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**The Royal Australasian College of
Physicians' submission to the
Transport and Infrastructure Select
Committee on Land Transport
(Drug Driving) Amendment Bill**

Hereturikōkā 2024

Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the Land Transport (Drug Driving) Amendment Bill.

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

Key Comments

Our RACP members acknowledge the need for public safety regarding drug impaired driving. There is now substantial evidence that drivers in Aotearoa NZ causing harm through using drugs and/or medications and driving. An average of 101 people were killed each year in crashes between 2019-21 where a driver was found to have drugs other than alcohol in their system - 31% of all road deaths¹.

The [Land Transport \(Drug Driving\) Amendment Bill](#) (the Bill) establishes a new regulatory framework to enable a compulsory random roadside oral fluid (OF) testing regime. The new oral fluid testing regime will sit alongside existing compulsory impairment testing.

While the RACP supports the harm reduction intentions of the Bill, members are concerned about a punitive approach to the issue of drug impaired driving that focuses solely on policing and roadside testing. The RACP is of the view that that this system may result in loss of focus on, and funding for, much needed prevention, impairment information and research. We urge the government to direct resources towards a comprehensive approach to drug and/or medication impaired driving centred around health-focused initiatives. This stance is in line with our previous submission to the Transport and Infrastructure Select Committee in 2021 on the [Land Transport \(Drug Driving\) Amendment Bill](#).

The College is concerned that while oral fluid testing has improved in its reliability over the last decade, recent systematic reviews show that it is still is not expected to achieve 100% specificity in testing for cannabis² and there is a significant empirical evidence gap related to the deterrence effectiveness of roadside oral fluid testing in this country³.

RACP also wishes to highlight that legislation in its current form poses the additional risks of discrimination against Māori and Pasifika and involves an onerous medical defence process where the use of prescription medications occurs.

The RACP provides three recommendations of ways forward with further details below.

¹ Te Manatū Waka | Ministry of Transport. Drug Driving Testing. Wellington: Te Manatū Waka | Ministry of Transport. [Internet]. Accessed 15 August 2024. Available from: [Drug driving testing | Ministry of Transport](#)

² Wennberg E, Windle S, Filion K, Thombs B, Gore G, Benedetti A, et al. Roadside screening tests for cannabis use: A systematic review. *Heliyon*. [Internet]. 2023;9(4):e14630. Accessed 18 August 2024. Available from [Roadside screening tests for cannabis use: A systematic review: Heliyon \(cell.com\)](#)

³ Te Manatū Waka | Ministry of Transport. Enhanced testing regime for drug impaired driving: Cost benefit analysis. Wellington: Te Manatū Waka | Ministry of Transport, April 2020. [Internet]. Accessed 18 August 2024. Available from: [December 2019 Cost Benefit Analysis: Enhanced testing regime for drug-impaired driving \(transport.govt.nz\)](#)

Key recommendations

1. Invest in health-focused initiatives focused on **reliable impairment information**
2. **Address the potential for racial bias** by removing the ability for random searches
3. Consider the use of **medical certificates for drivers**

1. Invest in health-focused initiatives focused on reliable impairment information

Widespread use of high-risk legal prescription drugs

The qualifying drugs that can be tested under the proposed legislation must be from the list of 25 qualifying drugs in Schedule 5 of the Land Transport Act 1998. Out of those listed as having the highest risk to road safety only four are illicit drugs and 21 are prescription medicines. The list specifies high-risk levels and includes several benzodiazepines (alprazolam, diazepam, lorazepam, oxazepam) and zopiclone.

Benzodiazepines and zopiclone continue to be prescribed in high volumes in Aotearoa NZ. In the 12 months from October 2019 to September 2020, Zopiclone was the 14th highest volume medicine dispensed with 118 dispensed prescriptions per 1,000 registered patients⁴. Lorazepam, which has been shown to impair driving more than heavy alcohol consumption and for up to 17 hours after use⁵, was the highest volume benzodiazepine dispensed, with 41 dispensed prescriptions per 1,000 registered patients⁴.

Lack of understanding about impact of prescription medications on driving

There is widespread acceptance of driving under the influence of prescription medication in Aotearoa NZ. Research on drivers' perceptions about impairment caused by legal and illegal drugs shows that there is much greater acceptance towards driving under the influence of legal drugs such as prescription medication (43.5 per cent), compared to illegal drugs (10.3 per cent)⁶.

A recent study commissioned to investigate who and how often people are driving under the influence of drugs (to inform the introduction of the road-side testing system) demonstrates that much better understanding of the risks, especially of prescription medication, is needed. This study of 4500 people showed:

- a quarter of drivers had driven within three hours of having drugs or medication
- almost half of those who drove after taking substances did so at least once a week or more
- the top three types of drugs/medications taken by those who had driven within 3 hours of driving in the previous 12 months were anti-depressants (10%), strong painkillers (9%) and cannabis (5%).

Significantly, more than half of those who drove after consuming drugs and/or medication did not believe it impaired their driving. Impaired drivers were shown to be significantly more likely to be

⁴ BPAC NZ. Benzodiazepines and zopiclone: is overuse still an issue? [Internet]. Wellington: BPAC, 5 February 2021. Accessed 15 August 2024. Available from: [benzo-zopiclone.pdf \(bpac.org.nz\)](https://www.bpac.org.nz/benzo-zopiclone.pdf)

⁵ Daurat A, Sagaspe P, Moták L, Taillard J, Bayssac L, Huet N, Authié C, Mestre D, Philip P. Lorazepam impairs highway driving performance more than heavy alcohol consumption. *Accid Anal Prev*. [Internet]. 2013;60:31-4. Accessed 15 August 2024. Available from [Lorazepam impairs highway driving performance more than heavy alcohol consumption - ScienceDirect](https://doi.org/10.1016/j.aap.2013.05.004)

⁶ Malhotra N, Starkey N J, Charlton S G. Driving under the influence of drugs: Perceptions and attitudes of New Zealand drivers. *Accid Anal Prev* [Internet]. 2017; 106:44-52. . Accessed 15 August 2024. Available from: <https://pubmed.ncbi.nlm.nih.gov/28554064/>

female, younger and significantly less likely to be over 65 years old. Due to their age, they were also significantly more likely to be students or not working and significantly less likely to be retired.⁷.

Reliable impairment information needed

The lack of awareness that driving under the influence of some prescription drugs poses risks indicates a need to improve impairment information prior to enforcing penalties.

The RACP calls for funding to be directed into increased medicine information with up-to-date information for the public on:

- what drugs can impair driving
- an indication of how much intake results in impairment
- the high degree of impairment associated with combined alcohol and prescription drug use
- the signs and symptoms to watch out for and
- what can be done to avoid impairment.

Within the limited preliminary Aotearoa NZ-based research on this topic there are mixed views research on how this information should be disseminated to the public and this is an area that warrants further investigation. Initial ideas proposed include:

- the development of a marketing campaign directed toward women in their late 30s and early 40s that focuses on the crash risk and driving-related impairments associated with prescription drug use⁶
- having conversations about the 'safest drive' rather than massive campaigns saying 'your medications are dangerous' and it is not safe to drive⁸.

Researchers agree that what is needed is for people to be educated by professionals they can trust. Initiatives should support general practitioners (GPs), nurses and pharmacists to provide accurate information to patients^{7,8}. RACP cautions this should be able to be done in a way that does not overburden already stretched health professionals.

We suggest funding should be directed to useful initiatives including:

- a series of short videos produced for Health TV's waiting-room platform
- education for workers who are involved in driving as part of employment⁸
- social marketing research into what strategies are most effective at engaging the most at-risk groups.

2. Address the potential for racial bias by removing the ability for random searches

The proposed legislation will allow police officers to screen drivers for the presence of impairing drugs 'anywhere, anytime', using oral fluid testing devices without cause to suspect a driver has consumed drugs. Police discretion to investigate and/or prosecute is statistically exercised disproportionately against Māori and Pasifika^{9,10}. If enacted in its current form, this proposed

⁷ Dudding A, Beccari S, Bartle J. Prevalence of drugged and/or medicated driving in New Zealand June 2022. A Waka Kotahi NZ Transport Agency research report 689. [Internet]. Auckland and Wellington: Ipsos, 2022. Accessed 15 August 2024. Available from: [Research Report 689 Prevalence of drugged and/or medicated driving in New Zealand \(nzta.govt.nz\)](https://www.nzta.govt.nz/research-reports/689-prevalence-of-drugged-and-or-medicated-driving-in-new-zealand)

⁸ NZ Doctor. Many patients in the dark over driving impairment due to prescribed drugs. NZ Doctor, 7 August 2018. [Internet]. Available from: [Many patients in the dark over driving impairment due to prescribed drugs | New Zealand Doctor \(nzdoctor.co.nz\)](https://www.nzdoctor.co.nz/news/many-patients-in-the-dark-over-driving-impairment-due-to-prescribed-drugs/) Accessed 19 August 2024.

⁹ Ministry of Justice. Identifying and Responding to Bias in the Criminal Justice System: A Review of International and New Zealand Research [Internet]. Wellington: Ministry of Justice; 2009. Accessed 19 August 2024. Available from: [Identifying and responding to bias in the criminal justice system: A review of international and New Zealand research » The Hub \(sia.govt.nz\)](https://www.sia.govt.nz/the-hub/identifying-and-responding-to-bias-in-the-criminal-justice-system-a-review-of-international-and-new-zealand-research)

¹⁰ Stuff NZ. Data shows ongoing racial bias in warrantless searches. Stuff NZ, 30 July 2023. [Internet]. Accessed 19 August 2024. Available from: [Data shows ongoing racial bias in police warrantless searches | Stuff](https://www.stuff.co.nz/news/technology/125444444-data-shows-ongoing-racial-bias-in-police-warrantless-searches)

legislation is likely to exacerbate inequities currently experienced by Māori and Pasifika in the criminal justice system. This would run counter to efforts being made to honour Te Tiriti o Waitangi and to address the overrepresentation of Māori within the criminal justice system.

The RACP suggests that to counteract the risk for police to implement racial bias, the ability for testing targets to be up to individual officer discretion needs to be removed from this Bill. Roadside testing for drug impaired driving needs to be implemented in the same way as breath testing, for example checkpoints where 'everyone is screened', as happens in a road-block testing protocol for detecting alcohol-impaired driving rather than allowing random searches.

3. Consider the use of medical certificates for drivers

Under this proposed legislation, the medical defence for drivers who have taken prescription drugs as prescribed will continue to be available. However, under Section 94A(1), if a person has undergone two oral fluid screening tests and fails both tests there is mandatory disqualification from driving for 12 hours.

RACP members have raised concerns that:

- people who wish to use the medical defence will still have this 12-hour ban applied to them, despite the fact it may transpire they could legally drive and
- the processes around providing evidence to support a medical defence could place an onerous and time-consuming burden on already over-stretched GPs.

An RACP member suggests that a medical certificate in the form of a "get out of jail free" card to have on hand while driving could be produced. However, it is acknowledged that this may have unintended consequences including:

- adding to the workload of GPs having to produce a new medical certificate every time they update a script
- exacerbating inequalities given the need to pay for either a printer or connected device to enable people taking prescription medications to have the certificate on hand and/or access to a doctor to update the certificate
- impacting negatively on people who cannot produce a medical certificate on demand - for example the ability to use their car which may in turn lead to downstream effects on health, through being unable to work, causing stress and inability to look after family members.

Conclusion

The RACP thanks the Transport and Infrastructure Select Committee for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the Aotearoa NZ Policy and Advocacy Unit at policy@racp.org.nz.



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