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NZ Automobile Association submission on:
**Land Transport (Drug Driving)
Amendment Bill**



SUBMISSION TO: Transport and Infrastructure Committee
REGARDING: Land Transport (Drug Driving) Amendment Bill
DATE: April 2021

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NOTE TO REQUESTOR:

The AA requests an opportunity to present this submission orally.

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Executive Summary

The focus of the New Zealand Automobile Association (AA) on this issue is around the deterrence and removal of drug impaired drivers from the road, not the wider issue of drug use in society. We have raised concerns about the issue of drugged driving in New Zealand for more than a decade and strongly support the introduction of roadside oral fluid drug testing by Police that this Bill enables.

This is a complex issue but we feel the approach set out in the bill strikes the right balance to enable meaningful enforcement action against drivers who are impaired by drugs while having safeguards in place to ensure individual's rights and freedoms are protected.

The AA supports the provision in the Bill requiring either two positive oral fluid results or a positive blood test to trigger enforcement penalties. We also support the two-tier approach of infringements for likely lower-level impairment and criminal offences for likely higher-level impairment, like that for drink-driving, and the use of per-se limits as the expert panel has determined.

The ultimate outcome this bill will contribute to is changing behaviour through deterrence. The current Compulsory Impairment Test (CIT) that Police officers can use to check for drug impairment is carried out in tiny numbers compared to alcohol testing, and yet evidence shows that drugged driving and drunk driving are both among the most common contributing factors to fatal crashes.

We need to be sending a much stronger message to drivers that if they are drug impaired they risk being tested and caught. A University of Waikato study quoted in the updated Regulatory Impact Statement showed that 60% of drivers thought people were likely to be caught for drink-driving but only 26% thought people would be caught for drugged driving. A Waka Kotahi literature review on drug-impaired driving noted that effective deterrence requires a highly visible general deterrence component. The introduction of roadside oral fluid drug testing like that of roadside alcohol breath testing will be a critical factor in making people that do use drugs and drive think they could be caught and therefore deter them from doing so.

The NZAA's concern is drug-impaired driving, so prescription medicines can be as much of a risk as recreational drugs. However, we are not aware of roadside testing devices that can quickly and effectively test for many of these medications. That is why we support the provision in the Bill retaining the option for Police to use a CIT if an officer believes a driver is impaired by some other type of drug that would not be detected by an oral fluid test.

Our regular rolling survey of NZAA Members have consistently shown extremely high support of 95+% for the introduction of saliva-based roadside drug testing (see page 8).

1. Proposed amendments

1.1 Introduction of oral fluid testing

The NZAA endorses the proposed changes to Section 57A-D of the Act. The NZAA has advocated for many years for the introduction of saliva-based roadside drug testing which these amendments introduce.

We agree with the planned approach of using two oral fluid tests to reduce the risks of a false positive and for a driver to subsequently have the right to request a blood test as a final safeguard. The ability to conduct such blood tests quickly will be important for the system to function well. If a long period passes before a blood test is able to take place the levels of substance in a driver's system may have diminished considerably and certain people could attempt to game the system.

1.2 Introduction of blood concentration levels

The AA welcomes the creation of high-risk and infringement thresholds for 25 substances. This is a complicated area and we endorse the approach that has been taken of having experts in the field use the best available evidence to set levels indicating likely impairment or recent use. We support the intention for these levels to focus enforcement on impaired drivers and avoid penalising drivers who could have accidental or passive exposure, or have not recently used drugs.

The multitude of drugs that exist mean that limits will not be able to be established for all possible substances, which is why the physical Compulsory Impairment Test (CIT) that Police can currently use needs to remain part of the system as the bill allows.

1.3 Two-tier infringement and offence system

The AA supports the bill's creation of a criminal offence for likely higher-level drug impairment and an infringement response for likely lower-level impairment. This is a pragmatic approach that focuses on the key issue of drug impaired driving and delivering harsher sanctions to those creating greater risk of harm on the roads.

1.4 Penalties and multiple/poly drug use

Making the penalty for a drugged driving infringement the same as a lower-level drink-driving infringement is a reasonable approach. The AA believes that repeat offending should result in increasing penalties, so the inclusion of 50 demerit points alongside the \$200 fine for an infringement goes some way to addressing this by meaning that two offences within a 2-year period would result in a loss of licence.

The AA also supports the harsher penalties for a driver found to have multiple drugs in their system or a combination of drugs and alcohol as these have the risk of significantly amplifying the impairing effect on people.

An addition to the wider system we would like to see is that those who are caught repeatedly for drugged or drink-driving are identified for assessment and potential rehabilitation. A number of people caught drugged driving will have serious drug problems and unless these are addressed it is likely that they will reoffend regardless of what penalty they receive. Our justice system, for both alcohol and drug impaired drivers, needs to do much more to assess whether someone has a

substance-abuse problem. If this is the case, then rehabilitation treatment needs to be a part of their sentence and the AA continues to urge the Government to expand specialist Alcohol and Drug Courts further in New Zealand.

1.5 Medical defence and information

We endorse the inclusion of a medical defence whereby if a driver tests positive for a drug but has a valid prescription for it and has complied with instructions from a health practitioner that they would not be penalised.

However, this does highlight the need for better information to be provided to patients about any risks their medication can pose for driving and how to handle these. Anecdotal information would suggest that many patients still receive very little or no information on the effect medications may have on driving. As part of the introduction of drug testing on our roads, the health system needs to look at how clear and understandable information can be made available to drivers about medications that could result in impair driving and/or result in a positive result if they are tested. One example of our concerns in this area would be how the new laws would apply around methadone users who regularly visit a pharmacy to receive their dose and then may look to drive away. We envisage there could be many such complex situations involving potentially impairing medications and treatments so hope that medical practitioners are well involved in identifying areas of concern and the best approach for handling them.

With cannabis being a widely used drug in New Zealand, the authorities will also need to consider what information they will provide to people about how long they should avoid driving for if they use the drug.

2. Additional considerations

There are several points beyond the current bill that the AA would make to the Select Committee regarding what will be needed to make drugged driving testing effective and successful.

The first is that Police will need significant additional resourcing to deliver the testing programme. The AA already has serious concerns about the reduction that has taken place in drink-driving testing numbers in recent years and the introduction of drug testing must not take away any activity around alcohol enforcement. Sending a strong deterrence message to change behaviour around impaired driving needs both drug testing taking place at meaningful scale and for drink-driving testing to return to higher levels. Delivering this will need more investment from the Government.

The AA also wants to see roadside drug testing introduced as quickly as possible. We urge the Government to advance the legislation as quickly as possible so that the next steps towards implementation can rapidly follow.

There are many potential oral-fluid testing devices that could be used and they will have individual strengths and weaknesses. The AA encourages the authorities to explore whether it could be possible for New Zealand to use the same testing devices as Australia and thereby create economies of scale that could reduce the costs of the devices here.

Finally, we believe there could be value in reviewing the current CIT test and considering if there are alternatives for judging impairment that could be more effective or practical for use in the field by Police officers. In addition to that review, not all Police officers are currently able to provide a CIT test, so there needs to be more investment in training to increase the number of officers around the country with the skills to officially detect drug impairment.

About the New Zealand Automobile Association

The NZAA is an incorporated society with over 1.7 million members, representing a large proportion of New Zealand road users. The AA was founded in 1903 as an automobile users' advocacy group, but today our work reflects the wide range of interests of our large membership, many of whom are cyclists and public transport users as well as private motorists.

Across New Zealand, the motoring public regularly come into contact with the AA through our breakdown officers, 37 AA Centres and other AA businesses. Seventeen volunteer AA District Councils around New Zealand meet each month to discuss local transport issues. Based in Wellington and Auckland our professional policy and research team regularly surveys our Members on transport issues and Members frequently contact us unsolicited to share their views. Via the AA Research Foundation, we commission original research into current issues in transport and mobility. Collectively, these networks, combined with our professional resource, help to guide our advocacy work and enable the NZAA to develop a comprehensive view on mobility issues.

Motorists pay over \$4 billion in taxes each year through fuel excise, road user charges, registration fees, ACC levies, and GST. Much of this money is reinvested by the Government in our transport system, funding road building and maintenance, public transport services, road safety work including advertising, and Police enforcement activity. On behalf of AA Members, we advocate for sound and transparent use of this money in ways that improve transport networks, enhance safety and keep costs fair and reasonable.

Our advocacy takes the form of meetings with local and central government politicians and officials, publication of research and policy papers, contributing to media on topical issues, and submissions to select committees and local government hearings.

Total Membership

1.7+ million members

Just over 1 million are personal members

0.7 million are business-based memberships

% of licenced drivers

Half of licenced drivers are AA Members

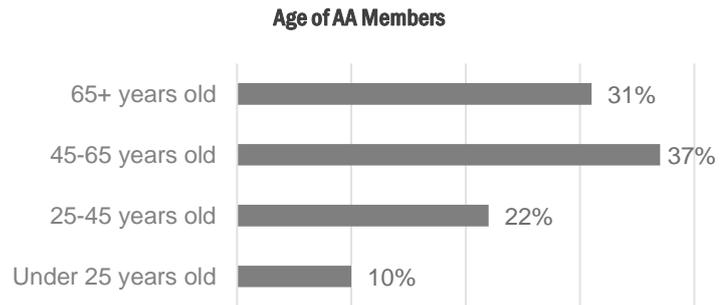
Gender split

54% Female

46% Male

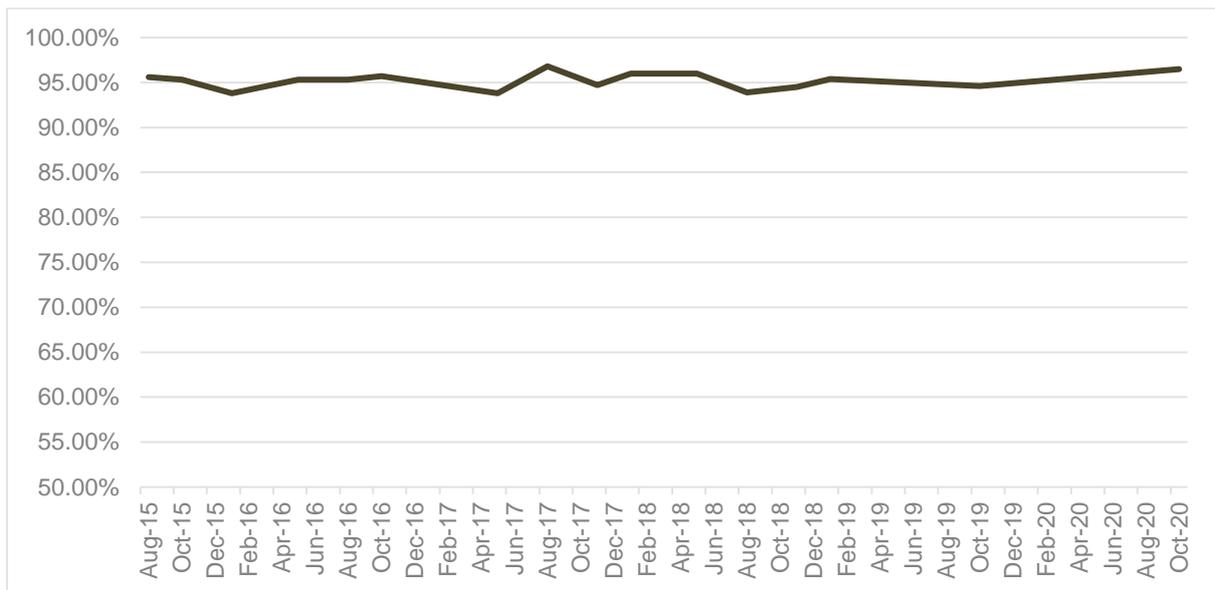


Age range & Membership retention



Half of AA Members have been with us for 10 years or more.

How many AA Members support introducing saliva-based roadside drug testing?



From 32 regular 'rolling surveys' to random samples of AA Members between 2015 and 2020.