



Unlicensed driving in Queensland

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To drive a motor vehicle on a road in Queensland, a driver must hold a valid licence. If a driver is intercepted by police and does not hold a valid driver licence, they could be charged with an offence of driving unlicensed. This offence often arises when a driver forgets to renew their licence.

In this article, we look at:

- charges and penalties for unlicensed driving;
- the difference between unlicensed driving and disqualified driving;
- loss of licence due to an unlicensed driving conviction; and
- the recording of convictions for traffic offences, including unlicensed driving.

Charges and penalties for unlicensed driving in Queensland

Infringement notices for driving unlicensed

Depending on the circumstances, an infringement notice may be issued for a charge of driving unlicensed. An infringement notice is essentially a fine to be paid within 28 days. An infringement notice cannot be issued where a person has previously been convicted of unlicensed driving in the last 5 years or has never held a driver licence.

Notice to appear in court for unlicensed driving

If an infringement notice is not issued, then a driver may be issued a notice to appear before a court. This offence carries a maximum penalty of 40 penalty units (a monetary fine) or 1 year imprisonment.

If an offence of unlicensed driving simpliciter (i.e. where the driver was not under suspension or disqualification at the time of the unlicensed driving offence) proceeds to court and a plea of guilty is entered, often a fine may be imposed. The penalty can be more severe and can even involve periods of imprisonment depending on factors such as the driver's traffic history, criminal history or if the offence was committed in conjunction with a more serious offence.

Penalties for unlicensed driving repeat offenders

A "repeat unlicensed driver" is where an offender is charged with an unlicensed driving offence and has a prior conviction of unlicensed driving in the last 5 years before committing the offence.

Harsher penalties are imposed for repeat unlicensed driving offenders. The penalty may vary depending on the particular circumstances of the case. The court must disqualify a repeat unlicensed driver for a minimum period of 1 month but not more than 6 months.

What is the difference between unlicensed driving and disqualified driving?

What is disqualified driving?

An offence of disqualified driving is where a person drives a motor vehicle on a road whilst unlicensed and is subject to a court-ordered disqualification period.

Say a person is convicted of drink driving and is disqualified by the court from driving for a period of 1 month. Within the one month, the person is then intercepted by police whilst driving a motor vehicle on a highway. A charge of driving of a motor vehicle without a driver licence whilst disqualified by a court order would likely follow.

This offence carries a maximum penalty of 60 penalty units (a monetary fine) or 18 months imprisonment. This offence is viewed seriously by the court as it is usually seen as deliberately flouting an order of the court.

The penalty for offences of this nature can vary. For a first-time offender, depending on the individual circumstances, a fine may be imposed. For any subsequent convictions of driving whilst disqualified by a court order, imprisonment is a penalty often imposed.

What is unlicensed driving?

Unlicensed driving is the offence of driving a motor vehicle without holding a valid driver licence. It is a less serious offence than disqualified driving with lesser penalties (penalties outlined above).

Will I lose my licence for unlicensed driving?

There are different periods of disqualification a driver may face if convicted of unlicensed driving, depending on the circumstances involved in the case.

If it is your first offence, it may be possible to avoid a court-imposed licence disqualification for unlicensed driving.

There are legislated mandatory minimum periods of licence disqualification for particular types of unlicensed driving, such as:

- driving whilst disqualified by a court order;
- driving whilst SPER suspended (SPER is the Queensland government agency tasked with the collection of debts, including fines. SPER can suspend your driver licence due to unpaid fines);
- repeated unlicensed driving (as outlined above); and
- driving whilst demerit point suspended.

Notably, where a person is convicted of an offence of disqualified driving (by court order), they will face a minimum period of 2 years disqualification from holding or obtaining a driver licence.

Am I eligible for a work licence or special hardship order?

If you are pleading guilty to unlicensed driving or driving whilst disqualified (by a court order), and either conviction results in a period of disqualification, you will not be eligible to apply for a [work licence](#) or a [special hardship order](#).

Will a recording of a conviction for a driving offence impact me?

A conviction for traffic offences such as unlicensed driving or disqualified driving will appear on your Queensland Traffic History. The Queensland Traffic History is a document produced by the Queensland Police Service for the purposes of court proceedings. It can also be obtained from the Department of Transport and Main Roads.

The case law with respect to the recording of a conviction for traffic offences is clear. There is **no distinction** between the recording of a conviction for a criminal offence and the recording of a conviction for a traffic offence. This issue is considered in the decisions of [Clinton v Commissioner of Police \[2022\] QDC 222](#) and [Wilson v Commissioner of Police \[2022\] QDC 15](#).

The recording of a conviction for a traffic offence can potentially have personal implications upon employment and travel. You can learn more about this in our earlier article, ["Criminal records and convictions"](#).

Get help from a traffic lawyer

Our lawyers at Gilshenan &Luton are experienced in driving and traffic matters and regularly assist our clients to achieve optimal results. You should seek legal advice early if you intend to dispute any traffic charges.

Contacting Gilshenan &Luton Criminal Defence Lawyers

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