

Legislative Council

Wednesday, 14 November 2007, Page 1296

ROADSIDE DRUG TESTING

The Hon. A. BRESSINGTON (16:20): I move:

That this council urges the government to reconsider its roadside drug testing policy given that the drug wipe test using the Cozart Rapiscan chromographer failed to meet international standards for the detection of illicit drugs.

As members of the council are aware, last week I attended a conference in Melbourne, where groups involved in the testing of roadside devices revealed that, in fact, the drug wipe test we are using in South Australia failed international standards for the detection of illicit drugs. I was quite surprised. It is by no means a slight on the government or the police that this mechanism is in place. However, it is a concern to me, and to a few others, that perhaps a detection mechanism would be far better than a deterrent mechanism for identifying people driving on our roads under the influence of illicit drugs.

The drug wipe test is more effective in picking up drugs such as ecstasy, cocaine, opiates or methamphetamine than it is in picking up cannabis. We know that the prevalence rate of cannabis use in Australia is around 13.3 per cent; therefore, 2.9 per cent detected over 10,000 tests carried out using this test does not correlate with the prevalence of use. In fact, 13 per cent of those 10,000 tests would be far higher than the results yielded.

At the conference, it was explained that the reason the drug wipe test is not effective for cannabis detection is quite simple: the cannabis molecule is very sticky and binds to most porous substances or surfaces, such as plastic or surgical foam. Once it binds, it does not unbind. So, when people spit into a plastic cup, most of the THC molecule sticks to the plastic cup regardless of what fluid is used to dilute the saliva. This is also the case with the swab on the end of the drug wipe test, as it is made of surgical foam: the THC molecule absolutely loves to bind with surgical foam. The fluid we use in the tubes to try to dilute the saliva and get a better reading has the opposite effect, and the THC molecule remains bound to the surgical foam.

I recall that the Hon. Sandra Kanck stated that there was no way of measuring the amount of cannabis in somebody's system that could equal how we measure a person's blood alcohol level. This has now been proved to be quite measurable. What we find is that four nanograms per millilitre of saliva is when impairment begins, and 30 nanograms per millilitre of saliva is the equivalent of a blood alcohol level of 0.05. At 150 nanograms per millilitre of saliva, someone would be absolutely legless and you would not need to test them to know that they are under the influence of drugs. I ask the minister: what is the detection level for cannabis in South Australia?

The other states have set the detection level at around 100 to 130 nanograms per millilitre of saliva, which means that people are driving on roads literally stoned—and not just stoned: their blood alcohol level would be way over the legal limit as well.

The other interesting thing about the levels I have just mentioned is that, when the swab is rubbed on the tongue, if someone has had a cone within 30 minutes of being tested, the test will show positive but anything earlier than 30 minutes will more than likely have a negative yield. That means that, if this test is being used as a deterrent mechanism, people will get the message quick smart that you can be 'off your face' and you will not be detected because this test does not work, and its deterrent effect will soon be lost.

I believe that we should be testing for drugs those people who are behind the wheel. It has been documented that the percentage of people using drugs who are involved in fatal car crashes is quite high. I think 35 per cent of crashes and fatalities involves drugs or alcohol to some degree. We also know that the average age of someone beginning to use drugs is around 12 to 13 years, and it is quite naive of us to think that most of those kids will stop using drugs simply because they have obtained a driver's licence. We also know that there is an over-representation of people between the ages of 17 and 24 who are involved in road accidents and fatalities. Sooner or later I believe we have to take some steps to link the dots, so to speak, and see what the correlation is between drug use and teenage fatalities and what we can do about it.

I recall the figure I came up with, after the minister made her statement that drug testing would be expanded, was that over a period of five years it will cost South Australian taxpayers around \$16.5 million to have this program expanded. I have to ask whether the people of South Australia are aware that they are paying \$16.5 million for a test that is less than 2 per cent effective, and whether they would be happy with the expenditure of those taxes under those circumstances if they were well informed. I would hazard a guess and say no, that people want bang for buck. They would want to know that if we are spending that kind of money the detection rate is high and the desired outcome (to get drug drivers off the road) is an achievable target.

So, with the yield of around 2.9 per cent of positive testing, let us all keep in mind that that is because those people who were tested would have smoked dope within 30 minutes of the test if it was a cannabis positive test, and anyone smoking before that 30 minutes will slip through this test undetected. We can boast that 2.9 per cent of people are off the road—

The Hon. D.G.E. Hood interjecting:

The Hon. A. BRESSINGTON: Absolutely; 2.9 per cent or thereabouts may be an acceptable figure because it is better than nothing, but for \$16.5 million over that period, I believe people would want to see around a 10 to 12 per cent positive yield. A further consideration is that it affects the morale of the police force. Police officers would know when they go out and do these tests that it will achieve a positive outcome for the community and the drivers (they are off the road and no longer a danger to themselves). Those officers will also know that their job is worth something and they are contributing to the betterment of the community and the safety and wellbeing of the people they are paid to serve.

As I said, this is not a blame game motion. It aims to bring to the government's attention that there are flaws in this testing and, if we know what those flaws are, I believe that we are morally, ethically and legally bound to take whatever steps are

necessary. I did a radio interview with Leon Byner about this matter, and I stress again that I did not instigate this particular interview with him: someone from the conference contacted Mr Byner and I chimed in, as I would. Assistant Police Commissioner Grant Stevens made the comment that adjustments had been made to this test and they were satisfied that it was now a practical test to be delivering. I made inquiries as to what adjustments could be made that would improve the outcome of these tests and the answer came back that no adjustments could be made that would improve the positive detection of drugs in the system.

So, as I said, the motion is about bringing this matter to the attention of the members of this council and the government, and to see what steps could be taken as a result. Do we continue with this system knowing that money is literally being wasted and that perhaps promises made to the community about making roads safer simply cannot be fulfilled; or do we take the steps necessary to make sure that, as a parliament, we have done the best we could do to ensure that these tests have a high efficacy rate?

When we debated this legislation in parliament, I do not believe that the minister was aware of the results, or I hope she was not. I am sure that other members of the council were not aware of the tests that were done on this particular form of testing. I refer to the Rosita-2 project, which was a 2 or 3 year evaluation of a number of different types of saliva testing to determine for world's best practice what would be the most efficient and effective drug test specifically for roadside testing. A number of devices that test saliva are more accurate but they are not appropriate for using on the side of the road. It is not practical for police to try to use those types of tests and it is certainly not practical for police to be expected to collect urine samples on the side of the road, either.

This is not going to be a long, drawn-out matter. I would like to put on the record the statement made by the Rosita-2 project at the conclusion of the saliva testing. It states:

At the end of the study, no device was considered to be reliable enough in order to be recommended for roadside screening of drivers. However, the experience in the state of Victoria in Australia shows that random roadside oral fluid testing of drivers for methamphetamine and cannabis using the Securetec DrugWipe, followed by Cozart RapiScan and chromatographic analysis in the lab has a deterrent effect. Government officials should carefully weigh the pros (deterrent effect) and the cons (the risk that drivers will realise that they often test negative after having used drugs due to the limited sensitivity of the test). They should be careful of introducing random drug testing with the currently available devices.

As I said when introducing this motion, I urge the government to reconsider not only the use of this particular test but the expenditure of \$16.5 million to expand this over a five-year period when we know that the most success that we are going to get is to detect 2 per cent. This is not about whether drug use is acceptable or not acceptable. It is not about whether people will judge that people will have the right to use drugs. It is about people being behind the wheel of what has been classified as a lethal weapon—which is a car or a vehicle on the road—and not only putting themselves at risk but also putting other innocent people on the road at risk.

It is one of those things that has been debated and argued about for so long; that is, whether alcohol or illicit drugs is the more toxic substance. This is one instance where we cannot deny that the evidence is there. We can now measure cannabis in fluid and equate it to what would be a .05 alcohol blood level. We need to be using that model, making every effort we can to get this right.

As I said, it is not a matter of which drug is considered to be more toxic; the issue is impairment, and we know cannabis does impair driving ability, just as we know alcohol impairs driving ability. That is why we have had improved techniques over the years for alcohol detection and penalties for people driving under the influence of alcohol. But we should ask ourselves: what is the point of having a roadside saliva drug test that will detect only about 2.9 per cent of people driving? Our alcohol detection tests are far more accurate than that, and for the good reason that we do not want drunk drivers on the road, and nor should we want drug drivers on the road.

I leave this with the council and members and I urge everyone to actually step up to the plate and take responsibility for the fact that we passed legislation based on what we knew at the time; that we now have new information at hand that is scientifically evaluated, and it is the evidence that governments look for to support legislation; that we reviewed this process; and that at least we should be honest with the South Australian public in that we do intend to continue with this even though it is a flawed test. I will leave the matter with members to consider.

Legislative Council

5th April 2008

ROADSIDE DRUG TESTING

The Hon. A. BRESSINGTON (17:10): I thank all members for their contribution and for the words of support from the Liberal Party and Family First. As I said when I introduced this motion, it is not about the blame game. I understand that certain technology was available when the government decided to go ahead with roadside drug testing, and this is science that is being made available to us now over the last 12 months.

As I said, my main concern is that people are driving on our roads who are definitely under the influence. It is now been established overseas that the level of five nanograms is equivalent to a .05 for readings of blood alcohol for drink driving. The argument has been all along that we cannot legislate effectively for this because there was no standard or accepted level for the absorption of or content of THC in the bloodstream. Over the past 12 months, that has been shot to pieces.

The detection level of 30 nanograms in South Australia is the equivalent of someone driving with a blood alcohol level of around 3 to 3.5. It is not acceptable for alcohol, and it certainly should not be acceptable for THC. I also stress that the tests we are using are very effective for picking up amphetamine, ecstasy, opiates and all those drugs. The reason it is not effective in picking up THC in the bloodstream is not only

the rapid decrease in the level in saliva but also the THC molecule is very sticky. The foam the buccal swab is made from absorbs the THC or the THC molecule clings to the swab and is not released. This, combined with the rapid deterioration in the level of THC in saliva, is why it is so difficult to detect at five nanograms.

In South Australia, we have the idea that, because we have roadside drug testing, the roads will be far safer for people to drive on; however, that has been proved not to be the case.

We have had people under the influence of drugs driving and slipping through. I have had probably about six or seven parents contacting me to ask why their children had not been detected in the roadside drug testing for cannabis because they had come home from a party or a night out and were obviously stoned and had managed to slip through the drug testing regime. They were confused as to how that could happen because the level of impairment to them was obvious. These parents were quite disturbed that that was the case and feared that word would spread amongst their kids' friends that it does not matter if you use drugs and drive because you will not be detected. Some parents are concerned about their kids driving under the influence and saw it as a way of discouraging that practice, but as their kids had slipped through the net they are distressed that they will continue to use drugs and drive. I thank members for their contributions. I am hopeful that common sense will prevail.

Motion carried.