

Land Transport (Admissibility of Evidential Breath Tests) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Land Transport Act 1998 to broaden the circumstances where a positive evidential breath test is admissible evidence in a prosecution under the Act. Under present law a positive evidential breath test is not admissible in evidence if the suspect has elected to have a blood test. The Act assumes that the blood test will be available as evidence for any prosecution. The Bill will amend section 77 to provide that where a suspect has elected to have a blood test but blood is unable to be drawn for any reason, the prior evidential breath test is admissible in evidence in a prosecution for an offence against any of sections 56 to 62.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause which provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Clause 3 states that the Act amends the Land Transport Act 1998.

Clause 4 amends section 77 by inserting a new subsection (5) which provides that subsection (3)(b) does not apply if a blood specimen was not able to be taken from a defendant for any reason, thereby allowing the result of an earlier evidential breath test to be admitted as evidence in a prosecution. A consequential amendment is also made to subsection (3).

Scott Simpson

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport (Admissibility of Evidential Breath Tests) Amendment Act **2012**.

- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

- 3 Principal Act** 10
This Act amends the Land Transport Act 1998 (the **principal Act**).

4 Section 77 amended (Presumptions relating to alcohol testing)

- (1) In section 77(3), after “subsection (4)”, insert “and subsection (5)”.
 - (2) After section 77(4), insert: 5
 - “(5) Subsection (3)(b) does not apply if a blood specimen was not able to be taken from the defendant for any reason.”
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