



Hon Neil Roberts MP
Member for Nudgee



Minister for Police, Corrective Services
and Emergency Services

Ref: 11940 P1 LS

20 DEC 2010

Mr Neil Laurie
The Clerk of Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie

I refer to petition number 1597-10 lodged with the Legislative Assembly by Dr Alex Douglas MP, Member for Gaven, on 25 November 2010.

The petition seeks amendment to legislation to make it compulsory for police to breathalyse a person prior to arresting that person on alcohol-related charges.

This matter was referred to the Queensland Police Service.

On the issue of breathalysing persons, police advise a breathalyser test is conducted in the case of drink-driving detection as the *Transport Operations (Road Use Management) Act 1995* specifies precise blood-alcohol concentrations which are relevant to offences of driving, or being in charge of a vehicle whilst affected by alcohol. In this regard, a breathalyser can accurately indicate a person's blood-alcohol concentration.

In response to issues raised by the petitioners, Section 10 of the *Summary Offences Act 2005* creates the offence of being drunk in a public place. The rationale behind the offence in modern times is not focussed on punishing a person for their level of intoxication, but rather to be able to take action to remove the person from a public place where they may be a danger to themselves or others.

In these circumstances, a person may be taken to a place of safety as reflected in the diversion provisions of section 378 of the *Police Powers and Responsibilities Act 2000*. The relevant laws can be accessed on the Office of the Queensland Parliamentary Counsel website
http://www.legislation.qld.gov.au/Acts_SLs/Acts_SL_P.htm.

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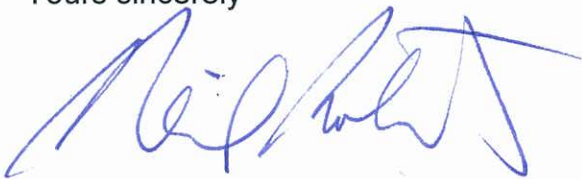
As such, the legislation does not indicate a blood-alcohol concentration at which a person is deemed to be excessively intoxicated, as each case is judged on its merits. For instance, a person who is not used to the effects of alcohol may become intoxicated after very few drinks and with a relatively low blood-alcohol concentration. Conversely, an experienced drinker may be able to tolerate much larger quantities of alcohol before showing signs of intoxication.

Therefore, it is not intended to amend the *Police Powers and Responsibilities Act 2000* to require the use of a breathalyser when assessing a person's state of sobriety for the purposes of section 10 of the *Summary Offences Act 2005*.

Inspector Greg Thomas, Operational Legal Advice, Queensland Police Service, is available on telephone (07) 3015 5961 for any further assistance required.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Neil Roberts', is written over the typed name.

Neil Roberts MP
**Minister for Police, Corrective Services
and Emergency Services**