

立法會

Legislative Council

LC Paper No. CB(1)2121/07-08

(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/07

Bills Committee on Road Traffic Legislation (Amendment) Bill 2008

Minutes of eighth meeting held on Thursday, 5 June 2008, at 4:30 pm in Chamber of the Legislative Council Building

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
- Members absent** : Hon CHEUNG Hok-ming, SBS, JP
Hon TAM Heung-man
- Public Officers attending** : **Agenda item II**
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 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)

Mr WONG Yiu-ming, Shylock
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 Angel SHEK
Council Secretary (1)2

Miss Winnie Cheng
Legislative Assistant (1)5

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I Confirmation of minutes and matters arising

(LC Paper No. CB(1)1728/07-08 - Minutes of meeting held on 9 May 2008)

The minutes of the meeting held on 9 May 2008 were confirmed.

II Matters arising from previous meetings

(LC Paper No. CB(1)1631/07-08(01) - Administration's response to issues raised at the meeting on 20 May 2008

LC Paper No. CB(1)1730/07-08(01) - Administration's response to issues relating to breath test using pre-screening device raised at the meeting on 20 May 2008 (Second batch))

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

3. The Bills Committee had examined the need of and justifications for the provision in the existing law for the Police to require a person "having been in charge of" a motor vehicle to provide a specimen of breath for a screening breath test. The Administration explained that this was to cater for certain cases, such as possible evasion of liability by a driver who had run away after a traffic accident and was caught at a later time.

4. The Bills Committee had also examined whether a drunk person falling asleep at the rear seat of a vehicle would be prosecuted for drink driving offences. The Administration advised that this would depend on the actual circumstances, for example, whether the vehicle was found on a highway or in a car park. In the former case, it was likely that he would be prosecuted.

III Committee Stage amendments

(LC Paper No. CB(1)1730/07-08(02) - Paper from the Administration on proposed Committee Stage amendments

LC Paper No. CB(1)1730/07-08(03) - Proposed Committee Stage amendments from Hon Andrew CHENG Kar-foo)

5. The Administration took members through the proposed Committee Stage amendments (CSAs) (LC Paper No. CB(1)1730/07-08(02)). Members did not raise objection to the CSAs proposed by the Administration.

6. Mr Andrew CHENG briefed members on his proposed CSAs to lengthen the disqualification period on a first conviction of the offences of drink driving or failure

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to provide samples of blood, urine, or breath for testing under the specified circumstances from not less than three months to not less than six months. The draft wordings of the CSAs were set out in LC Paper No. CB(1)1730/07-08(03). Members also noted that Mr Abraham SHEK and Mr KWONG Chi-kin had reservations on Mr CHENG's proposed CSAs. They considered the penalty levels proposed by the Administration appropriate.

7. The Chairman concluded that the Bills Committee had completed examination of the Bill and would report to the House Committee on 13 June 2008, recommending the resumption of the Second Reading debate on the Bill on a date to be determined by the Administration.

IV Any other business

8. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 1
Legislative Council Secretariat
7 July 2008

**Proceedings of the eighth meeting of the
Bills Committee on Road Traffic Legislation (Amendment) Bill 2008
on Thursday, 5 June 2008, at 4:30 pm
in Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
Agenda Item I – Confirmation of minutes and matters arising			
000000 – 000248	Chairman	- Confirmation of minutes of the meeting held on 9 May 2008 (LC Paper No. CB(1)1728/07-08)	
000249 – 000354	Chairman	- Opening remarks	
Agenda Item II – Matters arising from the previous meetings			
000355 – 000800	Chairman Administration	- Briefing by the Administration on its response to issues raised at the meeting on 20 May 2008 (LC Paper No. CB(1)1730/07-08(01)) - Tender exercise for the pre-screening device	
Agenda Item III – Committee Stage amendments			
000801 – 001255	Chairman Administration	- Briefing by the Administration on Committee Stage amendment (CSA) to clause 3	
001256 – 002620	Chairman Administration Assistant Legal Adviser 1 (ALA1) Mr James TO	- Briefing by the Administration on CSA to clause 9 - Discussion on the justifications for the Police to require a person having been driving, or attempting to drive, or been in charge of a motor vehicle to provide a specimen of breath for a screening breath test	
002621 – 003234	Chairman Administration Mr Andrew CHENG	- Discussion on whether a drunk person falling asleep at the rear seat of a vehicle would be prosecuted for drink driving	
003235 – 004222	Chairman Administration	- Briefing by the Administration on CSAs to clauses 11, 20, 25, 28, 29, 34, 37, 50, 59 and 60 and a new clause 62 A & B - Administration's clarification in response to the Chairman on the definition of "a court"	
004223 – 005300	Chairman Administration Mr Andrew CHENG	- Briefing by Mr Andrew CHENG on his proposed CSAs	

Time marker	Speaker	Subject(s)	Action Required
	Mr KWONG Chi-kin Prof Patrick LAU Mr Abraham SHEK	<ul style="list-style-type: none"> - Mr Abraham SHEK and Mr KWONG Chi-kin expressed their views on Mr CHENG's proposed CSAs - Administration's response to Prof Patrick LAU on the proposed length of disqualification period on a first conviction of the offences of drink driving or failure to provide samples of blood, urine, or breath for testing under the specified circumstances 	
005301 – 010316	Chairman Administration ALA1 Mr James TO	<ul style="list-style-type: none"> - Discussion on the requirement of a person to provide a specimen of breath for a screening breath test from a person who was suspected to have been driving with alcohol in his body 	
010317 – 010453	Chairman Administration Mr Andrew CHENG	<ul style="list-style-type: none"> - Mr Andrew CHENG's clarification of whether his proposed CSAs to lengthen the disqualification period from three months to six months applied to where a person failed to attend driving improvement course ordered by the court or magistrate 	
010454 – 010708	Chairman Administration Mr James TO	<ul style="list-style-type: none"> - Mr James TO's remark on whether the provision of a power for the Police to require drivers to provide a breath of specimen during random breath test without reasonable suspicion would be in breach of the human rights provisions under the Basic Law or compromise the protection against self incrimination of the person concerned 	
010709 – 010800	Chairman	<ul style="list-style-type: none"> - Concluding remarks 	