

# **Land Transport (Drug Driving) Amendment Bill**

Government Bill

As reported from the Transport and Infrastructure Committee

## **Commentary**

### **Recommendation**

The Transport and Infrastructure Committee has examined the Land Transport (Drug Driving) Amendment Bill and recommends that it be passed with the amendments shown.

### **Introduction**

This bill seeks to amend the Land Transport Act 1998 to address the risk that drug driving poses, and to help keep roads safe for all users. The bill would establish a roadside oral fluid testing regime to test for recent drug use.

The proposed regime would provide for police officers to randomly stop drivers of motor vehicles and administer an oral fluid test. The Minister of Police, after meeting requirements specified in the bill, would approve oral fluid devices which would be used for the test. The devices would have detection limits for the drugs tested for, beneath which drug use would not be detected. A driver who failed two consecutive oral fluid tests would be liable for an infringement penalty. If a driver was required to take an evidential blood test, or chose to do so, they could be liable for an infringement penalty or a criminal penalty. The type of penalty would depend on the level of drug(s) detected, and whether multiple drugs, or drugs in combination with alcohol, were detected. Police officers would still have the option in certain situations to conduct a compulsory impairment test, which is the test currently used to determine drug impairment.

The roadside oral fluid testing regime is intended to align in some aspects with the current breath test regime for alcohol detection. As with the alcohol regime, a police officer would not need good cause to stop a driver to administer the test. The proposed fees for infringement and criminal penalties would be set at the same amount as those for drink driving offences.

## Summary of the process this bill has undergone

The bill was introduced in the 52nd Parliament on 30 July 2020. After the bill's first reading, the Attorney-General presented a report under section 7 of the New Zealand Bill of Rights Act 1990 (NZBORA) and Standing Order 265. As we explain below, the report concluded that the bill as introduced was inconsistent in several respects with the NZBORA, and recommended some changes.

The Minister of Transport released Supplementary Order Paper No 24 on 1 April 2021. The Attorney-General reported again under Standing Order 381(1), concluding that he is satisfied that the changes proposed in the Supplementary Order Paper (SOP) resolve his concerns.

The Ministers of Transport and Police invited us to consider the SOP alongside the bill. We have done so, and comment on it as part of this report. They also asked us to consider the Order in Council process for adding or amending drugs and levels in Schedule 5, and payment for evidential blood test fees. We have considered both matters, and our conclusions form part of this report.

We invited the Regulations Review Committee to consider the delegated legislation-making powers in the bill, and the changes proposed by the SOP. We outline its comments below.

## Reports of the Attorney-General under the Bill of Rights Act and Standing Order 381(1)

On 2 September 2020 the Attorney-General reported on the bill as introduced. The Attorney-General concluded that “the provisions of the bill are inconsistent with the rights to be secure against unreasonable search and seizure, the right to not be arbitrarily detained, and the right to be presumed innocent until proved guilty”. He recommended the following two changes which he considered would be more likely to make the bill consistent with the Bill of Rights Act:

- Introduce an infringement threshold below which the detection of a qualifying drug would not result in an infringement offence.
- Specify that an oral fluid testing device only be approved if it is likely to detect the presence of a drug at the infringement offence level.

Supplementary Order Paper No 24 sought to address the type of concerns highlighted in the Attorney-General's report.

On 20 April 2021, the Attorney-General reported on the SOP. He concluded that he is satisfied that the changes proposed in the SOP have made the bill consistent with the three sections of the Bill of Rights Act he had highlighted as a concern. He believes that, in particular, the blood limits for infringement and criminal offences, and the easier medical defence pathway introduced in the SOP increase the rational connection with the limits on the right to be secure against unreasonable search and seizure, and the right not to be arbitrarily detained.

## **Our legislative scrutiny and comments from the Regulations Review Committee**

We invited the Regulations Review Committee (RRC) to comment on the delegated legislation-making powers in proposed new sections 167A, 167B, and 168D, and whether it considered that they were appropriate and sufficiently constrained.

The Regulations Review Committee highlighted that the delegated legislation-making powers in new section 167A would allow secondary legislation to amend the Act (a “Henry VIII power”), once passed. The RRC’s view is that details of the qualifying drugs should be set out in the bill rather than through regulations. However, the Regulations Review Committee concluded that a number of factors justified the use of regulation-making powers in this case.

The RRC noted, but accepted, that amendments proposed by the SOP to new section 167A(2) would limit the Minister’s accountability compared with the bill as introduced. The changes would mean that the Minister would no longer be advised by experts on levels of drugs proportionally aligned to the blood alcohol limit, but instead on “the appropriate (high-risk or tolerance) level for each drug”. The RRC said that, in this case, it considers that Parliament’s intention about drug levels in the SOP is described with sufficient specificity, and lies appropriately with experts.

The RRC commented on new section 168D (which we propose moving and renumbering as section 71G). It provides for the Minister of Police to approve, by notice in the Gazette, an oral fluid testing device, and how it may be used. The committee said that approval of devices and their use might be considered an administrative, rather than legislative, decision. However, it considered that these decisions could have a “significant legislative effect” as described in Section 39 of the Legislation Act 2012, meaning it would be appropriate for them to be legislative instruments and disallowable instruments as proposed. It also noted that this approach is consistent with other testing devices under the Land Transport Act 1998.

The RRC said that the test of accuracy in new section 168D(2)(c) (now 71G(2)(c)), which the Minister must be satisfied with, appropriately and sufficiently constrains the decision. However, it suggested we seek advice on whether the Minister should first receive technical advice from experts about the accuracy of the device. This is addressed in our proposed amendments later in this report.

We agree with the Regulations Review Committee’s conclusions that the delegated legislation-making powers within the bill are appropriately and sufficiently constrained. We have no further concerns about these powers.

## **Proposed amendments**

The rest of this commentary covers the main amendments we recommend to the bill as introduced. Our recommended amendments include those proposed by the Minister in Supplementary Order Paper No 24, with some suggested modifications. We do not discuss minor or technical amendments.

## Supplementary Order Paper No 24

SOP No 24 proposed the following four main changes, and some other minor amendments.

### **High-risk and tolerance blood concentration levels for certain qualifying drugs added to Schedule 5**

The bill would insert Schedule 5 into the Act. The Schedule is intended to specify the level of qualifying drugs at which a person would have committed an offence. As introduced, the Schedule was left intentionally blank. The Associate Minister of Transport and Minister of Police explained at first reading that an independent expert panel had been established to determine these blood concentration levels, and they would be provided in a SOP.

SOP No 24 now proposes amendments to Schedule 5 based on the expert panel's advice. They include changing its title to "Blood concentration levels for offences related to drug-driving". Two parts would be inserted into Schedule 5. Part 1 would add "High-risk blood concentration levels for drug-driving offences", listing the qualifying drug and the high-risk level in nanograms per millilitre (ng/mL). Part 2 would add the same for "Tolerance blood concentration levels for drug-driving offences". These tolerance levels would determine whether a driver is liable for an infringement offence.

### **Procedure for amending Schedule 5 by Order in Council**

Clause 35 of the bill would insert new section 167A. This would set out the procedure by which Schedule 5 could be amended to add the name and level of a qualifying drug, or alter the specified level of a qualifying drug already listed in Schedule 5. It would involve the Governor-General making an Order in Council in accordance with a recommendation from the Ministers of Transport and Police. New section 167B would allow the Ministers to appoint independent experts before recommending any amendment to Schedule 5.

The SOP would make some amendments to new sections 167A and 167B to align them with the amendments to Schedule 5 discussed above, with the distinction between high-risk and tolerance levels.

Amendments to section 167A(2) would require the Ministers to seek and consider independent expert advice on the appropriate high-risk or tolerance level for each drug they recommend adding or amending. New subsection 167A(2A) would also expand the Ministers' ability to consult independent experts for advice before making a recommendation.

The SOP would also amend proposed new section 167B to specify a number of requirements that the independent experts must take into account when advising the Minister of Transport, Minister of Police and the Science Minister on high-risk levels, or tolerance levels, for qualifying drugs.

### **The Minister of Police must publish detection levels of qualifying drugs in the *Gazette***

Proposed new section 71G(1) (numbered as 168D(1) in the bill as introduced) provides that the Minister of Police may, by notice in the *Gazette*, approve an oral fluid testing device which may be used to test for qualifying drugs specified in the notice, and the manner in which the device may be used for an oral fluid test.

The SOP would add subsection (4) (previously 168(2A)) to require that a notice given under subsection (1) must specify the concentration level at which each qualifying drug would be detectable by the testing device.

### **A medical defence would be available after two failed oral fluid tests**

The SOP would also insert a new section 64(1AB). This provides a medical defence to a person charged under section 5A(3), 57B(3), or 57C(3) or (4), if the court is satisfied that the person has consumed prescription drugs in accordance with a current and valid prescription and medical advice. The subsection specifies the requirements that a person must meet in order to use the medical defence.

### **Aligning the drug driving and alcohol breath testing regimes**

The Ministers of Police and Transport asked us to consider in particular the provisions regarding payment for evidential blood tests. In the regime proposed in the bill, a driver who failed two oral fluid tests could choose to take an evidential blood test. The blood test would conclusively show the level of a drug (or drugs) in the person's blood. Section 72(1F), as amended by the bill, would require an enforcement officer to advise any person taking a blood test that they may be liable to pay a blood test fee and associated medical costs if the outcome of the test results in an offence against section 57A(1), 57B(1), or 57C(1). These are criminal offences. As introduced, this would not make someone liable for a blood test fee and associated medical costs if the outcome resulted in any of the infringement offences in the bill.

We heard that, in comparison, drink driving infringements result in a charge for a blood test. We also heard that testing for specific drug levels in blood is much more expensive than testing for alcohol, or for just the presence of a drug.

We consider that, as with other parts of the proposed regime, this provision should align with the drink driving regime. We recommend amending sections 71A(4)(c), 71D(2), and 72(1F) to include the relevant infringement offences. This would mean that people who chose, or were required, to take a blood test and were found to have committed an infringement offence could be liable for a blood test fee. We also recommend similar amendments in section 67(1)(aa)(ii) to provide for this charge.

We also propose inserting section 64(6). This would specify that a drug offence established through a blood test cannot be challenged on the basis of an error in an oral fluid test. This is intended to align with section 64(5) of the Act, which specifies similarly for blood alcohol tests and alcohol breath screening tests.

## **Enforcement procedures for offences involving use of qualifying drugs**

The bill would replace section 71A with sections 71A to 71F, to specify the procedures an enforcement officer must follow around oral fluid tests, blood tests, and compulsory impairment tests. We suggest some amendments to these sections.

We recommend adding subsections under 71A, 71B, and 71E to provide for an enforcement officer to require a person to accompany the officer a second time to a place where they can undergo an oral fluid test or blood test. This would be in cases where the original place they had accompanied the officer to was impractical. This would align with section 69(2) in the Act, which allows an enforcement officer to require someone to accompany them a second time when requiring them to undergo an alcohol breath test.

Section 71C provides that an enforcement officer must require a person to undergo a second oral fluid test if their first or second oral fluid test failed to produce a result. We recommend amending this section to clarify that only one further oral fluid test can be required after any oral fluid test fails to produce a result. If this one additional oral fluid test also failed to produce a result, it would be considered negative, and the person could leave. We consider that this would allow reasonable flexibility for cases where a test may not produce a result for any reason, while also providing certainty about the maximum number of oral fluid tests a person may be required to undergo at one time.

## **Conducting a compulsory impairment test**

Section 71A of the Act, “Requirement to undergo compulsory impairment test”, provides for an enforcement officer to require certain people to undergo a compulsory impairment test (CIT). A CIT tests a person’s physical reactions for signs of impairment from drugs (for example, by conducting one-leg-standing, eye, and walk-and-turn assessments). It must be given by someone trained to give the test. A CIT must be undertaken in a safe environment, and the full test may take some time to administer. An oral fluid test, as proposed in the bill, is expected to take less time than a CIT.

The bill proposes replacing section 71A with new sections 71A to 71G, “Enforcement procedures for offences involving use of qualifying drugs”. A CIT remains an option for enforcement officers in certain situations, as specified in new section 71F.

We heard feedback from some submitters that they are concerned that the comparable speed and convenience of the oral fluid test would mean that CITs are rarely performed. Some submitters noted that in some cases a CIT may be more appropriate (for example, where an enforcement officer has good cause to suspect that a driver is impaired by drugs other than those tested for in the oral fluid test). We acknowledge these concerns. However, we believe that the bill would provide suitable flexibility to enforcement officers so that they could choose the most appropriate testing option for various circumstances.

We believe it is important to be clear when an enforcement officer may carry out a CIT, and that an enforcement officer must have good cause to suspect that a driver has consumed drugs any time they choose to require a CIT. An officer may only switch from the oral fluid testing pathway to the CIT pathway in some situations—when a first or second oral fluid test does not produce a positive result, or when a first oral fluid test produces a positive result for more than one drug. We therefore recommend amending section 71F(5) and inserting section 71F(6) to clarify these points.

In our consideration of CITs, we note that there are limitations to the current test due to the training required for an enforcement officer to be able to administer the test, and the long time a test can take. Although the details of the CIT are not addressed in this bill, we agree with comments from some submitters that further research into a streamlined CIT process, or improvements to the process through technology, could reduce or remove some of these limitations.

### **Approval of oral fluid testing devices**

The bill proposes new section 71G(2) to specify actions the Minister of Police must undertake before approving an oral fluid testing device. They include: consulting with the Minister of Transport and the Science Minister; having regard to the accuracy of the device; and being satisfied that any device proposed for approval and use will return a positive result only if it detects the presence of a qualifying drug at a level that indicates recent use (section 71G(2)(c)).

We believe that these requirements provide a number of safeguards about the accuracy of an oral fluid testing device. However, we heard from several submitters who are concerned about oral fluid devices providing false positive results, or detecting drugs below the infringement level. We also note that the Regulations Review Committee suggested we seek advice on whether experts should be required to provide technical advice to the Minister on the accuracy of a device.

To further strengthen the requirement in section 71G(2)(c), and to provide more confidence about the device's accuracy, we believe it would be appropriate that the Minister be required to have regard to any relevant New Zealand Standards or joint Australian/New Zealand Standards. We recommend inserting 71G(3) to provide for this.

### **Prohibiting driving after two failed oral fluid tests**

New section 94A(1) provides that an enforcement officer must forbid a person to drive for 12 hours if that person has undergone two oral fluid tests, and it appears to the officer that the results of both tests are positive.

We recommend removing the words “it appears to the enforcement officer that” from proposed section 94A(1). We believe this would give greater certainty that a person's human rights could not be arbitrarily infringed through this provision.

### **Addressing inconsistencies within the bill**

In clause 10 of the bill, we note that section 58(1)(b) as proposed is inconsistent with the regime. We recommend replacing sections 58(1) and 58(1A) with new section

58(1). Proposed new section 58(1) includes the content of 58(1) and 58(1A) from the Act. This specifies the conditions under which someone commits an offence against clause 12, “Persons not to drive while under influence of alcohol or drugs”.

We also recommend amending the drug driving offences in section 62 (related to situations in which a driver has caused injury or death) to tie them to the new criminal limits and blood infringement thresholds. Under section 62(1)(b), where a driver is found to be carelessly driving and there is evidence of drug use, this amendment would tie the offence to infringement level drug concentrations (the “tolerance level”). Under section 62(1B), where there is only evidence of drug use, the amendment would tie the offence to criminal limits (the “high risk level”). A driver would also be liable for an offence under section 62(1B) if the driver’s blood was found to contain an unlisted drug after they failed a CIT.

### **Concerns about potential bias**

One further issue we considered is the risk that the bill could have a disproportionate effect on people of minority communities, particularly Māori. Some of us are concerned that bias could affect who is asked to stop and undertake a test. We sought further information from our departmental advisers on this matter. We note that responding to bias is part of broader work currently being undertaken across the criminal justice system, including work by the New Zealand Police. We therefore do not make any recommendations on specific operational matters about this.

### **The Green Party of Aotearoa New Zealand and ACT Party differing view**

We agree that driving impaired by drugs is a serious hazard to safety on our roads, and agree with the objective of the bill, which is to deter people from driving while impaired. The central issue is reliable establishment of impairment and fair application of regulations.

The majority of submissions were opposed to the bill as drafted,<sup>1</sup> primarily due to the difficulty with reliably establishing impairment from either oral fluid or blood tests.

The submissions from health professionals (including Regional Public Health, the New Zealand Medical Association, the Royal New Zealand College of General Practitioners, and the Royal Australian and New Zealand College of Psychiatrists) and the independent expert panel noted the difficulty with reliably establishing an equivalent blood level of a substance with an oral fluid test result, and that neither of these can be correlated with impairment. The expert panel report states, “...there is no simple relationship between the dose of a drug and the resultant impairment of driving”. The

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<sup>1</sup> Ministry of Transport Departmental Report, p 7, “78 submitters were opposed to the Bill. 57 submitters supported the Bill and a further 22 supported the intention of the Bill to reduce drug-related harm on New Zealand’s road. However, many of those in support, or in support of the intent, had concerns or recommended changes to the Bill.”



Royal New Zealand College of General Practitioners states that “the testing framework proposed is not supported by reliable scientific evidence of correlation between presence of substances and impairment”.

The Royal Australian and New Zealand College of Psychiatrists was concerned that a harm minimisation approach is not implemented by this bill, as well as noting, “The presence of drugs in a person’s oral fluid or blood does not directly relate to impairment. We call for greater research in understanding the link between substance misuse and a person’s impairment”. The New Zealand Medical Association (NZMA) echoes this, stating, “the science to support roadside oral fluid testing is not quite sufficiently advanced although it is rapidly evolving. Key concerns include the inability of oral fluid testing to detect impairment, the absence of well-defined threshold levels and impairment limits for many drugs, and the potential for the bill to exacerbate inequities for Māori in the criminal justice system...”

Based on evidence and submissions from experts, we have concerns that oral fluid tests are not as reliable as alcohol breath tests. It is possible and even likely that a number of unimpaired people will be subjected to infringement or criminal penalties because there is not a straightforward relationship between impairment and oral fluid and blood levels. It is also possible that people who are impaired by a substance will get a negative result on an oral fluid test and be allowed to continue driving despite being impaired, thereby reducing confidence in the proposed regime.

We heard from the expert panel that THC, the psychoactive substance in cannabis, is particularly variable in its impairing impacts and levels that show up in blood and oral fluid. There is a risk that people using medicinal cannabis regularly, who are not impaired at the time of driving, will register a higher level of THC because of regular use, not because of recent use. Under this regime, those people could lose their licence if they fail oral fluid tests on multiple occasions. The medical defence requires a court process, and will only work if people have a prescription. We heard from the New Zealand Drug Foundation and the NZ Medical Cannabis Council that many more people are using cannabis medicinally than have pharmaceutical prescriptions at this time, due to the difficulty in accessing pharmaceutical medication. They may not be able to use the medical defence as provided for in this bill.

Given the difficulties outlined above, we believe oral fluid tests need to be available to people so they can test their own levels before driving. This will help ensure that safer driving outcomes are achieved, without needlessly punishing or criminalising people. Nearly all submitters raised concerns about the likelihood of a disproportionately harmful impact of this regime on Māori and Pasifika people, as communities most targeted by unfair exercises of discretion in policing and ultimately, the ongoing devastating impacts of imprisonment. Whether or not that can be mitigated will be down to police implementation, which we note in other areas of policing is yet to be adequately addressed. We would prefer to see this bill specify a requirement for regular data gathering and reviews of the legislation and its implementation by an independent body, to ensure that concerns are mitigated.

## **Appendix**

### **Committee process**

The Land Transport (Drug Driving) Amendment Bill was referred to the committee on 4 August 2020.

The closing date for submissions on the bill was 23 April 2021. We received and considered 173 submissions from interested groups and individuals. We heard oral evidence from 23 submitters.

We received advice on the bill from the Ministry of Transport and the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

The Regulations Review Committee reported to us on the powers contained in clauses 35 and 36 in the bill as introduced.

### **Committee membership**

Greg O'Connor (Chairperson)

Paul Eagle

Hon Julie Anne Genter

Shanan Halbert

Christopher Luxon

Dr James McDowall

Hon Mark Mitchell

Terisa Ngobi

Helen White

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Michael Wood*

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| <b>Related and consequential amendments</b>                                      |  |           |
| Subpart 1—Amendments to Acts   |  |           |
| <i>Amendment to Legislation Act 2012</i>   |  |           |
| 41   | <del>Amendment to Legislation Act 2012</del>                           | 39        |
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| <i>Amendment to Sentencing Act 2002</i>  |  |           |
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| 43   | Amendments to Land Transport (Offences and Penalties) Regulations 1999 | 39        |
| <b>Schedule 1</b>  |  |           |
| <b>New Part 2 4 inserted into Schedule 1</b>                                     |  |           |
| <b>Schedule 2</b>  |  |           |
| <b>New Schedule 5 inserted</b>   |  |           |

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Land Transport (Drug Driving) Amendment Act **2020**.

**2 Commencement**

This Act comes into force immediately after the expiry of the 12-month period that starts on the date of Royal assent. 5

**Part 1**

**Amendments to Land Transport Act 1998**

**3 Amendments to Land Transport Act 1998**

This Part amends the Land Transport Act 1998. 10

**4 Section 2 amended (Interpretation)**

(1) In section 2(1), insert in their appropriate alphabetical order:

**blood concentration level** means, for a qualifying drug, the proportion of the drug in a person's blood

**first oral fluid test** means an oral fluid test carried out under **section 71A** 15

**high-risk level** means, for a listed qualifying drug, the blood concentration level specified for the drug in **Part 1 of Schedule 5**

**listed qualifying drug** means a qualifying drug listed in **Schedule 5**

**oral fluid test** means a test that is carried out by means of an oral fluid testing device in a manner prescribed for that device by the Minister of Police under **section 168D**—

(a) by means of an oral fluid testing device; and

(b) in a manner approved for that device by the Minister of Police under **section 71G**

**oral fluid testing device** means a device of a kind approved by the Minister of Police under **section 168D 71G** for the purpose of testing oral fluid for the presence of the qualifying drugs specified in the notice

**second oral fluid test** means an oral fluid test carried out under **section 71B**

**tolerance level** means, for a listed qualifying drug, the blood concentration level specified for the drug in **Part 2 of Schedule 5**

**unlisted qualifying drug** means a qualifying drug not listed in **Schedule 5**

- (2) In section 2(1), definition of **compulsory impairment test**, replace “determine” with “indicate”.
- (3) In section 2(1), replace the definition of **positive** with:

**positive**,—

(a) ~~in relation to an evidential breath test, means an evidential breath test result that~~ in relation to the result of an evidential breath test, means the result of the test indicates,—

(i) in the case of a person who holds an alcohol interlock licence or a zero alcohol licence, that the breath of the person who underwent the test contains alcohol; or

(ii) in the case of a person who is apparently younger than 20, that the breath of the person who underwent the test contains alcohol; or

(iii) in the case of any other person, that the proportion of alcohol in the breath of the person who underwent the test exceeds 250 micrograms of alcohol per litre of breath:

(b) ~~in relation to an oral fluid test, means an oral fluid test result that indicates that the oral fluid of the person who underwent the test contains 1 or more qualifying drugs~~

(b) in relation to the result of an oral fluid test, means the result of the test indicates that the concentration level of a qualifying drug in the oral fluid of the person who underwent the test equals or exceeds the level specified for the drug in a notice made under **section 71G**

- (4) In section 2(1), definition of **qualifying drug**, replace paragraph (a)(i) with:

- (a) means any substance, preparation, mixture, or article containing a controlled drug specified in Schedule 1 or 2 of the Misuse of Drugs Act 1975 or any of Parts 1 to 5 and Part 7 of Schedule 3 of the Misuse of Drugs Act 1975; and

*Amendments to primary responsibilities concerning use of drugs* 5

**5 Section 11A replaced (Persons may not drive or attempt to drive while impaired and their blood contains evidence of use of qualifying drug)**

Replace section 11A with:

**11A ~~Persons not to drive or attempt to drive while oral fluid or blood contains qualifying drug~~** 10

~~A person may not drive or attempt to drive a motor vehicle while—~~

- ~~(a) the person's oral fluid, as ascertained by the results of 2 oral fluid tests subsequently undergone by the person under any of **sections 71A to 71C**, indicates use of a qualifying drug; or~~

- ~~(b) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains evidence of the use of a qualifying drug.~~ 15

**11A Persons not to drive or attempt to drive while blood contains evidence of, or oral fluid indicates, use of qualifying drug**

- (1) A person may not drive or attempt to drive a motor vehicle while—** 20

- (a) the person's blood contains evidence of use of a qualifying drug (see **sections 57A(1) and (2), 57B(1) and (2), and 57C(1) and (2)**); or**

- (b) the person's oral fluid indicates use of a qualifying drug (see **sections 57A(3), 57B(3), and 57C(3) and (4)**).**

- (2) For the purposes of **subsection (1)(a)**, evidence of use of a qualifying drug has the same meaning as in **section 56AAA**.** 25

- (3) For the purposes of **subsection (1)(b)**, a person's oral fluid **indicates use of a qualifying drug** if the results of a first oral fluid test and a second oral fluid test subsequently undergone by the person are positive and indicate the use of the same qualifying drug.** 30

**6 Section 13 amended (Drivers and other road users to comply with directions of enforcement officers, etc)**

Replace section 13(1) and (2) with:

- (1) A person must comply with sections 68, 69, 70, **71A, 71B, 71C, 71E, 71F**, 72, and 73 (which relate to the administration of breath screening tests, evidential breath tests, oral fluid tests, and blood tests).** 35

- (2) A person must comply with all lawful requirements, directions, and requests made by an enforcement officer under any of sections 68, 69, 70, **71A, 71B, 71C, 71E, 71F**, 72, and 73.

*Drug-related offences and penalties*

- 7 Part 5 heading amended** 5  
In the Part 5 heading, replace “**alcohol-related**” with “**alcohol- and drug-related**”.
- 8 Cross-heading above section 34 amended**  
In the cross-heading above section 34, after “*alcohol*”, insert “*or drugs*”.

- 8A New section 56AAA and cross-heading inserted** 10  
After the Part 6 heading, insert:

*Definition for purposes of this Part*

**56AAA Meaning of evidence of use of qualifying drug**

In this Part, a person’s blood contains **evidence of use of a qualifying drug** if—

- (a) the blood concentration level of a listed qualifying drug exceeds the tolerance level for the drug; or
- (b) the blood contains any level of an unlisted qualifying drug.

- 8B Section 56 amended (Contravention of specified breath or blood-alcohol limit)** 20  
In section 56(4), replace “subsection (1) or subsection (2), or any of sections 57A(1)” with “subsection (1) or (2) or any of sections **57A(1), 57B(1), 57C(1)**”.

- 9 Section 57A replaced (Driving while impaired and with blood that contains evidence of use of qualifying drug)** 25  
Replace section 57A with:

**57A Driving with blood that contains evidence of, or oral fluid that indicates, use of 1 qualifying drug**

*Offence: driving while blood contains evidence of use of 1 qualifying drug*

- (1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person’s blood—
- (a) contains evidence of use of a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug; or

(b) contains evidence of use of an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**.

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*Infringement offence: driving while blood contains evidence of use of 1 qualifying drug*

(2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person's blood—

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(a) contains evidence of use of 1 listed qualifying drug and the blood concentration level of the drug equals or is less than the high-risk level (if any) for the drug; or

(b) contains evidence of use of 1 unlisted qualifying drug and the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.

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*Infringement offence: driving while oral fluid indicates use of qualifying drug*

(3) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if—

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(a) the results of a first oral fluid test and second oral fluid test subsequently undergone by the person are positive and indicate the use of the same qualifying drug; and

(c) the person does not elect to have a blood test in accordance with **section 71D**.

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**57B Driving while blood contains evidence of, or oral fluid indicates, use of 2 or more qualifying drugs**

*Offence: driving while blood contains evidence of use of 2 or more qualifying drugs*

(1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person's blood contains evidence of use of 2 or more qualifying drugs and either or both of the following apply:

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(a) 1 or more of the drugs are listed qualifying drugs and the blood concentration level for 1 or more listed qualifying drugs exceeds the applicable high-risk level:

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(b) 1 or more of the drugs are unlisted qualifying drugs and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is

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|            |   |    |
|------------|---|----|
|            | <u>trained to give the test when the person was required to do so under <b>section 71F</b>.</u>   |    |
|            | <i><u>Infringement offence: driving while blood contains evidence of use of 2 or more qualifying drugs</u></i>  |    |
| (2)        | <u>A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person's blood—</u>  | 5  |
|            | (a) <u>contains evidence of use of 2 or more listed qualifying drugs and the blood concentration level of each listed qualifying drug equals or is less than the high-risk level for the drug; or</u>   | 10 |
|            | (b) <u>contains evidence of use of 2 or more unlisted qualifying drugs and the person was not required to undergo a compulsory impairment test under <b>section 71F</b> before the blood specimen was taken; or</u>   |    |
|            | (c) <u>contains evidence of use of 1 or more listed qualifying drugs and 1 or more unlisted qualifying drugs and—</u>   | 15 |
|            | (i) <u>the blood concentration level of each listed qualifying drug equals or is less than the high-risk level for the drug; and</u>  |    |
|            | (ii) <u>the person was not required to undergo a compulsory impairment test under <b>section 71F</b> before the blood specimen was taken.</u>   | 20 |
|            | <i><u>Infringement offence: driving while oral fluid indicates use of 2 or more qualifying drugs</u></i>  |    |
| (3)        | <u>A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if—</u>   |    |
|            | (a) <u>the results of a first oral fluid test and second oral fluid test subsequently undergone by the person are positive and indicate the use of 2 or more of the same qualifying drugs; and</u>  | 25 |
|            | (b) <u>the person does not elect to have a blood test in accordance with <b>section 71D</b>.</u>  |    |
| <b>57C</b> | <b><u>Driving while blood or breath contains alcohol and blood contains evidence of, or oral fluid indicates, use of 1 qualifying drug</u></b>  | 30 |
|            | <i><u>Offence: driving while blood contains alcohol and evidence of use of 1 qualifying drug</u></i>  |    |
| (1)        | <u>A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person's blood contains alcohol and evidence of use of 1 qualifying drug and any or all of the following apply:</u> | 35 |
|            | (a) <u>the proportion of alcohol in the person's blood—</u>   |    |

- (i) exceeds 80 milligrams of alcohol per 100 millilitres of blood; or
- (ii) if the person is younger than 20, exceeds 30 milligrams of alcohol per 100 millilitres of blood; or
- (iii) if the person holds an alcohol interlock licence or a zero alcohol licence, equals or is less than 50 milligrams of alcohol per 100 millilitres of blood: 5
- (b) the drug is a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug:
- (c) the drug is an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**. 10
- Infringement offence: driving while blood contains alcohol and evidence of use of 1 qualifying drug*
- (2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73,— 15
- (a) contains alcohol and the proportion of alcohol in the person's blood equals or is less than—
- (i) 80 milligrams of alcohol per 100 millilitres of blood; or 20
- (ii) if the person is younger than 20, 30 milligrams of alcohol per 100 millilitres of blood; and
- (b) contains evidence of use of a qualifying drug and,—
- (i) if the drug is a listed qualifying drug, the blood concentration level of the drug equals or is less than the high-risk level (if any) for the drug; and 25
- (ii) if the drug is an unlisted qualifying drug, the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.
- Infringement offence: driving while blood contains alcohol and oral fluid indicates use of 1 qualifying drug* 30
- (3) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if,—
- (a) as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person's blood contains alcohol but the proportion of alcohol in the person's blood equals or is less than— 35
- (i) 80 milligrams of alcohol per 100 millilitres of blood; or
- (ii) if the person is younger than 20, 30 milligrams of alcohol per 100 millilitres of blood; and 40

- (b) the results of a first oral fluid test and the second oral fluid test subsequently undergone by the person are positive and indicate the use of the same qualifying drug; and
- (c) the person does not elect to have a blood test in accordance with **section 71D**. 5
- Infringement offence: driving while breath contains alcohol and oral fluid indicates use of 1 qualifying drug*
- (4) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if—
- (a) the proportion of alcohol in the person’s breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, equals or is less than— 10
- (i) 400 micrograms of alcohol per litre of breath; or
- (ii) if the person is younger than 20, 150 micrograms of alcohol per litre of breath; and 15
- (b) the results of a first oral fluid test and second oral fluid test subsequently undergone by the person are positive and indicate the use of the same qualifying drug; and
- (c) the person does not elect to have a blood test in accordance with **section 71D**. 20
- (5) **Subsections (2), (3), and (4)** do not apply to a person who holds an alcohol interlock licence or a zero alcohol licence (*see* section 57AA for offences relating to contravention of specified breath or blood alcohol limits by a holder of an alcohol interlock licence or a zero alcohol licence).
- 57A Driving with oral fluid that indicates or blood that contains evidence of use of 1 qualifying drug** 25
- (1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains evidence of the use of 1 qualifying drug and,— 30
- (a) if the qualifying drug is listed in **Schedule 5**, the proportion of the drug in the person’s blood equals or exceeds the level specified in that schedule for the drug; or
- (b) if the qualifying drug is not listed in **Schedule 5**, the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**. 35
- (2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if the person’s blood, as ascertained from an analysis of a



- ~~blood specimen subsequently taken from the person under section 72 or 73, contains evidence of the use of 1 qualifying drug and,—~~
- (a) ~~if the qualifying drug is listed in **Schedule 5**, the proportion of the drug is less than the level specified in that schedule for the drug; or~~
- (b) ~~if the qualifying drug is not listed in **Schedule 5**, the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.~~ 5
- (3) ~~A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if—~~
- (a) ~~the results of 2 oral fluid tests subsequently undergone by the person under any of **sections 71A to 71C** are positive; and~~ 10
- (b) ~~the first oral fluid test and the second oral fluid test indicate the use of the same qualifying drug; and~~
- (c) ~~the person does not elect to have a blood test in accordance with **section 71D**.~~ 15
- 57B Driving while blood contains evidence of, or oral fluid indicates, use of 2 or more qualifying drugs**
- (1) ~~A person who drives or attempts to drive a motor vehicle on a road commits an offence if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of 2 or more qualifying drugs and—~~ 20
- (a) ~~the proportion of 1 or more of the qualifying drugs in the person's blood equals or exceeds the level specified in **Schedule 5** for the drug; or~~
- (b) ~~if 1 or more of the qualifying drugs in the person's blood are not listed in **Schedule 5**, the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**.~~ 25
- (2) ~~A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of 2 or more qualifying drugs but,—~~ 30
- (a) ~~if 1 or more of the qualifying drugs in the person's blood are listed in **Schedule 5**, the proportion of each of those qualifying drugs in the person's blood is less than the level specified in that schedule for each drug;~~
- (b) ~~if 1 or more of the qualifying drugs in the person's blood are not listed in **Schedule 5**, the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.~~ 35
- (3) ~~A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if—~~ 40

- (a) the results of 2 oral fluid tests subsequently undergone by the person under any of **sections 71A to 71C** are positive; and
- (b) the first oral fluid test and the second oral fluid test indicate the use of 2 or more of the same qualifying drugs; and
- (c) the person does not elect to have a blood test in accordance with **section 71D**. 5
- 57C Driving while blood or breath contains alcohol and blood contains evidence of or oral fluid indicates use of qualifying drug**
- (1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains both alcohol and evidence of the use of a qualifying drug if any or all of the following apply: 10
- (a) the proportion of alcohol in the person's blood—
- (i) exceeds 80 milligrams of alcohol per 100 millilitres of blood; or
- (ii) if the person is younger than 20, exceeds 30 milligrams of alcohol per 100 millilitres of blood; or 15
- (iii) if the person holds an alcohol interlock licence or zero alcohol licence, does not exceed 50 milligrams of alcohol per 100 millilitres of blood;
- (b) the proportion of a qualifying drug in the person's blood that is listed in **Schedule 5** equals or exceeds the level specified in that schedule for the drug: 20
- (c) if the person's blood contains evidence of the use of a qualifying drug that is not listed in **Schedule 5**, the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**. 25
- (2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains both alcohol and evidence of the use of a qualifying drug but— 30
- (a) the proportion of alcohol in the person's blood equals or is less than—
- (i) 80 milligrams of alcohol per 100 millilitres of blood; or
- (ii) if the person is younger than 20, 30 milligrams of alcohol per 100 millilitres of blood; and 35
- (b) if the person's blood contains evidence of the use of 1 or more qualifying drugs that are listed in **Schedule 5**, the proportion of each of those drugs in the person's blood is less than the level specified in that schedule for the drug; and

- (e) if the person's blood contains evidence of the use of a qualifying drug that is not listed in **Schedule 5**, the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.
- (3) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if— 5
- (a) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains alcohol but the proportion of alcohol in the person's blood equals or is less than— 10
- (i) 80 milligrams of alcohol per 100 millilitres of blood; or
- (ii) if the person is younger than 20, 30 milligrams of alcohol per 100 millilitres of blood; and
- (b) the results of 2 oral fluid tests subsequently undergone by the person under any of **sections 71A to 71C** are positive and— 15
- (i) the first oral fluid test and the second oral fluid test indicate the use of the same qualifying drug; and
- (ii) the person does not elect to have a blood test in accordance with **section 71D**.
- (4) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if— 20
- (a) the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, equals or is less than—
- (i) 400 micrograms of alcohol per litre of breath; or
- (ii) if the person is younger than 20, 150 micrograms of alcohol per litre of breath; and 25
- (b) the results of 2 oral fluid tests subsequently undergone by the person under any of **sections 71A to 71C** are positive and—
- (i) the first oral fluid test and the second oral fluid test indicate the use of the same qualifying drug; and 30
- (ii) the person does not elect to have a blood test in accordance with **section 71D**.
- 57D Penalties for offences against sections 57A(1), 57B(1), and 57C(1)**
- (1) If a person is convicted of a first or second offence against **section 57A(1)**,— 35
- (a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$4,500; and
- (b) the court must order the person to be disqualified for 6 months or more from holding or obtaining a driver licence.

- (2) If a person is convicted of a first or second offence against **section 57B(1) or 57C(1)**,—
- (a) the maximum penalty is imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,500; and
- (b) the court must order the person to be disqualified for 9 months or more from holding or obtaining a driver licence. 5
- (3) If a person is convicted of a third or subsequent offence against any of sections 56(1), 56(2), **57A(1), 57B(1), 57C(1), 58(1)**, 60(1), 61(1), and 61(2) (whether or not that offence is of the same kind as the person’s first or second offence against any of those provisions),— 10
- (a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and
- (b) the court must order the person to be disqualified for more than 1 year from holding or obtaining a driver licence.
- (4) If an offence against **section 57A(1), 57B(1), or 57C(1)** is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in **subsection (1)(b), (2)(b), or (3)(b)** does not apply and section 65AH(3)(b) applies. 15
- (5) **Subsection (3)(b)** does not apply if an order is made under section 65. 20
- (5A) For the purposes of this section, a conviction against a provision of the Transport Act 1962 corresponding to an offence specified in **subsection (3)** is to be treated as a conviction for an offence specified in that subsection.
- (6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence). 25

## 10 Section 58 amended (Contravention of section 12)

In section 58(1)(b), replace “controlled drug specified in Schedule 1 of the Misuse of Drugs Act 1975” with “qualifying drug”.

- (1) Replace section 58(1) and (1A) with:
- (1) A person commits an offence if the person drives or attempts to drive a motor vehicle on a road while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle. 30
- (2) In section 58(3), replace “57A(1)” with “**section 57A(1), 57B(1), 57C(1)**”.

## 11 Section 59 amended (Failure or refusal to remain at specified place or to accompany enforcement officer) 35

- (1) In section 59(1)(b) and (c), replace “71A” with “**71A, 71B, 71E, 71F**”.
- (2) In section 59(1)(d), after “section 69 or a compulsory impairment test under section 71A”, insert “, an oral fluid test under a requirement under **section 71A or 71B**, or a compulsory impairment test under **section 71F**”.

- (2) Replace section 59(1)(d) with:
- (d) having undergone an evidential breath test under a requirement under section 69, an oral fluid test under a requirement under any of **sections 71A to 71C**, or a compulsory impairment test under **section 71F**, fails or refuses to remain at the place where the person underwent the test until after the result of the test is ascertained. 5
- 12 Section 60 amended (Failure or refusal to permit blood specimen to be taken or to undergo compulsory impairment test)**
- (1) In section 60(1)(d), replace “section 71A” with “**section 71F**”.
- (2) In section 60(3), replace “57A(1),” with “**57A(1), 57B(1), 57C(1),**” 10
- 13 Section 61 amended (Person in charge of motor vehicle causing injury or death)**
- (1) Replace section 61(2)(b) and (c) with:
- (b) ~~if the blood of the person in charge, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of a qualifying drug and,—~~ 15
- (i) ~~if the qualifying drug is listed in **Schedule 5**, the proportion of the drug in the person’s blood equals or exceeds the level specified in that schedule for the drug; or~~
- (ii) ~~if the qualifying drug is not listed in **Schedule 5**, the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**.~~ 20
- (b) if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the blood of the person in charge— 25
- (i) contains evidence of use of a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug; or
- (ii) contains evidence of use of an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**. 30
- (2) In section 61(2A), delete “or (2)(c)” 35
- (3) In section 61(3A), replace “or section 56(1) or (2), or section 57A(1), or section 58(1), or section 60(1)” with “any of sections 56(1), 56(2), **57A(1), 57B(1), 57C(1), 58(1),** and 60(1)”.

**14 Section 62 amended (Causing injury or death in circumstances to which section 61 does not apply)**

(1) In section 62(1)(b), replace “controlled drug specified in Schedule 1 of the Misuse of Drugs Act 1975” with “qualifying drug”.

(1) Replace section 62(1)(b) with:

(b) if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the blood of the person driving contains evidence of use of a listed qualifying drug and the blood concentration level of the drug equals or is less than the high-risk level (if any) for the drug.

(2) Replace section 62(1B) with:

(1B) ~~A person commits an offence if the person causes bodily injury to, or the death of, a person by driving or attempting to drive a vehicle if the blood of the person driving, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of a qualifying drug and—~~

(a) ~~if the qualifying drug is listed in **Schedule 5**, the proportion of the drug in the person’s blood is less than the level specified in that schedule for the drug; or~~

(b) ~~if the qualifying drug is not listed in **Schedule 5**, the person was not required to undergo a compulsory impairment test under **section 71F** before the blood specimen was taken.~~

(1B) A person commits an offence if the person causes bodily injury to, or the death of, a person by driving or attempting to drive a vehicle if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the blood of the person driving—

(a) contains evidence of use of a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug; or

(b) contains evidence of use of an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**.

**15 Section 64 amended (Defences)**

(1) In section 64(1A), replace “section 57A(1)” with “**section 57A(1) or (2), 57B(1) or (2), 57C(1) or (2),**”.

(1A) After section 64(1A), insert:

(1AB) It is a defence to proceedings for an offence against **section 57A(3), 57B(3), or 57C(3) or (4)** if the court is satisfied that the person’s oral fluid indicates use of a qualifying drug and—

- (a) the person—
- (i) has a current and valid prescription for the qualifying drug that was written for that person by a health practitioner; and
- (ii) has complied with the instructions (if any) from a health practitioner or from the manufacturer of the qualifying drug about driving, consuming alcohol or other prescription medicines, or both, while consuming the qualifying drug; or 5
- (b) the drug was administered by a health practitioner, and the person complied with the instructions (if any) given by the health practitioner.
- (2) In section 64(2), replace “and 77” with “77, and **77A**”. 10
- (3) In section 64(3A)(a), replace “or evidential breath test” with “, evidential breath test, or oral fluid test”.
- (4) After section 64(5), insert:
- (6) It is no defence to proceedings for an offence against this Act in respect of the proportion of a qualifying drug in a person’s blood— 15
- (a) that there was or may have been an error in the result of the first oral fluid test or second oral fluid test; or
- (b) that the occurrence or likely occurrence of any such error did not entitle or empower a person to request or require a second oral fluid test or a blood test. 20

#### 16 Section 65AB amended (Qualifying offences)

In section 65AB(1), after “57AA,”, insert “**57C**,”.

#### *Blood test fee*

#### 17 Section 67 amended (Blood test fee)

- (1) In section 67(1)(a)(i), replace “72(1)” with “~~72(1)(a)(i)~~72(1)(a), (b), (c), or (d)”. 25
- (2) After section 67(1)(a), insert:
- (aa) any person who—
- (i) elects or is required to undergo a blood test under **section 71D or 72(1)(a)(ii), (e), (f), or (g)(e), (f), (g), or (h)**; and 30
- (ii) is advised in accordance with **section 71A(4)(c), 71D(3)(2), or 72(1F)** before undergoing the blood test; and;
- (iii) commits an offence against **section 57A(1) or (2), 57B(1) or (2), or 57C(1) or (2)**;
- (3) In section 67(1B)(a), replace “57A” with “**57A(1), 57B(1), 57C(1)**”. 35
- (4) In section 67(2), after “Act”, insert “(including prescribing different fees for different classes of persons)”.

*Enforcement procedures***18 Section 68 amended (Who must undergo breath screening test)**

After section 68(5), insert:

- (6) An enforcement officer may require a person to undergo a breath screening test whether or not a person has already undergone an oral fluid test under any of **sections 71A to 71C** and regardless of the ~~outcome of any such tests~~ result (or failure to produce a result) of any such oral fluid test or tests. 5

**19 Section 70A amended (Right to elect blood test)**

Replace the heading to section 70A with “**Who has right to elect blood test after positive evidential breath test**”. 10

**20 Section 71A replaced (Requirement to undergo compulsory impairment test)**

Replace section 71A with:

*Enforcement procedures for offences involving use of qualifying drugs***71A Who must undergo first oral fluid test** 15

- (1) An enforcement officer may require any of the following persons to undergo a first oral fluid test without delay:
- (a) a driver of, or a person attempting to drive, a motor vehicle on a road;
  - (b) a person who the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle: 20
  - (c) if an accident has occurred involving a motor vehicle,—
    - (i) the driver of the vehicle at the time of the accident; or
    - (ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person who the officer has good cause to suspect was in the motor vehicle at the time of the accident. 25
- (2) An enforcement officer—
- (a) may require a person to undergo ~~an a first~~ a first oral fluid test whether or not the person has already undergone a breath screening test under section 68 or an evidential breath test under section 69 and regardless of the ~~outcome of any such tests~~ result (or failure to produce a result) of any such oral fluid test or tests; but 30
  - (b) must not require a person to undergo ~~an a first~~ a first oral fluid test if an enforcement officer has required the person to undergo a compulsory impairment test under **section 71F(1)**. 35
- (3) An enforcement officer may require the person—



- (a) to remain in the place where stopped to undergo the first oral fluid test; or
- (b) if it is not practicable for the person to undergo an oral fluid test at the place where stopped, to accompany an enforcement officer to ~~any other~~ a place where it is likely that the person can undergo a first oral fluid test. 5
- (3A) If it is not practicable for a person to undergo a first oral fluid test at a place to which the person has accompanied an enforcement officer under **subsection (3)(b)**, an enforcement officer may require the person to accompany the officer to any other place where it is likely that the person can undergo a first oral fluid test. 10
- (4) An enforcement officer who requires a person to undergo a first oral fluid test under this section must, without delay, advise the person that,—
- (a) if the person refuses to undergo a first oral fluid test under this section or a second oral fluid test under **section 71B**, the person will be required to permit the taking of a blood specimen under **section 72(1)(a)(e)**; and 15
- (b) if the result of a blood test indicates the presence of alcohol or 1 or more qualifying drugs in the person’s blood, the person may be issued with an infringement offence notice or charged with an offence, depending on the proportion of the alcohol or qualifying drugs in the person’s blood and the type of qualifying drugs; and 20
- (c) the person may be liable to pay a blood test fee and associated medical costs if the result of the blood test establishes that the person has committed an offence against **section 57A(1), 57B(1), or 57C(1)** or an infringement offence against **section 57A(2), 57B(2), or 57C(2)**. 25
- (5) A person must—
- (a) accompany an enforcement officer to a place when required to do so under this section:
- (b) if the person has accompanied an enforcement officer to a place under this section, remain at that place until the person is required to undergo an oral fluid test under this section: 30
- (c) if the person has undergone an oral fluid test under this section, remain at the place where the person underwent the test until after the result of the test is ascertained. 35
- (6) An enforcement officer may arrest without warrant a person who contravenes **subsection (5)**.
- (7) An enforcement officer may require a person who has been arrested under **subsection (6)** and taken to or detained at a place to undergo a first oral fluid test at that place. 40

- (8) An enforcement officer may not require a person who is in a hospital or medical centre as a result of an accident involving a motor vehicle to undergo an oral fluid test under this section.

#### 71B Who must undergo second oral fluid test

- (1) An enforcement officer must require a person to undergo a second oral fluid test without delay if the person has undergone a first oral fluid test and the result of the first oral fluid test is positive unless the person is instead required to undergo a compulsory impairment test in the circumstances described in **section 71F(5)**. 5
- (2) An enforcement officer may require the person— 10
- (a) to remain in the place where the person underwent the first oral fluid test to undergo the second oral fluid test; or
- (b) if it is not practicable for the person to undergo a second oral fluid test at the place where the person underwent the first oral fluid test, to accompany an enforcement officer to ~~any other~~ a place where it is likely that the person can undergo a second oral fluid test. 15
- (2A) If it is not practicable for a person to undergo a second oral fluid test at a place to which the person has accompanied an enforcement officer under **subsection (2)(b)**, an enforcement officer may require the person to accompany the officer to any other place where it is likely that the person can undergo a second oral fluid test. 20
- (3) A person must—
- (a) accompany an enforcement officer to a place when required to do so under this section:
- (b) if the person has accompanied an enforcement officer to a place under this section, remain at that place until the person is required to undergo an oral fluid test under this section: 25
- (c) if the person has undergone an oral fluid test under this section, remain at the place where the person underwent the test until after the result of the test is ascertained. 30
- (4) An enforcement officer may arrest without warrant a person who contravenes **subsection (3)**.
- (5) An enforcement officer may require a person who has been arrested under **subsection (4)** and taken to or detained at a place to undergo a second oral fluid test at that place. 35

#### 71C Person must undergo further oral fluid test if either first or second oral fluid test fails to produce result

- (1) An enforcement officer must require a person to undergo without delay a further oral fluid test if—

- (a) a first oral fluid test carried out under **section 71A** fails to produce a result;
- (b) a second oral fluid test carried out under **section 71B** fails to produce a result.
- (2) A requirement under **subsection (1)** is deemed,— 5
- (a) ~~in the case of a person who underwent a first oral fluid test that failed to produce a result, to be a requirement under **section 71A**;~~
- (b) ~~in the case of a person who underwent a second oral fluid test that failed to produce a result, to be a requirement under **section 71B**.~~
- (3) ~~If for any reason a further oral fluid test under **subsection (1)** fails to produce a result, the result of the further oral fluid test is deemed to have produced a result that is not positive.~~ 10
- (2) A person must remain at the place where the person underwent the test that failed to produce a result until after the result of the further oral fluid test is ascertained. 15
- (3) An enforcement officer may arrest without warrant a person who contravenes **subsection (2)**.
- (4) An enforcement officer may require a person who has been arrested under **subsection (3)** and taken to or detained at a place to undergo a further oral fluid test at that place. 20
- (5) A positive result of a further oral fluid test required under **subsection (1)** must,—
- (a) if required following a first oral fluid test that failed to produce a result, be treated for all purposes under this Act as the result of the first oral fluid test; or 25
- (b) if required following a second oral fluid test that failed to produce a result, be treated for all purposes under this Act as the result of the second oral fluid test.
- (6) A person may be required to undergo only 1 further oral fluid test under **subsection (1)**. 30
- 71D Person has right to elect blood test after 2 positive oral fluid tests**
- (1) A person has the right, within 10 minutes of being advised by an enforcement officer of the matters specified in **section 77A(3)(a)**, to elect to have a blood test to assess the proportion of a qualifying drug in the person's blood if— 35
- (a) the person has undergone a first oral fluid test and a second oral fluid test that have produced positive results; and
- (b) the results of both tests indicate the use of 1 or more of the same qualifying drugs.

- (2) An enforcement officer who advises a person of the matters specified in **section 77A(3)(a)** must also, without delay, advise the person that if the person elects to have a blood test the person may be liable to pay a blood test fee and associated medical costs if the result of the blood test establishes that the person has committed an offence against **section 57A(1), 57B(1), or 57C(1)** or an infringement offence against **section 57A(2), 57B(2), or 57C(2)**. 5
- 71E Person may be required to accompany enforcement officer to undergo blood test**
- (1) An enforcement officer may require the following persons to accompany an enforcement officer to a place where it is likely that the person can undergo an evidential blood test when required to do so by the officer: 10
- (a) a person who fails or refuses to undergo an oral fluid test without delay after having been required to do so by the officer under any of **sections 71A to 71C**;
- (b) a person who has undergone ~~2 oral fluid tests under any of sections 71A to 71C~~ a first oral fluid test and a second oral fluid test that have produced positive results if— 15
- (i) the person was the driver of a motor vehicle at the time an accident occurred involving the motor vehicle or an enforcement officer has good cause to suspect that the person was in the motor vehicle at the time of the accident; and 20
- (ii) the enforcement officer has good cause to suspect that another person has been injured or killed as a result of the accident;
- (c) a person who has elected to have a blood test under **section 71D**;
- (d) a person who fails to complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when the person is required to do so by an enforcement officer under **section 71F**. 25
- (1A) If it is not practicable for a person to undergo a blood test at a place to which the person has accompanied an enforcement officer under **subsection (1)**, an enforcement officer may require the person to accompany the officer to any other place where it is likely that the person can undergo a blood test. 30
- (2) The person must—
- (a) accompany the enforcement officer to a place when required to do so under this section: 35
- (b) if the person has accompanied an enforcement officer to a place under this section, remain at that place until the person is required to provide a blood specimen for collection under section 72 or 73.
- (3) An enforcement officer may arrest without warrant a person who contravenes **subsection (2)**. 40

**71F Who must undergo compulsory impairment test**

- (1) An enforcement officer may require any of the following persons to undergo a compulsory impairment test given by an enforcement officer trained to give the test if the enforcement officer has good cause to suspect that the person has consumed a drug or drugs: 5
- (a) a driver of, or a person attempting to drive, a motor vehicle on a road;
  - (b) a person who the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle;
  - (c) if an accident has occurred involving a motor vehicle,— 10
    - (i) the driver of the vehicle at the time of the accident; or
    - (ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person who the officer has good cause to suspect was in the motor vehicle at the time of the accident. 15
- (2) An enforcement officer may require a person specified in **subsection (1)** to—
- (a) remain in the place where stopped, for a period of time that is reasonable in the circumstances, to undergo the compulsory impairment test; or
  - (b) accompany an enforcement officer to another place to undergo the compulsory impairment test if it would enhance road safety, personal safety, the person's privacy, or the giving or taking of the test. 20
- (3) A person who has undergone a compulsory impairment test must remain at the place where the person underwent the test until the result of the test is ascertained.
- (4) An enforcement officer may arrest a person without warrant if the person refuses or fails to comply with **subsection (2) or (3)**. 25
- (5) ~~An enforcement officer may exercise the powers in **subsections (1) and (2)** in any of the following circumstances:~~
- ~~(a) in addition to any breath screening tests under section 68 or evidential breath tests under section 69 and regardless of the outcome of any such tests: 30~~
  - ~~(b) in addition to an oral fluid test under any of **sections 71A to 71C** if the oral fluid test does not produce a positive result but the enforcement officer has good cause to suspect that the person has consumed a qualifying drug: 35~~
  - ~~(c) in addition to a first oral fluid test under **section 71A** that produces a positive result and indicates the use of more than 1 qualifying drug.~~
- (5) An enforcement officer may exercise the powers in **subsections (1) and (2)** in addition to any of the following:

- (a) any breath screening test, regardless of the result of the test (or a failure of the test to produce a result):
- (b) any evidential breath test, regardless of the result of the test (or a failure of the test to produce a result):
- (c) a first oral fluid test that— 5
- (i) does not produce a positive result; or
- (ii) produces a positive result that indicates the use of more than 1 qualifying drug:
- (d) a second oral fluid test that does not produce a positive result.
- (6) An enforcement officer must not exercise the powers in **subsection (1) and (2)** in addition to either of the following: 10
- (a) a first oral fluid test that produces a positive result that indicates the use of only 1 qualifying drug:
- (b) a second oral fluid test that produces a positive result.
- 71G Approval of oral fluid tests and oral fluid testing devices** 15
- (1) The Minister of Police may, by notice, approve—
- (a) a kind of device that may be used as an oral fluid testing device for the purposes of testing oral fluid for the presence of 1 or more specified qualifying drugs:
- (b) the manner in which an oral fluid test may be carried out by means of an oral fluid testing device. 20
- (2) Before giving a notice under **subsection (1)**, the Minister of Police must—
- (a) consult the Minister of Transport and the Science Minister; and
- (b) have regard to the accuracy of the device; and
- (c) be satisfied that any device proposed to be approved under **subsection (1)(a)** and used in a manner proposed to be approved under **subsection (1)(b)** will return a positive result only if the device detects a presence of a qualifying drug at a level that indicates recent use of a specified qualifying drug. 25
- (3) In determining for the purposes of **subsection (2)(c)** whether a device will return a positive result only if the device detects a presence of a qualifying drug at a level that indicates recent use of a specified qualifying drug, the Minister must have regard to any relevant New Zealand Standards or joint Australian/New Zealand Standards. 30
- (4) A notice made under **subsection (1)** for the purposes of approving a kind of device or a test— 35
- (a) must specify, for each specified qualifying drug, the concentration level of the qualifying drug in the person's oral fluid at or above which the result of the test will appear positive for that qualifying drug; and

- (b) may—
- (i) define an approved device as a device that bears or is associated by its manufacturer with such trade name or number or other expression, or any combination of those things, as may be specified in the notice: 5
- (ii) provide for a test, or part of a test, to be carried out in accordance with instructions displayed or printed on or by a specified kind of device.
- (5) In the absence of proof to the contrary, a device is to be treated as bearing or being associated with a particular trade name or number or other expression if that name or number or other expression— 10
- (a) appears on the device, whether on a label or otherwise, or is shown on a display panel on the device; or
- (b) is printed out by the device on a card or on paper; or
- (c) appears on printed matter that— 15
- (i) accompanies the device; and
- (ii) is associated with the device or is intended by the manufacturer of the device to be associated with the device; and
- (iii) is issued by or on behalf of the manufacturer.
- (6) In this section, **specified qualifying drug** means a qualifying drug specified in a notice made under **subsection (1)**. 20
- (7) A notice made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).
- Enforcement procedures involving taking of blood specimens*
- 21 New cross-heading above section 72 inserted** 25
- After section 71A, insert:
- Enforcement procedures involving taking of blood specimens*
- 22 Section 72 amended (Who must give blood specimen at places other than hospital or medical centre)**
- (1) Replace section 72(1)(a) with: 30
- (a) the person fails or refuses to undergo without delay—
- (i) an evidential breath test after having been required to do so by an enforcement officer under section 69; or
- (ii) an oral fluid test after having been required to do so by an enforcement officer under any of **sections 71A to 71C**; or 35
- (2) Replace section 72(1)(e) with:

- (e) the person fails or refuses to undergo without delay an oral fluid test after having been required to do so by an enforcement officer under any of **sections 71A to 71C**; or
- (ef) the person has undergone a second oral fluid test under **section 71B** and— 5
- (i) it appears to the officer that the test is positive; and
- (ii) within 10 minutes of being advised by an enforcement officer of the matters specified in **section 77A(3)(a)** (which sets out the conditions of the admissibility of the test), the person advises the officer that the person wishes to undergo a blood test; or 10
- (fg) the person has undergone 2 oral fluid tests under any of **sections 71A to 71C** and the person has accompanied an enforcement officer to a place where the person can undergo an evidential blood test under **section 71E(1)(b) or (1A)**; or
- (gh) the person fails to complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when the person is required to do so by an enforcement officer under **section 71F**. 15
- (2A) In section 72(1A) and (1B), replace “Subsection (e)” with “**Subsection (h)**”.
- (3) In section 72(1B) and (1C), replace “section 68 or evidential breath tests under section 69” with “section 68, evidential breath tests under section 69, or oral fluid tests under any of **sections 71A to 71C**”. 20
- (4) In section 72(1E), replace “(c), (d), or (e)” with “(c) or (d)”.
- (5) After section 72(1E), insert:
- (1F) An enforcement officer who requires a person to permit the taking of a blood specimen under **subsection (1)(e), (f), or (g) (g), or (h)** must advise the person, without delay, that the person may be liable to pay a blood test fee and associated medical costs if the result of the blood test establishes that the person has committed an offence against **section 57A(1), 57B(1), or 57C(1)** or an infringement offence against **section 57A(2), 57B(2), or 57C(2)**. 25 30

*Evidential provisions*

- 23 Section 73A replaced (Evidence of controlled drug in blood sample taken under section 72 or 73 may not be used as evidence of use of controlled drugs in prosecutions under Misuse of Drugs Act 1975)** 35
- Replace section 73A with:
- 73A Purposes for which blood specimen taken under section 72 or 73 may be used as evidence**
- (1) Evidence of alcohol or ~~the use of a qualifying drug~~ evidence of use of any 1 or more qualifying drugs in a blood specimen taken under section 72 or 73 may



- be used as evidence in a prosecution for any offence under this Act (*see also* sections 77(2) and **77A(1)**, which specify presumptions for the purposes of this Act relating to ~~drug and alcohol testing~~ drug-testing and alcohol-testing).
- (2) Neither of the following may be used as evidence of the use of a controlled drug in a prosecution for an offence under the Misuse of Drugs Act 1975: 5
- (a) a positive result of an oral fluid test taken under any of **sections 71A to 71C**:
- (b) a blood specimen taken under section 72 or 73.
- 24 Section 75 amended (Certificates in blood-alcohol proceedings)**
- In the heading to section 75, after “**blood-alcohol**”, insert “**and drug-driving**”. 10
- 25 New section 77A inserted (Presumptions relating to drug-testing)**
- After section 77, insert:
- 77A Presumptions relating to drug-testing**
- (1) For the purposes of proceedings for an offence against this Act arising out of the circumstances in respect of which a blood specimen was taken from the defendant under section 72 or 73, it is to be conclusively presumed that the proportion of a qualifying drug in the defendant’s blood at the time of the alleged offence was the same as the proportion of the qualifying drug in the blood specimen taken from the defendant. 15
- (2) For the purposes of proceedings for an infringement offence against **section 57A(3), 57B(3), 57C(3), or 57C(4)**, it is to be presumed in the absence of proof to the contrary that a person’s oral fluid contains a qualifying drug if the results of ~~2 oral fluid tests~~ the first oral fluid test and second oral fluid test undergone by the person under any of **sections 71A to 71C** indicate use of the drug. 20  
25
- (3) However, except as provided in **subsection (4)**, the positive results of a first oral fluid test and a second oral fluid test are not admissible in evidence in proceedings for an infringement offence against **section 57A(3), 57B(3), 57C(3), or 57C(4)** if—
- (a) the person who underwent the tests is not advised by an enforcement officer, without delay after the result of the second oral fluid test is ascertained,— 30
- (i) that the second oral fluid test was positive; and
- (ii) ~~that the positive results could be presumptive evidence that the person has~~ the person will be presumed to have committed an infringement offence against this Act if the person does not request a blood test within 10 minutes; or 35
- (b) the person who underwent the test—

- (i) advises an enforcement officer, within 10 minutes of being advised of the matters specified in **paragraph (a)**, that the person wishes to undergo a blood test; and
  - (ii) complies with section 72(2).
- (4) **Subsection (3)(a)** does not apply if the person who underwent the test fails or refuses to remain at the place where the person underwent the test until the person can be advised of the result of the test. 5
- (5) The result of an oral fluid test is not admissible in evidence in proceedings for any offence against this Act other than an offence under **section 57A(3), 57B(3), 57C(3), or 57C(4)**. 10
- (6) If it is proved in proceedings for an offence against section 60 that the defendant failed or refused to comply with section 13 without reasonable cause, that failure or refusal may be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defendant, concerning the defendant's condition at the time of the alleged offence. 15

**26 Section 79 amended (Circumstances in which certificate not admissible in proceedings)**

Replace section 79(4)(c) to (e) with:

- (c) the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain, in the case of a certificate that certified the presence of or a specified proportion of alcohol,— 20
  - (i) in the case of a defendant who (at the time of the commission of the offence) was younger than 20 or held an alcohol interlock licence or a zero alcohol licence, no alcohol; or
  - (ii) in any other case, not more than 50 milligrams of alcohol per 100 millilitres of blood; or 25
- (d) the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain, in the case of a certificate that certified the presence of or a specified proportion of alcohol, 20 milligrams or more of alcohol per 100 millilitres of blood more or less than the proportion of alcohol per 100 millilitres of blood specified in the certificate referred to in section 75(5); or 30
- (e) ~~the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain, in the case of a certificate that certified the presence of or a specified proportion of a qualifying drug,—~~ 35
  - (i) ~~in the case of a qualifying drug listed in **Schedule 5**, less than the level specified in that schedule for that drug; or~~
  - (ii) ~~in the case of a qualifying drug not listed in **Schedule 5**, no evidence of the use of the qualifying drug.~~ 40

- (e) the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain,—
- (i) if a certificate certified that there is evidence of use of a listed qualifying drug, a blood concentration level equal to or less than the tolerance level for the drug; or
- (ii) if a certificate certified that there is evidence of use of an unlisted qualifying drug, no presence of the qualifying drug.

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*Mandatory prohibition from driving for 12-hour period*

**27 New section 94A and cross-heading inserted**

After section 94, insert:

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*Mandatory prohibition from driving following 2 positive oral fluid tests*

**94A Mandatory prohibition from driving for 12-hour period if results of 2 oral fluid tests appear are positive**

- (1) An enforcement officer must forbid a person to drive a motor vehicle for a 12-hour period if the person has undergone 2 oral fluid tests and ~~it appears to the enforcement officer that~~ the results of both tests are positive.
- (2) The 12-hour period starts immediately after the enforcement officer notifies the person of the prohibition.
- (3) An enforcement officer may arrest without warrant a person who fails to comply with a direction under **subsection (1)** or drives or attempts to drive within the 12-hour period.

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*Mandatory suspension of driver licence*

**28 Section 95 amended (Mandatory 28-day suspension of driver licence in certain circumstances)**

- (1) In section 95(1)(a)(i), replace “57A,” with “**57A(1), 57B(1), 57C(1),**”.
- (2) After section 95(1)(a)(i)(B), insert:

25

~~(C) to have a proportion of a qualifying drug in the person’s blood that equals or exceeds the level specified for the qualifying drug in **Schedule 5**:~~

~~(D) to have a qualifying drug in the person’s blood that is not listed in **Schedule 5** after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**.~~

30

(C) to have a blood concentration level of a listed qualifying drug exceeding the high-risk level for the drug; or

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(D) to have an unlisted qualifying drug in the person's blood after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**:

5

*Impoundment of vehicles*

**29 Section 96 amended (Vehicle seized and impounded for 28 days in certain circumstances)**

(1) After section 96(1)(d)(i)(B), insert:

(BA) proportion of a qualifying drug in the person's blood that equals or exceeds the level specified for the qualifying drug in **Schedule 5**; or

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(BB) a qualifying drug in the person's blood that is not listed in **Schedule 5** after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer when required to do so under **section 71F**; or

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(2) In section 96(1)(d)(ii), replace “57A,” with “**57A(1), 57B(1), 57C(1)**.”

Replace section 96(1)(d) with:

(d) the person, if they had previously been convicted of 2 or more offences against any of sections 56(1) and (2), 57, 57AA, **57A(1), 57B(1), 57C(1)**, 58(1), 60(1), and 61(1) and (2) within the last 4 years,—

20

(i) had a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or

(ii) had a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood; or

25

(iii) had a blood concentration level of a listed qualifying drug exceeding the high-risk level for the drug; or

(iv) had any presence of an unlisted qualifying drug in their blood after failing to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under **section 71F**; or

30

(v) failed or refused to undergo a blood test, after having been required or requested to do so under section 72 or 73.

*Reduction of disqualifications*

35

**30 Section 99 amended (Court may reduce disqualification)**

After section 99(1)(b)(via), insert:

(viaa) **section 57B(1)**:

(viab) **section 57C(1):**

**30A Section 103 amended (Persons who may apply to court for limited licence)**

In section 103(2)(d)(ii), replace “57A” with “**57A, 57B, 57C**”.

**30B Section 104 amended (Issue of limited licence to be delayed or prohibited in certain cases)**

In section 104(1)(c), replace “57A” with “**57A, 57B, 57C**”.

*Powers of entry and immobilisation*

**31 Section 119 amended (Powers of entry)**

In section 119(2)(a), replace “section 68 or section 69” with “section 68, 69, or **71A**”.

**32 Section 120 amended (Arrest of persons for alcohol or drug-related offences, or assault on enforcement officer)**

In section 120(1A), replace “section 71A” with “**section 71F**”.

**33 Section 121 amended (Enforcement officer may immobilise vehicle, etc, in specified circumstances)**

(1) In section 121(1)(a)(i)(B) and (C), replace “section 71A” with **section 71F**.

(2) After section 121(1)(a)(i)(C), insert:

(D) has failed or refused to permit a blood specimen to be taken when required to do so by an enforcement officer under **section 72(1)(a) section 72(1)(a) or (e)**; or

*Regulations*

**34 Section 167 amended (Regulations)**

Before section 167(2)(a), insert:

(aaa) is 75 demerit points in the case of an offence against **section 57B(1) or 57C(1)**:

**35 New sections 167A and 167B inserted**

After section 167, insert:

**167A ~~Setting or amending level of qualifying drug in blood specimen at or over which person commits offence against section 57A(1), 57B(1), or 57C(1)~~ high-risk and tolerance blood concentration levels for drug-driving offences**

(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister and the Minister of Police, amend **Schedule 5** by doing any 1 or more of the following:

- (a) adding the name of a qualifying drug to **Part 1 of Schedule 5** and specifying a high-risk level for the drug;
- (b) adding the name of a qualifying drug to **Part 2 of Schedule 5** and specifying a tolerance level for the drug;
- (c) amending any high-risk level or tolerance level specified in **Schedule 5** for a qualifying drug. 5
- ~~(a) adding the name of any qualifying drug and the proportion of the qualifying drug in a person's blood at or over which a person commits an offence against **section 57A(1), 57B(1), or 57C(1)**; or~~
- (b) altering the specified proportion of a qualifying drug in a person's blood at or over which a person commits an offence against **section 57A(1), 57B(1), or 57C(1)**. 10
- (1A) A high-risk level for a qualifying drug—
- (a) may be specified only if a tolerance level is specified for the drug; and
- (b) may be the same as the tolerance level for the drug. 15
- (2) Before making a recommendation under **subsection (1)**, the Ministers must, in respect of each qualifying drug referred to in the proposed order,—
- (a) seek and consider independent advice from independent experts appointed under **section 167B** on—
- (i) the specific effects of each drug referred to in the proposed order; and 20
- (ii) the appropriate high-risk level for each drug referred to in any proposed amendment to **Part 1 of Schedule 5**; and
- (iii) the appropriate tolerance level for each drug referred to in any proposed amendment to **Part 2 of Schedule 5**; and 25
- (i) ~~the specific effects of the drug, including pharmacological, psychoactive, and toxicological effects; and~~
- (ii) ~~the proportion of the qualifying drug in a person's blood that is likely to impair a person's driving to a similar extent as a proportion of alcohol in the person's blood exceeding 80 milligrams of alcohol per 100 millilitres of blood; and~~ 30
- (b) ~~have regard to the purpose of aligning the level specified in **Schedule 5** for each qualifying drug as far as practicable with a blood-alcohol limit of 80 milligrams of alcohol per 100 millilitres of blood; and~~
- (c) publish a notice in the *Gazette* and any other media the Ministers consider appropriate of their intention to recommend the making of the Order in Council; and 35
- (d) give interested persons a reasonable time, which must be specified in the notice published under **paragraph (c)**, to make submissions on the proposed order; and 40

- (e) consult the persons, representative groups, government departments, and Crown entities that the Ministers consider reasonable and appropriate to consult in the circumstances.
- (2A) The Minister may seek and consider independent advice from independent experts appointed under **section 167B** on any other matter the Minister considers appropriate before making a recommendation under **subsection (1)**. 5
- (3) The Governor-General may, by Order in Council, amend the name or description of any qualifying drug named or described in **Schedule 5**, if the amendment is necessary for the purpose of rendering that name or description consistent with the name or description of the qualifying drug in the Misuse of Drugs Act 1975. 10
- ~~(4) An Order in Council made under **subsection (1) or (3)** is a legislative instrument and a disallowable instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~ 15
- ~~(5) The explanatory note of an Order in Council under **subsection (1)** must indicate that —~~
- ~~(a) it is a confirmable instrument under section 47B of the Legislation Act 2012; and~~
- ~~(b) it is revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and~~ 20
- ~~(c) the stated time is the applicable deadline under section 47C(1)a) or (b) of that Act.~~
- (4) An Order in Council made under this section —
- (a) is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and 25
- (b) if made under **subsection (1)**, must be confirmed by an Act (see sub-part 3 of Part 5 of the Legislation Act 2019).
- 167B Ministers may appoint independent experts for purposes of section 167A**
- (1) The Minister of Transport, the Minister of Police, and the Science Minister (the **Ministers**) may from time to time appoint 1 or more independent experts to advise the Ministers on matters relating to the setting of levels in **Schedule 5** setting and amending high-risk blood concentration levels and tolerance blood concentration levels for qualifying drugs under **section 167A**. 30
- (2) The independent experts appointed under **subsection (1)** must together have appropriate expertise in relevant medical and scientific fields, including pharmacology and toxicology. 35
- (3) The function of the independent experts is —
- (a) to carry out medical and scientific evaluations of qualifying drugs; and

- (b) to advise the Ministers on—
- (i) the specific effects of qualifying drugs, including the pharmacological, psychoactive, and toxicological effects; and
  - (ii) ~~the proportion of a qualifying drug in a person's blood that is likely to impair a person's driving to a similar extent as a proportion of alcohol in the person's blood at or above 80 milligrams of alcohol per 100 millilitres of blood.~~ 5
  - (ii) the appropriate high-risk levels and tolerance levels for qualifying drugs in accordance with **subsections (4) and (5)**.
- (4) In advising the Ministers on the appropriate high-risk level for a qualifying drug, the independent experts must take into account— 10
- (a) the specific effects of the qualifying drug and the medical and scientific evaluations of the drug carried out under **subsection (3)(a)**; and
  - (b) that the high-risk level specified for a qualifying drug should, as far as practicable, be a blood concentration level that, to the best of the independent experts' knowledge, is likely to impair a person's driving; and 15
  - (c) the high-risk levels specified, at the time of advising the Ministers, in **Part 1 of Schedule 5** for other listed qualifying drugs and, in particular (where possible), for drugs with similar effects.
- (5) In advising the Ministers on the appropriate tolerance level for a qualifying drug, the independent experts must take into account— 20
- (a) the specific effects of the qualifying drug and the medical and scientific evaluations of the drug carried out under **subsection (3)(a)**; and
  - (b) that the tolerance level specified for a qualifying drug should, as far as practicable, be a blood concentration level that, to the best of the independent experts' knowledge,— 25
    - (i) is likely to indicate that a person has recently used the drug; and
    - (ii) is unlikely to be exceeded if the person has such a low level of the drug in their blood (whether due to passive exposure or otherwise) that their driving is unlikely to be impaired; and 30
  - (c) for a qualifying drug that is a prescription medicine, the maximum dose of the prescription medicine that is generally prescribed; and
  - (d) the tolerance levels specified, at the time of advising the Ministers, in **Part 2 of Schedule 5** for other listed qualifying drugs and, in particular (where possible), for drugs with similar effects. 35

**36 New section 168D and cross-heading inserted**

After section 168C, insert:



*Gazette notices***168D ~~Gazette notices approving oral fluid tests and oral fluid testing devices~~**

- (1) ~~The Minister of Police may, by notice in the *Gazette*, approve—~~
- ~~(a) a kind of device that may be used as an oral fluid testing device for the purposes of testing oral fluid for the presence of the qualifying drugs specified in the notice: 5~~
  - ~~(b) the manner in which an oral fluid test may be carried out by means of an oral fluid testing device.~~
- (2) ~~Before giving a notice in the *Gazette* under **subsection (1)**, the Minister of Police must— 10~~
- ~~(a) consult with the Minister of Transport and the Science Minister; and~~
  - ~~(b) have regard to the accuracy of the device; and~~
  - ~~(c) be satisfied that any device proposed to be approved under **subsection (1)(a)** and used in a manner proposed to be approved under **subsection (1)(b)** will return a positive result only if the device detects a presence of a qualifying drug at a level that indicates recent use of a qualifying drug specified in the notice. 15~~
- (3) ~~A notice or replacement notice given by the Minister of Police for any purpose specified in **subsection (1)** is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and may be amended from time to time, or revoked or replaced, by the responsible Minister in the same manner. 20~~
- (4) ~~A notice or replacement notice under **subsection (1)** that is given by the Minister of Police in the *Gazette* for the purposes of approving a kind of device or a test may— 25~~
- ~~(a) define an approved device as a device that bears or is associated by its manufacturer with such trade name or number or other expression, or any combination of those things, as may be specified in the notice: 30~~
  - ~~(b) provide for a test, or part of a test, to be carried out in accordance with instructions displayed or printed on or by a specified kind of device.~~
- (5) ~~In the absence of proof to the contrary, a device is to be treated as bearing or being associated with a particular trade name or number or other expression if that name or number or other expression—~~
- ~~(a) appears on the device, whether on a label or otherwise, or is shown on a display panel on the device; or 35~~
  - ~~(b) is printed out by the device on a card or on paper; or~~
  - ~~(c) appears on printed matter that—~~
    - ~~(i) accompanies the device; and~~

- (ii) ~~is associated with the device or is intended by the manufacturer of the device to be associated with the device; and~~
- (iii) ~~is issued by or on behalf of the manufacturer.~~

*Analysing oral fluid samples for statistical or research purposes*

**37 Section 209 amended (Taking of blood specimens for statistical or research purposes) 5**

In section 209, replace “saliva” with “oral fluid” in each place.

**38 Section 209A amended (Analysing blood specimens for statistical or research purposes related to use of drugs or alcohol)**

- (1) In the heading to section 209A, after “Analysing”, insert “oral fluid or”. 10
- (2) Replace section 209A(1) with:
  - (1) A person may, for statistical or research purposes related to the use of drugs or alcohol, analyse or re-analyse in an approved laboratory—
    - (a) an oral fluid sample taken from a person under any of **sections 71A to 71C:** 15
    - (b) a blood specimen from a person taken under section 72 or 73.
- (3) In section 209A(3), after “No analysis of”, insert “an oral fluid sample or”.
- (4) Replace section 209A(4) with:
  - (4) An oral fluid sample or a blood specimen analysed or re-analysed under **subsection (1)** must be treated in a manner that does not identify the person from whom the oral fluid sample or blood specimen is taken. 20
  - (5) Nothing in this section limits the purposes for which an oral fluid sample or a blood specimen may be analysed or re-analysed under this Act.

*Transitional, savings, and related provisions*

**39 Schedule 1 amended 25**

In Schedule 1, after Part 1, insert the **Part-2 4** set out in **Schedule 1** of this Act.

*Level of qualifying drugs at and over which person commits offence*

*Blood concentration levels for offences relating to drug-driving*

**40 New Schedule 5 inserted 30**

After Schedule 4, insert the **Schedule 5** set out in **Schedule 2** of this Act.

## Part 2

### Related and consequential amendments

#### Subpart 1—Amendments to Acts

##### *Amendment to Legislation Act 2012*

#### 41 ~~Amendment to Legislation Act 2012~~ 5

- (1) ~~This section amends the Legislation Act 2012.~~  
 (2) ~~In Schedule 2, insert in its appropriate alphabetical order:~~

|                                    |                           |
|------------------------------------|---------------------------|
| <del>Land Transport Act 1998</del> | <del><b>167A(1)</b></del> |
|------------------------------------|---------------------------|

##### *Amendment to Legislation Act 2019*

#### 41 Amendment to Legislation Act 2019 10

- (1) This section amends the Legislation Act 2019.  
 (2) In Schedule 4, insert in its appropriate alphanumeric order:

|                                |                       |
|--------------------------------|-----------------------|
| <u>Land Transport Act 1998</u> | <u><b>167A(1)</b></u> |
|--------------------------------|-----------------------|

##### *Amendment to Sentencing Act 2002*

- #### 42 **Amendment to Sentencing Act 2002**
- (1) This section amends the Sentencing Act 2002.  
 (2) In section 129(1)(a), replace “57A(1)” with “**57A(1), 57B(1), 57C(1),**” 15

#### Subpart 2—Amendments to Land Transport (Offences and Penalties) Regulations 1999

#### 43 **Amendments to Land Transport (Offences and Penalties) Regulations 1999**

- (1) This section amends the Land Transport (Offences and Penalties) Regulations 1999. 20  
 (2) In Schedule 1, after the item relating to section 57(2A) of the Land Transport Act 1998, insert:

|               |  |     |   |     |   |
|---------------|--|-----|---|-----|---|
| <b>57A(2)</b> | Driving or attempting to drive with blood containing <del>evidence of the use of a qualifying drug</del> below the level specified in <del>Schedule 5</del> <b>Schedule 5</b> of the Act <del>evidence of use of 1 qualifying drug</del> | 500 | — | 200 | — |
| <b>57A(3)</b> | Driving or attempting to drive with 2 oral fluid test results indicating use of <del>a 1</del> <b>1</b> qualifying drug  | 500 | — | 200 | — |

|               |  |       |   |     |   |
|---------------|--|-------|---|-----|---|
| <b>57B(2)</b> | Driving or attempting to drive with blood containing evidence of use of <del>more than 1</del> <u>qualifying drug below the level specified in <b>Schedule 5</b> of the Act for each drug 2 or more</u> <u>qualifying drugs</u>  | 1,000 | — | 400 | — |
| <b>57B(3)</b> | Driving or attempting to drive with oral fluid test results indicating use of <del>more than 1</del> <u>qualifying drug 2 or more</u> <u>qualifying drugs</u>  | 1,000 | — | 400 | — |
| <b>57C(2)</b> | Driving or attempting to drive with blood containing alcohol below <del>specified blood-alcohol limits and evidence of use of a</del> <u>qualifying drug below thresholds specified in <b>Schedule 5</b> or where drug not listed in <b>Schedule 5</b> and</u> <u>evidence of use of 1 qualifying drug</u> | 1,000 | — | 400 | — |
| <b>57C(3)</b> | Driving or attempting to drive with blood containing alcohol below specified blood-alcohol limits and with oral fluid indicating use of <del>a 1</del> <u>qualifying drug</u>  | 1,000 | — | 400 | — |
| <b>57C(4)</b> | Driving or attempting to drive with breath containing alcohol below specified alcohol limits and oral fluid test results indicating use of <del>a 1</del> <u>qualifying drug</u>   | 1,000 | — | 400 | — |

- (3) In Schedule 2, after the item relating to section 57AA(1) or (2) of the Land Transport Act 1998, insert:

|               |  |  |  |  |    |
|---------------|--|--|--|--|----|
| <b>57A(2)</b> | Driving or attempting to drive with blood containing evidence of <del>the use of a qualifying drug below the level specified in <b>Schedule 5</b> of the Act</del> <u>use of 1 qualifying drug</u>                       |  |  |  | 50 |
| <b>57A(3)</b> | Driving or attempting to drive with 2 oral fluid test results indicating use of <del>a</del> <u>1</u> <u>qualifying drug</u>   |  |  |  | 50 |
| <b>57B(2)</b> | Driving or attempting to drive with blood containing evidence of use of <del>more than 1 qualifying drug below the level specified in <b>Schedule 5</b> of the Act for each drug 2 or more</del> <u>qualifying drugs</u> |  |  |  | 75 |
| <b>57B(3)</b> | Driving or attempting to drive with oral fluid test results indicating use of <del>more than 1 qualifying drug 2 or more</del> <u>qualifying drugs</u>   |  |  |  | 75 |

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|               |   |    |
|---------------|---|----|
| <b>57C(2)</b> | Driving or attempting to drive with blood containing alcohol <del>below specified blood-alcohol limits and evidence of use of a qualifying drug below thresholds specified in <b>Schedule 5</b> or where drug not listed in <b>Schedule 5</b> and evidence of use of 1</del> <u>qualifying drug</u> | 75 |
| <b>57C(3)</b> | Driving or attempting to drive with blood containing alcohol below specified blood-alcohol limits and with oral fluid test results indicating use of a <u>1</u> qualifying drug   | 75 |
| <b>57C(4)</b> | Driving or attempting to drive with breath containing alcohol below specified alcohol limits and oral fluid test results indicating use of a <u>1</u> qualifying drug   | 75 |

**Schedule 1**  
**New Part ~~2~~ 4 inserted into Schedule 1**

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|   |  |    |
|---|--|----|
| <b>Part 2</b>   |  |    |
| <b>Provision relating to Land Transport (Drug Driving) Amendment Act 2020</b> |  | 5  |
| <b>11</b>   | <p><del>Conviction for offence against equivalent provisions of former enactment to be treated as relevant convictions for purposes of section 57D(4)</del></p> <p>For the purposes of <del>section 57D</del>, a conviction for an offence against a provision of the Transport Act 1962 that corresponds to an offence specified in <del>section 57D(4)</del> is to be treated as a conviction for an offence specified in that subsection.</p>   | 10 |
| <b>Part 4</b>   |  |    |
| <b><u>Provisions relating to Legislation Act 2019</u></b>                     |  |    |
| <b>20</b>   | <p><b><u>Application of Part</u></b></p> <p>This Part applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).</p>   | 15 |
| <b>21</b>   | <p><b><u>Orders in Council amending Schedule 5 are confirmable instruments</u></b></p> <p>(1) The Legislation Act 2012 applies in relation to an Order in Council made under <b><u>section 167A(1)</u></b> as if that section were listed in Schedule 2 of that Act.</p> <p>(2) The explanatory note of an order made under <b><u>section 167A(1)</u></b> must indicate that—</p> <p>(a) <u>it is a confirmable instrument under section 47B of the Legislation Act 2012; and</u></p> <p>(b) <u>it is revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and</u></p> <p>(c) <u>the stated time is the applicable deadline under section 47C(1)(a) or (b) of that Act.</u></p> | 20 |
| <b>22</b>   | <p><b><u>Approval of oral fluid tests and oral fluid testing devices</u></b></p> <p>A notice made under <b><u>section 71G</u></b>—</p> <p>(a) <u>must be published in the <i>Gazette</i>; and</u></p> <p>(b) <u>is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.</u></p>   | 30 |

## Schedule 2 New Schedule 5 inserted

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| <b>Schedule 5</b>  |   |
|--|---|
| <b>Level of <del>qualifying drugs at and over which person commits offence</del> against <del>section 57A(1), 57B(1), or 57C(1)</del></b>                                      |   |
| <small>ss 57A, 57B, 57C, 61, 62, 79, 95, 96</small>  |   |
| <b>Qualifying drug</b>   | <b>Level of <del>qualifying drugs at and over which person commits offence</del> against <del>section 57A(1), 57B(1), or 57C(1)</del></b> |
| No levels have been set as at the date on which this schedule was inserted into this Act by <b>section 38</b> of the Land Transport (Drug Driving) Amendment Act <b>2020</b> . |   |

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| <b>Schedule 5</b>   |                                |
|---|--------------------------------|
| <b><u>Blood concentration levels for offences related to drug-driving</u></b> |                                |
| <small>ss 2, 167A, 167B</small>   |                                |
| <b>Part 1</b>   |                                |
| <b><u>High-risk blood concentration levels for drug-driving offences</u></b>  |                                |
| <b>Qualifying drug</b>  | <b>High-risk level (ng/ml)</b> |
| <u>Alprazolam</u>   | <u>50</u>                      |
| <u>Amphetamine</u>  | <u>100</u>                     |
| <u>Buprenorphine</u>  | <u>1</u>                       |
| <u>Clonazepam</u>   | <u>50</u>                      |
| <u>Cocaine</u>  | <u>20</u>                      |
| <u>Codeine</u>  | <u>200</u>                     |
| <u>Diazepam</u>   | <u>200</u>                     |
| <u>Dihydrocodeine</u>   | <u>200</u>                     |
| <u>Fentanyl</u>   | <u>0.5</u>                     |
| <u>GHB</u>  | <u>50,000</u>                  |
| <u>Ketamine</u>   | <u>50</u>                      |
| <u>Lorazepam</u>  | <u>30</u>                      |
| <u>MDMA</u>   | <u>50</u>                      |
| <u>Methadone</u>  | <u>200</u>                     |
| <u>Methamphetamine</u>  | <u>50</u>                      |
| <u>Midazolam</u>  | <u>30</u>                      |
| <u>Morphine</u>   | <u>20</u>                      |
| <u>Nitrazepam</u>   | <u>50</u>                      |
| <u>Oxazepam</u>   | <u>800</u>                     |
| <u>Oxycodone</u>  | <u>50</u>                      |
| <u>Temazepam</u>  | <u>800</u>                     |

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| <b>Qualifying drug</b> | <b>High-risk level (ng/ml)</b> |
|------------------------|--------------------------------|
| <u>THC (cannabis)</u>  | <u>3</u>                       |
| <u>Tramadol</u>        | <u>250</u>                     |
| <u>Triazolam</u>       | <u>4</u>                       |
| <u>Zopiclone</u>       | <u>50</u>                      |

## **Part 2**

### **Tolerance blood concentration levels for drug-driving offences**

| <b>Qualifying drug</b> | <b>Tolerance level (ng/ml)</b> |
|------------------------|--------------------------------|
| <u>Alprazolam</u>      | <u>20</u>                      |
| <u>Amphetamine</u>     | <u>20</u>                      |
| <u>Buprenorphine</u>   | <u>1</u>                       |
| <u>Clonazepam</u>      | <u>20</u>                      |
| <u>Cocaine</u>         | <u>5</u>                       |
| <u>Codeine</u>         | <u>50</u>                      |
| <u>Diazepam</u>        | <u>100</u>                     |
| <u>Dihydrocodeine</u>  | <u>50</u>                      |
| <u>Fentanyl</u>        | <u>0.5</u>                     |
| <u>GHB</u>             | <u>10,000</u>                  |
| <u>Ketamine</u>        | <u>10</u>                      |
| <u>Lorazepam</u>       | <u>10</u>                      |
| <u>MDMA</u>            | <u>10</u>                      |
| <u>Methadone</u>       | <u>50</u>                      |
| <u>Methamphetamine</u> | <u>10</u>                      |
| <u>Midazolam</u>       | <u>10</u>                      |
| <u>Morphine</u>        | <u>10</u>                      |
| <u>Nitrazepam</u>      | <u>20</u>                      |
| <u>Oxazepam</u>        | <u>200</u>                     |
| <u>Oxycodone</u>       | <u>20</u>                      |
| <u>Temazepam</u>       | <u>200</u>                     |
| <u>THC (cannabis)</u>  | <u>1</u>                       |
| <u>Tramadol</u>        | <u>100</u>                     |
| <u>Triazolam</u>       | <u>4</u>                       |
| <u>Zopiclone</u>       | <u>20</u>                      |

### **Legislative history**

30 July 2020  
4 August 2020

Introduction (Bill 317–1)  
First reading and referral to Transport and Infrastructure  
Committee