

Tabled, by leave, Mr
Steffell
Graham
for
25/3/25
CLERK of the Parliaments

**TRANSPORT LEGISLATION AMENDMENT
(POST CRASH DRUG AND ALCOHOL TESTING) BILL 2025**

Statement of Public Interest

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Bill gives effect to recommendations from the NSW Sentencing Council report into Repeat Traffic Offenders and are actions in the 2026 Road Safety Action Plan (the Plan).

Post-crash testing reforms extend post-crash drug and alcohol testing in circumstances of grievous bodily harm (not just fatal crashes), including for bicycle riders. This will further support effective Police investigation and prosecution of serious driving offences and ensure that offences and penalties are appropriately applied to traffic offenders, where permanent and serious injury is caused to others.

Supporting effective police enforcement helps deter drivers from illegal behaviour by increasing driver accountability. If people believe they are likely to get caught and penalised, they are less likely to commit an offence.

The experience of road trauma victims was part of both the insights shared and feedback at the Road Safety Forum held in early 2024 which emphasised the need to build a stronger safety culture. Replacing the term 'accident' with 'crash' in road transport legislation supports the families of those who have been impacted by road trauma through the criminal act of another road user and aligns with the NSW Government Safe System approach that crashes are preventable and not accidental.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill will amend road transport legislation to replace the term 'accident' with 'crash' where practicable, enhance post-crash drug testing of drivers, motorcycle riders, supervising drivers and bicycle riders involved in the most serious crashes on NSW roads and improve aspects of drink and drug driving testing and sentencing provisions.

Specifically, the Bill will:

- 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
- enhance post-crash drug testing of people involved in the most serious crashes on NSW roads, to:
 - Enable blood samples taken from an injured driver, supervising driver, or motorcycle rider, who has attended or been admitted to hospital as a result of a crash, to be tested for drugs where Police have reasonable suspicion grievous bodily harm has resulted from the crash. Mandatory blood samples are already taken from any injured person attending hospital as a result of a crash and are tested for alcohol only.
 - Allow NSW Police to arrest an uninjured driver, supervising driver or motorcycle rider involved in a crash where Police have reasonable suspicion grievous bodily harm has resulted from the crash, for the purpose of providing a blood and urine sample. Allow samples to be analysed for alcohol and drugs where police have reasonable belief the crash has resulted in grievous bodily harm.
 - Allow NSW Police to arrest an uninjured bicycle rider involved in a crash where Police have reasonable suspicion the crash has resulted in a fatality or grievous bodily harm, for the purpose of providing a blood and urine sample. Allow samples to be analysed for alcohol and drugs where police have reasonable belief the crash has resulted in grievous bodily harm.

- Enable blood samples taken from an injured bicycle rider who has attended or been admitted to hospital as a result of a crash, to be tested for drugs in addition to alcohol where Police have reasonable belief grievous bodily harm has resulted from the crash. This will ensure the same post-crash testing regime that applies to drivers and supervising drivers applies to bicycle riders.
- Require samples from an injured person who attends or is admitted to hospital as a result of a crash, to be taken by an 'authorised sample taker', as defined in the Act, to improve consistency for frontline health staff and reflect current clinical practice.
- Allow a blood sample, taken from a person who is physically unable to supply a breath analysis, to be tested for the four prescribed illicit drugs in addition to alcohol, to support enforcement of the combined drink and drug driving offence.
- Allow a blood sample, taken from a person who is physically unable to supply an oral fluid sample, to be tested for alcohol in addition to prescribed illicit drugs, to support enforcement of the combined drink and drug driving offence.
- Allow an offender who has a mandatory interlock order to apply to the Court to have the order revoked if they have a serious medical condition that prevents them operating an interlock, and to require the Court, if it revokes the original order, to make a substituted exemption order (including appropriate licence disqualification period).
- Explicitly specify dangerous driving offences in the definition of 'major offences' in the *Road Transport Act 2013*, noting this does not expand the definition but makes their inclusion clearer, as recommended by the Sentencing Council
- Amend the *Crimes (Sentencing Procedures) Act 1999* to include the combined drink and drug driving offence as a 'prescribed traffic offence' consistent with other drink and drug driving offences.

Options: What alternative policies and mechanisms were considered in advance of the Bill?

The amendments are required to give effect to the NSW Government's commitment in the Plan to support the NSW Road Trauma Support Group to provide a voice and support for those who have been impacted by road trauma and to target high-risk offenders by addressing key recommendations from the NSW Sentencing Council.

Alternatives include continuing with the existing post-crash drug testing framework for fatal crashes only, which would not be expected to further deter high risk offending.

Analysis: What were the pros/cons and benefits/costs of each option considered?

There are no costs associated with replacing terminology in the Act from 'accident' to 'crash'. Making this change in our Road Transport legislation is an important step in ongoing conversations with the community that serious road trauma on NSW roads is preventable and not simply an 'accident'.

The post-crash testing reforms build on existing sample taking and testing processes undertaken by NSW Police and NSW Health. The majority of the cost will be from the additional drug analyses of samples.

Focusing the reforms on crashes resulting in grievous bodily harm, aligns with the NSW Sentencing Council recommendation and ensures funding and resourcing is aimed at the next most serious crashes and trauma on NSW roads.

This is a relatively low-cost measure to support NSW Police in investigating and enforcing serious driving offences under the Road Transport Act and the Crimes Act and increasing accountability of drivers engaging in high-risk behaviour.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The legislative provisions will commence on a date to be appointed by proclamation and will be announced by the NSW Government prior commencing.

Implementation of the post-crash reforms is expected to be later in 2025. Timeframes will be subject to operational changes including systems changes, internal communications and updates to standard operating procedures. TfNSW will work with relevant agencies including NSW Police and NSW Health to manage the required changes.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

Government agencies were consulted on the development of the actions within the Plan. More recently, impacted agencies have been engaged throughout the development of the Bill and have provided their support.

The Bill has been drafted in close consultation with NSW Police and NSW Health who are key partner agencies in the delivery of post-crash testing.

**MINISTER FOR ROADS,
MINISTER FOR REGIONAL TRANSPORT AND ROADS,
March 2025**