



New South Wales

Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Bill 2026

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Road Transport Act 2013* (*the Act*) to provide for the following matters—

- (a) the registration of a NSW licensed driver on the NSW driver licence register as a registered medical cannabis user,
- (b) the exemption of a registered medical cannabis user from the offence under the Act, section 111(1) if—
 - (i) the level of delta-9-tetrahydrocannabinol (*THC*) in the user's oral fluid or blood is below the maximum concentration specified in the Act, and
 - (ii) the user has no other prescribed illicit drug or alcohol in the user's oral fluid, blood or urine, and
 - (iii) the user is not driving a vehicle as a novice or special category driver,
- (c) a registered medical cannabis user must receive 2 warnings before being taken to have committed the offence of having THC in the user's oral fluid or blood at or above the maximum concentration when driving,
- (d) the review of the registered medical cannabis user provisions after 12 months.

Outline of provisions

Clause 1 sets out the name, also called the short title, 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]–[3] make consequential amendments to definitions.

Schedule 1[4] amends the Act, section 111 to provide that—

- (a) a registered medical cannabis user does not commit an offence if the user—
 - (i) drives a vehicle with THC in the user’s oral fluid or blood, and
 - (ii) has no other prescribed illicit drug or alcohol present in the user’s oral fluid or blood, and
- (b) a registered medical cannabis user commits a *registered medical cannabis user offence* if the user—
 - (i) drives a vehicle with THC in the user’s oral fluid or blood at or above the specified maximum concentration, and
 - (ii) with no other prescribed illicit drug or alcohol present in the user’s oral fluid or blood.

Schedule 1[5] makes a consequential amendment.

Schedule 1[6] inserts the following—

- (a) proposed section 111(7), which provides for evidence of the presence of alcohol in the breath of a registered medical cannabis user,
- (b) proposed section 111(8), which provides that a registered medical cannabis user offence must not be treated as a first offence for an offence under the Act, section 111(1),
- (c) proposed section 111(9), which is a consequential amendment.

Schedule 1[7] inserts proposed section 111AA, which provides that a registered medical cannabis user detected driving with THC in the user’s oral fluid or blood at or above the maximum concentration (a *positive detection*) must be issued a warning if—

- (a) no other illicit drug is detected in the user’s oral fluid or blood, and
- (b) alcohol is not detected in the user’s breath or blood, and
- (c) the user has fewer than 2 positive detections in the previous 2 years, and
- (d) the user has never committed a registered medical cannabis user offence.

The amendments made to section 111 and proposed section 111AA do not apply to a registered medical cannabis user who is—

- (a) driving the vehicle as a novice driver, or
- (b) driving the vehicle as a special category driver or a special category supervisor, or
- (c) supervising another driver, under the authority conferred by a licence issued under the *Driving Instructors Act 1992*.

Schedule 1[8] inserts proposed Chapter 5, Part 5.1, Division 3, which provides for the registration of persons as registered medical cannabis users.

Schedule 1[9] inserts proposed section 204A to provide for automatic licence disqualification for registered medical cannabis user offences.

Schedule 1[10] inserts proposed section 279C, which requires the Minister to conduct a review to determine the following—

- (a) whether the policy objectives of the proposed Act remain valid,
- (b) whether the amendments made by the proposed Act remain appropriate for securing the policy objectives,
- (c) whether implementation of the proposed amendments has been effective.

Schedule 1[11]–[22] make amendments to the Act, Schedule 3 to ensure that the following apply effectively to registered medical cannabis users—

- (a) police powers to carry out testing for the presence of alcohol and illicit drugs in a driver’s oral fluid, blood or urine,
- (b) processes for certifying the presence and concentration of illicit drugs and alcohol in a driver’s oral fluid, blood or urine.

Schedule 1[23] inserts proposed Schedule 3, clause 43 to make provision for additional analysis, at the request of a registered medical cannabis user, of the user’s oral fluid or blood sample, and for the uses of the additional analysis.

Schedule 2 Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73

Schedule 2 makes a consequential amendment to the *Medicines, Poisons and Therapeutic Goods Act 2022*.



New South Wales

Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Bill 2026

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

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Bill 2026

No. _____, 2026

A Bill for

An Act to amend the *Road Transport Act 2013* to provide for the registration of registered medical cannabis users on the NSW driver licence register; to provide that, in certain circumstances, a registered medical cannabis user may drive with delta-9-tetrahydrocannabinol in the user's oral fluid or blood below a specified maximum concentration; and for related purposes.

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

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Act 2026*.

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] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

maximum concentration, for THC, means—

- (a) for a person’s oral fluid—50ng/mL, or
- (b) for a person’s blood—3.5ng/mL.

NSW driver licence, for Chapter 5, Part 5.1, Division 3—see section 114A.

positive detection means a positive detection for a registered medical cannabis user offence.

prescription, for Chapter 5, Part 5.1, Division 3—see section 114A.

registered medical cannabis user—see section 114B.

registered medical cannabis user offence—see section 111(1B).

THC means delta-9-tetrahydrocannabinol.

[2] Section 4(1), definition of “major offence”, paragraph (d)

Insert “, other than a registered medical cannabis user offence” after “section 111”.

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

Omit the paragraph.

Insert instead—

- (a) THC,

[4] Section 111 Presence of certain drugs (other than alcohol) in oral fluid, blood or urine

Omit section 111(1).

Insert instead—

- (1) A person must not drive a motor vehicle while there is a prescribed illicit drug present in the person’s oral fluid, blood or urine.

Maximum penalty—

- (a) for a first offence—20 penalty units, or
- (b) for a second or subsequent offence—30 penalty units.

- (1A) A registered medical cannabis user does not commit the offence under subsection (1) if—

- (a) THC is detected in the user’s oral fluid or blood, and
- (b) no other prescribed illicit drug is detected in the user’s oral fluid, blood or urine, and
- (c) alcohol is not detected in the user’s breath or blood, and
- (d) the user is not—
 - (i) driving the vehicle as a novice driver, or
 - (ii) driving the vehicle as a special category driver or a special category supervisor, or
 - (iii) supervising another driver, under the authority conferred by a licence issued under the *Driving Instructors Act 1992*, and
- (e) the user’s driver licence is not suspended or expired, and
- (f) the user is not—

(i)	disqualified from driving, or	1
(ii)	subject to a prohibition from driving under—	2
(A)	section 148EA, or	3
(B)	section 148G(2)(a), or	4
(C)	another provision of this Act or the regulations.	5
(1B)	A registered medical cannabis user commits an offence (a <i>registered medical cannabis user offence</i>) if—	6
(a)	THC at or above the maximum concentration is detected in the user’s oral fluid or blood, and	8
(b)	no other prescribed illicit drug is detected in the user’s oral fluid, blood or urine, and	10
(c)	alcohol is not detected in the user’s breath or blood, and	12
(d)	the user is not—	13
(i)	driving the vehicle as a novice driver, or	14
(ii)	driving the vehicle as a special category driver or a special category supervisor, or	15
(iii)	supervising another driver, under the authority conferred by a licence issued under the <i>Driving Instructors Act 1992</i> , and	17
(e)	the user’s driver licence is not suspended or expired, and	19
(f)	the user is not—	20
(i)	disqualified from driving, or	21
(ii)	subject to a prohibition from driving under—	22
(A)	section 148EA, or	23
(B)	section 148G(2)(a), or	24
(C)	another provision of this Act or the regulations.	25
	Maximum penalty—20 penalty units.	26
[5]	Section 111(3)	27
	Omit the subsection.	28
	Insert instead—	29
(3)	A person must not drive a motor vehicle while morphine is present in the person’s blood or urine.	30
	Maximum penalty—	31
(a)	for a first offence—20 penalty units, or	32
(b)	for a second or subsequent offence—30 penalty units.	33
[6]	Section 111(7)–(9)	35
	Insert after section 111(6)—	36
(7)	For this section, a breath test under Schedule 3, clause 3 that indicates that the concentration of alcohol in the person’s breath is more than 0g in 210L is evidence of the presence of alcohol in the person’s breath.	37
(8)	An offence under section 111(1B) must not be counted as a first offence for an offence under section 111(1).	38
(9)	In this section—	39
	<i>drive</i> includes the following—	40
		41
		42
		43

(a)	occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion,	1
(b)	if the person is the holder of an applicable driver licence, other than an applicable provisional licence or applicable learner licence—occupy the seat in a motor vehicle next to a learner driver who is driving the vehicle.	2
		3
		4
		5
		6
[7]	Section 111AA	7
	Insert after section 111—	8
	111AA Registered medical cannabis user must be warned	9
(1)	This section applies to a registered medical cannabis user who has a positive detection.	10
		11
(2)	A registered medical cannabis user must not be charged with an offence under section 111(1B) and must be given a warning if the user—	12
		13
(a)	has fewer than 2 positive detections in the previous 2 years, and	14
(b)	has never committed a registered medical cannabis user offence.	15
(3)	A warning must—	16
(a)	be given by Transport for NSW, and	17
(b)	be written, and	18
(c)	inform the user of the positive detection and the date of the detection, and	19
		20
(d)	be recorded against the user’s record in the NSW driver licence register as a formal warning.	21
		22
[8]	Chapter 5, Part 5.1, Division 3	23
	Insert after section 114—	24
	Division 3 Registration of persons as registered medical cannabis users	25
		26
114A	Definitions	27
	In this division—	28
	<i>NSW driver licence</i> means a driver licence issued by Transport for NSW and recorded in the NSW driver licence register.	29
		30
	<i>prescription</i> means a prescription for medical cannabis issued under the <i>Poisons and Therapeutic Goods Act 1966</i> or the corresponding law of another State or Territory.	31
		32
		33
114B	Registered medical cannabis user	34
(1)	A person who holds an unrestricted NSW driver licence may apply to Transport for NSW for registration as a <i>registered medical cannabis user</i> .	35
		36
(2)	An application for registration must—	37
(a)	be made in the way and form required by Transport for NSW, and	38
(b)	be accompanied by the following—	39
(i)	proof, in the form required by Transport for NSW, the applicant has successfully completed an education program on the use of cannabis and driving prescribed by the regulations,	40
		41
		42

(ii)	proof, in the form required by Transport for NSW, the applicant has a valid prescription,	1
(iii)	other information prescribed by the regulations.	2
(3)	Transport for NSW must determine an application within the prescribed period after receiving the application and give the applicant written notice specifying—	3
(a)	the applicant has been registered as a medical cannabis user, or	4
(b)	the applicant has been refused registration as a medical cannabis user and the reasons for refusal.	5
(4)	A registered medical cannabis user is registered for the period—	6
(a)	starting when Transport for NSW gives the user notice under subsection (3)(a), and	7
(b)	ending 2 months after the user’s valid prescription expires.	8
(5)	Transport for NSW must give a registered medical cannabis user notice of the period for which the user is registered and how the user may extend the period of registration.	9
(6)	If Transport for NSW does not determine an application within the prescribed period after receiving the application, the application is taken to have been refused.	10
(7)	A person’s registration as a registered medical cannabis user—	11
(a)	must be recorded in the NSW driver licence register, along with the date the registration ends, and	12
(b)	may be recorded on the person’s digital driver licence.	13
(8)	In this section—	14
<i>prescribed period</i>	means—	15
(a)	28 days, or	16
(b)	the longer period prescribed by the regulations.	17
114C	Extension of registration	18
(1)	A registered medical cannabis user may extend the user’s period of registration by giving Transport for NSW proof, in the form required by Transport for NSW, of a new valid prescription.	19
(2)	A period of registration extended under this section ends 2 months after the user’s new valid prescription expires.	20
(3)	Transport for NSW must give a registered medical cannabis user written notice of the extension of a period of registration under this section and how the user may further extend the period of registration.	21
114D	Cancellation of registration	22
(1)	A person’s registration as a registered medical cannabis user is cancelled if—	23
(a)	Transport for NSW is satisfied on reasonable grounds that the person’s registration was incorrectly granted or extended, or	24
(b)	the person’s driver licence is cancelled, or	25
(c)	the person is disqualified from holding a driver licence.	26
(2)	If a person’s registration is cancelled, Transport for NSW must, within 7 days of the cancellation—	27

(a)	give the person written notice of the cancellation, and	1
(b)	record the cancellation, and the date of cancellation, in the NSW driver licence register.	2 3
[9]	Section 204A	4
	Insert after section 204—	5
204A	Disqualification for registered medical cannabis user offence	6
(1)	A person convicted of a registered medical cannabis user offence is automatically disqualified from holding a driver licence for—	7 8
(a)	6 months, or	9
(b)	if the court that convicts the person is satisfied a shorter period of disqualification, not less than 3 months, is appropriate—the shorter period ordered by the court.	10 11 12
(2)	A disqualification under this section is in addition to another penalty imposed for the offence.	13 14
[10]	Section 279C	15
	Insert after section 279B—	16
279C	Review of amendments made by Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Act 2026	17 18
(1)	The Minister must review Part 5.1, Division 3 and the related amendments made to this Act by the <i>Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Act 2026</i> to determine whether—	19 20 21
(a)	the policy objectives of the division and related amendments remain valid, and	22 23
(b)	the relevant provisions of this Act remain appropriate for securing the policy objectives.	24 25
(2)	The review must also consider the effectiveness of the implementation of the provisions.	26 27
(3)	The review must be undertaken as soon as possible after 12 months from the commencement of the <i>Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Act 2026</i> (the implementation period).	28 29 30
(4)	A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the implementation period.	31 32
[11]	Schedule 3 Testing for alcohol and drug use	33
	Insert after clause 1(1)—	34
(1A)	In this schedule, an analysis to determine whether oral fluid, blood or urine contains a prescribed illicit drug or another drug means either or both of the following—	35 36 37
(a)	an analysis to determine the presence or absence of a prescribed illicit drug or other drug,	38 39
(b)	an analysis to determine the concentration of a prescribed illicit drug or other drug.	40 41
[12]	Schedule 3, clause 1A	42
	Insert after clause 1—	43

1A Concentration of prescribed illicit drug or other drug	1
If a provision of this schedule provides for the concentration of a prescribed illicit drug or another drug in a sample of oral fluid, blood or urine to be determined or certified, the concentration may be determined or certified as—	2
(a) a specific concentration, or	3
(b) falling within a range, or	4
(c) for THC—being above or below the maximum concentration.	5
[13] Schedule 3, clause 5(1)	6
Omit “a person who has been arrested under clause 4” from clause 5(1).	7
Insert instead “a detained person”.	8
[14] Schedule 3, clause 5(4)	9
Insert after clause 5(3)—	10
(4) In this clause—	11
<i>detained person</i> means the following—	12
(a) a person who has been arrested under clause 4,	13
(b) a registered medical cannabis user who, under clause 7—	14
(i) has been arrested, and	15
(ii) must submit to a breath analysis.	16
[15] Schedule 3, clause 7(3)	17
Insert after clause 7(2)—	18
(3) A police officer who has arrested a person under this clause may require the person to submit to a breath analysis in accordance with clause 5 if—	19
(a) the person is a registered medical cannabis user, and	20
(b) the officer suspects, on the basis of a breath test carried out under clause 3(1) by the officer, that there may be present in the person’s breath or blood a concentration of alcohol of more than 0g in 210L of breath or 100mL of blood.	21
[16] Schedule 3, clause 31(1)	22
Omit the subclause.	23
Insert instead—	24
(1) This clause applies to—	25
(a) proceedings for an offence against section 110, and	26
(b) proceedings against a registered medical cannabis user for an offence against section 111(1).	27
[17] Schedule 3, clause 31(3)(e)	28
Omit “blood.”.	29
Insert instead—	30
blood, or	31
(f) for an offence against section 111(1) by a registered medical cannabis user—0g of alcohol in 210L of breath or 100mL of blood.	32

[18] Schedule 3, clause 32(2)(a) and (b)	1
Omit the paragraphs.	2
Insert instead—	3
(a) evidence may be given of—	4
(i) the presence of a prescribed illicit drug in the oral fluid of the person charged as determined by an oral fluid analysis of a sample of the person’s oral fluid under this schedule, and	5 6 7
(ii) for oral fluid taken from a registered medical cannabis user—the concentration of THC in the fluid, and	8 9
(b) if the oral fluid sample analysed was given within 2 hours after the person drove a motor vehicle—	10 11
(i) the prescribed illicit drug shown to be present in the person’s oral fluid is taken to have been present when the person drove the motor vehicle, unless the person proves otherwise, and	12 13 14
(ii) for oral fluid taken from a registered medical cannabis user—the concentration of THC shown to be present in the person’s oral fluid is taken to have been present when the person drove the motor vehicle, unless the person proves otherwise.	15 16 17 18
[19] Schedule 3, clause 32(3)(a) and (b)	19
Omit the paragraphs.	20
Insert instead—	21
(a) evidence may be given of—	22
(i) the presence of a prescribed illicit drug or morphine in the blood or urine of the person charged as determined by analysis of the person’s blood or urine under this schedule, and	23 24 25
(ii) for blood taken from a registered medical cannabis user—the concentration of THC in the blood, and	26 27
(b) if the blood or urine sample analysed was taken within 4 hours after the person drove a motor vehicle—	28 29
(i) the prescribed illicit drug shown to be present in the person’s blood or urine is taken to have been present when the person drove the motor vehicle, unless the person proves otherwise, and	30 31 32
(ii) for blood taken from a registered medical cannabis user—the concentration of THC shown to be present in the person’s blood is taken to have been present when the person drove the motor vehicle, unless the person proves otherwise.	33 34 35 36
[20] Schedule 3, clause 32(4)	37
Insert after clause 32(3)—	38
(4) In this clause—	39
<i>drove</i> includes the following—	40
(a) was occupying the driving seat of a motor vehicle and attempted to put the motor vehicle in motion,	41 42
(b) if the person is the holder of an applicable driver licence, other than an applicable provisional licence or applicable learner licence—was occupying the seat in a motor vehicle next to a learner driver who was driving the vehicle.	43 44 45 46

[21] Schedule 3, clause 35(1)	1
Insert after paragraph (a1)—	2
(a2) proceedings against a registered medical cannabis user for an offence against section 111(1),	3 4
[22] Schedule 3, clause 36(5)(f)(ii)	5
Omit “sample,”.	6
Insert instead—	7
sample, and	8
(iii) if the sample was taken from a registered medical cannabis user—the concentration of THC in the sample.	9 10
[23] Schedule 3, clause 43	11
Insert after clause 42—	12
43 Additional analysis of sample given by registered medical cannabis user	13
(1) This clause applies if—	14
(a) a registered medical cannabis user is charged with an offence under section 111(1B) because THC at or above the maximum concentration is detected in the user’s blood or oral fluid, and	15 16 17
(b) the registered medical cannabis user applies, under clause 22, for a portion of the user’s blood or oral fluid sample to be sent for analysis by a medical practitioner or laboratory nominated by the user (an <i>additional analysis</i>).	18 19 20 21
(2) An additional analysis must not be used by a registered medical cannabis user as evidence that the concentration of THC in the user’s blood or oral fluid was or may have been, when the sample was taken, below the maximum concentration.	22 23 24 25
(3) Despite subclause (2), an additional analysis may be used by a registered medical cannabis user as evidence that THC was not present in the user’s blood or oral fluid when the sample was taken.	26 27 28

Schedule 2	Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73	1
		2
Schedule 5 Amendment of other legislation		3
Omit Schedule 5.28.		4
Insert instead—		5
5.28 Road Transport Act 2013 No 18		6
[1] Section 114A Definitions		7
Omit “ <i>Poisons and Therapeutic Goods Act 1966</i> ” from the definition of <i>prescription</i> .		8
Insert instead “ <i>Medicines, Poisons and Therapeutic Goods Act 2022</i> ”.		9
[2] Schedule 3 Testing for alcohol and drug use		10
Omit “ <i>Poisons and Therapeutic Goods Act 1966</i> ” from clause 1(1), definition of <i>analyst</i> , paragraph (b).		11
Insert instead “ <i>Medicines, Poisons and Therapeutic Goods Act 2022</i> ”.		12
		13