

Legal Torque

NEW LAW UNDER CONSIDERATION—DRUG IMPAIRED DRIVERS

-Miles Edwards-

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An amendment to the Land Transport Act is being currently considered by Parliament which will make it an offence to drive while impaired by illegal drugs. This will include prescription medicine without valid prescription.

International studies have established a link between drugs and impaired driving. The principal drugs of concern in New Zealand at the moment are cannabis, methadone and methamphetamine. Over 30% of blood samples tested of deceased drivers in recent ESR/police study showed evidence of drugs. Although this study is not conclusive on the effect the drugs may have had on the driver, it does show a growing trend of drug use amongst drivers.

The current law addresses drugged driving, but has a lower threshold to that being currently proposed. Currently a driver can only be convicted of driving whilst being “incapable” and currently the Police do not have powers to demand a blood test for drugs.

The proposal is that it would be an offence to drive while impaired by illegal drugs if the driver is unable to satisfactorily perform a compulsory impairment test and is found to have an illegal drug in their blood. The penalties will be the same as alcohol.

This raises several questions as to the powers that the Police would have as a result

of this law. The Compulsory Impairment Test, which would be conducted by officers on the roadside is subjective and the result depends upon the opinion of the officer. Enforcement Officers would be trained in the techniques of drug impairment testing and drug impairment recognition. This includes techniques such as walking a straight line, reciting the alphabet in reverse and touching your nose. Approved methods will be decided by the Minister. However, the question that many are asking is whether drivers would be given a right to have an independent subjective test before giving blood. It may not be right that every driver should be compelled to give blood if in the opinion of the officer he or she is deemed impaired. This has not yet been addressed.



A final select committee report is due on this matter on 15 April 2008. However, it is highly likely that driving while under the influence of drugs will in the future be very strictly policed. The offence will have the same disqualification rules for drivers as in drink driving and we may see more people in the courts and off the road for this offence. The offence is an opportune time for employers to address the issue of drugs while working in their employment contracts. We will be discussing that issue in the next issue of this publication.

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