



A Guide to Driving Laws in NSW Developed by [Weave](#) and Redfern Legal Centre

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## Police Searches

### When can police search my car?

Police can stop and search your car if they reasonably suspect that:

- your car has been involved in a crime, or your car will be involved in a crime in the future;
- your car contains stolen goods or illegal drugs; or
- your car is in a public place and has something dangerous inside.

Police can also search your car if you consent (agree) to it being searched.

Before police can search your car, they must prove that they are a police officer. They should tell you their name and police station and tell you the reason why they are searching your car.

If police find drugs or anything they believe is stolen, or that was used to commit a crime or is dangerous, they can take those things and may charge you with an offence.

If police don't find anything illegal or dangerous, they should let you go.

### What to do and say?

If your car is stopped and you are the driver, you will usually have to show police your licence if they ask to see it. You can show the police officer your digital licence or card license.

If you don't have your licence with you, you may get a fine.

If police ask to search your car, you don't have to consent. You can ask why they want to search the car and you can say that you don't consent to the search. For example, you could say 'I want you to record that I don't agree to the search'. Police may still search your car even if you don't consent. It is an offence to interfere with a lawful search of a person or car, so you shouldn't interfere with a police search. If you think the search was not lawful, discuss this with your criminal lawyer (if you've been charged) as it might mean that they can't use anything they find in the search against you in court.

If police haven't already told you, you should ask for their names and station and you can ask them to turn on their body-worn video cameras.

## Random alcohol and drug testing

### When can police stop me for a random breath or drug test?

Police can stop any car for a random breath or drug test. They don't need to suspect that you have been drinking or taking drugs to test you.

### How is the test carried out?

For a random breath test, the police will ask you to either blow, count or speak into a machine. For a drug test, you will be asked to wipe a test stick down your tongue. The results will usually take a few minutes.

You have to wait until any test is clear and police confirm this, before driving away.

### **What drugs will the drug test pick up?**

Drug tests can pick up ecstasy, cannabis, cocaine and methamphetamine (including speed and ice). Your prescription medicine may mean you test positive for these substances. If you are taking prescription medicine, talk to your doctor about whether it is safe to drive while taking the prescription. You should keep a copy of the prescription or box of the prescription medicine in your car, to show the police if you test positive.

### **Can I say no to a breath or drug test?**

It is an offence to refuse to take a breath or drug test. If you refuse, police may take you to a police station, hospital or other place for a breath or drug test. You may also be charged with an offence.

### **What happens if I blow over or drugs are detected?**

If you are an L or P driver, you are not allowed to have any alcohol in your system while driving.

If the roadside test is positive, police may take you to a police station to test you again. If you test positive again, you will be required to provide a sample of your saliva which will be tested in a lab. You will be suspended from driving for up to 24 hours while that test is done.

### **Fines and police licence suspensions**

If the lab results are positive for alcohol and it is your first offence, you will usually receive a police issued fine and have your licence suspended by police for 6 months.

If it is your second offence, you will usually receive a fine and have your licence suspended for 12 months.

If you are fined, you can:

- pay the fine.
- organise a payment plan.
- add to an existing payment plan.
- apply for a 50% reduction if you are on Centrelink.
- ask for an internal review (appeal).
- apply for a Work and Development Order (WDO).
- have the matter heard in a Local Court (get legal advice first).

If your licence is suspended, you can't drive for the period of the suspension. Once the period of suspension has ended, check that you are allowed to drive again by calling Service NSW or going to a Service NSW service centre.

### **Going to Court**

You can ask for your fine and/or suspension to be heard by a court.

The police may also choose to take your matter to court rather than just fine you and suspend your licence. They usually do this by sending you a notice to attend court (called a 'court attendance notice'). A court attendance notice is usually sent to you in the mail.

If you are thinking about taking your matter to court or you have to go to court because you've received a court attendance notice, it is very important that you get legal advice. If you choose to take your matter to court or the police take you to court, the court can:

- decrease or increase the fine amount
- increase or decrease length of time you are unable to drive, and/or
- record a conviction for the offence.

If the court convicts you of the driving offence, it will go on your criminal record and your licence will be disqualified. If your licence is disqualified, you have to re-apply for a driver licence before you can drive again.

The penalties you may get if you have been charged with a drink driving offence depend on whether it is your first, second, third etc offence and how much alcohol or drugs were in your system. If the offence is very serious you may get sentenced to prison.

### **Can police test my passengers?**

Police can test passengers if they are supervising a learner driver or if they believe the passenger has been driving the car (e.g. if they saw them swap seats).

## **Answering police questions**

### **Can police ask me questions when they pull me over?**

Police can ask you questions at any time. If you are driving, the only information you have to give them is:

- your licence
- your name and address

Police can't force you to answer questions and they can't stop or detain you just to ask questions.

### **What can I do if police ask me questions I don't want to answer?**

You don't need to answer any questions police ask you about your history, where you're going or why you are out. Most of the time it's up to you whether you want to answer the questions the police are asking. You can ask police whether you have to answer their questions or if you have to do what they ask.

You should always remain calm and respectful when speaking with police.

If you are under 18, police should not question you without a responsible parent or adult present.

### **What do I do if police start questioning my passengers?**

If police have reasonable grounds to suspect that your car was used (or will be used) to commit a serious crime and they ask for the name of your passengers and you must tell them the names. If this happens, your passengers have to give their names and addresses, but don't need have to show a licence or other ID.

Passengers don't need to answer any questions asked by the police other than telling them providing their name and address.

## **Keeping your car legal and roadworthy**

### **Registration (Rego)**

All vehicles that are driven on NSW roads must be registered. This includes cars, trailers, caravans and motorcycles.

If you buy a second hand car that's still registered in NSW (or the rego expired less than 3 months ago), you'll need to [transfer the registration](#) into your name. You need to do it within 14 days or you'll have to pay more for your registration.

If you buy a second hand car that's not registered in NSW, you'll need to [re-register the vehicle](#).

If you buy a new car, you'll need to [get a new registration](#) set up through the dealer.

To have a car registered, you must have compulsory third party (CTP) insurance, this is also known as a Green Slip. You may also need a Safety Inspection Report, also known as a Pink Slip, if your car is more than 5 years old.

### **What is Compulsory Third Party (CTP) Insurance?**

A CTP insurance policy (Green Slip) covers anyone driving your car if they are responsible for injuring or killing someone while driving. If this happens, your CTP insurer should pay compensation to the injured person or next of kin of the person who died. If you get injured in a car accident caused by another car, that driver's insurance should cover your claim.

You can't register your car in NSW without a Green Slip.

If you are charged with a serious driving offence after a car accident, you won't be covered by CTP insurance and you may have to pay for any injury you have caused. If you drive your car without a Green Slip, you could be fined \$1,200.

Green Slips don't cover the cost of damage to your car or the other person's car, they only cover personal injury or death. Insurance for vehicle damage is covered by vehicle insurance.

If you are involved in a car accident you need to tell the police the details about the car, its owner and what happened.

### **What is Vehicle Insurance?**

There are two types of vehicle insurance that cover damages to cars, third party and comprehensive. Third party vehicle insurance only covers the cost of damage to the other car in an accident that's your fault. Comprehensive vehicle insurance also covers the damage to your own car.

If you damage someone else's vehicle in a car accident that is your fault, your insurance will cover the cost of fixing the other vehicle. If an accident isn't your fault, the other driver or their insurance should cover your repairs. Sometimes drivers are both at fault and they or their insurer must share the cost of any damage.

If you drive someone else's car, you should check if that person's car insurance also covers you. If you drive someone else's car often, you can be added as an extra driver to their car insurance.

### **What is a Pink Slip?**

If your car is more than 5 years old, it will need a safety inspection done by a mechanic before you can renew the registration each year. This is also known as a Pink Slip. Your registration renewal notice will tell you whether you need to have a Pink Slip. Only an Authorised Inspection Scheme (AIS) station can do a safety check. You can use a search tool on Transport for NSW website to [find an AIS provider near you](#).

## What should I check on my car?

Your car must be suitable for safe use and meet the safety standards required by law to be registered. You should regularly check that the following on your car is in working order:

- windscreen wipers and washers
- horn
- seatbelts
- brakes
- steering
- headlights, brake lights and indicators, and
- tyre tread and wear.

If any of your lights are not working, you must not drive at night.

## What is a Defect Notice?

Police can stop your car and inspect it at any time to check if it is safe. If your car is not safe, police can give you a Defect Notice. The Defect Notice can be for a *minor* or *major* defect.

Minor Defect Notices can be issued if the person inspecting your car decides that if you keep driving your car it may be a safety risk. A minor Defect Notice will tell you the date that you must stop driving your car or have the repairs done by.

Major Defect Notices can be issued if the person inspecting your car decides that if you keep driving your car it is a serious safety risk. A Major Defect Notice means that your car can't be driven again until the repairs are done.

A mechanic can also give you a Defect Notice if they find something unsafe when they inspect your car. Some of the things you can get a Defect Notice for are:

- Your car is too noisy or blows too much smoke.
- Your car has an accessory (eg a spoiler) that is not fitted correctly.

A Defect Notice is not a fine.

## How do I get a Defect Notice removed?

If you get a Defect Notice, you must repair your car by the due date on the notice. If you do not repair your car by the due date, your registration can be suspended. When you have been notified that your vehicle registration is suspended, it means that no one can drive that vehicle. To remove the Defect Notice, your car and the repairs must be inspected by a mechanic.

## Prohibited vehicles

P1 and P2 drivers are banned from driving high performance vehicles. A high-performance vehicle is a car that has a power to tare mass ratio of greater than 130kW per tonne, modified engines that need to be approved by an engineer and any other high performance vehicles. To check if a vehicle is high performance, use the vehicle search [here](#).

## Can I apply for an exemption?

If you need to drive a prohibited vehicle, you can apply for an exemption with Service NSW. An exemption will only be applied if you need the car for genuine work purposes or other exceptional circumstances apply. The exemption application fee is \$34.

## Digital licence

### What is it?

A digital drivers licence is available on the Service NSW app on your phone. A digital licence can be used across NSW but it doesn't replace your hard-copy driver licence.

### When can I use it?

It's illegal to use your phone to access your digital licence while driving, even if you're stopped. It's only legal to show NSW Police your digital driver licence on your phone if they ask you to.

### What if I use it illegally?

If you illegally use your phone to access your digital licence, you can get a fine and lose demerit points. The penalty for illegal phone use by an L or P1 driver is 5 demerit points and a fine of \$362. This is more than the amount of demerit points that a Learner or Provisional P1 driver has and may mean that your licence will be suspended.

## Fines

It's best not to ignore a fine. Ignoring a fine will only make it more expensive and complicated. If you ignore a fine:

- your driver licence could be suspended.
- your car registration could be cancelled.
- Revenue NSW can take money out of your pay or bank account.

If you are fined, you can:

- pay the fine
- organise a payment plan
- add to an existing payment plan
- apply for a 50% reduction if you are on Centrelink
- ask for an internal review
- have the matter heard in a Local Court, or
- apply for a Work and Development Order (WDO).



## Licence conditions

### What is a licence condition?

Some licences have licence conditions, which are legal rules that must be followed. Any licence conditions should be shown on your driver licence, usually with an individual letter.

### Common licence conditions

Common licence conditions are:

- A: you must only drive automatic cars.
- S: you must always wear prescription glasses while driving.
- Z: you must not drive with a blood alcohol concentration of 0.02 grams or more of alcohol in your system.

Any conditions on your licence must still be followed if you drive in another state or territory.

### Using a mobile phone

Learner, P1 and P2 drivers must not use any function of a mobile phone for any reason while driving, this includes using your phone to connect music using bluetooth. Even when you're stopped, you can't touch your phone while you're in the driver's seat.

### Provisional licence passenger limits

P1 drivers that are under 25 years old must not drive with more than one passenger who is under 21 years old between 11pm and 5am. Once you are on your P2s or older than 25 years old there is no passenger restriction unless you have had your licence disqualified.

If your provisional licence has been disqualified, you won't be allowed to drive with more than one passenger once you get your licence back. This condition usually lasts for 12 months.

### Can I get an exemption for the passenger limit?

You can apply for an exemption at a Service NSW centre for \$34. An exemption may be granted if:

- you need to transport passengers between 11pm and 5am for your employment or volunteering.
- you can show that you need to drive family members between 11pm and 5am.

## Legal Help

If you have any questions about this factsheet or would like some free and confidential legal advice, please contact one of the options below.

### **Redfern Legal Centre**

Phone: 02 9698 7277

[Webform](#)

Office: Redfern Town Hall, 73 Pitt Street, Redfern, Gadigal Land

Opening hours:

Monday 10am-12.30pm; 2pm-4.30pm

Tuesday 10am-12.30pm; 2pm-4.30pm

Thursday 10am-12.30pm; 2pm-4.30pm

Friday 10am-12.30pm

### **Shopfront Youth Legal Centre**

Phone: 02 9322 4808

Office: 356 Victoria Street, Darlinghurst, Gadigal Land

Opening hours:

Monday – Friday 9:00am – 5:30pm

### **Legal Aid**

Phone: 1300 888 529