

Land Transport (Drug Driving) Amendment Bill
Transport and Infrastructure Committee

Te Ope Whakaora – The Salvation Army New Zealand, Fiji, Tonga, and Samoa Territory

Executive Summary

1. The Salvation Army generally **supports the objectives and intentions of this Bill**. Our submission is short and very focussed on the health-focussed and harm minimisation aspects of the Bill. We acknowledge that the passage of this Bill has been long and somewhat delayed, especially as there were some unclear aspects of the Bill when first tabled and introduced. We submit this current Bill is heading in a good direction, and a thorough select committee process will only serve to strengthen the Bill.

Background

2. **The mission of The Salvation Army is to care for people, transform lives and reform society through God, in Christ and by the Holy Spirit’s power.** The Salvation Army is a Christian church and social services organisation that has worked in New Zealand for over one hundred and thirty years. It provides a wide range of practical social, community and faith-based services around the country.
 - a. The combined services of The Salvation Army provided support to around 120,000 people per year. These services included over 57,000 food parcels to more than 28,000 families and individuals, providing some 2,400 people with short-or long-term housing, nearly 7,000 families and individuals supported with social work or counselling, just over 17,000 addictions counselling sessions, more than 5,500 families and individuals helped with budgeting, other practical assistance to over 6,000 families and individuals, 6,500 hours of chaplaincy support, and some 9,000 victims, defendants and families supported at court.
3. This submission has been prepared by the Social Policy and Parliamentary Unit (SPPU) of The Salvation Army. The SPPU works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. This submission has been approved by Commissioner Mark Campbell, Territorial Commander of The Salvation Army’s New Zealand Fiji Tonga, and Samoa Territory.

Specific comments on the Bill:

4. We support the direction of this Bill. Like most New Zealanders, The Salvation Army is **concerned about the damage that drug-impaired driving** causes on our roads. The statistics that frame this Bill (i.e. 2014 – 18 people killed by drug-impaired drivers, 2018 – 95 people killed by drug-impaired drivers) are confronting and clear. Therefore, any effective efforts to deter drug driving are vitally important. Still, there are aspects of the Bill that we believe require greater clarity or public debate. These are referred to in the next section. Other parts of the Bill that we support include:
 - a. Establishing a new random roadside oral fluid testing regime that sits alongside the compulsory impairment test (CIT). **Having this Bill’s approach come in line with the well-known existing CIT and drink driving enforcement approaches makes good sense.** We note the challenges raised by the Attorney-General in their report in 2020

about this Bill potentially being at odds with some Bill of Rights provisions. These are always difficult balances to achieve. But we submit the public needs greater protections from drug-impaired driving and certainty of being safe on the roads.

- b. Promoting a harm minimisation approach in this Bill is also positive. **We support the establishment of compulsory referrals** for assessment for drug education and/or rehabilitation programmes. But we have some other comments about some concerns we have about this area below.
- c. Establishing offences and penalties are always crucial to developing a new regime like this. We have some other comments about this area below. But we acknowledge here the **rational scale of offences and penalties** within the Bill.

Concerns about the Bill

5. Health-focussed harm minimisation approach

- a. The Salvation Army is always challenged with establishing punitive measures in a new law that involve incarceration and/or fines and financial punishments. The **balance is difficult between penalties and offences being a deterrent and putting people through our already challenged justice system**. We are specifically concerned that:
 - i. The inclusion of the **harm minimisation tools in the Bill are in our view potentially too late to really support people convicted of these offences**. Under the current provisions, the compulsory referrals will only be required for second criminal offences (in some situations) and all third and subsequent criminal offences. **The compulsory health-based initiatives should happen much earlier to try and ensure people do not slip to other criminal offences. We contend that these referrals should be required after the first drug driving offence.**
 - ii. Following the point above, as a provider of national AOD treatment services, The Salvation Army is worried that **these compulsory referrals for drug education or rehabilitation services under this Bill will add even more stress on an already severely stretched AOD treatment service sector**. We have consistently advocated for fairer and more intentional funding for this sector in line with to the ongoing work of the Mental Health and Wellbeing Commission's work. There is little sense in codifying a harm minimisation approach in this Bill without properly resourcing the treatment and rehabilitation sector to provide effective and comprehensive drug education and treatment services. We submit that discussion should be had to focus on increasing government funding for this sector, as well as exploring innovative ways to generate funding e.g. a proportion of any infringement penalty be diverted to the harm minimisation approach like the gambling levy approach under the Gambling Act.
 - iii. The new penalties will cause **added hardship for people sentenced under these new offences**. For example, we note that if a driver fails 2 consecutive oral fluid tests, they are liable for infringement penalties in line with the drink driving regime. Many of our clients are drowning in problem debt and

financial hardship. These new penalties add new punitive measures that we foresee will cause lots of added hardship for many of the people using our services who are in breach of these new laws. We recommend that seeking help and/or attending the compulsory treatment requirement could cancel any monetary infringement penalty. Therefore, this would act as an incentive for people (ideally after the first drug driving breach as discussed above) to seek help from AOD treatment services and not be placed in financial hardship and debt-situations.

6. **CIT process** – Keeping in mind our comments above about the harm minimisation aspects, infringement penalties and the punitive approach in the Bill, **we find it strange that criminal convictions will only follow for someone who's failed the initial CIT if they choose or opt to take an evidential blood test.** Minister Woods has stated that this is meant to balance out the civil liberties at play here. **If the Bill is meant to deter drug driving on our roads, the testing parts of the Bill do not reflect this intention. It seems to take a softer approach to drugs than what is taken regarding alcohol.** Under this current Bill, as we read it, a person must fail the saliva test twice, or fail the walk the line test twice before an evidential drug test can be demanded by Police. We know drug driving is just as dangerous as alcohol impaired driving. Consequently, we should treat these forms of impaired driving in the same ways. As politicians have consistently told us, the number of people dying from drug driving is increasing. **Therefore, the boundaries in the testing (and penalty) parts of this new process should reflect the severity of choosing to drive under the influence of either drugs (or alcohol).** Again, balance is crucial here. In this section, **we are balancing our comments about the aspects we support in the Bill with the serious need to deter deadly drug impaired driving and employing a strong health-based harm minimisation approach.**
 7. **Criminal limits based on impairment** – We find it problematic that the criminal limits for qualifying drugs will be introduced later in the process in a Schedule and are not clearly set out in this Bill. **This does not provide sufficient clarity for the public, Police or the addictions treatment and rehabilitation services sector.**
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