles shall be made by Queensland Transport.

Ministerial Responsibility:

Minister for Transport and Main Roads

Social justice implications

220. The committee recognises that some individuals on low incomes may have difficulty paying for the interlocks and support programs. All existing Australian interlock programs are operated on a user pays basis with some support provided for low income earners. As an indication of the number of individuals that require financial support, approximately 25 per cent of the participants using the Victorian program are subsidised.³¹⁸
221. The South Australian program provides a 25 per cent subsidy for those without dependents and a 50 per cent subsidy for those with dependents. The subsidy applies to monthly rental and service costs as well as the administration fee. The subsidy cannot be used for installation, removal or early service recall costs. The Victorian program provides support for low income earners by providing \$50 per month towards the program. The NSW program provides a \$50 subsidy for each of the following: installation, services and removal.³¹⁹
222. When considering the social justice implications of alcohol ignition interlocks, the committee considered a range of options for subsidising the cost to low income earners who are required by the courts to use an alcohol ignition interlock and/or attend a drink driving rehabilitation program. The committee identified several options:
 - Averaging the cost of the program across all participants so that participants with higher incomes support those with lower incomes. This would mean that the fee of the program was higher than the costs involved in providing the program. The additional money could be pooled and used to subsidise program participants with lower incomes. Magistrates could decide which participants needed assistance;
 - Offering repayment plans so the cost is averaged over time. This would enable lower income earners to participate in the program and then pay for it over time; and
 - Reducing the drink driving fine by the cost of the ignition interlock and rehabilitation program. This would enable the offender to incur

³¹⁸ Lyttle in Queensland Transport, *Submission no. 44*, p. 62.

³¹⁹ Queensland Transport. *Submission no. 44*, p. 65.

the same financial penalty whilst still enabling them to participate in the program. Decisions about whether, and by how much, a drink driving fine would be reduced in order to help a low income offender pay for the program would be made by magistrates.

223. The committee suggests that Queensland Transport should investigate the options to subsidise the cost to low income individuals who are required by the courts to use an alcohol ignition interlock and/or attend a drink driving rehabilitation program. This would include considering the options outlined above.

RECOMMENDATION 10:

That Queensland Transport investigate methods to minimise the cost to low income individuals who are required by the courts to use alcohol ignition interlocks and/or attendance at drink driving rehabilitation programs.

Ministerial Responsibility:

Minister for Transport and Main Roads

PART 6 ~ FURTHER RESEARCH AND IMPLEMENTATION OF RECOMMENDATIONS

224. During the inquiry, the committee identified a number of areas that require further research. These include the effectiveness of restricted licences for drink driving offenders, the impact of future smart card driver licences, and evaluating countermeasures that are introduced as a result of this report.

EFFECTIVENESS OF RESTRICTED LICENCES

225. Part 4 of the report discussed restricted licences and Part 5 recommended requiring individuals driving on a restricted licence to use an alcohol ignition interlock. Despite these recommendations, there is a need for further research regarding the effectiveness of restricted licences and whether issuing these types of licences reduce the general deterrent impact.³²⁰ Further research would also enable the identification of the effectiveness of including an alcohol ignition interlock as a requirement of being granted a restricted licence. The committee recommends that further research regarding the use of restricted licences in Queensland is undertaken.

RECOMMENDATION 11:

That Queensland Transport should, in conjunction with other transport and research agencies, continue to research the effectiveness of restricted licences as a drink driving countermeasure, whether issuing these licences undermines the general deterrent effect of licence loss for repeat drink drivers and the effects of combining alcohol ignition interlocks with restricted licences.

Ministerial Responsibility:

Minister for Transport and Main Roads

³²⁰ Watson & Nielson, pp. 26-27.

IMPACT OF SMART CARD DRIVER LICENCES

226. The committee noted in Part 4 that Queensland Transport is introducing smart card driver licences that will store information about the holder's licence status and any restrictions that apply to the licence. The committee believes that research regarding the impact of this type of licence on the various forms of illegal driving including repeat drink driving is needed. The committee recommends that Queensland Transport, in conjunction with other transport and research agencies conduct an evaluation of the smart card driver licence and monitor its impacts.

RECOMMENDATION 12:

That Queensland Transport investigate the likely implications of the introduction of smart card driver licences for repeat drink driving and other forms of illegal driving.

Ministerial Responsibility:

Minister for Transport and Main Roads

EVALUATING COUNTERMEASURES

227. The committee believes that it is essential for Queensland Transport to evaluate the effectiveness of the countermeasures recommended in this report. This includes evaluating the impact of vehicle impoundment and the rehabilitation programs (including the short intervention). These evaluations should consider both the process (how they are implemented and managed) and outcomes (whether there is an impact on the incidence, injuries and deaths that result from repeat drink drivers) of the countermeasures.

RECOMMENDATION 13:

That Queensland Transport should evaluate the introduction of the agreed countermeasures recommended in this report including vehicle impoundment and rehabilitation programs (including the short intervention). These evaluations should consider both the process and the outcomes of the countermeasures.

Ministerial Responsibility:

Minister for Transport and Main Roads

IMPLEMENTATION OF RECOMMENDATIONS

228. The committee believes that it is appropriate that the ministers should keep Parliament and the public informed of progress in implementing agreed recommendations from this inquiry. The report should be provided annually.

RECOMMENDATION 14:

That ministers should report annually to Parliament on the implementation by their departments of agreed recommendations in this report.

Ministerial Responsibility:

Minister for Transport and Main Roads

Minister for Police and Corrective Services

SUMMARY OF CONCLUSIONS

- 229. Alcohol is the most commonly used drug in Australia with a number of short-term and long-term risks associated with its use. One of these risks is the effect of alcohol on drivers and the subsequent effect on crash risk. The cost of alcohol related crashes are significant, with these crashes costing Australians approximately \$3.4 billion in 1998 and 1999.
- 230. Approximately 13 per cent of drink drivers in Queensland are repeat drink drivers. This means that they commit at least two drink driving offences within a five year period. Although drink driving fatalities have declined dramatically in Queensland since 1982, this has faltered since the late 1990's.
- 231. The term drink driving refers to a range of offences outlined in the TO(RUM) Act. These offences include operating a vehicle under the influence of liquor, failing to supply a breath or blood specimen and failing to supply a roadside test. The TO(RUM) Act provides the minimum and maximum penalties that a magistrate may give a person who has been convicted of a drink driving offence. Queensland's maximum penalties are amongst the toughest in Australia, although it appears rare that a magistrate will impose the maximum penalty.
- 232. Repeat drink drivers are more likely to be involved in a crash when compared with first time offenders. However, it is difficult to quantify the number of crashes that related to repeat drink driving. This is because it is difficult to identify separately the drivers who were originally disqualified for a drink driving offence.

General drink driving countermeasures

- 233. General drink driving countermeasures, are initiatives that are aimed at the general public (as opposed to the specific offender) in order to reduce drink driving. These countermeasures include RBT, public health initiatives and mass media campaigns.

Random Breath Testing

- 234. Queensland introduced RBT in 1988 based on its successful reduction of road fatalities in other Australian states such as NSW. Evaluations suggest that this countermeasure reduces fatal and serious injury crashes related to drink driving. In order to sustain the results, RBT must be highly visible, well publicised and intensely enforced. The QPS conducts RBT at one of the highest rates in Australia. The committee supports the QPS in maintaining a high level of RBT operations in Queensland.

235. In Queensland, police officers are able to stop a vehicle and breath test the driver but they do not have the power to breath test other occupants of the vehicle. This means that they may inadvertently test the wrong person, only to identify the true identity of the driver later. The committee believes that providing police officers with discretionary powers to conduct blood or breath tests of any or all vehicle occupants that police officers suspect of driving while impaired by alcohol will help resolve this difficulty.
236. In Queensland, breath or blood testing must take place within two hours of the offender driving. In certain situations such as crashes in rural locations, it may be difficult for police officers to conduct these tests or require testing by a medical officer within this two hour window. The committee therefore recommends that police officers have the power to breath or blood test all suspected drink driving offenders for a period of up to four hours after a crash or other driving event.

Public health measures

237. Public health measures aim to reduce overall alcohol consumption throughout the community. Australia has a strategy, the *National Alcohol Strategy*, to help manage what Australians see as normal for drinking. The Queensland Government also has a campaign, *Make up your own mind about drinking*, that aims to counteract the peer pressure to drink that some young women experience. The committee notes that these campaigns help to change community attitudes to drinking and, as a consequence, have an impact on drink driving.

Mass media campaigns

238. Mass media publicity campaigns that highlight legislative changes in relation to drink driving work well in conjunction with enforcement to alter beliefs and behaviours. Queensland Transport has developed and delivered numerous mass media publicity campaigns across television, radio and print state-wide. Examples include *Enough is enough*, *Drink driving it's hard to live with*, *Drink drive – you're a loser*, and *A little bit over – you're a loser*.

SPECIFIC DRINK DRIVING COUNTERMEASURES

239. Specific drink driving countermeasures seek to reduce the incidence of drink driving by punishing offenders directly. These measures include licence sanctions, fines, and rehabilitation programs.

Licence sanctions

240. Licence sanctions refer to a range of initiatives that place restrictions on an individual's driver licence. This may involve prohibiting all driving or restricting the driving that may occur (for instance, by only allowing driving to and from work).

Licence disqualification

241. Licence disqualification occurs when a person loses their right to hold or obtain a driver's licence. Australian research suggests that licence disqualification is an effective countermeasure for drink drivers, at least while the licence is disqualified. This is despite the fact that up to three quarters of suspended drivers continue to drive to some extent. In Queensland, a person who is convicted of a drink driving offence will be disqualified by the courts from holding or obtaining a Queensland driver licence for a period of six months to two years, or longer, depending on the offence. The committee believes that the Queensland system of disqualifying a drink driver's licence is adequate. The committee suggests that licence disqualification should be used with a range of other measures to enforce drink driving laws and help drink drivers to manage their behaviour more effectively.

Licence suspension

242. Immediate licence suspension occurs when the driver loses their right to drive immediately after allegedly committing an offence. In Queensland, if a person tests positive to a BAC of 0.05 per cent or more, or fails to provide a specimen for testing, police officers may suspend the person's driver licence for 24 hours. Recent legislative amendments mean that there is an immediate suspension of a driver's licence until a court hearing for repeat drink drivers and those with a high range (0.15 or over) BAC. The committee supports immediate licence suspension until the court hearing for repeat drink drivers.

Restricted licence

243. Disqualifying a person's licence may create social problems such as loss of income and family breakdown. In these types of situations, a restricted licence may minimise hardship while still penalising the offender. In Queensland, an offender may make an application for a restricted licence at the time the offence is heard in court. The offender is eligible for a restricted licence only for a first offence and if their BAC was below 0.15. They must also have had a valid drivers licence at the time of the offence. The magistrate may also consider hardship reasons in making the decision to grant a restricted licence. This type of licence has strict conditions such as time and purpose of driving limits placed on their use. The committee believes that restricted licences have an important role to play in ensuring that there is balance between punishing drink drivers and other social justice considerations such as maintaining employment.

Compulsory licence carriage

244. The primary aim of compulsory licence carriage is to reduce the amount of unlicensed driving. Individuals who continue to drive after they have been convicted of drink driving and had their licence disqualified are driving unlicensed. This may undermine the effectiveness of licence disqualification as a punishment. Although 56 per cent of Queenslanders believe that all Queensland drivers must carry their

drivers' licences with them while driving, this is not compulsory in Queensland. The committee believes that compulsory carriage of driver licences by all drivers is an important tool in helping to detect unlicensed drivers and will also help in policing the lower BAC limits for certain driver groups such as learner and provisional licence holders. For this reason, the committee recommends the introduction of compulsory licence carriage in Queensland.

Fines

245. Fines are used frequently in conjunction with licence sanctions to penalise drink drivers. Fines not only punish drink drivers but help fund other initiatives including enforcement, rehabilitation and public education, to reduce drink driving. The committee supports this approach.

Rehabilitation programs

246. Research suggests that rehabilitation programs reduce repeat drink driving offences and alcohol related crashes by approximately seven to nine per cent. CARRS-Q currently have a program, *Under the Limit*, while the Alcohol and Drug Foundation has an alternative program, *Driving with Care*, although it has not yet been delivered in Queensland. It is also possible to deliver rehabilitation programs via distance education enabling individuals in rural and remote locations to access them.
247. There may be benefits in providing a brief intervention for first time offenders to signal that they need to change their behaviour. The committee supports the introduction of a brief intervention for first time offenders as well as rehabilitation programs for all individuals who are convicted of a second or subsequent drink driving offence. These programs should focus on the drinking itself as well as separating the drinking and driving behaviours. The committee believes that these programs can be funded by the individuals attending them with an equivalent reduction in their fines.

VEHICLE SANCTIONS

248. Vehicle sanctions are another set of countermeasures that specifically targets the drink driving offender rather than the general population. These sanctions include vehicle immobilisation, impoundment and confiscation, licence plate confiscation and special vehicle plates, cancelling the offender's registration and alcohol ignition interlocks.

Vehicle impoundment and forfeiture

249. Vehicle impoundment is the removal of an offender's vehicle to a storage facility for a specified period. Generally, vehicles are confiscated for increasing time periods until it is eventually forfeited. Forfeiture occurs when the vehicle is removed permanently. Research indicates that vehicle impoundment reduces recidivism rates for drink drivers.
250. In Queensland, police officers have the power to impound vehicles for certain offences including a speed trial or street racing. Police are able to impound the vehicle for 48 hours for the first offence, apply to a magistrate to impound the vehicle for up to three months for the second offence and apply to a magistrate to have the vehicle impounded for a third offence. However, they are unable to impound the vehicles of drink drivers. In their submission the QPS state that this ability to impound vehicles has effectively deterred drivers from committing offences such as speed trials.
251. In February 2006, the Premier announced that the Queensland Government would introduce legislation to impound the vehicles of a range of offenders including repeat drink, disqualified and unlicensed drivers as well as those who drive unregistered vehicles. The committee supports the decision to introduce vehicle impoundment for repeat drink drivers. The committee believes this is an appropriate sanction for individuals who commit a drink driving offence. The committee further believes that all repeat drink drivers should have their vehicles impounded for 48 hours at the roadside and that the cost for this impoundment should be borne by the offender. If an individual commits a third drink driving offence, the committee concludes that the QPS should be able to apply to a court to have the vehicle impounded for three months.
252. The committee believes that it is appropriate to allow owners of vehicles to appeal the impoundment if they were unaware of could not stop the person driving the vehicle. The committee also believes that commercial vehicles should not be exempt from vehicle impoundment. They also recommend that Queensland Transport establish a service that enables employers to check the licence statues of employees who utilise company vehicles with the permission of the employee.

Ignition key confiscation

253. Ignition key confiscation is a penalty that occurs when the key that operates a vehicle is removed from the driver with the aim of preventing an impaired person from driving and crashing. The effectiveness of this countermeasures is unknown as there have been no evaluations conducted to date. Although police officers in several Australian states have the right to use key confiscation, advice suggests that its use is limited. For this reasons, the committee does not believe that it is appropriate to introduce ignition key confiscation as a drink driving countermeasure.

Vehicle immobilisation

254. Vehicle immobilisation occurs when an offender's vehicle is stored on or adjacent to the offenders property. The immobilisation is achieved by applying a number of devices such as anti-theft steering wheel locks or tyre boot immobilising devices. Vehicle immobilisation may be impractical and difficult to administer, unfair to the offender's family and have limited impact. For this reason, the committee does not support its use in Queensland.

Registration cancellation

255. Registration cancellation occurs when the registration of a vehicle is cancelled for the same period as the driver's licence is suspended. It does not normally occur when more than one person owns, or a spouse also uses, the vehicle. Registration cancellation appears to have a limited effect on drink drivers as the authorities are generally unable to collect the registration sticker. Therefore, many offenders continue to use the vehicle. The committee notes that registration cancellation is not the most effective countermeasure and does not support its introduction in Queensland at this time.

Special vehicle plates and vehicle impoundments

256. Special vehicle plates can be used to help police identify vehicles of interest with greater ease. It is generally used to identify the vehicles that a disqualified or suspended driver is likely to drive. Research suggests that licence plate sanctions reduce offences for certain types of offenders, although vehicle impoundment appears more effective. Therefore, the committee does not believe that it is appropriate to introduce vehicle plate sanctions at the current time.

Alcohol ignition interlocks

257. Alcohol ignition interlocks are devices that can reliably identify people who are over the legal alcohol limit and prevent them from operating the motor vehicle in which it is installed. Alcohol ignition interlocks can be combined with rehabilitation and other sanctions. There is flexibility with the parameters that can be set for these devices. For instance, they can be set at 0.05 BAC for open licence holders or at zero BAC for provisional licence holders.
258. Evaluations of alcohol ignition interlock programs suggest that they reduce recidivism rates by drink drivers by up to 60 per cent. They may be more effective when combined with other countermeasures such as rehabilitation or other sanctions.
259. Three Australian jurisdictions operate interlock programs, SA, Victoria and NSW. Within each of these states all programs have a limit of zero or near zero (0.02) BAC limits and are monitored by the relevant transport authority in each state. Each program is operated on a user pays bases with some support for lower income earners. Approximately 25 per cent of the participants on the Victorian program are subsidised.

All Australian programs require that individuals who participate in an alcohol ignition interlock program also participate in a rehabilitation or education program.

260. Alcohol ignition interlocks have been trialled in Queensland. Participants in the trial were divided into two groups. Both groups completed a rehabilitation program but only one group had alcohol ignition interlocks installed. The researchers concluded that ignition interlocks have the capacity to reduce drink driving recidivism.
261. The Premier announced in early 2006, after the Road Safety Summit, that all individuals returning to driving after their second drink driving offence over 0.15 BAC would have to fit an alcohol ignition interlock. The committee believes that alcohol ignition interlocks have an important role to play in punishing and supporting the rehabilitation of repeat drink drivers. The committee believes that the minimum period that the interlocks should remain fitted to the vehicle depends on the severity of the offence and their removal depends on the individuals operating the vehicle for six months without being locked out. Requiring offenders to not be locked out for a minimum period should help encourage the offender to change their drinking and driving behaviours. The committee suggests that all individuals on a restricted licence have an alcohol ignition interlock fitted.
262. The committee believes that alcohol ignition interlocks should be used as part of a wider program that includes rehabilitation. No alcohol ignition interlock should be fitted to a drink driving offender's vehicle as a punishment or rehabilitation tool unless it is part of a wider program to assist the offender. The committee also considered the social justice implications of requiring all drivers to fit an alcohol ignition interlock when returning to driving. Some individuals on lower incomes may find it difficult to pay for the interlocks and associated support programs. Therefore, the committee recommends that Queensland Transport investigate how to support these individuals. Options include averaging the cost of the program across all participants so that those with higher incomes subsidise the cost for those with lower incomes, offering repayment plans so the cost may be paid over time and reducing the drink driving fine by the cost of the ignition interlock and rehabilitation program.

FURTHER RESEARCH AND IMPLEMENTATION OF RECOMMENDATIONS

263. The committee suggest that there is a need for further research regarding the effectiveness of restricted licences and whether issuing these types of licences reduces the deterrent effect of the punishment on the driving population as a whole. Further research would enable the identification of the effectiveness of including an alcohol ignition interlock as a requirement of being granted a restricted licence.

264. The committee believes that it is essential for Queensland Transport to evaluate the effectiveness of the countermeasures recommended in this report. This includes evaluating the impact of vehicle impoundment and the rehabilitation programs (including the short intervention). These evaluations should consider both the process (how the intervention is implemented and managed) and outcomes (whether there is an impact on the incidence of injuries and deaths) of the countermeasures.
265. The committee acknowledges community concern regarding the implementation of recommendations. To support the implementation process, the committee recommends that Ministers report annually to Parliament on the implementation of supported or partially supported recommendations.

APPENDIX A ~ ADVERTISEMENT CALLING FOR SUBMISSIONS



Inquiry into vehicle impoundment for drink drivers

Call for submissions

The Travelsafe Committee of the 51st Parliament is inquiring into vehicle impoundment for drink drivers. In this inquiry, the committee will examine 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.

The committee will accept written submissions or electronic submissions lodged via the committee's website at www.parliament.qld.gov.au/tsafe Written submissions should be sent to:

*The Research Director
Travelsafe Committee
Parliament House
BRISBANE QLD 4000*

Submissions close on 13 February 2006.

Guidelines on making submissions and copies of the committee's issues paper are available from the committee's secretariat in Brisbane (ph 3406 7908) and from the committee's website at www.parliament.qld.gov.au/tsafe

Jim Pearce MP

Chairman

APPENDIX B ~ LIST OF SUBMISSIONS

Sub no:	Submission from:
1	Mr B Mackenzie
2	Mr M Clayden, Chief Executive Officer, Doomadgee Aboriginal Shire Council
3	Ms R May
4	Mr R Jarvis
5	Mr G Kanofski, Chief Executive Officer, Calliope Shire Council
6	Mr S Mason
7	Confidential
8	Mr B Sue, A/Director, Infrastructure Services, The City of Thuringowa
9	Ms H Stallman
10	Mr G Peet
11	Mr D Westlake
12	Mr O Mckay
13	Ms V Alsop
14	Mr M Prior
15	Ms E Dyer
16	Mr M Edwards
17	Mr P Bond
18	Ms S Blair
19	Mr G Chamberlin
20	Mr J Osman
21	Ms A Smith
22	Ms M Coghlan
23	Mr J P Purcell
24	Superintendent P Keogh, Traffic Support Division, Victoria Police
25	R Turner, Secretary, Kingaroy Community/Police Consultative Committee
26	Mr M Elliott
27	Ms P Cook
28	Mr M Saul
29	Mr J Fraser

Sub no:	Submission from:
30	Mr J Barnewall, Chief Executive Officer, Commerce Queensland
31	Mr G Fites, General Manager External Relations, Traffic and Safety Department, The Royal Automobile Club of Queensland Limited
32	Mr J Fox
33	Mr R Davis, President, Queensland Law Society
34	Mr O Cornes
35	Mr B Dawson
36	Mr I Cameron, Executive Director, Office of Road Safety, Western Australia
37	Dr S Hambleton, President, AMA Queensland
38	Mr J Hodgins, Chief Executive Officer, Legal Aid Queensland
39	Mrs D Sharp
40	Mr K Weisz
41	Ms K Cork
42	Ms G Negri, Principal Solicitor, Cairns Community Legal Centre Inc
43	Mr D Dowling
44	Hon P Lucas MP, Minister for Transport and Main Roads (Queensland Transport)
45	Mr R Drummond, General Manager, Member Services and Manager for Queensland, Insurance Council of Australia Limited
46	Dr B Watson and Ms A Nielson, Centre for Accident Research and Road Safety – Queensland
47	Hon J Spence MP, Minister for Police and Corrective Services (Queensland Police Service)

APPENDIX C ~ PUBLIC HEARING WITNESSES

Queensland Transport

Mr Mike Stapleton, Acting Executive Director, Land Transport and Safety
Mr Gary Mahon, Acting Executive Director, Corporate Governance

CARRS-Q & Alcohol And Drug Foundation

Mr Mitchell Giles, Chief Executive Officer, Alcohol and Drug Foundation
Professor Mary Sheehan, Director, CARRS-Q
Dr Barry Watson, CARRS-Q
Dr James Freeman, CARRS-Q

RACQ and Commerce Queensland

Mr John Wikman, Executive Manager, Traffic and Safety Department, RACQ
Mr Joel Tucker, Research Advisor, Transport and Road Safety, RACQ
Mr Paul Bidwell, General Manager, Commerce Queensland

Motor Accidents Insurance Commission

Ms Kim Birch, General Manager, CTP
Mr David Vincent, Senior Performance Analyst

Queensland Police Service

Chief Superintendent Kerry Dunn, State Traffic Support Branch
Senior Sergeant Peter Carmichael, Breath Analysis State Support,
State Traffic Support Branch
Ms Lisa-Marie Folkman, Research Officer, Road Safety Strategic Development &
Intelligence Unit, State Traffic Support Branch

APPENDIX D ~ ADVERTISEMENT FOR PUBLIC HEARING

**Travelsafe Committee
Notice of Public Hearing**

**Drink Drivers And
Vehicle Impoundment**

The Travelsafe Committee invites members of the public to attend a public hearing as an observer:

Date: Friday, 31 March 2006

Time: 10.00am - 1.00pm

Venue: Legislative Council Chamber,
Parliament House
Corner George and Alice Streets, Brisbane

The hearing is for the committee's current inquiry. The hearing program and public submissions for this inquiry are available for viewing on the committee's website: <http://www.parliament.qld.gov.au/TSAFE>

RSVP: To reserve your seat and arrange parking, please call the secretariat on 3406 7908 or email: tsafe@parliament.qld.gov.au.

TMP D010108

APPENDIX E ~ S.107 OF THE *PARLIAMENT OF QUEENSLAND ACT* *2001*

107. Ministerial response to committee report

- 1) This section applies if -
 - (a) a report of a committee, other than the Scrutiny of Legislation Committee, recommends the government or a Minister should take particular action, or not take particular action, about an issue; or
 - (b) a report of the Members' Ethics and Parliamentary Privileges Committee recommends a motion be moved in the Assembly to implement a recommendation of the committee.
- 2) The following Minister must provide the Assembly with a response -
 - (a) for a report mentioned in subsection (1)(a) - the Minister who is responsible for the issue the subject of the report;
 - (b) for a report mentioned in subsection (1)(b) - the Premier or a Minister nominated by the Premier.
- 3) The response must set out -
 - (a) any recommendations to be adopted, and the way and time within which they will be carried out; and
 - (b) any recommendations not to be adopted and the reasons for not adopting them.
- 4) The Minister must table the response within 3 months after the report is tabled.
- 5) If a Minister cannot comply with subsection (4), the Minister must—
 - (a) within 3 months after the report is tabled, table an interim response and the Minister's reasons for not complying within 3 months; and
 - (b) within 6 months after the report is tabled, table the response.
- 6) If the Assembly is not sitting, the Minister must give the response, or interim response and reasons, to the Clerk.
- 7) The response, or interim response and reasons, is taken to have been tabled on the day they are received by the Clerk.
- 8) The receipt of the response, or interim response and reasons, by the Clerk, and the day of the receipt, must be recorded in the Assembly's Votes and Proceedings for the next sitting day after the day of receipt.
- 9) The response, or interim response and reasons, is a response, or interim response and reasons, tabled in the Assembly.
- 10) Subsection (1) does not prevent a Minister providing a response to a recommendation in a report of the Scrutiny of Legislation Committee if it is practicable for the Minister to provide the response having regard to the nature of the recommendation and the time when the report is made.

Example -

If the committee recommends that a Bill be amended because, in the committee's opinion, it does not have sufficient regard to fundamental legislative principles and the Bill has not been passed

by the Assembly, it may be practicable for the Minister to provide a response.

- 11)** Subsection (6) does not limit the Assembly's power by resolution or order to provide for the tabling of a response, or interim response and reasons, when the Assembly is not sitting.
- 12)** This section does not apply to an annual report of a committee.

APPENDIX F – SS. 79- 80 *TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995*

79. Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath

- 1) Any person who whilst under the influence of liquor or a drug—
- (a) drives a motor vehicle, tram, train or vessel; or
 - (a) attempts to put in motion a motor vehicle, tram, train or vessel; or
 - (b) is in charge of a motor vehicle, tram, train or vessel;
- is guilty of an offence and liable to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.
- 1A) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted under that subsection, the person is liable in respect of that offence to a maximum penalty of 60 penalty units or 18 months imprisonment.
- 1B) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender or has been summarily convicted of an offence against any provision of the Criminal Code, section 328A, the offender is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.
- 1C) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted—
- (a) under subsection (1); or
 - (b) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
 - (c) summarily of an offence against any provision of the Criminal Code, section 328A; or has been previously convicted—
 - (d) under subsection (1) and upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
 - (e) under subsection (1) and summarily of an offence against any provision of the Criminal Code, section 328A; or
 - (f) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender and summarily of an offence against any provision of the Criminal Code, section 328A;
- the justices shall in respect of that offence impose, as the whole or part of the punishment, imprisonment.
- 1D) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted of an offence under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.
- 1E) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted of an offence

under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.

2) Any person who, while the person is over the general alcohol limit but is not over the high alcohol limit—

- (a) drives a motor vehicle, tram, train or vessel; or
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

2A) Any person who has not attained the age of 25 years, who is the holder of a learner, probationary or provisional licence or is not the holder of a driver licence, and who, while the person is over the no alcohol limit but is not over the general alcohol limit—

- (a) drives a motor vehicle (other than a motor vehicle to which subsection (2B) applies); or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

2B) Any person who, while the person is over the no alcohol limit but is not over the general alcohol limit—

- (a) drives a motor vehicle to which this subsection applies; or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

2C) Subsection (2B) applies to the following motor vehicles—

- (a) a truck, a bus, an articulated motor vehicle, a B-double, a road train;
- (b) a vehicle carrying a placard load of dangerous goods;
- (c) a tow truck which is licensed or should be licensed under the Tow Truck Act 1973 while it operates as a tow truck under that Act;
- (d) a pilot or escort vehicle that is escorting an oversize vehicle;
- (e) a vehicle that has, or is required to have, a taxi service licence or limousine licence under the Transport Operations (Passenger Transport) Act 1994;
- (f) a vehicle while it is being used by a driver trainer to give driver training.

2D) Any person who, while the person is over the no alcohol limit but is not over the general alcohol limit—

- (a) drives a tram, a train or a vessel to which this subsection applies; or
- (b) attempts to put in motion a tram, a train or a vessel to which this subsection applies; or
- (c) is in charge of a tram, a train or a vessel to which this subsection applies;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

2E) Vessels to which subsection (2D) apply are air cushion vehicles and class I passenger vessels (not including 'Hire and Drive' Vessels) as defined in section 1, part 3, clause 6.1 of the Uniform Shipping Laws Code.

2F) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under subsection (2), (2A), (2B), (2D) or (2J), the person is liable in

respect of that offence to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months.

2G) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been twice previously convicted under subsections (2), (2A), (2B), (2D) or (2J), the person is liable in respect of that offence to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.

2H) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or has been summarily convicted of an offence against any provision of the Criminal Code, section 328A or has been previously convicted under subsection (1), the person is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

2I) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under those subsections and—

- (a) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (b) has been summarily convicted of an offence against any provision of the Criminal Code, section 328A; or
- (c) has been previously convicted under subsection (1);

the person is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.

2J) A person who is the holder of a restricted licence, while the person is over the no alcohol limit but is not over the general alcohol limit, must not—

- (a) drive a motor vehicle; or
- (b) attempt to put a motor vehicle in motion; or
- (c) be in charge of a motor vehicle.

Maximum penalty—20 penalty units or 6 months imprisonment.

3) Where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied that at the material time the defendant was over the high alcohol limit, the defendant shall be conclusively presumed to have been at that time under the influence of liquor.

4) Subject to subsection (3), where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied—

- (a) as to all the elements of the offence charged other than the element of the defendant's being under the influence of liquor or a drug at the material time; and
- (b) that at the material time the defendant was over the general alcohol limit or that at the material time the defendant was a person to whom subsection (2A), (2B), (2D) or (2J) referred and the defendant was over the no alcohol limit;

the court shall convict the defendant of the offence under subsection (2), (2A), (2B), (2D) or (2J) that is established by the evidence.

4A) Where in the circumstances provided for in subsection (4), the court is satisfied that an offence under subsection (2) and an offence under subsection (2A), (2B), (2D) or (2J) are both established by the evidence, the court shall convict the defendant of the offence under subsection (2).

6) Where upon the hearing of a complaint of an offence against subsection (1)(c), (2)(c), (2A)(c), (2B)(c) or (2J)(c) in respect of a motor vehicle the court is

satisfied beyond reasonable doubt by evidence on oath that at the material time—

- (a) the defendant—
 - i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or
 - ii) not being in that motor vehicle, by some action; had manifested an intention of refraining from driving that motor vehicle whilst the defendant was under the influence of liquor or a drug or, as the case may be, while the defendant was over the general alcohol limit or, if at the material time the defendant was a person to whom subsection (2A), (2B) or (2J) referred, the defendant was over the no alcohol limit; and
- (b) the defendant—
 - i) was not under the influence of liquor or a drug to such an extent; or, as the case may be,
 - ii) was not, as indicated by the concentration of alcohol in the defendant's blood or breath, influenced by alcohol to such an extent; as to be incapable of understanding what the defendant was doing or as to be incapable of forming the intention referred to in paragraph (a); and
- (c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and
- (d) the defendant had not previously been convicted of an offence under subsection (1), (2), (2A), (2B), (2D) or (2J) within a period of 1 year prior to the date in respect of which the defendant is charged;

the court shall not convict the defendant of the offence charged.

- 7)** Any person who whilst under the influence of liquor or a drug drives or is in charge of any horse or other animal on a road, or drives or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

Maximum penalty for subsection (7)—40 penalty units or 9 months imprisonment.

- 8)** A complaint for an offence against any provision of subsection (1) or (7) shall not be bad for uncertainty or duplicity by reason that it charges the alleged offender with being under the influence of 'liquor or a drug'.

- 8A)** If upon the hearing of such a complaint the evidence led and admitted (including evidence (if any) for the defence) establishes—

- (a) that the person so charged was under an influence which was that of liquor or a drug, or both liquor and a drug; and
- (b) all other elements of the offence;

the person shall be convicted of the offence notwithstanding that the particular such influence is not established by the evidence.

- 9)** Where a person charged with an offence against any provision of subsection (1), (2), (2A), (2B), (2D) or (2J) in relation to a motor vehicle does not appear personally before a Magistrates Court at any time and place when and where the person is required to appear, the court shall then and there order that any and every Queensland driver licence held by the person be from that time suspended until the time when the charge is heard and determined or otherwise disposed of.

- 9A)** Subsection (9) applies subject to subsection (10).

- 10)** A Magistrates Court has and may exercise a discretion not to make an order pursuant to subsection (9) where it is satisfied on medical or other evidence

placed before the court that the person's failure to appear before it was occasioned by any medical or other circumstance rendering the person physically incapable of appearing before the court.

10A) In subsection (10)—

medical or other evidence placed before the court means—

- (a) the oral testimony of at least 1 doctor adduced before the court; or
- (b) at least 1 certificate placed before the court purporting to be a medical certificate by a doctor; or
- (c) both such testimony and certificate; or
- (d) such other evidence as is considered by the court to be sufficient in the circumstances to satisfy the court that the person was physically incapable of appearing before the court.

11) Subsections (1) to (2J) apply to and with respect to any person—

- (a) who is in charge of a motor vehicle on a road or elsewhere; or
- (b) who drives a motor vehicle on a road or elsewhere; or
- (c) who on a road or elsewhere attempts to put a motor vehicle in motion; or
- (d) who drives or is in charge of or attempts to put in motion a tram or train on a road or elsewhere; or
- (e) who drives or is in charge of or attempts to put in motion a vessel that is being used, or is apparently about to be used, in navigation.

12) The Criminal Code, section 24 does not apply to an offence under this section.

79A When is a person over the limit

1) For this Act, a person is over the no alcohol limit if—

- (a) the concentration of alcohol in the person's blood is more than 0mg of alcohol in 100mL of blood; or
- (b) the concentration of alcohol in the person's breath is more than 0g of alcohol in 210L of breath.

2) For this Act, a person is over the general alcohol limit if—

- (a) the concentration of alcohol in the person's blood is, or is more than, 50mg of alcohol in 100mL of blood; or
- (b) the concentration of alcohol in the person's breath is, or is more than, 0.050g of alcohol in 210L of breath.

3) For this Act, a person is over the high alcohol limit if—

- (a) the concentration of alcohol in the person's blood is, or is more than, 150mg of alcohol in 100mL of blood; or
- (b) the concentration of alcohol in the person's breath is, or is more than, 0.150g of alcohol in 210L of breath.

4) For this Act—

- (a) the concentration of alcohol in a person's blood may be expressed as—
 - i) a specified number of milligrams of alcohol in 100mL of blood; or
 - ii) a percentage that expresses the specified number of milligrams of alcohol in 100mL of blood; and
- (b) the concentration of alcohol in a person's breath may be expressed as—
 - i) (i) a specified number of grams of alcohol in 210L of breath; or
 - ii) (ii) a specified number of grams in 210L.

Examples for subsection (4)—

1 The concentration of alcohol in a person's blood may be expressed as 63mg of alcohol in 100mL of blood or as 0.063%.

2 The concentration of alcohol in a person's breath may be expressed as 0.063g of alcohol in 210L of breath or as 0.063g/210L.

80 Provisions with respect to breath tests and laboratory tests**1)** In this section—

authorised police officer means any police officer authorized by the commissioner pursuant to subsection (8G) to operate a breath analysing instrument.

breath analysing instrument means an instrument—

- (a) for finding out the concentration of alcohol in—
 - i) a person's blood by analysing a specimen of the person's breath; or
 - ii) a person's breath by analysing a specimen of the person's breath;and
- (b) approved under a regulation.

breath test means a test to obtain an indication of the concentration of alcohol in a person's breath using a device approved under a regulation.

health care professional means—

- (c) a doctor; or
- (d) a nurse; or
- (e) a qualified assistant.

nurse means a person registered under the Nursing Act 1992 as a registered nurse.

qualified assistant means a person whose duties include the taking of blood.

suspend, in relation to a driver licence issued outside Queensland, includes suspend the authority to drive on a Queensland road under the licence.

1A) If a person is required under this section to provide a specimen of breath for a breath test or analysis or a specimen of blood for a laboratory test, the person is taken not to have provided the specimen unless it—

- (a) is sufficient to enable the test or the analysis to be carried out; and
- (b) is provided in a way that enables the objective of the test or analysis to be satisfactorily achieved.

2) A police officer may require any person found by the officer or who the officer suspects on reasonable grounds was during the last preceding 2 hours—

- (c) driving a motor vehicle, tram or train on a road or elsewhere; or
- (d) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere; or
- (e) in charge of a motor vehicle, tram or train on a road or elsewhere; or
- (f) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation;

to provide a specimen of breath for a breath test by the person.

2A) Where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property a police officer may require any person who the officer suspects on reasonable grounds—

- (a) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere; or
- (b) was in charge of the motor vehicle, tram or train on a road or elsewhere; or
- (c) was driving or in charge of or attempting to drive the vessel;

at the time of the incident to provide a specimen of breath for a breath test by the person.

2B) Subsection (2C) applies if—

- (a) a police officer requires a person to provide a specimen of breath for a breath test by the person under subsection (2) or (2A); and
 - (b) the person—
 - i) is taken not to have provided the specimen of breath under subsection (1A); or
 - ii) provides the specimen of breath; but—
 - (A) the device used for the test is or becomes defective precluding its satisfactory operation; or
 - (B) for any reason it is not possible to use or continue using the device to conduct the breath test; or
 - (C) for any other reason it is not possible to complete the breath test.
- 2C)** Under subsection (2) or (2A), the police officer may require the person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the breath test.
- 3)** A police officer who is exercising a power conferred on the officer by subsection (2) or (2A) may require the person in question to provide the specimen of breath—
 - (a) at the time when and the place where the officer makes the requirement including at any police station where the person may then be; or
 - (b) at the police station nearest to that place or at some other police station conveniently located as soon as practicable after the police officer makes the requirement if the police officer believes on reasonable grounds that it is reasonable for such person to be taken to a police station for the purpose, having regard to the circumstances of the case; or
 - (c) without limiting paragraph (b), as soon as practicable after the police officer makes the requirement, at a place at which the police officer believes on reasonable grounds there is located a device approved by the Minister pursuant to this section for carrying out breath tests, if the officer does not have such a device with him or her.
- 4)** A requirement shall not be made under subsection (2) or (2A) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised by that subsection to make the requirement.
- 5)** If a person required by a police officer under subsection (2) or (2A) to provide at a police station or other place a specimen of breath for a breath test by the person fails to go voluntarily to the police station or other place for that purpose any police officer, using such force as is necessary, may take the person to the police station or, as the case may be, other place for that purpose.
- 5A)** Subject to subsection (5B), if a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person, either—
 - (a) fails to provide the specimen; or
 - (b) fails to provide the specimen in the manner directed by the police officer who makes the requirement;the person commits an offence against this Act.

Maximum penalty—40 penalty units or 6 months imprisonment.
- 5B)** A person referred to in subsection (5A) is not guilty of an offence pursuant to that subsection if—
 - (a) immediately after the requirement is made, the person produces to the police officer a certificate in the approved form from a doctor stating that—

- i) because of a stated illness or disability, the person is incapable of providing a specimen of breath; or
 - ii) the provision of the specimen could adversely affect the person's health; or
 - (b) the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.
- 6) If—
 - (a) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the person is over the general alcohol limit; or
 - (aa) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the person is over the no alcohol limit and the police officer suspects on reasonable grounds that the person is a person to whom section 79(2A), (2B), (2D) or (2J) refers; or
 - (b) a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person—
 - i) fails to provide the specimen; or
 - ii) fails to provide the specimen in the manner directed by the police officer who makes the requirement; or
 - iii) declines to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily; or
 - (ba) a police officer reasonably suspects that a person who produces a certificate under subsection (5B)(a) is, because of the external signs exhibited by the person, affected by liquor or a drug;
 any police officer, using such force as is necessary, may—
 - (c) take the person to a police station, hospital or other place authorised under this section; or
 - (ca) take the person to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
 - (d) if the person is already at a police station—detain the person there or take the person—
 - i) to such other police station as is convenient and reasonable in the circumstances; or
 - ii) to a vehicle or vessel, such as is convenient and reasonable in the circumstances, where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
 - (e) if the person is already at a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath—detain the person there or take the person—
 - i) to another such vehicle or vessel as is convenient and reasonable in the circumstances; or
 - ii) to a police station such as is convenient and reasonable in the circumstances;
 for the purposes of subsections (8) to (8L).
- 8) Any person who—
 - (a) is arrested for an offence against section 79 or 83; or
 - (b) is arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any offence against any provision of the Criminal Code, section 328A); or

- (c) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, or detained at or taken to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath, or taken to a hospital or other place authorized under this section;

may, while at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid, be required by any police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.

- 8A)** A person to whom subsection (8) applies may be detained at a police station, vehicle, vessel, hospital or other place as aforesaid for the purposes of subsections (8) to (8L) by a police officer.
- 8B)** Any person referred to in subsection (8) may, for the purposes of subsections (8) to (8L), be taken—
 - (a) to a police station; or
 - (b) to a police station, vehicle or vessel where facilities are available for the analysis by a breath analyzing instrument of a specimen of breath; or
 - (c) to a hospital; or
 - (d) where there are reasonable grounds for believing that a doctor or nurse is available at any other place—to that place;

and such person may be taken to more than 1 of such places if the purposes of those subsections cannot be carried out or effected at a place to which the person has been first taken.

- 8C)** Where any person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person is at a hospital for treatment, that person may, subject to the approval of a doctor who is familiar with the person's injuries and apparent state of health at the time, be required by any police officer to provide at the hospital a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.
- 8D)** A requisition shall not be made under subsection (8C) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorized under subsection (2) or (2A) to require the person to provide a specimen of breath for a breath test by the person.
- 8E)** If a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis forthwith upon being so required produces to the police officer who made the requisition a doctor's certificate mentioned in subsection (5B)(a), such police officer shall not require a specimen of breath of such person but shall require a specimen of the person's blood.
- 8F)** A person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis shall do so, when directed by the doctor or authorised police officer operating or who is to operate the breath analyzing instrument, by placing the person's mouth over the mouthpiece of the instrument and blowing directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by the doctor or authorised police officer operating the instrument.
- 8G)** The commissioner may, by writing under the commissioner's hand, authorise any police officer to be an authorised police officer to operate a breath analysing instrument on being satisfied that such officer is competent to operate a breath analysing instrument.

- 8H)** An authorised police officer shall continue as such notwithstanding that the writing whereby the officer was made such has been lost, mislaid or destroyed or otherwise cannot be produced and there may be issued to the officer as prescribed by subsection (8G) a fresh instrument of authority which shall be deemed to have been effective on and from the date when the instrument that it replaces took effect.
- 8I)** A certificate purporting to be signed by the commissioner that the police officer named therein is authorised by the commissioner to operate a breath analysing instrument shall, in the absence of proof to the contrary, be proof that the officer named therein is so authorised.
- 8J)** The authorised police officer operating or who is to operate a breath analysing instrument in any particular case shall not be the police officer—
- (a) who has arrested the person concerned for an offence referred to in subsection (8); or
 - (b) who requires the person to provide the specimen of breath for a breath test or analysis.
- 8L)** Subsection (8M) applies if—
- (a) a person has been required to provide, under subsection (8) or (8C), a specimen of the person's breath for analysis by a breath analysing instrument or a specimen of the person's blood for a laboratory test; and
 - (b) the person—
 - i) is taken under subsection (1A) not to have provided the specimen of breath or a specimen of blood; or
 - ii) provides a specimen of breath for analysis by a breath analysing instrument; but—
 - (A) the breath analysing instrument is or becomes defective precluding its satisfactory operation to analyse the breath specimen; or
 - (B) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen; or
 - (C) the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
 - (D) for any other reason it is not possible to complete the analysis.
- 8M)** Under subsection (8) or (8C), the police officer is authorized to require the person to provide as many specimens of breath or blood as the officer considers reasonably necessary to carry out the analysis or test.
- 9)** Where a person—
- (a) is arrested for any offence referred to in subsection (8); or
 - (b) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, vehicle or vessel, or taken to a hospital or other place authorised under this section;

and whilst at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid is required by a police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument, the police officer making the requisition may—

- (c) if the police officer who arrested, detained or took as aforesaid the person believes on reasonable grounds that at the time of the arrest, detaining or taking the person exhibited external signs indicating that the person was affected by liquor or a drug; and
- (d) if the analysis by the breath analysing instrument of the specimen of breath provided in accordance with the requisition indicates either that there is no alcohol in the person's blood or breath or that the

concentration of alcohol in the person's blood or breath is such that it does not reasonably explain the external signs exhibited and observed;

require the person to provide a specimen of the person's blood for a laboratory test and, subject to the direction of a doctor or nurse, a specimen of the person's urine for a laboratory test.

- 9A)** The police officer making the requisition may detain the person at a police station, vehicle, vessel, hospital or other place authorised under this section for a period of time that is reasonable in the circumstances to enable a doctor to attend there in connection with the provision by the person of a specimen of blood or urine or, as the case requires, such police officer may take the person to a place where, in the reasonable belief of such officer, a doctor or nurse is available for the purposes of the provision by the person of a specimen of the person's blood.
- 9B)** A person who is required by a police officer, under this section, to provide a specimen of the person's blood for a laboratory test must allow a doctor or nurse, or a qualified assistant directed by a doctor or nurse to take the specimen, to take the specimen when and as directed by and to the satisfaction of the health care professional, the health care professional being hereby authorised to take such specimen whether or not the person consents to the taking.
- 9C)** A person who is required pursuant to subsection (9) to provide a specimen of the person's urine for a laboratory test shall do so when and as directed by a doctor or nurse.
- 10)** A police officer may require a doctor or nurse who is attending a person who is at a hospital for treatment to obtain a specimen of the person's blood for a laboratory test, if the person—
- (a) is a person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test; and
 - (b) is, or appears to be, unable to consent to the taking of the specimen of blood because the person is, or appears to be, unconscious or otherwise unable to communicate.
- 10A)** The doctor or nurse must—
- (a) take a specimen of the person's blood that will enable the laboratory test to be carried out; or
 - (b) ensure that a qualified assistant takes a specimen of the person's blood that will enable the laboratory test to be carried out.
- 10B)** A qualified assistant may take the specimen of the person's blood if directed to do so by the doctor or nurse.
- 10C)** The health care professional who takes the specimen of the person's blood under subsection (10A)(a) or (10B) must, immediately after taking the specimen, take another specimen of the person's blood and give it to the person as soon as practicable.
- 10D)** The doctor or nurse need not comply with subsection (10A) if the doctor or nurse—
- (a) reasonably believes that taking the specimen would be prejudicial to the person's treatment; or
 - (b) has another reasonable excuse.

Example—

A doctor or nurse would have a reasonable excuse if he or she was required to attend to a patient suffering a heart attack and was unable to take the specimen of blood when required.

- 10E)** A police officer must not make a requirement under subsection (10) relating to a person if—
- (a) under this section, the person has provided a specimen of breath (the analysis specimen) for analysis by a breath analysing instrument in relation to the occurrence or event in relation to which the police officer may require a specimen of breath for a breath test as mentioned in subsection (10)(a); and
 - (b) the analysis specimen has been analysed by a breath analysing instrument; and
 - (c) there is a certificate under subsection (15) for the analysis.
- 10F)** Subsections (10A) and (10C) do not create offences.
- 10G)** It is lawful for a health care professional to take a specimen of a person's blood under subsection (10A)(a), (10B) or (10C) even though the person has not consented to the taking.
- 11)** A person who, upon a requisition duly made by a police officer under subsection (8) or (8C), fails to provide as prescribed a specimen of the person's breath for analysis or, as the case may be, a specimen of the person's blood for a laboratory test or a person who, upon a requisition duly made by a police officer under subsection (9), fails to provide as prescribed a specimen of the person's blood for a laboratory test is guilty of an offence which shall be deemed to be an offence against the appropriate provision of section 79(1) and the offender is liable to the same punishment in all respects (including disqualification from holding or obtaining a Queensland driver licence) as the person would be in the case of the offence being actually one committed by the person against the provision.
- 11A)** A person referred to in subsection (11) is not guilty of an offence pursuant to that subsection if the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.
- 15)** As soon as practicable after a specimen of breath provided pursuant to a requisition has been analysed by means of a breath analysing instrument, the doctor or authorised police officer operating such instrument shall sign 2 copies of a certificate in writing stating the concentration of alcohol indicated by the analysis to be present in the blood or breath of the person whose breath has been analysed, the date and time at which the analysis was made, and shall deliver—
- (a) 1 copy of such certificate to the police officer who made the requisition; and
 - (b) the other copy to the person whose breath has been analysed (or to another person on behalf of that person upon request by that other person).
- 15A)** A copy of a certificate under subsection (15)—
- (a) is evidence that the instrument operated by the doctor or officer was a breath analysing instrument; and
 - (b) is evidence that the instrument was in proper working order and properly operated by the doctor or officer; and
 - (c) is evidence that all regulations relating to breath analysing instruments were complied with; and
 - (d) is presumed to have been given to the person whose breath was analysed, unless the contrary is proved.
- 15B)** Where a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis fails to do so as prescribed by that subsection, the doctor or authorised police officer operating or to operate the

breath analysing instrument shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—

- (a) the full name of the person concerned; and
 - (b) the name of the police officer who made the requisition; and
 - (c) the name of the operator of the breath analysing instrument; and
 - (d) the name and patent number or name and model number appearing on the breath analysing instrument; and
 - (e) that the person concerned failed to provide as prescribed by that subsection a specimen of breath when required;
- and shall deliver—
- (g) 1 copy of such certificate to the police officer who made the requisition; and
 - (h) the other copy to the person who failed to provide as prescribed the specimen of breath when required (or to another person on behalf of that person upon request by that other person).

15F) A certificate referred to in subsection (15B) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's breath for analysis was made to the person concerned by the police officer named therein as the police officer making the requisition; and
- (b) that the person concerned failed to provide as prescribed by subsections (8) to (8L) a specimen of breath when required; and
- (c) that an approved breath analysing instrument was available at the place where and at the time when the requisition was made for the purpose of analysing a specimen of breath provided in accordance with the requisition;

and until the contrary is proved shall be conclusive such evidence.

15G) Evidence by a doctor or an authorised police officer or by a copy of a certificate referred to in subsection (15) purporting to be signed by a doctor or an authorised police officer of the concentration of alcohol indicated to be present in the blood or breath of a person by a breath analysing instrument operated by such doctor or authorised police officer shall, subject to subsection (15H), be conclusive evidence of the concentration of alcohol present in the blood or breath of the person in question at the time (being in the case of such certificate the date and time stated therein) the breath of that person was analysed and at a material time in any proceedings if the analysis was made not more than 2 hours after such material time, and at all material times between those times.

15H) The defendant may negative such evidence as aforesaid if the defendant proves that at the time of the operation of the breath analysing instrument it was defective or was not properly operated.

16) As soon as practicable after a specimen of blood or urine has been obtained under this section, the police officer who required the specimen must deliver it, or arrange for it to be delivered on the police officer's behalf, to the laboratory of an analyst.

16A) The specimen must be delivered to the analyst's laboratory in the way prescribed by regulation.

16B) A certificate purporting to be signed by an analyst and stating—

- (a) that there was received at the laboratory of the analyst from the police officer named in the certificate a specimen of the blood of the person named in the certificate provided by that person on the date and at the place and time stated in the certificate; and
- (b) that the analyst made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (c) that—

- i) the concentration of alcohol in the person's blood indicated by the laboratory test was a specified number of milligrams of alcohol in the blood per 100mL of blood; or
- ii) a specified drug or metabolite of a specified drug was indicated by the laboratory test to be present in the person's blood;

shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

16C) Where a person who is required pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to do so as prescribed by the subsection under which the requisition is made, the health care professional by whom the specimen is to be taken shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—

- (a) the full name of the person concerned; and
- (b) the name of the police officer who made the requisition; and
- (c) that the person concerned failed to provide a specimen of blood when required;

and shall deliver—

- (e) 1 copy of such certificate to the police officer who made the requisition; and
- (f) the other copy to the person who failed to provide the specimen of blood when required (or to another person on behalf of that person upon request by that other person).

16E) A certificate referred to in subsection (16C) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's blood for a laboratory test was made to the person concerned by the police officer named therein as the police officer making the requisition; and
- (b) that the person concerned failed to provide as prescribed by the subsection under which the requisition was made a specimen of the person's blood when required;

and until the contrary is proved shall be conclusive such evidence.

16F) Evidence by an analyst or by a certificate referred to in subsection (16B) of the concentration of alcohol indicated to be present in, or of the drug or metabolite of the drug indicated to be present in, the blood of a person by a laboratory test of a specimen of the blood of that person shall, subject to subsection (16G), be conclusive evidence of the presence of the concentration of alcohol in, or the drug or the metabolite of the drug in, the blood of that person at the time (being in the case of such certificate the date and time stated therein) when the person provided the specimen and at a material time in any proceedings if the specimen was provided not more than 2 hours after such material time, and at all material times between those times.

16G) The defendant may negative such evidence as aforesaid if the defendant proves that the result of the laboratory test of that specimen of blood was not a correct result.

16H) The court shall on the application of the complainant adjourn the hearing as necessary to enable the production in evidence of the certificate of the analyst and if within 3 days after providing the specimen the defendant has given to the police officer in charge of the police station at which or nearest to the hospital or other place where the specimen of blood for the laboratory test was provided a notice in writing that the defendant requires a copy of the certificate to be given to the defendant at the address stated in the notice shall, at the request of the defendant, adjourn the hearing as necessary to ensure that such copy has been given to the defendant at such address not less than 3 days before the production of the certificate in evidence.

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- 16I)** Such copy may be given either personally or by sending it by registered post or certified mail.
- 16J)** The person who gives the copy (whether personally or by sending it by registered post or certified mail) may attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth where the person gives the copy and depose on oath and in writing endorsed on a copy of the certificate to the giving thereof.
- 16K)** Such deposition shall, upon production to the court, be evidence of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.
- 16L)** Nothing contained in subsections (16H) to (16K) precludes the court in its discretion from dealing with a charge of an offence against section 79(1) on the application of the defendant notwithstanding that at that time the result of the laboratory test of the specimen of the blood of the defendant is not known if—
- (a) the defendant pleads guilty to the offence; and
 - (b) the court is satisfied that the facts available to be put forward by the prosecution, and unchallenged by the defendant, are sufficient to enable it to deal properly with the matter.
- 18)** A certificate purporting to be signed by a health care professional that on a date and at a place and time stated therein the health care professional took a specimen of blood for a laboratory test of a person named therein shall, upon its production in any proceeding, be accepted as evidence of those matters and until the contrary is proved shall be conclusive such evidence.
- 18A)** Where by any provision of this section a certificate of or purporting to be signed by a health care professional, an authorised police officer or an analyst is made evidence of any matter, a certificate purporting to be signed by a health care professional, an authorised police officer or an analyst, as the case may be, as to that matter shall, upon its production in any proceeding, be accepted as evidence—
- (a) that the signature thereto is that of the person by whom the certificate purports to be made; and
 - (b) of all matters contained therein including the status, authority or qualification of the person by whom the certificate purports to be made;
- and until the contrary is proved shall be conclusive such evidence.
- 19)** If a police officer delivers a specimen of blood, or arranges for a specimen of blood to be delivered on the officer's behalf, to an analyst's laboratory in a way prescribed by regulation, in any proceeding—
- (a) evidence of that fact given by the officer and any person who delivered the specimen on the officer's behalf; and
 - (b) a certificate, produced in evidence, purporting to be signed by the analyst certifying that the specimen of blood was received at the analyst's laboratory from the officer;
- is sufficient evidence of compliance with subsection (16A).
- 20)** A person who, being thereunto required pursuant to subsection (8), (8C) or (9), has provided a specimen of blood for a laboratory test may when the person provides the specimen or immediately after providing it and where the person provides it (or another person on behalf of that person may when or immediately after the person provides the specimen and where the person provides it) request the health care professional who took the specimen to give to the person a specimen of the person's blood.
- 20A)** Upon such request, subject to the person concerned then and there providing a second specimen of blood, the health care professional must give such

second specimen to such person or to the person requesting it on the person's behalf.

22) Subsection (22AA) applies if—

- (a) the analysis by means of a breath analysing instrument of a specimen of breath of a person required by a police officer to be provided pursuant to subsection (8) or (8C) indicates that the person is over the general alcohol limit or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the person is over the no alcohol limit; or
- (b) a person so required fails to provide as prescribed by subsections (8) to (8L) such specimen; or
- (ba) a person has been arrested for an offence under section 79(1) but has not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under subsection (8) or (8C)—
 - i) because the person is violent; or
 - ii) because of the external signs exhibited by the person, the police officer reasonably believes the person is so affected by alcohol or a drug as to be unable to provide the specimen; or
 - iii) because of the remoteness of the area—
 - (A) a breath analysing instrument is not available to analyse a specimen of the person's breath; or
 - (B) a doctor or nurse is not available to take a specimen of blood from the person for a laboratory test or to direct a qualified assistant to take the specimen; or
- (c) a person who is required by a police officer pursuant to subsection (8) or (8C) to provide a specimen of the person's blood for a laboratory test permits a specimen of the person's blood to be taken for the purpose and thereupon such police officer requires that person to provide a specimen of breath for a breath test by the officer (the officer being hereby authorised to require such a specimen of breath for a breath test to be provided), and—
 - i) it appears to the police officer in consequence of the breath test carried out by the officer that the device by means of which the test is carried out indicates that the person is over the general alcohol limit or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the person is over the no alcohol limit; or
 - ii) the person fails to provide such specimen of breath; or
- (d) a person who is required by a police officer pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to provide such specimen; or
- (e) a specimen of a person's blood is taken under this section for a laboratory test and a doctor or nurse certifies in writing to the police officer who made the requisition for the provision or taking of the specimen of blood that, in respect of the person concerned, the case is a proper one for the suspension of that person's driver licence for a period of 24 hours.

22AA) The person's driver licence is suspended for 24 hours from when—

- (a) the analysis mentioned in subsection (22)(a) was made; or
- (b) the requirement mentioned in subsection (22)(b), (c)(ii) or (d) was made; or
- (c) the arrest mentioned in subsection (22)(ba) was made; or
- (d) the breath test of the specimen of the person's breath mentioned in subsection (22)(c)(i) was carried out; or
- (e) the certificate in writing mentioned in subsection (22)(e) was given.

22A) The police officer who required the specimen shall sign and deliver to the person concerned (or to another person on behalf of that person at the request

of that other person) a statement in writing that the driver licence of the person concerned is suspended as prescribed by subsection (22) for the period of 24 hours commencing at the time stated therein.

- 22B)** It is immaterial, in any of the cases referred to in subsection (22), whether the person concerned is arrested or not.
- 22C)** Notwithstanding any other provision of this Act, an appeal shall not lie in respect of the suspension of a driver licence pursuant to subsection (22).
- 22D)** Any person who whilst the person's driver licence is suspended pursuant to subsection (22) drives a motor vehicle on a road or elsewhere is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 1 year.
- 23)** Where pursuant to this section a police officer may in the performance, exercise or carrying out of the officer's functions, powers or duties under this section take a person to a hospital or police station for the taking of a specimen and the police officer believes on reasonable grounds that a doctor is not available at the hospital or to go to the police station, or that, for the taking of a specimen of blood at the hospital, a nurse also is not available, the officer may, whether the person concerned is under arrest or not, take such person to a place where to the officer's knowledge or in the officer's reasonable belief a doctor is available for the taking of a specimen.
- 24)** Evidence of the presence of the concentration of alcohol in the blood or breath of a person, or the drug or metabolite of the drug in the blood of a person, at a time material to the time of an offence as hereinafter mentioned obtained in accordance with any of the provisions of this section is admissible upon the trial upon indictment of that person of any offence in connection with or arising out of the driving of a motor vehicle by the person or upon any hearing of a charge summarily against the person of an offence against any provision of the Criminal Code, section 328A, and shall not be excluded by reason only that such evidence was compulsorily obtained or otherwise obtained in accordance with this section.
- 24A)** Evidence admissible pursuant to subsection (24)—
- (a) may be given in the same manner, whether by a witness or by a certificate, as it may be given pursuant to the provisions of this section, other than that subsection, in respect of an offence against this Act; and
 - (b) is admissible in the same circumstances and in all respects to the same extent as it would be admissible pursuant to the provisions of this section, other than subsection (24), in respect of an offence against this Act and, subject to paragraph (c), shall have the same evidentiary value in relation to the same matters and times as are provided for by the provisions of this section, other than that subsection, in respect of such evidence; and
 - (c) where such evidence indicates a person was over the high alcohol limit, shall be conclusive evidence that the person was adversely affected by alcohol at all times in relation to which such evidence has evidentiary value pursuant to this section.
- 26)** If a defendant proposes to lead evidence to prove in any proceeding—
- (a) pursuant to subsection (15H), that at the time of the operation of a breath analysing instrument it was defective or was not properly operated; or
 - (b) pursuant to subsection (16G), that the result of a laboratory test of a specimen of blood referred to in subsection (16F) was not a correct result; or
 - (c) pursuant to subsection (18) or (18A), that the signature referred to therein is not the signature of the health care professional, authorised police officer or analyst by whom the certificate referred to therein

purports to be signed or that any matter contained in the said certificate is not correct;

the defendant shall give notice thereof to the complainant not less than 14 clear days before the return date of the summons or the appointed date for the hearing of the charge.

- 27)** The notice must—
- (a) be written; and
 - (b) be signed by the defendant or the defendant's solicitor; and
 - (c) for a notice under subsection (26)(a)—state the grounds on which the defendant intends to rely to prove that the breath analysing instrument was defective or was not properly operated; and

Example of paragraph (c)—

A claim that the breath analysing instrument was defective because it mistook the presence of mouthwash in the defendant's mouth for the presence of alcohol in the defendant's blood.

- (d) for a notice under subsection (26)(b)—state the grounds on which the defendant intends to rely to prove that the result of the laboratory test was not a correct result.
- 28)** A defendant who gives a notice under subsection (26)(b) may, only with the court's leave, require a person who was involved in the taking, receipt, storage or testing of the specimen of blood to attend the hearing to give evidence.
- 29)** The court may grant the leave only if satisfied—
- (a) that the complainant has been given an opportunity to make a submission to the court about granting the leave; and
 - (b) that—
 - i) there is a reasonable possibility that an irregularity or defect exists in relation to the taking, receipt, storage or testing of the specimen of blood about which the person required to attend the hearing is able to give evidence; or
 - ii) it is otherwise in the interests of justice that the person be required to attend the hearing to give evidence relevant to the proceeding.
- 30)** In a proceeding for an offence against section 79, unless the contrary is proved—
- (a) a qualified assistant who takes a specimen of blood from a person for a laboratory test is to be taken to have been directed by a doctor or nurse to take the specimen; and
 - (b) any equipment used in a laboratory test of a specimen of blood is to be taken to have given accurate results.