

OC200575

22 July 2020



Redacted to protect personal privacy.

Dear 

I refer to your request, partially transferred to the Ministry of Transport on 8 July 2020, pursuant to the Official Information Act 1982, seeking:

"I understand there is a mandatory prison term for those caught driving three times without a license, is this correct? If so how long is this term normally? If not correct can you please explain the penalty."

The following documents fall within the scope of your request and are available on the government legislation website <http://legislation.govt.nz/default.aspx>:

- Land Transport Act 1998
- Land Transport (Offences and Penalties) Regulations 1999

By way of background, you will note that:

- Section 5 of the Act sets out the basic requirement to hold and comply with the conditions on a driver licence.
- Section 31 of the Act sets out the maximum penalty, a fine not exceeding \$1,000, that can be imposed by a court for driving a motor vehicle on a road without the correct licence.
- The Land Transport (Offences and Penalties) Regulations 1999 sets an infringement fee of \$400 as an alternative to a charge imposed by a court. It also provides for demerit points for breach of licence conditions.

www.transport.govt.nz

HEAD OFFICE: PO BOX 3175, Wellington 6140, New Zealand. TEL: +64 4 439 9000, FAX: +64 4 439 9001

AUCKLAND OFFICE: NZ Government Auckland Policy Office, PO Box 106 238, Auckland City 1143, New Zealand. TEL: +64 9 985 4827, FAX: +64 9 985 4849

CHRISTCHURCH OFFICE: PO Box 3014, Christchurch 8140, New Zealand. TEL: +64 3 366 9304, FAX: +64 3 366 9317

- Section 32 of the Act sets out penalties for driving while disqualified from driving (or while the driver's driver licence is suspended or revoked):
 - Under section 32(3), the maximum penalty for a first or second offence is imprisonment for a term not exceeding three months or a fine not exceeding \$4,500, plus disqualification from holding or obtaining a driver licence for six months or more
 - Under section 32(4), the maximum penalties for a third or subsequent offence increase to imprisonment for a term not exceeding two years or a fine not exceeding \$6,000, plus disqualification from holding or obtaining a driver licence for one year or more.
- Apart from disqualification (which is a minimum penalty) these penalties are the maximum that a court can impose, but are not mandatory. The actual penalty that will be imposed will be as a result of the sentencing judge's assessment of the case, in accordance with the Sentencing Act 2002, which is administered by the Ministry of Justice.

I hope you find this information helpful. Note that the Ministry publishes our Official Information Act responses and the information contained in our reply to you will be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

Yours sincerely

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Chief Legal Adviser