

Traffic offences



This information is to help you if you are appearing in the Magistrates Court on a traffic charge.

Court etiquette

- Be on time – check the time on your summons or bail papers. If you are not sure, telephone the court and check. If you are late or do not arrive at all, a bench warrant may be issued. If this happens, you could be arrested and put in custody.
- Dress neatly. You will not be allowed in court wearing a singlet or without shoes. You should take off sunglasses or a hat.
- Do not take any food or drink into court.
- Turn off any mobile phones or electronic devices before entering the court.
- When entering and leaving the court, it is customary to bow towards the magistrate. Stand when the magistrate enters and leaves the court, and when you are being spoken to or wish to speak. Otherwise sit quietly.
- Address the magistrate as “Your Honour”.
- Young children may be taken into court if they remain quiet but you should try to make arrangements so you don’t have to take your children with you. If this isn’t possible, take someone with you to look after your children outside the court room while your case is being dealt with. Some courts may help with organising child minding. Telephone the court you are appearing in, well before your court date, to see if this is possible.

What should I do before I go to court?

Firstly you should consider if you are guilty or not guilty of the offence. If you are not sure, you should seek legal advice.

You should also consider the seriousness of your situation, which will depend on the penalty you could receive for the offence, your history of

offending and your personal circumstances. You should get legal advice and arrange to be represented in court if you think your situation is serious.

There is information about penalties for some common traffic offences at the end of this information sheet.

If disqualification is an option for the court, you should avoid driving to court as disqualification takes effect immediately.

Where can I get legal advice and representation?

You can get advice before your court date from a private lawyer and can arrange for a private lawyer to represent you in court.

Alternatively, a Legal Aid WA duty lawyer may be able to assist you on the morning of your court appearance in the following circumstances:

- you are appearing in a regional court and there is a duty lawyer available on your court date;
- you are appearing in a Perth or metropolitan court and your offence is listed in the general court list (rather than a dedicated traffic court list) and **imprisonment** is one of the options available to the court when dealing with your offence.

To help to determine whether your traffic charge may be dealt with by way of imprisonment, see the information about penalties for some common traffic offences at the end of this information sheet.

If you are still not sure if imprisonment is an option, put your name down to see the duty lawyer and you will be advised whether in fact a duty lawyer can assist you.

If you appear in a court where there is a duty lawyer on some days, but not on the day you are appearing, you can ask the court to adjourn your case to a date when a duty lawyer is available at that court.

To check whether a duty lawyer will be available on the date and at the particular court you will be attending, contact the court registry before your appearance.

If you are going to speak to a duty lawyer, you should attend at 8.30am on the morning of your court appearance. Duty lawyers can give you legal advice and can also appear for you in court on a plea of guilty, for a bail application or an adjournment, however, a duty lawyer **cannot represent you at a trial** after you have pleaded not guilty.

What if I am appearing in court without a lawyer?

You should go into court and tell the court orderly your name and that you are representing yourself. Then sit and wait in the back of the court for your name to be called.

When your name is called, stand at the table in front of the magistrate and wait for the magistrate to speak to you.

What happens in court?

If you are being represented by a lawyer, they will stand up and speak for you. The only time you may need to speak is to enter a plea of guilty or not guilty after the charge is read out.

If you are appearing without a lawyer, you need to know that in court you can choose to plead guilty, plead not guilty or ask for your case to be put off (adjourned) to another day so that you can get legal advice or prepare for your next court appearance in some way. When you are representing yourself, the magistrate will ask what you want to do and you need to indicate one of these options.

What if I ask for an adjournment?

When you ask for an adjournment, you are asking for your case to be put off to another date. If you do this:

- you will usually be given two or three weeks before your next court date;
- you will not usually be given more than one or two adjournments without a good reason;
- you should arrange to see a lawyer before your next court date if you have asked for an adjournment for legal advice.

What if I plead not guilty?

Before you enter a plea of not guilty you should get legal advice to be sure you have a defence to the charge and to find out what is likely to happen at the trial.

If you plead not guilty, your case will be set down for a trial.

A duty lawyer cannot represent you at a trial.

What if I plead guilty?

If you are not sure whether you are guilty of the offence or you are not sure of the penalty you may receive for it, you should get legal advice.

If you plead guilty:

- The magistrate will ask for the facts to be read out by the prosecutor. Listen carefully to make sure they are correct.
- Your criminal and traffic records (if any) will be shown to you and will then be given to the magistrate. Check to make sure the records are correct.
- The magistrate may ask you if you have anything to say. If you are represented by a lawyer, they will speak for you. Otherwise, you may want to offer an explanation and/or an apology for your conduct. If disqualification is an option for the court, you may want to tell the court the impact that losing your licence will have on you, for example, if it will mean you will lose your job. You may also be asked

about your financial and personal circumstances.

- The magistrate will impose a **penalty** which may include a fine and disqualification from driving. If you are not disqualified you may still lose demerit points. There are **tables of penalties** for some common traffic offences at the end of this information sheet.
- The magistrate will also impose **court costs**, which is in addition to the penalty.
- The magistrate may make a spent conviction order, if it is appropriate in the circumstances

Can I get a spent conviction order from the court?

If you are convicted of an offence, either after pleading guilty or after being found guilty at trial, the court may make a spent conviction order. It may do this at the time it is imposing a penalty on you for the offence.

A spent conviction order means you will not have to disclose the fact of your conviction, unless you are required to by law.

A court may consider making a spent conviction order whether you apply for it or not, however, if it is important to you to have a spent conviction order, you should apply for it.

There are particular criteria that must be met before a spent conviction order may be made and even then it is up to the court whether to make such an order. You do not have a right to be granted a spent conviction order. In considering whether to make such an order, the court must be satisfied that:

- you are unlikely to commit such an offence again, **AND**
- you should be immediately relieved of the negative effects of the conviction because the offence was trivial, **or** because you have previous good character.

While it is possible for you to get a spent conviction order for a traffic offence, it may be difficult in some circumstances to show that the negative effects you will suffer from the offence are significant enough to justify the making of a spent conviction order.

The court is unable to make a spent conviction order if the penalty imposed on you for the offence is an intensive supervision order, or a suspended, conditional suspended or immediate term of imprisonment.

Legal Aid WA has an information sheet about spent conviction orders. See under the heading **Where can I get more information?** at the end of this information sheet.

If I am fined or have to pay costs, will I be given time to pay?

If you are fined or ordered to pay costs, you have **28 days to pay**. To arrange extra time to pay you must complete the time to pay form that you receive from the court and submit it at the Court Registry straight after your appearance or within 28 days. You can also obtain a time to pay form from the Court Registry.

If you do not pay your fine or costs or arrange time to pay within 28 days from the date they were ordered, they will be registered with the Fines Enforcement Registry. This will result in you having to pay more than the original fine or costs and your licence may be suspended until the total amount is paid.

Is there any alternative to a fine?

For certain offences the court has the option of imposing a community based order to do community work instead of a fine. For example, a first offence of driving under the influence, or a first offence of refusing a breath test may be dealt with by way of a community based order.

Can I go to prison?

Some traffic offences carry a potential term of imprisonment. Whether you are sent to prison will depend on the nature of the offence, the circumstances in which it was committed, and any history of similar offending. For some serious traffic offences you **must** be sent to prison for a certain period of time.

If you are charged with drink driving and are also charged with other traffic offences such as driving under suspension, dangerous driving, reckless driving or charges arising from a traffic accident, your situation is more serious than it otherwise would be. The court may consider the drink driving to be a circumstance of aggravation and in some cases, you may be sent to prison.

If you are convicted of driving under the influence (0.15g or more of alcohol per 100ml of blood) for a second or subsequent time, or if you are convicted of driving whilst disqualified or when your licence has been cancelled, you may be sent to prison. If you are convicted of such offences multiple times you are more likely to be sent to prison.

If you go to prison for a driving offence and at the same time you are under disqualification from driving, your period of disqualification will generally not run while you are in custody. Therefore, when you are released from prison you should not drive until you are sure you are no longer under any disqualification. To check whether you are still under disqualification, see the heading below “**When can I drive again?**”

Will I get demerit points?

For certain offences, you may automatically receive demerit points on your licence, in addition to the fine or other penalty the court imposes on you. However, if the court disqualifies you from driving for a particular offence, you will not receive demerit points for that offence.

There is a table at the end of this information sheet showing the number of demerit points you will receive for some common traffic offences. Once you receive 12 demerit points your licence will be suspended for 3 months. This is on top of any other suspension or period of disqualification.

You can check how many demerit points you have by going onto the website of the **Department of Transport** at www.transport.wa.gov.au/licensing under My driver’s licence - Driver’s licence check (online) - **Demerit point check (online)**.

Will the court disqualify me from driving?

For certain offences, when you are convicted the court **must** disqualify you from driving for a minimum period of time. For these offences, the court cannot choose to let you keep driving or impose a period of disqualification that is less than the minimum.

For many other offences, the court can choose whether to disqualify you from driving.

The tables of penalties at the end of this information sheet refer to some common offences and indicate where there is a minimum period of disqualification that must be imposed or where disqualification is optional.

Can I be stopped from driving in any other way?

You may be stopped from driving for various reasons. Some common reasons are noted here.

You may be issued with a **demerit point suspension**.

You may be issued with a **roadside disqualification notice** by police for an offence of Excess 0.08, Driving under the influence or Refusing to comply with a requirement to provide a breath, blood or urine sample.

You may be **disqualified from driving by a court**, as mentioned above. If you are already under a disqualification notice from police when you are dealt with in court, the disqualification period the court imposes on you must be reduced by the amount of time you spent disqualified under the disqualification notice.

You may be issued with a **finer suspension** for failing to pay your fines or infringements.

You may have your licence **cancelled** as a result of certain offences or circumstances. For example:

- if you are convicted of an **alcohol interlock offence** your licence will be **automatically cancelled**;

- if you are a **provisional licence holder** and you are convicted of certain offences, your licence will be **automatically cancelled**.

When can I drive again after being disqualified by a court?

If a court disqualifies you from driving for a period of time, you cannot drive again until that period ends. If you receive more than one period of disqualification you will generally have to serve them cumulatively (on top of one another) and will not be allowed to drive until all disqualification periods have ended.

If you **drive whilst disqualified**, you are committing an **offence**.

However, if you are issued with an extraordinary drivers licence during your period of disqualification you will be allowed to drive in accordance with the conditions of that licence.

When can I drive again after my licence is cancelled?

If your licence is cancelled, you cannot drive again until you have applied and been re-issued with a valid licence. If you are also under disqualification, you will not be re-issued with a licence until the disqualification period has ended.

If the cancellation is for an alcohol interlock offence, when you apply to have your licence re-issued you must agree to comply with alcohol interlock conditions. Your licence will then be issued with an "I" condition (see under heading below "What happens if I commit an alcohol interlock offence?").

If you **drive while your licence is under cancellation**, you are committing an **offence**.

If you are under disqualification as well as cancellation and you are issued with an extraordinary drivers licence, you will be allowed to drive in accordance with the conditions of that licence, during the period of disqualification.

When can I drive again if I am under fines suspension?

A fines suspension is a licence suspension order you get for failing to pay your infringements or court fines.

If you are under a fines suspension, you can drive again when the suspension is lifted. The suspension will usually be lifted because you have paid the outstanding fine or the unpaid fine has been otherwise resolved. You should not drive until you are sure the suspension has been lifted. See below under the heading **How do I know when I can drive again?**

Working out when you can drive again after you have also been disqualified from driving by a court, is more complicated. You should note that:

- If you have become subject to a fine suspension whilst you are serving a period of disqualification ordered by the court, the court imposed disqualification will stop running until your fines are paid and the fine suspension is lifted. The court imposed disqualification will then continue to run until finished. In these circumstances, if you drive under fine suspension you will still be charged with driving under court ordered disqualification even though it is not running;
- If, at the time you are disqualified, you are already subject to a fines suspension and the court orders that your period of licence disqualification is to be in addition to (cumulative on) any previous suspension, then the period of disqualification will not start to run until all your fine suspension fines are paid and your fine suspension is lifted. During this whole time, your licence will be considered to be under court imposed disqualification.

How do I know when I can drive again?

If your licence has been disqualified or suspended for more than one offence, or for different reasons, or you have been in custody, your period of disqualification may be difficult to work out and may be longer than you realise. Therefore, you should always **check before you drive**.

You can check whether you are still under **disqualification** and whether your **licence has been cancelled**, by going onto the website of the Department of Transport at www.transport.wa.gov.au/licensing under My driver's licence - **Driver's licence check (online)**.

You can check whether you are subject to a **finer suspension** by going onto the website of the Department of Justice at www.dotag.wa.gov.au under Court and Tribunal Services - Fines and Infringements - **Search Licence Suspensions Online**, or by contacting the Fines Enforcement Registry on 1300 650 235, or (08) 9235 0235 for overseas or mobile callers.

The best approach is to **check both websites** and if possible, print out the results for your records.

You should allow two working days for the information on the websites to be updated.

Can I apply for an extraordinary driver's licence?

If you have been disqualified from driving but there is a good reason why you need to be able to drive, you may be able to apply for an extraordinary driver's licence.

An extraordinary driver's licence allows you to drive while you are disqualified, subject to conditions imposed by the court.

However, if you are under fines suspension, or if you are subject to a disqualification notice imposed by police for an offence of Excess 0.08, Driving under the influence or Refusing to comply with a requirement to provide a breath, blood or urine sample, or you are under cancellation only, you **cannot apply** for an extraordinary driver's licence.

Legal Aid WA has an information sheet about Extraordinary Driver's Licence Applications. See under the heading **Where can I get more information?**

What happens if I commit an alcohol interlock offence?

An **alcohol interlock offence** is an offence of:

- Driving under the influence (DUI);
- Failing to comply;
- Dangerous driving causing death, grievous bodily harm, or bodily harm where you are under the influence of alcohol to such an extent as to be incapable of having proper control of your vehicle; or
- Excess 0.08, 0.05 or 0.02 where, in the last 5 years, you have committed a DUI, Failing to comply, or Dangerous driving causing death, grievous bodily harm or bodily harm when under the influence of alcohol, or alcohol and drugs, to such an extent as to be incapable of having proper control of the vehicle and the previous offence was committed on or after 24 October 2016.

If you commit and are convicted of an alcohol interlock offence **on or after 24 October 2016** and you are disqualified from driving by a court, your licence will be automatically **cancelled**. You may apply to get your licence back after your disqualification period has finished, or apply for an extraordinary licence during the period of disqualification, but if granted, your licence will be subject to alcohol interlock conditions.

Alcohol interlock conditions include that you must have an "I" condition on your licence for at least 6 months, you must have an alcohol interlock fitted, maintained and removed at your own cost and you must provide randomly timed breath tests while driving. The "I" condition will only be removed if you have demonstrated satisfactory performance for a continuous period of 6 months leading up to the condition being removed.

It is an **offence** to tamper with the alcohol interlock or to drive when under cancellation ie before your licence has been issued subject to an "I" condition.

For more information about the Alcohol Interlock Scheme go to the website of the Department of Transport at www.transport.wa.gov.au/licensing under My Driver's Licence - Driver rules, penalties and infringements - **Alcohol Interlock Scheme**.

Who is subject to a 0.00 blood alcohol content (BAC) limit?

You are subject to a **0.00% BAC limit** if:

- You are an alcohol offender, that is, you have been convicted of an “**alcohol interlock offence**” that was committed on or after 24 October 2016 (see definition above under heading “What happens if I commit an alcohol interlock offence?”);
- you are a “**novice driver**” (see definition below);
- you are a “**recently disqualified driver**” (see definition below);
- you hold an extraordinary driver’s licence;
- you are under disqualification for Driving under the influence (DUI), Failing to comply or for a second or subsequent Excess 0.08 offence;
- your driver’s licence has been cancelled as a result of a conviction for DUI, Driving impaired by drugs, Failing to comply or Refusing a driver assessment and you have been previously convicted of any one of these offences; or
- your licence has been cancelled as a result of a conviction for Excess 0.08, where you have previously been convicted of DUI, Excess 0.08, Driving impaired by drugs, Failing to comply or Refusing a driver assessment, in the five years before the conviction for Excess 0.08.

You are a **novice driver** if you have held a licence for a period of less than two years or a period adding up to less than two years. In calculating how long you have held a licence, you can include any period of time you have held an overseas or interstate licence, but you cannot include:

- any period when you were excluded from driving by law, or
- any period when you were driving under a learner’s permit (ie on L-plates).

You are a **recently disqualified driver** if:

- within the last three years you ceased to be subject to an order disqualifying you from holding or obtaining a driver’s licence for DUI or for failure to comply;
- within the last three years you ceased to be subject to an order disqualifying you from holding or obtaining a driver’s licence for a second or subsequent 0.08 offence; or
- you have been re-issued a driver’s licence after 1 January 1998, and that licence had previously been cancelled for drink driving offences.

You are also subject to a 0.00 BAC limit if you drive a motor vehicle that:

- can carry more than 12 adults (including the driver) and at the time you are carrying passengers
- is an omnibus and you are carrying passengers for hire or reward
- is a taxi (with taxi plates or a taxi licence) and at that time you are carrying passengers for hire or reward
- has a gross combined mass exceeding 22.5 tonnes, or
- is a specific vehicle carrying dangerous goods

Who is subject to a 0.02 BAC limit?

If you are subject to a 0.00% blood alcohol content (BAC) limit then you are also subject to a **0.02% blood alcohol content (BAC) limit**. The difference is that the penalty for the offence of Excess 0.02 includes 3 months’ minimum disqualification, while the penalty for Excess 0.00 BAC does not include any disqualification.

Penalties for drink and drug related driving offences

Guide to terms and abbreviations used in tables

BAC: Blood alcohol content	Cumulative: On top of any current disqualification
Min: Minimum penalty	CBO: Community Based Order
Max: Maximum penalty	ISO: Intensive Supervision Order
Disq: Disqualification from driving	Impr: Imprisonment

General notes

The following tables show the penalties available to a **court** when sentencing for the traffic offences listed. Note that where an offence is dealt with in court, **court costs** will be imposed in addition to the penalty for the offence.

Note that **juvenile convictions** count as prior offences in relation to traffic matters. Offences dealt with by infringement do not count as prior convictions except when determining whether a probationary licence will be cancelled.

All references are to the **Road Traffic Act 1974 (WA)** unless otherwise specified.

Instructor of learner driver with excess 0.00 or excess 0.05 BAC: s62B

Generally an instructor cannot have a blood alcohol content (BAC) reading of 0.05 or more. However, a 0.00 BAC limit applies where the instructor:

- is the holder of an extraordinary licence;
- has been disqualified or had their licence cancelled in the last 3 years for an offence of DUI (s63), Fail to comply (s6) or a 2nd or subsequent Excess 0.08 (s64);
- has been convicted of an alcohol interlock offence committed on or after 24 October 2016; or,
- the vehicle has a gross combined mass of 22.5 tonnes or more.

The penalty is the same for both offences:

BAC		1st, 2nd or subsequent offence
More than 0.00 or 0.05 or more (see notes for which applies)	Min: Max:	\$300 \$500 No disqualification

Instructor of learner driver with illicit drug in oral fluid/blood: s62C

Quantity		1st, 2nd or subsequent offence
Any amount of drug	Min: Max:	\$300 \$500 No disqualification

Excess 0.00: s64AAA

May be dealt with by infringement notice rather than be sent to court. Infringement penalty is \$300 and demerit points apply (see demerit points table below).

BAC		1st, 2nd or subsequent offence	
0.00 to less than 0.02	Min:	\$150	No disqualification but demerit points apply - see demerit points table below
	Max:	\$300	

Excess 0.02: s64A

If you have a provisional licence it will be automatically cancelled.

May be classed an alcohol interlock offence. If so your licence or learner's permit will be automatically cancelled and if you apply to get your licence back after the disqualification period has ended, alcohol interlock ("I") conditions will apply.

BAC		1st, 2nd or subsequent offence	
0.02 to less than 0.05	Min:	\$150	
	Max:	\$300	
	Min Disq:	3 mths	

Excess 0.05: s64AA

DUI (s63), Refuse breath/blood/urine test (s67) & Excess 0.08 (s64) count as prior offences for penalty.

If you have a provisional licence it will be cancelled and you will not be able to apply to get your licence back for 3 months or for the period of disqualification, whichever is longer.

May be classed an alcohol interlock offence. If so your licence or learner's permit will be cancelled and if you apply to get your licence back after the disqualification period has ended, alcohol interlock ("I") conditions will apply.

1st offence may be dealt with by infringement notice rather than be sent to court. Infringement penalty is \$400 and demerit points apply (see demerit points table below).

BAC		1 st offence	2 nd offence	Subsequent
0.05 to less than 0.07	Min:	-	\$500	\$500
	Max:	\$500	\$1000	\$1000
	Min Disq:	None (demerit points apply – see table below)	6 mths	8 mths
0.07 to less than 0.08	Min:	-	\$600	\$600
	Max:	\$500	\$1000	\$1000
	Min Disq:	Optional (if no disq imposed, demerit points apply)	8 mths	10 mths

Excess 0.08: s64

DUI (s63) & Refuse breath/blood/urine test (s67) count as prior offences for penalty.

If you have a provisional licence it will be automatically cancelled. If you have a learner's permit or other licence it will be automatically cancelled if you have a prior conviction within the last 5 years for Excess 0.08 (s64), DUI (s63), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67) or Refuse driver assessment (s67AA).

May be classed an alcohol interlock offence in certain circumstances. If so your licence or learner's permit will be cancelled and if you apply to get your licence back after the disqualification period has ended, alcohol interlock ("I") conditions will apply.

BAC		1 st offence	2 nd offence	Subsequent
0.08 to less than 0.09	Min:	\$500	\$600	\$600
	Max:	\$1,500	\$1,500	\$1,500
	Min Disq:	6 mths	8 mths	10 mths
0.09 to less than 0.11	Min:	\$550	\$900	\$900
	Max:	\$1,500	\$1,500	\$1,500
	Min Disq:	7 mths	10 mths	13 mths
0.11 to less than 0.13	Min	\$650	\$1,200	\$1,200
	Max:	\$1,500	\$2,000	\$2,000
	Min Disq:	8 mths	14 mths	17 mths
0.13 to less than 0.15	Min:	\$750	\$1,600	\$1,600
	Max:	\$1,500	\$2,500	\$3,000
	Min Disq:	9 mths	18 mths	30 mths

Driving under the influence (DUI): s63

Refuse breath/blood/urine test (s67), Driving impaired by drugs (s64AB) & Refuse driver assessment (s67AA) count as prior offences for penalty.

If you have a provisional licence it will be automatically cancelled. If you have a learner's permit or other licence it will be automatically cancelled if you have a previous conviction for Excess 0.08 (s64), DUI (s63), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67) or Refuse driver assessment (s67AA).

If committed after 24 October 2016 it is an alcohol interlock offence. In this case, if you apply to get your licence back after the disqualification period has ended, alcohol interlock ("I") conditions will apply.

If a CBO is imposed, it must include community work.

*For a 1st Offence, if you have prior convictions for excess 0.08, different penalties apply than shown here.

BAC		1 st offence*	2 nd offence	Subsequent
0.15 and above	Min:	\$900	\$2,100	\$2,100
	Max:	\$2,500	\$3,500	\$5,000
	Impr:	No impr BUT CBO with community service work an option	9 mths	18 mths
	Min Disq:	10 mths	30 mths	Life

Driving while impaired by drugs: s64AB

DUI (s63), Refuse breath/blood/urine test (s67) and Refuse driver assessment (s67AA) count as prior offences for penalty.

If you have a provisional licence it will be automatically cancelled. If you have a learner's permit or other licence it will be automatically cancelled if you have a previous conviction for Excess 0.08 (s64), DUI (s63), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67) or Refuse driver assessment (s67AA).

A fine can be given in addition to but not instead of a mandatory CBO or ISO.

	1st offence	2nd offence	Subsequent
Min:	\$900	\$2,100	\$2,100
Max:	\$2,500	\$3,500	\$5,000
Impr:	No impr	Max 9 mths	Max 18 mths
CBO/ISO	Mandatory CBO with program requirement	Unless impr imposed, mandatory CBO or ISO with program reqmnt	Unless impr imposed, mandatory CBO or ISO with program reqmnt
Min Disq:	10 mths	30 mths	Life

Driving with an illicit drug in oral fluid or blood: s64AC

Refuse to provide oral fluid or blood for testing (s67AB) counts as a prior offence for penalty.

If you have a provisional licence it will be automatically cancelled and you will not be able to apply to get your licence back for 3 months or for the period of disqualification, whichever is longer.

	1st offence	2nd offence	Subsequent
Min:	-	\$500	\$500
Max:	\$500	\$1,000	\$1,000
Min Disq:	Optional (if no disq imposed, demerit points apply – see table below)	6 mths	6 mths

Refuse preliminary test s67A:

DUI (s63), Excess 0.08 (s64), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67), Refuse driver assessment (s67AA) & Refuse to provide oral fluid or blood for testing (s67AB) count as prior offences for penalty.

If you have a provisional licence it will be automatically cancelled.

	1st offence	2nd offence	Subsequent
Min:	\$300	\$600	\$600
Max:	\$800	\$1,400	\$1,400
Min Disq:	3 mths	6 mths	6 mths

Refuse breath test s67:

DUI (s63) counts as a prior offence for penalty.

CBO is available for first offence and CBO or ISO is available for a second or subsequent offence. Must include community work.

If you have a provisional licence it will be automatically cancelled. If you have a learner's permit or other licence it will be automatically cancelled if you have a previous conviction for Excess 0.08 (s64), DUI (s63), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67) or Refuse driver assessment (s67AA).

If committed after 24 October 2016 it is an alcohol interlock offence. In this case, if you apply to get your licence back after the disqualification period has ended, alcohol interlock ("I") conditions will apply.

*For a 1st offence, if you have prior convictions for excess 0.08, different penalties apply than shown here.

	1st offence*	2nd offence	Subsequent
Min:	\$900	\$2,100	\$2,100
Max:	\$2,500	\$3,500	\$5,000
Impr:	No impr – CBO an option	9 mths	18 mths
Min Disq:	10 mths	30 mths	Life

Refuse to comply with driver assessment or provide a sample s67AA

DUI (s63), Driving whilst impaired by drugs (s64AB) & Refuse breath/blood/urine test (s67) count as prior offences for penalty.

If you have a provisional licence it will be automatically cancelled. If you have a learner's permit or other licence it will be automatically cancelled if you have a previous conviction for Excess 0.08 (s64), DUI (s63), Driving impaired by drugs (s64AB), Refuse breath/blood/urine test (s67) or Refuse driver assessment (s67AA).

A fine can be given in addition to but not instead of a mandatory CBO or ISO.

	1st offence*	2nd offence	Subsequent
Fine Min:	\$900	\$2,100	\$2,100
Max:	\$2,500	\$3,500	\$5,000
Impr:	No impr	9 mths	18 mths
CBO/ISO	Mandatory CBO with program requirements	Unless impr imposed, mandatory CBO or ISO with program reqmnrnts	Unless impr imposed, mandatory CBO or ISO with program reqmnrnts
Min Disq:	10 mths	30 mths	Life

Penalties for some other traffic offences

Description		1 st offence*	2 nd offence	Subsequent
Driving whilst unauthorised where licence never held s49(1)(a) <i>Rd Traffic Act</i>	Max fine:	\$300	\$600	\$600
	Disq:	None		
Driving whilst unauthorised where licence expired or voluntarily surrendered s49(1)(a) <i>Rd Traffic Act</i>	Max fine:	\$300	\$600	\$600
	Disq:	None (but automatic 3 month disq where provisional licence still expired at time of conviction).		
Driving whilst unauthorised due to fine suspension s49(1)(a) and s49(3)(d) <i>Road Traffic Act</i>	Min:	\$200	\$200	\$200
	Max:	\$1,500	\$1,500	\$1,500
	Impr:	Max 12 mths	Max 12 mths	Max 12 mths
	Disq:	Optional Max 3 yrs Cumulative	Optional Max 3 yrs Cumulative	Optional Max 3 yrs Cumulative
Automatic 3 month disq where provisional licence still under fine suspension at time of conviction.				
Driving whilst unauthorised where application for licence refused, disqualified other than fine suspension, alcohol offender driving under cancellation or contrary to "I" condition s49(1) and s49(3)(a), (b), (ca), (c) or (da) <i>Road Traffic Act</i>	Min:	\$400	\$1,000	\$1,000
	Max:	\$2,000	\$4,000	\$4,000
	Impr:	Max 12 mths	Max 18 mths	Max 18 mths
	Disq:	Min 9 mths Max 3 yrs Cumulative	Min 9 mths Max 3 yrs Cumulative	Min 9 mths Max 3 yrs Cumulative
Provisional licence cancelled as well as disq.				
Employ/permit person to drive whilst unauthorised s49(1)(b) <i>Road Traffic Act</i>	Max fine:	\$300	\$600	\$600
Refuse or give false personal details s32(4) <i>Road Traffic (Admin) Act</i>	Max fine:	\$2,500	\$2,500	\$2,500
	Provisional licence cancelled and disq 3 mths			

Description		1 st offence*	2 nd offence	Subsequent
Responsible person fails to ID driver or gives false info re driver <i>s34 Road Traffic (Admin) Act</i>	Max:	\$1,200	\$2,400	\$2,400
	Corpn Max:	\$5,000	\$5,000	\$5,000
Fail to stop <i>s44(a) Road Traffic (Admin) Act</i>	Fine:	Max \$5,000	Max \$5,000	Max \$5,000
		Provisional licence cancelled and disq 3 mths		
Fail to stop while escaping pursuit by police <i>s44(b) Road Traffic (Admin) Act</i>	Fine:	Min \$5,000	Min \$5,000	Min \$5,000
	Impr:	Max 2 yrs	Max 2 yrs	Max 2 yrs
	Disq:	Min 2 yrs	Min 2 yrs	Min 2 yrs
	Provisional licence cancelled as well as disq.			
Fail to report incident where damage to property <i>s56(4) Road Traffic Act</i>	Max:	\$400	\$800	\$800
		Provisional licence cancelled and disq 3mths.		
Careless Driving causing death/GBH/Bodily harm <i>s59BA(1) Road Traffic Act</i>	Max:	\$36,000	\$36,000	\$36,000
	Impr:	Max 3 yrs		
	Disq	Min 3 mnths		
Reckless Driving <i>s60 Road Traffic Act</i> Driving at reckless speed (at/over 155km/h or 45km/h over the limit) <i>s60A Road Traffic Act</i>	Max:	\$6,000	\$9,000	\$1,2000
	Impr:	Max 9 mths	Max 9 mths	Max 12 mths
	Disq:	Min 6 mths	Min 12 mths	Life
	Provisional licence cancelled and disq.			
Reckless Driving or Driving at reckless speed - when escaping pursuit by police <i>s60B(4) Rd Traffic Act</i>	Impr:	Min 6 mths Max 5 yrs	Min 6 mths Max 5 yrs	Min 6 mths Max 5 yrs
		Disq:	Min 2 yrs	Min 2 yrs
	Provisional licence cancelled and disq.			
Dangerous Driving <i>s61(3)(a) Road Traffic Act</i>	Max:	\$3,000	\$6,000	\$6,000
	Impr:	---	Max 9 mths	Max 9 mths
	Disq:	Optional	Min 12 mths	Min 12 mths
	Provisional licence cancelled and disq 3 mths or period of disq ordered as above.			

Description		1 st offence*	2 nd offence	Subsequent
Dangerous Driving - when escaping pursuit by police s61(3)(b) <i>Road Traffic Act</i>	Max:	\$36,000	\$36,000	\$36,000
	Impr:	Max 3 yrs	Max 3 yrs	Max 3 yrs
	Disq:	Min 2 yrs	Min 2 yrs	Min 2 yrs
		Provisional licence cancelled and disq.		
Careless Driving s62 <i>Road Traffic Act</i>	Max:	\$1,500	\$1,500	\$1,500
		Provisional licence cancelled and disq 3 mths.		
Undue noise or smoke s62A <i>Road Traffic Act</i>	Max:	\$600	\$600	\$600
		Provisional licence cancelled and disq 3 mths.		

Serious traffic offences

There are some traffic offences that are so serious they may, or in some cases, must be dealt with in the **District Court**. There are also some that are so serious that imprisonment is likely to be considered, or in some cases, the court **must impose imprisonment**. You should seek legal advice immediately if you are charged with a serious traffic offence.

Some examples of serious traffic offences include:

Section reference	Description of offence
s54(1) <i>Road Traffic Act</i>	Fail to stop or fail to render assistance after incident involving bodily harm, grievous bodily harm or death
s56(1) <i>Road Traffic Act</i>	Fail to report incident involving grievous bodily harm or death
s59(1) <i>Road Traffic Act</i>	Dangerous driving causing grievous bodily harm or death
s59A <i>Road Traffic Act</i>	Dangerous driving causing bodily harm when under the influence of alcohol or drugs or escaping pursuit
s59BA <i>Road Traffic Act</i>	Careless driving causing bodily harm, grievous bodily harm or death (see in table above)
s60 <i>Road Traffic Act</i>	Reckless driving when escaping pursuit (see in table above)
s60A <i>Road Traffic Act</i>	Driving at reckless speed (at/over 155 km/h or 45 km/h or more over the limit) when escaping pursuit (see in table above)

Common offences where court may impound or confiscate your vehicle

Section reference	Description of offence
s49(1) <i>Road Traffic Act</i>	Driving whilst disqualified (other than fines suspension), driving when under cancellation, driving contrary to alcohol interlock ("I") conditions
s60 <i>Road Traffic Act</i>	Reckless driving
s60A <i>Road Traffic Act</i>	Driving at reckless speed
s62A <i>Road Traffic Act</i>	Causing undue noise/smoke

Table of demerit points for some common traffic offences

Offence	Points
Dangerous Driving, first offence, if no disqualification imposed	6
Careless Driving	3
Undue noise or smoke	3
Driver not wearing a seat belt	4
Driver not wearing a seat belt and one or more unrestrained passengers	4
Driver wearing a seat belt but one or more unrestrained passengers	4
Fail to signal left or right turn	2
Fail to stop at red light	3
Overtaking when unsafe	4
Exceeding the speed limit by:	
More than 9km/h but not more than 19km/h	2
More than 19km/h but not more than 29km/h	3
More than 29km/h but not more than 40km/h	6
More than 40km/h	7
Driving with a blood alcohol content of:	
0.00g to less than 0.02g	3
0.05g to less than 0.06g	3
0.06g to less than 0.07g	4
0.07g and over	5
First offence of driving with a prescribed illicit drug in oral fluid or blood	3

NB: During holiday periods demerit points are doubled for seatbelt, speeding and alcohol offences (except for 0.00g to less than 0.02g). Holiday periods include long weekends, Christmas/New Year and Easter. A long weekend includes the Friday before if the holiday is to be on Monday, or if the public holiday is a Friday, the Thursday before it.

NB: You will not receive demerit points for an offence if the court disqualifies you from driving for that offence.

Where can I get more information?

For more information about **appearing in court**, including representing yourself at a Magistrates Court trial and the Legal Aid WA Duty Lawyer Service see:

- Legal Aid WA website – www.legalaid.wa.gov.au under Information about the law/ Crime, police and victims of crime/ Appearing in court
- Legal Aid WA information sheet – Appearing in court on a criminal charge
- Legal Aid WA information kit – Representing yourself at a Magistrates Court criminal trial

For more information about **traffic offences and driver's licences**, including extraordinary drivers licence applications, see:

- Legal Aid WA information sheet – Extraordinary driver's licence applications
- Legal Aid WA website – www.legalaid.wa.gov.au under Information about the law/Cars and driving/Driver's licences
- Legal Aid WA website – www.legalaid.wa.gov.au under Information about the law/Cars and driving/Traffic offences

For more information about **spent conviction orders**, see:

- Legal Aid WA information sheet – Spent conviction order at the time of sentence

Information sheets are available from any Legal Aid WA office or by contacting the **Legal Aid WA Infoline** on **1300 650 579**. For Legal Aid WA office locations and contact details, see the last page of this information sheet.

Legal Aid WA Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)

Infoline open Monday to Friday 9.00 am to 4.00 pm

(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450

National Relay Service (for hearing and speech impaired) 133 677

www.legalaid.wa.gov.au

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Southwest Regional Office

7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230

(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330

(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430

(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530

(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722

(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725

(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743

(08) 9166 5800

Indian Ocean Office

Administration Building, 20 Jalan Pantai

Christmas Island, Indian Ocean, WA 6798

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This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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