

Nru. 56

26. 12. 97

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Alfred Sant, M.P., Prim Ministru, u moqri għall-Ewwel darba fis-Seduta tad-9 ta' Diċembru, 1997.

A BILL introduced by the Honourable Alfred Sant, M.P., Prime Minister, and read the First time at the Sitting of the 9th December, 1997.

ATT biex ikompli jemenda l-Ordinanza dwar ir-Regolament tat-Traffiku, Kap. 65.

AN ACT further to amend the Traffic Regulation Ordinance, Cap. 65.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

*ATT biex ikompli jemenda l-Ordinanza dwar ir-Regolament tat-Traffiku,
Kap. 65.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f' dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b' liġi dan li ġej: —

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1997 li jemenda l-Ordinanza dwar ir-Regolament tat-Traffiku (Emenda Nru. 2), u għandu jinqara u jiftiehem haġa waħda ma' l-Ordinanza dwar ir-Regolament tat-Traffiku, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali".

Titolu fil-qosor
u bidu fis-sehh.
Kap 65.

(2) Id-dispożizzjonijiet li ġejjin ta' dan l-Att għandhom jibdew isehhu f' dik id-data li l-Ministru responsabbli għall-pulizija jista' jistabbilixxi b' avviż fil-Gazzetta, u dati differenti jistghu jiġu hekk stabbiliti għad-dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. L-artikolu 15 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda għall-
artikolu 15
tal-liġi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "jew taht l-influwenza tax-xorb jew drogi" fis-subparagrafu (a) għandhom jithassru; u

(ii) il-kliem "meta huwa s-sid tal-*motor-car*," fis-subparagrafu (ċ) għandhom jithassru; u

(b) fis-subartikolu (2) tiegħu il-kliem “jew f’sewqan ta’ *motor-car* taht l-inflwenza tax-xorb jew drogi” ghandhom jithassru.

Żieda ta’ l-artikoli
għodda 15A sa 15I
għall-liġi
prinċipali.

3. Minnufih wara l-artikolu 15 tal-liġi prinċipali ghandhom jiżdidu dawn l-artikoli għodda li ġejjin:—

“Sewqan eċċ.
ta’ *motor-car*
meta mhux
f’kundizzjoni
li jsuq.” 15A (1) Ebda persuna ma ghandha ssuq jew tipprova ssuq jew ikollha l-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku iehor jekk ma tkunx f’kundizzjoni li ssuq.

(2) Għall-finijiet ta’ dan l-artikolu, persuna titqies li ma hix f’kundizzjoni li ssuq jekk il-kapaċità tagħha li ssuq sew tkun għal xi hin mnaqqsa minhabba xorb jew drogi.

Sewqan eċċ.
ta’ *motor-car*
b’koncentraz-
zjoni ta’
alkohol fin-
nifs eċċ. oghla
minn dik
preskritta.” 15B Ebda persuna ma ghandha ssuq, tipprova ssuq jew tkun fil-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku iehor wara li tkun kkunsmat tant alkohol li l-proporzjon tiegħu fin-nifs, fid-demm jew fl-urina jkun iżjed mill-limitu preskritt.

Testijiet
tan-nifs.” 15C Meta uffiċjal tal-pulizija jkollu suspett raġonevoli li:

(a) persuna tkun qed issuq jew tipprova ssuq jew tkun fil-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku iehor u li jkollha l-alkohol f’ġisimha jew li tkun ghamlet reat kontra d-dispożizzjonijiet ta’ din l-Ordinanza jew kontra xi regolamenti magħmula taħta waqt li l-*motor car* kienet miexja; jew

(b) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta’ *motor-car* fit-triq jew f’post pubbliku iehor u li kellha alkohol f’ġisimha u li dik il-persuna kien għad ghandha l-alkohol f’ġisimha; jew

(ċ) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta’ *motor-car* fit-triq jew f’post pubbliku iehor u li ghamlet reat kontra d-dispożizzjonijiet ta’ din l-Ordinanza jew kontra xi regolamenti magħmula taħta waqt li l-*motor-car* kienet miexja; jew

(d) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta' *motor-car* fit-triq jew f'post pubbliku iehor meta dik il-*motor-car* kienet involuta f'acċident,

huwa jista' jehtieg li dik il-persuna taghti kampjun tan-nifs ghal test tan-nifs.

Setgħat ta' arrest.

15D Uffiċjal tal-pulizija jista' jghaddi biex jarresta persuna jekk

(a) bhala rizzultat ta' test tan-nifs l-uffiċjal tal-pulizija jkollu suspett raġonevoli li l-proporzjon ta' alkohol fid-demem ta' dik il-persuna jkun iżjed mill-limitu preskritt; jew

(b) dik il-persuna tonqos milli taghti kampjun tan-nifs ghal test tan-nifs meta mehtieġa tagħmel hekk skond id-dispożizzjonijiet ta' l-artikolu 15C ta' din l-Ordinanza sakemm dik il-persuna tkun ġiet avzata li n-nuqqas jew ir-rifjutt li tagħmel dak mehtieġ kien reat.

L-ogħti ta' kampjuni għall-analizi.

15E (1) Sabiex jiġi deċiż jekk persuna għamlitx xi reat taht l-artikoli 15A u 15B uffiċjal tal-pulizija jista' jehtieg li dik il-persuna

(a) taghti żewġ kampjuni tan-nifs għall-analizi permezz ta' strument approvat b'ordni tal-Ministru li jiġi pubblikat fil-Gazzetta; jew

(b) taghti kampjun tad-demem jew żewġ kampjuni ta' l-urina għall-analizi fil-laboratorju:

Iżda l-uffiċjal tal-pulizija jista' b'żieda mal-kampjuni tan-nifs jehtieg ukoll kampjun tad-demem jew żewġ kampjuni ta' l-urina.

(2) Kull kampjun ta' l-urina għandu jinghata fi żmien siegħa minn meta ssir it-talba biex jinghata:

Iżda l-fatt li kampjun ta' l-urina jinghata barra dak il-perjodu ta' siegħa ma jolqotx l-ammissibilità bhala prova ta' dak il-kampjun jew ta' kull prova oħra bażata fuqu.

(3) Il-kampjuni jistghu jinhtieġu li jinghataw biss kif ġej:

(a) kampjuni tan-nifs jistghu jinhtieġu li jinghataw fi jew hdejn il-post fejn issir it-talba ghalihom, jew f'ghassa tal-pulizija, jew f'centru tas-sahha jew fi sptar;

(b) kampjuni ta' l-urina jistghu jinhtieġu li jinghataw f'ghassa tal-pulizija, jew f'centru tas-sahha jew fi sptar;

(c) kampjuni tad-demem jistghu jinhtieġu li jinghataw f'centru tas-sahha jew fi sptar.

(4) Persuna li tirrifjuta jew tonqos milli taghti kampjun kif mahsub taht dan l-artikolu tkun hatja ta' reat:

Izda tkun difiża ghal dik il-persuna jekk tipprova li n-nuqqas taghha li taghti kampjun kien minhabba l-inkapaċità fizika jew mentali li taghtih jew ghaliex l-oghti tieghu kien jaghti lok ghal riskju sostanzjali ghal sahhitha.

Għażla ta' kampjuni tan-nifs.

15F (1) Bla hsara ghas-subartikolu (2) ta' dan l-artikolu, minn kull żewġ kampjuni tan-nifs moghtija minn persuna skond l-artikolu 15E ta dan l-Ordinanza ghandu jintuza dak bil-proporzjon l-aktar baxx ta' alkohol fin-nifs u l-iehor ghandu jiġi skartat.

(2) Jekk il-kampjun bil-proporzjon l-aktar baxx ta' alkohol ikollu mhux iżjed minn 50 mikrogramma ta' alkohol f'100 millilitru ta' nifs, il-persuna li tkun tatu tista' titlob li dan jiġi sostitwit b'xi kampjun bhal dawk li jistghu jkunu mehtieġa bl-artikolu 15E ta' din l-Ordinanza u, jekk imbghad jaghti kampjun bhal dak, ebda kampjun tan-nifs ma ghandu jintuza.

(3) Il-Ministru jista' b'regolamenti jibdel xi proporzjon iehor ta' alkohol fin-nifs minflok dak speċifikat fis-subartikolu (2) ta' dan l-artikolu.

Zamm ta' persuni milquta mill-alkohol jew xi droga.

15G Persuna mehtieġa li taghti kampjun tan-nifs, tad-demem jew ta' l-urina tista' tiġi miżmuma mill pulizija sakemm il-pulizija jkun jidhrilha li dik il-persuna tkun f'kundizzjoni li ssuq.

Reati u pjeni.

15H (1) Kull persuna li tikser xi dispożizzjonijiet ta' l-artikoli 15A u 15B tkun hatja ta' reat u meta tinsab hatja ta' reat bhal dak jew ta' reat taht is-subartikolu (4) ta' l-artikolu 15E tehel —

(a) fil-każ ta' l-ewwel kundanna, multa ta' mhux anqas minn mitejn lira jew prigunerija għal mhux iżjed minn tliet xhur jew għal dik il-multa u prigunerija flimkien;

(b) fil-każ tat-tieni kundanna jew ta' kull kundanna ohra warajha multa ta' mhux anqas minn hames mitt lira iżda mhux iżjed minn elf lira jew prigunerija għal mhux iżjed minn sitt xhur jew għal dik il-multa u prigunerija flimkien.

(2) B'zieda mal-pieni taht is-subartikolu (1) ta' dan l-artikolu, il-Qorti għandha tiskwalifika lill-hati milli jkollu jew jottjeni xi liċenzja tas-sewqan fil-każ ta' l-ewwel kundanna għal żmien ta' mhux anqas minn sitt xhur, u fil-każ tat-tieni kundanna jew ta' kull kundanna ohra warajha, għal żmien ta' mhux anqas minn sena.

15I (1) Għall-ghanijiet ta' dan l-artikolu u tal-artikoli 15A sa 15H, kemm-il darba r-rabta tal-kliem ma tehtiegx xort'ohra —

Tifsir ta'
l-artikoli
15A sa 15I.

“test tan-nifs” tfisser test preliminari bil-ghan li jittiehed, bil-mezz ta' strument ta' xorta approvata mill-Ministru, indikazzjoni ta' jekk il-proporzjon ta' alkohol fin-nifs, jew fid-demmm jew fl-urina ta' persuna hi x'aktarx iżjed mill-limitu preskritt;

“droga” tinkludi kull intossikant iehor barra alkohol;

“il-limitu preskritt” tfisser skond kif il-każ ikun jehtieg:

(a) 35 mikrogramma ta' alkohol f'100 millilitru ta' nifs; jew

(b) 80 milligramma ta' alkohol f'100 millilitru ta' demm; jew

(c) 107 milligramma ta' alkohol f'100 millilitru ta' urina,

jew dawkk il-proporzjonijiet l-ohra kif jistghu jiġu preskritti b'regolamenti maghmula mill-Ministru.

(2) Persuna titqies li tkun tat kampjun ta' demm biss jekk taghti l-kunsens taghha li dak il-kampjun jittiehed minn tabib u li dan hekk jittiehed f'dik il-kwantità u ta' dik il-kwalità li tkun tista' tigi analizzata kif imiss għall-ghanijiet ta' l-artikolu 15E.

(3) Persuna titqies li tat kampjun ta' l-urina jew tan-nifs biss jekk dak il-kampjun jinghata b'dak il-mod u f'dik il-kwantità u ta' dik il-kwalità li tkun tista' tigi analizzata kif imiss għall-ghanijiet ta' l-artikolu 156."

Ghanijiet u Raġunijiet

L-ghan prinċipali ta' l-Abbozz huwa sabiex il-Pulizija tinghata s-setgħa li tagħmel testijiet għall-konċentrazzjoni ta' alkohol jew drogi fin-nifs, urina jew demm ta' persuni sospettati li kienu jsuqu, ipprovaw isuqu jew li kienu fil-kontroll ta' *motor car* meta ma kinux f'kundizzjoni li jsuqu minhabba xorb jew drogi.

**A BILL
entitled**

*AN ACT further to amend the Traffic Regulation Ordinance,
Cap. 65.*

BE IT ENACTED by the President, by and with the advice of the House of Representatives, in this present Parliament assembled and by the Authority of the same, as follows:

1. (1) This Act may be cited as the Traffic Regulation Ordinance (Amendment) (No. 2) Act, 1997, and shall be read and construed as one with the Traffic Regulation Ordinance, hereinafter referred to as "the principal law".

Short title and
commencement.
Cap. 65.

(2) The following provisions of this Act shall come into force on such date as the Minister responsible for the police may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

2. Section 15 of the principal law shall be amended as follows:

Amendment of
section 15 of the
principal law.

(a) in subsection (1) thereof:

(i) the words "or while under the influence of intoxicating liquor or drugs," in subparagraph (a) shall be deleted; and

(ii) the words "being the owner of a motor-car," in subparagraph (c) shall be deleted; and

(b) in subsection (2) thereof the words "or in driving a motor-car under the influence of intoxicating liquor or drugs" shall be deleted.

Addition of new sections 15A to 15I to the principal law.

3. Immediately after section 15 of the principal law there shall be added the following new sections:

"Driving etc. a motor-car while unfit to drive.

15A. (1) No person shall drive or attempt to drive or be in charge of a motor-car on a road or other public place if he is unfit to drive through drink or drugs.

(2) A person shall be deemed to be unfit to drive if his ability to drive properly is for the time being impaired.

Driving etc. a motor-car with alcohol concentration in the breath etc. above the prescribed limit.

15B. No person shall drive, attempt to drive or be in charge of a motor-car on a road or other place after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit.

Breath tests.

15C. Where a police officer reasonably suspects that:

(a) a person is driving or attempting to drive or is in charge of a motor-car on a road or other public place and has alcohol in his body or has committed an offence against the provisions of this Ordinance or against any regulations made thereunder whilst the motor-car was in motion; or

(b) a person has been driving or attempting to drive or has been in charge of a motor-car on a road or other public place with alcohol in his body and that that person still has alcohol in his body; or

(c) a person has been driving or attempting to drive or has been in charge of a motor-car on a road or other public place and has committed an offence against the provisions of this Ordinance or against any regulations made thereunder whilst the motor-car was in motion; or

(d) a person was driving or was attempting to drive or was in charge of a motor-car on a road or other public place when that motor-car was involved in an accident,

he may require that person to provide a specimen of breath for a breath test.

Powers of
arrest.

15D. A police officer may proceed to the arrest of a person if —

(a) as a result of a breath test the police officer reasonably suspects that the proportion of alcohol in that person's blood exceeds the prescribed limit; or

(b) that person fails to provide a specimen of breath for a breath test when required to do so in pursuance of the provisions of section 15C of this Ordinance provided that such person had been warned that the failure or refusal to comply with such a request was an offence.

Provision of
specimens for
analysis.

15E. (1) In order to determine whether a person has committed an offence under sections 15A and 15B a police officer may require such person —

(a) to provide two specimens of breath for analysis by means of a device approved by an order of the Minister published in the Gazette; or

(b) to provide a specimen of blood or two specimens of urine for laboratory analysis:

Provided that the police may in addition to the specimens of breath require also a specimen of blood or two specimens of urine.

(2) Each specimen of urine shall be provided within one hour of the requirement for its provision being made:

Provided that the fact that a specimen of urine is provided outside the said period of one hour shall not affect the admissibility in evidence of that specimen or of any evidence based upon it.

(3) Specimens may only be required to be provided as follows:

(a) specimens of breath may be required to be provided at or near the place where their provision is requested, or at a police station, health centre or hospital;

(b) specimens of urine may be required to be provided at a police station, health centre or hospital;

(c) specimens of blood may be required to be provided at a health centre or hospital.

(4) A person who refuses or fails to provide a specimen as provided under this section shall be guilty of an offence:

Provided that it shall be a defence for such person to prove that his failure to provide a specimen was due to physical or mental incapacity to provide it or because its provision would entail a substantial risk to his health.

Choice of specimens of breath.

15F. (1) Subject to subsection (2) of this section, of any two specimens of breath provided by any person in pursuance of section 15E of this Ordinance that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 50 microgrammes of alcohol in 100 millilitres of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under section 15E of this Ordinance and, if he then provides such a specimen, neither specimen of breath shall be used.

(3) The Minister may by regulations substitute another proportion of alcohol in the breath for that specified in subsection (2) of this section.

Detention of persons affected by alcohol or a drug.

15G. A person required to provide a specimen of breath, blood or urine may be detained by the police until it appears to the police that such person is fit to drive.

Offences and punishments.

15H. (1) Every person who contravenes any of the provisions of section 15A and 15B shall be guilty of an offence and shall on conviction for such an offence or for an offence under subsection (4) of section 15E be liable —

(a) in the case of a first conviction, to a fine (*multa*) of not less than two hundred liri or to imprisonment not exceeding three months, or to both such fine and imprisonment;

(b) in the case of a second or subsequent conviction, to a fine (*multa*) of not less than five hundred

liri but not exceeding one thousand liri or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(2) In addition to the punishments under subsection (1) of this section, the Court shall disqualify the offender from holding or obtaining a driving licence in the case of a first conviction for a period of not less than six months, and in the case of a second or subsequent conviction for a period of not less than one year.

Interpretation
of sections
15A to 15I.

15I. (1) For the purposes of this section and of sections 15A to 15H, unless the context otherwise requires —

“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, blood or urine is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“the prescribed limit” means as the case may require:

(a) 43 microgrammes of alcohol in 100 millilitres of breath; or

(b) 100 milligrammes of alcohol in 100 millilitres of blood; or

(c) 130 milligrammes of alcohol in 100 millilitres of urine,

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

(2) A person is deemed to have provided a specimen of blood only if he consents to it being taken by a medical practitioner and it is so taken in such quantity and of such quality as is capable of being properly analysed for the purposes of section 15E.

(3) A person shall be deemed to have provided a specimen of urine or breath only if that specimen is provided in such a manner and in such quantity and of such quality as is capable of being properly analysed for the purposes of section 15E.”.

Objects and Reasons

The objects and reasons of the Bill are mainly to enable the Police to carry out tests for the concentration of alcohol or drugs in the breath, urine or blood of persons suspected of driving, attempting to drive or being in charge of a vehicle while being unfit to drive due to drink or drugs.