

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

Organisation: Little Green Pharma

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The Hon Chris Rath MLC
Chair of the Standing Committee on Law and Justice
Parliament of New South Wales Macquarie Street
Sydney NSW 2000

Standing Committee on Law and Justice – Road Transport Amendment (Medicinal Cannabis – Exemptions from Offences) Bill 2021

Little Green Pharma Submission

Dear Mr Rath,

We refer to the Committee's enquiry into the *Road Transport Amendment (Medicinal Cannabis – Exemptions from Offences) Bill 2021* ("**Bill**") and warmly welcome the Committee's decision to undertake this vital review process.

Background

It is hopefully beyond reproach that the last five years have witnessed the emergence of medicinal cannabis as a vital therapeutic option for tens of thousands of NSW patients suffering with chronic medical conditions where medicinal cannabis has the potential to improve quality of life.

However, a significant, ongoing barrier to the access and use of medicinal cannabis in NSW has been the State's road traffic rules, which presently prohibit a person from operating a vehicle if they have any detectable levels of delta-9-tetrahydrocannabinol (also known as THC) in their system (so-called "presence" testing).

The practice of presence testing is likely the result of the pre-2016 prohibitions against illicit cannabis, however as medical cannabis become more widely prescribed, these restrictions mean:

- lawfully prescribed patients risk detection and prosecution, even when they are not impaired by medicinal cannabis

- NSW patients are less willing to seek treatment with medicinal cannabis containing THC where they are required to operate vehicles within their treatment windows, including for occupational use (e.g. workers in the mining and industrial sectors)
- where a patient is unwilling or unable to be prescribed THC due to these risks, such patients may be receiving sub-therapeutic outcomes
- medical cannabis is treated differently to all other prescription medications.

Proposed changes

Clause 3 of the Bill proposes to amend the *Road Transport Act 2013* to provide that the offences relating to driving while a prescribed illicit drug is present in a person's oral fluid, blood or urine, do not apply if the only drug present is THC that the person had obtained for medicinal purposes.

Broadly speaking, the intention of clause 3 is to treat medically prescribed cannabis on the same basis as any other prescribed medication, rather than on a "presence" basis which generally applies to illicit substances.

We believe this is the most appropriate model for managing the lawful use of medicinal cannabis on NSW roads. This is because:

- such treatment is consistent with other drugs that are available and used both lawfully and illicitly, such as opiates.
- researchers at the University of Sydney have determined that blood and oral fluid THC concentrations are relatively poor or inconsistent indicators of cannabis-induced impairment: <https://www.sydney.edu.au/news-opinion/news/2021/12/02/thc-blood-saliva-poor-measures-cannabis-impairment-lambert-study.html>.
- the Neuroscience and Biobehavioral Reviews paper, "Are blood and oral fluid tetrahydrocannabinol (THC) and metabolite concentrations related to impairment? A meta-regression analysis" attached as Annexure 1, concluded that THC biomarkers (blood THC and oral fluid THC concentrations) had only limited capacity to predict impairment, are weakly correlated with driving performance, and are relatively poor indicators of cannabis / THC-induced impairment.
- the approach proposed in the Bill would be consistent with the Independent Scientific Committee on Drugs paper, "The risk of being culpable for or involved in a road crash after using cannabis: A systematic review and meta-analyses" attached as Annexure 3, which concluded that the risks from driving after using cannabis were much lower than from other behaviours, including drink driving and phone use while driving, and that as such the removal cannabis-presence driving offences should be removed (while impairment-based offences remain).

- the current laws reflect the historical zero tolerance approach to use of cannabis and have not kept pace with the developments in the medicinal field.
- the proposed Bill do not affect the current wide-ranging offences relating to the operation of a motor vehicle, which continue to apply to all prescription medications as well as driving impaired by alcohol.
- in the absence of a clear saliva or blood detection metric, determination of an appropriate alternative test for THC impairment will likely take a substantial period of additional research and time, which would further and unfairly restrict patient access until such findings can be resolved and adopted into law.

For the reasons above, it is our strong recommendation that the Committee supports the adoption of the *Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021*.

Closing remarks

Historically, NSW has been at the forefront of providing patient access to medicinal cannabis and has led similar changes in other States such as Victoria and Queensland.

Today, we believe the Committee has a unique opportunity to help NSW remove one of the key remaining obstacles to patient access to medicinal cannabis and once again be the leader in Australia.

To this end, we would also welcome dialogue between the NSW Committee and other Australian State Parliaments and Health Departments in relation to this issue, and to encourage them to adopt a similar model.

We thank the Committee again for the opportunity to comment on the proposed Bill and would be happy to provide any further information or clarifications regarding the above submissions as required.

Yours Sincerely

Fleta Solomon
Little Green Pharma

