

**立法會**  
**Legislative Council**

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**Panel on Transport**  
**Meeting on 15 December 2006**

**Background brief on**  
**measures to combat drink driving**

**Purpose**

This paper sets out the background to the Administration's measures to combat drink driving and summarizes the views expressed by members of the Transport Panel (the Panel) and other committees in the past.

**Drink driving legislation**

2. In 1995, the Administration introduced a new set of drink driving legislation to prescribe a legal limit of alcohol concentration in a driver's blood, urine and breath, and to impose a legal obligation on drivers to provide samples of blood, urine or breath for testing under specified circumstances. The implementation of the new drink driving legislation had put across the essential message to the public that drinking and driving should be separated.

3. In 1998, the Administration introduced the Road Traffic (Amendment) Bill 1998 (the Bill) into the Legislative Council (LegCo). The Bill sought to lower the statutory limit of blood alcohol concentration (BAC) from 80mg to 50mg<sup>1</sup> of alcohol in 100ml of blood, and correspondingly lower the limits of breath-alcohol concentration from 35µg to 22µg of alcohol in 100ml of breath and urine-alcohol concentration from 107mg to 67mg of alcohol in 100ml of urine. According to the Administration, the proposal was in line with international trend. Overseas research

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<sup>1</sup> The Blood Alcohol Concentration of 80mg for most people equates to about three to four cans of mild beer or 3 small glasses of wine in the first hour. The more stringent 50mg threshold for most people equates to about two cans of mild beer or 1.5 small glasses of wine in the first hour.

had borne out the effectiveness of the proposed legal limit. The Bill also contained proposals to streamline the drink driving testing procedures.

4. In the course of deliberation, members of the Bills Committee had expressed divergent views on the Administration's proposal to tighten the BAC level. Some members held the view that tightening the BAC limit would help moderate the drinking behaviour of drivers and enhance road safety. As the effect of drink driving was not only on drivers but also on other road users, its deterrence would be beneficial to the community as a whole, and a further tightening of the limit to zero might even be considered if necessary. The fact that the problem of drink driving was not deteriorating only served to demonstrate the usefulness of existing legislation but this did not negate the need for further restrictions. Furthermore, the change would also accord with the international trend.

5. Other members, however, did not support the above views. As opposed to a BAC limit of zero, they took the view that the proposed tightening of BAC level from 80 mg to 50 mg was only marginally beneficial. They also pointed out that drink driving was not the same as drunken driving and the impact of alcohol on people varied depending on a wide range of factors. In the absence of statistics to show that the drink driving problem had deteriorated, and the lack of concrete evidence of a high correlation between alcohol intake and accident rates, there were inadequate justifications for the change since 80 mg was also adopted in many overseas countries and an individual's lifestyle should not be unduly jeopardized in a free society.

6. The Bills Committee had also examined if there was a need to raise the penalty level for drink driving to enhance the deterrent effect. The Administration pointed out that a driver who was convicted of drink driving was already subject to a maximum fine of \$25,000 and a maximum sentence of 3 years' imprisonment. Such penalty levels were deemed to be sufficient and the Administration did not see the need for a change. As regards the suggestion for imposing different levels of penalties for different BAC levels beyond the legal limit, the Administration did not agree with the approach since this might give the wrong impression that such levels had varying degrees of acceptability.

7. The Bill, including the proposed tightening of BAC level as proposed by the Administration, was passed by the Council on 16 July 1999 and the relevant amendments took effect on 1 October 1999.

## **Review of the penalty level for drink driving**

8. Since the enactment of the drink driving legislation, Members have repeatedly reviewed with the Administration whether the penalty levels for drink driving offences are adequate to achieve the desired deterrent effect to combat drink driving.

9. In replying to a written question raised by a member in June 2004, the Administration reiterated that it had no plan to raise the maximum penalty level for drink driving which included a maximum fine of \$25,000, a maximum sentence of 3 years' imprisonment and disqualification from holding a driving licence for such period as determined by the court. Further, 10 Driving-offence Points would be incurred in the driver's driving licence record. In case the accident had led to the death of other parties, the driver could be prosecuted for causing death by dangerous driving. If convicted, the driver would be subject to a maximum fine of \$50,000, a maximum sentence of 5 years' imprisonment, 10 Driving-offence Points and disqualification for at least 2 years on the first conviction or at least 3 years on the second or subsequent convictions.

10. At the request of the Panel, the Administration has obtained information about overseas sanction for drink-driving in seven countries/states, viz. New South Wales of Australia, Singapore, Quebec of Canada, the United Kingdom, New Zealand, Arizona of USA and Japan. The details are set out in **Annex A**. Briefly, the maximum fines for this offence in overseas countries range from HK\$2,000 to HK\$75,000 and the years of imprisonment range from zero to 3. The demerit points for the offence vary from 3 to 25 on first conviction. Some countries would suspend the driving licences of offenders for 3 months, while others would cancel the licences. There are heavier penalties for the second or repeated convictions.

11. When reviewing the penalty levels for drink driving offences, some members of the Panel held the view that the actual sentences imposed by the court on drink driving could not adequately reflect the seriousness of the drink driving offences. They have requested the Administration to convey to the Judiciary their concerns about the levels of penalties imposed. The latest statistics on the penalties imposed by the court for drink driving offences are in **Annex B**.

12. Regarding the numbers of drink driving-related traffic accidents in which there were casualties of other parties, the Administration had provided the following

information in May 2006:

<b>Year</b>	<b>Number of accidents with casualties caused by drink driving</b>
2003	106
2004	97
2005	89

### **Motion passed by the Council**

13. On 14 June 2006, the Council passed the following motion:

"That, as many motorists are not alert to the danger of drink driving, serious traffic accidents caused by drink driving have occurred frequently in recent years, posing a serious threat to the safety of other road users, this Council urges the Government to step up publicity and education, review the deterrent effect of existing penalties for the drink driving offence, study amending legislation, including drawing on the practice in other countries of suspending the driving licences of drivers on first conviction of the offence, and making it a mandatory requirement that the offenders must attend a driving improvement course to improve their driving habits, as well as to pass a driving test before driving licences are re-issued to them, and to empower the Police to conduct random stop checks on vehicles and, where there is reasonable doubt, roadside screening breath tests on motorists, so as to strengthen its efforts in combating drink driving and enhance motorists' alertness to the danger of drink driving, thereby reducing traffic accidents caused by drink driving and safeguarding public safety."

14. The Administration has subsequently provided a progress report in response to the motion passed by the Council. The Administration has advised that it has enhanced publicity and education on drink driving through the media and large-scale publicity campaigns to tie in with the strengthened enforcement actions, particularly during festive seasons and holidays. The Administration would examine the idea of suspending the driving licences of drivers on first conviction of drink driving offence, and requiring them to attend driving improvement courses. Details being examined include the duration of suspension, the enforcement and monitoring mechanism, the

penalties upon non-compliance, as well as the compatibility and consistency of these penalties with other penalty provisions. The Administration, however, has reservations on the proposal to require drink driving offenders to re-take the driving test before they were re-issued with their suspended driving licences.

15. Regarding the proposal of conducting random breath tests, the current legislation has stipulated that the Police can conduct random stop checks on vehicles, and where there is reasonable suspicion, they can conduct roadside screening breath tests on motorists. In discussing the related matters at the Panel meeting on 23 June 2006, some members requested the Administration to examine the proposal in greater detail, taking into account Police power, human rights and public acceptability considerations in regard to the Police requiring drivers to provide breath specimens. The Administration has advised that the Police will need to examine the test procedures and guidelines with a view to minimizing potential conflicts between the Police and the public. Operational arrangements such as the mode of operation, timing and frequencies etc. will also be examined to minimize the impact on traffic.

16. The Director of Audit (DoA) has examined the time needed to complete a drink driving test and reported the results of its research on overseas practices in Report No. 46 published in March 2006. According to the report of the World Health Organisation in 2004 as quoted in the DoA's report, in some countries, random roadside breath test had reduced overall alcohol-related road accidents by about 20%.

### **Latest development**

17. The Administration has conducted a review on the existing legislation as well as measures against drink driving and will brief the Panel on the results of the review and specific proposals for combating drink driving at the meeting on 15 December 2006.

18. A list of the relevant papers is in **Annex C**.

**Summary of Penalties for Drink Driving Offences**

Country/State /Province & Prescribed Limits	Penalties for first offence					Penalties for second offence				
	Fine		Imprisonment	Licence suspension	Demerit points	Fine		Imprisonment	Licence suspension	Demerit points
	Local Currency	HKD				Local Currency	HKD			
<b>Hong Kong</b>										
BAC: $\geq$ 50 mg /100ml of blood	$\leq$ \$25 000	$\leq$ \$25 000	$\leq$ 3 yrs	No	10	$\leq$ \$25 000	$\leq$ \$25 000	$\leq$ 3 years	$\geq$ 2 years	10
<b>New South Wales (Australia)</b>										
BAC : 50 to 80 mg /100ml of blood	\$1 100	\$6 600	N.A.	3 - 6 months	3	\$2 200	\$13 200	N.A	6 months to unlimited	3
BAC : 80 to 150 mg /100ml of blood	\$2 200	\$13 200	$\leq$ 9 months	6 months to unlimited		\$3 300	\$19 800	$\leq$ 1 year	1 year to unlimited	
BAC : $\geq$ 150 mg /100ml of blood	\$3 500	\$21 000	$\leq$ 18 months	1 year to unlimited		\$5 500	\$33 000	$\leq$ 2 years	2 years to unlimited	
<b>Singapore</b>										
BAC : $\geq$ 80 mg /100ml of blood	\$1 000 - \$5 000	\$4 700 - \$23 500	$\leq$ 6 months	$\geq$ 1 year	N.A	\$3 000 to \$10 000	\$14 100 - \$47 000	$\leq$ 1 year	$\geq$ 1 year	N.A.
<b>Quebec (Canada)</b>										
BAC : $\geq$ 80 mg /100ml of blood	$\geq$ \$600	$\geq$ \$3 800	N.A.	1 year	4	N.A	N.A.	$\geq$ 14 days ( $\geq$ 3 months for 3 <sup>rd</sup> or more offence)	3 years (5 years for 3 <sup>rd</sup> or more offence)	4
<b>UK</b>										
BAC : $\geq$ 80 mg /100ml of blood	$\leq$ £5 000	$\leq$ \$75 000	$\leq$ 6 months	$\geq$ 1 year	3-11	$\leq$ £5 000	$\leq$ £75 000	$\leq$ 6 months	$\geq$ 3 years	3-11

Country/State /Province & Prescribed Limits	Penalties for first offence					Penalties for second offence				
	Fine		Imprisonment	Licence suspension	Demerit points	Fine		Imprisonment	Licence suspension	Demerit points
	Local Currency	HKD				Local Currency	HKD			
<b>New Zealand</b>										
BAC : $\geq 80$ mg /100ml of blood	$\leq$ \$4 500	$\leq$ \$25 650	$\leq 3$ months	$\geq 6$ months	Note 1	$\leq$ \$4 500 ( $\leq$ \$6 000 for 3 <sup>rd</sup> or more offence)	$\leq$ \$25 650 (\$34 200 for 3 <sup>rd</sup> or more offence)	$\leq 3$ months ( $\leq 2$ years for 3 <sup>rd</sup> or more offence)	$\geq 6$ months ( $\geq 1$ year for 3 <sup>rd</sup> or more offence)	Note 1
<b>Arizona (USA)</b>										
BAC : 80 to 150 mg /100ml of blood	$\geq$ \$250	$\geq$ \$2 000	$\geq 10$ days	$\geq 3$ months	8	\$500-\$750	\$4 000 - \$6 000	3- 8 months	1 - 3 years	8
BAC : $\geq 150$ mg /100ml of blood			$\geq 1$ month			$\geq 500$	$\geq 4 000$	$\geq 4$ months	$\geq 1$ year	
<b>Japan</b>										
BAC: 34 to 57 mg /100ml of blood (Driving under influence)	Max. of 1 year imprisonment or a fine of up to 0.3M yen (HK\$22 350)			$\leq 2$ years	6	Information not available				
BAC: $\geq 57$ mg /100ml of blood (Driving under influence)					13					
Seriously Impaired (Driving drunk)					25					
	Max. of 3 years imprisonment or a fine of up to 0.5M yen (HK\$37 250)			2 years						

Note 1 : In New Zealand, 50 demerit points will be accrued for offenders who are under the age of 20 -

- who drive or attempt to drive with excess alcohol in breath or blood;
- who fail or refuse to wait for result of a breath screening test;
- who fail or refuse to take evidential breath test or blood test.

However, there is no demerit points accrued for offenders who are 20 years of age or above driving with excess alcohol in breath or blood.

**Sentences on Drink Driving Offences under  
Section 39A of the Road Traffic Ordinance (Cap. 374)**

	Convictions in 2006	
	January to February	March to July
Number of Convicted Cases	114	162
Number of Imprisonment Sentences	0	4
Range of Imprisonment Period	0	1 to 3 months
Number of Community Service Orders Made	4	9
Range of Period of Community Service	100 to 180 hours	50 to 200 hours
Range of Fines	\$1 000 to \$15 000	\$500 to \$15 000
Range of Period of Disqualification from Driving	1 to 26 months	2 to 36 months

## Drink-driving

### List of relevant papers

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
9.1.98	Panel on Transport	Minutes of the meeting	PLC Paper No. CB(1)1094 <a href="http://www.legco.gov.hk/yr97-98/english/panels/tp/minutes/tp090198.htm">http://www.legco.gov.hk/yr97-98/english/panels/tp/minutes/tp090198.htm</a>
		Administration's paper on the review of drink driving legislation	PLC Paper No. CB(1)730(01) <a href="http://www.legco.gov.hk/yr97-98/english/panels/tp/papers/tp0901-4.htm">http://www.legco.gov.hk/yr97-98/english/panels/tp/papers/tp0901-4.htm</a>
12.3.99	Bills Committee on Road Traffic (Amendment) Bill 1998 (the Bills Committee)	Report of the Bills Committee to the House Committee	CB(1)991/98-99 <a href="http://www.legco.gov.hk/yr98-99/english/hc/papers/h1203991.pdf">http://www.legco.gov.hk/yr98-99/english/hc/papers/h1203991.pdf</a>
		Legislative Council brief on the Road Traffic (Amendment) Bill 1998	File Ref.: TRAN 1/12/126 <a href="http://www.legco.gov.hk/yr98-99/english/bc/bc07/general/27_brf.pdf">http://www.legco.gov.hk/yr98-99/english/bc/bc07/general/27_brf.pdf</a>
12.11.03	Council meeting	Hon Miriam LAU raised a written question on the drink driving legislation	<a href="http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1112ti-translate-e.pdf">http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1112ti-translate-e.pdf</a>
9.6.04	Council meeting	Hon LI Fung-ying raised a written question on drink driving	<a href="http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0609ti-translate-e.pdf">http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0609ti-translate-e.pdf</a>

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
17.12.04	Panel on Transport	Minutes of the meeting	CB(1)679/04-05 <a href="http://www.legco.gov.hk/yr04-05/english/panels/tp/minutes/tp041217.pdf">http://www.legco.gov.hk/yr04-05/english/panels/tp/minutes/tp041217.pdf</a>
		Administration's paper on review of measures to combat inappropriate driving behaviour	CB(1)466/04-05/(03) <a href="http://www.legco.gov.hk/yr04-05/english/panels/tp/papers/tp1217cb1-466-3e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/tp/papers/tp1217cb1-466-3e.pdf</a>
		Administration's supplementary information on overseas sanction on drink-driving	CB(1)1008/05-06/(01) <a href="http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tpcb1-1008-1e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tpcb1-1008-1e.pdf</a>
24.2.06	Panel on Transport	Minutes of the meeting	CB(1)1234/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/tp/minutes/tp060224.pdf">http://www.legco.gov.hk/yr05-06/english/panels/tp/minutes/tp060224.pdf</a>
		Administration's paper on measures to combat drink driving and the use of hand-held mobile phone while driving	CB(1)932/05-06(11) <a href="http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0224cb1-932-11e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0224cb1-932-11e.pdf</a>
		Administration's supplementary paper providing statistics on penalties for drink driving	CB(1)2230/05-06(01) <a href="http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0224cb1-2230-1e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0224cb1-2230-1e.pdf</a>
24.5.06	Council meeting	Hon LAU Wong-fat raised an oral question on measures against drink driving	Hansard (Chinese version only) <a href="http://www.legco.gov.hk/yr05-06/chinese/counmtg/floor/cm0524ti-confirm-c.pdf">http://www.legco.gov.hk/yr05-06/chinese/counmtg/floor/cm0524ti-confirm-c.pdf</a>

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
14.6.06	Council meeting	A motion moved by Hon LAU Kong-wah as amended by Hon Andrew CHENG on measures to combat drink driving was carried	Hansard (Chinese version only) <a href="http://www.legco.gov.hk/yr05-06/chinese/counmtg/floor/cm0614ti-confirm-c.pdf">http://www.legco.gov.hk/yr05-06/chinese/counmtg/floor/cm0614ti-confirm-c.pdf</a>
23.6.06	Panel on Transport	Minutes of the meeting	CB(1)2225/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/tp/minutes/tp060623.pdf">http://www.legco.gov.hk/yr05-06/english/panels/tp/minutes/tp060623.pdf</a>

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