

# **Synthetic Urine (Prohibition on Importation, Supply and Acquisition to Pass a Workplace Drug Test) Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

Employers are concerned about the use of synthetic urine to pass workplace drug tests. The use of synthetic urine to pass a workplace drug test puts both employees and employers at risk. Drug testing in the workplace is used to keep people safe and prevent accidents and deaths. Currently some retailers are openly advertising and selling synthetic urine to cheat a drug test. This Bill seeks to prohibit the importation, supply and acquisition of synthetic urine to pass a workplace drug test.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provide for this Bill to come into force on the day after the date on which it receives the Royal assent.

## **Part 1**

### **Preliminary provisions**

*Clause 3* states the Bill's purpose.

*Clause 4* is the interpretation clause and provides definitions for terms used throughout the Bill, including **synthetic urine**.

*Clause 5* provides for transitional, savings, and related matters, as set out in **Schedule 1**.

*Clause 6* provides that the Act binds the Crown.

## Part 2

### Restrictions on importation, supply, and acquisition of synthetic urine

#### *Restrictions on importation, supply, and acquisition of synthetic urine*

*Clause 7* prohibits the importation of synthetic urine by anyone other than an authorised importer.

*Clause 8* prohibits the supply of synthetic urine by anyone other than an authorised supplier.

*Clause 9* prohibits the acquisition of the synthetic urine by anyone other than an authorised recipient.

#### *Authorisation to import, supply, and acquire synthetic urine*

*Clause 10* provides for the Director-General of Health to authorise persons or classes of person to be authorised importers, authorised suppliers, and authorised recipients of synthetic urine.

*Clause 11* provides for the expiry and revocation of authorisations that are granted by the Director-General.

*Clause 12* provides for a person to apply, in writing, to become an authorised importer, authorised supplier, and authorised recipient of synthetic urine.

*Clause 13* gives the Director-General the power to grant, at their discretion, classes of persons authorisation to be authorised importers, authorised suppliers, and authorised recipients of synthetic urine.

#### *Offences*

*Clause 14* specifies that it is an offence to breach any of the prohibitions in **clauses 7, 8, or 9**.

*Clause 15* creates an offence to mislead an authorised supplier as to a person being an authorised recipient.

*Matt Doocey*

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

- 1 Title**
- This Act is the Synthetic Urine (Prohibition on Importation, Supply and Acquisition to Pass a Workplace Drug Test) Bill **2021**.
- 2 Commencement** 5
- This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**  
**Preliminary provisions**

- 3 Purpose** 10
- (1) The purpose of this Act is to restrict and regulate the sale, supply, and importation of synthetic urine, in order to prevent synthetic urine being used in New Zealand to deceive all aspects of urine drug testing.
- (2) Nothing in this Act is intended to prohibit importation, supply, or acquisition of synthetic urine for legitimate purposes such as scientific, research, or industrial uses. 15
- 4 Interpretation**
- In this Act, unless the context otherwise requires,—
- acquire** includes obtain by way of gift, purchase, or exchange
- authorised importer** means a person who has been authorised by the Director-General under **section 10(1)(a)** to import synthetic urine 20
- authorised recipient** means a person who has been authorised by the Director-General under **section 10(1)(c)** to acquire synthetic urine
- authorised supplier** means a person who has been authorised by the Director-General under **section 10(1)(b)** to supply synthetic urine 25
- Director-General** means the chief executive of the Ministry of Health

**importer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

**supply** includes supply (or resupply) by way of gift, sale, or exchange

**synthetic urine** means any substance that, in the Director-General's opinion, is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine. 5

## 5 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

## 6 Act binds the Crown 10

This Act binds the Crown.

## Part 2

### Restrictions on importation, supply, and acquisition of synthetic urine

*Restrictions on importation, supply, and acquisition of synthetic urine* 15

#### 7 Restriction on importing synthetic urine

- (1) An importer must not import, directly or indirectly, synthetic urine into New Zealand, unless the importer is an authorised importer.
- (2) The prohibition in **subsection (1)** does not apply if the synthetic urine—
  - (a) is not unloaded in New Zealand and is destined for a point outside New Zealand; or 20
  - (b) is to be, or is being, transhipped internationally, and is covered by a transshipment request made under section 87(2) of the Customs and Excise Act 2018 and granted by the chief executive of the New Zealand Customs Service. 25

#### 8 Restriction on supplying synthetic urine

- (1) A person (the **supplier**) must not supply synthetic urine to any other person unless the supplier is an authorised supplier.
- (2) An authorised supplier must not supply synthetic urine to a recipient without having reasonable grounds to believe that the recipient is—
  - (a) an authorised recipient; or
  - (b) an authorised supplier acquiring the synthetic urine for the purpose of supply. 30

**9 Restriction on acquiring synthetic urine**

- (1) A person (the **recipient**) must not acquire synthetic urine unless the recipient is an authorised recipient.
- (2) Despite **subsection (1)**, an authorised supplier may acquire synthetic urine for the purpose of supply. 5
- (3) To avoid doubt, an authorised supplier may not acquire synthetic urine for any purpose other than supply unless the authorised supplier is also an authorised recipient.

*Authorisation to import, supply, and acquire synthetic urine***10 Director-General may authorise importation, supply, or acquisition of synthetic urine** 10

- (1) The Director-General may authorise—
  - (a) a person or class of persons to import synthetic urine:
  - (b) a person or class of persons to supply synthetic urine:
  - (c) a person or class of persons to acquire synthetic urine. 15
- (2) Before granting an authorisation under **subsection (1)**, the Director-General must be satisfied,—
  - (a) for authorisations under **subsection (1)(a)**, that the person or class of persons to be authorised—
    - (i) understands the requirements of **section 7**; and 20
    - (ii) is of good character; and
    - (iii) is also an authorised supplier or authorised recipient:
  - (b) for authorisations under **subsection (1)(b)**, that the person or class of persons to be authorised—
    - (i) understands the requirements of **section 8**; and 25
    - (ii) is of good character:
  - (c) for authorisations under **subsection (1)(c)**, that the person or class of persons to be authorised has a legitimate purpose for acquiring synthetic urine (for example, scientific, research, or industrial purposes).
- (3) The Director-General may make an authorisation that is granted under **subsection (1)** subject to whatever conditions the Director-General considers appropriate. 30
- (4) The Director-General may grant an authorisation—
  - (a) in response to a written application under **section 12**; or
  - (b) in the case of a class of persons, at the Director-General's discretion under **section 13**. 35

- 11 Expiry and revocation of authorisation to import, supply, or acquire synthetic urine**
- (1) An authorisation under **section 10(1)** must specify a date at which the authorisation expires, which must not be longer than 5 years.
- (2) The Director-General may revoke an authorisation granted under **section 10(1)** by,—
- (a) in the case of an authorisation granted in response to a written application under **section 12**, giving notice in writing to the person to whom the authorisation applies:
- (b) in the case of an authorisation granted at the Director-General’s discretion under **section 13**, placing a notice in the *Gazette*.
- 12 Applications for authorisation to import, supply, or acquire synthetic urine**
- (1) A person who wishes to obtain authorisation under **section 10(1)** may apply in writing to the Director-General.
- (2) The Director-General may require any applicant for authorisation to provide information as to any matter that the Director-General considers relevant for the purposes of satisfying the requirements of **section 10(2)**.
- (3) The Director-General must provide written notice to an applicant —
- (a) informing them of the outcome of their application; and
- (b) if an application is refused, the reasons for it.
- 13 Authorisation of class of persons to import, supply, or acquire synthetic urine**
- (1) The Director-General may, at their discretion, declare by notice in the *Gazette* classes of persons to be authorised importers, authorised suppliers, or authorised recipients.
- (2) Without limiting **subsection (1)**, the classes of persons that the Director-General may declare to be authorised importers, authorised suppliers, or authorised recipients include people who use synthetic urine for scientific, research, or industrial purposes.

*Offences*

- 14 Offences against Part 2**
- (1) A person commits an offence if the person breaches **section 7(1), section 8(1) or (2), or section 9(1)**.
- (2) A person who commits an offence under this section is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$5,000;
- (b) in the case of a body corporate, to a fine not exceeding \$25,000.

**15 Misrepresentation**

- (1) A person must not mislead or deceive an authorised supplier as to whether the person is an authorised recipient in order to acquire or attempt to acquire synthetic urine.
- (2) A person who commits an offence under this section is liable on conviction,— 5
  - (a) in the case of an individual, to a fine not exceeding \$2,000:
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000.

**Schedule 1  
Transitional, savings, and related provisions****s 5** 10**Part 1  
Provisions relating to this Act as enacted**

There are no transitional, savings, or related provisions relating to this Act as enacted.