

RMO

RYAN
MURDOCH
O'REGAN
Lawyers

Traffic Law



Serious times. Here to help.

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About Ryan Murdoch O'Regan Lawyers

We are a general law practice which is organised into teams of specialised experts in each of our areas of law.

Our practice area teams are committed to focussing on their area of law to ensure you always have the expertise that you need.

And, unlike some other firms – who focus on only one area of law – we can offer expert solutions for all legal areas, without the need for you to search around.

As a client you can have comfort that irrespective of what problem you may encounter in whatever area of law, our teams in all our practice areas will be able to work in tandem to offer any other specialist solutions you might require – utilising the history we already know about you and / or your business.

"Often, we meet our clients for the first time at the most stressful period in their life. Together we work to solve their personal and / or business problem, leading to a lifetime relationship."

For us, it's about making the complicated understandable and serving as solutions people.



Queensland
Law Society
MEMBER

Traffic Law: An Overview



The rate of traffic offences in Queensland has risen with the increase in police presence, marked cameras and unmarked patrol cars.

Traffic offences range from minor issues which can be appealed without legal representation, through to more serious offences that may result in loss of licence or imprisonment.

Traffic law offences include:

- Dangerous driving
- Drink driving,
- Driving while disqualified,
- Drug driving,
- Heavy vehicles,
- Hooning,
- Special Hardship Licences, and
- Work Licences.

The loss of a licence can mean a loss of freedom or even income and can put a lot of strain on yourself and / or your family.

A legal representative can help you defend your case or negotiate sentencing.

We cover all traffic charges and have represented countless clients facing traffic charges. Our experience ranges from minor offences to serious offences and for first-time offenders and repeat offenders.

Have you been charged with drink driving, dangerous driving, drug driving, unlicensed driving, driving while disqualified or hooning? Need to urgently apply for a work licence or special hardship order?

Our experienced traffic lawyers understand the law and how the system works.

We provide quality legal representation in the Magistrates Court, District Court and Supreme Court and obtain you the best possible outcome.

The plan we will develop for you:

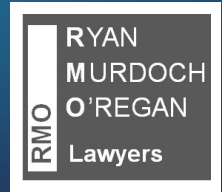
1. Takes into account your individual circumstances – **we listen!**

2. Draws on our experience – **we are the experts!**

3. Helps you achieve the best possible outcome – **you win!**

"Invest in the best. RMO Lawyers"

Dangerous Driving



Despite being a traffic matter, dangerous driving is dealt with under the Criminal Code Act 1899 (Qld) ("**the Code**") and is classified as a criminal offence.

Dangerous driving can also attract significant fines, licence disqualification periods and jail time.

The Act

Dangerous operation of a motor vehicle is defined under section 328A of the Code as "a person who operates, or in any way interferes with the operation of, a vehicle dangerously in any place commits a misdemeanour".

The Charges

There are a number of different variations of the charge. These include:

- dangerous operation of a motor vehicle,
- dangerous operation of a motor vehicle whilst adversely affected,
- dangerous operation of a motor vehicle causing grievous bodily harm,
- dangerous driving causing GBH whilst adversely affected,
- dangerous operation of a motor vehicle causing death, and
- dangerous operation of a motor vehicle causing death whilst adversely affected.

Dangerous driving also falls under Queensland's anti-hooning legislation.

Possible Defences

Defences to dangerous driving include:

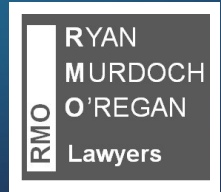
- your driving was not dangerous,
- your driving was affected by the condition of the road,
- you were not the person driving at the time of the incident,
- you were off-road when the incident occurred, or
- your driving was a result of threat or emergency.

It will be at the court's discretion whether they record a conviction for dangerous driving.

Ryan Murdoch O'Regan Lawyers' Traffic Law Team can expertly navigate the complexities of dangerous driving charges, explore all possible defences, ensure all required documentation is prepared in a timely manner, provide extensive support in the lead up to court appearances, respond to your questions in a timely manner, and provide reliable and professional representation in all court proceedings.

Our experienced traffic lawyers aim to secure the minimum period of licence disqualification, which is generally 6 months.

Drink Driving



Have you been charged with a drink driving offence? Have you previously been convicted of drink driving within five years? Need to contest a drink driving charge? One of the most common traffic offences dealt with by the courts are drink driving offences.

Drink Driving Laws

The law in Queensland states that a person in charge of a motor vehicle who has a blood alcohol concentration ("**BAC**") level in excess of the prescribed limit, or who is adversely affected by alcohol, commits a drink driving offence. You may also be charged with a drink driving offence if you refuse to provide a specimen of breath, blood or saliva as directed by police.

Can I Drive After Being Caught Drink Driving?

If you have been caught drink driving, your licence will be automatically suspended for a minimum of 24 hours. In no circumstances are you permitted to drive any vehicle during this period. Be cautious. Some drink driving charges will result in your licence being suspended, up until your court date.

Possible Defences

There are really only 3 possible defences to a drink driving charge. It is extremely uncommon to see any of these defences being used to counter drink driving charges.

Potential defences include; you were not driving, or in charge of the vehicle, at the time, the police instrument recording your reading was not operating correctly and you did provide a specimen of breath or blood (if charged with failure to provide).

Can I Apply For A Work Licence?

If you have received a notice to appear at court for a drink driving charge, and plead guilty to this charge, the court must disqualify you from driving. Mandatory minimum disqualifications apply, depending upon your BAC reading.

If you rely on your licence for work purposes, you may be eligible for a work licence.



Driving While Disqualified



Driving while disqualified occurs when you continue driving on the roads after your licence has been disqualified by a court or by the Department of Transport and Main Roads ("**DTMR**"). This offence is dealt with under section 78 of the *Transport Operations (Road Use Management) Act 1995* (Qld).

In recent years the courts have been handing down severe penalties, including imprisonment, for persons who drive whilst disqualified so it is highly recommended you seek legal advice to ensure you secure the best outcome for your circumstances.

Even if imprisonment isn't a serious risk in your case, there are substantial fines that can be imposed, which can be argued down with the right representation.

The Penalties

The potential penalties include a minimum loss of licence for 6 months or between 2 and 5 years.

Repeat offenders face the additional possibility of being sent to jail.

Could I Go to Jail?

It is highly unlikely you will be sent to jail for your first driving while disqualified offence, but there have been cases where this has occurred.

Factors taken into account when determining if a jail sentence is appropriate include:

- previous traffic history,
- the seriousness of the offence,
- the period of time that has passed since the initial disqualification, and
- any reasons as to why you were driving at the time.

Possible Defences

You may be able to defend the charge as an 'honest and reasonable' mistake. The only grounds this defence will be accepted is if you can provide evidence that you truly believed you were licenced to drive at the time. You can also put forward the defence that you did not receive a notification from either the court if the matter was dealt with in your absence or from DTMR.

We recommended contacting our experienced traffic lawyers so you receive the best possible outcome.



Drug Driving



There is a 'zero tolerance' approach to drug driving in Queensland.

If you are found to have any traces of drugs present, you will be facing a drug driving charge.

Drug driving charges can result in significant fines and licence disqualification periods so it is imperative you seek expert legal advice, and representation for court proceedings.

The Possible Charges

The possible charges include:

- driving while relevant drug is present in blood or saliva,
- driving under the influence of drugs, and
- failing to provide a sample of saliva.

Failing to provide a sample of your saliva to police is also an offence.

What Drugs Does The Test Pick Up?

Drug testing can be completed at a roadside breath test ("RBT") site, designated drug testing site or if police have pulled you over and believe you are under the influence of prohibited drugs.

The tests can pick up traces of:

- amphetamines (speed, ice),
- MDMA (ecstasy),
- THC (cannabis),
- heroin,
- prescription medication, if this renders the driver unfit to drive due to consumption of same, and
- any other illegal substance.

Only the active ingredients of drugs are tested for. The timeframe between detecting a drug and not detecting a drug differs with each drug and is dependent on a range of factors, such as frequency of drug use or quantity of the drug consumed.

Can I Still Drive?

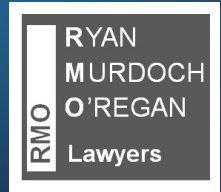
If you have tested positive to a drug while driving, your licence will be suspended immediately for 24 hours.

If charged with driving with a relevant drug present in saliva, your driver licence will remain valid until the charge is dealt with by a court (if you have no other pending traffic charges).

If you are charged with driving under the influence of drugs, your licence will be immediately suspended until your court date.

You may be able to apply for a court order that allows you to drive up until your court date.

Heavy Vehicles



The transport industry in Queensland plays a vital role in the economy and community – just like the saying goes “without trucks Australia stops moving”.

Whether you have received:

- a heavy vehicle infringement notice,
- court-imposed penalty, or
- have had demerit points reduced to the point you have no valid licence,

you need expert legal advice from our traffic lawyers to make sure you get the best possible outcome, the best chance to keep your heavy vehicle licence, and most importantly, your livelihood.

The Act

Queensland heavy vehicles law and regulations are dealt with under the *Heavy Vehicle National Law Act 2012* and 5 other regulations.

The Charges

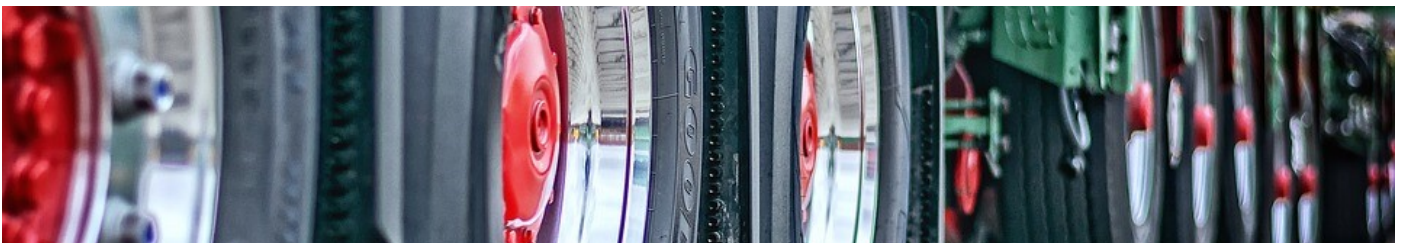
There are a range of charges relating to heavy vehicles including:

- Defect notices,
- Exemption non-compliance,
- Log book non-compliance,
- Over-dimension offences,
- Rest time charges,
- Speeding fines, and
- Weight regulation issues.

What Is The First Step?

We recommend you seek expert legal advice from our experienced traffic lawyers. Your situation will be unique and requires advice specific to your individual circumstances.

Pick up the phone, send us an email or submit an enquiry via our website (rmolaw.com.au) and arrange to speak to our Traffic Law Team and find out what your next step is. We will let you know if you are required to attend one of our local offices to provide detailed information and finalise documentation.



Hooning

'Hooning' covers a range of offences including:

- driving a defective vehicle,
- excessive noise,
- burnouts, and
- street racing.

If it is a person's first offence police may impound the offending vehicle for up to 48 hours. Beyond the first offence the courts generally impose a fine. If a person continues to hoon they may face losing their vehicle to the state.

Two Types Of Hooning

There are two types of hooning offences – type one and type two. Each type has a different impound, immobilisation and confiscation consequences.

Type one offences include the following offences, if committed in circumstances that involve a speed trial, race or a burn out:

- dangerous driving with a circumstance of aggravation,
- careless driving,
- organising, promoting or taking part in racing and speed trials, and
- wilfully starting a motor vehicle or driving in way that makes unnecessary noise or smoke.

Type two offences include:

- driving a vehicle that is uninsured and unregistered
- driving without a licence or when your licence has been suspended
- high range drink driving—with a blood alcohol level above 0.15%
- exceeding the speed limit by more than 40km/h
- failing to provide a specimen of breath or blood for analysis
- driving a modified vehicle that does not comply with vehicle safety standards
- driving during a 24 hour suspension due to drink or drug driving.

You can be issued with an infringement notice, a notice to appear in the Magistrates Court or you may be arrested, depending on the seriousness of the offence.



Special Hardship Licence



A special hardship licence (or special hardship order) is a type of restricted licence available when you have received more than two demerit points when on a good driving behaviour licence or exceeded the speed limit by more than 40km/h.

If you have been charged with a drink driving or drug driving offence and need a licence for work, you will instead need to make an application for a work licence.

You must apply for a special hardship licence within 21 days of the commencement of your suspension. In conjunction with your application, you will require affidavits from yourself and your employer.

The Process

The special hardship licence process can be broken down into 4 steps.

These steps include:

- having your special hardship licence application and affidavits expertly prepared,
- filing the documents with the court,
- serving a copy of the documentation to the Department of Transport and Main Roads ("DTMR"), and
- attending court for the special hardship licence hearing.

Are You Eligible?

To receive a special hardship licence, you must be the holder of a current provisional or open Queensland drivers licence. Further, you must satisfy the court that in the last five years you have not:

- had your licence suspended or cancelled (special exemptions apply),
- been convicted of drink driving in any state or territory, and
- been convicted of dangerous driving in Queensland

Finally, the court must be satisfied that:

- losing your licence will deprive you of your means of earning a living and cause extreme hardship, or
- losing your licence will result in extreme or unusual hardship for you or your family, and
- you are a fit and proper person to hold a drivers licence.

What Happens If I Get A Special Hardship Licence?

If you are successful in obtaining a special hardship licence you will be bound to certain conditions, such as only driving within a particular time-frame. If you breach these conditions you will be breaking the law and will face a period of licence disqualification. You will have 14 days to renew your licence at the DTMR.

Please note, driving to the DTMR may not be included in your special hardship licence conditions.

Work Licences



A work licence is a licence that allows you to drive your vehicle for work purposes only. Work licences have strict requirements that must be complied with. Using a work licence for other purposes, for example, driving to the shops or visiting a friend, may incur additional penalties.

These requirements include the hours you can drive, the purpose and route of your journey, the type of vehicle you can drive and having blood alcohol content ("**BAC**") of zero.

Work licences are also referred to as restricted licences.

The Charges

Not all traffic offences that result in licence suspension are eligible for a work licence.

These eligible offences include:

- drink driving,
- being in charge of a vehicle whilst over the limit,
- driving with relevant drugs in your saliva or blood,
- being in charge of vehicle with relevant drugs in your saliva or blood, and
- failing to supply a breath or saliva sample at the roadside (not at the station).

If you have exceed the speed limit by more than 40km/h or have received more than 2 demerit points while on a good behaviour driving licence, you may be eligible for a special hardship licence.

To obtain a work licence, you must plead guilty to the offence.

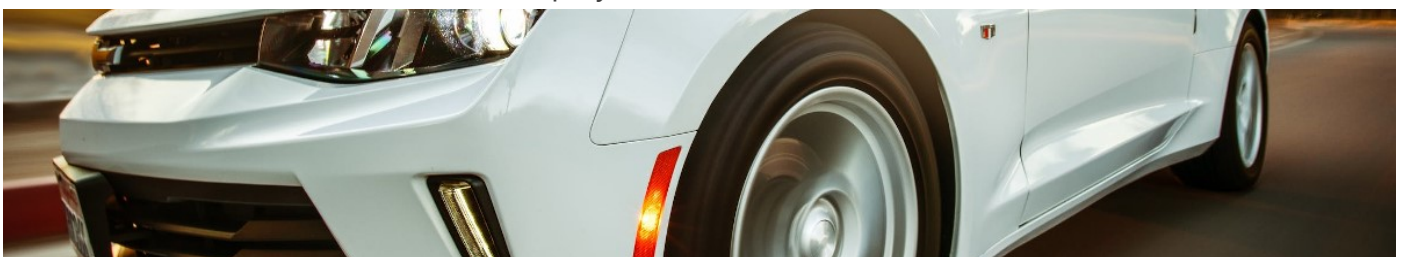
You will only have one chance at obtaining a work licence so it is important your application is prepared correctly by our experienced traffic lawyers.

Not Eligible? Pleading Guilty?

Don't take a chance with self-representation.

Our experienced traffic lawyers may be able to help you with a plea and mitigation of penalty.

Contact our experienced traffic lawyers to find out if you are eligible for a work licence on 1800 999 529, email mail@rmolaw.com.au or visit rmolaw.com.au and submit an enquiry.



Our Proven Experience



To further demonstrate our expertise in this area of law, we have outlined examples of our proven experience.

Case Examples

- Obtained a sentence of probation and 15 month licence disqualification for a client charged with their sixth drink-driving offence,
- Negotiated a charge of "dangerous operation of a motor vehicle" to a lesser charge of "driving with undue care and attention" which resulted in no licence disqualification, rather than a minimum 6 month disqualification that would have otherwise been imposed,
- Defended a client charged with his fifth offence of "disqualified driving" and secured a sentence of immediate parole, as opposed to 18 months imprisonment,
- Secured a work licence for a client charged with mid range drink driving, with a reading of 0.149, whilst also riding a motorbike with no helmet,
- Obtained a special hardship order for a client who had lost his licence as a result of driving 56kmph over the speed limit whilst on his P plates,
- Negotiated with prosecution to reduce the unlicensed driving charges from "unlicensed driving while SPER suspended" to the lesser charge of "unlicensed driving simpliciter", which does not hold a mandatory licence disqualification period, and
- Negotiated with the prosecution to have the charge of wilfully create noise and/or smoke, which required a 3 month impoundment of our client's vehicle, to a lesser charge of make noise or smoke, which led to a small fine and demerit points only.



What Our Clients Had To Say



"Just wanted to thank you for representing me in court and the hard work that was put into gaining a work licence. It was definitely a just win due to my poor driving history but luckily I took the advice of my solicitor and did a defensive driving course. Thanks heaps, you're a life saver in more ways than one. DS"

"The Traffic Law Team are fantastic. You got me the best possible outcome for my traffic matter. You were always very supportive, upfront and honest. I highly recommend. MK"

"Firstly I just wanted to say thank you for everything you have done. I don't really think everything set in until the weekend. So thank you again for all your time, patience, compassion and hard work. I really do appreciate all you have done to achieve this outcome. LC"

"I required a work license / SHO after accumulation of demerit points against my open license. Despite my initial concerns I was successful in obtaining a work license. The advice I got was very helpful, it assisted me and my application greatly. That and the professionalism when appearing in court for me was what got me success. My traffic history isn't spotless and my job requires long hours on my work license which I was granted. Can't recommend enough. SE"

"Thank you RMO Lawyers for always responding promptly to my phone calls and emails. And for your courtesy and helpfulness. AB"

Thank you so much for all help, so very happy with the outcome. RE"

Thank you! I really appreciate everything you have done for me and the outcome I got today. JH"

"You made the process easy and as stress-free as it could be. Fixed price was less than expected having contacted other firms and outcome was beyond expected. Your extra preparation meant I got a better outcome than usual, despite the prosecutor disagreeing. Even the magistrate said he normally wouldn't grant the outcome, but did. Thank you Ryan Murdoch O'Regan! FW"

"Thank you for all your help and advice that you have given me. I had an excellent outcome this morning. I will be recommending anyone who needs assistance your way. AH"

"Reliable, trustworthy, helpful and courteous. Very grateful for your help. EP"





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This is general advice only.
You should seek specific advice for your particular circumstances.*