

December 2009

Road to court

A guide to traffic offences in
the Magistrates' Court

 **Victoria
Legal Aid**

Lawyers And
Legal Services

Road to Court

A guide to traffic offences in the Magistrates' Court

Produced by Victoria Legal Aid

Victoria Legal Aid
350 Queen Street
Melbourne 3000

Telephone 9269 0120 or country callers 1800 677 402

www.legalaid.vic.gov.au

First published 2002

Seventh edition November 2009

Acknowledgments: *Road to court* was developed from previous Victoria Legal Aid publications *Getting court* and the *Your day in court traffic offences supplement*. We would like to thank staff from VicRoads for their help with content in this and previous editions, and staff from the Department of Justice and Youthlaw for their help with this edition.

Design: Victoria Legal Aid

© 2009 Victoria Legal Aid. Reproduction without express written permission is prohibited. Permission may be granted to community organisations to reproduce, free of any charge, part or all of this publication. Written requests should be directed to the Manager, Community Legal Education, Victoria Legal Aid at the above address

Disclaimer: The material in this publication is intended as a general guide only. Readers should not act on the basis of any material in this publication without getting legal advice about their own particular situations. Victoria Legal Aid expressly disclaims any liability howsoever caused to any person in respect of any action taken in reliance on the contents of this publication.

ISBN 978-1-921180-75-0

Printed on recycled paper consisting of 50% post consumer waste and 50% certified fibre from controlled wood sources.

Contents



About this booklet	1	Careless and dangerous driving	22
What do these words mean?	3	What is careless driving and dangerous driving?	
Frequently asked questions	6	How will a careless or dangerous driving offence affect my licence?	
Speeding	11	What is hoon driving?	
What are the speed limits in Victoria?		What if I do not agree with the charge?	
How will a speeding offence affect my licence?		Learner permits and probationary licences	24
If the magistrate suspends my licence, how long is it for?		What is a novice driver?	
Can my car be impounded or immobilised for speeding?		What is a learner permit?	
How long can my car be impounded or immobilised?		What is a probationary licence?	
Can I stop the police from impounding or immobilising my car?		What are graduated licences?	
What if I was driving someone else's car?		What are the different laws for people on probationary licences?	
Who pays for impoundment and immobilisation?		VicRoads and demerit points	27
What if my car gets impounded or immobilised but I am not charged or I am found not guilty?		What are demerit points?	
What if I do not agree with the charge?		How will demerit points affect my licence?	
Drink or drug driving	15	What are the traffic offences that attract demerit points?	
What are the types of drink driving offences?		How will I know when VicRoads is about to suspend my licence?	
What are the types of drug driving offences?		What is in the option notice?	
How will a drink driving offence affect my licence?		What option should I take?	
How will a drug driving offence affect my licence?		What if I did not get the option notice?	
Can I stop my licence from being cancelled?		What if I disagree with VicRoads?	
If the magistrate cancels my licence, how long is it for?		Will I still get demerit points if I take a traffic offence to court?	
Will I have to get an alcohol interlock?		When are demerit points removed?	
What if I do not agree with the charge?		Police warnings and suspensions	32
		What is a warning?	
		When can a police officer suspend my licence?	
		Going to court: what happens	33

Road to Court

A guide to traffic offences in the Magistrates' Court

Going to court: what to say to the magistrate	34	Diversion	40
What happens if I am found guilty?	36	Getting your licence back	41
What will be in my sentence?		Sample letters	42
What does conviction mean?		Where to get help	43
What sort of penalties might I get?			

Victoria Legal Aid

Our vision

Victoria Legal Aid is a leading and responsible force for community access to the legal system and for social justice.

Our values

Victoria Legal Aid is committed to: serving our clients and community professionally and ethically; acting with integrity, fairness and transparency at all times; respecting and valuing diversity; and pursuing continuous improvement across the organisation.

Our services

We can help you with legal problems about criminal matters, family breakdown, family violence, child support, immigration, social security, mental health, discrimination, guardianship and administration, tenancy, debt and traffic offences.

Our free legal services include:

- information over the phone in English and other languages
- booklets and other materials in English and other languages
- seminars and workshops
- legal advice across Victoria, including most courts and tribunals.

If you want ongoing help from a lawyer, you can apply for a grant of legal assistance. Getting a grant will depend on your financial situation and your legal problem. You can use a grant to:

- pay a lawyer to give you advice, help reach agreement or speak for you in court
- go to our family dispute resolution service.

Call us to find out how we can help you on 9269 0120 or 1800 677 402 (country callers).

About this booklet



What this booklet covers

If you commit a traffic offence, you can be fined for the offence through the infringements system or you can be charged with the offence by the police. In this case, you will need to go to the Magistrates' Court of Victoria. Whether you will be fined or charged depends on what the offence is.

This booklet is for people who have to go to the court. You may also go to court because you have been fined but are choosing to contest the fine through the court.

This booklet is mainly meant for people who plan to represent themselves at court. It can also help you to:

- learn about the laws that apply to traffic offences
- learn what might happen to your learner permit or driver licence
- learn more about what happens at court
- decide if you need a lawyer to represent you.

You might like to read our free booklet *Fines: Your options for dealing with fines* if you have been fined for an offence. For more information on where to get publications see 'Where to get help', which is at the back of this booklet.

Getting more help

This booklet gives general information, not legal advice. For information about particular offences and penalties, talk to a lawyer. We also list contact details of other organisations that can help you. See 'Where to get help'

If you do not understand English, the court can get an interpreter to help you.

Road to Court

A guide to traffic offences in the Magistrates' Court

Legal words

To help you, we have explained some words in the next section, 'What do these words mean?'

These words are also highlighted in bold the first time they appear in each section.

Changes to the law

The law changes all the time. To check for changes you can:

- call our Legal Information Service.
- read the 'new law' section on the *Road to court* page on our website at www.legalaid.vic.gov.au under publications
- visit one of our offices or a community legal centre. See 'Where to get help'.

What do these words mean?



The police and lawyers use legal words when they talk. You may hear these words in all types of courts. For *Road to court* we only use the words that you are likely to hear in the Magistrates' Court. These words are highlighted in bold the first time they are used.

adjourn – to ask the court to hold off a court case to a later date

alcohol interlock – a breath-testing device that is wired to your car ignition system. If you do not pass the breath test, the car will not start

appeal – a procedure which allows you or the other party to challenge the decision made by a court

blood alcohol content (BAC) – the amount of alcohol in your blood

breach – to break a law or court order

charge – when the police believe you have broken the law (committed an offence), they need to outline what they think you did and when and where you did it. This outline is called a charge

charge sheet – a sheet of paper that lists the charges (the offences) that the police say you have committed

contest mention – this is a court hearing that happens when you or your lawyer disagree with the main points of the charges or with what the police said happened. At the hearing, the magistrate listens to you or your lawyer, and hears from the police

conviction – the magistrate can find you guilty with or without a conviction. A conviction goes on your criminal record and shows that you did a serious crime

court order – a court document that orders you to do something. It is also a document that will set out your penalty if you are found guilty of breaking the law

criminal offence – something the law says is wrong. You can be punished for breaking the law. The punishment depends on what law you broke

criminal record – a police record of your history of criminal offences and sentences

Road to Court

A guide to traffic offences in the Magistrates' Court

defence – a legal reason for why you are not guilty of the offence the police charged you with

discretion – where the magistrate has a choice about whether or not to do something

disqualification – this means your licence is cancelled and you are not allowed to drive for a period of time. You must re-apply to the court or VicRoads to get your licence back

diversion – a program which is generally for people who have committed an offence for their first time and who agree with the police summary of the offence. If you keep to the conditions of the program you will not get a criminal record

diverted – to be placed in a diversion program

duty lawyer – a lawyer who is based at court and can provide advice to you on the day of your court hearing. The duty lawyer may be able to represent you in the court room. The duty lawyer's services are free

evidence – information (documents or material) used in court to prove something

finding of guilt – when the court rules that you did commit the offence

hearing – the presentation of a case at court

immobilise – to wheel-clamp a car

impound – to store a car in a secure lock-up for a set amount of time

indictable offence – a serious offence that the court deals with in a particular way. Some indictable offences can be dealt with in the Magistrates' Court. Others can only be dealt with in the County Court or Supreme Court

informant – the police officer who charged you with breaking the law

judge – a person who hears cases in courts other than the Magistrates' Court and can make rulings and give sentences

magistrate – a person (judicial officer) in the Magistrates' Court or the Children's Court who decides if you are guilty or not guilty and what the punishment (sentence) is

mention date – the date given on your charge sheet for when you need to go to court and any hearing dates after that

notice to appear – a document you will get when you are suspected of breaking the law. It tells you to go to court on a particular date. The police will usually give this to you.

plea – your response in court to the charge. You can plead guilty or not guilty

plead – to give a plea

priors – offences which you have been found guilty of in the past

sentence – the penalty you get when a court finds you guilty

sentenced – to be given a sentence

summary offence – an offence less serious than an indictable offence. A summary offence is usually dealt with in the Magistrates' Court or the Children's Court

summons – a court document that tells you when you should go to court. If you are served (legally delivered) with a summons, see a lawyer unless you plan to represent yourself in court

suspension – this means you are not allowed to drive for a period of time. You must give your licence back to VicRoads. You can get it back after the suspension period

traffic offence – an offence is something the law says is wrong. A traffic offence relates to breaking the law when driving a motor vehicle or using the road

witness – a person who gives evidence in a case

Frequently asked questions



What types of traffic offences are there?

There are many types of **traffic offences**. These include:

- speeding
- drink or drug driving
- refusing to take an alcohol or drug test
- careless and dangerous driving.

Most traffic offences apply to drivers and motorcyclists. However, you could also commit a traffic offence if you are a cyclist, pedestrian, rollerblader, skateboarder or horse rider.

What should I do if I am charged with a traffic offence?

You need to:

- understand what the offence is
- understand what the **charges** mean
- get legal advice on your situation. This will help you decide whether you should plead guilty or not guilty.

You may also want to get help understanding how the Magistrates' Court works.

Try to do this all before you go to court.

Call our Legal Information Service or your local community legal centre for information and advice. See 'Where to get help'.

Visit the Magistrates' Court website www.magistratescourt.vic.gov.au for more information about how the court works. You can go on a virtual tour of the court on the website. We also have a booklet called *Your day in court* which may help you. To order booklets see 'Where to get help'.

Do I plead guilty or not guilty?

Talk about your options with a lawyer before deciding what your **plea** will be. There may be several things to think about.

Pleading guilty

Pleading guilty means you agree, in court, that you broke the law. A guilty plea can have some benefits. The court treats a guilty plea as a sign that you are co-operating with the justice system by not wasting the time or resources of the court or the police. The **magistrate** must take this into consideration when deciding what **sentence** to give you. You are likely to get a lighter sentence.

Pleading not guilty

In other cases, the only way to avoid a sentence and penalties (such as the court cancelling your licence) may be to plead 'not guilty' and succeed in being found not guilty. If you plead not guilty, you are saying, in court, that you do not agree that you broke the law. You will need to go to a **contest mention** on another day. However, your case will not be finished at the first **hearing**.

Diversion

Some traffic offences may be able to be **diverted** out of the court system. In this case, you may avoid getting a sentence and a **criminal record**. See 'Diversion' on page 40.

Withdrawal of charges

The police may withdraw the charges against you. They may agree that the **evidence** they have against you is not strong enough to go ahead with the hearing.

What does it mean to be 'suspended' from driving?

Your licence is taken away from you temporarily and you are not allowed to drive for a period of time, which is called a **suspension** period.

Your licence could be suspended by:

- the Magistrates' Court
- VicRoads
- a traffic infringement notice
- the sheriff.

Road to Court

A guide to traffic offences in the Magistrates' Court

Licences can be suspended when:

- you have gotten too many demerit points. See 'VicRoads and demerit points' on [page 27](#)
- the police have caught you speeding. See 'Speeding' on [page 11](#)
- the police have caught you drink driving and they have immediately suspended your licence. This can happen before you go to court. See 'Drink or drug driving' on [page 15](#) and 'Police warnings and suspensions' on [page 32](#).

You must give your licence back to VicRoads. VicRoads will give your licence back to you once the suspension period is over. You can renew your licence if it expired during the suspension period.

What does it mean to be 'disqualified' from driving?

Disqualification is similar to suspension. However, your licence is permanently cancelled and you are not allowed to drive for a period of time, which is called a disqualification period.

Your licence could be disqualified by:

- the Magistrates' Court
- VicRoads
- a traffic infringement notice.

The magistrate will also cancel all other licences you hold, for example, your motorbike licence. The magistrate can also disqualify you from driving even if you do not hold a licence or permit.

Licences can be cancelled for:

- drink or drug driving offences. See 'Drink or drug driving' on [page 15](#)
- dangerous driving offences. See 'Careless and dangerous driving' on [page 22](#).

You will need to apply to the court or VicRoads, depending on the offence, to get your licence back. You will have to pay for a new licence.

What if I drive while I am suspended or disqualified from driving?

It is very important not to drive during this time, even if you need to get to work or go somewhere which is hard to get to by public transport. Driving while suspended or disqualified is an extremely serious offence. You could go to jail even if it is the first time you commit the offence. If you commit the offence a second time, the magistrate has to imprison you.

What if my licence is suspended before I go to court?

A police officer can immediately suspend licences in some cases. See 'Police warnings and suspensions' on [page 32](#). You may be able to **appeal** to the Magistrates' Court if this happens. You can only appeal in special circumstances so get legal advice. See 'Where to get help'.

If I am going to lose my licence, can I get a work licence?

No, you cannot do this in Victoria.

Can I still drive in Victoria if I hold an interstate licence?

If you are suspended or disqualified from driving in Victoria, you cannot drive in Victoria on any licence.

What happens if I get a criminal record?

The court and the police keep a record of your court result (guilty/not guilty, convictions and any penalties). This record is called a criminal record.

It can be very serious to get a conviction on your criminal record. See 'What does conviction mean?' in 'What if I am found guilty?' on [page 36](#).

Some traffic offences can be diverted out of the court system. In this case, you do not get a criminal record. See 'Diversion' on [page 40](#).

Are prior offences relevant?

Yes, **prior** offences are relevant. The police can bring them up in court, including priors in other states if the police know about them. This is especially the case for drink driving offences. The magistrate will take priors into account if you get **sentenced**.

If you committed a similar offence before, the magistrate will usually give you a harsher penalty than they would give a person who has broken the law for the first time. On the other hand, if you have no relevant prior convictions, the magistrate may give you a lighter sentence.

Note: priors include on-the-spot fines. For more information on fines, read our booklet *Fines: your option for dealing with fines* pamphlet. To order our booklets see 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

Will Victoria Legal Aid pay for a lawyer to represent me in court?

You may be able to get one of our lawyers to represent you if:

- you have a disability or if you are in other special circumstances
- there is a reasonable danger of you going to jail.

Otherwise, it is unlikely that we will pay for a lawyer to represent you in court for a traffic offence.

Our **duty lawyer** at court may be able to give you advice or represent you in the court room on the day of your hearing. You need to check if the duty lawyer is available. Do this as soon as you arrive at court.

Also, a lawyer at one of our offices can give you advice before you go to court. The numbers of our offices are on the back of this booklet.

Important: get advice from our duty lawyers before you go into the court room.

This will help you prepare your case. Otherwise you may need to **adjourn** your case and come back to court on another day.

What if I am unhappy about the court result?

Appeals

You may be able to appeal against a Magistrates' Court decision to the County Court. A **judge** will re-hear your case from the start. The judge can make the same decisions that the magistrate can. If you only want to appeal against one part of the magistrate's decision (for example, the magistrate's decision to suspend your licence), you still need to appeal against all orders that the magistrate made, not just one part of the orders.

Keep in mind that it may take several months before the County Court hears your appeal and that there are time limits in lodging an appeal. Also, a judge could end up giving you a harsher sentence than what the magistrate did.

Re-hearings

You may be able to have your matter re-heard if the magistrate dealt with your case when you were not in court on your court date. The police may try to stop a re-hearing from happening.

Being allowed to drive before an appeal or re-hearing

You must ask the magistrate for permission to drive if the court suspended or cancelled your licence and you want to drive before the appeal or re-hearing takes place.

Get legal advice if you are thinking about any of these options. See 'Where to get help'.

Speeding



What are the speed limits in Victoria?

Speed limits include:

- 50 km/h speed limit in built-up areas if there are no speed limit signs and a 100 km/h speed limit for other roads that do not have speed signs
- special speed limits for areas such as school zones, shopping zones and shared zones (where pedestrians and vehicle traffic mix)
- different speed limits as shown on signs.

You need to pay close attention to road signs so you do not go over the speed limit.

Note: the police can lawfully record speed in a number of ways. This includes recording the average speed between two points, not just the speed recorded in one location. If you believe that the police detected your speed incorrectly, get legal advice. See 'Where to get help'.

How will a speeding offence affect my licence?

Magistrates' Court

The **magistrate** must suspend your licence if they find you guilty of driving at an 'excessive speed', which is:

- going over the speed limit by 25 km/h or more
- going over the speed of 130 km/h or more.

The magistrate will suspend your licence for a minimum **suspension** period and you will not be allowed to drive for this period of time.

Note: the magistrate has the **discretion** to choose whether or not to suspend your licence if you were speeding at less than 25km/h over the speed limit or less than 130 km/h in a 110 km/h zone.

Road to Court

A guide to traffic offences in the Magistrates' Court

VicRoads

VicRoads will add demerit points to your licence for speed-related offences. VicRoads may suspend your licence if you get too many demerit points. See 'VicRoads and demerit points' on page 27. All 'excessive speed' offences, however, will result in a licence suspension.

You will need to do any court-ordered non-driving period on top of any non-driving period that VicRoads may give you. Also, if you are a probationary driver, VicRoads will keep you on your probationary period for longer.

Police

A police officer can choose to give you a warning if you are doing less than 10 km/h over the speed limit. A warning means you will not go to court and you will still be able to drive. See 'Police warnings and suspensions' on page 32.

If the magistrate suspends my licence, how long is it for?

Minimum period	Speed of vehicle
One month	25 km/h to less than 35 km/h over the speed limit
Six months	35 km/h to less than 45 km/h over the speed limit
Twelve months	45 km/h or more over the speed limit
One month	Any speed of 130 km/h or more that is not covered above

Note: these are minimum suspension periods. The magistrate can give you a longer suspension period. These suspension periods are on top of any suspension period VicRoads may give you due to demerit points.

Can my car be impounded or immobilised for speeding?

The police can **impound** your car or **immobilise** it if you are:

- speeding by 45 km/h or more
- driving at 145 km/h or more
- involved in a speed trial or road race.

The police can also impound or immobilise your car for other driving offences unrelated to speeding.

Note: there are new laws being introduced at the end of 2009 which may mean that other Victoria Police staff, not just police officers, can impound or immobilise cars.

How long can my car be impounded or immobilised?

The police officer can impound or immobilise your car for 48 hours for a first-time offence. For any offences after this, the police officer needs to get a **court order**. This will allow the police to impound or immobilise your car for three months for the second offence and for an unlimited amount of time for the third offence or any offence after that.

Can I stop the police from impounding or immobilising my car?

Yes if:

- you were driving a hired vehicle or a stolen vehicle, or
- a senior police officer releases your car because they believe there is a good reason for doing so.

Note: if you stole the vehicle, you may be **charged** with theft of the vehicle.

What if I was driving someone else's car?

The police can impound or immobilise someone else's car if you were driving it and it is the first time that you have had a car impounded or immobilised. If it is not the first time, and you were driving someone else's car, then the police can impound or immobilise a vehicle registered in your name.

The person who is going to be affected by a car being impounded or immobilised may also apply to the Magistrates' Court for the vehicle to be released.

Who pays for impoundment and immobilisation?

You have to pay for impoundment or immobilisation costs. Also, you can still get any other penalties that the magistrate may give you.

What if my car gets impounded or immobilised but I am not charged or I am found not guilty?

This can happen. The police will refund you any impoundment or immobilisation costs that you had to pay.

What if I do not agree with the charge?

You may want to plead not guilty if you do not agree with the police summary or if you have a defence.

You may have a defence in some cases, for example, if:

- you were not speeding
- you were not driving

Road to Court

A guide to traffic offences in the Magistrates' Court

- you were speeding but you had to do it to avoid urgent danger
- the police did not use a speed measuring device or the device was not working properly
- the police did not follow the right procedures in detecting the speed or charging you
- you were driving but you could not help committing the offence, for example, you had a seizure at the wheel.

It is not a defence to say that you were honestly mistaken about the speed limit or you did not know what speed you were travelling at.

Pleading not guilty for a speeding charge can be a complicated area. Talk to a lawyer about the defences that may apply to you. For contacts of lawyers, see 'Where to get help'.

What if I want to go to court over a speeding fine?

You need to write to Civic Compliance and tell them that this is what you are doing. The contact details for Civic Compliance are on the back of your speeding fine.

The police will then send you a charge and **summons**, and a court date will be set. This will happen within 12 months of when the police said the offence happened. You will need to go to court on the court date to plead not guilty. Your case will not be finished at the first **hearing** unless you change your mind and decide to plead guilty to the offence. If you keep pleading not guilty, your case will be **adjourned**. The magistrate will hear your case in a **contest mention** and/or a contested hearing.

At the contest mention you can discuss the charges with the police and ask the magistrate for an opinion.

At the contested hearing, the **informant**, and any police **witnesses**, will give **evidence**. You will also need to tell your side of the story to the magistrate. Get your witnesses to go to court for the contested hearing. If you are unsure about how to do this, speak with the court staff or seek legal advice.

Be prepared, the magistrate may find you guilty.

We cannot represent you at a contested hearing unless you have a defence and there is a reasonable chance you will go to jail if you are found guilty.

You may wish to get a private lawyer or represent yourself.

Drink or drug driving



What are the types of drink driving offences?

It is an offence to have too much alcohol in your body while driving. The amount of alcohol is measured in terms of blood alcohol content. The police can take readings of **blood alcohol content** through 'breathalyser' tests.

The blood alcohol content limits are:

- full licence-holders – any amount less than 0.05
- learner permit-holders and probationary driver (and some other drivers) – zero blood alcohol content.

It is also an offence to refuse to comply with alcohol test requirements, and for full licence-holders, to drink and drive when they are with a learner driver.

Note: everyone is different. Do not guess how much alcohol is in your blood based on how many drinks you have had. If you plan to drive, the best bet is not to drink at all.

What are the types of drug driving offences?

It is an offence to use any illegal drug in any quantity and it is an offence to test positive to driving with illegal drugs such as cannabis, methylamphetamine (speed, also known as ice or crystal meth) or ecstasy in your system. The drug driving test includes random saliva testing.

It is also an offence to refuse to comply with drug test requirements.

How will a drink driving offence affect my licence?

Being found guilty or convicted of a drink or drug driving offence is very serious. Penalties can be severe.

Road to Court

A guide to traffic offences in the Magistrates' Court

Magistrates' Court

For some offences, the law says the **magistrate** must take away your licence.

For full licence-holders, if your blood alcohol content is:

- 0.07 or more, the magistrate must cancel your licence and disqualify you from driving for at least six months. There is nothing you can do to get out of this
- between 0.05 and 0.07, the magistrate has **discretion** to let you keep your licence.

For learner permit-holders or probationary licence-holders, if your blood alcohol content is:

- 0.05 or more, the magistrate must cancel your permit or licence and disqualify you from driving for at least six months. There is nothing you can do to get out of this.

Important: learner and probationary drivers must have **zero blood alcohol** content at all times when driving.

VicRoads

For probationary drivers, VicRoads will extend your probationary period by six months if the magistrate convicts you or finds you guilty of a drink driving offence but did not suspend or cancel your licence.

Police

For full licence-holders, the police can immediately suspend your licence if you:

- have a blood alcohol content of 0.1 or more
- fail to comply with a breath test request
- refuse to stop at a breath testing station
- have a prior offence for drink driving.

For learner permit-holders or probationary licence-holders, the police can immediately suspend your permit or licence if you:

- have a blood alcohol content of 0.07 or more
- fail to comply with a breath test request
- refuse to stop at a breath testing station
- have a prior offence for drink driving.

How will a drug driving offence affect my licence?

The police can fine or imprison you if they catch you drug driving. On top of that, you will still have to go to court to face the **charges** for the offence. The magistrate will cancel your licence and disqualify you from driving if they find you guilty or convict you of a drug driving offence. There are different lengths of time that the **disqualification** period can go for.

For probationary drivers, VicRoads will extend your probationary period by six months if the magistrate convicts you or finds you guilty of the drug driving offence but did not suspend or cancel your licence.

Can I stop my licence from being cancelled?

You might avoid a licence cancellation if you are 26 years old or over and:

- full licence-holders – the court finds you guilty without **conviction** of having a blood alcohol content less than 0.07 and you have no **priors** for drink driving (whether convicted or not)
- learner permit-holders or probationary licence-holders – the court finds you guilty or convicts you of a first offence of having a blood alcohol content less than 0.05.

You will get 10 demerit points if the magistrate does not cancel your licence. However, VicRoads may then suspend your licence if you end up with too many demerit points or you are a learner or probationary driver.

Road to Court

A guide to traffic offences in the Magistrates' Court

If the magistrate cancels my licence, how long is it for?

Drink driving

Offence	First offence	Second offence
Refusal to provide a roadside saliva test	6 months	12 months
Refusal to undergo drug impairment assessment	2 years	4 years
Refusal to give a blood or urine sample	2 years	4 years
Driving under the influence of alcohol and/or other drug	2 years	4 years
Drug impaired	12 months	2 years

* An offence is seen as a 'first offence' if it has been more than 10 years since the last offence.

Note: these are minimum disqualification periods. The magistrate can give you a longer disqualification period if they think it is necessary.

The magistrate will also cancel your licence if you are found guilty of refusing to provide a preliminary breath test or to go with a police officer for a breath test. The disqualification period is two years for a first offence and four years for a second offence.

Drug driving

Offence	First offence	Second offence
Refusal to provide a roadside saliva test	6 months	12 months
Refusal to undergo drug impairment assessment	2 years	4 years
Refusal to give a blood or urine sample	2 years	4 years
Driving under the influence of alcohol and/or other drug	2 years	4 years
Drug impaired	12 months	2 years

Note: these are minimum disqualification periods. The magistrate can give you a longer disqualification period if they think it is necessary.

The magistrate may also cancel your licence if you are found guilty of:

- driving with more than the prescribed concentration of a drug in your body
- giving a sample of blood, urine or saliva with more than the prescribed concentration of a drug. This includes a sample taken after a motor vehicle accident.

The longest time that the magistrate can cancel your licence is:

- six months for a first offence
- twelve months for every offence after the first one.

Road to Court

A guide to traffic offences in the Magistrates' Court

Will I have to get an alcohol interlock?

You may have to get an **alcohol interlock** fitted to your car as a condition of getting your licence back if the magistrate cancels your licence due to drink driving.

There are different lengths of time for keeping the alcohol interlock on.

Drivers under 26, drivers on learner permits or probationary licences, or other zero-alcohol licence holders

Reading	First offence	Second offence (in the past 10 years)	Third or further offence (in the past 10 years)
Under 0.07	No interlock	12 months or more	4 years or more
0.07 to 0.149	6 months or more	12 months or more	4 years or more
0.15 or more or refusing to take a breath test	6 months or more	4 years or more	4 years or more

All other licence-holders

Reading	First offence	Second offence (in the past 10 years)	Third or further offence (in the past 10 years)
Under 0.07	No interlock	12 months or more	4 years or more
0.07 to 0.149	Discretionary six months or more	12 months or more	4 years or more
0.15 or more or refusing to take a breath test	6 months or more	4 years or more	4 years or more

For more information on alcohol interlocks, see 'What happens if I am found guilty?' on page 36.

What if I do not agree with the charge?

You may want to **plead** not guilty if you do not agree with the police summary or if you have another **defence**.

You may have a defence in some cases if:

- the testing equipment was not working properly
- the test result was wrong
- the police did not follow proper procedures when testing or charging you
- you were not driving
- in some cases (but not all) your blood alcohol content or your drug content was due to alcohol you drank or drugs you took after driving.

It is not a defence to say that you were honestly mistaken about your blood alcohol content or you did not realise how drug-affected or drunk you were.

Pleading not guilty to a drink or drug driving offence can be a complicated area. Talk to a lawyer about the defences that may apply to you. For legal contacts, see 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

Careless and dangerous driving

What is careless driving and dangerous driving?

Careless driving is a common **traffic offence**. The most common reason that the police will charge someone for careless driving is for running into the back of another vehicle.

Dangerous driving is driving at a speed or in a way that could harm other people, including other drivers or pedestrians.

How will a careless or dangerous driving offence affect my licence?

The police can fine you if they catch you driving carelessly. The **magistrate** may also suspend or cancel your licence. This is up to the magistrate to decide.

The police can fine or imprison you, or both, for dangerous driving. You will still have to go to court to have a magistrate hear the charges. The law says the magistrate must cancel your licence and disqualify you from driving for at least six months if the magistrate finds you guilty. There is nothing you can do to avoid this.

If the police charge you with dangerous driving and you **plead** not guilty, the magistrate can convict you of the less serious offence of careless driving after hearing all the **evidence**.

The police could charge you with a more serious offence if someone is injured or dies because of your dangerous driving. Such offences may be dealt with in another court. It is very important to get legal advice as soon as you can. *See* 'Where to get help'.

What is hoon driving?

'Hoon driving' includes:

- doing burnouts or doughnuts
- causing too much skidding or spinning and blowing out smoke
- going through a railway or tram crossing in an unsafe manner when the train or tram is about to cross
- being a part of a 'speed trial' or 'drag race', for example, racing cars on a public road or in a public space
- driving while disqualified
- driving 45 kilometres or more above the speed limit or driving at 145 km/h or more
- driving a vehicle if you know that the police have told you to stop.

The magistrate may be able to order that the police or an authorised person **immobilise** your car, **impound** it or take it away permanently.

For more information on immobilisation and impoundment, *see* 'Speeding' on [page 11](#).

What if I do not agree with the charge?

You may want to plead not guilty if you do not agree with the police summary or if you have a **defence**.

Talk to a lawyer about the defences that may apply to you. For legal contacts, *see* 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

Learner permits and probationary licences



What is a novice driver?

A novice driver is a person who has a learner permit or probationary licence but has never had a full licence. You are not a novice driver if you are an experienced driver who has a learner permit for a motorbike, even if your full driver licence is suspended, cancelled or expired.

What is a learner permit?

A car learner permit lets you drive a car on the road with a supervising driver while you are learning to drive. The permit is valid for 10 years or until you get a probationary driver licence. To get your car learner permit you must be at least 16 years old.

A motorcycle learner permit lets you ride on the road while you are learning to ride. You can have the permit for 15 months or until you get a motorcycle licence. To get your motorcycle learner permit you must be at least 18 years old.

What is a probationary licence?

A probationary licence lets you drive a car or motorcycle by yourself. You can only get your probationary licence if you are 18 years of age or over.

What are graduated licences?

Graduated licences are two-stage licences for probationary drivers who are under 21. In the first stage, you get a P1 licence (red P-plate) for the first 12 months. In the second stage, you get a P2 licence (green P-plate) for three years. If you have a bad driving record, it takes longer to get to the P2 stage and then the full licence.

If you are under 21 and you want to get a probationary licence, you must have had a learner permit for at least 12 months.

What are the different laws for people on probationary licences?

You need to follow these laws if you got your Victorian probationary licence before

1 July 2008:

- you must have a **zero blood alcohol content** at all times when driving. The **magistrate** will cancel your licence if you drink and drive and the police catch you with a blood alcohol content of 0.05 or more. When you get your licence back you will have to fit an **alcohol interlock** to your car for at least six months. The magistrate may still cancel your licence if your blood alcohol content is below 0.05
- you must show your P-plate on the front and back of the vehicle and the P-plates must be clearly seen for a distance of 20 metres
- you must carry your licence at all times while driving
- you can only drive an automatic vehicle if you passed the probationary licence test in an automatic vehicle. (This does not apply if you already had a manual licence)
- you must not drive certain types of high-powered vehicles known as 'probationary prohibited vehicles'. Check with VicRoads about what these probationary prohibited vehicles are. In some cases, you can apply to VicRoads to be allowed to drive these sorts of cars
- you must not use a hand-held mobile phone while driving
- you must not get five or more demerit points in any one-year period or 12 or more demerit points in a three-year period and you cannot drive with more than one person in the car with you for a year if your licence is suspended or cancelled within your first year on a probationary licence.

Road to Court

A guide to traffic offences in the Magistrates' Court

Additional laws on 1 July 2008 apply to all novice drivers. They are:

- for people on a P1 licence:
 - you must not use any mobile phone, hands-free or hand-held, or do any text messaging
 - you must not tow any other vehicles (unless this is done for work or because you are under instruction)
 - you cannot drive with more than one person in the car for the rest of your P1 period if your licence is suspended or cancelled because of a **traffic offence**. It does not matter how old these people are. In some cases, you do not have to follow this restriction, check with VicRoads
 - at all times, you cannot have more than one 'peer passenger' in your vehicle. A 'peer passenger' is someone aged 16 to under 22 years old.
- for people on either a P1 or P2 licence:
 - you will automatically have to stay on your P1 or P2 period for even longer if:
 - the magistrate or VicRoads suspends your licence
 - the police **charge** you with a drink driving offence (but you kept your licence)
 - the police charge you with a drug driving offence.

Note: P1 and P2 people must follow all the laws as they apply to novice drivers (those laws before 1 July 2008 and those after that date).

VicRoads and demerit points



What are demerit points?

The demerit points system penalises drivers for unsafe driving. VicRoads looks after the demerit points system. They add demerit points to your licence for certain types of **traffic offences**. VicRoads can also give you two sets of demerit points at the same time. For example, if you drive through a red light while going over the speed limit and a combined red light/speed camera detects this, VicRoads will give you points for both offences.

How will demerit points affect my licence?

VicRoads may suspend your licence if you get too many demerit points:

- full licence-holders – 12 or more points in three years
- learner permit-holders and probationary licence-holders – five or more points in a one-year period or 12 or more points within a three-year period.

You will not be able to drive for the period of suspension.

Road to Court

A guide to traffic offences in the Magistrates' Court

What are the traffic offences that attract demerit points?

Here are some of the offences you can get demerit points for. To check for all the offences contact VicRoads. See 'Where to get help'.

Points	Demerit point offences
10	Drink driving for a zero blood alcohol content licence-holder where the blood alcohol content is less than 0.05 and the magistrate does not suspend or cancel the licence
10	Drink driving for an ordinary licence holder where the blood alcohol content is less than 0.07 and the magistrate does not record a conviction or suspend or cancel the licence
10	Drink driving dealt with by an infringement notice ('on-the-spot fine'), no objection made in first 28 days, with a blood alcohol content of less than 0.07 (0.05 for zero blood alcohol content licence-holders)
10	Drug driving where licence is not cancelled
8	Going over the speed limit by 45 km/h or more
6	Going over the speed limit by 35 km/h or more but less than 45 km/h
4	Going over the speed limit by 25 km/h or more but less than 35 km/h
4	Deliberately or recklessly going through level crossings when warnings like a bell, flashing lights or boom gates are operating
3	Disobeying traffic lights, signs or directions of police officer or authorised person
3	Not giving way, stopping or remaining stopped
3	Driving with unrestrained passengers under 16
3	Driving even though you have a major defect notice
3	Driving on the wrong side of double lines or on the wrong side of divided road
3	Driving the wrong way on a one-way service road
3	Driving over double lines that are surrounding a painted island
3	Using a hand-held mobile phone while driving or when vehicle is stationary but not parked
3	Using a vehicle on a highway without a properly affixed and displayed number plate
3	Driving without wearing a seat belt

3	Driving when your rider or passenger of a motor bike is not wearing an approved motor bike helmet or driving when your passenger is improperly seated
3	Creating a risk of colliding with passengers getting on, getting off or waiting for the tram
3	Careless driving
3	Going over the speed limit by 10 km/h or more but less than 25 km/h
3	Not showing your P-plates
3	Driving a high-powered motor vehicle when you are a probationary driver
2	Improper overtaking or passing
2	Turning or stopping without signalling
2	Turning improperly
2	Failing to keep left
1	Driving even though you have a minor defect notice
1	Not dipping your headlights
1	Not keeping a minimum distance behind another long vehicle when you are driving a long vehicle
1	Driving too close to the vehicle in front
1	Driving at night or in hazardous weather conditions without headlights, tail lights, number plate lights and rear-lights on and, if fitted, without clearance lights and side-marker lights on
1	Going over the speed limit but by less than 10 km/h

How will I know when VicRoads is about to suspend my licence?

At any time you can call VicRoads to check to see how many demerit points you have on your licence. This does not cost you any money. You can also order a copy of your demerit points history and a full driving history report from VicRoads.

VicRoads will send you an 'option notice' when you have gotten too many demerit points. This notice will let you know that you may be about to lose your licence.

Road to Court

A guide to traffic offences in the Magistrates' Court

What is in the option notice?

The option notice will give you two choices.

Full licence-holders

Option one - Keep your licence

You can choose to keep your licence but you agree that you will not get any more demerit points for the next year. If you do get points, your licence will be suspended for twice as long as it is in option two.

Option two - Suspend your licence

Here, your licence is suspended from the date in the option notice. The suspension will be three months for the first 12 points plus an extra month for every four points you have over 12 points (for example, if you have 16 points then you will get a four-month suspension).

If the court suspends or cancels your licence, then you do the court-ordered non-driving period on top of the non-driving period VicRoads will give you.

Learner permit-holders or probationary licence-holders

Option one - Keep your permit or licence

You can choose to keep your permit or licence but you agree that you will not get any more demerit points for the next year. If you do get points, your permit or licence will be suspended for six months plus an extra two months for every four points you had over five points (for example, if you got nine points in the first place, VicRoads will suspend your permit or licence for eight months).

Option two - Suspend your permit or licence

Here, VicRoads suspends your permit or licence for three months plus an extra month for every four points you have over five points (for example, if you have nine points, VicRoads will suspend your permit or licence for four months).

If you get 12 or more points within three years (but not five or more within a year) then VicRoads suspends your permit or licence as in option two.

For probationary drivers who have their licence suspended, VicRoads will keep you on your probationary period for longer (the length of the suspension period and six months).

What option should I take?

While option one means you keep your permit or licence to start with, it can be a risky choice. If you do end up getting more demerit points, you will lose your permit or licence for longer than you would if you took option two in the first place. Think carefully before you make a decision.

What if I did not get the option notice?

Contact VicRoads if you did not get the option notice.

However, if the notice is sent to the wrong address because you moved house, the notice may come back to VicRoads with 'return to sender'. VicRoads will hold off on suspending your licence and will wait until the next time that you renew your permit or licence. They will then send the notice to your new address. The suspension will take place from the date in this second option notice.

Tell VicRoads of your new address if you move house. It is an offence not to tell VicRoads of a change to your address.

What if I disagree with VicRoads?

You can appeal a VicRoads demerit points suspension to the Magistrates' Court but only if VicRoads had made a mistake in working out how many points you had. Get legal advice if you want to appeal. See 'Where to get help'.

Will I still get demerit points if I take a traffic offence to court?

The only way you will not get demerit points is if you are found not guilty. Otherwise, you will get demerit points if the magistrate finds you guilty or convicts you of a traffic offence and that offence has demerit points.

You will also get demerit points if you end up doing the diversion program.

When are demerit points removed?

The demerit points listed in your option notice are taken off once the suspension/option one period runs out. Other points usually expire after three years unless you commit further offences within the three-year period.

Important: remember, VicRoads look after the demerit points system. The police, the court or lawyers do not have any authority to change your demerit points. If you have questions about demerit points, contact VicRoads. See 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

Police warnings and suspensions →

What is a warning?

The police can choose to let you off with a warning if your **traffic offence** is fairly minor. A warning means you will not be **charged** and you will not have to go to court.

You may apply to get a warning if you:

- hold a current driver licence (including a probationary licence but not a learner permit)
- have not been given a speeding or other traffic fine or official warning within the last two years
- were caught doing less than 10 km/hour over the speed limit and agree that you were speeding.

The police decide if you will get a warning or not. It is not up to the court to decide.

When can a police officer suspend my licence?

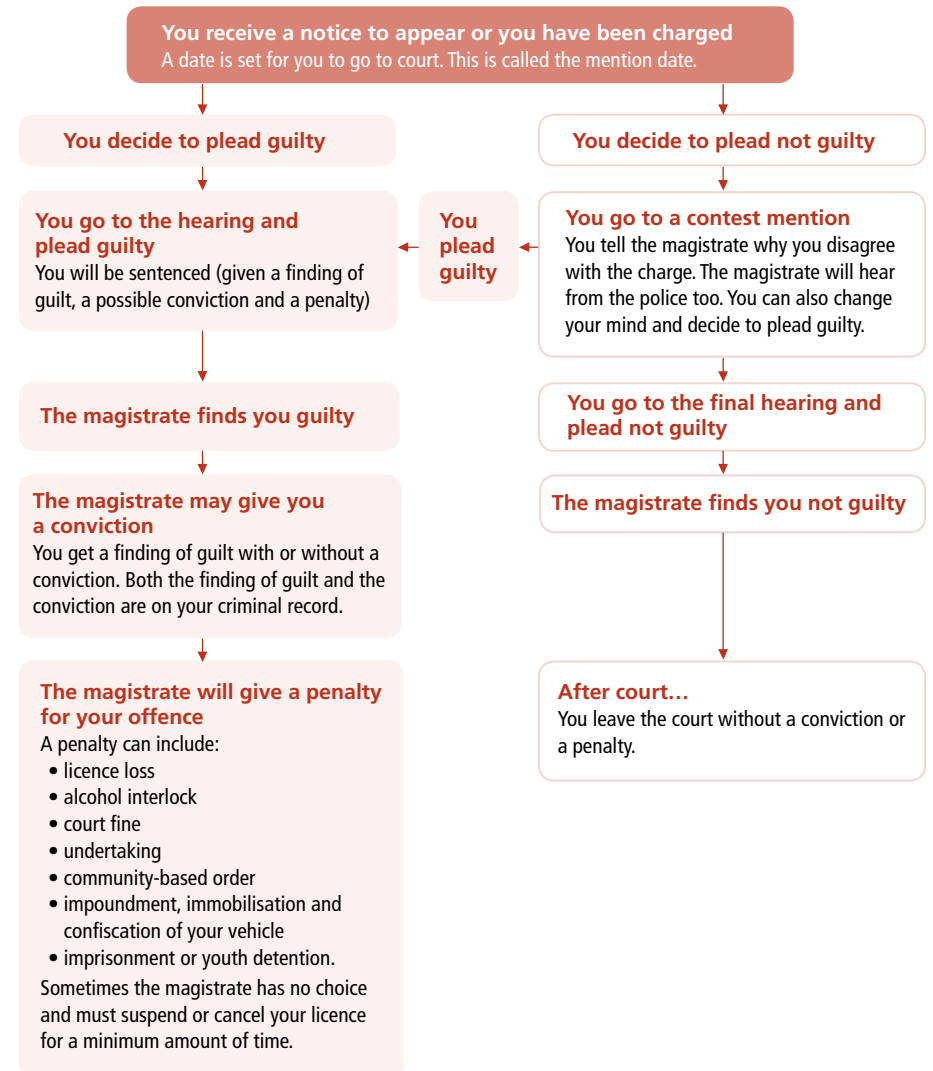
The police officer can immediately suspend your licence for drink driving offences if:

- you have a full driver licence and the test shows that within three hours of driving you have a **blood alcohol content** of 0.1 or more
- you have a learner permit or probationary driver licence and the test shows that within three hours of driving you have a blood alcohol content of 0.07 or more
- the test shows that within three hours of driving you have a blood alcohol content over and above what you are allowed to have and you have **priors** within the last 10 years for drink or drug driving
- you refuse to do a breath test.

The police officer can immediately suspend your licence for drug driving offences if:

- the drug driving test shows you to be drug driving
- the police officer reasonably suspects that you are drug driving and you refuse to provide a urine or blood sample.

Going to court: what happens →



Going to court: what happens

Road to Court

A guide to traffic offences in the Magistrates' Court

Going to court: what to say to the magistrate



Before going to court, think about what you will say to the magistrate. The five sections below will help you prepare what to say. Space has been left after each section for you to make notes.

The circumstances of the offence

Describe what happened and try to explain (not excuse) why the offence happened, from your point of view.

For example:

- I was driving in an unfamiliar area
- I was feeling upset, for example, something had happened to affect my concentration
- I did not see any signs
- I had trouble seeing the road, for example, there was bad weather
- I was not driving my own car
- Other

Your reaction to the charge

The magistrate will be interested to know if there were any victims of the offence. Explain your reaction to the charge.

For example:

- I am genuinely sorry for the incident
- There were no serious injuries or nobody was injured
- I have taken care of or paid for all damage
- Other

Your driving record

For example:

- I have never had to go to court before
- I have had no previous accidents
- I have had a licence for many years

- After the accident, I did a defensive driving course
- Other

Reasons for wanting to keep your licence

For example:

- I need the car to help my family, for example, doing the shopping for the family, picking up the kids
- I live far from public transport
- I have trouble using public transport, for example, I do shift work or I have a disability
- I drive for work (you will need a letter from employer. See 'Sample letters' on page 42)
- I have a sick child/elderly relative (you will need a doctor's certificate)
- Other, for example, I do voluntary work and need my car for it

Note: there may be good reasons why you want to keep your licence but for some traffic offences the law says that the magistrate has no choice and must suspend or cancel your licence.

Financial situation/personal details

For example:

- I do not have a job at the moment
- I have things to pay for, for example, mortgage, loans, debts
- I have a family and people who depend on me to provide for them
- I have plans that might be risked if I lose my licence or get a heavy fine

It is important to take documents with you to support your case. You can take a character reference, a letter from your employer or a medical certificate. See 'Sample letters' on page 42. Our booklet *Your day in court* has examples of character references. To order our booklets, see 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

What happens if I am found guilty? →

What will be in my sentence?

The magistrate will **sentence** you if they find you guilty of a **traffic offence**. The **sentence** may include a **conviction** and will include a penalty. The sentence will depend on:

- the type of traffic offence
- the circumstances of your offence
- prior offences
- your personal circumstances.

What does conviction mean?

A conviction is given with **findings of guilt** for more serious crimes. Convictions show up on your **criminal record** and can affect you in the future. You may be asked about your criminal record by an employer or for some visa applications. If you have a conviction, it will show on your criminal record and this could mean you do not get the job or you do not get the visa. However, this is less likely with a traffic offence than with another **criminal offence**.

The magistrate is most likely to find you guilty without conviction for a first offence that is not too serious. If this happens, and if you are asked in the future if you have had a conviction, you can truthfully say 'No'. This can be tricky though and it just depends on what the employer or whoever is asking wants to know. Remember, you will still have a criminal record and that will still show that you were found guilty. The finding of guilt can also be brought up in court if you get **charged** with another offence.

What sort of penalties might I get?

Losing your licence *

Suspension and disqualification

The magistrate can:

- suspend you from driving
- disqualify you from driving and cancel your licence.

You are not allowed to drive for the length of the **suspension** or **disqualification** period.

If the magistrate suspends your licence, you must return your licence to VicRoads. VicRoads will return your licence to you after the suspension period. If the magistrate cancels your licence, you must apply to VicRoads to get your licence back once the disqualification ends. You will need to pay for this. See 'Getting your licence back' on page 41.

After court, VicRoads will send you a notice that tells you about the non-driving period.

Minimum suspension or disqualification periods

For some traffic offences, the law says the magistrate must suspend or cancel your licence for a minimum period of time. There is nothing you can do about this. The magistrate also has **discretion** to make the non-driving period longer than the minimum length of time. For more information about offences that have minimum suspension and disqualification periods, see 'Speeding' on page 11 and 'Drink or drug driving' on page 15.

When the suspension or disqualification starts

The non-driving period normally starts when the magistrate tells you the decision in court. You may be able to ask for the non-driving period to start from midnight, to give you time to get home. However, the magistrate may not always allow this so it is best that you do not drive to court.

The magistrate can also order that the non-driving period starts on the date that the police suspended your licence, if the police suspended your licence before you went to court.

VicRoads

You may have to do two non-driving periods if the magistrate suspends or cancels your licence and VicRoads does too (if you got too many demerit points) see 'VicRoads and demerit points' on page 27. The two non-driving periods do not run at the same time. You do the court-ordered period first and then do the VicRoads period after that.

Road to Court

A guide to traffic offences in the Magistrates' Court

Appeals

If you do not agree with the suspension or disqualification, you can **appeal** to the County Court. See 'What if I am unhappy with court result?' in 'Frequently asked questions' on page 6.

Alcohol interlock

The magistrate can make you have an alcohol interlock fitted to your car as a condition of getting your licence back. The alcohol interlock records all of your breath-testing readings and these readings will be given to the court when you re-apply for your driver licence. You need to meet certain conditions and get a **court order** to be able to get an alcohol interlock removed.

If you do not use your alcohol interlock properly, the police might jail you or **immobilise** your car.

The law says that sometimes the magistrate must order you to get an alcohol interlock. You may be able to appeal against an alcohol interlock condition to the County Court.

The law about alcohol interlocks can be complicated. Get legal advice. See 'Where to get help'.

Court fine *

If the magistrate gives you a fine, you can ask to:

- pay in instalments
- have more time to pay
- do community work instead.

Our free booklet *Fines: Your options for dealing with fines* has more information about court fines and options. To order our booklets, see 'Where to get help'.

Undertaking *

The magistrate may decide not to give you any other penalty if you sign an undertaking (a promise to the court) to stay out of trouble. This used to be called a 'good behaviour bond'.

An undertaking may have conditions, for example, making a payment to the court fund (which is used for charity) or going to a driver education course. There are serious consequences if you do not keep your promise. You can be brought back to court and the magistrate can give you a new sentence.

Community-based order *

A community-based order requires you to do things like:

- unpaid work at a non-profit community group (such as gardening at a local school)
- an education program
- alcohol or drug tests.

You must report to a community corrections centre.

You can only get a community-based order if you go to court for the offence and agree to obey the community-based order.

Impoundment, immobilisation and confiscation of vehicles

The court can order the police or an authorised person to **immobilise, impound** or confiscate your car for offences such as dangerous driving or hoon driving. See 'Careless and dangerous driving' on page 22.

Imprisonment or youth detention

In some cases, especially if it is not your first offence, the magistrate may sentence you to jail or detention:

- a suspended sentence (you do not go to jail unless you are convicted of another offence punishable by imprisonment during the period of suspension)
- an intensive correction order (similar to a community-based order but more strict)
- home detention (you do not go to jail but must spend all your time at home unless you get permission from your corrections officer to go out)
- time in jail or detention in a youth centre (if you are under 21).

You will be in **breach** of your suspended sentence or intensive correction order if you commit an offence for which you could be imprisoned during the period of these orders. It does not matter whether or not you are imprisoned for the new charges. The magistrate will sentence you to immediate imprisonment unless very special circumstances are shown. Get legal advice. See 'Where to get help'.

Note: you will get a conviction if the magistrate sentences you to jail, an intensive corrections order or a wholly suspended sentence.

* penalty/outcome can apply with or without conviction

Road to Court

A guide to traffic offences in the Magistrates' Court

Diversion



You might go to court but be placed into the **diversion** program. In the diversion program you might have to do things like:

- apologise to the victim
- get counselling
- do an education course or community work.

Diversion is generally an option for first-time offenders. You, your lawyer, the police, the police prosecutor or the **magistrate** can ask for diversion but everyone must agree for it to happen. This means you need to accept responsibility for the **charges** to get diversion.

You avoid a **criminal record** if you follow all your conditions in the diversion program.

You cannot get diversion for serious **offences** like:

- excessive speeding
- drink or drug driving
- refusing to do alcohol or drug testing.

For more information about diversion, contact the Magistrates' Court Diversion Co-ordinator. See 'Where to get help'.

Note: you will still get any demerit points related to the offence even if you get diversion.

Getting your licence back



Getting your licence back will depend on things like:

- whether your licence was suspended or cancelled
- how old you were when you broke the law
- the type of offence you committed.

Sometimes, if a **magistrate** has cancelled your licence, you must get permission from the Magistrates' Court before you can apply to VicRoads to get your licence back. It takes a month to get a **hearing** date, so contact your local Magistrates' Court well before your **disqualification** period ends.

You may also have to get an assessment report, get an **alcohol interlock**, sit a test or do a driver education course before your licence can be returned. If you have to do a drink driving course, get proof that you did it. You need to show this to the magistrate if you have to go to court to get your licence back. For some offences, you must do a drink driving assessment at least 12 months before you apply to the court.

VicRoads has a brochure called *Getting your licence back*, which explains how to get your licence back if the cancellation was about a drink or drug driving offence.

Make sure you know as soon as possible what you must do to get your licence back. Contact VicRoads or get legal advice about what you need to do in your situation. See 'Where to get help'.

Road to Court

A guide to traffic offences in the Magistrates' Court

Sample letters



Character reference: Letter about driving record

A person who wants to support you can use this letter as a guide to writing their own letter about your character and driving record. The letter needs to cover the issue related to the charge, for example, 'excessive speed'.

[Add date]

[Heading]

To the Magistrate,

[Reference]

My name is Domenica Carrero of 1 Chapel Court, Tooronga, teacher.

[Reference to you]

I have known Peter Johnston of 2 Germaine Street, Georgetown, plumber, for four years.

[Referee's knowledge of your court case and reason for writing reference]

I understand that Peter Johnston has to attend court in relation to a speeding charge. Due to other commitments, I am unable to attend court to give character evidence on his behalf.

[Knowledge of your driving record]

However, I can say that I have driven with Peter on a number of occasions and always found him to be a courteous, sensible and safe driver.

[Reasons why you need a licence]

I understand that if Peter loses his licence he might lose his job. Also his wife and children will be greatly inconvenienced because he is the only driver in the family.

Yours faithfully

[Person's signature]

DOMENICA CARRERO

[Referee prints their name under their signature]

[Add date]

[Heading]

To the Magistrate,

[Reference]

My name is Alan Stepic. I am the sales manager at Star Electrics at 8 Elm Grove, Preston.

[Knowledge of you]

Susan Clive has worked under my supervision as a sales representative for three years. In that time I have found her to be a good worker and from my experience of her driving, a safe driver. She has a bright future at this company.

[Consequences of loss of licence]

I understand that Susan is charged with drink driving. Her job involves some driving and a licence is important so that she can do her work properly. Therefore, I can say that if the court cancels or suspends her licence, Susan will have difficulty performing her job. Her future prospects may be affected and she may be laid off.

Yours faithfully

[Person's signature]

ALAN STEPIC

[Employer prints their name under their signature]

Letter from employer: Letter about the effect of licence cancellation or suspension

Your employer can use this letter as a guide to writing their own letter about the effect of licence cancellation or suspension on your employment.

Where to get help



Victoria Legal Aid

Telephone Information Service

Contact us for free information about the law and how we can help you.

Monday to Friday between 8.45 am and 5.15 pm

Tel: 9269 0120 or 1800 677 402 (country callers)



The service is also provided in languages other than English by bilingual staff:

Arabic: 9269 0127

Polish: 9269 0228

Croatian: 9269 0164

Serbian: 9269 0332

Italian: 9269 0202

Ukrainian: 9269 0390

You can also get an interpreter from the Victorian Translating and Interpreting Service if you speak a language that we do not cover. Call 13 14 50 and ask to be put through to Victoria Legal Aid.

If you have a speech or hearing impairment, call the National Relay Service and ask to be put through to Victoria Legal Aid.

- TTY/voice: 133 677 or 1800 555 677 (country callers)
- SSR/speak and listen: 1300 555 727 or 1800 555 727 (country callers).

Publications

We have a range of free publications which you may find useful. Order online at www.legalaid.vic.gov.au/publications or call 9269 0223.

Local offices

We have offices all over Victoria. See the back cover for office locations.

Court Network

For personal support and referral to other services at court.

Tel: 9603 7433

Country callers: 1800 681 614

Email: info@courtnetwork.com.au

Road to Court

A guide to traffic offences in the Magistrates' Court

DIRECT Line

For drink driving courses throughout Victoria and help with drug and alcohol problems.

Tel: 1800 888 236

www.health.vic.gov.au/drugs/directline.htm

Federation of Community Legal Centres

Call to find out your nearest community legal centre.

Tel: 9652 1500

www.communitylaw.org.au

Law Institute of Victoria

Referral service. Referral to private lawyers – first 30 minutes free.

Tel: 9607 9550

www.liv.asn.au

Magistrates' Courts and Magistrates' Court Diversion Co-ordinator

www.magistratescourt.vic.gov.au

VicRoads

Tel: 131 171

www.vicroads.vic.gov.au

Road to Court

A guide to traffic offences in the Magistrates' Court

Road to Court

A guide to traffic offences in the Magistrates' Court of Victoria

Victoria Legal Aid

Legal Information Service

Tel: 9269 0120

Country callers: 1800 677 402

Offices

MELBOURNE

350 Queen St

Melbourne VIC 3000

Tel: 9269 0120

Country callers: 1800 677 402

Suburban offices

BROADMEADOWS

North western suburbs

Level 1, Building 1

Broadmeadows Station Centre

1100 Pascoe Vale Rd

Broadmeadows VIC 3047

Tel: 9302 8777

DANDENONG

Westernport region

Level 1, 9-15 Pultney St

Dandenong VIC 3175

Tel: 9767 7111

FRANKSTON

Peninsula region

Cnr O'Grady Ave & Dandenong Rd

Frankston VIC 3199

Tel: 9784 5222

PRESTON

North eastern suburbs

42 Mary St

Preston VIC 3072

Tel: 9416 6444

RINGWOOD

Outer eastern suburbs

23 Ringwood St

Ringwood VIC 3134

Tel: 9259 5444

SUNSHINE

Western suburbs

1/474 Ballarat Rd

Sunshine VIC 3020

Tel: 9300 5333

Regional offices

BALLARAT

Central Highlands region

Area A, Level 1

75 Victoria St

Ballarat VIC 3350

Tel: 5329 6222

Toll free: 1800 081 719

BENDIGO

Loddon-Campaspe region

424 Hargreaves St

Bendigo VIC 3550

Tel: 5448 2333

Toll free: 1800 254 500

GEELONG

Barwon region

Level 2, 199 Moorabool St

Geelong VIC 3220

Tel: 5226 5666

Toll free: 1800 196 200

HORSHAM

Wimmera region

29 Darlot St

Horsham VIC 3400

Tel: 5381 6000

Toll free: 1800 177 638

MORWELL

Gippsland region

Cnr Chapel & George St

Morwell VIC 3840

Tel: 5134 8055

BAIRNSDALE

Gippsland region (branch office)

101A Main St

Bairnsdale VIC 3875

Tel: 5153 1975

SHEPPARTON

Goulburn region

36-42 High St

Shepparton VIC 3630

Tel: 5823 6200

WARRNAMBOOL

South Coast region

185 Fairy St

Warrnambool VIC 3280

Tel: 5559 7222

Toll free: 1800 651 022

Publication orders

To download or order our publications in English or other languages go to www.legalaid.vic.gov.au

If you need help ordering online please call Victoria Legal Aid on 9269 0223