

New South Wales

Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to—

- (a) to amend the *Road Transport Act 2013* (***the Act***) to—
 - (i) update terminology to refer to crashes rather than accidents to align with terminology used by Transport for NSW and NSW Police and to reflect that crashes may have causal factors, and
 - (ii) allow blood samples taken from a driver, supervising driver or a bicycle rider who attends or is admitted to hospital because of a crash (a ***crash participant***) to be analysed for drugs, in addition to alcohol, if a police officer reasonably believes the crash has resulted in grievous bodily harm to a person, and
 - (iii) extend the existing power of police officers to arrest an uninjured driver or supervising driver involved in a fatal, or likely fatal, crash for the purpose of taking blood and urine samples from the driver to enable a police officer to arrest an uninjured driver or supervising driver involved in a crash that the police officer reasonably suspects has resulted in grievous bodily harm to a person and allow those samples to be analysed for alcohol and drugs, and
 - (iv) give police officers the power to arrest an uninjured bicycle rider involved in a crash for the purpose of taking blood and urine samples from the rider if the police officer reasonably suspects the crash has resulted in a fatality or grievous bodily harm to a person and allow those samples to be analysed for alcohol and drugs, and

- (v) require authorised sample takers to take samples from a person who attends or is admitted to hospital because of a crash (a *crash hospital patient*) rather than the medical practitioner attending the patient, and
 - (vi) allow a blood sample taken from an arrested person who is not physically capable of providing a breath analysis or oral fluid sample to be analysed for alcohol, in addition to any prescribed illicit drugs, to support enforcement of combined drink and drug driving offences, and
 - (vii) enable a drink-driving offender who has been issued with a mandatory interlock order to apply for an exemption order if the offender has been diagnosed with a serious medical condition that prevents the offender from using the interlock, and
 - (viii) include the offences under the *Crimes Act 1900*, section 52A of dangerous driving occasioning death or grievous bodily harm as major offences for the purposes of the Act,
 - (ix) make consequential amendments and other minor statute law revision amendments, and
- (b) amend the *Crimes (Sentencing Procedure) Act 1999* to prescribe combined drink and drug driving offences under the Act as offences in relation to which the court must take into account particular aggravating, mitigating and other objective or subjective factors that affect the relative seriousness of the offence when determining the appropriate sentence for that offence, and
- (c) make consequential amendments to other Acts and regulations.

Outline of provisions

Clause 1 sets out the name of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Road Transport Act 2013 No 18

Schedule 1[1], [8], [49], [50], [59], [65] and [71] make statute law revision amendments to update terminology and remove redundant cross-reference notes from headings.

Schedule 1[2] amends section 4 to replace definitions or insert new definitions for the Act consequent on other amendments in Schedule 1.

Schedule 1[3], [4], [6]–[9], [13]–[23], [27]–[34], [48], [55], [58], [72]–[82], [84] and [85] amend provisions to update references to alcohol and drugs as a consequence of other amendments in Schedule 1.

Schedule 1[5] amends section 4(1), definition of *major offence*, to include offences of dangerous driving occasioning death or grievous bodily harm under the *Crimes Act 1900* as major offences for the purposes of the Act.

Schedule 1[10]–[12], [25], [26], [37]–[39], [41], [42], [52], [53], [56], [57], [61]–[63], [67], [69], [83], [86]–[88] amend provisions to replace references to accidents with references to crashes.

Schedule 1[36] inserts section 212A to allow a court that makes a mandatory interlock order against an offender to make an interlock exemption order if satisfied the offender has a diagnosed medical condition that prevents the offender from providing a sufficient breath sample to operate an approved interlock device. **Schedule 1[35]** makes a related amendment to clarify the matters about which the court must be satisfied in making interlock exemption orders on or after conviction.

Schedule 1[40] amends the Act, Schedule 3, clause 1(1) to omit redundant definitions and insert new definitions for Schedule 3 consequent on other amendments in Schedule 1.

Schedule 1[43] amends the Act, Schedule 3, clause 5A(3) to allow a blood sample taken from a person who has been arrested and is not physically capable of providing a breath analysis to be analysed for any prescribed illicit drugs.

Schedule 1[24], [44], [45] and [51] make amendments to update terminology consequent on other amendments in Schedule 1.

Schedule 1[46] amends Schedule 3, clause 9(3) to allow a blood sample taken from an arrested person who cannot physically supply an oral fluid sample to be analysed for alcohol, in addition to any prescribed illicit drugs.

Schedule 1[47] replaces Schedule 3, Part 2, Division 4, to make the following changes to the existing provisions—

- (a) replace references to accidents with references to crashes,
- (b) extend the existing power of police officers to arrest an uninjured driver or supervising driver involved in a crash that has resulted in a fatality and take the person to hospital to have blood and urine samples taken for alcohol and drug analysis to uninjured drivers or supervising drivers involved in a crash that a police officer reasonably suspects has resulted in grievous bodily harm to a person,
- (c) require blood samples from a crash hospital patient to be taken by an authorised sample taker to ensure consistency in the Act,
- (d) extend the existing power of police officers to arrest an uninjured driver or supervising driver involved in a crash that has resulted in a fatality and to arrange for the taking of blood and urine samples from the person for alcohol and drug analysis to enable police officers to—
 - (i) arrest a person riding a bicycle involved in the crash if—
 - (A) the crash resulted in a fatality, or
 - (B) the police officer reasonably suspects the crash has resulted in grievous bodily harm to a person, and
 - (ii) arrange for the taking of blood and urine samples from the person for alcohol and drug analysis.

Schedule 1[54] amends the Act, Schedule 3, clause 17(5) to omit a redundant definition.

Schedule 1[60] amends the Act, Schedule 3, clause 18(4) to omit a redundant definition.

Schedule 1[64] replaces the Act, Schedule 3, clause 24(8). The proposed new subclause—

- (a) extends the existing power of police officers to arrange for a blood sample taken from an injured driver or supervising driver to be analysed for alcohol and drugs if the crash has resulted in a fatality or likely fatality to circumstances in which the police officer reasonably believes the crash resulted in grievous bodily harm to a person, and
- (b) extends the power to also apply in relation to bicycle riders.

Schedule 1[66] replaces the Act, Schedule 3, clause 27(1) and (2). The proposed new subclauses extend the authority of a laboratory analyst to test a blood or urine sample from a person involved in a crash for the presence of alcohol or drugs if a police officer has given the laboratory written notice that the crash resulted in a fatality, to include circumstances where the laboratory has been given written notice that a police officer reasonably believes a person suffered grievous bodily harm as a result of the crash within 12 months after the crash. **Schedules 1[68] and [70]** make consequential amendments.

Schedule 1[89] inserts transitional provisions to provide that—

- (a) the amended provisions do not apply in relation to samples taken before the commencement of the amendments and that samples taken before the commencement of the amendments will be dealt with in accordance with the provisions as in force before the amendments, and

- (b) during a transitional period of 2 years, certificates relating to the conduct of analysis of samples are not to be considered invalid if the certificate complies with the requirements of the relevant provisions in force before the commencement of the amendments.

Schedule 2 Consequential amendments of other legislation

Schedule 2.1 amends the *Crimes Act 1900* to update the definition of **drug** as a consequence of amendments in Schedule 1.

Schedule 2.2 amends the *Crimes (Sentencing Procedure) Act 1999*, section 21A to prescribe offences under the *Road Transport Act 2013*, section 111A(1)–(3), being combined drink and drug driving offences, as **prescribed traffic offences** in relation to which the court must take into account prescribed aggravating, mitigating factors and other objective or subjective factors that affect the relative seriousness of the offence when determining the appropriate sentence for that offence.

Schedule 2.3 amends the *Marine Safety Act 1998* to update the definition of **drug** as a consequence of amendments in Schedule 1.

Schedules 2.4, 2.5, 2.6 and 2.7 make consequential amendments to various instruments under the *Road Transport Act 2013* to—

- (a) replace references to accidents with references to crashes, and
- (b) replace references to alcohol or other drug related driving offences with references to alcohol or drug related driving offences.



New South Wales

Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Bill 2025

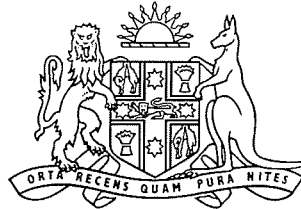
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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Bill 2025

No. , 2025

A Bill for

An Act to amend the *Road Transport Act 2013* in relation to post-crash drug and alcohol testing; to make consequential amendments to other Acts and regulations; and for other purposes.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.

Legislative Assembly

Clerk of the Legislative Assembly

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Act 2025</i> .	3
	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1 Amendment of Road Transport Act 2013 No 18

[1] Whole Act

Omit all bracketed notes wherever occurring in headings that draw attention (“cf”) to provisions of other Acts and statutory rules.

[2] Section 4 Definitions

Omit the definitions of *alcohol or other drug related driving offence* and *fatal accident* from section 4(1).

Insert in alphabetical order—

alcohol or drug related driving offence means an offence—

- (a) involving the presence of—
 - (i) alcohol in a person’s breath or blood, or
 - (ii) a drug in a person’s oral fluid, blood or urine, and
- (b) prescribed by the statutory rules.

bicycle has the same meaning as in the *Road Rules 2014*.

crash means—

- (a) a collision between 2 or more vehicles, or
- (b) a collision or incident involving a vehicle in which—
 - (i) a person is killed or injured, or
 - (ii) the vehicle or other property is damaged, or
 - (iii) an animal in a person’s charge is killed or injured.

fatal crash means a crash on a road or road related area involving a motor vehicle or bicycle that results in the death of 1 or more persons.

[3] Section 4(1), definition of “drug”, paragraph (a)

Omit the paragraph.

[4] Section 4(1), definition of “drug”, paragraph (d)

Insert “, other than alcohol,” after “any other substance”.

[5] Section 4(1), definition of “major offence”, paragraph (b)

Insert “, 52A” after “51B”.

[6] Section 9 Determination of “first offence” and “second or subsequent offence”

Omit “other” from section 9(2A)(a).

[7] Section 13 Notes

Omit the note.

[8] Section 59, heading

Omit the heading. Insert instead—

59 Cancellation or suspension—speeding, drug or alcohol offences

[9] Section 59(1) and (4A)

Omit “other drug” wherever occurring. Insert instead “drug”.

[10] Sections 76(3)(c), 78(2)(a), 142(1)(a), 148R(1)(b) and (c) and 155(1)(a)	1
Omit “an accident” wherever occurring. Insert instead “a crash”.	2
[11] Section 78 Use of dangerously defective motor vehicles	3
Omit “the accident” from section 78(2)(a). Insert instead “the crash”.	4
[12] Section 80 Power of entry to inspect damaged vehicles	5
Omit “accidents” from section 80(1)(a). Insert instead “crashes”.	6
[13] Part 5.1, heading	7
Omit “other”.	8
[14] Part 5.1, Division 2, heading	9
Omit “other”.	10
[15] Section 111, heading	11
Omit “(other than alcohol)”.	12
[16] Section 111(1)	13
Omit “any prescribed”. Insert instead “a prescribed”.	14
[17] Section 111(4)	15
Omit “any other drugs”. Insert instead “another drug or alcohol”.	16
[18] Section 111(6), note	17
Omit “any other drug”. Insert instead “a drug”.	18
[19] Section 112, heading	19
Omit “any other drug”. Insert instead “drugs”.	20
[20] Section 112(1)	21
Omit “any other drug”. Insert instead “a drug”.	22
[21] Section 112(2)(a) and (b)	23
Omit the paragraphs. Insert instead—	24
(a) the court attendance notice—	25
(i) may allege the person was under the influence of—	26
(A) alcohol and 1 or more drugs, or	27
(B) 1 or more drugs, and	28
(ii) is not liable to be dismissed on the ground of uncertainty or	29
duplicity if more than one of the substances in (A) or (B) (a	30
<i>relevant substance</i>) is described in the court attendance notice,	31
and	32
(b) the offence is proved if the court is satisfied beyond reasonable doubt	33
that the defendant was under the influence of—	34
(i) a relevant substance described in the court attendance notice, or	35
(ii) a combination of relevant substances if 1 or more of the relevant	36
substances was described in the court attendance notice.	37

[22] Section 114, heading	1
Omit “other”.	2
[23] Section 114	3
Omit “other”.	4
[24] Section 117 Negligent, furious or reckless driving	5
Omit section 117(3)(c). Insert instead—	6
(c) obstructions or hazards on the road, including—	7
(i) broken down vehicles, and	8
(ii) fallen loads, and	9
(iii) crash or emergency scenes.	10
[25] Section 142 Removal of dangers and obstructions to traffic	11
Omit “accident” from section 142(5), definition of <i>relevant person</i> , paragraph (a).	12
Insert instead “crash”.	13
[26] Section 148D Power of entry for tracing stolen motor vehicles or trailers or their parts	14
Omit “accidents” from section 148D(1)(a). Insert instead “crashes”.	15
[27] Section 148E, heading	16
Omit “other”.	17
[28] Section 148E(1)	18
Omit “any other drug, or a combination of drugs”.	19
Insert instead “a drug or combination of drugs”.	20
[29] Section 148E(1)(a)	21
Omit “that other drug or a combination of drugs”.	22
Insert instead “the drug or combination of drugs”.	23
[30] Section 148EA, heading	24
Omit “other”.	25
[31] Section 148F, heading	26
Omit “other”.	27
[32] Section 148F(1)	28
Omit “any other drug, or a combination of drugs”.	29
Insert instead “a drug or combination of drugs”.	30
[33] Section 148F(1)	31
Omit “that other drug or a combination of drugs”.	32
Insert instead “the drug or combination of drugs”.	33
[34] Section 148I Detention of keys or vehicles may be continued	34
Omit “any other drug” from section 148I(1)(b)(ii). Insert instead “a drug”.	35

[35] Section 212 Interlock exemption orders	1
Insert “under this section” before “only if” in section 212(3).	2
[36] Section 212A	3
Insert after section 212—	4
212A Application for interlock exemption orders after conviction	5
(1) The court that made a mandatory interlock order against an offender may, on the application of the offender, make an interlock exemption order under this section if the court is satisfied—	6
(a) the offender has a medical condition that—	9
(i) has been diagnosed by a registered medical practitioner, and	10
(ii) prevents the offender from providing a sufficient breath sample to operate an approved interlock device, and	11
(b) it is not reasonably practicable for an interlock device to be modified to enable the offender to operate the device, and	12
(c) the offender—	13
(i) did not satisfy section 212(3)(b) at the time of conviction, or	14
(ii) did satisfy that paragraph at the time of conviction, but did not apply for an interlock exemption order under section 212.	15
(2) The application must be accompanied by a current statement of the offender’s driving record issued by Transport for NSW.	16
(3) The court may at any time require the following—	17
(a) an updated statement of the offender’s driving record to be given by the offender,	18
(b) a report about the driving record of the offender,	19
(c) any other report in relation to the offender that the court considers necessary for this section.	20
(4) The offender must not make the application if the offender is eligible, under the <i>Crimes (Appeal and Review) Act 2001</i> , to—	21
(a) appeal against the conviction in relation to which the mandatory interlock order was made, or	22
(b) apply for an annulment of the conviction, other than under section 5 of that Act.	23
(5) The relevant registrar of the court must notify Transport for NSW of the court’s decision on the application.	24
(6) If the interlock exemption order is made—	25
(a) the court must determine a disqualification period for the interlock exemption order—	26
(i) in accordance with section 205 as if determining the period for which the person is disqualified under that section from holding a driver licence, and	27
(ii) taking into account relevant disqualification periods or interlock periods already served, and	28
(b) the disqualification period for the interlock exemption order is taken to have started on the day the mandatory interlock order was issued to the offender, and	29
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(c)	the mandatory interlock order is revoked.	1
(7)	Transport for NSW may, by written notice given to the offender—	2
(a)	nominate a drink driving education program, and	3
(b)	require the offender to undertake the program within the period specified in the notice.	4
		5
[37]	Schedule 1 Examples of statutory rule-making powers	6
	Omit “accidents” from clause 10, heading. Insert instead “crashes”.	7
[38]	Schedule 1, clause 10	8
	Omit “an accident”. Insert instead “a crash”.	9
[39]	Schedule 1, clause 10(a) and (b)	10
	Omit “the accident” wherever occurring. Insert instead “the crash”.	11
[40]	Schedule 3 Testing for alcohol and drug use	12
	Omit clause 1(1), definition of <i>accident</i> . Insert in alphabetical order—	13
	<i>alcohol analysis</i> , of a person’s blood or urine, means an analysis to determine the concentration of alcohol in the person’s blood or urine.	14
		15
	<i>applicable driver licence</i> has the same meaning as in Part 5.1.	16
	<i>attempting to drive a motor vehicle</i> means occupying the driving seat of a motor vehicle and attempting to put the motor vehicle in motion.	17
		18
	<i>crash</i> —	19
(a)	means a crash that—	20
(i)	involves a motor vehicle or other vehicle or a horse, and	21
(ii)	is on a road, and	22
(b)	for clause 12—includes a crash that—	23
(i)	involves a motor vehicle, and	24
(ii)	is not on a road.	25
	<i>crash hospital patient</i> , for Schedule 3, Part 2, Division 4—see clause 10.	26
	<i>crash participant</i> means a person who—	27
(a)	at the time of a crash, was—	28
(i)	driving a motor vehicle involved in the crash, or	29
(ii)	attempting to drive a motor vehicle involved in the crash, or	30
(iii)	supervising a learner driver who was driving a motor vehicle involved in the crash, or	31
(iv)	riding a bicycle involved in the crash, and	32
(b)	is at least 15 years of age.	33
	<i>drug</i> does not include alcohol.	34
		35
	<i>drug analysis</i> , of a person’s blood or urine, means an analysis to determine the presence or concentration of a drug in the person’s blood or urine.	36
		37
	<i>grievous bodily harm</i> has the same meaning as in the <i>Crimes Act 1900</i> .	38
	<i>hospital</i> , for Schedule 3, Part 2, Division 4—see clause 10.	39
	<i>prescribed laboratory</i> , for Schedule 3, Part 4—see clause 23.	40
	<i>secondary participant</i> in a crash means a person involved in the crash who was—	41
		42

	(a) a pedestrian, or	1
	(b) driving or riding a vehicle, other than a bicycle, a motor vehicle or a horse.	2
		3
	<i>security box</i> , for Schedule 3, Part 4—see clause 23.	4
	<i>supervising a learner driver</i> means holding an applicable driver licence and occupying the seat in a motor vehicle next to a learner driver while the learner driver drives the motor vehicle.	5
		6
		7
[41]	Schedule 3, clause 2(2), definition of “relevant period”, paragraph (d)	8
	Omit “accident”. Insert instead “crash”.	9
[42]	Schedule 3, clause 2(3), note	10
	Omit “an accident”. Insert instead “a crash”.	11
[43]	Schedule 3, clause 5A(3)	12
	Omit “conducting an analysis to determine the concentration of alcohol in the blood.”.	13
	Insert instead—	14
	conducting—	15
	(a) an alcohol analysis of the blood, and	16
	(b) a drug analysis to determine whether the blood contains a prescribed illicit drug.	17
		18
[44]	Schedule 3, Part 2, Division 3, heading	19
	Omit the heading. Insert instead—	20
	Division 3 Random oral fluid testing	21
[45]	Schedule 3, clause 6(1)	22
	Omit the subclause. Insert instead—	23
	(1) A police officer may require a person to submit to 1 or more oral fluid tests for prescribed illicit drugs in accordance with the officer’s directions if the officer has reasonable cause to believe the person is or was—	24
		25
		26
	(a) driving a motor vehicle on a road, or	27
	(b) attempting to drive a motor vehicle on a road, or	28
	(c) supervising a learner driver driving a motor vehicle on a road.	29
[46]	Schedule 3, clause 9(3)	30
	Omit “conducting an analysis to determine whether the blood contains any prescribed illicit drugs.”	31
		32
	Insert instead—	33
	conducting—	34
	(a) an alcohol analysis of the blood, and	35
	(b) a drug analysis to determine whether the blood contains a prescribed illicit drug.	36
		37
[47]	Schedule 3, Part 2, Division 4	38
	Omit the division. Insert instead—	39

Division 4 Crashes

10 Definitions

In this division—

crash hospital patient means a person who—

- (a) attends at, or is admitted to, a hospital for examination or treatment because of a crash, whether occurring in this jurisdiction or elsewhere, and
- (b) is at least 15 years of age.

hospital includes premises, including an institution or establishment, prescribed by the statutory rules as being included for this definition.

11 Blood samples must be taken in hospitals from certain crash hospital patients

- (1) An authorised sample taker attending to a crash hospital patient at a hospital must take a sample of the patient's blood for analysis if, at the time of the crash, the patient was—
 - (a) a crash participant, or
 - (b) a pedestrian involved in the crash, or
 - (c) driving or riding a vehicle, other than a motor vehicle or bicycle, involved in the crash, or
 - (d) driving or riding a horse involved in the crash.
- (2) The sample must be taken—
 - (a) as soon as practicable, and
 - (b) whether or not the patient consents.
- (3) The authorised sample taker is not required to take the sample if—
 - (a) a sample of the patient's blood has already been taken in accordance with this clause, or
 - (b) the authorised sample taker has been informed by a police officer, or has reasonable grounds to believe, that the sample is required to be taken for the purposes of clause 12.
- (4) A sample taken under this clause may be used for the purpose of conducting an alcohol analysis of the blood.
- (5) A sample taken from a patient under this clause in relation to a crash may be used for the purpose of conducting a drug analysis of the blood if—
 - (a) the patient was a crash participant, and
 - (b) a police officer has reasonable grounds to believe the crash resulted in—
 - (i) the death of a person, or
 - (ii) grievous bodily harm to a person.

Note 1— Part 4 provides for the procedures in relation to the taking and analysis of samples taken under this clause.

Note 2— Part 5 provides for the admissibility of evidence of the presence and concentration of alcohol and drugs in blood samples taken under this clause and analysed in accordance with Part 4.

12 Power to arrest persons involved in certain crashes

- (1) A police officer may arrest a crash participant without warrant if—

(a)	the crash participant is not a crash hospital patient, and	1
(b)	the police officer reasonably suspects that—	2
(i)	a person has died as a result of the crash, or	3
(ii)	the crash resulted in grievous bodily harm to a person.	4
(2)	A police officer may cause the arrested crash participant, using the force necessary—	5
(a)	to be taken to a hospital or prescribed place, and	6
(b)	to be detained at the hospital or place for the taking of blood and urine samples, and	7
(c)	to have the samples taken.	8
(3)	A police officer may require an authorised sample taker to take samples of the arrested crash participant’s blood and urine.	9
(4)	The authorised sample taker must take the samples whether or not the arrested crash participant consents.	10
	Note— A refusal or failure by the authorised sample taker to take a sample that the authorised sample taker is required to take under this schedule may constitute an offence under clause 20.	11
(5)	A sample taken under this clause may be used for the purpose of conducting an alcohol analysis or drug analysis of the blood or urine.	12
	Note 1— Part 4 provides for the procedures in relation to the taking and analysis of samples taken under this clause.	13
	Note 2— Part 5 provides for the admissibility of evidence of the presence and concentration of alcohol or drugs in blood and urine samples taken under this clause and analysed in accordance with Part 4.	14
[48]	Schedule 3, clauses 13(2)(a) and 14	15
	Omit “influence of a drug” wherever occurring.	16
	Insert instead “influence of alcohol or a drug”.	17
[49]	Schedule 3, clause 13(2)(a)(i)(B)	18
	Omit the subsubparagraph. Insert instead—	19
	(B) is or was attempting to drive a motor vehicle on a road, or	20
[50]	Schedule 3, clause 15(2)	21
	Omit “is under a duty to”. Insert instead “must”.	22
[51]	Schedule 3, clause 15(3)	23
	Omit “an analysis to determine whether the blood or urine contains a drug”.	24
	Insert instead “an alcohol analysis or drug analysis of the blood or urine”.	25
[52]	Schedule 3, clauses 17(2) and 18(1)	26
	Omit “(other than a secondary participant in an accident)” wherever occurring.	27
	Insert instead “, other than a secondary participant in a crash,”.	28
[53]	Schedule 3, clause 17(3)	29
	Omit “an accident”. Insert instead “a crash”.	30

[54] Schedule 3, clause 17(5), definition of “secondary participant”	1
Omit the definition.	2
[55] Schedule 3, clause 18, heading	3
Omit “other”.	4
[56] Schedule 3, clause 18(1)(e) and (2)	5
Omit “an accident” wherever occurring. Insert instead “a crash”.	6
[57] Schedule 3, clause 18(1)(e), (2) and (3)(d) and (e)	7
Omit “accident” wherever occurring. Insert instead “crash”.	8
[58] Schedule 3, clause 18(1)(f) and (g)	9
Omit “a drug” wherever occurring. Insert instead “alcohol or a drug”.	10
[59] Schedule 3, clause 18(3)	11
Omit “in the case of the prosecution of a person” wherever occurring.	12
[60] Schedule 3, clause 18(4), definition of “secondary participant”	13
Omit the definition.	14
[61] Schedule 3, clause 20(3)	15
Omit “an accident” wherever occurring. Insert instead “a crash”.	16
[62] Schedule 3, clause 20(3)(c)	17
Omit “accident”. Insert instead “crash”.	18
[63] Schedule 3, clause 24(6)	19
Omit “an accident”. Insert instead “a crash”.	20
[64] Schedule 3, clause 24(8)	21
Omit the subclause. Insert instead—	22
(8) Subject to subclause (9), a police officer may arrange for a blood sample taken from a person under clause 11 to be submitted to a prescribed laboratory for either or both of the following—	23
(a) alcohol analysis,	24
(b) drug analysis.	25
(9) A police officer must not arrange for a blood sample taken from a person under clause 11 to be submitted to a prescribed laboratory for drug analysis under subclause (8) unless the officer has reasonable grounds to believe that—	26
(a) the person was a crash participant and the crash resulted in—	27
(i) the death of a person, or	28
(ii) grievous bodily harm to a person, or	29
(b) at the time of the crash, the person was under the influence of a drug and either—	30
(i) police officers did not attend the scene of the crash, or	31
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	(ii) police officers did attend the scene but did not have a reasonable opportunity to require the person to submit to a sobriety assessment under Part 2, Division 5.	1 2 3
[65]	Schedule 3, clause 25(5)	4
	Omit the subclause, excluding the note. Insert instead—	5
	(5) If a drug analysis of the urine sample is permitted, the urine sample taker must make arrangements for the urine sample to be submitted to a prescribed laboratory for drug analysis.	6 7 8
[66]	Schedule 3, clause 27(1) and (2)	9
	Omit the subclauses. Insert instead—	10
	(1) An analyst at the laboratory to which a blood, urine or oral fluid sample is submitted under this part may carry out an analysis of the sample, or a portion of the sample, for the purposes for which the sample was taken to determine—	11 12 13
	(a) the concentration of alcohol in the sample, or	14
	(b) the presence or concentration of a prescribed illicit drug or other drug in the sample.	15 16
	(2) However, an analyst at a laboratory must not carry out an analysis of a blood sample taken from a person under clause 11 or a blood or urine sample taken from a crash participant under clause 12 to determine whether the blood or urine contains a drug unless a police officer has given written notice to the laboratory that—	17 18 19 20 21
	(a) a person involved in the crash died within 12 months after the crash and, if the death occurred more than 30 days after the crash, a medical practitioner has advised that the death was a result of the crash, or	22 23 24
	(b) the police officer has reasonable grounds to believe that a person involved in the crash suffered grievous bodily harm as a result of the crash within 12 months after the crash.	25 26 27
[67]	Schedule 3, clause 27(3)	28
	Omit “accident”. Insert instead “crash”.	29
[68]	Schedule 3, clause 27(3)	30
	Omit “relating to a death”.	31
[69]	Schedule 3, clause 28(a), note	32
	Omit “accident”. Insert instead “crash”.	33
[70]	Schedule 3, clause 28(a), note	34
	Omit “made a notification relating to a death”.	35
	Insert instead “given notice under clause 27(2)”.	36
[71]	Schedule 3, clause 30	37
	Omit the clause. Insert instead—	38
	30 Offence—use of samples for unrelated testing purposes	39
	(1) A person must not intentionally or recklessly—	40

	(a)	supply a sample of oral fluid or blood taken under Part 2, Division 3 to a person for analysis for an unrelated testing purpose, or	1 2
	(b)	carry out an analysis of the sample for an unrelated testing purpose, or	3
	(c)	include information on a DNA database if that information is derived from an analysis of the sample for an unrelated testing purpose.	4 5
		Maximum penalty—30 penalty units.	6
	(2)	In this clause—	7
		<i>DNA database</i> means a database containing DNA data kept under a law of this jurisdiction or another jurisdiction and includes a DNA database system within the meaning of the <i>Crimes (Forensic Procedures) Act 2000</i> .	8 9 10
		<i>unrelated testing purpose</i> , for a sample, means a purpose other than determining whether alcohol or prescribed illicit drugs are present in the sample.	11 12 13
[72]		Schedule 3, Part 5, Division 1, heading	14
		Omit “other”.	15
[73]		Schedule 3, clauses 32(1) and 36(1)(b)	16
		Omit “(other than alcohol)”, wherever occurring.	17
[74]		Schedule 3, clause 33, heading	18
		Insert “alcohol or” before “drugs”.	19
[75]		Schedule 3, clause 33(1)	20
		Omit “any other drug”. Insert instead “a drug”.	21
[76]		Schedule 3, clause 33(2)	22
		Omit the subclause. Insert instead—	23
	(2)	In proceedings to which this clause applies—	24
	(a)	evidence may be given of the presence of alcohol or a drug, or the presence of a particular concentration of alcohol or a drug, in the blood or urine of the person charged, as determined by an analysis under this schedule of a sample of the person’s blood or urine, and	25 26 27 28
	(b)	if the sample was taken within 4 hours after the event referred to in section 112(1)(a) or (b) occurred—the alcohol or drug, or the particular concentration of alcohol or drug, determined by the analysis to be present in the blood or urine of the person, must be taken to have been present in the blood or urine of the person when the event occurred unless the defendant proves the absence of the alcohol or drug, or the presence of the alcohol or drug in a different concentration, when the event occurred.	29 30 31 32 33 34 35 36
[77]		Schedule 3, clause 34(2)	37
		Omit “any other drug”. Insert instead “a drug”.	38
[78]		Schedule 3, clause 36(1)(b)	39
		Omit “(other than alcohol)”.	40
[79]		Schedule 3, clause 36(1)(c)	41
		Omit “any other drug”. Insert instead “a drug”.	42

[80] Schedule 3, clause 36(8)(b)(i) and (ii)	1
Omit “other than alcohol” wherever occurring.	2
[81] Schedule 3, clause 37(1)(b)	3
Omit “another specified drug”. Insert instead “a specified drug”.	4
[82] Schedule 3, clause 37(2)	5
Omit “the other drug”. Insert instead “the drug”.	6
[83] Schedule 3, clause 39, heading	7
Omit “ accident ”. Insert instead “ crash ”.	8
[84] Schedule 3, clause 39(2)	9
Omit “any drug”. Insert instead “alcohol or a drug”.	10
[85] Schedule 3, clause 40, heading	11
Omit “ other ”.	12
[86] Schedule 3, clause 40(3)	13
Omit “an accident”. Insert instead “a crash”.	14
[87] Schedule 3, clause 40(3)	15
Omit “same accident”. Insert instead “same crash”.	16
[88] Schedule 3, clause 41(1)(b)	17
Omit “an accident (whether in this jurisdiction or elsewhere)”.	18
Insert instead “a crash, whether in this jurisdiction or elsewhere,”.	19
[89] Schedule 4 Savings, transitional and other provisions	20
Insert at the end of the schedule, with appropriate part and clause numbering—	21
Part Provisions consequent on enactment of Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Act 2025	22
	23
	24
Definition	25
In this part—	26
<i>amending Act</i> means the <i>Road Transport Legislation Amendment (Post-Crash Drug and Alcohol Testing) Act 2025</i> .	27
	28
Testing for alcohol and drug use	29
For a sample taken before the commencement of the amendments made to Schedule 3 by the amending Act—	30
	31
(a) the schedule as amended does not apply, and	32
(b) the schedule as in force immediately before the commencement of the amendments continues to apply.	33
	34

Validity of certificates	1
(1) A certificate under Schedule 3, Part 5, Division 2 must not be considered	2
invalid if the certificate would have been valid had the amendments made to	3
that division by the amending Act not been made.	4
(2) This clause ceases to have effect 2 years after the commencement of this	5
clause.	6

Schedule 2 Consequential amendments of other legislation

2.1 Crimes Act 1900 No 40

Section 52A Dangerous driving: substantive matters

Omit section 52A(9), definition of *drug*. Insert instead—

drug means—

- (a) alcohol, and
- (b) a drug within the meaning of the *Road Transport Act 2013*.

2.2 Crimes (Sentencing Procedure) Act 1999 No 92

Section 21A Aggravating, mitigating and other factors in sentencing

Insert “, 111A(1), (2) and (3)” after “111 (1) and (3)” in section 21A(6), definition of *prescribed traffic offence*, paragraph (a1).

2.3 Marine Safety Act 1998 No 121

Schedule 5 Dictionary

Omit Schedule 5, definition of *drug*. Insert instead—

drug means—

- (a) alcohol, and
- (b) a drug within the meaning of the *Road Transport Act 2013*.

2.4 Road Rules 2014

[1] Rule 79–2 NSW rule: precedence at ferries, punts, bridges or railway crossings

Omit “an accident” from rule 79–2(3), note. Insert instead “a crash”.

[2] Rule 155A Tramways

Omit “an accident” from rule 155A(4–1), definition of *special purpose vehicle*.

Insert instead “a crash”.

[3] Rule 158 Exceptions to driving in special purpose lanes etc

Omit “an accident” from rule 158(2)(c)(v). Insert instead “a crash”.

[4] Rule 158(4), definition of “special purpose vehicle”

Omit “an accident”. Insert instead “a crash”.

[5] Rule 218–1 NSW rule: using lights on vehicles generally

Omit “an accident” from rule 218–1(e)(ii). Insert instead “a crash”.

[6] Rule 293 Removing fallen etc things from the road

Omit “an accident” from rule 293(2), example, item 3. Insert instead “a crash”.

[7] Rule 294–1 NSW rule: number of vehicles that may be towed together

Omit “an accident” from rule 294–1(2)(a)(ii). Insert instead “a crash”.

[8] Rule 294–1(2)(a)(ii)	1
Omit “that accident”. Insert instead “that crash”.	2
[9] Rule 294–3 NSW rule: towing restrictions generally	3
Omit “prevent accident to any person on the road” from rule 294–3(1)(b)(i).	4
Insert instead “prevent a crash”.	5
[10] Dictionary	6
Omit the definition of <i>crash</i> , paragraph (b). Insert instead—	7
(b) a collision or incident involving a vehicle in which—	8
(i) a person is killed or injured, or	9
(ii) the vehicle or other property is damaged, or	10
(iii) an animal in a person’s charge is killed or injured.	11
[11] Dictionary, definition of “crash”, note	12
Omit the note. Insert instead—	13
Note 1. <i>Vehicle</i> is defined in rule 15.	14
Note 2. This definition is not uniform with the corresponding definition in the Dictionary of the Australian Road Rules.	15
	16
2.5 Road Transport (Driver Licensing) Regulation 2017	17
[1] Clauses 25, 31 and 67A, headings	18
Omit “other” wherever occurring.	19
[2] Clauses 25(a)(ii), 31(a)(ii), 96(4)(o) and 96AA(1)(b)(i)	20
Omit “alcohol or other drug related driving offence” wherever occurring.	21
Insert instead “alcohol or drug related driving offence”.	22
[3] Clause 66 Variation, suspension or cancellation for heavy vehicle dimension requirement offence	23
Omit “an accident” from clause 66(1)(d)(ii). Insert instead “a crash”.	24
[4] Clause 67A	26
Omit “ <i>alcohol or other drug related driving offence</i> ”.	27
Insert instead “ <i>alcohol or drug related driving offence</i> ”.	28
2.6 Road Transport (General) Regulation 2021	29
[1] Section 148 Certain decisions stayed only in exceptional circumstances	30
Omit “an accident” from section 148(5), definition of <i>circumstances of aggravation</i> , paragraph (b).	31
Insert instead “a crash”.	32
[2] Schedule 5 Penalty notice offences	34
Omit “alcohol or other drug related driving offence” from the matter relating to the <i>Road Transport Act 2013</i> wherever occurring.	35
Insert instead “alcohol or drug related driving offence”.	36
	37

2.7 Road Transport (Vehicle Registration) Regulation 2017	1
[1] Clause 46 Suspension of registration for dimension requirement offence	2
Omit “an accident” from clause 46(1)(b)(ii).	3
Insert instead “a crash”.	4
[2] Schedule 2 Light Vehicle Standards Rules	5
Omit “for accidents” from Part 4, note. Insert instead “for crashes”.	6