



August, 2024

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



SUBMISSION TO: Transport and Infrastructure Committee
REGARDING: Land Transport (Drug Driving) Amendment Bill
DATE: August 2024

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NOTE TO REQUESTOR:

The AA requests an opportunity to present this submission orally.

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Contents

NZ Automobile Association submission on: Land Transport (Drug Driving) Amendment Bill.....	1
Executive Summary.....	4
1. Proposed amendments.....	5
1.1 Changing oral fluid testing devices to be a ‘screening’ tool.....	5
1.2 Use of laboratory testing of oral fluid	5
1.3 Review of amendments.....	5
1.4 Medical defence and information	5
2. Additional considerations	6
About the New Zealand Automobile Association.....	7



Executive Summary

The focus of the New Zealand Automobile Association (AA) on this issue is around the deterrence and removal of drug impaired drivers from the road. We have raised concerns about the issue of drugged driving in New Zealand for more than a decade and strongly support the introduction of roadside oral fluid drug testing as a tool available to Police in New Zealand – as is the case in a number of other countries.

The substance of our submission remains the same as what we provided two years ago when the previous Drug Driving Amendment Bill from 2022 was considered. The AA was very disappointed that Bill led to a situation where it was impossible to actually use oral fluid testing devices as the previous legislation had intended.

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

The AA supports the provision in the Bill requiring two positive oral fluid results to trigger a short-term ban from driving, with a laboratory test to decide whether the level of substance detected is indicative of recent use and further penalties are delivered. This is a workable system that is similar to what is used in Australian states.

The ultimate outcome the AA believes the Bill will contribute to is changing the behaviour of some drivers through deterrence and helping reduce crashes involving drug impairment. The Compulsory Impairment Test (CIT) that has been the only option for Police officers to use to check for drug impairment takes an unworkable amount of time and Police resource, leading to less than two tests a day undertaken on average across millions of drivers on our roads. It means New Zealand effectively has next to no testing for drug impaired drivers while, at the same time, more than 100 people a year have been killed in crashes involving a drug driver in recent years.

We need to be sending a much stronger message to drivers that if they are drug-impaired they risk being tested and caught. A University of Waikato study quoted in the updated Regulatory Impact Statement showed that 60% of drivers thought people were likely to be caught for drink-driving but only 26% thought people would be caught for drugged driving. The most recent Public Attitudes to Road Safety in New Zealand survey run by NZTA shows similar results, with 48% of respondents thinking it is unlikely that a drug impaired driver will be caught compared to 26% that do.

Prescription medicines are a challenging area due to their ability to impair driving ability in similar fashions to illegal drugs but obviously being needed to be used by people for the treatment of genuine health issues. The AA supports the inclusion of a medical defence in the legislation so that someone using a prescribed medication in the correct fashion would not be at risk of an infringement for drugged driving.

Our regular rolling survey of NZAA Members before the decision to introduce roadside drug testing was made showed extremely high support of 95+% for the introduction of saliva-based roadside drug testing (see page 8). We note that the most recent Public Attitudes to Road Safety in New Zealand survey run by NZTA showed just 13% opposition to introducing roadside drug testing.

1. Proposed amendments

1.1 Changing oral fluid testing devices to be a ‘screening’ tool

The NZAA endorses the change to use oral fluid devices as a screening rather than an evidential tool.

We agree with the planned approach of using two oral fluid tests to reduce the risks of a false positive and for a driver to not face any fine or demerit point penalties unless a third sample tests above specified levels in a laboratory.

In our view this system strikes a pragmatic balance of the need for New Zealand to introduce a meaningful testing regime for a serious road safety issue involved in more than 100 deaths a year while also working with the limitations of the technology and having as low a risk as possible of someone not impaired by drugs falsely receiving a fine or demerit points on their licence.

1.2 Use of laboratory testing of oral fluid

The AA endorses the approach of drivers only facing penalties beyond a 12-hour driving ban if a laboratory test detects the presence of any specified qualifying drug at a level that is indicative of recent use.

The large range of drugs available, different methods of consumption and variations in how they react in people’s bodies makes testing for drugs a much more complicated area than testing for alcohol.

We see the proposed approach as delivering a workable method focussed on identifying people likely to be impaired by drugs due to use relatively shortly before driving.

Officials have acknowledged there is a risk of a “very small proportion” of drivers being banned from driving for 12 hours only for laboratory testing to subsequently not confirm the two positive roadside tests. The AA would like to see data collected and reported on the numbers of any such cases so the size of the issue can be easily monitored and form part of the review scheduled for the future.

1.3 Review of amendments

The AA supports the plan for authorities to review the impact of roadside drug testing three years after it is introduced. It is best-practice for significant policy changes to be evaluated and reviewed to ensure they are delivering the desired impact and potentially adjusted to improve them if needed.

1.4 Medical defence and information

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

We recognise the NZTA has invested significant resource into informing GPs, pharmacists and other health practitioners of their responsibilities in advising patients of medication-impairment risks in recent years, as well as the public generally. However, the anecdotal reports we often hear indicate this is still an inconsistent area with some patients receiving thorough information and others very little.

So the AA thinks this is an area that needs to remain an ongoing focus for authorities and that any introduction of roadside drug testing should be accompanied with a renewed push of information to the public and medical professionals.

We would expect that publicity around drug testing when the regime is nearing introduction on the roads will see many members of the public who take regular medication have questions about whether they will be at risk of returning a positive test or need to alter their behaviour.

It will be important that authorities provide easy-to-find and understand official information answering the likely questions people will have on how the medical defence will work and what the new regime will mean for those taking certain medications. This will also help medical practitioners relay consistent messages to patients.

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

2. Additional considerations

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

The first is that the AA – and we are sure everyone else – does not want to see any repeat of the problems that came about following the previous legislation. So we would urge the members of the Select Committee to thoroughly check with officials that they have been well engaged with the providers of oral fluid testing devices and Police so that the changes in legislation being looked at will definitely allow roadside drug testing to actually start taking place this time.

We also want to emphasise that Police must have the resources to effectively deliver the testing programme. The Police have targets to not only introduce roadside drug testing but also increase their alcohol testing at the same time. Sending a strong deterrence message to change behaviour around impaired driving needs both drug testing introduced at meaningful scale and alcohol testing consistently sustained at high levels. The Police face a constant challenge to deliver on all the demands for their services, so we urge the Government to be very focussed on ensuring the Police have the officers and capabilities needed to have a high-profile presence on our roads.

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

Finally, we believe there could be value in reviewing the current CIT test and considering if there are alternatives for judging impairment that could be more effective or practical for use in the field by Police officers.

About the New Zealand Automobile Association

The NZAA is an incorporated society with over 1.1 million Personal Members who belong to the Association, representing a large proportion of New Zealand’s road users. The AA was founded in 1903 as an automobile users’ advocacy group, but today our work reflects the wide range of interests of our large membership, many of whom are cyclists and public transport users as well as private motorists.

Across New Zealand, drivers regularly come into contact with the AA through our breakdown officers, 36 AA Centres and other AA businesses. Meanwhile, 18 volunteer AA District Councils around New Zealand meet each month to discuss local transport issues. Based in Wellington and Auckland, our professional policy and research team regularly surveys our Members on transport issues, and Members frequently contact us unsolicited to share their views. Via the AA Research Foundation, we commission original research into current issues in transport and mobility. Collectively, these networks, combined with our professional resource, help to guide our advocacy work, and enable the NZAA to develop a comprehensive view on mobility issues.

Motorists contribute over \$4.5 billion in taxes each year through fuel excise, road user charges, registration fees, ACC levies, and GST. This money is reinvested by the Government in our transport system, funding road building and maintenance, public transport services, road safety work including advertising, and Police enforcement activity. On behalf of AA Members, we advocate for sound and transparent use of this money in ways that improve transport networks, enhance safety, and keep costs fair and reasonable.

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

Total Membership	1.8+ million New Zealanders belong to the AA
	Around 1.1 million are Personal Members

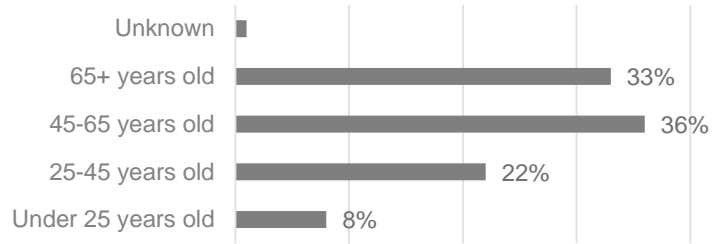
% of licenced drivers	At least 29% of licensed drivers are AA Members
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Gender split	54% Female
	46% Male



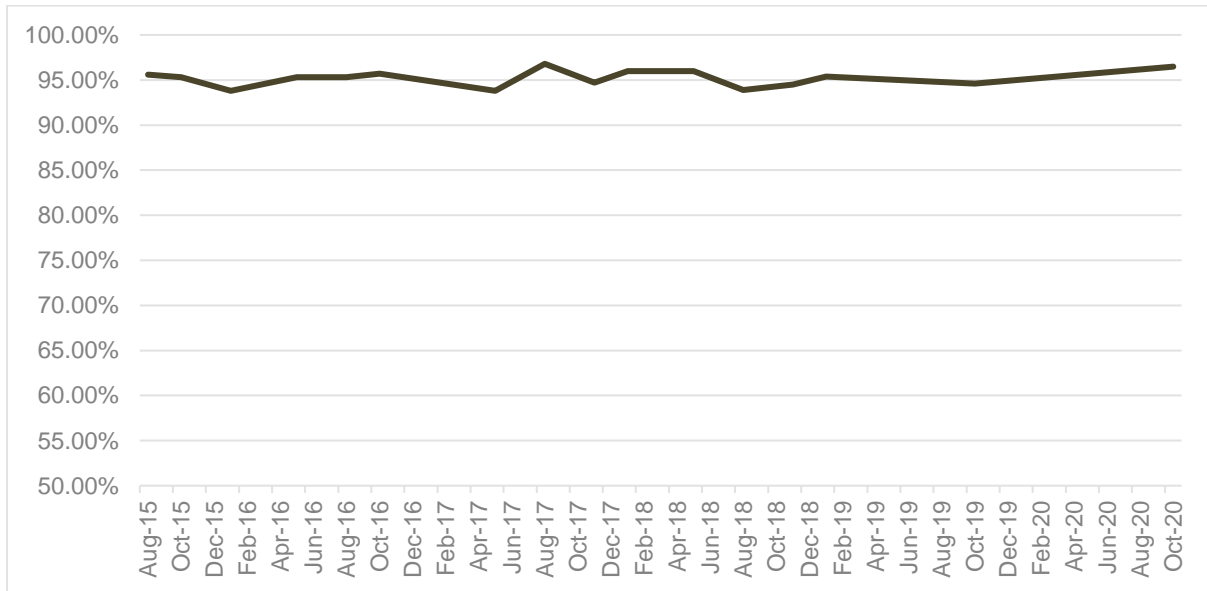
Age range & Membership retention

Age of AA Members



52% of AA Members have been with us for over 10 years.

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



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