

ROAD TRAFFIC AMENDMENT BILL 2013

SAMOA

Explanatory Memorandum

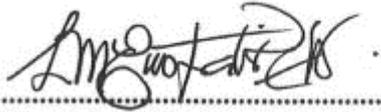
Introduction

The Bill seeks to amend the Road Traffic Ordinance 1960 to revive the offence of driving under the influence of alcohol or drugs in order to apply the sobriety test, as an alternative to the breathalyzer process. It also removes the right of a person found driving under the influence of alcohol to elect to have a blood test to assess the proportion of alcohol in his or her blood.

Clauses:

- Clause 1:** - provides for the short title and the commencement (date of Assent) provisions.
- Clause 2:** - amends section 40 to repeal subsection (3) and adds the proposed following new subsections:
- **Subsection (3)** - revives the offence of driving under the influence of alcohol or drug.
 - **Subsection (3A)** - requires the information for a charge for the offence under subsection (3) to state whether the driver was under the influence of alcohol or drug, or both.
 - **Subsection (3B)** - requires that the information for the offence of driving under the influence of drug to state the drug or any one of the drugs concerned.
 - **Subsection (3C)** - provides that any information on the offence is not be dismissed on the ground of duplicity or uncertainty.

- **Subsection (3D)** - requires that a person charged under subsection (3) may be convicted if the court is satisfied that the person was under the influence of alcohol or drug, or both.
- Clause 3:** - repeals section 40D, which provides for the right to elect a blood test.
- Clause 4:** - amends subsection (1) of section 40E by repealing paragraph (b), which relates to the giving of blood specimen at places other than hospital or surgery.
- Clause 5:** - amends subsection (3) of section 40K by amending paragraph (a) and replacing paragraph (b), as a result of removing the right to a blood test in section 40D.



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(Hon MANUALESAGALALA Enokati Posala)
MINISTER OF WORKS, TRANSPORT AND
INFRASTRUCTURE

ROAD TRAFFIC AMENDMENT BILL 2013

SAMOA

Arrangement of Provisions

- | | |
|---------------------------------|-------------------------|
| 1. Short title and commencement | 3. Section 40D repealed |
| 2. Section 40 amended | 4. Section 40E amended |
| | 5. Section 40K amended |

2013, No.

A BILL INTITULED

AN ACT to amend the Road Traffic Ordinance 1960 (“the Ordinance”).

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement-(1) This Act may be cited as the Road Traffic Amendment Act 2013.

(2) This Act commences on the date of assent by the Head of State.

2. Section 40 amended - Section 40 of the Ordinance is amended by repealing subsection (3) and substituting the following new subsections:

“(3) A person commits an offence who drives or attempts to drive a motor vehicle while under the influence of:

- (a) alcohol; or
- (b) one (1) or more drugs; or

(c) alcohol and one (1) or more drugs,
to such an extent as to be incapable of having proper
control of the motor vehicle.

(3A) An information for an offence under subsection
(3) may allege that the person was under the influence
of:

- (a) alcohol; or
- (b) one (1) or more drugs; or
- (c) alcohol and one (1) or more drugs; or
- (d) in the alternative -
 - (i) alcohol and one (1) or more
drugs; or
 - (ii) one (1) or more drugs.

(3B) If an information under subsection (3A) alleges
the influence of any drug, the information must state the
drug (or at least one of the drugs) concerned.

(3C) An information alleging alcohol or drug or both
in subsection (3A)(d) must not be dismissed on the
ground of uncertainty or duplicity.

(3D) An offence against subsection (3) is proved if
the court is satisfied that the defendant was, to such an
extent as to be incapable of having proper control of the
motor vehicle, under the influence of:

- (a) alcohol; or
- (b) another drug stated in the information; or
- (c) two (2) or more other drugs, at least one of
which is stated in the information; or
- (d) alcohol and two (2) or more other drugs, at
least one of which is stated in the
information.”.

3. Section 40D repealed - The Ordinance is amended by
repealing section 40D.

4. Section 40E amended - The Ordinance is amended in
section 40E(1) by repealing paragraph (b).

5. Section 40K amended - Section 40K(3) of the Ordinance is amended:

- (a) in paragraph (a), by deleting “and that, if the person does not request a blood test within 10 minutes”; and
- (b) by repealing paragraph (b) and substituting the following new paragraph:

“(b) the person who underwent the test complies with section 40E(2).”.
