



## DRIVING, DRUGS AND ALCOHOL

This sheet is intended to provide **general legal information** about the law in Queensland. It is not legal advice.

If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

### What is a vehicle?

A **vehicle** is any type of transport with wheels and includes:

- **motor vehicle**
- bicycle
- a non-motorised 'wheeled recreational device' {rollerblades, roller-skates, skateboard, and scooter (including a foot scooter with an electric motor less than 200 watts)}.

### What is a motor vehicle?

**Motor vehicles** are cars, motorbikes, jet skis, boats and any other vehicle with an engine but not motorised scooters or bicycles.

### What if I am driving and I have been drinking or taking drugs?

It is an offence for you to have any alcohol at all and drive or try to drive a **motor vehicle** if you are a learner (on L Plates) or a person on P Plates, as your blood-alcohol level has to be 0.00. When you are off your P plates, the limit is generally 0.05. But this does not apply if driving is your job; or if you are on a probationary licence following your driver's licence being suspended.

It is also an offence to drive, try to drive, or be 'in charge' of -

- A **motor vehicle anywhere** if you are affected by alcohol, illegal drugs, or legal drugs which a doctor has prescribed for you.
- Any **other type of vehicle** it is an offence if you are **on a road**. A 'road' includes streets and car parks.

So, it would be an offence to be 'under the influence' of (affected by) drugs or alcohol and have your skateboard at the local shopping centre car park but this would not be the case if you were on the grassed area of the local park. (BUT: you could still be picked up for being drunk in a public place).

### What does being 'in charge' of a motor vehicle mean?

Being 'in charge' of a motor vehicle can include having the keys to a car or being the only person in the car even though the engine isn't running. Being asleep in the back of a parked car can be enough for police to charge you if the police breath test you, and you are over the limit that applies to you.

### Can I ride my bicycle if affected by drugs or alcohol?

No. It is an offence to be affected by drugs or alcohol and be in charge of any vehicle like a bicycle or animal on a road such as a horse.

### When can the police ask for a breath test?

A police officer can stop you and ask you to take a breath test if:

- you are driving or trying to drive a **motor vehicle** (car, motorbike, jet ski, any other vehicle with an engine or a boat)
- you are the person who seems to be 'in charge' of the **motor vehicle**
- the police officer believes that, during the three hours before asking you to take the breath test, you drove or tried to drive a **motor vehicle** or were in charge of a motor vehicle)
- the **motor vehicle** has been involved in an accident and the police officer believes you were the driver or person in charge.

For **any vehicle** (including bicycle, rollerblades, roller skates, skateboard, and scooter), if a police officer has arrested you because they think that you are affected by alcohol - for example because of the way you are driving or riding - the officer can ask you to take a breath test.

For any vehicles (including scooters and bicycles), police can ask to take a breath test in certain situations such as if you are arrested for:-

- driving under the influence of drugs or alcohol; or

- driving carelessly or dangerously resulting in an accident.

### Can I refuse to take a breath test?

It is an offence to refuse to take a breath test. If the police want to breath test you in relation to a **motor vehicle**, and you refuse to take the test, you may also be charged with a more serious drink driving offence even though you may not have had any alcohol at all. The police officer can take you to the nearest police station - by using reasonable force if necessary.

### What about saliva, blood, or urine tests?

There are similar laws for saliva tests for drugs and driving as for breath tests.

You could also be asked to take a blood or a urine test if the police think your behaviour shows you are affected by alcohol or drugs but the levels of the breath or saliva tests you took were low or nil. You can be charged with an offence if you refuse to take these tests. These tests must be done by a doctor or a nurse.

### What will happen if the police think I have been drinking or taking drugs?

If the police believe you were driving, trying to drive or were 'in charge' of **any vehicle** when affected by alcohol or drugs; or you have an alcohol limit above what applies to you for a **motor vehicle**, then:

- you can be arrested, taken to the police station and have to go to court
- if found guilty, you can be given a fine or another sentence.

If you are found guilty of offences involving a motor vehicle:

- your licence can be cancelled
- you can be disqualified from holding a licence for a certain amount of time.

### Who can help?

*Remember that drug use can be harmful to your general health. A conviction for a drug offence may cause you problems in the future, for example when applying for a job or if you are going overseas. If you want more information call:*

Youth Advocacy Centre (YAC) <a href="http://www.yac.net.au">www.yac.net.au</a>	3356 1002
Legal Aid Queensland <a href="http://www.legalaid.qld.gov.au">www.legalaid.qld.gov.au</a>	1300 651 188
Youth Legal Advice Hotline	1800 527 527 (Monday - Thursday 8am - 9pm; Friday 8am - Sunday 5pm)
YFS Legal <a href="http://www.yfs.org.au">www.yfs.org.au</a>	3826 1500
Brisbane Youth Service <a href="http://www.brisyouth.org">www.brisyouth.org</a>	3620 2400
Adolescent Drug and Alcohol Withdrawal Service (ADAWS) <a href="http://www.kidsinmind.org.au">www.kidsinmind.org.au</a>	3163 8400
Hothouse (Drug and Alcohol Counselling Youth Program)	38375633
Aboriginal & Torres Strait Islander Legal Service <a href="http://www.atsils.org.au">www.atsils.org.au</a>	3025 3888 or (free call) 1800 012 255 (24hrs 7 days a week)
H.A.D.S. (Queensland Health)	3646 8704
Alcohol & Drug Information Service (24hrs)	1800 177 833
QLD Injectors Health Network (QuIHN) <a href="http://www.quihn.org">www.quihn.org</a>	1800 172 076
Aboriginal and Torres Strait Islander Community Health Service (ATSICHS)	3240 8900
Translating & Interpreting Service (24hrs)	13 14 50
Child Safety After Hours Service (24hrs) (DOC)	3235 9999 or (free call) 1800 177 135
Community Legal Centres (CLCs) see <a href="http://www.nacalc.org.au">www.nacalc.org.au</a> for your nearest CLC	

**This sheet was last reviewed and updated in October 2023. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.**