

**For discussion on
17 December 2004**

Legislative Council Panel on Transport

Review of Measures to Combat Inappropriate Driving Behaviour

Purpose

This paper reviews the effectiveness of the measures to combat inappropriate driving behaviour.

Road Safety Strategy

2. We have been adopting a multi-pronged approach to enhance road safety. Apart from providing a safe and efficient transport infrastructure and traffic management system, we have also been developing appropriate road safety legislation, carrying out enforcement actions, applying new technologies and putting in place focused publicity and education programmes. More specifically on the legislative front, a series of road safety-related legislative amendments have been implemented in the past few years. These include -

- (a) tightening the drink driving legislation since 1 October 1999;
- (b) prohibiting the use of hand-held mobile phones since 1 July 2000 and telecommunications equipment since 1 July 2001 while driving;
- (c) replacing the offence of “reckless driving” with “dangerous driving” to allow more objective and effective enforcement since 1 July 2000;
- (d) introducing a probationary driving licence scheme for newly qualified motorcyclists since 1 October 2000;
- (e) extending the requirement to fit and wear seat belts to rear seats of taxis since 1 January 2001;
- (f) imposing higher penalties for speeding offences since 1 January 2001;

- (g) introducing the Driver Improvement Scheme since 9 September 2002; and
- (h) requiring the provision of high back seats and extending the requirement to fit and wear seat belts to rear seats of public light buses since 1 August 2004.

3. To enhance the safety of passengers on school transport vehicles, we will require newly registered school transport vehicles to be equipped with safer seats¹ in accordance with the specifications of the Transport Department. We are working on the detailed specifications and will introduce the necessary legislative amendments. We are also amending the conditions of the Passenger Service Licence to make the provision of escorts compulsory for school public light buses with 16 seats or less that serve kindergartens².

Effectiveness of the Measures to Combat Inappropriate Driving Behaviour

4. Our assessment of the measures to combat inappropriate driving behaviour is set out in the following paragraphs.

Drink driving

5. Following the introduction of the drink driving legislation in December 1995, there has been a marked decrease in the percentage of alcohol-related traffic accident³. The number of night-time fatal (8 pm to 8 am) traffic accidents⁴ has also decreased. With effect from 1 October 1999, the legal limit of alcohol concentration in a driver's blood, urine and breath was further tightened up from 80 mg to 50 mg per 100 ml of blood.

¹ Safer seats refer to strong, closely spaced seats with high, energy-absorbing seat backs.

² Mandatory provision of escorts on school buses with more than 16 seats that serve primary schools and kindergartens has been in place since February 1997.

³ The percentage of alcohol-related traffic accidents dropped from 10.2% in 1996 to 3.9 % in 2003/04.

⁴ According to the Police, drink-driving is more common during night time between 8 pm and 8 am. The number of fatal night time traffic accidents dropped from 112 in 1995 to 71 in 2003/04, representing a 36.6% reduction.

6. Currently, persons who drive with alcohol concentration above the prescribed limit are subject to a maximum fine of \$25,000 and 3 years' imprisonment, and shall incur 10 driving offence points⁵. The penalties are in line with those in overseas countries⁶. We consider it most important to enhance public awareness of the serious consequences of drink driving. We have stepped up publicity in this regard and will continue to do so, especially during the festive seasons where drink-driving is more common. The Police will also take stringent enforcement actions to increase the deterrent effect.

Drug driving

7. It is an offence under Section 39 of the Road Traffic Ordinance (Cap. 374) to drive a motor vehicle if a person is under the influence of drugs to such an extent that he/she would be incapable of having proper control of the motor vehicle. At the present moment, drug driving is not a major cause of traffic accidents, and the number of drug-related traffic accidents is relatively low⁷.

⁵ Where 15 or more points have been incurred by a person within a period of 2 years, he shall be disqualified from holding or obtaining a driving licence (a) for a period of 3 months if no previous disqualification has been imposed on him; and (b) for a period of 6 months if any previous disqualification has been imposed on him under the Road Traffic (Driving-Offence Points) Ordinance (Cap 375).

⁶ The penalties imposed on drink-driving in overseas countries:

Country	Sanction	
	Fine	Imprisonment
Arizona (USA)	<ul style="list-style-type: none"> • First conviction : ≥ US\$250 • Second conviction : ≥ US\$500 • Third/subsequent conviction : ≥ US\$750 	<ul style="list-style-type: none"> ≥ 10 days ≥ 90 days 4 to 8 months
Nevada (USA)	<ul style="list-style-type: none"> • First conviction : US\$400-\$1,000 • Second conviction : US\$750 - \$1,000 • Third/subsequent conviction : US \$2,000- \$5,000 	<ul style="list-style-type: none"> 2 days - 6 months 10 days - 6 months 1 year - 6 years
New South Wales (Australia)	<ul style="list-style-type: none"> • First conviction : A\$1,000-\$3,500 • Second/subsequent conviction : A\$2,200-\$5,500 	<ul style="list-style-type: none"> 9-18 months 1 – 2 years
New Zealand	<ul style="list-style-type: none"> • First/second conviction : ≤ NZ\$4,500 • Third/subsequent conviction : ≤ NZ\$6,000 	<ul style="list-style-type: none"> ≤ 3 months ≤ 2 years
Quebec (Canada)	<ul style="list-style-type: none"> • First conviction : ≥ C\$600 • Second conviction : - • Third/subsequent conviction : - 	<ul style="list-style-type: none"> - ≥ 14 days ≥ 90days
Singapore	<ul style="list-style-type: none"> • First conviction : S\$1,000-\$5,000 • Second/subsequent conviction : S\$3,000-\$10,000 	<ul style="list-style-type: none"> ≤ 6 months ≤ 12 months
UK	<ul style="list-style-type: none"> • First conviction : ≤ £ 5,000 • Second/subsequent conviction : ≤ £ 5,000 	<ul style="list-style-type: none"> ≤ 6 months ≤ 6 months

⁷ There were 9 drug-related traffic accidents in 2001, 3 in 2002 and 2 in 2003.

8. Nevertheless, we have researched into this area and note that there are a number of issues to be tackled. First, it is not easy to set legal limits for drug driving. Many drugs may affect the ability to drive, and different drugs may have different effects on different people. It is thus difficult to establish a clear causal relationship between the taking of a particular drug and the driver's driving behaviour. The problem would be further complicated if drivers take a combination of drugs.

9. Another major obstacle is the lack of reliable drug screening equipment for enforcement purpose⁸. In addition, there are other evidential problems, such as the timing for drug screening, the difficulties in conducting fast roadside tests, and the reliability of test results especially when the driver consumes a combination of drugs etc. These problems, together with the lack of legal limits for drugs, make it difficult to put in place new legislation or enforcement measures in this regard in the near future.

10. While we will keep in view latest developments in this area, we will continue to disseminate messages about the danger of drug driving through radio and TV announcements, leaflets, posters, seminars and talks to motorists and potential drivers. Modules on the effect of drugs on driving have also been included in the Driving Improvement Course.

Tailgating

11. Failure to keep a safe distance from the vehicle in front is often the cause of multiple collisions. Currently, this act is prosecuted as a 'careless driving' offence. We note that the number of such offences has substantially increased by 259% from 175 in 2003 (January to October) to 454 in 2004 (January to October). The rising trend warrants our attention. We are now examining the feasibility of introducing a new traffic offence specifically against tailgating. As the issue involves a new offence with a new prosecution process and evidential requirements, we need to examine the details and options carefully, making reference to overseas experience.

⁸ We understand that drug screening devices currently available are mainly to detect drugs like tetrahydrocannabinol, cocaine, benzodiazepines, amphetamine and cannabinoids. Ketamine, a drug that is quite common among drug abusers in Hong Kong, is not included. We need to have a screening device for testing drugs that are used in Hong Kong.

Careless lane changing

12. Careless lane changing is a major factor contributing to traffic accidents. Currently, careless lane changing is prosecuted under the offence of careless driving. We note that while the number of careless driving offences in general has been dropping since 2001, the number of traffic accidents caused by careless lane changing has remained at a similar level⁹. We also note that most of these traffic accidents are slight accidents involving damage to the vehicles but not fatalities or major casualties. Hence, it may not be necessary to consider amending the legislation, and we will keep in view the number of offences and traffic accidents in this regard. Nonetheless, to combat this inappropriate driving behaviour, the Police will step up enforcement. In addition, careless lane changing will be a focus of our road safety publicity and education efforts.

Speeding

13. Since 1 January 2001, the fixed penalty for speeding by more than 30 to 45 km/h has been raised from \$450 to \$600. The penalty for speeding by more than 45 km/h has also been increased from \$800 to \$1,000 and the driving offence points incurred has been increased from 8 to 10. Apart from raising the penalty levels, we also plan to increase the number of speed enforcement cameras and enhance their coverage at strategic routes to strengthen enforcement and the deterrent effect. This proposal has been mentioned in another paper (LC Paper No. CB(1)298/04-05(06)) submitted to this Panel.

Use of mobile phone while driving

14. Researches show that the use of mobile phones while driving increases the risk of collision by four to six times, as it causes distraction and affects the driver's reaction in emergency situations. The prohibition against the use of hand-held mobile phones while the vehicles are in motion came into force on 1 July 2000. The prohibition was further extended to the use of telecommunications equipment, such as radio phones used in taxis, since 1 July 2001. This offence is currently enforced by way of summons.

⁹ The number of careless driving offences (including careless lane changing) dropped from 20,579 in 2001 to 18,710 in 2002, 16,020 in 2003 and 13,454 in (Jan-Oct) 2004. The numbers of accidents caused by careless lane changing were 704 in 2001, 1230 in 2002, 949 in 2003 and 874 in (Jan-Oct) 2004.

15. As explained in an earlier paper (LC Paper No. CB(1)298/04-05(06)) submitted to this Panel, the number of such offences increased substantially from 2,988 in 2001 to 6,188 in 2003, indicating that the offence is rather common. To facilitate enforcement and strengthen the deterrent effect, we plan to simplify the means of prosecution by including this offence in the Schedule of the Fixed Penalty (Criminal Proceedings) Ordinance so that prosecution can be done by way of fixed penalty tickets. We propose that the fixed penalty should be \$450.

Dangerous driving

16. Since 1 July 2000, the offence of 'reckless driving' has been replaced by 'dangerous driving'. The test for dangerous driving is an objective one and the focus is the actual driving behaviour, whereas that of reckless driving was the *mens rea* i.e. the mental state of a driver. This has reduced the difficulties in prosecution as there would not be a need to prove the driver's subjective mental state. The number of successful prosecution for reckless driving in the 12 months preceding the introduction of dangerous driving legislation was 170, while the number of successful prosecution for dangerous driving was 233 and 281 in 2002 and 2003 respectively. We will closely monitor the situation. At the same time, we will continue to put emphasis on education and publicity.

Seat belt requirements

17. In 1983, we began to put in place legislation to require the fitting and wearing of seat belts on different types of vehicles. At present, the requirement applies to all seats on private cars and taxis, as well as the front seats of light goods vehicles, medium and heavy goods vehicles and articulated vehicles. As for public light buses, the legislation took effect on 1 August this year¹⁰.

18. Statistics show that the number of fatalities and casualties in traffic accidents involving the relevant vehicle types has reduced significantly after the implementation of the seat belt legislation. For instance, the number of fatalities and casualties involving front seat passengers of private cars and goods vehicles dropped by 77% and 58% respectively before and after the seat belt legislation for the relevant vehicle types came into effect.

¹⁰ So far, 392 public light buses (PLBs) have been installed with seat belts. We believe that the incentive scheme that encourages PLB owners to replace their diesel PLBs with liquefied petroleum gas PLBs will speed up the replacement of new models fitted with seat belts.

Driver Improvement Scheme

19. The Driver Improvement Scheme was introduced in September 2002 to encourage drivers to tackle problems with their driving behaviour and attitude, and make the necessary corrections with a view to enhancing road safety. The Transport Department has designated four driving improvement schools to provide such driving improvement course. The course fee ranges from \$650 to \$830. Participants who have completed the course with satisfactory performance would be issued a course certificate and 3 driving-offence points could be deducted from their record upon completion of the course¹¹.

20. By the end of October 2004, 3,722 people have completed the course and obtained the certificate. Since the scheme has already been implemented for two years, we intend to review its effectiveness and see whether the course content could be further improved. The review is scheduled to be completed by mid-2005.

Probationary Driver Licence (PDL) Scheme

21. The PDL Scheme for motorcyclists has been in place since October 2000. As mentioned in LC Paper No. CB(1)298/04-05(05) submitted to this Panel and discussed under another agenda item, we propose to extend the PDL Scheme to novice drivers of private cars and light goods vehicles.

Advice sought

22. Members are invited to note the content of the paper.

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¹¹ Under Section 6A of the Road Traffic (Driving-Offence Points) Ordinance, the Commissioner for Transport shall deduct 3 points from the total number of points incurred by a person upon the latter's completion of a driving improvement course, unless he/she has already incurred 15 driving offence points, or he/she has not incurred any driving offence points, or the Commissioner has already deducted 3 points for the same reason within 2 years.