

**INQUIRY INTO ROAD TRANSPORT AMENDMENT
(MEDICINAL CANNABIS-EXEMPTIONS FROM
OFFENCES) BILL 2021**

Organisation: Alcohol and Drug Foundation
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Inquiry into the Road Transport Amendment (Medicinal Cannabis- Exemptions from Offences) Bill 2021

Alcohol and Drug
Foundation

Submission

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ABOUT THE ALCOHOL AND DRUG FOUNDATION

The Alcohol and Drug Foundation (ADF) delivers evidence-based approaches to minimise alcohol and other drug harm. We recognise the power of strong communities and the important role they play in preventing problems occurring in the first place. A community-centric approach is at the heart of everything we do.

EXECUTIVE SUMMARY

The ADF thanks the Committee for the opportunity to contribute to this inquiry. In recognition of the negative impact that the status quo is having on the lives of many Australians who are prescribed medicinal cannabis products, we urge the Committee to recommend the Bill be passed.

When medicinal cannabis products were made available by prescription in 2016, our road transport laws were not updated to recognise the change. Despite roadside drug testing only indicating the presence of THC, not impairment by it, we have yet to provide people prescribed medicinal cannabis products with a medical defence for testing positive to THC while driving.

This lag between the change in products available for prescription, and road transport laws, has created a situation where a person taking their medication as prescribed can be found guilty of an offence. New South Wales can rectify this situation by passing this Bill which will allow for patients taking their medicinal cannabis product as prescribed, and demonstrating no signs of impairment at the time of driving, a medical defence should they test positive for THC.

Driving is a necessity for many people who commute to work, drive children to school, buy groceries, and are caregivers to elderly parents or other loved ones. People prescribed medicinal cannabis products deserve the same opportunities to fulfil economic, familial, and social roles and duties that are afforded to people who are prescribed other types of medication and people who do not require any at all.

MEDICINAL CANNABIS PRODUCTS

Medicinal cannabis is the use, under medical supervision, of products made of, derived from, or synthesised from the cannabis plant to treat a range of health conditions. It is critical not to confuse the non-prescribed use of cannabis with the medicinal use of cannabis products.

Medicinal cannabis products are distinct from non-prescribed cannabis. They are produced to strict quality standards, contain known ratios of cannabinoids (the active chemicals), and are taken under the supervision of a medical practitioner.

Medicinal cannabis can be prepared in a range of ways, with each having benefits and drawbacks. More than 100 different medicinal cannabis products have been accessed in Australia, including dried cannabis flower, oils, and pharmaceutical preparations.¹

When medicinal cannabis products were made available on prescription in 2016, road transport laws were not updated to reflect this change. We anticipate that as prescriptions for medicinal cannabis products continue to increase more Australians will face serious negative consequences for driving while taking their medication as prescribed.

However, during the process of prescribing and subsequently monitoring the impact of the new medication on their patient, prescribers have a positive opportunity to discuss in detail how to

manage unwanted side effects such as intoxication, and safely planning for and managing obligations such as driving, work, and childcare responsibilities. When the medication is then taken as prescribed, it does not limit the patient's ability to safely fulfil these obligations, and this should be recognised under road transport laws as it is with other prescribed medications.

PRESENCE VERSUS IMPAIRMENT

Roadside drug testing indicates the presence of a drug, not that a person is currently impaired by that drug. For a person prescribed a medicinal cannabis product, the use of that product as prescribed can result in a variable and potentially long detection window for THC, depending on the individual and the nature of their prescribed product, dosing, and dosage.²

This means a person prescribed a medicinal cannabis product may test positive for THC when they are not impaired by it.

In the absence of any other evidence that a person was impaired while driving it is discriminatory to patients prescribed medicinal cannabis products to manage their ailment, as opposed to other medications that are not tested for, that the presence of their medication in their system be deemed an offence. Furthermore, the lack of a medical defence fails to recognise that medicinal cannabis products are legal and should be exempt from a testing scheme designed to detect the presence of illegal drugs.

UNINTENDED CONSEQUENCES FOR PATIENTS

If the status quo is maintained, patients prescribed medicinal cannabis products will continue to face discrimination and are unjustly forced to choose between facing drug driving charges, ceasing their medication, or ceasing driving. If they choose to continue taking their medicinal cannabis product as prescribed and continue to drive, they will regularly face the threat of legal consequences for doing so and the impact that such would have on themselves and their family.

Otherwise, people are forced to choose between their health and continuing to drive. If someone chooses to cease taking their medicinal cannabis product, this may mean staying on medication they have found ineffective, or to have challenging side effects, but is legal to drive while taking. Or it may mean ceasing medication altogether. If a person chooses to cease driving in order to continue taking the medicinal cannabis product that they find to be effective, this means they can no longer fulfil some of the economic, familial, and social responsibilities that they once did and face whatever consequences that may bring.

In any instance, it should be recognised that medicinal cannabis products are a legal medicine, prescribed under the supervision of a medical practitioner, who provides instruction about how to take that medication safely. Patients who follow the instructions of their prescriber should not be punished for taking a medication that is effective for them.

All Australians deserve to lead full, happy lives regardless of what type of medication they need.

¹ Arnold JC, Nation T, McGregor IS. [Prescribing medicinal cannabis](#). Aust Prescr 2020;43:152-9. First published 29 September 2020.

² Mather L. [The Issue of Driving While a Relevant Drug, Δ9-tetrahydrocannabinol, Was Present in Saliva: Evidence About the Evidence](#). Griffith Journal of Law & Human Dignity [Internet]. 2016 [26.10.2021]; 4(2).