

House of Representatives
Supplementary Order Paper
Tuesday, 9 June 2009

Land Transport Amendment Bill (No 4)

Proposed amendments

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

Subsection 6

Subsection 6 is amended by omitting new subsections 57A(1)(a) and 57A(1)(b) inserting the following new subsections:

“(a) the person does not complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A; and the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72, contains evidence of the use of—

- “(i) a controlled drug; or
- “(ii) any prescription medicine.

“(b) the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken under section 73, contains evidence of the use of—

- “(i) a controlled drug; or
- “(ii) any prescription medicine.

Subsection 10

Subsection 10 is amended by inserting a new subsection (3) to new section 71A:

“(3) 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.

Subsection 11

Subsection 11 is amended by inserting a new subsection (1B) to section 72:

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

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 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 offices 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 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.