

# Road Traffic (Drug Driving) Proposition

## Impairment Safeguard — Summary Note

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### Purpose

To highlight a potential unintended consequence of the proposed drug-driving framework and outline a proportionate safeguard that preserves road-safety objectives while ensuring criminal liability aligns with driver impairment.

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### 1. Core Issue

The proposition introduces a fixed THC threshold as the basis of a criminal offence.

While numerical alcohol limits are supported by strong scientific correlation between blood alcohol concentration and impairment, current evidence indicates that **THC concentration does not reliably correlate with driving impairment**.

As a result, the framework risks substituting a measure of **drug presence** for a measure of **driver impairment**.

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### 2. Practical Implications

The proposed threshold may capture individuals who are not impaired at the time of driving, including:

- **Patients lawfully prescribed cannabis-based medicines**, taken in accordance with medical advice;
- **Consumers of lawful CBD products**, which may contain limited proportions of THC permitted under Jersey law;
- **Drivers with residual THC** detectable after effects have resolved, given evidence that measurable concentrations may persist for 24–48 hours following oral ingestion.

This creates a risk that otherwise law-abiding individuals could incur criminal liability despite posing no demonstrable road-safety risk.

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### 3. Legal and Governance Considerations

Because liability may arise without proof of impairment, the proposal may raise questions relating to:

- proportionality under the **Human Rights (Jersey) Law 2000** (Articles 6, 8 and 14 ECHR);
- potential **indirect discrimination** considerations under Article 7 of the **Discrimination (Jersey) Law 2013**, where prescribed cannabis patients are treated differently from individuals prescribed other potentially impairing medicines governed primarily by an impairment-based standard.

These issues arise from legislative design rather than enforcement intent.

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## 4. Evidence Context

Public statements supporting the proposal have emphasised enforcement challenges and detectability rather than Jersey-specific collision data.

Available published road-safety information indicates alcohol remains the dominant contributor to road traffic incidents. The evidential basis linking detectable THC levels to collision harm within Jersey is currently less clear.

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## 5. Proportionate Amendment Path

The identified risks can be addressed without weakening enforcement by introducing a limited safeguard:

- retain roadside testing and numerical thresholds;
- clarify that numerical thresholds operate alongside **impairment evidence** in establishing liability;
- maintain offences relating to impaired driving;
- introduce a **statutory medical defence** where:
  - the substance was lawfully prescribed,
  - taken as directed, and
  - the driver was not impaired.

This approach mirrors safeguards adopted in comparable jurisdictions and aligns liability more closely with demonstrable risk.

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## Summary

The objective of improving road safety is supported.

A narrowly framed safeguard would help ensure the legislation targets impaired driving rather than residual pharmacological presence, strengthening fairness, public confidence, and long-term durability of the law.