

Legislative Council—No 26

As introduced and read a first time, 30 May 2007

South Australia

**Summary Offences (Drug Testing on Arrest)
Amendment Bill 2007**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Summary Offences (Drug Testing on Arrest) Amendment Act 2007*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Summary Offences Act 1953*

4—Amendment of section 81—Power to search, examine, drug test and take particulars of persons

(1) Section 81—after subsection (3g) insert:

- 15 (3h) A police officer must, as soon as practicable after a person is taken into lawful custody, cause a drug testing procedure to be carried out on the person.
- (3i) The drug testing procedure must be carried out—
- 20 (a) by a person qualified in accordance with the regulations; and
- (b) in accordance with procedures prescribed by regulation.
- (3j) A person who refuses or fails to comply with the reasonable directions of a person who seeks to carry out a drug testing procedure in accordance with this section is guilty of an offence.
- Maximum penalty: \$1 250 or imprisonment for 3 months.

(3k) Regulations may be made under this section—

(a) regulating the manner of taking and dealing with biological samples obtained in the course of a drug testing procedure and their analysis; and

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(b) providing for certificate evidence for use in any proceedings as to the taking and analysis of any biological samples and the authority of a person to carry out an analysis.

(2) Section 81(6)—before the definition of *intimate intrusive search* insert:

biological sample means a sample of blood, urine, oral fluid or hair;

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drug testing procedure means a procedure, of a kind prescribed by regulation, consisting of the taking of a biological sample from a person for analysis for the purpose of ascertaining the presence of a prescribed drug in the body of the person from whom the sample was taken;

(3) Section 81(6)—after the definition of *medical practitioner* insert:

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oral fluid includes saliva;

prescribed drug means—

(a) delta-9-tetrahydrocannabinol; or

(b) methylamphetamine; or

(c) 3, 4-methylenedioxymethamphetamine (MDMA); or

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(d) heroin (diacetylmorphine); or

(e) any other substance declared by the regulations to be a prescribed drug;