



# Road Traffic Legislation Amendment Act 2016 - FAQs

## 1. Why has this change been made?

The impetus for change was the result of the State Coroner's findings into three inquiries from road deaths where police were precluded from collecting samples to demonstrate driver impairment by alcohol and/or drugs due to the restrictions in law. Many serious and fatal crashes are the result of driver impairment by alcohol and/or drugs. This amendment will extend provisions for the collection of evidence to support the identification of those impaired and will ultimately lead to improved road safety for all users.

## 2. What does the amendment affect and when does it apply from?

The amendment affects the taking of blood samples from persons involved in serious and fatal crashes. It will **apply from 10 March 2017**.

## 3. What changes will the amendment make to the current system?

Police will no longer have to suspect a driver is impaired by alcohol and/or drugs at the time of the crash to require a sample. The time window for the taking of samples from fatal and serious crashes will be increased from four to 12 hours. Samples collected from other crashes where no one is hospitalised and roadside stops are still limited to the four hour window. The new legislation allows for an appropriately trained, prescribed person other than a doctor or nurse to take the sample. Phlebotomists and Pathology Collectors will be prescribed for this purpose.

## 4. Will this increase my workload?

There are currently 450 samples taken in hospitals across the state each year. This is anticipated to increase to approximately 850 samples per year after the amendment.

## 5. How will I know who requires a sample to be taken?

The decision about who requires a sample to be taken will be made by the responsible police officer. Samples will be taken from injured drivers and non-injured drivers.

## 6. What are my obligations under the Act?

I have a statutory authority to take the sample if requested to do so by the responsible police officer.

## 7. Are there any grounds for me to refuse to take a sample?

I am authorised by law to take the sample if requested by the police officer provided the driver gives consent for the sample to be taken, or in the event I am not precluded due to their medical emergency. If I am unable to take the sample due to a driver/patient's medical emergency, I should provide the police officer the general reason for doing so. In the event that the sample cannot be taken immediately, it may be taken at a later time when the patient has stabilised, up to 12 hours after the time of the occurrence.

## 8. What do I do if a driver refuses to allow a blood sample to be taken for the purpose of the Act?

You are only required to take a sample if the driver gives consent. There is no provision for the use of force. Police will require the driver to provide the sample and advise them of the consequences of failing to provide a sample. Any driver who fails to comply with a requirement to provide a sample is subject to the maximum penalty provisions.

## **9. What do I do if the driver is unable to give consent?**

If the driver is not able to give consent, e.g. patient unconscious, the police officer can authorise a prescribed sample taker to collect a sample from the driver in accordance with legislation. This must be provided in writing and signed by the police officer.

### **Who will complete the required paperwork?**

The responsible police officer will complete the required paperwork.

## **10. Will the police officer be present at the time the sample is taken?**

The police officer must be present at the time the sample is taken. A sample collected in the absence of a police officer is inadmissible.

## **11. What will I use to take the sample?**

The police officer will provide you with a sample-taking kit containing two vacutainer bulbs and two needles, as well as the sample tubes. Non-alcohol swabs will also be provided. Alcohol swabs must not be used to prepare the skin for venepuncture.

## **12. What happens if the vacutainer system is not suitable for the driver, or insufficient (more attempts needed)?**

The sample kit is the preferred system and police will have two sample kits available. However if it is not suitable, or more attempts are required, any other system available (such as needle and syringe or butterfly) may be used. However, the details of the system used and the reasons for using it must be documented and signed by the sample taker.

## **13. What happens if a patient who is the driver already has an IV cannula in situ?**

The sample should be taken from another site wherever possible. Only in the event of no other venous access should the sample be taken from the existing cannula. The details of the sampling technique used, and the reasons, must be documented as above.

## **14. What if the driver has already received opiates as part of their treatment?**

Any opiates given as part of the treatment prior to blood taking should be recorded and signed by the sample taker.

## **15. What do I do with the samples after I have taken them?**

The samples should be given to the responsible police officer. The sample kit contains the required instructional information.

## **16. Where can I find out more about the amendment?**

Information on the [Road Traffic Legislation Amendment Act 2016 \(external site\)](#) can be found on the State Law Publisher website.

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