

Random Breath Testing (RBT): Your questions answered

Driving a motor vehicle in a safe manner is a complex task which requires skill, knowledge and concentration. If you have consumed alcohol or any other drug, whether it be legal, illegal or pharmaceutical it can be difficult to assess how much your driving skills have been affected. It is therefore illegal to drive if you are under the influence of alcohol or other drugs, as it may impair your ability to drive safely.

Random Breath Testing (RBT) gives police the power to test drivers they believe may be under the influence of alcohol. It is important to remember that whilst the basic principles remain the same, states and territories across Australia may have slightly different processes, charges and penalties.

This fact sheet has been developed to answer some frequently asked questions around RBT and help you to stay safe.

What does RBT test for?

Random breath testing or RBT, as it is often called, is a process where a driver will be randomly selected by police to provide a sample of their breath which will then be tested for the presence of alcohol. This breathalyser result provides officers with the driver's blood alcohol content or concentration (BAC) level, i.e., the percent of alcohol in the bloodstream.

What is BAC?

BAC measures the amount of alcohol you have in your system in grams of alcohol per 100 millilitres of blood. A BAC of 0.05 means you have 0.05 grams of alcohol in every 100 millilitres of blood. The higher your BAC, the higher your level of impairment of critical driving skills such as concentration and decision making.

What are the rules?

Zero BAC applies if you:

- have a learner permit
- have a P1 or P2 licence
- are a restricted motorcycle rider
- drive a bus or commercial passenger vehicle (including taxis) (0.02 in NSW)
- drive any rigid or articulated truck over 14 tonnes GVM (0.02 in NSW)

Learner, P1 and P2 drivers are developing their driving skills. They have a zero-alcohol limit as they are more vulnerable to the effects of alcohol than

experienced drivers. If you are on a zero limit, you must not drive or ride after consuming any alcohol.

In NSW, the BAC for drivers of commercial vehicles (including taxis) and rigid or articulated trucks over 14 tonnes is under 0.02, whilst it is 0.00 in other states and territories.

Under 0.05 applies to:

- all other drivers not subject to the conditions for a zero BAC level. This includes overseas and interstate drivers

Why do L and P platers have to have 0.00 BAC?

Driving a motor vehicle is a complex task and alcohol can affect a person's concentration and alertness, among other things. Alcohol consumption can impair concentration, reaction times, alertness and decision making, which can be detrimental to driving ability. Given that L and P plate drivers are already at a higher risk of crash due to inexperience, a 0.00 BAC is the safest option.

How does RBT work?

The device used in an RBT is called a breathalyser, which analyses the expired air for the presence of alcohol. In Australia there are two different devices used to detect alcohol in expired air. In most states and territories the device used requires the driver to blow continuously into a tube attached to the device until requested to stop. In NSW and ACT a speaking device may also be used. The driver is requested to

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count to 10 in close proximity to the device which then analyses the expired air for the presence of alcohol. The digital screen will indicate if a level of alcohol is detected on the breath of the driver that is above their prescribed limit (0.00-0.05).

The police officer is prohibited from revealing the results of this first test. They will simply request you accompany them for further breath analysis. This initial test is known as a Preliminary Breath Test (PBT) as it cannot be used to convict. If you fail the PBT you will be taken to a mobile station (bus) or the closest police station for a more accurate breath analysis. This must occur within a certain time period after failing the first test. This time period can vary between jurisdictions.

Why aren't police allowed to tell the driver the results of the preliminary breath test?

As a preliminary breath test (PBT) is not used in evidence, police are not permitted to show this result to the driver. The driver will be given the result of the more accurate, evidentiary breath analysis that is completed when a driver fails a PBT.

How accurate are breathalysers?

The breath analysis equipment used by police is regularly tested and professionally checked and adjusted for accuracy (known as calibration) and generally returns a reading that is less than the true blood alcohol concentration. PBT instruments have accuracy limitations and are subject to the possibility of error, which is why they are not used as evidence. Whilst the PBT result cannot be used to charge a person with drink driving, the breath analysis conducted in the mobile bus or police station is accurate enough to be used in evidence.

Can I refuse a breath test?

When an RBT is requested you are required by law to provide a sample of your breath. Failure to provide a sample is normally treated by law and the courts in the same way as high range drink driving.

Can police breath test passengers?

Police are only able to breath test the driver of a vehicle. If they have reason to believe that a passenger in the car was in fact the actual driver, they can request a breath test from that person.

Is it true that I have the right to have a blood test if I blow over the legal limit?

Police officers should inform you that you have the right to request a blood sample be taken after a random breath test, however you will still be required to undergo breath analysis.

When a blood test is taken it is divided into three samples: one is given to the driver, one goes for analysis and the third is kept as a control. You have the right to have your sample independently analysed but it is important to note that a blood sample is not necessarily better than a breathalyser as the readings are normally higher and this can be used against you.

Blood tests can be particularly problematic for young drivers who are required to have a 0.00 BAC. There are a range of products including some medicines, mouthwashes and food that may contain alcohol. If a young driver knows they have not drunk alcohol but has been exposed in one of these ways and requests a blood test, it is possible these products may be identified in the process.

Can you fail an RBT even if you haven't been drinking?

It is possible to fail an RBT even if you have not been drinking due mainly to issues around ambient air (i.e. the breath analysis picks up the smell of alcohol in the car) or having 'alcohol debris' in your mouth due to the use of mouthwash or foods that contain alcohol. It is important to remember that these products should only cause an issue with the PBT, not with the evidentiary test, which is the more accurate one that will be used in a court of law.

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Can you fail an RBT after drinking a lemon, lime and bitters (LLB)?

Whilst many believe that LLB is a non-alcoholic option, the aromatic bitters contained in it actually have a very high alcohol content. LLB doesn't contain much alcohol (tests have found that a glass is the equivalent of about one-tenth of a standard drink) but it is alcoholic. If an L or P plater has this as their last drink of the night, skols it down and is breathalysed shortly afterwards, they could potentially fail a preliminary test due to 'alcohol debris' in their mouth. Again, this will only cause an issue with the PBT and not the evidentiary test that counts.

A simple way to reduce the risk of getting a positive breathalyser due to 'alcohol debris' is to make sure you always rinse your mouth out before driving.

Are the disposable breathalysers you can buy a good idea for a P-plater?

It is important to remember that the breath analysis equipment used by police is regularly tested and professionally calibrated for accuracy, whereas many of the handheld devices sold are not, meaning they can be inaccurate. Whilst these devices may be useful to give an indication of your BAC it is not worth taking the risk, particularly for young drivers who need to have a 0.00 BAC. If you have been drinking, don't drive.

How long should I wait before driving again?

Sobering up takes a long time and there is no way to speed up the rate at which the body breaks down alcohol. The only thing that sobers you up is time. A healthy adult liver breaks down less than one standard drink an hour and it is important to remember that not all drinks contain only one standard serve of alcohol, i.e., one can of Smirnoff Double Black contains 2 standard drinks. After a heavy night of drinking it can take more than 18 hours for your BAC to return to zero and many people are booked for drink driving the following day. Put simply, there is no way of knowing how long it will take for someone to sober up after drinking alcohol. If you are going to drink alcohol, you need to remember that is going to take some time to recover and there is absolutely no way of knowing how long that process will take.