Road Safety Amendment (Mandatory Drug Testing) Bill 2014

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PARLIAMENT OF VICTORIA

Introduced in the Council

Road Safety Amendment (Mandatory Drug Testing) Bill 2014

A Bill for an Act to amend the Road Safety Act 1986 to provide that it is an offence for a person to drive a motor vehicle with any concentration of a substance in the person's blood indicative of recent heroin use, to provide for the mandatory drug testing of the driver of a motor vehicle that is involved in an accident that has resulted in serious injury or death of another person and for other purposes.

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to amend the Road Safety Act 1986—

(a) to provide that it is an offence for a person to drive a motor vehicle with any concentration of a substance in the person's blood indicative of recent heroin use; and
(b) to provide for the mandatory drug testing of the driver of a motor vehicle that is involved in an accident that has resulted in serious injury or death of another person.

2 Commencement

(1) This Part and Part 3 come into operation on the day after the day on which this Act receives the Royal Assent.

(2) Parts 2 and 4 come into operation on 1 August 2015.
PART 2—AMENDMENT OF ROAD SAFETY ACT 1986

3 Definition of prescribed illicit drug

In section 3(1) of the Road Safety Act 1986, in the definition of prescribed illicit drug—

(a) in paragraph (ab), for "(MDMA);" substitute "(MDMA); or";

(b) after paragraph (ab) insert—

"(ac) 6-monoacetylmorphine (6-MAM); or

(ad) morphine; or".

4 Offences involving alcohol or other drugs

(1) In section 49(1) of the Road Safety Act 1986—

(a) in paragraph (ea), after "section 55B(1)" insert "or 55BA(2)";

(b) in paragraphs (g) and (i), for "section 55, 55B, 55E or 56" substitute "section 55, 55B, 55BA, 55E or 56".

(2) After section 49(3C) of the Road Safety Act 1986 insert—

"(3D) If a person is charged under paragraph (bb), (bc), (h), (i) or (j) of subsection (1) on the basis that the person has driven a motor vehicle while morphine is present in the
person's blood, it is a defence to that charge for the person charged to prove that the presence of morphine in the person's blood was caused by the consumption of a substance for medical reasons or therapeutic purposes."

5 Amendment of section 55B

(1) Insert the following heading to section 55B of the Road Safety Act 1986—

"Blood and urine samples—persons assessed to be impaired by drugs".

(2) After section 55B(1A) of the Road Safety Act 1986 insert—

"(1B) A police officer must not require a person to allow a sample of the person's blood to be taken for analysis or to furnish a sample of the person's urine for analysis under subsection (1) if the person has already had a sample of blood taken from the person or the person has already furnished a sample of urine under section 55BA.".

6 New section 55BA inserted

After section 55B of the Road Safety Act 1986 insert—

"55BA Blood and urine samples—accidents resulting in death or serious injury

(1) This section applies if a police officer attends the scene of an accident involving one or more motor vehicles and the police officer believes on reasonable grounds that the accident has resulted in death or serious injury.

(2) Subject to subsections (4) and (5), the police officer must require each person who the police officer reasonably believes was, or
Part 2—Amendment of Road Safety Act 1986

may have been, driving a motor vehicle involved in the accident at the time of the accident to do either or both of the following—

(a) allow a registered medical practitioner or an approved health professional nominated by the police officer to take from the person a sample of that person's blood for analysis;

(b) furnish to a registered medical practitioner or an approved health professional nominated by the police officer a sample of that person's urine for analysis.

For the purpose of subsection (2), the police officer may require the person to accompany a police officer to a place where the sample is, or the samples are, to be taken or furnished and to remain there until the sample or samples required to be taken or furnished has or have been taken or furnished or until 3 hours after the accident, whichever is sooner.

A person is not obliged to allow a sample of the person's blood to be taken for analysis or to furnish a sample of the person's urine for analysis if more than 3 hours have passed since the accident.

A police officer must not require a person to allow a sample of the person's blood to be taken for analysis or to furnish a sample of the person's urine for analysis under this section if the person is taken to a place for examination or treatment in consequence of the accident.
Part 2—Amendment of Road Safety Act 1986

(6) The registered medical practitioner or approved health professional who takes a sample of blood or is furnished with a sample of urine under this section must deliver a part of the sample to the police officer who required it to be taken or furnished and another part to the person from whom it was taken or by whom it was furnished.

(7) A person must not hinder or obstruct a registered medical practitioner or an approved health professional attempting to take a sample of the blood, or be furnished with a sample of the urine, of any other person in accordance with this section.

Penalty: 12 penalty units.

(8) No action lies against a registered medical practitioner or an approved health professional in respect of anything properly and necessarily done by the practitioner or approved health professional in the course of taking any sample of blood, or being furnished with any sample of urine, which the practitioner or approved health professional believed on reasonable grounds was required to be taken from, or be furnished by, any person under this section.

(9) Without limiting sections 57 and 57A, if a sample of a person's blood or urine is taken or furnished in accordance with this section, the results of the analysis of the sample may be given to the Corporation for the purposes of accident research.

(10) Nothing in this section prevents a police officer from requiring a person to undergo an assessment of drug impairment in accordance with section 55A."
7 Evidentiary provisions—blood tests

In section 57(9) of the Road Safety Act 1986, for "sections 55(9A), 55B, 55E(13) and 56" substitute "sections 55(9A), 55B, 55BA, 55E(13) and 56".

8 Surrender of motor vehicle

In section 84H(2)(a)(ia)(A) of the Road Safety Act 1986, for "section 55(9A), 55B(1)(a), 55E(13) or 56(2)" substitute "section 55(9A), 55B(1)(a), 55BA(2)(a), 55E(13) or 56(2)".

9 Amendment to Schedule 1A

In Schedule 1A to the Road Safety Act 1986, for item 6 substitute—

<table>
<thead>
<tr>
<th></th>
<th>Section 50</th>
<th>Offence under section 49(1)(ba) or (ca)</th>
<th>Before, on or after 13 May 2002</th>
<th>6 months</th>
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<tr>
<td>6</td>
<td></td>
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<tr>
<td>6A</td>
<td></td>
<td>Offence under section 49(1)(ea) of refusing to comply with a requirement under section 55B(1)</td>
<td>Before, on or after 13 May 2002</td>
<td>6 months</td>
</tr>
<tr>
<td>6B</td>
<td></td>
<td>Offence under section 49(1)(ea) of refusing to comply with a requirement under section 55BA(2)</td>
<td>On or after 1 August 2015</td>
<td>6 months</td>
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PART 3—AMENDMENT OF ROAD SAFETY AMENDMENT ACT 2014

10 Offences involving alcohol or other drugs

In section 7(3) of the Road Safety Amendment Act 2014, in proposed section 49(1)(j) of the Road Safety Act 1986, for "section 55, 55B, 55E or 56" substitute "section 55, 55B, 55BA, 55E or 56".
PART 4—REPEAL OF AMENDING ACT

11 Repeal

This Act is **repealed** on 1 August 2016.

**Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
Road Safety Amendment (Mandatory Drug Testing) Bill 2014

ENDNOTES