



Submission from Medical Cannabis Aotearoa New Zealand (MCANZ) and Its Patients on the Land Transport (Drug Driving) Amendment Bill

Dear Committee Members,

Medical Cannabis Aotearoa New Zealand (MCANZ) and our patient community submit this response with a recognition of the well-intentioned goals behind the Land Transport (Drug Driving) Amendment Bill.

We understand and support the importance of keeping New Zealanders safe on the roads and addressing the issue of drug-impaired driving. However, we are concerned that the proposed measures, particularly as they relate to medicinal cannabis users, may ultimately serve more as theatre than effective policy. While these measures may appear to take strong action, they could inadvertently penalise responsible patients without significantly improving road safety.

Acknowledging the Importance of Road Safety

First and foremost, we acknowledge the critical need to reduce drug-impaired driving. The statistics provided in support of this Bill are indeed concerning, and no one can dispute the tragic impact of road accidents caused by impaired drivers. We fully support the Government's efforts to make our roads safer and to protect all road users from the dangers posed by those who drive under the influence of impairing substances.

The Problem with Oral Fluid Testing

However, we must express serious concerns about the reliance on oral fluid testing as the primary tool for detecting drug-impaired drivers, especially in the case of medicinal cannabis. The technology and science behind these tests are not yet sufficiently advanced to accurately distinguish between recent use and actual impairment, particularly due to the presence of metabolites of active components in cannabis.

These metabolites can remain detectable in a person's system for days or even weeks after use, long after any impairing effects have subsided. The Bill suggests that a positive result in an oral fluid test is indicative of "recent use," but in reality, this is not necessarily the case. For medicinal cannabis patients, this could mean being unfairly penalised even when they are not impaired and are using their medication responsibly, according to their doctor's instructions. The result is a situation where the law may appear tough on drug-impaired driving but fails to effectively target those who are truly a danger on the roads.

The Medical Defence: Insufficient Protection for Patients

While the Bill includes provisions for a medical defence for those taking prescription medication, this defence is insufficiently robust to protect patients from undue penalties. The medical defence should act as a safeguard against wrongful punishment, but under the current proposal, it is unclear how effectively it will be applied in practice.

The process by which law enforcement will determine whether a medicinal cannabis patient is actually impaired or simply has metabolites in their system is not well defined. This ambiguity could lead to inconsistent enforcement and unnecessary legal challenges for patients who are following their prescribed treatment.

Theatre Over Substance

We are concerned that this Bill, while well-intentioned, may serve more as a public display of action ("theatre") than as a substantive improvement in road safety. By focusing on oral fluid testing, which is an unreliable measure of impairment, the Bill risks creating the appearance of a solution without truly addressing the underlying issue. The result could be a law that is more about reassuring the public than about making meaningful progress in reducing drug-impaired driving.

Patient Comments and Concerns

As part of our submission, we believe it is important to highlight the real-world concerns and experiences of patients who rely on medicinal cannabis for their health and well-being. These comments provide valuable insight into the potential impacts of this Bill:

- **Concerns About Detention and Legal Ambiguities:** Patients have expressed fears that being detained for an oral fluid test could be considered unreasonable, especially when the test does not reliably indicate impairment. There is uncertainty about whether the medical defence will effectively prevent immediate penalties like a 12-hour driving ban.
- **Flawed Testing Processes:** Many patients are sceptical about the reliability of oral fluid tests, particularly the potential for false positives or negatives, and the lack of transparency around testing outcomes. There is concern that thresholds for "recent use" could be set arbitrarily, leading to unjust penalties.
- **Impact on Daily Life:** Patients feel that the 12-hour driving ban is overly harsh, particularly when they are not impaired but still test positive for metabolites even beyond the 12-hour window. These restrictions could discourage them from using their medication as needed or force them to choose between their health and their ability to drive.

- **General Distrust:** There is a general distrust among patients regarding the fairness and accuracy of the enforcement processes. Some fear that the system could be manipulated, leading to wrongful penalties without effectively addressing the issue of impairment.
- **The Normalisation of Medicinal Cannabis:** For some patients, medicinal cannabis is a regular part of life, essential for managing health conditions and enabling them to function productively. They worry that the Bill could criminalise their normal, responsible use of cannabis, despite their contributions to society.

These patient perspectives underscore the need for a balanced approach that genuinely enhances road safety without disproportionately affecting those who rely on medicinal cannabis.

Recommendations

Given these concerns, we respectfully request the following actions:

1. **Refine the Approach to Impairment Detection:** Rather than relying on oral fluid testing, we urge the Government to invest in the development and implementation of more accurate and reliable methods for detecting actual impairment, particularly with medicinal cannabis.
2. **Strengthen and Clarify the Medical Defence:** Ensure that the medical defence is clearly defined and effectively prevents law-abiding medicinal cannabis patients from being unjustly penalised. Law enforcement officers should have clear guidelines on how to handle cases involving medicinal cannabis users to avoid unnecessary legal conflicts.
3. **Focus on Evidence-Based Solutions:** Shift the focus from measures that provide the appearance of action to those that are genuinely effective. This includes ongoing research and pilot programmes to identify the most reliable methods for impairment detection.

MCANZ is committed to the safety and well-being of all New Zealanders, including those who rely on medicinal cannabis for their health. We believe that it is possible to protect both road safety and patient rights, and we urge you to consider these points as you move forward with this legislation.

