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# House of Representatives

# Supplementary Order Paper

## Wednesday, 17 June 2009

### Land Transport Amendment Bill (No 4)

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*Proposed amendments*

Hon Trevor Mallard, in Committee, to move the following amendments:

*Clause 6*
New section 57A(1) is amended by inserting the following paragraph after paragraph (b):

"(c) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 73, contains evidence of the use of a controlled drug listed in Schedule 1 (except thalidomide) of the Misuse of Drugs Act 1975."

*Clause 10*
Clause 10 is amended by adding new subsection (5) after new section 71A(4):

"(5) An enforcement officer may exercise the powers in **subsections (1) and (2)** in addition to any breath screening tests under **section 68** or evidential breath tests under **section 69** and regardless of the outcome of any such tests."

*Clause 11*
Clause 11 is amended by inserting new subsection (1B) after section 72(1A):

"(1B) **Subsection (1)(e)** applies regardless of whether the person has failed any breath screening tests under section 68 or evidential breath tests under section 69 and regardless of the outcome of any such tests. An enforcement officer may exercise the powers in **subsections (1) and (2)** in addition to any breath screening tests under section 68 or evidential breath tests under section 69."

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## Explanatory note

The amendment to clause 6 (new section 57A) provides that where a blood sample is taken at a hospital or surgery, evidence of a Class A controlled drug in the blood sample can be used as grounds for a prosecution regardless of whether there is an evidence of impairment.

The bill as currently drafted requires a person to have failed a compulsory impairment test before a blood sample can be used as evidence of driving while impaired and with blood that contains evidence of use of a controlled drug or prescription medicine. This should continue to be the case where samples are taken by enforcement officers other than in hospitals or surgeries. But where someone is in a hospital or surgery when the blood test is taken it is not appropriate to require the performance, and failure, of a compulsory impairment test before the results can be used.

The amendments to clauses 10 and 11 interrelate. They clarify the law to ensure that an enforcement officer can require a person who fails a breath screening test under section 68 or an evidential breath test under section 69 can also require the person to provide a blood specimen if the officer has good cause to suspect that the person has consumed a drug or drugs.



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