

**BILLS COMMITTEE ON
ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2001**

Follow-up to Meeting on 3 December 2001

PURPOSE

This paper sets out the Administration's response to the issues raised by Members in relation to the Driver Improvement Scheme.

BACKGROUND

2. At the meeting of the Bills Committee on Road Traffic Legislation (Amendment) Bill 2001 held on 3 December 2001, Members requested the Administration to -

- (a) consider the penalty options open to the court under section 72(A);
- (b) provide the definitions of "serious traffic violation" as defined in section 15210(i) of the Vehicle Code of the California State, U.S.A; and
- (c) consider the penalty for the offence of failure to attend and complete a driving improvement course.

Penalty Options open to the Court

3. Having taken into account the comments raised by Members, the Administration proposes to amend section 72A(1) to the effect that the court will be empowered to direct a driver who is convicted of a traffic offence that leads to 5 DOPs or more to attend a driving improvement course, either in addition to or in lieu of any other penalty that may be imposed for that offence. We will clearly specify the "scheduled offences" under Cap. 375 that are to be covered by section 72A(1).

Definition of Serious Traffic Violation

4. According to section 15210(i) of the Vehicle Code of the California State, U.S.A, "serious traffic violation" includes any of the following –

- (a) excessive speeding, i.e. involving any speed of 15mph (24.1 kmph) or more above the posted speed limit;
- (b) reckless driving;
- (c) a violation of any state or local law involving the safe operation of a motor vehicle, arising in connection with a fatal traffic accident; and
- (d) any other similar violation of a state or local law involving the safe operation of a motor vehicle, for example, making improper or erratic traffic lane changes, following the vehicle ahead too closely.

5. The above apply only to commercial motor vehicles. For the following major offences, a court may not order a person, regardless of the type of vehicle concerned, to attend traffic violator school in lieu of adjudicating an offence -

- (a) driving under the influence of alcohol or a controlled substance;
- (b) reckless driving;
- (c) leaving the scene of an accident; and
- (d) vehicular manslaughter with negligence.

Penalty for Failure to Attend and Complete a Driving Improvement Course

6. The proposed section 72A(8) of the Road Traffic Legislation (Amendment) Bill 2001 stipulates that a person who, upon the court's direction, fails to attend and complete a driving improvement course within 3 months, commits an offence and is liable on conviction to a fine of \$3,000 and to imprisonment for 1 month. Some members of the Bills Committee have requested the Administration to consider whether such an offence warranted imprisonment.

7. Regarding the penalty level to be provided for by section 72A(8), such an act could be treated as contempt of court, in which case the penalty level would not be specified but would be determined by the judge.

8. To give the drivers in question a clearer idea of what penalty the offence may entail, the Administration has drawn reference to the existing arrangement for offences of similar nature and severity. The offences considered include section 71(2) of the Road Traffic Ordinance (Cap. 374) and section 10 of the Road Traffic (Driving-Offence Points) Ordinance (Cap. 375). Both of them deal with persons who have been disqualified by the court from holding a driving licence but failed to comply with the court's order to deposit the licence with the court within a specified period of time. These two offences are relevant references as both of them involve the non-compliance with a court order to perform an action arising from traffic offences. As such, the Administration decides that the same penalty level for section 71(2) of Cap. 374 and section 10 of Cap. 375 at a fine of \$3,000 and imprisonment of 1 month should also be applicable to the proposed section 72A(8) of the Road Traffic Legislation (Amendment) Bill 2001.

9. With the foregoing, the Administration is of the view that the penalty level now proposed for section 72A(8) is reasonable and is in line with the existing arrangement for offences of similar nature and gravity.

Transport Bureau
11 December 2001