

Factsheet No. 18

Mobile Drug Testing (MDT)



This factsheet outlines your rights and responsibilities if police stop you while driving and ask you to undergo a mobile drug test.

When can police require the driver of a car to undergo a drug test?

If you are driving a vehicle, police can ask you to undergo a drug test at any time.

Do I have to give police my licence if they want me to undergo a drug test?

Yes, you must provide your licence to police.

What type of drugs does the test detect?

As at 8 September 2021, the MDT can detect cannabis, speed/ice, MDMA or ecstasy, and cocaine.

How is the test carried out?

You will be asked to wipe the test stick down your tongue and give it back to the police officer. The results will take a few minutes. You must wait until the test is clear before driving.

What happens if the MDT test stick is positive?

If the result is positive, you will be taken to a testing van or bus, or back to a police station to provide a saliva sample for further testing.

If the saliva sample is positive, you will be automatically banned from driving for 24 hours.

Other penalties will also apply. Significant penalties apply for driving while suspended.

Can police require a passenger in a car to undergo a drug test?

Yes, in some circumstances. Police can require a passenger to undergo a drug test if the passenger is sitting beside a learner driver or if police reasonably believe that the passenger has been driving a vehicle. For example, if the police witnessed the car changing drivers prior to approaching the Mobile Drug Testing unit, the passenger they reasonably suspect was driving can be tested. Other passengers cannot be compelled to submit to a drug test.

What are the penalties for driving with drugs in my system?

If it is your first offence, you may receive a penalty notice (as at 8 September 2021, the amount is \$581) and be suspended for three months. You can elect to have the matter dealt with in court but you should seek legal advice before doing so as higher penalties may apply if you are found guilty.

If it not your first offence, then you will need to go to court. If you are found guilty at court, then you may receive a fine of up to \$3,300 and a disqualification period of at least six months.

What are the penalties for driving under the influence?

If police believe you were affected by a drug (rather than it merely being detected in your system), then you may be charged with driving

while under the influence of a drug. This is a much more serious charge and can result in a fine, loss of licence and a term of imprisonment.

Can police arrest me if I refuse to undertake a drug test?

Yes, if you are or have been driving a vehicle, or are sitting beside a learner driver.

Police can detain you and take you to a police station, hospital or other prescribed place for the purpose of conducting a drug test.

Can I be charged with an offence for refusing to undertake a drug test?

Yes, refusing to undertake a drug test is a criminal offence and the court may impose a fine, licence disqualification and/or a prison term.

Do I have to answer police questions about past drug use?

No. Other than providing your name and address, you are not required to answer any police questions.

Can police search me and/or my vehicle?

Yes, in certain circumstances.

Police can conduct an ordinary search of you and your belongings if they have reasonable grounds to suspect that you have a prohibited drug in your possession. Police can search a vehicle if they have reasonable grounds to suspect that it contains a prohibited drug (or other illegal item), or that one of the passengers has a prohibited drug in their possession or control.

If police have arrested you after your sample tested positive, they can only search you if they suspect on reasonable grounds that it is prudent to do so to determine whether you are carrying any object that poses a safety risk, any item that could be used to escape from custody, or any objects connected with a crime.

Depending on the circumstances, a positive drug test may constitute reasonable grounds to conduct a search of you, your belongings and your vehicle. If you have been searched following a positive drug test, you should seek legal advice.

Can police strip search me?

Police cannot conduct a strip search unless they have reasonable grounds to suspect that a strip search is necessary and that the seriousness and urgency of the circumstances makes it necessary. Suspicion of minor drug possession is not serious and urgent. See our Strip Search Fact Sheet for more information.

If the results of my Mobile Drug Test were negative, can police still require me to undergo blood testing?

No, unless you were a driver involved in a fatal or potentially fatal accident.

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This factsheet is not a substitute for legal advice. If you have a problem please seek legal advice from your local community legal centre.