

# Roadside Drug Testing (RDT): Your questions answered

**Driving a motor vehicle in a safe manner is a complex task which requires skill, knowledge and concentration. If you have used alcohol or any other drug, whether it be legal, illegal or pharmaceutical it can be difficult to assess how much your driving skills have been affected. It is therefore illegal to drive if you are under the influence of alcohol or other drugs, as it may impair your ability to drive safely.**

Roadside drug testing (RDT), or mobile drug testing (MDT) as it is known in NSW, gives police the power to test drivers they believe may be under the influence of illicit or prescription drugs. It is important to remember that whilst the basic principles remain the same, states and territories across Australia may have slightly different processes, charges and penalties.

This fact sheet has been developed to answer some frequently asked questions around RDT and help you to stay safe.

## What is the process of RDT?

The following information relates generally to roadside drug testing across Australia, but it should be noted that each state and territory may have slightly different processes, charges and penalties.

In most cases RDT is used by police officers in conjunction with random breath testing (RBT) for alcohol. You will be stopped by police, asked for your licence and requested to complete a breath analysis. If you pass the RBT you may then be selected for further testing to check for the presence of drugs. You will then be required to wipe an RDT test stick down your tongue to check for the presence of those substances in your system. The results of this saliva test usually only take a short time to process and you must wait until police say you are clear to leave. Provided you are negative, which most drivers are, you will be cleared to continue on.

If your test results are positive, you will be taken for further testing. This will occur at a roadside bus or van, or back at a police station where you will provide a saliva sample. If this sample tests positive, you will be banned from driving for up to 24 hours. All samples are further analysed at a laboratory, which can confirm the positive roadside test. If the test is confirmed positive, you will be contacted by police and may be issued with a penalty notice or charged.

## Where is the test conducted?

As the name suggests, these tests are conducted by police at roadside operations (similar to random breath testing) or by officers in vehicles patrolling the roads.

## What kind of test is used?

Roadside drug testing uses a saliva test. However, since RDT doesn't detect all drugs, police also have the power to request blood or urine testing if they believe you are driving under the influence of a drug.

## What drugs can be detected by the saliva test used in RDT?

The saliva test used in roadside drug testing can detect drivers who have recently used three common illegal drugs: cannabis, ecstasy (MDMA) and methamphetamine (such as speed or ice). Mobile drug tests conducted in NSW now also test for cocaine.

## Do they test for other drugs?

If you are stopped at an RDT or for any reason and your behaviour or driving raises concern, police may suspect you are under the influence of illegal or prescription drugs. They can then require you to undergo urine or blood testing, which will cover a large range of legal and illegal substances known to impair drivers. This can lead to being charged with a drug driving offence, which can have serious penalties.

### Legal Disclaimer

The information provided on this fact sheet is provided for information purposes only. As such it **cannot substitute for the advice of a medical professional**

First published January 2020

## Roadside Drug Testing (RDT): Your questions answered

### How long after use can drugs be detected by RDT?

It is extremely difficult to give accurate information to people about how long these drugs will stay in your system and be detected by the saliva test. Different drugs affect different people in different ways and so there are no guarantees.

Even if you feel you are able to drive safely, illegal drugs can be detected in your saliva by an RDT for a significant time after use. This length of time can vary, depending on the amount taken and other factors which can vary from one person to the next. THC, the active component of cannabis, can commonly be detected for up to 12 hours after use by a roadside test, whereas stimulants such as ecstasy/MDMA or methamphetamine (ice or speed) could potentially be detected for one to two days.

Although most drugs take between 24-48 hours to leave your body, heavy or excessive use can extend the effects and detection of some drugs. Combinations of drugs can take even longer. The important thing to remember is that as there is no 'standard' dose of illegal drugs and effects on individuals will vary widely, making it difficult to estimate how long a drug can be detected by this process. If you have used illegal drugs, it is always best to wait and be very conservative when deciding to drive again.

### What about cannabis and RDT?

Cannabis is unique in that it is stored in the fatty tissues and released slowly into the bloodstream before it is excreted from your body. The length of time it stays in your system depends on many things but, in general, it can be found in urine for 1 to 5 days in occasional users and up to 6 weeks in regular, long-term users.

According to the police, THC (cannabis) will be detected in a saliva test for several hours after use, but drivers who have inactive THC residue in their bodies from use in previous days/weeks should not be detected. It is important to remember, however, that if police believe you are under the influence of a drug, they may have the power to arrest you for the purpose of a blood and urine test, which is able to detect cannabis for a much longer period. Some jurisdictions, such as Victoria, may not have the power to arrest you, but refusal of further testing can result in being charged with a refusal offence.

What happens if the person gets a positive test for cannabis and they have been using it for medical reasons?

The law states that you are not permitted to drive with THC, which is the active component of cannabis, in your system. If a person is taking cannabis products that contain THC for health reasons or because they are terminally ill, they are not permitted to drive and could be detected by roadside drug testing and charged.

### What are the drug driving offences?

There are several offences you may be charged with if your test is confirmed positive. Some include:

- **driving with drugs present in body fluid (oral, blood or urine):** this charge requires the presence of a drug in your system and does not necessarily mean that you are intoxicated or drug-affected
- **driving under the influence:** police must prove you had drugs in your system and you could not control your vehicle properly
- **refusal offences:** you can be charged with this offence if you refuse to have a drug test or supply a sample of blood, saliva or urine

### What are the consequences of being caught with drugs in your system whilst driving?

If you are found to have drugs in your system when driving, you will need to attend court to have your matter heard by a magistrate. The penalties will depend on the offence type and whether this is a first or repeat offence. Penalties include loss of licence, fines and a criminal record.

If you are found guilty of a presence offence, the court may cancel your licence for an automatic six-month period and impose a fine.

### Can I refuse a test?

Failing to comply with a police officer's request to provide a saliva sample can result in even harsher penalties. You will be charged with a refusal offence and go to court and receive penalties including fines, licence disqualification and driver re-education programs.

## Roadside Drug Testing (RDT): Your questions answered

Drivers who are found to have driven under the influence of illegal or prescription drugs face an automatic 12-month licence disqualification and fines for a first offence and in some jurisdictions there may even be jail sentences. Second and subsequent offences are subject to higher penalties.

### What will happen to my passengers if I have a positive test and am unable to drive?

Police have a duty of care to all members of the community and they will consider the circumstances and act accordingly to ensure everyone is safe. This may include police requiring a suitable adult to attend the scene and collect a young person under the age of 16. If the passengers are older and more able to care for themselves, they may be required to organise their own transport home. This will be decided by police and depend on the individual situation.

### Can anyone else in the car be drug tested?

Anyone who is operating or attempting to operate a motor vehicle may be required to undertake a roadside drug test, including any passenger acting as a 'qualified supervising driver' for a learner driver. Other vehicle passengers will not be required to undertake an RDT.

If you are taking medications for legitimate purposes as prescribed by a doctor can you be charged with drug driving?

If you are stopped for RDT or other reasons at the roadside, your behaviour or driving is erratic and police suspect you are under the influence of any drug – legal, illegal or pharmaceutical, the police can require you to undergo blood and urine testing. The tests cover a large range of legal and illegal substances that can impair drivers and could lead to a charge of driving under the influence (DUI), which has serious penalties. The most common prescription medications to cause problems are those containing opioids (e.g., Endone, Oxycontin) and benzodiazepines (e.g., Diazepam, Oxazepam), however you should always check with your doctor if prescribed medication could affect your ability to drive.

**If the drug you have taken is adversely affecting your driving ability, then regardless of whether it is prescribed or bought 'over the counter' then you can be charged with drug driving.**