

Short-Form Supplementary Departmental Disclosure Statement

Land Transport (Drug Driving) Amendment Bill
--

A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Land Transport (Drug Driving) Amendment Bill, dated 16 July 2024, which can be found at this link: <https://disclosure.legislation.govt.nz/bill/government/2024/69/>.

This supplementary disclosure statement was prepared by the Ministry of Transport.

The Ministry of Transport certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

5 March 2025

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p>Minor, consequential amendments are made to the offence in new section 60A of the Land Transport Act 1998 (the Act) of refusing or failing to provide an oral fluid sample when required to by an enforcement officer. These amendments in clause 11:</p> <ul style="list-style-type: none">• update a section reference• clarify that a person who is unable to provide an oral fluid sample that is sufficient for an approved analyst to carry out analysis under the Act does not commit the offence. Reference to a private analyst is removed, as it is no longer a requirement that a person provide an oral fluid sample that is sufficient for both an approved and a private analyst to carry out analysis.	

1.1. Was the Ministry of Justice consulted about these provisions?	NO
<p>The Ministry of Justice was consulted on the original offence provisions. The proposed amendments are only minor/consequential in nature.</p>	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	YES
<p>Clause 15B inserts a new provision that provides that an enforcement officer must handle, retain, transfer or dispose of an oral fluid sample in accordance with the procedure prescribed in regulations. These obligations were already expressed elsewhere in the Bill, but the new provision consolidates them into one section that applies to all oral fluid samples obtained under the subpart.</p> <p>Amendments are made to provisions in clause 19 to enable a person to choose to provide, and empowers an enforcement officer to collect, an oral fluid sample for private analysis where there isn't a sufficient sample obtained through the screening or laboratory sample collection processes.</p>	
2.1. Was the Privacy Commissioner consulted about these provisions?	NO
<p>The Privacy Commissioner will be consulted during the development of regulations that will prescribe procedures taking, handling, retaining, transferring or disposing of an oral fluid sample.</p>	

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO
--	-----------

Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
--	-----------

Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO
---	-----------

Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO
<p>As noted above, there is a consequential amendment to update a section reference in new section 60A (clause 11) and remove reference to private analysis. This section covers the offence of refusing or failing to provide an oral fluid sample when required to by an enforcement officer. The new oral fluid testing regime would be undermined if drivers could refuse to cooperate with the testing requirements.</p> <p>The potential adverse effects of this being a strict liability offence are mitigated by the penalties being at the lower end of the scale (infringement fee and demerit points), and the infringement offence can be challenged in the courts.</p>	

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO
---	-----------

Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
--	-----------

Powers to make delegated legislation

9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
10. Do the proposed amendments create or amend any other powers to make delegated legislation?	YES
A consequential amendment is made to the regulation-making power in clause 29 to update section references.	

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
---	-----------