

Queensland



**MOTOR ACCIDENT
INSURANCE AMENDMENT
BILL (No. 2) 1999**

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**MOTOR ACCIDENT INSURANCE
AMENDMENT BILL (No. 2) 1999**

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1999

A BILL

FOR

An Act to amend the Motor Accident Insurance Act 1994

Motor Accident Insurance Amendment (No. 2)

The Parliament of Queensland enacts—

	Short title	2
Clause	1. This Act may be cited as the <i>Motor Accident Insurance Amendment Act (No. 2) 1999</i> .	3 4
	Act amended	5
Clause	2. This Act amends the <i>Motor Accident Insurance Act 1994</i> .	6
	Insertion of new ss 97A and 97B	7
Clause	3. After section 97— <i>insert—</i>	8 9
	‘Prohibition on touting at scene of incident or at any time	10
	‘97A.(1) At the scene of an incident—	11
	(a) a prohibited person must not solicit or induce a potential claimant involved in the incident to make a claim; or	12 13
	(b) a person, other than a prohibited person, must not solicit or induce, in a way that would be unreasonable in the circumstances, a potential claimant involved in the incident to make a claim.	14 15 16
	Maximum penalty—300 penalty units.	17
	<i>Example for paragraph (b)—</i>	18
	A person who lives near the scene of the incident helps a potential claimant immediately after the incident. If the person, without being asked to do so, telephones a lawyer and insists the potential claimant speaks with the lawyer about making a claim, the person is acting in a way that would be unreasonable in the circumstances.	19 20 21 22 23
	‘(2) Subsections (3) and (4) apply to—	24
	(a) a prohibited person who is attending or has attended an incident; or	25 26

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(b) a person who obtains information about an incident for the purpose of the person’s employment; or	1 2
(c) a person who has contact with a potential claimant if the contact substantially arises because of an incident and for the purpose of the person’s employment.	3 4 5
‘(3) The person—	6
(a) mentioned in subsection (2)(a) or (b) must not give a potential claimant involved in the incident the name, address or telephone number of a particular lawyer or firm of lawyers; or	7 8 9
(b) mentioned in subsection (2)(c) must not give the potential claimant the name, address or telephone number of a particular lawyer or firm of lawyers.	10 11 12
Maximum penalty—300 penalty units.	13
<i>Example for subsections (2)(c) and (3)(b)—</i>	14
A potential claimant’s car is towed from an incident. The next day the potential claimant attends the panel shop where the car is located and speaks with the panel beater whom the potential claimant has never met before. The panel beater must not give the potential claimant the name, business card or telephone number of a particular lawyer or firm of lawyers.	15 16 17 18 19
‘(4) Also, the person must not disclose prescribed information about the incident to anyone other than—	20 21
(a) a police officer; or	22
(b) a person to whom the person is required to disclose the information under a law; or	23 24
(c) the owner of a motor vehicle involved in the incident, or the owner’s lawyer or agent; or	25 26
(d) a potential claimant involved in the incident or the potential claimant’s lawyer or agent; or	27 28
(e) the person’s employer, if the person is attending or attended the incident for the purpose of the person’s employment and the employer requires the person to disclose the information on grounds that are reasonable in the circumstances; or	29 30 31 32
(f) a person (an “insurer”) who carries on the business of providing insurance for people or property, including, for example, a CTP	33 34

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insurance policy, or someone who is acting as the insurer's
lawyer or agent.

Maximum penalty—300 penalty units.

‘(5) However, a person does not commit an offence under subsection (4) merely because the person discloses prescribed information about the incident to a lawyer if—

- (a) the person is a client of the lawyer for the purpose of making a claim or exercising a legal right, whatever its nature, arising out of the incident; and
- (b) in the circumstances, it is reasonable for the person to think the person may have a claim or a legal right; and
- (c) the disclosure is for the purpose of making the claim or exercising the legal right.

‘(6) Also, a person does not commit an offence under subsection (4) if the disclosure is not likely to result in a potential claimant involved in the incident being solicited or induced to make a claim.

‘(7) A person must not pay, or seek payment of, a fee for the soliciting or inducement of a potential claimant to make a claim.

Maximum penalty—300 penalty units.

‘(8) However, a person does not commit an offence under subsection (7) merely by—

- (a) advertising legal services about claims using any form of mass communication, including, for example, advertisements in newspapers, magazines or directories, and advertisements on the internet, radio or television; or
- (b) if the person is a lawyer—charging a potential claimant a fee for professional services provided to the potential claimant as part of making a claim.

‘(9) In this section—

“**employment**” includes self employment.

“**fee**” includes the following—

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- (a) a bonus, commission, cash payment, deduction, discount, rebate, remission or other valuable consideration; 1
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- (b) employment, or an agreement to give employment, in any capacity. 3
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- “incident”** means an incident in which a personal injury is or may be caused by, through or in connection with a motor vehicle. 5
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- “potential claimant”** means— 7
- (a) a person who suffers, or may suffer, personal injury because of an incident; or 8
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- (b) another person who has or may have a claim in relation to a person mentioned in paragraph (a). 10
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- “prescribed information about the incident”** means the following in relation to an incident— 12
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- (a) the name or address of a person involved in the incident; 14
- (b) the registration number of a motor vehicle involved in the incident. 15
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- “prohibited person”** means— 17
- (a) a person who, under the *Tow Truck Act 1973*, is the holder of a driver’s certificate, assistant’s certificate or permit; or 18
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- (b) any other person who is attending or attended the scene of an incident for the purpose of the person’s employment. 20
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- “scene of an incident”** means the area within a radius of 500m from the approximate point of impact or collision involving a motor vehicle. 22
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- ‘Consequence if person approved under Act is convicted under s 97A** 24
- ‘97B.(1)** This section applies to a person if— 25
- (a) the person is approved under an Act for a profession, or for carrying on activities for the purpose of the person’s employment; 26
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and 28
- (b) the person’s profession or employment may involve the person attending the scenes of motor vehicle accidents or dealing with persons involved in motor vehicle accidents; and 29
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- (c) under the Act under which the person is approved, the person’s approval may be suspended or cancelled for misconduct. 1
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- ‘(2) If the person is convicted of an offence under section 97A, the person’s conviction may be dealt with as misconduct under the Act under which the person is approved. 3
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- ‘(3) If the commission is aware, or becomes aware, that the person’s conviction may be dealt with as misconduct under the Act under which the person is approved, the commission— 6
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- (a) must give written notice about the conviction to the entity that deals with the person’s approval under that Act; and 9
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- (b) if the entity may only deal with misconduct after a complaint—must complain about the person. 11
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- ‘(4) In this section— 13
- “**approved**” includes accredited, authorised, employed, licensed, registered or otherwise permitted to carry on activities. 14
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- “**convicted**” includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded. 16
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- “**employment**” includes self employment. 18
- “**misconduct**” includes malpractice, professional misconduct and unprofessional conduct or practice.’. 19
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