

# GUIDE TO TRAFFIC OFFENCES & PROCEDURES



An information leaflet  
by Centre for Justice





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Traffic laws are designed to protect the rights of all road users. This guide offers an overview of some of the more frequently encountered rules of the road, with guidance on the procedures aimed at upholding these rules.

## Your rights when stopped

The Police have certain powers to help make the roads safer. Among them is the authority to ask you to stop your vehicle while on the road. The police might stop you if they notice something wrong with your vehicle or if they see you committing a traffic offence.

You should always stop; otherwise, you are breaking the law (Section 30, Road Traffic Act 1947).

If you are stopped for speeding and wish to view the radar gun used by the police, you may ask them. However, the nature of the equipment is such that your speed will not be displayed as further vehicles drive by.

## Giving information to the police

When the police have reason to suspect you have committed an offence under the Road Traffic Act 1947, you must provide them with your name and address. If you refuse, you could be arrested (Section 32, Road Traffic Act 1947).

If they stop you, the police have the right to ask to see the following:

1. Driver's licence
2. Certificate of Insurance
3. Certificate of vehicle registration from TCD.

If you don't have these documents with you when stopped by the police, you will be asked to bring them to a police station within 24 hours.

If your vehicle is involved in an offence, the police will need you to provide the name, address, description and whereabouts of the driver and the occupants of the vehicle at the time of the alleged offence, and any information that may lead to the apprehension or identification of the offender (Section 33, Road Traffic Act 1947).

# Alcohol and Drugs

The law in Bermuda takes a strict approach to driving while under the influence of alcohol and drugs, which endangers other road users. The vast majority of road fatalities involve alcohol or drugs (source: CADA's webpage on statistics: <http://www.cada.bm/index.php/statistics/>).

It is illegal to drive if:

- You are unfit to do so because you are under the influence of alcohol or drugs (Sections 35AA, Road Traffic Act 1947).
- The alcohol concentration of your blood is above the prescribed limit, regardless of whether you are unfit. The prescribed alcohol limit for driving on the road is 80 milligrammes of alcohol in 100 millilitres of blood (Section 35A, Road Traffic Act 1947).
- There is a dangerous drug present in your blood, regardless of whether you are unfit. The most common of these are amphetamines, cocaine and heroin (Section 35B, Road Traffic Act 1947).
- You cause death or grievous bodily harm by dangerous driving and any of the above situations exist. (Section 35, Road Traffic Act 1947).

These offences are committed whether you are in motion or not. If you are stationary at a stop light or have entered a parked vehicle in a public road, you can still be guilty of an offence

If the police stop you and think you are on alcohol or drugs, they can do a series of tests to assess your condition. These include asking you to walk in a straight line, checking the size of your pupils and administering a roadside breathalyzer test.

If they think you are unfit to drive because of drugs or if you are unable give a breath sample, you will be arrested and given a blood test at a police station. Under the direction of a qualified medical practitioner, you will be required to provide a sample of blood, urine or other bodily substance.

If you are arrested on suspicion of causing death or grievous bodily harm by dangerous driving, you will be breath-tested for alcohol or undergo a drug screening test.

You do not have to use illegal drugs to be unfit to drive; many prescription or over-the-counter drugs can also make you unfit. If you are taking

medication and are not sure of their impact on your ability to drive, talk to your doctor, pharmacist or healthcare professional.

## **Faults with your Vehicle**

If the police have reasonable grounds to believe that your vehicle has something wrong with it, e.g. a broken brake light, they may stop you and inspect your vehicle for faults. If some equipment or part of the vehicle is not in good working order, you may be ordered to fix it right away.

If you fail to comply with such an order, you will be committing an offence.

## **Speed Limits and Penalties**

The maximum speed limit for roads in Bermuda is 35 kilometers per hour. The speed limit within the Town of St George is 25 kilometers per hour.

In addition, some roads will have specific speed limits, as indicated by traffic notices on the road.

It is an offence to exceed any of these speed limits. The only exceptions are for emergency vehicles or if it is necessary for you to speed in order to avoid serious danger to a person or property.

## **Complaints process**

If you have concerns about your treatment by the police, you may want to contact the Police Complaints Authority. The Authority is independent of the Bermuda Police Service and is responsible for investigating complaints arising from conduct of any police officer.

To launch an official complaint, you will fill out a complaint form available from police stations in Hamilton, Somerset, St George's and Southside. You may explain the complaint to an officer who will assist you in helping to write the complaint down. The complaint form should be submitted to an officer of the rank of inspector or higher. The Authority meets regu-

larly to review submissions. If a person makes a complaint that is considered to be “frivolous” or “vexatious”, they could be fined up to \$3,000 or imprisoned for up to three months.

The Authority has the power to: institute a police investigation of a complaint; conduct its own investigation; or request the Commissioner to seek an informal resolution of the complaint. The Authority and the Commissioner should act within a reasonable time to help resolve your complaint.

## **Demerit Points and Disqualification**

The court can disqualify you from driving any vehicle if (1) you acquire too many demerit points, or (2) you are convicted of an offence which leads to disqualification.

### ***Demerit Points***

The demerit point system is intended to deter drivers and motorcyclists from following unsafe motoring practices. Certain non-motoring offences, such as the failure to rectify vehicle defects, can also attract demerit points. Please consult our table below, *Most Common Offences and Penalties*, for some of the most frequently occurring offences.

For certain offences, the court has no discretion and must order demerit points for certain offences. The demerit points are designed to serve as a warning to drivers and motorcyclists that they risk disqualification if further offences are committed.

If you are convicted of multiple traffic offences arising from the same event, the total number of demerit points will be the same as the highest number given for just one of the offences. However, if you are convicted of traffic offences on different occasions, you will receive demerit points for each offence.

Demerit points expire two years after they are given. A driver or motorcyclist who accumulates 12 or more demerit points within a two-year period must be disqualified from driving all vehicles. The period of disqualification will equal one month for every two unexpired demerit points up to a maximum of two years in total. For example: if you have 14

demerit points, you will be disqualified for seven months; if you have 20 demerit points, disqualification will be for ten months, and so on, subject to a maximum of two years. Once the penalty period has ended, your licence will be wiped clean of demerit points.

Demerit points are not given for parking offences.

If you are issued with a ticket for an offence with a specified penalty and you plead guilty and pay the penalty within seven days, you may still be issued with demerit points, depending on the offence. However, you will receive the lowest number of points within the offence's specified range. If this results in your demerit points reaching the 12-point maximum, you will not be disqualified from driving in this instance, because only a court can order disqualification.

### ***Instant Disqualification***

For many offences, the court has the option to order that disqualification. In the case of some serious offences, such as dangerous driving and drink-driving, the court has no discretion and must order disqualification. Please consult our table below, *Most Common Offences and Penalties*.

For offences involving impaired driving, you will be disqualified from all classes of vehicles and cycles. For all other offences, the court has discretion to limit your disqualification only to the class of vehicle you used in committing your offence.

In either situation, the court may also order that you remain disqualified until you pass a driving test.

The period during which you will be disqualified varies with each offence. Where you are instantly disqualified, the court will not record demerit points against you.

If you face a period of instant disqualification of more than 12 months, you may later go back to the court after 12 months and ask that the remainder of your disqualification be lifted or shortened. The court will consider your character, your conduct since being disqualified, the nature of the offence and any other circumstances of your case.

If your application is refused, you must wait three months before making another request.

## ***Special Reasons***

Where you are facing a period of disqualification, the court may depart from the disqualification period required by law, or remove it altogether, if it has 'special reasons' to do so.

A special reason is one which is directly related to the actual offence itself. The following are examples of possible special reasons:

- You were driving because of an emergency situation
- The offence was committed over the course of a very short distance travelled
- You inadvertently consumed alcohol or drugs, perhaps because someone spiked or laced your beverage.

The courts have to consider a number of factors before finding there were special reasons:

- The reason for driving
- The distance driven
- The manner of driving
- The condition of the vehicle driven
- Whether or not it was the driver's intention to drive any further
- The road and traffic conditions at the relevant time
- The possibility of danger to other road users (the most important factor).

A circumstance peculiar to the offender, as opposed to the offence itself, is not a special reason. Your personal circumstances are only relevant for sentence mitigation, i.e. why you should come in at the lower end of the range of disqualification the law requires.

The most commonly used examples of this include:

- You drive for your job and cannot afford to lose your licence
- You have children / senior parents / vulnerable adults for whom you need to drive.

These are NOT special reasons.



## **Other sentences**

Any penalty involving demerit points and disqualification is in addition to any other sentence imposed. You can still be fined or, in some cases, face a prison term.

For information on whether an offence has a maximum possible fine and/or period of imprisonment, see the table of frequently encountered traffic offences below.

## **Seatbelts and Child Safety Seats**

Everyone who sits in the front seat of a car, passengers and drivers, must wear a seat belt, unless the car does not have seat belts fitted.

Children under 14 should always be securely fastened while travelling.

An *infant* (under the age of one year and weighing less than 20 lbs), should be secured in rear facing child safety seat.

A *small child* (at least one year old) should be secured in:

- a forward-facing child safety seat, if the child weighs from 20 lbs to 40 lbs, or
- a booster seat with an adult seatbelt, if the child weighs from 40 lbs to 80 lbs.

A *large child* (at least one year old and weighing more than 80 lbs), should be secured with an adult seatbelt.

Both drivers and passengers are guilty of an offence if they do not use seatbelts, except where a passenger is under the age of 18, in which case, the driver is the one committing the offence.

## **Tinted Windows**

The windscreen of motor cars may be tinted but must retain a visual transmission for light of not less than 70%. You may have a darker band at the top of the windscreen so long as it does not interfere with the vision of the driver or front seat passenger, it is no wider than six inches and it

has a visual transmission for light of not less than 35%. Front passenger windows may be tinted but at no less than 35% visual transmission. All other windows must be no less than 30% visual transmission.

These restrictions do not apply if the car is being used by or is regularly used for the purpose of transporting a person with a medical condition that renders the person susceptible to harm or injury from exposure to sunlight or if the Minister grants an exemption (Regulations 20 and 20A, Motor Car (Control of Design, Colour and Advertising Matter) Regulations 1952).

Offences related to tinted windows can receive a fine of up to \$500, five to seven demerit points or instant disqualification for six months at the discretion of the court.

## **Using Mobile Phones and Electronic Devices**

It is unlawful for you to drive, or to permit another to drive, a motor car on a road if he or she is using:

- a hand-held mobile telephone;
- a hand-held device that can perform an interactive communication function by transmitting or receiving data, other than a two-way radio; or
- a hand-held electronic entertainment device that can produce music or gaming systems (wireless and non-wireless).

The exception to this is if you are trying to call an emergency service, in response to a genuine emergency or if it would be unsafe or impracticable to stop driving in order to make or receive a call.

## **Motorcycle Helmets**

Everyone who operates any kind of motorcycle or auxiliary cycle or who rides as a passenger must wear a helmet while doing so. If you do not wear one, you are committing a criminal offence.

# Ticket Summons Procedure for Motoring Offences

For most motoring offences, the police will issue you a ticket summons, which will include relevant details, including the offence you are charged with. The ticketing officer will sign the ticket, hand you the 'summons' part of the ticket, and ask you to sign the officer's part. If you fail to accept the ticket, you are committing an offence and can face a fine of up to \$100 (Section 5(3), Traffic Offences Procedure Act 1974).

The ticket summons may require you to appear in Magistrates' Court and will specify the date to attend. In court, you will be expected to plead guilty or not guilty to the offences with which you are charged. If you plead guilty, you will have an opportunity to address the court about any personal circumstances you believe may be relevant to deciding the penalty for the offence, including whether you have 'special reasons' (see above).

If you plead not guilty, a date will be set for your trial where the prosecution will have to prove their case against you. If you are found guilty, you will be sentenced. If you are found not guilty, there will be no conviction or punishment recorded against you.

Certain motoring offences do not require a court visit, as long as you plead guilty (see below) and pay the stated fine within seven days of receiving the ticket. (For a list of offences to which this may apply, please see Traffic Offences Procedure Act 1974 Specified Penalties Notice 1988.)

## **PLEA OF GUILTY**

**I am aware that I have a right to a hearing in respect of the offence with which I am charged and that by signing this plea of guilty I am waiving my right to a hearing and my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged and consent to be convicted of the offence in my absence.**

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**Signature of Defendant**

# Parking Summons Procedure

The procedure for dealing with parking offences in Bermuda enables you to pay your parking ticket quickly and avoid the need for a court appearance altogether.

If a vehicle is illegally parked, a parking notice may be attached to the vehicle by a police officer or traffic warden.

If the vehicle owner pays the fine (which will generally be \$50, but no more) to Magistrates' Court within seven days of the notice, the offence will be discharged and no further action will be taken against you. It is advisable to keep the receipts for this transaction.

If you do not pay the specified fine within seven days, you will be prosecuted for the offence in court, face a higher penalty (up to \$100) and risk having it entered on your record. However, if you believe you have been wrongly ticketed, this would be your opportunity to challenge the parking offence.

The owner of the vehicle which is parked unlawfully is generally responsible for the ticket except when:

- The owner proves to the court that vehicle was not driven or parked or left by him or by any person with his or her consent;
- The vehicle is owned by the Government, in which case, the driver is responsible for paying; and
- The vehicle is a rental cycle, in which case, the driver is responsible for paying.

Co-owners of a vehicle are each equally liable for parking offences relating to that vehicle. Payment by one is sufficient to discharge the liability of all co-owners.

# Appendix: Table of Most Common Traffic Offences and Penalties

The Legislature sets the maximum penalties for road traffic offences and the court decides on the actual sentence imposed in each case.

The following is a table of the most common traffic offences that occur in Bermuda, together with their corresponding maximum penalties and demerit points.

Offence		Maximum Fine and/or Prison Term	Disqualification – mandatory / discretionary	Demerit points
Dangerous driving	1st offence	\$1,500 and/ or 12 months	18 months – obligatory	8 to 10
	2nd offence	\$2,500 and/ or 18 months	3 years – obligatory	10 to 12
	3rd offence +	\$5,000 and/ or 2 years	5 years – obligatory	12
Careless driving / Driving without due care	1st offence	\$1,000	12 months – discretionary	10 to 12
	2nd offence	\$1,500	12 months – discretionary	10 to 12
	3rd offence +	\$2,000	18 months – discretionary	12
Driving while under the influence of alcohol	1st offence	\$1,500 and/ or 12 months	18 months – obligatory	8 to 10
	2nd offence	\$2,500 and/ or 18 months	3 years – obligatory	10 to 12
	3rd offence +	\$5,000 and/ or 2 years	5 years – obligatory	12
Driving when alcohol concentration is over the prescribed limit	1st offence	\$1,500 and/ or 12 months	18 months – obligatory	8 to 10
	2nd offence	\$2,500 and/ or 18 months	3 years – obligatory	10 to 12
	3rd offence +	\$5,000 and/ or 2 years	5 years – obligatory	12

Failing to comply with the demand of a police officer for sample of breath or drug screening	1st offence	\$1,000 and/or 12 months	12 months – obligatory 5 years – discretionary	7 to 10
	2nd offence (within 2 years)	\$2,000 and/or 18 months	3 years – obligatory 5 years – discretionary	10
	2nd offence (otherwise)	\$1,000 and/or 12 months	12 months – obligatory 5 years – discretionary	7 to 10
	3rd offence + (within 2 years)	\$4,000 and/or 2 years	5 years – obligatory	10
	3rd offence + (otherwise)	\$1,000 and/or 12 months	12 months – obligatory 5 years – discretionary	7 to 10
Failing to stop after accident, to give name and address or to report accident	1st offence	\$300 and/or 6 months	6 months - discretionary	5 to 7
	2nd offence (within 2 years)	\$600 and/or 6 months	6 months - discretionary	7 to 9
	2nd offence (otherwise)	\$300 and/or 6 months	6 months - discretionary	5 to 7
Driving auxiliary bicycle while disqualified	1st offence	\$500 and/or 3 months	3 years - discretionary	7 to 9
	2nd offence (within 2 years)	\$1,000 and/or 6 months (unless under 18)	5 years – discretionary	10
	2nd offence (otherwise)	\$500 and/or 3 months	3 years – discretionary	7 to 9
	3rd offence + (within 2 years)	\$1,000 and/or 12 months	5 years – discretionary	12
	3rd offence + (otherwise)	\$500 and/or 3 months	3 years– discretionary	7 to 9
Driving motor car while disqualified	1st offence	\$1,00 and/or 3 months	3 years - discretionary	7 to 10
	2nd offence (within 2 years)	\$1,000 and/or 6 months	5 years – discretionary	12
	2nd offence (otherwise)	\$1,000 and/or 3 months	3 years – discretionary	7 to 10
	3rd offence + (within 2 years)	\$1,000 and/or 12 months	5 years – discretionary	12
	3rd offence + (otherwise)	\$1,000 and/or 3 months	3 years– discretionary	7 to 10

Exceeding speed limit	1st offence	\$500 and/or 3 months	N/A	4 to 7
	2nd offence (within 2 years)	\$1,000 and/or 6 months	N/A	10
	2nd offence (otherwise)	\$500 and/or 3 months	N/A	4 to 7
	3rd offence + (within 2 years)	\$2,000 and/or 18 months	N/A	12
	3rd offence + (otherwise)	\$500 and/or 3 months	N/A	7 to 10
Driving while using a hand-held mobile telephone, or hand-held device	1st offence	\$500	6 months – discretionary	5 to 7
	2nd offence (within 2 years)	\$750	6 months – discretionary	5 to 7
	3rd offence + (within 2 years)	\$1,000 and/or 6 months	18 months – discretionary	7 to 10
Neglecting traffic directions or signs		\$300	6 months – discretionary	2 to 4
Failing to stop at intersection		\$300	6 months – discretionary	2 to 4
Failing to stop when requested by a police officer		\$300	3 months – discretionary	5
Failing to wear a seat belt		\$200	N/A	5 to 7
Driving of riding motor cycle not wearing protective headgear		\$100	6 months – discretionary	5 to 7
Using, or causing or permitting any other person to use, a motor car without insurance		\$5,000 and/or 12 months	6 months – discretionary	2 to 4

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**We have tried to accurately state the law in this publication as from October 2013.**



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*If you wish to contact Centre for Justice for any reason, including to provide any feedback on this leaflet, please do not hesitate to do so at any time.*

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