



Drug driving laws in Australia: What are they and why do they matter?

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Summary

Laws concerning the detection and sanctioning of drug driving are one of the newest and most contested additions to the drug policy landscape. A thorough understanding of the drug driving laws is important to inform policy debates. This bulletin outlines the drug driving laws as of January 2020 in Australia – the first country to introduce Roadside Drug Testing laws – focusing on three types of drug driving laws:

1. Roadside Drug Testing (RDT) laws;
2. Impairment laws (Driving Under the Influence (DUI)/ Driving While Impaired (DWI)); and
3. Combination (drug and alcohol driving) laws.

This bulletin shows:

1. All Australian states and territories have introduced laws for RDT and DUI/DWI and one has introduced combination drug and alcohol driving laws (Vic).
2. While there are clear similarities in their state designs, there are also differences in the array of drugs tested for, the testing procedures used, and the types and severity of penalties imposed.
3. There are important variations in the extent to which states sanction impairment-based offences (DUI/DWI) more seriously than those that test for the presence of drugs alone (RDT).

This is the first mapping of drug driving laws and their sanctions in Australia. As such, it enables comparisons of the different state and territory approaches to this evolving (but lesser known) area of drug policy. We pose questions as to whether some states are taking a more evidence informed approach to their laws and encourage further investigation into their practical implementation and effects.

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Introduction

Drug driving laws are a relatively new and fast-evolving element in the drug policy landscape. The goal of drug driving laws is to improve road safety and more explicitly to reduce the number of motor vehicle accidents where illicit drugs are involved (*Road Safety Act 1986* (Victoria) Section 47). The drug driving laws mimic laws for alcohol road safety such as driving under the influence of alcohol and roadside breath testing. That is, they enable police to test and sanction for the presence of drugs other than alcohol (or in some cases, as well as alcohol) in a driver's system. However, while drink driving laws have been around since the 1960s, the newest and most contested drug driving laws – roadside drug testing (or RDT) – have been introduced only since 2003 (Quilter & McNamara, 2017).

This bulletin maps drug driving laws in the Australian states and territories as of January 2020. Australia is a useful case study for comparative analysis of these laws given it was the first country to introduce Roadside Drug Testing laws and it is a federated nation with eight states and territories each of which has responsibility for their own laws. These are: The Australian Capital Territory (ACT), New South Wales (NSW), The Northern Territory (NT), Queensland (Qld), South Australia (SA), Tasmania (Tas), Victoria (Vic) and Western Australia (WA).

Victoria was the first state in Australia to introduce RDT laws – in 2003, followed by Tasmania in 2005, South Australia in 2006 and New South Wales, Queensland and Western Australia in 2007 (Hughes, 2020). By 2016 all other Australian states and territories followed suit, with the last being the Northern Territory. [The Northern Territory initially introduced RDT laws in 2008 for heavy vehicles only but expanded such laws in 2016 to all other vehicles (*Traffic Act* (NT) Section 19A and Section 28 *Traffic Regulations* (NT) Schedule 1A(a) and (b)).] A recent analysis by the World Health Organisation identified 159 countries that have national legislation that prohibit drug driving (be that RDT or DUI/DWI laws) (World Health Organisation, 2015, 2016). However there is a “vagueness” in understanding and interpreting these laws (World Health Organisation, 2015), as well as heated debate about the efficacy, effectiveness and fairness of their design (Kleiman, Jones, Miller, & Halperin, 2018; McDonald, 2009; Prichard, Matthews, Bruno, Rayment, & James, 2010; Quilter & McNamara, 2017; Watson & Mann, 2017).

The majority of published papers and evaluations concerning drug driving laws to date (both within and outside of Australia) have focussed on RDT laws. Studies have either focused on their implementation; outlining changes in RDT detection rates over time, the demographics of the drivers detected, changes in drug types being detected, and differences between rural and metropolitan detection rates (Boorman, 2007; Boorman & Owens, 2009; Bryant, Stevens, & Hansen, 2009; Davey, Armstrong, & Martin, 2014; Davey, Davies, French, Williams, & Lang, 2005; Pritchard et al., 2009; Rowden et al., 2011; Thompson, 2011, 2012; Thompson & Fairney, 2010; Woolley & Baldock, 2009) or on the implications of sanctioning drivers based on the detection of a drug rather than impairment. RDT laws can be either “zero-tolerance” (any detectable amount of a specified drug is an offence), or “per se” (where thresholds of drugs are specified and where a driver will only be deemed to have committed an offence if they are detected driving with this amount of drug on board). For example, in Norway, threshold concentrations deemed equivalent to a BAC limits of 0.2, 0.5, and 1.2 g/L were established for 20 drugs in 2012 (Favretto et al., 2018), but most countries favour a zero-tolerance approach (World Health Organisation, 2015, 2016). Critiques of the zero-tolerance RDT laws have focussed on the ethical implications and

lack of clear links between driving with any detectable amount of a drug and impeded road safety (McDonald, 2005, 2009; Prichard et al., 2010; Quilter & McNamara, 2017; Schulze et al., 2012; Watson & Mann, 2017). Watson and Mann (2017) have further questioned whether zero tolerance drug driving laws strike the right balance between increasing road safety and avoiding unnecessary infringement of civil liberties. While the focus on RDT has spurred much research, it leaves out the broader legal environment as it pertains to drug driving in Australia: notably the full set of laws that are used to sanction drug driving.

The aim of this bulletin is to document drug driving laws in Australia taking into account RDT and DUI/DWI offence provisions as well as combination drug and alcohol driving laws, and similarities and differences by state and territory. We are conscious that mapping laws across a range of different jurisdictions can provide policy makers with a clear picture of the current legal settings, facilitate analysis of variations between jurisdictions, and provide a basis for researchers to evaluate the implementation and potential impact of various laws (Anderson, Tremper, Thomas, & Wagenaar, 2013). As an area of drug policy that has already been identified as unclear or vague, understanding the laws and how they have been written into law is the first step toward producing meaningful research into their implementation and enforcement. This mapping approach is modelled on previous research which assessed the evolving cannabis laws in the United States (Choo & Emery, 2017; Klieger et al., 2017; Pacula, Powell, Heaton, & Sevigny, 2015; Powell, Pacula, & Jacobson, 2018).

Methods

Australian drug driving legislation that operated as of January 2020 was obtained through a search of the Australasian Legal Information Institute (AustLII) database, which covers all Australian legal materials (legislation, court judgements etc.). The current or consolidated acts and current or consolidated regulations for all states and territories in Australia were searched using the following keywords: “drug” AND “driving” or “drive”.

The presence or absence of offence provisions relevant to the detection of drugs (other than, or including alcohol) in a driver’s oral saliva, blood or urine were mapped for each state and territory. Where laws were present, the type and severity of the penalty for a first, second and subsequent offence were recorded. Penalties included fines, prison sentences, license disqualification/suspension periods, alcohol interlocks, vehicle impoundment etc. All data was collated in an excel spreadsheet. For comparability purposes, penalty units were converted to Australian dollars based on the 2019 penalty unit conversion rates, and prison sentences and license disqualification periods were converted into months.

Three different types of laws that cover drug driving offences were mapped:

1. Roadside Drug Testing (RDT) laws that test for the presence of certain drugs (other than alcohol) in oral fluid, blood or urine
2. Driving Under the Influence and/or Driving While Impaired (DUI/DWI) laws (impairment based)
3. Combination (drug and alcohol) driving laws.

Laws as written are not necessarily how they are implemented or enforced. For example, laws set the maximum allowable sanction or in some instances minimum that must be imposed, but their enforcement is shaped by many factors including police and court priorities. Future evaluations may wish to look at the concordance of the laws on the books with their enforcement, as research has shown enforcement of drug laws can vary across jurisdictions and time (Belackova, Ritter, Shanahan, & Hughes, 2017).

Australia's drug driving laws

1. Laws concerning the detection of the presence of drugs in a driver's system (Roadside Drug Testing [RDT])

As of January 2020, all Australian states and territories have RDT laws: a non-impairment-based law enforced by police roadside testing stations that require a driver to provide an oral saliva, blood or urine sample which is then tested for the presence of specified illicit drugs. As outlined in Table 1 all use a zero-tolerance threshold, that is, any amount detected is considered an offence. While the first RDT laws tested only for cannabis and amphetamines, as of January 2020 seven states test for three drugs: tetrahydrocannabinol (THC/ cannabis), methylamphetamine (speed) and 3,4-methylenedioxymethylamphetamine (ecstasy). One state – NSW – also tests for cocaine. This followed an update to their law in May 2019 (*Road Transport Act 2013* (NSW) Section 4(4)).

Most states use oral saliva testing alone to detect the presence of drugs. A two-step procedure is employed whereby a second evidentiary test is taken in the field and sent to the lab for confirmation. But until recently two states differed. In the NT and Tas, oral saliva testing has traditionally been used as an initial screen, with a blood sample for the ultimate evidentiary test. This required police and alleged offenders to attend hospitals for the purpose of obtaining an evidentiary test. In December 2018 an update to the Tasmanian laws meant that oral saliva tests could be used for both steps (under the stated rationale of freeing up police and removing an inconsistency with most other states and territories). The testing procedures used has other implications, as when combining oral and blood tests, NT and Tas test for an additional 7 and 15 drugs respectively in the blood analysis. These two states also do not require an initial positive sample for the evidentiary test to be requested (*Road Safety (Alcohol and Drugs) Act 1970* (Tas) Section 7C; *Traffic Act* (NT) Section 29AAG).

Table 1: State and territory roadside drug testing (RDT) procedures

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Zero tolerance threshold	✓	✓	✓	✓	✓	✓	✓	✓
Drugs tested for								
Cannabis	✓	✓	✓	✓	✓	✓	✓	✓
Meth/amphetamine	✓	✓	✓	✓	✓	✓	✓	✓
Ecstasy	✓	✓	✓	✓	✓	✓	✓	✓
Cocaine		✓						
Other		✓ (illicit morphine)	✓ (e.g. MDA, heroin)			✓ (e.g. MDA, heroin)		
Testing procedures								
Two-step oral fluid (confirmed by lab)	✓	✓		✓	✓	✓ (since Dec 2018)	✓	✓
Oral plus blood			✓			✓ (prior to Dec 2018)		

The penalties that can be applied are outlined in Table 2. This shows that for a first RDT offence, eight jurisdictions can impose fines, five a minimum license cancellation/ suspension period and three a prison sentence. The average penalty specified for a first RDT offence is a fine of up to \$1,051 and where applicable a minimum license cancellation period of 4.2 months and imprisonment for up to 3 months. But there is variation across states and territories in the types of penalties specified for an RDT offence and the severity of penalties. Of note:

- **Types of penalties specified.** Four states avoid the use of prison for an RDT offence (NSW, SA, Vic or WA) and five states (including the ACT) avoid the use of prison for a first RDT offence. In contrast, people detected in the NT, QLD or Tas can face up to 3 months imprisonment for a first RDT offence, or up to 6 or 9 months for a third offence, with the most punitive being Qld (9 months). The use of minimum license disqualification or suspension periods also varies across states: ranging between no disqualification (WA) to up to 6 months disqualification (ACT) for a first offence and 6 (WA, Tas, NT) to 12 months (all other states) for a third offence.
- **Type of offence for first time offenders – infringement versus criminal offence.** Vic, NSW and the NT classify a first RDT offence as a “infringement” (Vic, NT) or “penalty notice” (NSW). This means that a first-time driver can be issued with an infringement notice, rather than being charged and having to attend court (Road Safety Act 1986 (Victoria) Section 89A; Road Transport Act 2013 (NSW) Section 112). (Drivers have the option to elect to take this to court). While Victoria has employed this approach for first time offenders for many years, this was copied in July 2019 in NSW, such that first-time detected drivers in NSW can pay a \$572 penalty notice and have their license suspended for three month or elect to attend court and face the potential of an automatic license disqualification for six months, a court imposed fine of up to \$2200 and a criminal conviction.¹
- **Penalty escalation for repeat offenders.** There is further variability in the extent to which states specify more severe penalties for repeat offenders. For example, NSW and Vic increase fines and license disqualification periods substantially for each repeat offence, while the ACT and WA only increase the penalty severity once; the ACT by the largest amount, and WA by the smallest. In comparison, Tas has no penalty escalation for repeat offenders after the second offence.

¹ In Victoria a first time RDT offender who elects to take the traffic infringement notice receives an automatic license suspension for 6 months and a fine of 3 PU, while one who elects to go to court faces a potential conviction, license cancellation for at least 6 months, fine of up to 12 PU, and a requirement for a zero BAC for three years. Any detected RDT offender will also be required to undertake a Drug Driver Behaviour Change Program.

Table 2: State and territory roadside drug testing (RDT) offence penalties for first and repeat offenders

Penalty	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Maximum Fine (\$AUD)								
1st offence	1,600	572*	400*	1,868	1,300	1,570	496*	500
2nd offence	4,000	2,200	400*	2,438	1,600	3,140	1,983	1,000
3rd offence	4,000	3,300	400*	3,413	2,200	3,140	19,826	1,000
Minimum License Cancellation Period (months)								
1st offence	6	3*	n/a	n/a	3	3	6*	n/a
2nd offence	12	6	3	9	6	6	6	6
3rd offence	12	12	6	12	12	6	12	6
Maximum Prison Sentence (months)								
1st offence	n/s	n/s*	3	3	n/s	3	n/s*	n/s
2nd offence	3	n/s	6	6	n/s	6	n/s	n/s
3rd offence	3	n/s	6	9	n/s	6	n/s	n/s

Key: AUD = Australian Dollar, n/s = not specified in the legislation

* The first offence in Vic, NSW and the NT can be dealt with as an "infringement" as opposed to a criminal offence and via payment of "traffic infringement" (Vic or NT) or "penalty notice" (NSW). The infringement in Vic and NSW involves license "suspension" instead of licence "cancellation."

2. Impairment-based drug driving laws: driving under the influence (DUI) or driving while impaired (DWI)

All states and territories have DUI laws. Two states (WA and Vic) also have DWI laws. These laws are based on police recognition of driver impairment i.e. erratic driving. The DWI laws are identical to the DUI laws (except for the legal sanctions in Vic) but are specific only to drug impaired driving.

DUI laws require noticeable signs of impaired driving for police to pull the driver over – although what "impairment" means is not spelt out in the law. As can be seen in Table 3, across all states and territories the average penalty specified for a first offence for DUI or DWI is: a fine of up to \$2,828, a minimum license cancellation period of 12.5 months, and a prison sentence of up to 6.8 months. For this offence, all states employ fines, license cancellations and prison sentences, the exception being WA which does not specify a prison sentence for a first offence.

There are further differences in DUI/DWI penalty severity between states and territories. These include:

- **The severity of different penalties (e.g. fines versus prison).** NSW has comparatively average fine amounts, but high disqualification and prison sentence periods. Vic has the most severe fines, and high license disqualification but comparatively low prison sentences.
- **Differences in penalty escalation for repeat offenders.** The ACT does not increase the fine for a repeat offence and escalates the penalty for license cancellation and prison sentence only once. In contrast, Vic escalates the penalty for fines and prison sentence for up to three repeat offences.

Table 3: State and territory driving under the influence (DUI) offence penalties for first and repeat offenders

Penalty	ACT	NSW	NT	Qld	SA	Tas	Vic*	WA*
Maximum Fine (\$AUD)								
1st offence	4,800	3,300	1,570	3,737	1,600	1,884	4,130	2,500
2nd offence	4,800	5,500	3,140	7,314	2,900	9,420	19,826	3,500
3rd offence	4,800	5,500	3,140	7,314	2,900	9,420	29,740	5,000
Minimum License Cancellation Period (months)								
1st offence	6	36	6	6	12	12	24	10
2nd offence	12	60	12	24	36	24	48	30
3rd offence	12	60	12	24	36	24	48	Life
Maximum Prison Sentence (months)								
1st offence	6	18	12	9	3	12	3	n/s
2nd offence	12	24	12	18	6	24	12	9
3rd offence	12	24	12	18	6	24	18	18

Key: AUD = Australian Dollar, n/s = not specified in the legislation

* VIC and WA both have an offence of "Driving While Impaired" (DWI) law as well as a DUI law. The penalties for a DWI in WA are the same as for a DUI. In VIC the maximum fine is \$1,983 for a first offence, \$19,826 for a second and \$29,739 for a third or subsequent offence. The minimum license cancellation is 12 months for a first offence and 24 for a second or subsequent offence. The maximum prison sentence is 0 months for a first offence, 12 months for a second offence and 18 months for a subsequent offence.

3. Combination (drug and alcohol) driving laws

Combination offences (covering driving with both alcohol and other drugs in the system) exist only in Victoria. As can be seen in Table 4, the types of sanctions available are diverse – including not only fines, license disqualification and prison sentence, but also alcohol interlocks and vehicle impoundment.

In comparison to the offence penalties specified for Vic for both an RDT and DUI/DWI offence, the penalties here are often more severe; ranging from a fine of \$4,664 to \$41,974 and a minimum license disqualification of up to 60 months, as well as requirements to undertake an Intensive Drink and Drug Driver Behavioural Change program, a driver's vehicle being impounded for up to 30 days and alcohol interlocks on a driver's car for a minimum of 6-48 months. But there are exceptions, for example a first time DUI offence can lead to 3 months prison but there is no prison penalty for a first combined alcohol and drug driving offence. Penalties also tend to increase for repeat offences, and sometimes by blood alcohol concentration (BAC). For example, a first offence involving drugs and alcohol can be sanctioned with a minimum of 12 months license disqualification for a BAC involving 0.05-less than 0.1, 16-20 months for a BAC involving 0.1 to less than 0.15 or 21-30 months for a BAC involving ≥ 0.15 .²

² Again, there are exceptions. For example for a first offence the maximum fine and minimum alcohol interlock remains the same irrespective of the BAC and the number of days a vehicle is impounded remains identical (30 days) for all bar a first offence involving a BAC of 0.05 to less than 0.1.

Table 4: Victoria's combination (drug and alcohol) driving penalties for first and repeat offences

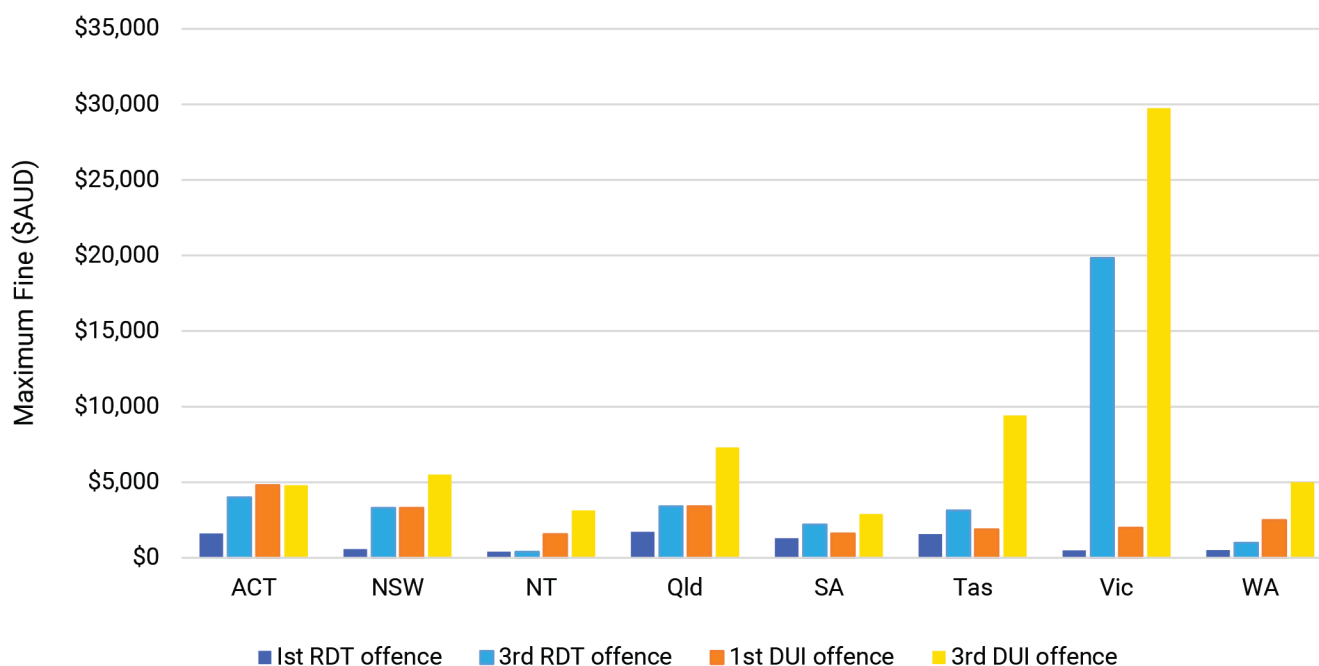
Penalty	Blood Alcohol Concentration 0.05-<0.1 + drugs			Blood Alcohol Concentration 0.1-<0.15 + drugs			Blood Alcohol Concentration ≥0.15 + drugs		
	1st offence	2nd offence	3rd offence	1st offence	2nd offence	3rd offence	1st offence	2nd offence	3rd offence
Maximum fine (\$AUD)	4,664	13,991	27,983	4,664	13,991	27,983	4,664	27,983	41,974
Minimum license disqualification (months)	12	24–30	24–30	16–20	32–40	32–40	21–30	42–60	42–60
Maximum prison sentence (months)	n/a	6	12	n/a	6	12	n/a	12	18
Minimum alcohol interlock (months)	6	12	48	6	12	48	6	48	48
Vehicle impoundment (days)	0	30	30	30	30	30	30	30	30
Minimum requirement for zero BAC (months)	36	36	48	36	36	48	36	48	48
Complete Drink and Drug Driver Behaviour Change Program	✓	✓	✓	✓	✓	✓	✓	✓	✓

Comparing state and territory responses to RDT versus DUI

In the final section we compared the two main offences (RDT and DUI) for each state and territory, focusing on the penalties for a first offence and third or subsequent offence (Figures 1-3). Figure 1 shows the difference in fine amounts for a first and third offence for an RDT and a DUI offence. SA (and Tas for a first offence) make little or no distinction between a maximum fine for the impairment-based DUI law in comparison to an RDT offence. In contrast, NSW, NT, WA and Vic have higher fines for a DUI. We can also see that the maximum fine for a third RDT offence is less severe than for a first DUI offence in some states (ACT, NT and WA) but more severe in others (SA, Tas and Vic).

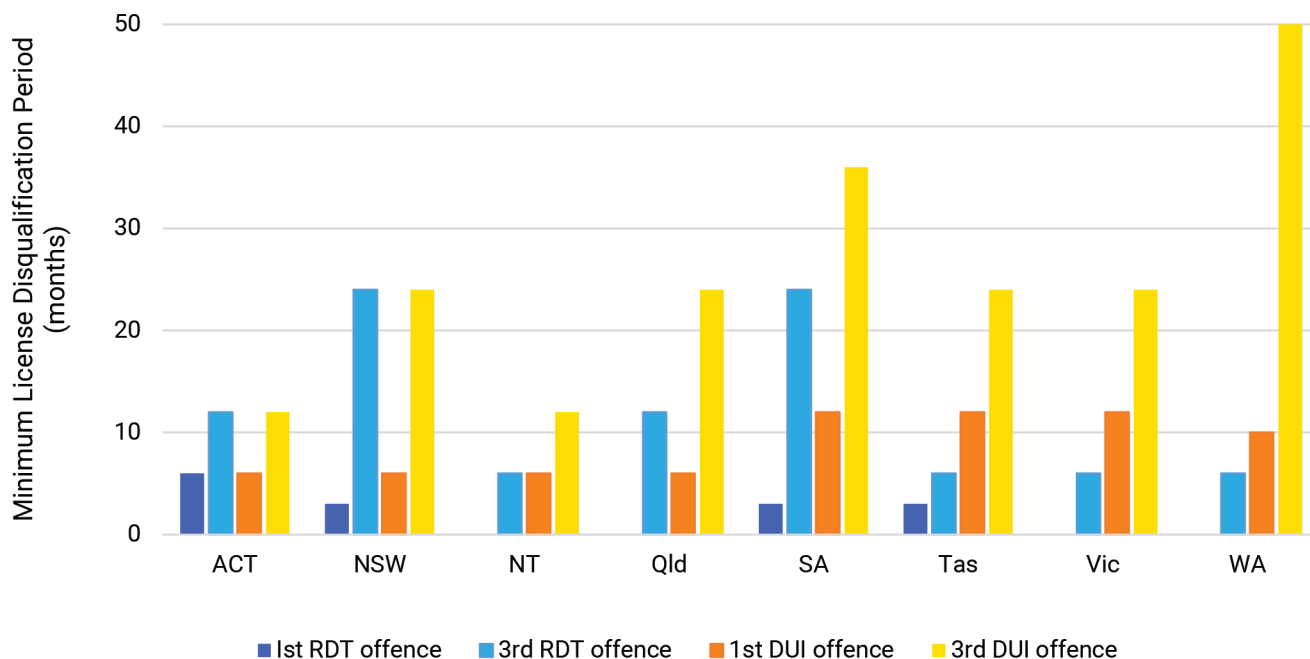
There are further differences regarding whether states increase fine severity for repeat offenders. Vic has the most prominent increase in fine severity for repeat offenders, while SA and Tas do also, but to a lesser extent. ACT increases fine severity for repeat RDT drivers but not for repeat DUI drivers. In contrast, NT increases fine severity for repeat DUI drivers but not for RDT drivers.

Figure 1: Comparisons of the maximum fine (\$AUD) for a first and third offence for an RDT and DUI offence



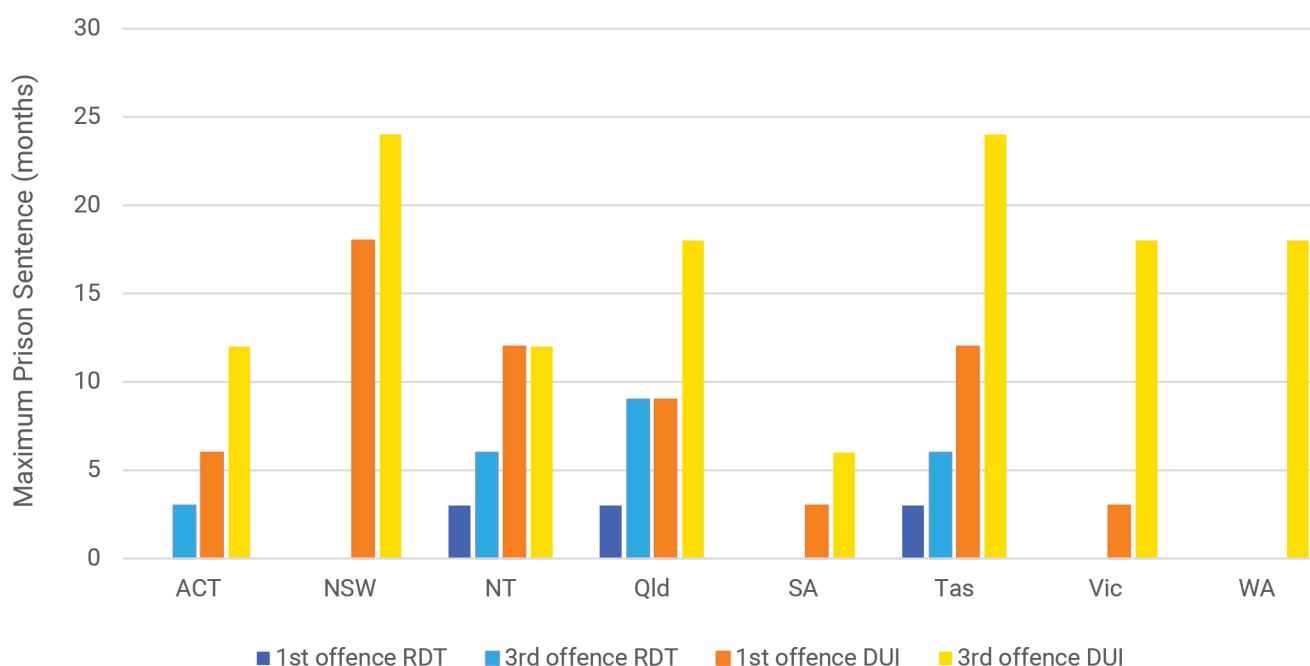
License disqualification periods specified in the laws (Figure 2) have a strong theme of increasing sanctions for repeat offences where the sanctions for a repeat offence are more severe than that of a first offence for both RDT and DUI for all jurisdictions. States such as, Vic and WA also penalise repeat offenders significantly more than first time offenders. RDT offences and repeat offences are in general less severe than for a first time DUI offence – the noted exception to this being the ACT. But again, the license disqualification penalty for a third RDT offence is less severe than a first DUI offence in three states (Tas, Vic, WA) but more severe in others (ACT, NSW, Qld, SA).

Figure 2: Comparisons of the maximum license disqualification period for a first and third offence for an RDT and DUI offence



The largest differences between penalty types and repeat offences occur at the level of maximum prison sentence. All states have a more severe specified maximum sentence in the written laws for a DUI than for an RDT offence (with four states: NSW, SA, Vic and WA not specifying any maximum prison sentence for an RDT offence or repeat offence). Repeat offenders are further subject to more serious prison sanctions, the exception being in the NT where repeat DUI offenders face the same maximum penalty as for a first time DUI offender.

Figure 3: Comparisons of the maximum prison sentence for a first and third offence for an RDT and DUI offence



Discussion and implications

While all RDT laws in Australia employ a zero-tolerance threshold, they differ in terms of the types of drugs tested for and the testing procedures used (saliva only or saliva and blood). There is also variation in the scale of the offence penalty e.g. if it is deemed an infringement or criminal offence, or whether it can be sanctioned through a prison sentence, license suspension, license cancellation or fine etc. What this bulletin adds to our knowledge of RDT, is that compared to a DUI/DWI offence, the penalties for RDT are generally less severe. For example, prison is rare for RDT, but some states show little differences in penalising impairment-based DUI laws versus the zero-tolerance RDT laws. Notably: SA and Tas in terms of fines, and the ACT in terms of license disqualification. This distinction is important as sanctioning zero-tolerance RDT laws as equivalent to DUI laws is disproportionate, given only the latter has proof of impairment.

The penalty options and preferences for sanctioning drug driving also differ. For example, Vic, NSW and the NT are the only three states that have an infringement penalty for a first RDT offence. There is a large evidence-base showing the benefits to applying an infringement versus a criminal charge for minor drug offenders (see for example Hughes, Seear, Ritter, & Mazerolle, 2019; Lenton, Humeniuk, Heale, & Christie, 2000; Payne, Kwiatkowski, & Wundersitz, 2008). Equally importantly, looking at DUI laws Vic has severe fines in comparison to other states but low or moderate license disqualification and prison sentences, while WA, SA and NSW all have severe license disqualification penalties but moderate or low fines. Of particular note is WA where for a third DUI offence an offender can lose their driver's license for life and NSW where for a second or third offence an offender can lose their license for five years. There is a growing evidence base showing the potential adverse social and economic consequences that license suspension or cancellation can pose on people, particularly people without easy access to public transport, people without family supports and people who need to drive for their employment e.g. tradespeople, truck drivers and shift workers (Lenton, Fetherston, & Cercarelli, 2010). This is particularly in geographically dispersed regions like WA, NSW and SA.

States further differ in their penalty escalation for repeat offenders. While most states employ more serious sanctions for repeat offenders for both RDT and DUI (consistent with a proportional response), some states make minor, or no distinction between first or subsequent drug driving offences, such as the NT (for fines and prison sentence) and the ACT (for fines). This is problematic as proportionality is a long-standing premise of the criminal law both to ensure sanctions are fair and to maximise the chance that laws deter future recidivist behaviour and/or engagement in more serious crime (see for example Frase, 2005; Von Hirsch, 1992). Proportionality in responding to drug offences is a further a requirement for all member states, Australia included, under the United Nations Drug Conventions (United Nations, 1988: United Nations system coordination Task Team, 2019).³

Finally, this mapping exercise has showed that despite the common goal of improving road safety only one state (Victoria) has adopted combined drug and alcohol driving laws as well as RDT and DUI/DWI laws. The use of a combined drug and alcohol driving offence is notable as this offence is in line with current research and evidence that demonstrates that impairment

³ Rationales for this include that disproportionate responses are ineffective and increase burdens on criminal justice systems and on the health and well-being of drug and drug-related offenders.

of driving ability significantly increases when alcohol and drugs are in a person's system at the same time (Kleiman et al., 2018). That other states and territories do not have this law is troubling and raises questions about the extent to which improving safety is the ultimate goal of Australian drug driving laws.

What is best practice?

The diversity of state approaches raises clear questions but also opportunities to start to identify what is best practice. We conjecture that the different approaches to RDT, DUI and combined laws will elicit different impacts in policy and practice. For example, some approaches are likely to lead to more criminal charges being laid, some to more severe civil liberty incursions of people who use drugs, and still others to greater deterrence of DUI behaviour and improved road safety. Elucidating impacts and building an evidence base on best practice approaches is both timely and important as Australian drug driving laws are often being informed by other policy rationales, such as national consistency (that is the extent to which offences or sanctions are "in line" with the rest of the nation). While most apparent in the rapid roll out of zero-tolerance RDT laws across all states and territories, the recent Tasmanian changes – introducing a two-step oral fluid approach – was justified on the basis of consistency with other states, rather than necessarily evidence (Office of the Minister of Police and Road Safety (WA), 2019). Similarly, the Minister for Police and Road Safety in WA introduced reforms in 2019 that would increase the penalty for their RDT drug driving offences to "bring Western Australia into line with the law in other states". Here the reforms include harsher fines and immediate prohibitions on any driver who tests positive for drugs at a roadside test from driving for 24 hours and new penalties for combined drink and drug driving (Office of the Minister of Police and Road Safety (WA), 2019). While there is clear evidence that drink and drug driving increases impairment and therefore risks to road safety (e.g. World Health Organisation, 2015), evidence of the pros and cons of increasing RDT penalties is lacking. Moreover, while WA has one of the least severe penalties for RDT it also has one of the most proportionate sets of drug driving laws (due to its' much higher penalties for DUI than RDT offences), and it is arguable that this may better deter DUI behaviour.

In summary, by outlining the drug driving laws in Australia and focusing on three types of laws (RDT, DUI and combined), this bulletin has showed that there has been a significant uptake of specific drug driving laws (RDT and DUI but not combined drug and alcohol driving laws). It further shows clear differences in state designs that raise questions about the proportionality and efficacy of some of the current designs. We hope that this bulletin will encourage further investigation into the practical implementation and effects and assist in building more effective and just drug driving laws.

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