

立法會
Legislative Council

LC Paper No. CB(1)1278/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/07

Bills Committee on Road Traffic Legislation (Amendment) Bill 2008

**Minutes of second meeting held on
Tuesday, 1 April 2008, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Andrew CHENG Kar-foo
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Member attending** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Members absent** : Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon KWONG Chi-kin
- Public Officers attending** : Ms Annette LEE
Deputy Secretary for Transport and Housing (Transport) 3

Miss Rosanna LAW
Principal Assistant Secretary for Transport and Housing
(Transport) 2

Ms Macella LEE
Assistant Secretary for Transport and Housing
(Transport) 2C

Ms Vicki LEE
Senior Government Counsel
Department of Justice

Ms Carmen CHU
Senior Government Counsel
Department of Justice

Miss Emma WONG
Government Counsel
Department of Justice

Miss LUI Ying
Assistant Commissioner/Administration and Licensing
Transport Department

Mr LEUNG Tak-fai
Chief Engineer/Road Safety & Standards
Transport Department

Mrs Margaret CHAN
Principal Executive Officer/VALID & Licensing
Transport Department

Mr Honson YUEN
Chief Transport Officer/Driving Services
Transport Department

Mr M.R. Demaid-GROVES
Chief Superintendent of Police (Traffic)

Ms CHU Ming-po
Senior Superintendent of Police (Adm) (Traffic)

Ms Nancy NGAN
Superintendent (Law Revision & Projects) (Traffic)

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Council Secretary (1)6

Ms Angel SHEK
Council Secretary (1)2

Miss Winnie CHENG
Legislative Assistant (1)5

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I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)1095/07-08 - Minutes of meeting held on 12 March 2008)

The minutes of the meeting held on 12 March 2008 were confirmed.

2. Members deliberated on and agreed to the meeting schedule which was circulated to members after the meeting vide LC Paper No. CB(1) 1174/07-08.

II Meeting with the Administration

(LC Paper No. CB(3)372/07-08 - The Bill
LC Paper No. LS46/07-08 - The Legal Service Division Report on the Bill
File Ref: THB(T)CR 1/14/3231/00 - The Legislative Council Brief issued by the Transport and Housing Bureau
LC Paper No. CB(1)1097/07-08(01) - Marked-up copy of the Bill prepared by the Legal Service Division
LC Paper No. CB(1)1098/07-08 - Paper on Road Traffic Legislation (Amendment) Bill 2008 prepared by the Legislative Council Secretariat (Background brief))

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).

4. Mr Andrew CHENG indicated his support for raising the maximum imprisonment term for causing death by dangerous driving from five to 10 years. He however considered the proposed additional penalties for drink driving not heavy enough to reflect the serious nature of the offence, which in his view was similar to the offence of causing death by dangerous driving which carried much heavier penalties. In order to send a strong message to motorists that drink driving was not in any way

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tolerated in Hong Kong, he proposed to disqualify a drink driving offender from driving for not less than one year (instead of three months as suggested by the Administration) on a first conviction and for not less than two years for a second or subsequent conviction.

5. In response, the Administration pointed out that the prescribed limit of blood alcohol concentration (BAC) level in Hong Kong was more stringent than that in many places, and that the Police would also be empowered to conduct random breath tests (RBTs). With a basket of control measure, the Administration considered that the proposed additional penalties were sufficient to achieve a strong deterrent effect against drink driving. Mr Andrew CHENG was unconvinced, and urged the Administration to review the matter. He indicated that he would consider moving a Committee Stage amendment to the Bill to lengthen the duration of disqualification from not less than three months to not less than one year on a first conviction of drink driving and suitably lengthen the duration for a second or subsequent conviction if the Administration was not prepared to do so.

6. Also dealing with the levels of penalties for drink driving, the Chairman remarked that consideration might be given to imposing different levels of penalties for different BAC levels beyond the prescribed limit. Messrs James TIEN and Andrew CHENG also considered it worthwhile to examine the desirability of the proposal. In response, the Administration said that imposing different levels of penalties for different BAC levels beyond the prescribed limit might give the wrong impression that different BAC levels had varying degrees of acceptability. Moreover, the Judiciary would look at the circumstances of individual cases when deciding on the sentences and impose heavier sentences as necessary

7. Where the conduct of RBTs was concerned, Messrs Andrew CHENG and James TIEN were keen to ensure that the Police would use the power concerned properly, and stressed the importance of drawing up clear guidelines in this regard for police officers to follow. The Administration assured members that proper control would be in place to prevent abuse.

8. Referring to the long title of the Bill, Mr James TIEN opined that drink driving should not be singled out for imposition of additional penalties because use of hand-held mobile phone while driving was equally dangerous. In his view, all dangerous driving behaviours which had caused death should be handled seriously in the same way. Mr Andrew CHENG shared his view, and proposed that the Administration should take the opportunity of this legislative amendment exercise to propose additional penalties for this offence as well. In response, the Administration explained that at present, if the case warranted, the Police could choose to prosecute the driver concerned for committing the offence of careless driving or dangerous driving which carried a higher penalty.

9. Mr James TIEN also expressed concern that the actual sentences imposed by the court for traffic offences always fell short of the existing maximum penalty levels. The

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Administration replied that when the proposed penalties for various traffic offences were approved by the Council, the courts would take this into account when deciding on the actual sentences.

10. Mr Andrew CHENG, on another front, expressed concerns about the hazards posed by "holders of frozen driving licences" (i.e., those driving licence holders who did not drive for a long time after they had been issued a driving licence). The Administration replied that it was difficult to identify this group of drivers but it would step up publicity and education to promote the safety awareness of drivers.

Follow-up actions

Admin 11. To address members' concerns above, the Administration was requested to provide before 3:00 pm, 3 April 2008 information on the following –

Penalties on causing death by dangerous driving

- (a) Statistics on the penalties imposed by the court for offences of dangerous driving causing death in the past five years;
- (b) Information about overseas sanctions for offences of dangerous driving causing death;

Penalties on drink driving offences and screening breath tests

- (c) Paper on studies conducted by the Administration on the effect of alcohol on drivers;
- (d) Administration's view in response to members' proposal of imposing different levels of penalties for different BAC levels beyond the prescribed limit, and information on overseas practices in this regard, if any;
- (e) Information about overseas sanctions for drink-driving offences, including the prescribed limits of BAC levels;
- (f) Paper on the internal guidelines to be drawn up by the Hong Kong Police Force to enable police officers to conduct RBTs;
- (g) Paper on overseas experience in the implementation of RBTs, including guidelines drawn up by overseas law enforcement agencies for the purpose, and whether there had been precedents of legal challenges against RBTs conducted by them;
- (h) Comparison of the number of traffic accidents caused by the use of hand-held mobile phone while driving with that of drink driving, as well as

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the respective percentages of these two types of accidents involving deaths and serious injuries; and

Probationary driving licence scheme

- (i) Information about restrictions imposed by overseas jurisdictions on novice drivers of various types of vehicles.

The way forward

12. Members noted that the next meeting of the Bills Committee would be held on Monday, 7 April 2008, at 8:30 am. They agreed that the Clerk should remind members absent from this meeting to attend the 7 April 2008 meeting if they wished to examine the policy issues arising from the Bill. Thereafter, the Bills Committee might proceed to clause-by-clause examination of the Bill.

Clerk

III Any other business

13. There being no other business, the meeting ended at 12:05 pm.

Council Business Division 1
Legislative Council Secretariat
17 April 2008

**Proceedings of the second meeting of the
Bills Committee on Road Traffic Legislation (Amendment) Bill 2008
on Tuesday, 1 April 2008, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes of meeting and matters arising</i>			
000000 - 000016	Chairman	<ul style="list-style-type: none"> - Opening remarks by the Chairman - Confirmation of minutes of the meeting held on 12 March 2008 (LC Paper No. CB(1)1095/07-08) 	
000017 - 000342	Chairman	<ul style="list-style-type: none"> - Discussion on the meeting schedule 	
<i>Agenda Item II – Meeting with the Administration</i>			
000343 - 000559	Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the Road Traffic Legislation (Amendment) Bill 2008 (the Bill) (File Ref THB(T)CR1/14/3231/00) 	
000600 - 001353	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Discussion on the need to introduce penalties for drink driving which were heavier than those proposed in the Bill 	
001354 - 002131	Chairman Mr James TIEN Administration	<ul style="list-style-type: none"> - Discussion on the appropriateness of singling out drink driving for imposition of additional penalties - Discussion on how to ensure the sentences meted out by the court could reflect the seriousness of the traffic offences concerned 	Administration to take necessary follow-up action
002132 - 002837	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Discussion on whether the Bill should also propose additional penalties for use of hand-held mobile phone while driving - Emphasis of the need for the Hong Kong Police Force to draw up a clear set of internal guidelines to enable police officers to properly conduct random breath tests (RBTs) 	Administration to take necessary follow-up action
002838 - 004029	Chairman Mr James TIEN Administration	<ul style="list-style-type: none"> - Mr James TIEN's highlight of the difficulties in ascertaining whether use of hand-held mobile phone while driving was the cause of a traffic accident - Administration's explanation in response to Mr TIEN of the 	

Time marker	Speaker	Subject(s)	Action required
		background leading to the introduction of RBTs and the proposed implementation details	
004030 - 004513	Chairman Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Administration's elaboration in response to Mr Andrew CHENG of the details of the requirement of offenders convicted of the offence of causing death by dangerous driving to attend and complete driving improvement courses - Discussion on how hazards posed by "holders of frozen driving licences" (i.e., those driving licence holders who did not drive for a long time after they had been issued a driving licence) could be handled 	
004514 - 005038	Chairman Mr James TIEN Administration	<ul style="list-style-type: none"> - Discussion on how to ensure that the Judiciary would mete out sentences commensurate with the seriousness of the consequences of offences of causing death by dangerous driving 	Administration to take necessary follow-up action
005039 - 005503	Chairman Administration	<ul style="list-style-type: none"> - Discussion on the desirability of imposing different levels of penalties for different blood alcohol concentration (BAC) levels beyond the prescribed limit 	
005504 - 010221	Chairman Mr James TIEN Administration	<ul style="list-style-type: none"> - Discussion on the need to give the public some guidelines on the quantity of alcohol that could safely be consumed before driving 	Administration to take necessary follow-up action
010222 - 011219	Chairman Mr Andrew CHENG Mr James TIEN Administration	<ul style="list-style-type: none"> - Discussion on the desirability of imposing different levels of penalties for different BAC levels beyond the prescribed limit - Request for information - The Chairman and the Administration's explanation in response to Mr Andrew CHENG of the use of "approved pre-screening device" - Discussion on the viability of making the approved pre-screening device commercially available 	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
011220 - 011620	Chairman Mr Andrew CHENG Mr James TIEN	- The way forward	

Council Business Division 1
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