

Legislative Council

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STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

(Extracted from Hansard)

The Hon. A. BRESSINGTON (16:09): I rise to indicate that I support the second reading of this bill. I support any sensible initiative the government may take to ensure that persons affected by illicit drugs and alcohol are taken off the roads and the waterways. I would also commend and support any efforts to ensure that drug users are afforded every reasonable opportunity to break their cycle of behaviour, although it is understood that this bill is not designed to accomplish that outcome.

Despite the bill's recognising that two or more drink and/or drug driving charges would constitute a pattern of behaviour demonstrating a potentially serious drug or alcohol problem, I am convinced that this bill does take steps forward.

The introduction of the mandatory alcohol interlock scheme, commensurate powers for police on the water (as on the roads) and tougher penalties for repeat offenders are, as I said, worthy of support. But new penalties will have effect only if the act enables detection in the first instance, and this is where I believe the act as it stands falters a little. For example, the current act does not require all drivers involved in an accident in which someone is injured to submit to a drug and alcohol test. Whilst a superficial reading of section 43 of the act would suggest compulsory drug and alcohol testing in a case where a driver is uninjured and reporting an accident to a police officer, a more thorough examination of the act reveals that it is only compulsory for a person when requested by a police officer to submit to a test but not compulsory for the police to request a saliva or breath analysis test in the first instance.

Therefore, the act does not compel the police to conduct a drug and alcohol test on all drivers involved in an accident in which a person has been injured or killed—something that is reflected in practice, with police most often only requiring drivers to submit to a breath analysis and not a drug test. But compare this to a driver who is hospitalised as a result of trauma. The act, by section 47(1), compels the treating medical professional to take a blood sample from anyone of or above the age of 14 for analysis for the presence of alcohol or drugs, which in turn police would act upon.

To provide a clearer contrast, it is conceivable that an uninjured, intoxicated driver who kills another road user and who avoids detection under section 43 could walk with no penalty, whilst an injured driver who has caused a minor injury to another could incur a penalty due to the mandatory requirement of a blood test under section 47(1), and therefore I ask: how does this make any sense? However, it seems that section 47(1) is also not infallible. In 2007 I was alarmed at the revelation that, whilst blood samples are by law (under section 47(1) of the Road Traffic Act) required to be taken, those blood samples are not required to be tested; and, according to media reports at the time, they were not being tested due to a backlog and their low priority.

Statistics from the National Drug Law Enforcement Research Fund show that alcohol was found in 22.6 per cent of injured car drivers, cannabis in 17.4 per cent, benzodiazepines in 14.7 per cent, amphetamines in 6.9 per cent and opiates in 3.3 per cent, and the figures released to my office under FOI in 2007 show that 23 per cent of driver and motorcycle rider fatalities tested post-mortem in 2006 had either THC (the active ingredient found in cannabis) and/or amphetamines in their blood at the time of the crash. Those statistics surely tell us that there is a need to ensure that all those involved in a serious accident should be tested.

These figures become even more alarming when we realise just how prevalent the threat to innocent motorists is, as was summarised in a media release dated 1 August 2008 by the Victorian Transport Accident Commission, as follows:

Approximately 20 per cent of drivers killed on our roads test positive for amphetamine-type stimulants and cannabis. Stimulant use is associated with a threefold increase in risk of a crash and is thought to encourage dangerous behaviour like speeding.

A recent report from the National Drug and Alcohol Research Centre found that 71 per cent of drug users had driven a motor vehicle in the last six months within one hour of taking drugs. Of those reporting driving under the influence of drugs, 63 per cent admitted to using ecstasy, 65 per cent amphetamines and 63 per cent cannabis. Nearly 20 per cent of drug drivers believed they were not impaired in any way, and 26 per cent even believed taking drugs improved their driving ability. Whilst the government would boast of its proactiveness in taking people under the influence of illicit drugs and alcohol off our roads, clearly section 43 as it stands is a result of a policy decision that to do so would be either too difficult or too expensive.

I do not think the public of South Australia, if aware, would buy that. It is simply not enough for the government merely to highlight the good achieved by introducing legislation to detect drug drivers, while on the question of drug and alcohol testing of drivers involved in accidents it simply dismisses the concern that testing is not happening in all cases. The other issue I will take the opportunity to raise, particularly on the back of the aforementioned statistic, is the relatively few roadside saliva drug tests that are being conducted in comparison to breath analysis for alcohol.

While I acknowledge that the number conducted is gradually increasing, the low detection levels (which are obviously directly attributable to the number of tests conducted) are of concern. As with all deterrent-oriented police initiatives, they are only effective if people believe they are at a high risk of being caught. For random roadside drug testing this means there needs to be a perception that there is a greater chance of being caught than not. If it is viewed as sporadic and under-utilised then those inclined to drive under the influence or take risks will be more willing to do so. Considering that 71 per cent of drug users admit to driving while under the influence, clearly roadside drug testing is yet to provide its promised deterrent effect, and I call upon the government to make the necessary changes so that drug testing is as frequently conducted as alcohol testing. Expensive it may be, but it is an investment in the safety of all road users in South Australia.

However, that said, I do support the measures in the bill and sincerely believe that they will, in the future, avert the dramas which led to the need for the Kapunda royal commission, after police failed to require Eugene McGee to undergo an alcohol

test. That was a critical error by police which resulted in his 'not guilty' verdict, and which ultimately led to a significant loss of public confidence in the state's police and judicial systems. I implore the government to continue to review the drug and alcohol driving scheme to ensure its effectiveness.

Debate adjourned on motion of Hon. J.M. Gazzola.