



Land Transport Amendment Act (No 2) 2014

Public Act 2014 No 57
Date of assent 7 August 2014
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport Amendment Act (No 2) 2014.
- 2 Commencement**
This Act comes into force on 1 December 2014.
- 3 Principal Act**
This Act amends the Land Transport Act 1998 (the **principal Act**).

Part 1

Amendments to principal Act

- 4 Section 11 amended (Drivers not to exceed specified alcohol limits)**
 - (1) In section 11(a), replace “400” with “250”.
 - (2) In section 11(b), replace “80” with “50”.

5 Section 56 amended (Contravention of specified breath or blood-alcohol limit)

(1) After section 56(1), insert:

“(1A) A person commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person’s breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.”

(2) After section 56(2), insert:

“(2A) A person commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72(1)(b) to (e) or 73, exceeds 50 milligrams of alcohol per 100 millilitres of blood but does not exceed 80 milligrams of alcohol per 100 millilitres of blood.

“(2B) A person commits an infringement offence if—

“(a) the person fails or refuses to undergo an evidential breath test after having been required to do so under section 69; and

“(b) analysis of a blood specimen subsequently taken from the person under section 72(1)(a) indicates that the person drove or attempted to drive a motor vehicle on a road while the proportion of alcohol in the person’s blood exceeded 50 milligrams of alcohol per 100 millilitres of blood but did not exceed 80 milligrams of alcohol per 100 millilitres of blood.”

6 Section 60 amended (Failure or refusal to permit blood specimen to be taken or to undergo compulsory impairment test)

After section 60(3A), insert:

“(3B) Subsection (3C) applies to a person who—

“(a) is required to permit a blood specimen to be taken under section 72(1)(a), (b), or (e); and

“(b) when required, on a previous occasion, to permit a blood specimen to be taken under section 72(1)(a), (b), or (e), was medically or physically unable to provide a blood specimen.

“(3C) A person described in subsection (3B) who is medically or physically unable to provide a blood specimen is presumed, in the absence of proof to the contrary, to have refused to permit a blood specimen to be taken.”

7 Section 64 amended (Defences)

After section 64(1), insert:

“(1AA) Subsection (1) is subject to section 60(3B) and (3C).”

8 Section 67 amended (Blood test fee)

Replace section 67(1) with:

“(1) The following persons who undergo a blood test are liable to pay the blood test fee that applied on the date of that test and any associated medical expenses:

“(a) any person who—

“(i) elects or is required to undergo the blood test under section 70A(1) or 72(1); and

“(ii) before undergoing the blood test is advised in accordance with section 69(4A)(d), 72(1D), or 72(1E):

“(b) any person who undergoes a blood test under section 73.

“(1A) Subsection (1) does not apply if the result of the blood test indicates that the person has committed an infringement offence against section 56(2B).

“(1B) The blood test fee and any associated medical expenses payable by a person under subsection (1),—

“(a) in the case of a person who is convicted of an offence against any of sections 56(2), 57(2), 57AA, 57A, 58, 61(1)(b), 61(2), and 62, are deemed to be a fine imposed on the conviction of the person for that offence; and

“(b) in all other cases, are recoverable from the person as a debt due to the Crown.

- “(1C) An enforcement officer may waive or refund the blood test fee and any associated medical expenses payable or paid by a person under subsection (1) if—
- “(a) the result of the blood test does not indicate that the person contravened a specified blood-alcohol limit; and
 - “(b) the blood test—
 - “(i) was taken under section 72(1)(a) and the enforcement officer is satisfied, on the evidence of a medical practitioner, that the person’s failure or refusal to undergo an evidential breath test was because of—
 - “(A) a pre-existing medical condition or pre-existing disability that precluded undergoing the test; or
 - “(B) an injury, sustained in a motor vehicle accident that gave rise to the obligation to undergo the test; or
 - “(ii) was taken under section 73.”

9 Section 69 amended (Who must undergo evidential breath test)

After section 69(4), insert:

- “(4A) An enforcement officer who requires a person to undergo an evidential breath test under subsection (4) must, without delay, advise the person—
- “(a) that if the person fails or refuses to undergo the evidential breath test, the person will be required to permit the taking of a blood specimen under section 72(1)(a); and
 - “(b) that if the result of a blood test indicates the presence of alcohol in the person’s blood the person may be issued with an infringement offence notice or charged with an offence, depending on the proportion of alcohol; and
 - “(c) of the infringement fee payable for a breach of section 56(2B); and
 - “(d) that the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of the blood test establishes that the person has committed an offence against this Act.”

10 Section 70A replaced (Right to elect blood test)

Replace section 70A with:

“70A Right to elect blood test

- “(1) A person has the right, within 10 minutes of being advised by an enforcement officer of the matters specified in section 77(3)(a) (which sets out the conditions of the admissibility of the test), to elect to have a blood test to assess the proportion of alcohol in his or her blood, if the result of that person’s evidential breath test appears to be positive, and—
- “(a) the result of the person’s evidential breath test indicates that the proportion of alcohol in the person’s breath exceeds 400 micrograms of alcohol per litre of breath; or
 - “(b) the person is apparently younger than 20; or
 - “(c) the person holds an alcohol interlock licence or a zero alcohol licence.
- “(2) A person does not have the right to elect to have a blood test to assess the proportion of alcohol in his or her blood if the result of the person’s positive evidential breath test indicates that the proportion of alcohol in the person’s breath exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.
- “(3) Subsection (2) does not apply to a person who is apparently younger than 20 or who holds an alcohol interlock licence or a zero alcohol licence.”

11 Section 72 amended (Who must give blood specimen at places other than hospital or surgery)

- (1) After section 72(1), insert:
- “(1AA) Subsection (1)(b) does not apply in the case of a person (other than a person who is apparently younger than 20 or who holds an alcohol interlock licence or a zero alcohol licence) if the result of the evidential breath test under section 69(4) indicates that the proportion of alcohol in the person’s breath exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.”
- (2) After section 72(1C), insert:
- “(1D) An enforcement officer who advises a person of the matters specified in section 77(3)(a) (which sets out the conditions of

the admissibility of an evidential breath test) must also, without delay, advise the person that if the person elects to have a blood test the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of that blood test establishes that the person has committed an offence against this Act.

“(1E) An enforcement officer who requires a person to permit the taking of a blood specimen under subsection (1)(c), (d), or (e) must advise the person that the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of the blood test establishes that the person has committed an offence against this Act.”

12 Section 74 amended (Procedure for dealing with blood specimens)

Replace section 74(7)(a)(iii) with:

“(iia) in the case of an infringement offence, the date on which the defendant is served with an infringement notice in respect of the infringement offence; or

“(iii) in any case to which subparagraph (i), (ii), or (iia) does not apply, the date on which the defendant is first charged in court with any such offence; and”.

13 Section 77 amended (Presumptions relating to alcohol-testing)

Replace section 77(3) with:

“(3) Except as provided in subsections (3B) and (4), the result of a positive evidential breath test is not admissible in evidence in proceedings for an offence against any of sections 56 to 62 if—

“(a) the person who underwent the test is not advised by an enforcement officer, without delay after the result of the test is ascertained,—

“(i) that the test was positive; and

“(ii) of the consequences specified in subsection (3A), so far as applicable, if he or she does not request a blood test within 10 minutes; or

- “(b) the person who underwent the test—
 - “(i) advises an enforcement officer, within 10 minutes of being advised of the matters specified in paragraph (a), that the person wishes to undergo a blood test; and
 - “(ii) complies with section 72(2).
- “(3A) The consequences referred to in subsection (3)(a)(ii) are—
 - “(a) that the positive test could of itself be conclusive evidence to lead to that person’s conviction for an offence against this Act if—
 - “(i) the test indicates that the proportion of alcohol in the person’s breath exceeds 400 micrograms of alcohol per litre of breath; or
 - “(ii) the person is younger than 20 and the proportion of alcohol in the person’s breath exceeds 150 micrograms of alcohol per litre of breath; or
 - “(iii) the person holds an alcohol interlock licence or a zero alcohol licence:
 - “(b) that the positive test could of itself be conclusive evidence that the person has committed an infringement offence against this Act if the person is younger than 20 and the test indicates that the person’s breath contains alcohol but the proportion of alcohol does not exceed 150 micrograms of alcohol per litre of breath.
- “(3B) Subsection (3) does not apply if the result of a positive evidential breath test indicates that the proportion of alcohol in a person’s breath (other than a person who is apparently younger than 20 or who holds an alcohol interlock licence or a zero alcohol licence) exceeds 250 micrograms of alcohol per litre of breath, but does not exceed 400 micrograms of alcohol per litre of breath.”

14 Section 121 amended (Enforcement officer may immobilise vehicle, etc, in specified circumstances)

In section 121(3), replace “where the result of an evidential breath test undergone by the person indicates that the proportion of alcohol in the person’s breath exceeds 400 micrograms of alcohol per litre of breath,” with “where the person has

undergone an evidential breath test and it appears to the enforcement officer that the test is positive,”.

Part 2

Technical and consequential amendments

- 15 Technical and consequential amendments to principal Act**
Amend the principal Act as set out in Schedule 1.
- 16 Consequential amendments to regulations**
Amend the regulations listed in Schedule 2 as set out in that schedule.
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Schedule 1
Technical and consequential amendments
to principal Act

s 15

Section 2

In section 2(1), definition of **positive**, paragraph (c), replace “400” with “250”.

Section 57AA

In section 57AA(1) and (4), replace “400” with “250”.
In section 57AA(2) and (5), replace “80” with “50”.

Section 64

In section 64(3)(a)(iii), replace “400” with “250”.
In section 64(3)(b)(iii), replace “80” with “50”.

Section 69

In section 69(1)(ab), replace “400” with “250”.

Section 71

In section 71(1), replace “section 69(1)(b)” with “section 69(1)(aa)”.

Section 79

In section 79(4)(c)(ii), replace “80” with “50”.

Section 167

In section 167(2)(a)(ii), replace “56(1), 56(2),” with “56, 57,”.

Section 209

Repeal section 209(2A), (2B), and (2C).

Schedule 2

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**Consequential amendments to Land
Transport (Offences and Penalties)
Regulations 1999****Schedule 1**

In Schedule 1, after the item relating to section 55A(2) of the Land Transport Act 1998, insert:

56(1A)	Driving or attempting to drive with breath-alcohol concentration exceeding 250 micrograms but not exceeding 400 micrograms of alcohol per litre of breath	—	—	200	—
56(2A)	Driving or attempting to drive with blood-alcohol concentration exceeding 50 milligrams but not exceeding 80 milligrams of alcohol per 100 millilitres of blood	—	—	200	—
56(2B)	Driving or attempting to drive with blood-alcohol concentration exceeding 50 milligrams but not exceeding 80 milligrams of alcohol per 100 millilitres of blood, and failing or refusing to undergo evidential breath test when required	—	—	700	—

Schedule 2

In Schedule 2, Part 1, after the third item relating to section 52(1)(c) of the Land Transport Act 1998, insert:

56(1A)	Driving or attempting to drive with breath-alcohol concentration exceeding 250 micrograms but not exceeding 400 micrograms of alcohol per litre of breath	50
56(2A)	Driving or attempting to drive with blood-alcohol concentration exceeding 50 milligrams but not exceeding 80 milligrams of alcohol per 100 millilitres of blood	50
56(2B)	Driving or attempting to drive with blood-alcohol concentration exceeding 50 milligrams but not exceeding 80	50

Schedule 2—*continued*

milligrams of alcohol per 100 millilitres of blood, and failing
or refusing to undergo evidential breath test when required

Legislative history

19 November 2013	Introduction (Bill 175–1)
3 December 2013	First reading and referral to Transport and Industrial Relations Committee
19 June 2014	Reported from Transport and Industrial Relations Committee (Bill 175–2)
3 July 2014	Second reading
22 July 2014	Committee of the whole House
30 July 2014	Third reading
7 August 2014	Royal assent

This Act is administered by the Ministry of Transport.
