



NORTHERN TERRITORY POLICE ASSOCIATION

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7 September 2026

Legislative Assembly of the Northern Territory
Legislative Scrutiny Committee

By email: LSC@nt.gov.au

Dear Secretary

Traffic Legislation Amendment (Drink and Drug Driving and Hooning) Bill 2026 (Serial 76)

The NTPA supports the Bill's central road-safety objectives. The new combined alcohol-and-drug offence, passive breath testing and stronger vehicle sanctions can improve enforcement and reducing serious road harm. Police members, however, must be given legislation that is precise, workable and supported by adequate training, equipment, procedures and administrative resources.

The Bill should be amended before passage. In particular, the NTPA identifies apparent drafting errors, insufficiently defined passive breath testing procedures, a need for clearer safeguards around administrative impoundment and vehicle disposal, and avoidable uncertainty created by repealing the certificate-witness notice provision in full. The Bill should also be subject to a statutory operational review.

Recommendations

Pass the Bill only after the apparent drafting and cross-reference errors identified in this submission have been corrected and the consequential amendments have been checked comprehensively.

Clarify the legal and evidentiary status of a passive breath test, the conduct required of a driver, when an officer may escalate to a breath test or analysis, and the consequences of non-cooperation.

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Before commencement, provide funded training, validated devices, Territory wide operating procedures and sufficient consumables, maintenance and supervisory support, including for remote stations.

Strengthen review and notice safeguards for vehicle impoundment and extend or make flexible the seven-day collection period before disposal for owners affected by remoteness, illness, cultural obligations or other genuine hardship.

Require the Government to publish implementation data and commission a statutory review within 24 months of commencement, with consultation with the NTPA.

Confirm that expanded powers and processes will be supported by additional resources and will not simply transfer new administrative, storage, court-attendance and evidentiary burdens to frontline police.

The NTPA represents members of the Northern Territory Police Force across urban, regional and remote commands. Its interest in the Bill is twofold: supporting effective measures that reduce road trauma and ensuring that new police powers and duties are lawful, clear, safe and operationally sustainable.

The NTPA's comments focus on the practical application of the Bill, the protection of individual rights, drafting clarity and the resourcing consequences for police members. The NTPA does not oppose firm action against drink driving, drug driving or dangerous hoon behaviour.

Overall position

The NTPA supports the Bill in principle. Driving with both a high-range alcohol concentration and a prohibited drug in the body presents a serious public-safety risk. A combined offence is readily understandable and may simplify charging and prosecution. Similarly, a properly regulated passive breath test may make roadside testing faster and reduce single-use plastic consumption.



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Support for the policy objectives should not obscure the need for precision. The Bill creates or expands coercive powers, serious criminal consequences, mandatory disqualification and interference with property. Those provisions should meet the Committee's tests of clearly defined administrative power, natural justice, appropriate review and unambiguous drafting.

Passive breath testing - clauses 4, 17 and Schedule

Support for an efficient screening tool. The NTPA supports an efficient, contactless preliminary screen where it is reliable and used consistently. The public briefing indicates that a passive result is intended only to determine whether a conventional breath test should follow; it is not intended to establish an offence or blood or breath alcohol concentration.

Matters requiring clarification;

The proposed definition describes a passive breath test only as a test of a sample of breath to assess whether alcohol is present. It does not specify how the sample is obtained, what conduct may be required of the driver, whether ordinary speech is sufficient, the status of an inconclusive result, or whether the passive indication is admissible for any purpose. The amended section 29AAC also appears to permit a police officer to require a passive breath test, breath test or breath analysis in combination. Clear sequencing is needed so officers and drivers understand the lawful next step.

- state expressly that a passive breath test is a preliminary screening tool and is not evidence of alcohol concentration or, by itself, proof of an offence;
- define the conduct that can lawfully be required and deal expressly with refusal, inability, contamination and inconclusive results;
- specify the threshold for escalation to a conventional breath test or breath analysis and preserve an officer's ability to act on other lawful grounds;
- require approved devices, calibration and record-keeping standards, supported by clear regulations or published procedures; and ensure that police training and public communications use the same terminology as the Act.

These matters affect both individual rights and police members' exposure to disputed directions, evidentiary challenges and complaints. They should be resolved in the legislation or regulations, rather than left solely to operational practice.

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Combined drink and drug driving offence - clauses 7 and 16

The NTPA supports proposed section 20A and the availability of alternative verdicts under proposed section 20B. The alternative-verdict provision is important because it permits an appropriate outcome if only the high-range alcohol element or prohibited-drug element is proved.

The Committee should nevertheless seek confirmation that the offence and alternative-verdict pathway do not expose a defendant to duplicative punishment arising from the same driving event, and that charging guidance will be issued. The Government should also explain the evidence supporting the selected penalty and disqualification settings, including the relationship between the presence-based drug element and the asserted additional impairment. This is not an objection to the offence; it is a request for transparent proportionality.

Repeat-offender provisions and interstate findings

The Bill repeatedly treats a finding under a law of the Territory or another jurisdiction that “substantially corresponds” with a listed offence as a previous finding of guilt. National recognition is sensible, but the phrase may generate uncertainty where offence elements, infringement processes and penalty structures differ.

The NTPA recommends that the Government provide clear decision guidance and a reliable process for verifying interstate histories. Police members should not be left to make complex equivalence judgments at the roadside. Where an interstate history triggers immediate suspension, a five-year minimum disqualification pathway or impoundment, the relevant information and review rights must be dependable and readily accessible.

Certificate witnesses and police court attendance - clause 22

Section 29AAV presently regulates the calling of a person whose evidence may otherwise be received by certificate. Clause 22 repeals that section. The stated purpose is to avoid a technical notice requirement impeding a prosecution when a witness later becomes necessary.



The NTPA understands the prosecutorial concern, but wholesale repeal risks more late summonses, adjournments and unnecessary disruption to police rosters. Police court attendance carries direct overtime, backfilling and fatigue consequences, particularly where a member has worked night shift, has transferred, or must travel from a regional or remote location.

A more balanced solution is to retain reasonable notice as the default and allow the court to dispense with notice were satisfied that doing so is in the interests of justice. The court should consider prejudice to the parties, the reason for delay, the availability and location of the witness, and whether another means of receiving the evidence is available. Prosecution procedures should also require early identification of contested certificate evidence and prompt advice to police witnesses.

Vehicle impoundment and disposal - clauses 25 to 31 and 35

The NTPA supports proportionate vehicle sanctions for repeat high-range drink driving and serious hoon behaviour. Removing a vehicle can interrupt dangerous conduct immediately. The power is administrative, however, and may affect an owner who is not the alleged driver. It should therefore be tightly defined and paired with practical review and notice rights.

- the written determination records the factual basis for the reasonable belief, the offence tier, the prior finding relied upon and the calculated impoundment period;
- a prompt, accessible review mechanism be available to the driver and owner, including those outside Darwin;
- notices explain review rights, costs, collection deadlines and the consequences of non-collection in plain language; and
- operational guidance deal with stolen, hired, jointly owned, work, community and essential-service vehicles consistently.



Seven-day collection period before disposal

Clause 30 permits disposal if an impounded vehicle is not collected within seven days after the initial period. In the Territory, seven days may be inadequate for an owner in a remote community, an owner who cannot obtain transport or funds, or a person affected by hospitalisation, cultural obligations or communication barriers. Disposal is a serious and potentially irreversible interference with property.

The NTPA recommends retaining a longer default period or empowering a senior decision-maker to extend the period on reasonable grounds. Disposal should not occur unless documented reasonable steps have been taken to notify the owner and any registered operator or secured party. Written reasons should be recorded. This safeguard would also protect police members from avoidable disputes and complaints.

Drafting clarity and apparent errors

The NTPA asks the Committee to recommend a complete technical review before passage. The following matters appear on the face of the introduced Bill:

Provision	Issue requiring confirmation or correction
Proposed s 29ADA	Two subsections are numbered “(2)”. The final subsection, dealing with commencement of the impoundment period, appears to require renumbering as subsection (3).
Clause 10 - s 23(2)(c)	The two subparagraphs are both numbered “(i)”; the second appears to require numbering as “(ii)”.
Clause 10 - s 23(2)(b)	The list reads “22(1) 24(2)” without a comma between the provisions.
Clause 17 - proposed s 29AAB(5)(b)(ii)	Unlike comparable provisions in clauses 7, 8, 18 and 20, this provision limits both prior findings to offences committed within three years. The difference may be intentional but should be confirmed and explained.



Clause 5 and Schedule	Clause 5 omits s 19(4) and (5), while the Schedule purports to insert “passive breath test” into s 19(4)(a) and (d). The provisions cannot operate coherently together and require correction.
Clause 26 - s 29AD	The existing Act defines “alleged offence” by reference to s 29AD (1). The replacement subsection removes that label. The consequential effect on the definition and later provisions should be checked.

Commencement, training and resources

Commencement by Gazette notice is appropriate only if it follows operational readiness. New powers should not commence until members have access to updated legislation, legal and operational instruction, scenario-based training, approved devices, maintenance arrangements, forms and guidance for impoundment calculations and interstate histories.

The NTPA recommends a documented readiness assessment, undertaken with NTPA consultation, covering:

- training completion across all affected commands and relief arrangements for members attending training;
- device availability, validation, calibration, cleaning and replacement, including in remote locations;
- safe storage, towing, notification and disposal capacity for the increased number and duration of impoundments;
- SerPro changes, forms, audit trails and access to reliable prior-offence information;
- prosecution liaison and early witness-notification protocols; and
- additional staffing and budget impacts, including overtime, travel and court attendance.

The implementation burden must not be absorbed through already constrained frontline rosters. Clear legal power without the people, systems and equipment to use it safely will not achieve the Bill’s purpose.



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Review and reporting

Clause 32 repeals the expired review provision for Part VA, while the Bill materially expands that, Part. A fresh review mechanism is warranted. The NTPA recommends an independent or statutory review after 24 months of operation, with a report tabled in the Legislative Assembly.

The review should examine road-safety outcomes; use and accuracy of passive tests; contested directions; charges and alternative verdicts; impoundments by offence tier and region; revocations; owner hardship; vehicles disposed of; costs; complaints; court attendance; overtime; training; and impacts on regional and remote policing. The NTPA should be consulted as the representative of the members exercising the powers.

The NTPA supports decisive, evidence-based action against drink driving, drug driving and dangerous hoon behaviour. The Bill can strengthen the operational toolkit available to police and improve road safety. It should not, however, proceed with avoidable drafting defects or without safeguards and resources proportionate to the powers being created.

The NTPA therefore recommends that the Committee support passage only after the Bill is amended and clarified in accordance with this submission, and that commencement be tied to demonstrated operational readiness.

Yours Sincerely



Nathan Finn
CEO / President

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