

No. 14 of 2002

**AN ACT TO AMEND
THE LAWS RELATING TO ROAD TRAFFIC**

[Date of Assent — 8th March, 2002]

Enacted by the Parliament of The Bahamas.

Short title. 1. This Act, which amends the Road Traffic Act may be cited as the Road Traffic (Amendment) Act, 2002.

**Insertion
of new
sections
42A, 42B,
42C, 42D
and 42E into
the principal
Act.** 2. The principal Act is amended by the insertion immediately after section 42 of the following new sections -

“Motor vehicles to be fitted with seat belts. 42A. (1) Subject to section 42B, every registered owner of a motor vehicle shall have such motor vehicle fitted with seat belts.
(2) The registered owner of a motor vehicle referred to in subsection (1) who contravenes that subsection shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred dollars.

Exemptions. 42B. The provisions of section 42A shall not apply to -
(a) a tractor;
(b) a motor cycle;
(c) an omnibus, except the front seats used by the driver and any other persons sitting along side the driver’s seat;
(d) a truck, except the front seats used by the driver and any other passenger sitting along side the driver’s seat, and in the case of a truck with double rows of seats in the cab such double rows of seats;
(e) a motor vehicle specifically designed for the use of the

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physically or medically handicapped or disabled, when
the person operating the motor vehicle has a certificate
issued by a qualified medical practitioner
registered under the Medical Act specifying -

(i) the nature of the physical or medical
disability or handicap;

(ii) the reasons why the use of seat belt is not
deemed desirable; or

(f) cars manufactured before 1986 or trucks manu-
factured before 1972.

Mandatory use of seatbelts. 42C. (1) Subject to section 42B, no person shall drive a motor vehicle or permit a person to ride as a passenger in that motor vehicle unless that person or that passenger is secured by a seat belt.

(2) Subject to section 42B, no person shall ride as a passenger in any motor vehicle on any road unless he is secured by a seat belt.

(3) Where any passenger mentioned under this section is under the age of five years, such passenger shall be secured in a child passenger seat positioned in the rear passenger seat of the motor vehicle.

(4) Any driver of a motor vehicle who drives without a seat belt or allows a passenger in such vehicle to ride without a seat belt commits an offence and is liable on summary conviction to a fine of three hundred dollars.

(5) Any passenger other than the passenger referred to in subsection

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(3) who rides in a motor vehicle and is not secured by a seat belt commits an offence and is liable on summary conviction to a fine of one hundred dollars.

(6) Every person is guilty of an offence against this section who being the person driving the motor vehicle at the time of the breach, permits a child to ride without a seat belt or secured in a child passenger seat and such person shall be liable on summary conviction to a fine of five hundred dollars.

Sale of motor vehicle without seat belts. 42D. (1) No person shall sell, offer for sale, hire, or otherwise deal in, any motor vehicle which is required by this Act to be equipped with seat belts, unless that motor vehicle is duly equipped with seat belts.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine of five hundred dollars for a first offence, and to a fine of one thousand dollars for a second or subsequent offence.

Powers of the Controller. 42E. The Controller or other persons duly authorised by the Minister may cancel, suspend or refuse to issue or renew the licence of a motor vehicle required by this Act to be equipped with seat belts if such motor vehicle is not duly equipped with such belts.”.

Amendment to section 48 of the principal Act. 3. Subsection (1) of section 48 of the principal Act is repealed and replaced by the following -

“ (1) Any person who -

(a) drives or attempts to drive a motor vehicle on a road or other public place; or
(b) is in charge of a motor vehicle on a road or other public place, after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit shall be guilty of an offence.

Insertion of new sections 48A, 48B, 48C, 48D and 48E.

4. The principal Act is amended by the insertion immediately of new after section 48 of the following new sections -

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“Breath tests. 48A.(1) Where a police officer has reasonable cause to suspect -

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed an offence under this Act whilst the vehicle was in motion; or
 - (b) that a person has been driving or attempting to drive or has been in charge of a motor vehicle on a road or other public place with alcohol in his body and that that person still has alcohol in his body; or
 - (c) that a person has been driving or attempting to drive or has been in charge of a motor vehicle on a road or other public place and has committed an offence under this Act whilst the vehicle was in motion,
- the police officer may, subject to section 48C require that person to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a police officer may, subject to section 48C of this Act, require any person whom he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident, to provide a specimen of breath for a breath test.

(3) A person may be required under subsection (1) or subsection (2) to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) and the police officer making the requirement thinks fit, at a police station specified by the police officer.

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- (4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section is guilty of an offence.
- (5) A police officer may arrest a person without warrant if -
 - (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit, or
 - (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body, but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.
- (6) A police officer may, for the purpose of requiring a person to provide a specimen of breath under subsection (2) in a case where he has reasonable cause to suspect that the incident involved injury to another person or of arresting him in such a case under subsection (5), enter (if need to be by force) any place where that person or where the police officer, with reasonable cause, suspects him to be.

Provisions of specimens for analysis.

- 48B. (1) In the course of an investigation into whether a person has committed an offence under sections 44 and 48 of this Act a police officer may, subject to the following provisions of this section require him -

- (a) to provide two specimens of breath analysis by means of a device of a type approved by the Minister; or
- (b) to provide a specimen of blood or urine for a laboratory test

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the Minister; or

- (b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under this section to provide specimens of breath can only be made at or near the scene of the investigation, a police station, hospital or other health care facility.

(3) A requirement under this section to provide a specimen of blood or urine can only be made at a police station or at a hospital; and it cannot be made at a police station unless -

- (a) the police officer making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required, or
- (b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) is not available at the police station or it is then for any other reason not practicable to use such a device there; or
- (c) the suspected offence is one under sections 44 and 48 of this Act and the police officer making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug,

but may then be made notwithstanding that the person required to provide the

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specimen has already provided or has been required to provide two specimens of breath:

Provided that a specimen of blood may only be taken from a person by a registered medical practitioner.

(4) If the provision of a specimen other than a specimen of breath may be required in pursuance of this section, the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the police officer making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be specimen of urine.

(5) A specimen of urine shall be provided within one hour of the requirement for its provision being made after the provision of a previous specimen of urine.

(6) Where a person is required to give a specimen of urine, that person shall be permitted to do so in facilities provided for that purpose.

(7) A person who, without reasonable excuse, fails to provide a specimen of urine when required to do so in pursuance of this section is guilty of an offence.

(8) A police officer must, on requiring any person to provide a specimen in pursuance of this section, warn him that a failure to provide it may render him liable to prosecution.

(9) In this section, a ‘registered medical practitioner’ includes a nurse.

Protection for hospital patients.

48C. (1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test or to provide a

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specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and

- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital; but
- (b) if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under subsection (7) of section 48B of this Act, would be prejudicial to the proper care and treatment of the patient.

48D. (1) Subject to subsections (2) and (3) below, a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the police officer that, were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under sections 44 or 48 of this Act.

(2) A person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(3) A police officer must consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

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Interpretation.

48E. (1) The following provisions apply for the interpretation of sections 48A, 48B, 48C and 48D of this Act.

(2) In the sections referred to in subsection (1) –

“breath test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Minister, an indication whether the proportion of alcohol in a person’s breath or blood is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“fail” includes refuse;

“hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients;

“the prescribed limit” means, as the case may require -

(i) 35 microgrammes of alcohol in 100 milliliters of breath;

(ii) 80 milligrammes of alcohol in 10 milliliters of urine;

(iii) 107 milligrams of alcohol in 100 milliliters of urine;

or such other proportion as may be prescribed by regulations made by the Minister.

(3) A person does not provide a specimen of breath for a breath test or for analysis unless the specimen -

(a) is sufficient to enable the test or the analysis to be carried out; and

(b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.

(2) A person provides a specimen of blood if and only if he consents to
it being taken by a medical practitioner and it is so taken.”.

(4) A person provides a specimen of blood only if he consents to it being taken by a medical practitioner and it is so taken.”.

Insertion of new section 69A into the principal Act. 5. The principal Act is amended by the insertion immediately after section 69 of the following -

“Licence as security for loan. 69A. (1) A licence granted under section 67 shall be capable of being used by its holder (in this section called “the borrower as security for a loan.

- (2) Where the borrower uses his licence as security for a loan-
- (a) the licence together with written evidence of the loan signed by the person granting the loan which shall be a recognised lending institution (in section called “the lender”) and by the borrower shall be submitted to the Controller who shall endorse on licence the fact of the made and shall make a keep a record of the transaction;
- (b) the licence shall after being duly endorsed be returned by the Controller;
- (c) on an application in writing signed by the lender and the borrower requesting cancellation of the endorsement on the licence the Controller shall -

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- (i) cancel the endorsement on the Licence,
 - (ii) make the necessary entries in his records evidencing the cancellation of the endorsement, and
 - (iii) deliver the licence to the borrower;
- (d) if during the subsistence of the loan the lender submits to the Controller an application in writing signed by the lender and the borrower for permission to transfer the licence to another individual and the Controller considers that other individual to be citizen of The Bahamas and a suitable person to operate a taxi—cab service, the Controller shall approve the transfer of the licence to that other individual freed and discharged from the loan endorsed there-on;
- (e) the transfer shall be in such form as the Minister shall approve.

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(3) The provisions of section 68 relating to the revocation of a licence shall not apply to a licence which is used as security for a loan but in the case of a licence so used the Controller may, if the circumstances specified in subsection (l)(a) and (b) of section 68 occur, order that the licence be transferred by the lender to a person whom the Controller considers suitable to operate a taxi-cab service.

(4) No action, suit, prosecution or other proceedings shall be brought or instituted against the Controller in respect of any act done bona fide in pursuance or execution or intended execution of any function under this section.

(5) In this section -

“licence” means a taxi-cab licence;

“recognised lending institution” means -

Ch. 327.

No. 38 of 2000.

Ch. 317.

- (a) The Bahamas Development Bank established under section 3 of the Bahamas Development Bank Act;
- (b) a domestic bank licensed under the Banks and Trust Companies Regulation Act, 2000; or
- (c) an insurance company registered under the Insurance Act.”.