



THE NIMBIN GOOD TIMES

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DRUG TESTING CHAOS

Roadside drug testing laws have been thrown into doubt after Lismore magistrate David Heilpern found Joseph Carrall not guilty of driving with an illicit drug in his blood because he mistakenly believed that he would no longer test positive to the drug.

Mr Carrall waited nine days after smoking cannabis before he got behind the wheel. THC was detected in his saliva and he was charged. He had earlier been advised by police to wait at least a week before driving.

Mr Heilpern said no-one was seriously contending that Mr Carrall was still affected by the drug. He found Mr Carrall not guilty on the grounds that he had made an "honest and reasonable mistake of fact".

"It's wrong, in my view, to be punishing people [by] taking their licences away when someone might have had a smoke or two of cannabis a few days before driving a car," Mr Carrall's lawyer, Steve Bolt, said.

"Unfortunately a lot of people would be at risk of falling foul of this legislation even though their experience of having used the drug would have had zero effect on their ability of driving a car safely."



RDT does not infer impaired driving or driving a motor vehicle under the influence of a drug. This program detects the presence of an illicit drug in a subject's oral fluid.



Greens MP David Shoebridge

Greens want drivers tested for impairment

by David Shoebridge, NSW Greens MLA

The Roadside Drug Testing (RDT) that is being championed by Mike Baird and the NSW police is simply an extension of the ideological war on drugs, dressed up as a road safety campaign. With thousands of people already being caught with its arbitrary and unfair tests, it is deeply troubling to realise that the government plans to triple the number of tests in the coming years to over 100,000 of these tests a year.

Why is RDT such a flawed program? First, it doesn't test if a driver is impaired by drug use, instead it tests to see if the smallest detectable trace of drugs is in their system. As the Police's own standard operating procedure says: "The program does not infer impaired driving or driving a motor vehicle under the influence of a drug. This program detects the presence of an illicit drug in a subject's oral fluid."

Second, the RDT program only tests for three illegal drugs: MDMA, cannabis and

Roadside Drug Testing forums with David Shoebridge

Lismore: Tuesday 9th February, 6.30-8pm at New Tattersalls Hotel.

Nimbin: Wednesday 10th February, 11am-1pm at Nimbin Town Hall.

amphetamines. Bizarrely it doesn't detect other illegal drugs such as cocaine or heroin and completely ignores prescription drugs like benzodiazepines and painkillers. This is despite the fact that the best international research shows that benzodiazepines, such as diazepam (valium), are the most common medicines detected in drivers involved in motor accidents and, where the driver died in the accident, the second most commonly detected drug after alcohol.

My office has received report after report from people who have tested positive in roadside tests, despite not consuming drugs within the previous 24 hours. Only an anti-drug zealot would think it is a good result to fine a motorist \$1,100 and take their licence for 12 months



Protest action outside Lismore courthouse.

because they smoked a joint the day before. It's like losing your licence for having a beer the previous afternoon. But bizarrely, that's exactly what the RDT program seems designed to do.

Courts across NSW are being clogged by court listings that see dozens of drivers a day facing fines and loss of licenses despite the fact that judges are consistently saying that the roadside testing results don't provide evidence of any behaviour that endangers other drivers. Some magistrates respond

by not ordering convictions, others just routinely convict people before delivering a short sermon on drugs, a hefty fine and the loss of license. These arbitrary outcomes only serve to diminish the respect people have for the police and our courts.

The general criminal law has no offence for having drugs present in your system; offences relate to buying, selling or possessing drugs. What the roadside drug testing program is attempting to do is make it a defacto criminal offence to have potentially miniscule

quantities of drugs present in your system.

What we are witnessing is an extension of the failing war on drugs, dressed up as a Mike Baird road safety campaign. The Greens firmly believe that any roadside drug testing regime needs to be evidence-based and credible. It needs to test for drugs at levels that are known to impair driving, and it needs to test for all the drugs, legal and illegal, that commonly impair driving.

• More comment on pages 5 and 13.

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