



Drink driving in Queensland

A discussion paper

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Minister's Foreword



Despite the risks of crashing, receiving a fine or losing their licence, a growing number of people in Queensland are being caught drinking and driving. This can be seen in the steady increase in the number of drink driving offences recorded over the last several years¹.

Currently, Queensland's anti drink driving effort involves a range of measures that include random breath testing (RBT), legal alcohol limits, licensing penalties and fines, vehicle impoundment, public education and advertising campaigns, offender education programs and designated driver programs.

With the introduction of the 0.05 alcohol limit in 1985, and RBT in 1988, the Queensland road toll showed marked improvement. However, people tragically continue to be killed or injured on our roads because of drink driving. These crashes not only devastate families and friends but also have a significant impact on the wider community and health, emergency and support services.

Over 600 people have been killed as a result of crashes involving drink drivers in the eight years prior to 30 June 2009. This represents, on average, 22.9 per cent of all road fatalities in Queensland for that period. In the 12 months prior to 30 June 2009 alone, 84 people were killed in crashes that involved a driver over their legal alcohol limit².

The significant impact of drink driving can also be seen in the number of hospitalised casualties in Queensland. The percentage of all hospitalised casualties as a result of crashes involving drink drivers has remained between 8.7 and 10.6 per cent in the 15 years to 30 June 2007³.

As part of our commitment to working with the community to reduce drink driving, the Queensland Government is undertaking two major initiatives.

The first is the introduction of alcohol ignition interlocks for high risk drink drivers. An interlock is an in-vehicle breath test instrument that is connected to the ignition. The driver must blow into the interlock device every time they attempt to start their vehicle. If alcohol is detected, the interlock device prevents the vehicle from starting.

The Queensland Government is introducing interlocks as a mandatory re-licensing requirement for a range of high risk drink drivers, including first time offenders with a high blood/breath alcohol concentration (BAC) and repeat drink driving offenders.

The second initiative is a review of the current approach to tackling drink driving in Queensland and an important

part of this process is to gain input from the community on a range of potential interventions.

Consequently, this *Drink driving discussion paper* has been developed. This paper outlines a number of discussion points that I would like you to consider and provide comment on. Some of these initiatives have been adopted in other Australian jurisdictions and overseas while others are further enhancements to programs and policies currently being used in Queensland.

It is important to note the possible interventions outlined in this discussion paper are only ideas proposed for consultation at this stage and are not government policy. We are seeking the views of the community before considering the implementation and associated costs of any future anti drink driving initiatives.

The discussion paper provides a great opportunity for Queenslanders to have a voice about drink driving. This conversation with the community is about potential changes that could save lives. Although not all ideas may be feasible due to costs, rural and remote impacts

and other issues, the results of this community consultation process will help to inform the future direction of anti drink driving initiatives in Queensland.

Addressing drink driving is the responsibility of all road users. The government has a key role to play but the entire community needs to get involved in this important issue. We cannot tackle this problem alone.

I would encourage you to have your say by reading this discussion paper and completing the feedback form.

Road safety is vital for a stronger and safer Queensland.



Rachel Nolan MP
Minister for Transport

Introduction

What is this discussion paper for?

Queensland's current anti drink driving effort includes enforcement activities such as RBT, drink driving legislation including penalties and sanctions, public education campaigns, advertising campaigns and offender education programs. While there appears to be wide knowledge and acceptance by the community of these approaches, the fact that drink driving related fatalities still represent 22.9 per cent of all road fatalities in Queensland in the eight years prior to 30 June 2009, prompted a review of the current approach to drink driving in Queensland ⁴.

The objectives of this discussion paper are to advise the public about the introduction of alcohol ignition interlocks and to seek comment from the Queensland community on potential new programs or improvements to existing policies and programs that could be introduced to address this road safety problem.

The enhancements in this paper have been identified through an examination of: the benefits/limitations of existing programs and policies currently used

in Queensland; crash and offence data; recent academic research into drink driving; and the various approaches adopted in other Australian and international jurisdictions.

It should be noted that the enhancements and new programs outlined in *Part Five* of this discussion paper are not government policy and are for consultation purposes only. The government is seeking the views of the community before considering the implementation and associated costs of any new anti drink driving initiatives.

Reducing the occurrence of drink driving and thereby reducing alcohol related harm will contribute to the creation of a healthier Queensland. Healthy Queenslanders is one of the five goals of Q2, the government's plan to address the current and future challenges facing Queensland.

Structure of the paper

This discussion paper has been divided into seven parts.

- Part One** The drink driving problem in Queensland
- Part Two** Framework for addressing drink driving in Queensland
- Part Three** What has been done to address drink driving in Queensland
- Part Four** What changes will be made – an alcohol ignition interlocks initiative
- Part Five** What changes could be made
- Part Six** Next steps
- Part Seven** Community feedback form.

Definitions

Serious casualty crash: A road crash which results in a fatality or a person being hospitalised.

Drivers: In this paper refers to those operating, in charge or attempting to put in motion a vehicle (as per section 79 Transport Operations (Road Use Management Act) 1995. It may also include riders (for example of motorcycles).

Controller: A person who exercises control over their movements at the time of the crash (i.e. driver, rider or pedestrian). Passengers and pillions are not regarded as controllers.

Incapacitation: Physically separating the drink driving offender from their vehicle either through vehicle impoundment or forfeiture or imprisonment.

Key

≥ Greater than or equal to

≤ Less than or equal to

Guidelines for having your say

Everyone in the community is invited to comment on the issues covered in this discussion paper.

Part Seven of the discussion paper has questions relating to the discussion points raised throughout the paper.

Submissions can be made by:

- completing the online feedback form on the Queensland Government's *Get Involved* website **www.getinvolved.qld.gov.au**.
- written submission to:
Drink Driving Review Team
Department of Transport and Main Roads
PO Box 673 Fortitude Valley Qld 4006
Fax: (07) 3253 4960

Responses should be received by 9am Monday 17 May 2010.

If you need more time to make a submission, or would like further information about the initiatives proposed, please contact the Department of Transport and Main Roads on **13 23 80**.

Copies of the *Drink driving discussion paper* are also available on **www.getinvolved.qld.gov.au**.

Next steps in the consultation process

In addition to seeking feedback through the online feedback form and written submissions, the Queensland Government will also be undertaking a number of other community consultation activities. Further information on these activities will be provided through **www.getinvolved.qld.gov.au**.

The results from this community consultation process will be used to inform the Queensland Government's future direction in addressing the impact of drink driving on Queensland's road toll. Members of the community will be able to access the final outcomes from this process, once complete, through the Department of Transport and Main Roads' website **www.tmr.qld.gov.au**.

Part One

The drink driving problem in Queensland

Drink driving is a significant contributing factor to road crashes in Queensland with drink drivers involved in crashes resulting in 609 fatalities over the period 1 July 2001 to 30 June 2009⁵.

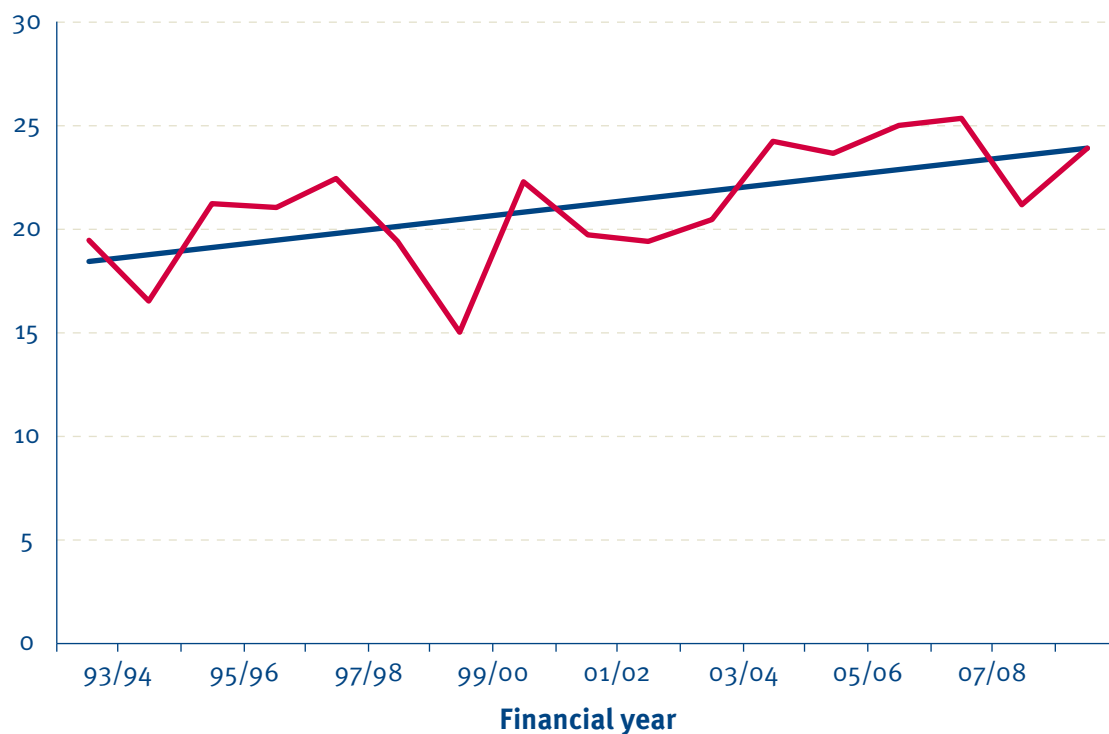
Drink driving continues to be a major cause of death and injury on Queensland's roads⁴. Dramatic decreases in alcohol related fatalities were achieved in the 1980s due to new drink driving laws and enforcement strategies such as RBT, along with public education activities⁶. However, significant improvements have not occurred since. In fact, the percentage of all road fatalities that were a result of crashes involving drink drivers* has recently risen (as shown in *Figure 1*).

In the six years to the end of June 2009 almost one in four (23.9 per cent) of all road fatalities were as a result of crashes that involved a drink driver⁷. This was an increase from the previous 11 years (1992–93 to 2002–03) where, on average, one in five (19.7 per cent) of all road fatalities were as a result of crashes involving a drink driver⁸.

Drink drivers continue to put their own lives and the lives of others at risk and this remains a real cause for concern for our community.

Figure 1

Fatalities as a result of crashes involving drink drivers* as a percentage of all fatalities within Queensland, 1 July 1992 to 30 June 2009 (trend over time).



Profile of drink drivers involved in serious crashes in Queensland

A recent analysis of serious crashes in Queensland between 2001–02 to 2007–08 showed that, compared to controllers (see *Definitions*) under their legal alcohol limit, drink drivers were more likely to be male, aged 20–29 years, have recent prior drink driving offences, and be driving above the speed limit, unlicensed, between the hours of 11pm to 2am, on Fridays, Saturdays, or Sundays outside the greater Brisbane area and other Queensland provincial cities⁹. Drink drivers were also more likely to be driving light vehicles (cars/station wagons) on locally controlled roads. Conversely, compared to light vehicle drivers, heavy vehicle drivers were less likely to be drink drivers when involved in a drink driving serious casualty crash¹⁰.

Research on drink drivers

Evidence suggests that drink drivers tend to be: male, single, have low self-esteem, possess drink driving, traffic and criminal offence histories and are from low to middle income socioeconomic backgrounds^{11, 12, 13, 14, 15}. Drink drivers have also been found to be younger (under 30–35 years of age) and more likely to participate in other high risk driving behaviours¹⁶. Unlicensed drivers are also likely to participate in high risk driving behaviours such as drink driving and speeding¹⁷.

⁹ Queensland does not systematically test all drivers/riders involved in crashes for alcohol. Therefore, drink driving crashes may be under-reported (see Compulsory blood testing on pages 31–32).

¹⁰ Crashes involving drink drivers refers to: Crashes involving drivers or riders aged 16 years and over with an illegal BAC, where the licence type was known. Known licence types are: Learner, Provisional or Probationary, Restricted and Open Licences as well as unlicensed drivers and riders.

Drink driving offences

Despite the dangers of drink driving, the number of drink driving offences detected per year continues to increase. During the period 2001–02 to 2007–08 drink driving offences increased by 25.5 per cent as seen in *Figure 2*¹⁸. As a comparison, the growth in the number of recorded licences has increased by 21.53 per cent from June 2001 to June 2008¹⁹. An increase in the number of offences may be as a result of various factors including more targeted enforcement practices. Data from the RBT program shows that the ratio of positive breath tests (where alcohol was detected in a breath sample and the driver was detained for further testing) to all breath tests increased from 1:102 in 2001–02 to 1:85 in 2007–08²⁰.

Figure 2

Drink driving offences in Queensland by financial year, 1 July 2001 to 30 June 2008 (trend over time).

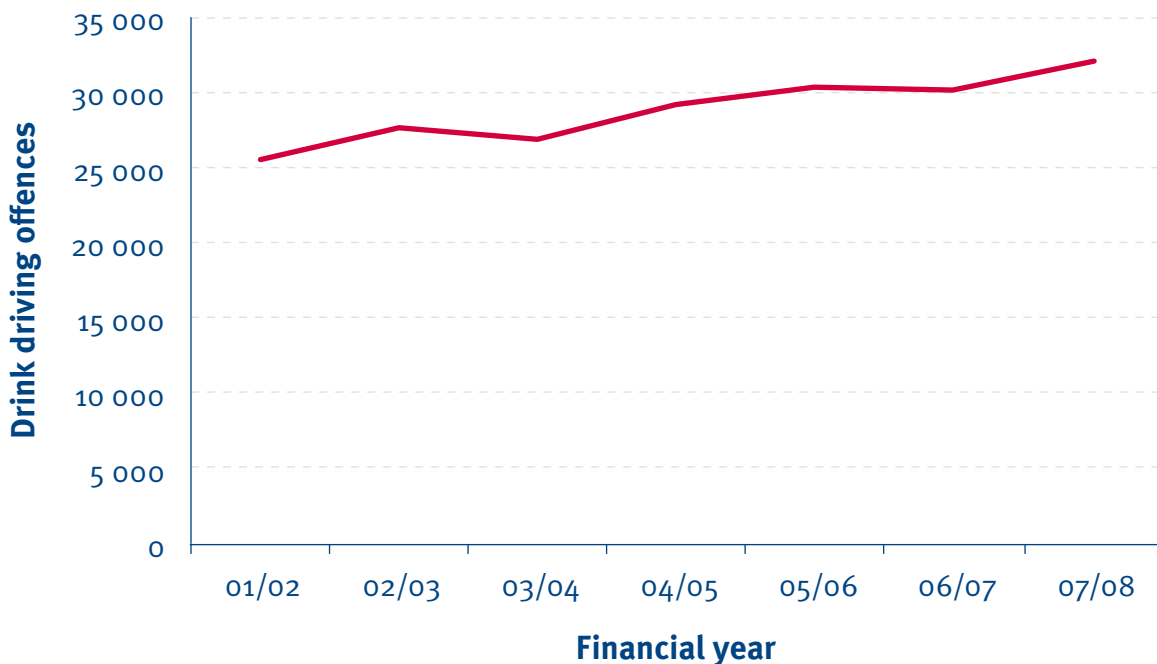


Figure 3

Comparison of first time and repeat drink driving offenders in Queensland for 2007–08.



Over 32 000 drink driving offences were detected in Queensland in the 2007–08 financial year. These offences were committed by 29 909 drink drivers. Of these, 21 877 drink drivers (73.1 per cent) were either first time offenders or had no prior drink driving offences in the previous five years. The remaining 8 032 drink drivers (26.9 per cent) had one or more prior offences in the previous five years²¹. *Figure 3* shows the breakdown of first time and repeat drink driving offenders.

Figure 4

Comparison of offences for first time drink driving offenders 2007–08.

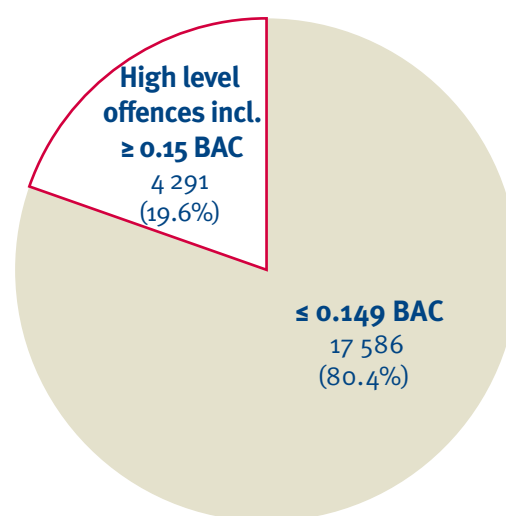


Figure 4 shows the breakdown of offences for first time drink driving offenders in 2007–08. The majority (80.4 per cent) of first time drink driving offenders were convicted of a drink driving offence with a blood/breath alcohol concentration (BAC) less than or equal to 0.149. However, one in five (19.6 per cent) first time drink driving offenders were convicted of a high level offence, that is, with a BAC equal to or greater than 0.15, driving under the influence of liquor and failing to supply a specimen of breath²².

The effects of alcohol on driving

Alcohol reduces the brain's ability to function effectively as it takes longer for the brain to receive messages from the eye, process information and send instructions out to the rest of the body²³. Other reported results of alcohol consumption include reductions in the ability to see clearly, see distant objects, see at night, use peripheral vision, undertake two tasks at once and judge speed and distance²⁴. After consuming alcohol individuals may also feel overconfident and be prepared to take greater risks, thus diminishing their ability to make appropriate decisions relating to the continued consumption of alcohol and their ability to drive safely. As alcohol is a depressant, it can also make an individual sleepy²⁵.

Therefore, a driver experiencing the effects of alcohol has a significantly diminished ability to drive safely. It is evident that alcohol consumption impairs the skills and processes that are critical for safely undertaking the complicated task of driving a vehicle²⁶. Furthermore, long term alcohol consumption is likely to have a more permanent impact on an individual's cognitive abilities, thus even further reducing their ability to drive safely in the long term²⁷.

Alcohol use in Queensland

Alcohol plays a social role for many Australians. It is a familiar part of traditions and customs in this country, and is often used for relaxation, socialisation and celebration²⁸. Alcohol is also an important component of the Australian economy generating substantial employment, retail activity, export income and tax revenue²⁹. It is estimated that 83 per cent of Australians consume alcohol, with 1.4 million drinking at least once a day³⁰.

In Queensland alone drinking is a common behaviour in our community with 85 per cent of the population aged 14 years and older reporting they drink alcohol³¹. During 2007, the average age of consumption of the first full serve of alcohol was 16.8 years³². Given the prevalence of drinking alcohol, there are a large number of people (including adolescents) within the community that could potentially drink and drive unless motivated not to do so through enforcement, penalties, education and self held attitudes and beliefs.

Alcohol and crash risk

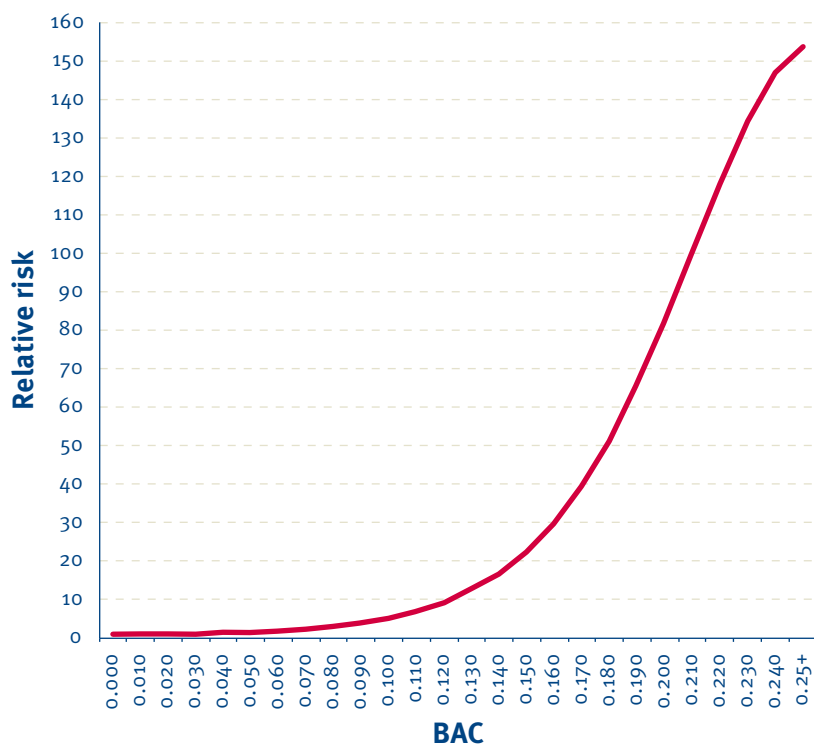
A clear relationship exists between a person's BAC level and crash risk. Research has demonstrated that crash risk, including the likelihood that these crashes result in a fatality, rises exponentially with increased BAC level^{33, 34, 35}. The risk rises steeply at higher levels of intoxication.

There is evidence that skills performance starts to deteriorate at levels below 0.05 BAC, especially in terms of divided attention and basic driving skills^{36, 37}.

Research has examined the likelihood of crash involvement for drivers with a certain BAC compared to drivers with no alcohol in their system³⁸. As *Figure 5* shows, the risk of a crash appears to rise for drivers with a BAC of 0.05 or greater³⁹. The crash risk of a driver with a BAC of 0.10 is almost five times that of a driver with no alcohol in their system⁴⁰. The crash risk continues to rise and is significantly elevated at BAC above 0.10. A driver with a BAC of 0.15 has a crash risk 22 times that of a driver with no alcohol in their system⁴¹. Due to this and other research, crash risk has been widely used to set the legal alcohol limits for driving.

Figure 5

Relative risk of crash involvement by BAC.



Adapted: Compton, R.P., Blomberg, R.D., Moskowitz, H., Burns, M., Peck, R.C. & Fiorentino, D. (2002) *Crash rate of alcohol impaired driving. Proceedings of the Sixteenth International Conference on Alcohol, Drugs and Traffic Safety ICADTS, Montreal*

Part Two

Framework for addressing drink driving in Queensland

Safe road users – a ‘safe systems’ approach

Road safety policy requires balanced attention to the road environment, vehicle safety, speed limits and the behaviour of road users.

This is summed up in the ‘safe system’ concept, which aims for safe road users travelling at safe speeds in safe vehicles on safe roads and roadsides. This concept includes:

- **Safe roads and roadsides** aims to improve the infrastructure of roads and the surrounding road environment to minimise both the likelihood of a crash happening and the severity of the crashes that do occur;
- **Safe vehicles** aims to increase the adoption of safety features in vehicles that prevent crashes and minimise the danger to vehicle occupants and other road users in the event of a crash;
- **Safe speeds** aims to encourage travel at speeds that are appropriate to the conditions and limit the physical impact forces of crashes to survivable levels; and
- **Safe road users** aims to influence alert and compliant road user behaviour through public education, enforcement, licensing and other means.

The safe system concept draws from the principles of the successful road safety policies adopted in countries such as Sweden, Norway, the Netherlands and the United Kingdom, where road fatality rates are generally a little more than half that in Australia. Since the endorsement of the *National Road Safety Action Plan 2005 and 2006* by the Australian Transport Council in 2004, road safety policy across Australian jurisdictions has been based on safe system principles.

The approach allows jurisdictions to build on past road safety achievements and successful interventions. Adoption of the safe system framework has been recognised as essential for achieving ambitious reductions in road fatalities and injuries⁴².

This discussion paper is a component of the ‘safe system’ approach inherent in the *Queensland Road Safety Action Plan 2010–2011* and aims to reduce drink driving to deliver safe road users.

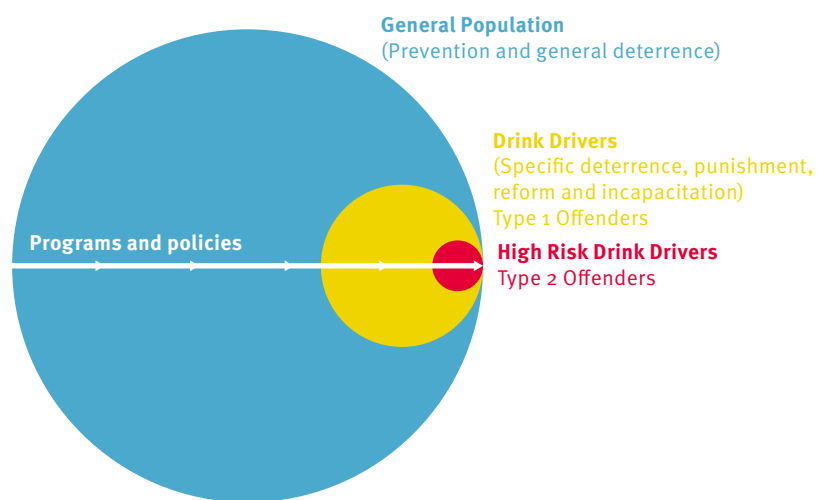
Framework for addressing drink driving

Drink driving is a highly complex social, economic, and public health issue and, as a result, a broad approach is required to address this road safety problem⁴³. This approach should not only include punishing the offender but should also seek to proactively prevent or deter drink driving from occurring, or re-occurring in the case of those who have already offended.

In choosing which measures to apply, it is important to understand who the target groups are and what measures are the most appropriate and effective to influence a reduction in drink driving in our community. This population based perspective considers the environmental and social determinants of drink driving and how they affect the health and well being of populations⁴⁴. As illustrated in *Figure 6* interventions that are applied to the overall population primarily aim to prevent and/or deter people from drink driving. If these measures fail and a person is detected drink driving the response changes focus and aims to punish, reform and/or incapacitate⁴⁵ individual offenders. Through these means it is intended that the offender is further prevented and/or specifically deterred from reoffending. This framework guides the way that drink driving is addressed and the target groups for potential interventions.

Figure 6

Target populations for drink driving countermeasures



Deterrence and drink driving

Most approaches used to address drink driving have primarily been built on the principles of deterrence theory⁴⁶. This theory suggests that a person's decision whether to engage in a particular illegal activity is determined by how they perceive the severity, swiftness and certainty of punishment. From a road safety perspective deterrence is either general and/or specific⁴⁷. Programs and policies predicated on general deterrence aim to alter the behaviour and attitudes of the general public, particularly those who have not offended. Specific deterrence primarily focuses on those who have offended and tries to prevent the person from repeating their actions by punishing, reforming and/or incapacitating the offender.

Breakdown of target groups for potential interventions

General Population

Prevention and general deterrence

More than 4.4 million people lived in Queensland as at 30 June 2009⁴⁸. For many Queenslanders, the consumption of alcohol is an accepted and common practice. In 2007, around 85 per cent of the population aged 14 years and older reported drinking alcohol in the 12 previous months⁴⁹. Between five and ten per cent of Queenslanders drink alcohol daily⁵⁰. Drinking behaviours in Queensland are amongst the riskiest in Australia⁵¹. Queenslanders have one of the highest rates of alcohol related deaths and hospitalisations in Australia (behind the Northern Territory and Western Australia)⁵². Alcohol continues to be linked with a large proportion of serious road crashes and violent crime. In 1999–2001, there were 812 deaths and 20 912 hospital admissions in Queensland due to alcohol misuse⁵³.

Drink Drivers

Specific deterrence, punishment, reform, and incapacitation

As at 31 December 2009, there were more than three million driver licences on register in Queensland. The vast majority (89.1 per cent) of these were open licences. Provisional (including P1 & P2) and learner licences account for 10.9 per cent of licences⁵⁴.

Under Queensland legislation, it is an offence to drive a vehicle with a BAC above the driver's legal alcohol limit*. Other drink driving offences include driving under the influence of liquor, and failing to provide a specimen of breath or blood for testing when requested by a police officer. The latter offences are considered high level offences and are dealt with by the law and the courts in the same way as if the person had a BAC reading over the high alcohol limit (≥ 0.15 BAC)*.

It is difficult to estimate the actual prevalence of drink driving, however self reported drink driving does provide some indication. Although most people claim to not drink drive, 14 per cent of respondents to a recent Department of Transport and Main Roads' survey did admit that they sometimes drive when they could be over their legal alcohol limit⁵⁵.

Despite very high levels of enforcement (approximately three million tests per annum) the Queensland Police Service (QPS) will only ever catch a proportion of all drink drivers. In the 2007/08 financial year, approximately one per cent of the total number of drivers that were randomly breath tested using various breath testing enforcement activities returned a positive result⁵⁶. In the same financial year, 29 909 drink drivers were detected committing over 32 000 drink driving offences^{57, 58}. These drink drivers represented less than one per cent of the total population at the time⁵⁹.

* See Part Three for more information on legal alcohol limits

Profile of a drink driving offender in Queensland

The drink driving offences detected in Queensland over the seven years prior to June 2008 were most frequently committed:

- by males
- by 20–29 year olds
- on Saturdays
- mostly in the 0.05–0.09 BAC range ⁶⁰.

Drink drivers though are not all alike. It is important to remember that drink drivers can be male or female, of all ages, and from any cultural and social background.

All drink drivers pose a risk on our roads. However, some drink drivers represent a greater risk than others. Drink drivers can be categorised according to the risk that they represent. Two types of offenders are outlined in this part. These two types of offenders will be targeted and further discussed in Parts Four and Five of the discussion paper.

Type 1 Offenders

17 586 offenders in 2007–08

Type One offenders are first time offenders (within a five year period) convicted of an offence ≤ 0.149 BAC (that is, below the high alcohol limit).

Type One offenders are generally considered to have a lower crash risk than Type Two offenders due to their lack of previous drink driving history and their lower BAC level at the time of the offence.

In the 2007–08 financial year, 17 586 drink drivers were convicted of an offence that is included in this category (includes offences 0.001–0.05 BAC) ⁶¹.

Type One offenders include:

- 1a) *First time offenders (within a five year period) convicted of an offence where the BAC was >0.00 and ≤ 0.09 .*

In the 2007–08 financial year, 11 570 drink drivers were detected and convicted of an offence that would fall into this category (includes offences 0.001–0.05) ⁶².

- 1b) *First time offenders (within a five year period) convicted of an offence where the BAC was ≥ 0.10 and ≤ 0.149 .*

In the 2007–08 financial year, 6 016 drink drivers were detected and convicted of an offence that would fall into this category ⁶³.

Type 2 Offenders

12 323 offenders in 2007–08

Type Two offenders are considered to pose a greater risk on the road due to a higher BAC level or because they have previously been caught drink driving and continue to drink drive placing other road users at risk.

A driver with a BAC of 0.15 has a crash rate 22 times that of a driver with no alcohol in their system⁶⁴. In Queensland, around half of the drink drivers involved in a crash where a person was killed or admitted to hospital had a BAC of 0.15 or greater⁶⁵.

In Queensland, a drink driver's traffic history in the previous five years is considered by a magistrate for the purposes of sentencing. A repeat drink driver is therefore a person convicted of two or more drink driving offences within a five year period. More than one in four detected drink drivers (26.9 per cent) in the 2007–08 financial year had committed another drink driving offence in the previous five years⁶⁶. Analysis of 2004 to 2007 crash data has also shown that controllers with prior drink driving offences were 5.44 times more likely to be a drink driver when involved in serious casualty crashes⁶⁷. Sanctions such as fines or licence disqualifications did not deter a proportion of drink drivers from committing another offence. Other research suggests that a significant number of repeat drink drivers are alcohol dependent⁶⁸.

Type Two offenders include:

- 2a) *First time offenders (within a five year period) convicted of a high level offence (≥ 0.15 , driving under the influence of liquor or fail to supply specimen).*

In the 2007–08 year, 4 291 offenders were convicted of a first time high level offence⁶⁹.

- 2b) *Repeat offenders (within a five year period), that is, a person convicted of two or more drink driving offences of any kind.*

In the 2007–08 financial year, 8 032 offenders convicted of a drink driving offence had also committed another drink driving offence in the previous five years⁷⁰.

Within the repeat offender cohort is a subset of drink drivers that is at a higher risk of crashing due to repeat high level offences (often at higher BACs):

- 2b) (i) *Repeat high level offenders (within a five year period), that is, a person convicted of two or more high level offences (≥ 0.15), driving under the influence of liquor or fail to supply specimen.*

In the 2007–08 financial year, 1 136 offenders convicted of a high level offence had also committed another high level offence in the previous five years⁷¹.

Part Three

What has been done to address drink driving in Queensland?

Decreases in alcohol related fatalities were achieved in the 1980s due to new drink driving laws (such as the introduction of 0.05 general alcohol limit in 1985) and enforcement strategies (particularly the introduction of the RBT program in 1988) along with public education activities ⁷².

This part describes the initiatives and policies that have been introduced in Queensland to address drink driving. The table below lists the initiatives and policies and shows which of the target populations (as outlined in *Part Two*) are affected by each initiative.

Table 1

Initiative	General Population	Drink Drivers	
	<i>Prevention and general deterrence</i>	Type One Offenders	Type Two Offenders
Legal alcohol limits	•	•	•
Mass media and education programs	•	•	•
Skipper – designated driver program	•		
RBT	•	•	•
24 hour licence suspensions	•	•	•
Immediate licence suspensions	•		•
Penalties (licence disqualifications, fines and imprisonment)	•	•	•
Cumulative disqualifications	•		•
Offender education programs		•	•
Vehicle impoundment			•

Overview of previous initiatives and policies introduced to address drink driving in Queensland.

Legal alcohol limits

In Queensland there are three alcohol limits:

- No alcohol limit – you will be over this limit if the concentration of alcohol in your blood or breath is more than zero
- General alcohol limit – you will be over this limit if the concentration of alcohol in your blood or breath is equal to or more than 0.05
- High alcohol limit – you will be over this limit if the concentration of alcohol in your blood or breath is equal to or more than 0.15.

Legal alcohol limits for drivers

Licence class, type and/or age	Legal BAC
Holder of learner, provisional or probationary licence and aged under 25 years	0.00
Holder of a restricted licence	0.00
Holder of a licence when driving or in charge of a truck, bus, articulated motor vehicle, B-double, road train, vehicle carrying dangerous goods, taxi, limousine, tow truck, pilot or escort vehicle escorting an oversize vehicle and public passenger vehicle or a vehicle while it is being used by a driver trainer to give driver training (but not a parent etc. supervising a learner driver)	0.00
Holder of a learner, provisional or probationary licence and aged 25 years and over*	Below 0.05
Holder of an open licence	Below 0.05

* Zero BAC for all provisional licence holders will be introduced in 2010.

Mass media and education campaigns

The Department of Transport and Main Roads' comprehensive approach to developing drink driving road safety campaigns involves extensive research to ensure the greatest impact on behaviour change. A social marketing framework is used for planning the majority of road safety public education campaigns. Social marketing campaigns attempt to tackle quite complex behaviours which can only be achieved over the long term. Market research demonstrates there are broad ranging motivations that drive people to act in various ways and just as many approaches that get them to reconsider their behaviour. All campaigns conducted by the department are informed by qualitative market research, including international and national research. Focus groups test concepts and key messages to determine those that have the best emotive appeal with the target audience and the most potential to encourage them to change their behaviour.

The Department of Transport and Main Roads regularly runs anti drink driving public education campaigns that are closely coordinated with QPS enforcement efforts (such as random breath testing).

Road safety research shows that public education campaigns have strong potential for behaviour change when complemented with enforcement which is why campaigns are planned with the QPS. The department recognises that long-term behaviour change can only be sustained with the combination of public education, enforcement and engineering improvements. Research confirms road safety advertising campaigns do have an impact on driver behaviour, especially when combined with enforcement and legislation.

The 2008–2009 anti drink driving public education campaign promoted the key message: 'Drink drive. You lose'. It consisted of television advertising, outdoor billboards and ambient advertising near bottle shops. Campaign activity was timed to coincide with holiday

periods and long weekends – statistics show a higher proportion of drink driving related crashes at these times.

Recent quantitative market research (June 2009) undertaken with 400 Queensland motorists revealed the anti drink driving campaign has been effective in generating high levels of awareness and message recall. Total awareness of the anti drink driving campaign was 86 per cent⁷³.

Skipper program/trial

In 2006/07, the Queensland Government developed an enhanced version of the designated driver program named 'Skipper' that was trialled in Mackay. The 'Skipper' program is an in-premises program in which patrons agree to have no alcohol in their system and drive their friends home in exchange for free soft drinks⁷⁴. A collaborative pro-active strategy targeting drinkers in hotels, clubs and other licensed premises to combat the incidence of alcohol related crashes, the program is designed to support and reward designated drivers and to increase the awareness of their social value to the broader community.

Random breath testing

RBT is the key drink driving enforcement activity in all Australian jurisdictions. In Queensland alone, breath testing drivers and riders has played a key role in reducing drink driving fatalities and hospitalisations by 11 per cent since the 1980's⁷⁵. Since 1988, the program has allowed the police to randomly test drivers and riders (at any time) without having observed any behaviour that indicates that the driver or rider may have been drinking and may have an illegal blood alcohol concentration⁷⁶.

Marketing and communication about the certainty of apprehension is a core ingredient for any RBT program, and has been delivered by mass media campaigns and publicity in local papers. Coupled with intensive media campaigns (alerting drivers to the potential of being detected at

any time), the RBT program has had a significant impact on further reducing drink driving related fatalities. The formula for the most successful RBT program must include high visibility of enforcement, giving the impression that offenders are likely to be caught if they drink and drive. RBT also creates a high level of awareness among drivers of its existence through formal and informal publicity campaigns as well as frequent interception of all drivers, regardless of the time of day or location.

Queensland's RBT program is one of the largest within Australia which operates with a current target of one test per licensed driver per annum, equating to approximately three million tests each year. The QPS is the responsible government agency for the operation of the program and conducts various operations around the state year round. The level of enforcement varies and is determined on a regional basis by local police accessing crash data, reviewing known places of drinking, and in consideration of other local policing requirements.

Each region conducts a significant number of tests via a number of enforcement strategies, including stationary deployment such as booze buses, and mobile deployment from patrol cars.

24 hour licence suspension

In Queensland, if a driver is charged with drink driving and over the no alcohol limit (0.00) or general alcohol limit (0.05) but under the high alcohol limit (0.15) their licence will be automatically suspended for 24 hours from the time their alcohol level is confirmed. This 24 hour suspension is targeted at the Type One offenders outlined in the framework section of the discussion paper. The 24 hour suspension is used to encourage those drivers charged with drink driving under the high alcohol limit to not drive for 24 hours, therefore taking away the possibility of those offenders driving while still affected by alcohol. When the 24 hour suspension period has ended, drivers may resume driving until their case is heard by a Court.

Immediate licence suspension

Queensland introduced immediate licence suspensions for certain drink driving offences on 15 December 2006. If a driver is charged with any of the offences listed below, their licence will be automatically suspended until their charge has been heard and determined by a court. The suspension takes effect once the person is charged. The offences are:

- Driving a motor vehicle with a BAC of 0.15 or more
- Failing to provide a specimen of breath for testing/analysis or a specimen of blood for analysis
- Being charged with a second drink driving offence while an earlier drink driving charge is still to be heard by a court
- Operating a motor vehicle dangerously when adversely affected by alcohol and over the permissible alcohol limit.

This immediate licence suspension is targeted at the Type Two high risk offenders outlined in the framework section of the discussion paper. The immediate suspension of licences of high risk offenders may help to prevent them from repeatedly drink driving, risking their own life as well as other Queenslanders.

Queensland's penalty regime

Under the *Transport Operations (Road Use Management) Act 1995* penalties for drink driving offences are expressed as a fine or a term of imprisonment. A magistrate may impose a range of sentences including:

- A fine⁷⁷ (not more than the maximum fine)
- A community service order⁷⁸ (not less than 40 and not more than 240 hours to be completed within 12 months)
- A probation order⁷⁹ (not less than six months and not more than three years)
- An intensive corrections order⁸⁰ (not more than 12 months)
- A wholly or partially suspended sentence⁸¹
- A term of imprisonment⁸².

Magistrates in Queensland have the discretion to impose any fine under or equal to the maximum fine as there is no minimum fine amount legislated for drink driving offences. Queensland's maximum penalties for drink driving offences are listed in *Table 2*. The maximum fines for drink driving offences are relatively high. In comparison to other Australian jurisdictions, Queensland's maximum fines for drink driving offences are amongst the highest. For example, in Queensland the maximum fine for driving with a BAC of 0.15 or more (first offence) is \$2800. In Victoria the maximum fine for this offence is \$1401.84, in South Australia it is \$1200 and in the Northern Territory it is \$1300.

In Queensland, minimum disqualification periods are legislated for drink driving offences. Queensland's disqualification periods are considered appropriate as the period of disqualification increases depending on whether the offence is a first, second or subsequent offence and the BAC level at the time of the offence. The magistrate also has the discretion to require drink driving offenders to serve a proportion or the entire sentence as imprisonment. The punishment for offenders who commit three or more high level offences within five years must include imprisonment.

Imprisonment may be whole or part of the penalty imposed by the magistrate. Where a magistrate imposes a fine and the offender is unable to pay, the magistrate may make a fine option order to allow the offender to pay the fine through community service (see Part 4, Division 2 of the *Penalties and Sentences Act 1992*).

In addition to the laws under the *Transport Operations (Road Use Management) Act 1995*, the *Criminal Code Act 1899* provides a penalty regime including terms of imprisonment for offenders that are charged with very serious offences such as dangerous operation of a vehicle. These laws enable police prosecutors and the courts to note the seriousness of particular offences, especially in cases where a person who operates (or in any way interferes with the operation of) a vehicle dangerously, causing the death of, or grievous bodily

harm to another person. In these circumstances, severe impairment by alcohol (as an intoxicating substance) may be the aggravating circumstance leading to the dangerous operation of a vehicle. For these circumstances, a magistrate may sentence a driver to imprisonment for a maximum period of 10 to 14 years.

Other Australian jurisdictions also have similar legislation regarding dangerous operation of a vehicle. In Western Australia and the Northern Territory imprisonment is a maximum period of 7–10 years, New South Wales is 7–14 years, Victoria is 5–10 years, the Australian Capital Territory is 4–9 years and in South Australia imprisonment is a maximum period of 7 years to a life sentence. Based on this information Queensland’s imprisonment terms for these offences are slightly higher than other Australian states and territories, with the exception of South Australia.

Table 2

Queensland’s offences and penalties for drink driving by offence and alcohol concentration limit

Limit	Offence	Alcohol result range	Penalties (fine and/or imprisonment)		Disqualification period
			Maximum fine	Imprisonment	
No alcohol limit	First offence	0.00–0.04	\$1400.00	3 months	3–9 months
	Second and subsequent offence		\$6000.00	18 months	3–18 months
General alcohol limit	First offence	0.05–0.14	\$1400.00	3 months	1–9 months
	Second and subsequent offence		\$6000.00	18 months	3–18 months
All alcohol limits	First offence	≥0.15*	\$2800.00	9 months	Minimum of 6 months
	Second and subsequent offence		\$6000.00	18 months†	Minimum 12 months

* Includes driving under the influence offences

† Offenders committing three or more of these offences within five years must have the whole or part of the punishment as imprisonment

Cumulative disqualifications

Cumulative disqualifications for multiple drink or drug driving related offences were introduced in Queensland on 18 May 2008. This means that disqualifications for drink driving offences are served cumulatively (one after the other). Prior to cumulative disqualifications, disqualification periods were served at the same time. Effectively, this meant that a person only served the longest period of any of these disqualifications, and the shortest period did not affect the offender.

Offender education programs

Under Queensland legislation, drink driving offenders may be ordered through the court to attend and complete a 'training program'. Currently the only program that is delivered through this legislative provision is the Under the Limit (UTL) program. However, in addition to the UTL program there are several other programs outside of legislation that offenders are referred to by the courts or may choose to voluntarily attend. These include the Alcohol and Drug Foundation's Driving with Care program along with a number of courses run by community groups such as the Attitudinal Driving Workshops and the Gold Coast Traffic Offenders Program.

The UTL is an 11 week drink driving prevention and rehabilitation program that uses a combination of education and therapeutic approaches to provide drink driving offenders with an understanding of their individual behaviour within their cultural and social contexts, and provide drink driving offenders with opportunities to learn strategies and skills with a view to changing their behaviour and avoiding drink driving.

Offenders are referred by some courts or may voluntarily attend Attitudinal Driving Workshops. These are free workshops designed for offenders facing disqualification or prior to application for disqualification to be lifted. It is an educational type rehabilitation program. The content is delivered by victims and practitioners affected by or involved with road trauma.

Another educational type rehabilitation program is the Gold Coast Traffic Offender Program. Offenders are referred at the court's discretion to this program and it is offered pre-sentencing to offenders intending to plead guilty. Attendance may result in a reduced fine or reduction in disqualification period to no less than the minimum applicable period. The content is delivered by practitioners from the road safety, legal, alcohol treatment and other medical fields and it costs participants \$95 which must be paid prior to commencement of program.

The Driving with Care program includes screening and assessment to direct offenders to the appropriate level of rehabilitation and is a combination type rehabilitation program (with both educational and therapeutic components) targeted to high range or repeat offenders. Offenders are referred to this program at the court's discretion or may self-refer.

Vehicle impoundment

In Queensland, vehicle impoundment and forfeiture was introduced for certain drink driving offences from 1 July 2007. Vehicle impoundment and forfeiture applies to repeat offences in the following five offence categories:

1. Driving under the influence whilst over the high alcohol limit.
2. Failing to supply a specimen of breath/blood or driving whilst under 24 hour suspension.
3. Driving whilst unlicensed or disqualified.
4. Driving a vehicle that is both unregistered and uninsured.
5. Driving a vehicle which is illegally modified

Vehicle impoundment is graduated which means it increases in severity with each offence:

- For first offences (called the zero offence), no action is taken against the vehicle but existing sanctions (for example, immediate suspension for drink driving over the high alcohol limit) and Court imposed penalties apply
- A second offence in the same offence category in the following three years (referred to as the first repeat offence), may result in the vehicle being impounded immediately by a police officer for a 48 hour period
- If detected committing three offences in the same category in a three year period (referred to as the second repeat offence), a police officer may immediately impound the vehicle for 48 hours and also apply to a magistrate to impound the vehicle for up to three months
- For further repeat offences, the vehicle may be immediately impounded for 48 hours in addition to an application to a magistrate for forfeiture of the vehicle.

The driver is responsible for costs associated with the initial impoundment of the vehicle for 48 hours and the owner (even if they are not the driver) is liable for all costs associated with the storage of the vehicle beyond the initial impoundment period. If the motor vehicle is stolen or rented, the vehicle must be released to the owner as soon as possible.

The impoundment or forfeiture of a motor vehicle is in addition to, and does not limit or otherwise affect, any penalty that may be imposed on the person for the offence.

Part Four

What changes will be made?

As a first step in addressing drink driving in Queensland, the government is introducing alcohol ignition interlocks for a range of high risk drink drivers, including those with a BAC over the high alcohol limit (≥ 0.15) and repeat drink driving offenders (within a five year period).

Alcohol ignition interlocks initiative

An alcohol ignition interlock (interlock) prevents a vehicle starting if the driver has been drinking. The interlock incorporates a breath testing device that accurately measures the alcohol present in a driver's breath. It is connected to the ignition of a vehicle and the driver is required to provide a breath sample every time an attempt is made to start the vehicle. If alcohol is detected the vehicle will not start.

Interlock technology has improved considerably since it first became available over 30 years ago and is now considered to be reliable and accurate. A range of features have also been added to reduce the possibility or likelihood of a driver 'cheating' or circumventing the device including:

- temperature and pressure sensors to ensure that the sample is provided directly by an adult human to guard against filtered, stored or artificial breath samples
- driver breath recognition systems to reduce the possibility of untrained bystanders or third parties providing a breath sample
- a retest requirement at random intervals once the vehicle's engine has started to detect rising BAC levels as a result of further drinking
- a data logger to record the results of every attempt to use the interlock; and
- sealed wiring and circuits so that attempts to tamper with the device are clearly evident⁸³.

The primary purpose of an interlock is to prevent a driver that is impaired by alcohol from operating a vehicle and, in doing so, protect the safety of the public. Interlocks provide drivers with the opportunity to legally drive when they are not affected by alcohol, allowing drivers to maintain their mobility, employment and work and family commitments.

Interlocks effectively separate drinking and driving. They have been widely evaluated particularly in the United States of America and Canada. Comprehensive reviews of these studies conclude that, while installed, interlocks are more effective in preventing further offences^{84,85,86} and alcohol related crashes⁸⁷ than traditional sanctions such as licence disqualification. While the interlock is installed, reoffence rates are 37 to 90 per cent lower than for those that do not install an interlock⁸⁸. The median reduction in reoffences associated with interlock use is 73 per cent⁸⁹. However, the effect is not sustained once the interlock is removed with offence rates returning to levels similar to those that did not participate in the interlock program^{90,91,92}. Long term change in drink driving behaviour may be achieved though if interlock participants also complete a rehabilitation program⁹³.

Who will be required to have an interlock condition on re-licensing?

An interlock licence condition will be applied on re-licensing to the following offenders:

Type 2 Offenders

- First time offenders (within a five year period) convicted of a high level offence (≥ 0.15), driving under the influence of liquor, or fail to supply specimen.
- Repeat offenders (within a five year period), that is, a person convicted of two or more drink driving offences of any kind.

In addition, the interlock condition will apply on re-licensing to those who are convicted of dangerous driving when adversely affected by alcohol.

How will the interlock program work?

The interlock condition will be a re-licensing requirement imposed on these drivers when they return to obtain their licence at the completion of their full disqualification period. The interlock condition will start on the date the licence is issued.

Participants will have the interlock condition removed from their licence after 12 months if they have an interlock device fitted to their nominated vehicle for a cumulative 12 month period (periods of licence suspension will not count towards the interlock period).

Drivers with an interlock condition will only be legally licensed to drive a vehicle equipped with an operating approved interlock. There will be severe penalties for non-compliance with the interlock condition licence.

What are the issues relating to access and equity?

Interlock services will be able to be provided in most Queensland locations (subject to procurement negotiations). Exemptions may be made, on application, to people in remote areas that are not covered by a service provider. The government is also progressing hardship provisions for the interlock program.

Also, providing a specimen of breath for an interlock device may be a difficult task for individuals with certain medical conditions (for example, severe asthma or emphysema). Therefore, exemptions may be provided, upon application, to individuals with specified medical conditions that prevent them from providing a sufficient breath sample. More details on the exemptions will be available closer to the time of implementation.

A vehicle fitted with an interlock may be used by other drivers, most likely family members. These drivers will also be required to provide a breath sample in order to start the vehicle. The interlock will not allow any driver to start the vehicle if alcohol is detected. Findings from a pilot project in the United Kingdom found that family members had a positive response to the interlock as it provided reassurance that their loved one was not driving while impaired by alcohol ⁹⁴.

What are the costs and will there be a discount for those with low incomes?

The program costs exceed \$2000 per annum in most Australian states where interlocks are in use. However, program fees are not usually paid up front, but upon provision of particular aspects of the service (for example installation, maintenance and removal) and usually on a monthly basis. This may represent a significant expense for some participants, particularly those with low incomes. Program costs may be capped for certain eligible participants. More details will be available closer to the time of implementation.

Have interlocks been considered before in Queensland?

A trial of interlocks was completed in Queensland in 2006. Participation in the program was voluntary with interlocks available as a sentencing option for drink drivers in a small number of courts. Results from a study of the trial indicated that interlocks do have the potential to reduce further drink driving offences ⁹⁵. Other positive outcomes were also observed such as reduced drinking rates amongst participants. However the very small number of participants (only 29) and relatively short follow-up period preclude drawing any definitive conclusions about the impact of the trial.

Do other Australian jurisdictions have interlock programs?

In Australia, interlock programs for drink drivers currently operate in Victoria, South Australia, New South Wales and the Northern Territory. The programs differ between jurisdictions. Victoria operates a mandatory program for certain drink drivers who must fit an interlock in order to drive legally. South Australia has also recently introduced a mandatory re-licensing program replacing a voluntary program that commenced in 2001. In New South Wales and the Northern Territory, drink drivers can volunteer to participate in the interlock program in order to receive shorter periods of disqualification. Western Australia has indicated that they intend on introducing an interlock program. Tasmania recently conducted a one year trial of interlocks to determine the appropriateness of interlocks for that state.

Part Five

What changes could be made?

The sections below contain a number of discussion points on initiatives that could be implemented in Queensland. Some of these initiatives have been adopted in other Australian jurisdictions and overseas while others are further enhancements to programs and policies currently in use in Queensland.

The enhancements and new programs outlined in this section are not government policy and are for consultation purposes only. The government is seeking the views of the community before considering the implementation and associated costs of any new anti drink driving initiatives (see Part Seven for the feedback form).

RBT and enforcement

RBT is used as a deterrent to influence a driver's choice to drink and drive through the threat of punishment^{96,97}. Well publicised media campaigns combined with RBT are integral to the overall deterrent effect of RBT enforcement targeted at both the general population and drink drivers⁹⁸. The QPS conducts RBT via booze buses and patrol cars and performs approximately three million tests per annum⁹⁹. RBT has been one of the most influential interventions and has contributed to the biggest decline in alcohol related fatalities since its introduction in 1988¹⁰⁰. However, drink driving continues to be a problem and further improvements to the delivery and operability of RBT may be possible to improve its effectiveness.

Discussion point: Extend the time limit for requiring a specimen (blood or breath) for analysis for a drink driving charge from two to three hours.

Currently the time limit for conducting breath or blood analysis for a drink driving charge is two hours. The current RBT process involves a police officer conducting an initial preliminary roadside breath test to determine the presence of alcohol. If the results from this

preliminary breath test indicate an illegal BAC the police officer can detain or arrest the driver for the purposes of a second test to verify these results. This second test will either be in the form of a breath analysis on a breath analysing instrument or via a blood test. The process of obtaining these specimens for the purposes of establishing a case against the offender must be completed within a two hour time period from the time of the offender driving.

In Queensland, the driving distances can limit the ability of police to take a detained/arrested drink driver for breath or blood analysis within the two hour window. This is particularly the case in rural areas where resources are often stretched and where breath analysing instruments (that produce a certificate for a drink driving charge) are more often kept in police stations as a shared resource for use by officers from a number of neighbouring districts. Similar limitations exist where approved persons for taking specimens of blood are not available within the distance or available within the two hour window. In situations where police do not have sufficient time to perform the breath analysis or request a specimen of blood, they may not be able to charge an individual with drink driving even if they know the person has committed an offence.

A review conducted by the Queensland Parliamentary Travelsafe Committee (*Getting Tough on Drink Drivers: Report No.46, October 2006*) identified and described a number of potential changes that could be made to RBT operations and procedures. A number of improvements to these procedures have been, or are being progressed, by the QPS. The report made further recommendations to extend the time limits for conducting breath/blood testing.

Currently, breath and blood testing must be conducted within a two hour timeframe. However, testing for the presence of a relevant drug under drug driving laws may be undertaken within a three hour timeframe. A three hour timeframe for testing drivers for both 'relevant drugs' and 'alcohol and other drugs' would remove inconsistencies in legislation. A three hour timeframe would also ensure that persons are not unfairly detained for long periods.

What are the maximum time limits for collecting specimens in other jurisdictions?

Other Australian jurisdictions also specify a timeframe in which testing must be completed (see *Table 3*). However, other than New South Wales and the Australian Capital Territory (that have dense populations), Queensland remains one of the few states in Australia to have a short timeframe to obtain the specimen.

Table 3

Comparison of Australian jurisdictions for collecting specimens (adapted from Report No. 46, Getting Tough on Drink Drivers.)

State	Hours for collecting a specimen
New South Wales	2
Victoria	3
Tasmania	3
South Australia	8
Western Australia	4
Australian Capital Territory	2
Northern Territory	4
Queensland	2

Who does this target?



Potential impacts:

- Could improve the effectiveness of RBT in rural areas which may potentially result in increased detection of drink drivers
- Aligns the time required to obtain a specimen for a drink driving charge with that specified for the collection of a specimen under the current roadside drug testing program (that is, three hours)
- Drink drivers could be detained for a longer period of time (currently maximum is two hours).

Have your say

Question 1: Do you support extending the maximum time allowed to obtain a breath/blood specimen for drink driving offences from two to three hours? *Have your say on page 57.*

Discussion point: The arresting/detaining police officer could also carry out breath analysis using the breath analysing instrument.

Currently the officer requiring a driver to provide the preliminary roadside breath test may arrest or detain the person for the purposes of then conducting a breath analysis. This breath analysis will be conducted through a breath analysing instrument by a police officer that is suitably qualified to operate this device. Generally, where possible, the breath analysis is conducted shortly after the preliminary roadside breath test. Under Queensland legislation, the arresting or detaining officer is prohibited from being the operator of the breath analysing instrument, despite the fact that this officer may be suitably qualified to operate this device.

This procedure was originally incorporated into legislation to ensure that two officers (the arresting or detaining officer and the officer operating the instrument) could verify the circumstances surrounding the operation of the instrument and to corroborate evidence associated with the case. This was especially relevant with the early breath analysing instruments used in Queensland that required human intervention to operate the device by rotating a knob to determine the level of alcohol present in a sample of breath. Since the introduction of the first breath analysing instruments in 1968 there has been substantial technological advancements made to these devices. Queensland is now using one of the latest and most technologically advanced breath analysing instruments available. This device is fully automated and undertakes self-calibration and testing prior to each use, therefore requiring no human intervention to allow the instrument to sample and analyse a specimen of breath.

How does Queensland compare to other Australian jurisdictions?

The stipulation that the operator of the instrument cannot be the arresting or detaining officer is unique to Queensland. Operational difficulties arise in areas where police resources are limited. This creates problems

when the arresting or detaining officer cannot perform the breath analysis. Due to these factors, officers on single patrol may not progress an arrest as the distance and/or requirements to locate a qualified person to conduct breath analysis or take blood for the purposes of conducting other alternative analyses can be difficult and time consuming.

Who does this target?



Potential impacts:

- Improve the effectiveness of the RBT program in rural/remote areas which may potentially result in an increased detection of drink drivers
- May decrease the amount of time the drink driver is detained
- Allowing the arresting/detaining officer to perform the breath analysis will eliminate the need for a second officer, therefore freeing this officer to perform other duties
- Increased costs may be incurred through the conducting of additional breath analysis and associated training requirements for QPS officers.

Have your say

Question 2: Do you support the arresting/detaining officer also being allowed to conduct the breath analysis for drink driving offences?

Have your say on page 57.

Compulsory carriage of driver licence

Discussion point: All driver licence holders (including open licence holders) be required to produce their licence for inspection, unless the person has a reasonable excuse.

In Queensland, current laws require the holder of a learner, provisional, probationary licence or drivers of commercial, public passenger vehicles and heavy vehicles to produce their licence for inspection at the direction of a police officer unless a person has a reasonable excuse. However, the holder of an open driver licence (who is not driving or in charge of a heavy vehicle or commercial/public passenger vehicle) is allowed up to 48 hours to produce their licence at a police station if they are unable to produce their licence when directed by a police officer. A significant number of people per annum are required to present their licence to a police station for inspection within the legislated 48 hour time frame. This process takes the police officer approximately two to three hours to complete. If a person fails to produce their driver licence at the nominated police station, as requested, and the matter is further investigated, police must then locate and interview the person and issue them with a notice to appear in court, if necessary.

The current laws potentially provide a loophole for people to provide false identity or licensing information at the time of police interception. For example, a provisional licence holder who provides a specimen of breath for road side breath test (and in circumstances where their BAC is between 0.001 and 0.049) and is directed to produce their licence by the police officer could state that they are an open licence holder. In these circumstances, a driver may circumvent a requirement to conduct further testing as their claim of being an open licence holder (who has a general alcohol limit of 0.05) would mean that they are driving within the constraints of the current legal limit (for open licence

holders driving a car). Consequently this can undermine the effectiveness of police enforcement along with the other measures such as licence suspension and disqualification. As a result, this current loophole may also be exploited by unlicensed drivers.

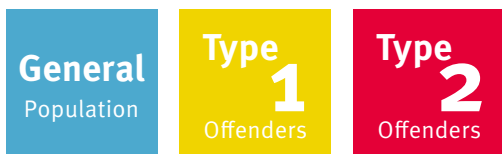
Unlicensed drivers are a particularly problematic group of drink drivers as a result of their tendency to engage in high risk driving behaviour such as high level drink driving offences and excessive speeding^{101,102,103}. Analysis of Queensland data has shown that unlicensed driving is a significant factor for drivers involved in serious crashes. Analysis of Queensland data from 2004–2007 has shown that unlicensed controllers were 4.39 times more likely to be drink drivers when involved in serious casualty crashes¹⁰⁴.

A compulsory carriage of licence requirement for all licence holders (including open licence holders driving a car) would require safeguards for a reasonable excuse. However, there would be limited grounds as to what would constitute a reasonable excuse. For example, a person who has had their licence stolen or destroyed may have grounds for a reasonable excuse whereas simply forgetting to carry a licence when driving or leaving a licence at home may not be deemed a reasonable excuse. Consideration of a reasonable excuse would ultimately be at the discretion of a police officer.

Do other Australian jurisdictions have a compulsory carriage of driver licence requirement?

Presently New South Wales, the Northern Territory and Tasmania are the Australian jurisdictions that impose a compulsory carriage of driver licence requirement when driving a motor vehicle on a road.

Who does this target?



Potential impacts:

- Creates a potential deterrent for a person to drive a motor vehicle in violation of particular licence conditions or sanctions
- Even though a driver may not have committed a traffic offence they may be penalised for not carrying their licence
- Enables the police to enforce licence and vehicle impoundment sanctions
- Enhances RBT enforcement activity as a person would be required to produce their licence at the direction of a police officer
- Increases the detection of unlicensed drivers who are currently 4.39 times more likely to be drink drivers ¹⁰⁵.

Have your say

Question 3: Do you support **all** driver licence holders being required to carry their licence while driving and to produce their licence to a police officer for inspection, unless the person has a reasonable excuse?

Have your say on page 57.

Compulsory blood testing

Discussion point: Introduce a compulsory blood testing requirement for drivers who attend hospital for examination or treatment as a result of a motor vehicle crash.

In 1997, the Queensland Parliamentary Travelsafe Committee¹⁰⁶ recommended the introduction of compulsory BAC testing for people who attend hospital for examination or treatment as a result of a motor vehicle crash. The potential benefits were seen to be improved detection and prosecution of drink drivers (at any BAC level) involved in road crashes¹⁰⁷. It would also increase the amount and the consistent reliability of alcohol related crash data which would assist in understanding the involvement of alcohol in all crashes. This would have general benefits for monitoring and responding to the drink driving problem.

Currently, a police officer who attends a crash can require a breath sample from drivers. If the drivers have been taken to hospital, police can attend hospital and request a breath sample (and subsequently conduct breath analysis) or request a blood sample (for laboratory analysis), provided it is within two hours of the crash. However, a doctor or nurse does not have to comply with this request if they reasonably believe that taking the specimen would be prejudicial to the person's treatment or if they have another reasonable excuse. Under the current law, if no request is made by a police officer, a sample of blood may not be taken from the person for the purposes of analysis to determine the presence and/or level of alcohol present in the driver's blood.

Extending the time period in which a specimen of breath/ blood can be taken will improve this situation to some degree. However, requiring medical practitioners to take blood (for blood analysis) from all drivers involved in a road crash unless they believe that taking the

specimen would be prejudicial to the person's treatment could systematically improve the ability for police officers to effectively charge drink drivers involved in crashes, when they cannot perform the breath analysis within the stated timeframe. Without breath/blood analysis, police officers investigating crash circumstances find it difficult to determine whether alcohol was a contributing factor in a crash and may find it extremely difficult to collect evidence to sustain a drink driving charge.

There is currently very little research evidence to suggest that compulsory blood testing would have any general deterrent effect on potential drink drivers. Data collection and research into the effect that BAC level has on crash severity risk is hampered due to current BAC testing procedures. At this point in time, BAC testing for serious crash victims is not compulsory and at the discretion of the attending police officer. This leads to irregular data collection and therefore, inaccurate and biased data. For example, it was found through investigations and analyses of data for 2001–02 to 2006–07 that of the serious casualty crashes recorded, a BAC test was not performed on controllers (see definitions) in 14 per cent of fatal crashes and 37 per cent of hospitalised casualty crashes¹⁰⁸. As such, the available data only captures a proportion of the total number of drink driving events on our roads. More accurate data would provide opportunities for determining the actual prevalence of drink driving that leads to either hospitalisation or, in some cases, death. Mandatory BAC testing would also enable reliable data to be collected which could be used to inform policy decisions about the appropriateness of current legal alcohol limits and the likely benefits, if any, of lowering them.

A compulsory blood testing requirement for drivers who attend hospital for examination or treatment as a result of a motor vehicle crash would place increased work demands on health care professionals with blood specimens having to be taken along with the medical treatment of the person. Emergency departments are often very busy places with absolute priority given to patient care. It should be noted that Queensland emergency department attendances have increased by around 25 per cent in the last three years with over 400,000 attendances in the September

quarter 2009¹⁰⁹. There would also be an increased burden on health care professionals to ensure the taking and storing of the sample complies with legislated evidentiary procedures. Also, police may need to attend and maintain a chain of evidence for the blood sample. The implementation of compulsory blood testing would also increase the number of blood samples being taken at hospitals, and therefore increase the storage and testing of blood samples at laboratories.

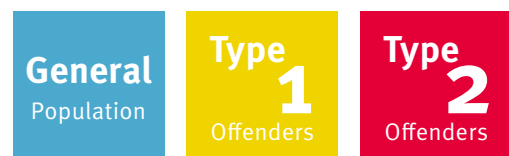
Serious medical ethical issues are raised where blood samples are required in circumstances where a person objected to the taking of the sample or the person was unable to give informed consent.

Do other Australian jurisdictions have compulsory blood testing for drivers attending hospital?

In Victoria, the Australian Capital Territory, New South Wales, Northern Territory and South Australia a medical practitioner is required to take a blood sample if a person is over 15 years of age (14 years of age in South Australia) and is involved in a motor vehicle crash and attends hospital for treatment (including those that are deceased). Western Australia, Queensland and Tasmania do not have compulsory blood testing requirements¹¹⁰.

New South Wales and the Australian Capital Territory both have offences for medical practitioners if they fail to take a blood sample however there are exemptions/defences for their prosecution. Victoria, South Australia and the Northern Territory all have reasonable grounds listed in their legislation where medical practitioners are not required to take a blood sample. For example, a medical practitioner would not be required to take a sample if they were of the opinion that it would be detrimental to the person's proper care and treatment.

Who does this target?



Potential impacts:

- Improved detection of drink drivers involved in motor vehicle crashes that resulted in the controller being hospitalised
- Provision of prima facie evidence in the preparation of the case against an offender
- Increased work demands on health professionals conducting the blood test
- Increased costs associated with taking, storing and analysing the blood specimen
- Improved road crash data to inform future initiatives aimed at reducing drink driving.

Have your say

Question 4: Do you support the introduction of compulsory blood testing of drivers who attend hospital for examination or treatment as a result of a motor vehicle crash? *Have your say on page 57.*

Lowering the general alcohol limit (0.05)

Discussion point: Lower the general alcohol limit from 0.05.

In Queensland, the general alcohol limit requires open licence holders to have a BAC below 0.05 when driving. However, certain licence holders are not permitted to have any alcohol in their system if driving (see *Part Three* for more information on BAC limits in Queensland). Worldwide legal alcohol limits for driving range between 0.00 through to 0.15¹¹¹.

As *Figure 7* shows, the risk of a crash appears to rise for drivers with a BAC of 0.05 or greater¹¹². A driver with a BAC of 0.15 has a crash risk 22 times that of a driver with no alcohol in their system¹¹³. *Figure 7* also shows the crash risk for BAC levels below 0.05 are quite low (between 1 and 1.18) compared to those 0.05 and over (1.38–153.68).

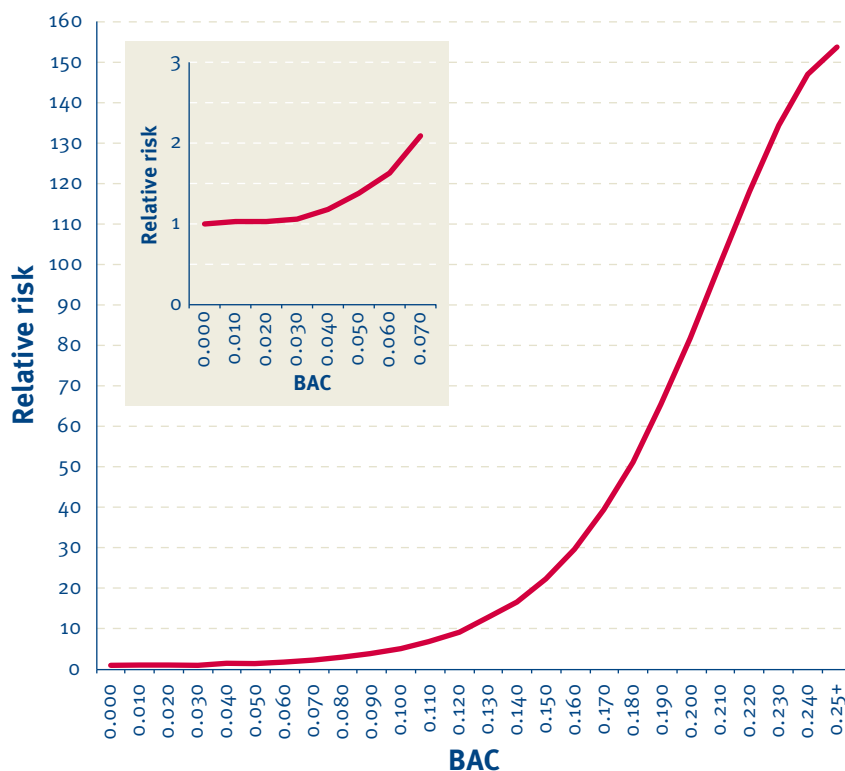
Figure 8 (page 35) shows that the relative risk of crash involvement for speeding is comparable to illegal BAC levels¹¹⁴. It can be seen that the relative risk of an injury crash when travelling at 65km/h speed limit zone (2.00) is similar to that associated with driving with a BAC of 0.05 (1.38). *Figure 8* shows that crash risk increases significantly when the speed of the vehicle increases.

Whilst some research has established that the impairment of some driving related skills begins with any departure from zero BAC^{115,116}, further research is needed to identify the risks associated with BACs at levels below 0.05. Please see *The effects of alcohol on driving* (page 10) and *Alcohol and crash risk* (page 11) sections for more information on alcohol and crash risk.

There is also some evidence from other jurisdictions that suggests that reducing the general alcohol limit to a level below 0.05 will have some road safety benefits (such as a decrease in the average BAC levels of drink drivers^{117,118}, and a reduction in the incidence and severity of crashes¹¹⁹). However, most of these reductions to

Figure 7

Relative risk of crash involvement by BAC



Adapted: Compton, R.P., Blomberg, R.D., Moskowitz, H., Burns, M., Peck, R.C. & Fiorentino, D. (2002) Crash rate of alcohol impaired driving. *Proceedings of the Sixteenth International Conference on Alcohol, Drugs and Traffic Safety ICADTS, Montreal*

the alcohol limit were made in conjunction with legislative changes, media campaigns, and changes to enforcement practices so it is difficult to distinguish what impact the changes to the alcohol limit had compared to the other concurrent changes.

Because alcohol has been shown to have a wide variation of effects from person to person, special attention needs to be given to the selection of a BAC level in which the vast majority of drink drivers are likely to be affected. Lowering the general BAC limit in Queensland would require further research to identify the risks associated with BACs at levels below 0.05 and the involvement

of low levels of alcohol in crashes. To substantiate any Queensland evidence-based argument (using Queensland crash data) for a general alcohol limit below 0.05, compulsory blood testing* of any driver attending hospital as a result of a road traffic crash (regardless of police direction for breath/blood samples for analysis) would be required. Subject to this being progressed, a critical analysis of the benefits of a lower alcohol limit using non-biased Queensland data could be undertaken.

Consideration should also be given to the cost and benefits of enforcement of a reduced general alcohol limit in addition to the existing costs and benefits of existing

enforcement levels targeted at high risk drink drivers that are more likely to be involved in serious casualty crashes. That is, the cost of enforcement for lower alcohol limits may supplant the expense of enforcement of higher and riskier BAC levels ¹²⁰.

If the general alcohol limit was lowered, the ability of the drinking public to determine if they have had too much to drink to legally drive would be impacted. For example, a general alcohol limit of less than 0.05 may require people to abstain from drinking any alcohol on social occasions (for some people this may be only one standard drink) before driving. If the general alcohol limit was lowered, an education campaign would have to be developed to inform drivers how the new limit would affect them and how to correctly estimate the number of drinks it may take to reach the new limit.

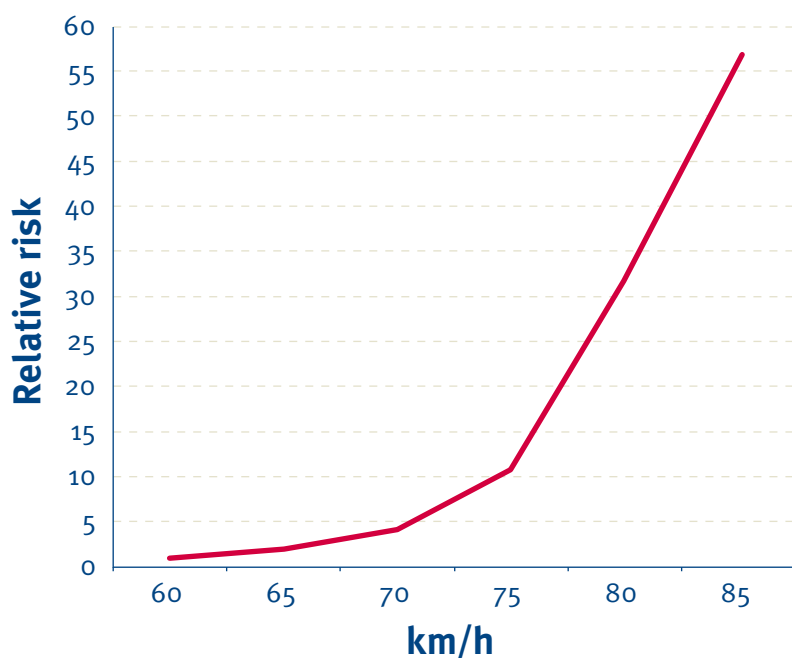
Other Australian jurisdictions and further considerations

All states and territories have a general alcohol limit of 0.05. Queensland reduced its general alcohol limit from 0.08 to 0.05 in 1985. Two reviews of the effectiveness of the lower general alcohol limit in Queensland (and nationally) found that it continues to provide a reduction in fatalities by as much as 11 per cent as compared to the fatalities recorded prior to the introduction of the 0.05 general alcohol limit ^{121,122}.

If a further reduction in the general alcohol limit in Queensland were to be considered, this would not be consistent with other states. It may be more appropriate for this issue to be discussed at national road safety forums to ensure consistency across jurisdictions.

Figure 8

Relative risk of crash involvement by speed on an urban road with a speed limit of 60km/h.



Adapted: Kloeden, C., McLean, A., Moore, V., & Ponte, G. (1997). Travelling speed and the risk of crash involvement, Volume 1 findings. NHMRC Road Accident Research Unit, The University of Adelaide.