

Bills Committee on Road Traffic Legislation (Amendment) Bill 2008
Responses to the Submissions Received by the Bills Committee

Item	Comment	Response
Taxi and Public Light Bus Concern Group (Submission dated 16 April 2008)		
1.	No objection to the proposed disqualification of drink driving offenders (without traffic accidents) from driving for three months on first conviction. However, heavy penalties should be imposed on repeat offenders. (Paragraph 1 of the submission)	<ul style="list-style-type: none"> • The Bill proposes that drivers on first conviction of drink driving shall be disqualified from driving for not less than 3 months for punitive purposes. For repeat offenders, the period of disqualification will be not less than 2 years under the existing legislation.
2.	The Police must put in place an effective system of guidelines. For example, RBT would be conducted by task force officers or during roadblock operations. It is absolutely unacceptable that police officers can require drivers to conduct breath tests at random and without reasonable suspicion. (Paragraph 2 of the submission)	<ul style="list-style-type: none"> • Our proposal of empowering the Police to conduct random breath test (RBT) is made in response to the requests of Legislative Councillors and the public. The Police are aware that there are some concerns over the exercise of such power, and therefore have drawn up arrangements for conducting RBT, which include : <ul style="list-style-type: none"> (i) RBT will be restricted to traffic officers trained in handling drink-driving cases; (ii) RBT will normally be conducted during roadblock operations or as part of other enforcement checks; and

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		<p>(iii) a quick and simple hand-held pre-screening device is being considered to speed up the RBT checking process and avoid undue delay/inconvenience to motorists</p> <ul style="list-style-type: none"> ● Once RBT has been introduced, the Police will closely monitor its effectiveness. Experience gained from early results will be taken into account when considering the future scope of RBT enforcement actions. The Legislative Council Panel on Transport will be consulted on any proposed changes to the above arrangements by the Police in future.
3.	<p>The Police should not prosecute drivers against dangerous driving indiscriminately. A system of very careful analyses on the cases should be place. (Paragraph 3 of the submission)</p>	<ul style="list-style-type: none"> ● There are provisions defining what constitute “dangerous driving” and “careless driving” under Sections 37 and 38 of the existing Road Traffic Ordinance (Chapter 374). ● The Police carry out detailed investigation into the cause of every traffic accident. Depending on the facts of each case and evidence available, the Police will determine, after seeking advice from the Department of Justice if necessary, whether prosecution should be made against the person(s) involved in accordance with the law, and for which traffic offence(s) the person(s) should be prosecuted.

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4.	Penalties on illegal motor racing should be increased. (Paragraph 4 of the submission)	<ul style="list-style-type: none"> ● According to existing legislation, a person who promotes or takes part in a race or trial of speed between vehicles on roads, without the consent of the Commissioner of Police in writing, commits an offence and is liable to a fine of \$10,000, 10 driving-offence points, disqualification from driving for a period of 12 months and 12 months' imprisonment. Depending on the facts of the case and evidence available, he may also be charged with dangerous driving, careless driving or speeding. ● We propose in this Bill that drivers who have committed serious traffic offences (including illegal motor racing) are required to attend driving improvement courses on a mandatory basis so as to improve their driving attitude through education. ● The Police will continue to monitor the situation and take active enforcement action against illegal motor racing. We will consider raising penalties if the situation warrants.
<u>Mr Cheng Chong-wing(transliteration)(鄭頌穎), a citizen</u> (Submissions dated 16 and 22 April 2008)		
5.	Death sentence should be restored, and should be handed down to any person	<ul style="list-style-type: none"> ● Death sentence was last executed in Hong Kong in 1966 and was abolished under the Crimes (Amendment) Ordinance

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	<p>convicted of traffic offence causing death in a traffic accident.</p>	<p>1993.</p> <ul style="list-style-type: none"> <li data-bbox="1016 379 2029 898">● Dangerous driving causing death is a serious offence. We have made reference to court judgments and the penalties for relevant offences in overseas countries before coming up with the proposal of doubling the maximum imprisonment term for the offence from 5 years to 10 years. At present, the maximum imprisonment term is 2 years in Australia (New South Wales); 5 years in Singapore and New Zealand; and 14 years in Britain and Canada (Ontario). By increasing the maximum term to 10 years, it will double the existing imprisonment term, and bring the penalty for the offence in Hong Kong closer to the countries with heavier penalties. <li data-bbox="1016 959 2029 1281">● Besides, we have carried out extensive consultation on the proposal of increasing the maximum imprisonment term from 5 years to 10 years. The proposal is generally supported by different sectors of the community. We consider that the proposal for raising the maximum imprisonment term to 10 years can strike a balance among the different views in the community.

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6.	Government departments and Road Safety Council should stop promoting road safety messages since the effort cannot meet with targets on traffic accident and casualties and it is a waste of public money.	<ul style="list-style-type: none"> <li data-bbox="1014 284 2027 943">● The road safety situation in Hong Kong has been improving over the years. With the economic development, Hong Kong's population and the number of vehicles have continued to increase rapidly. The population and number of vehicles in Hong Kong have increased by over 35% and 85% respectively when compared with figures 25 years ago. Nevertheless, there has been a continual decrease in the number of traffic accidents and casualties. In 2007, there were 15,315 traffic accidents in Hong Kong, representing a decrease of nearly 15% when compared with 18,036 in 1981. The number of casualties in traffic accidents dropped by nearly 17% from 23,604 in 1981 to 19,625 in 2007. The marked improvement in road safety is the result of the concerted efforts of the Government and the people of Hong Kong. <li data-bbox="1014 983 2027 1401">● To enhance road safety, the Government has all along been adopting a multi-pronged approach through legislation and enforcement, improving transport facilities and management, as well as publicity and education. We believe that instilling in the public the right attitude and behaviour of a road user through publicity and education helps enhance road safety. We will continue to take measures on different fronts which complement one another, in order to further improve road safety.

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<u>Federation of Hong Kong Transport Worker Organizations</u> (Submission dated 17 April 2008)		
7.	<p>Object to the proposed increase of the maximum imprisonment term of causing death by dangerous driving to 10 years.</p> <p>(a) Views on the legislation and penalties (Paragraphs (I)(1), (5) and (6) of the submission)</p>	<ul style="list-style-type: none"> • Under the existing Road Traffic Ordinance (Chapter 374), whether driving behaviour constitutes “dangerous driving” is determined by the way the driver drove his vehicle. “Dangerous driving” is also defined in the relevant provision. The Police carry out detailed investigation into the cause of every traffic accident. The charge of causing death by dangerous driving is based on the way the driver drove his vehicle and the actual facts and evidence of individual cases. • Before coming up with the proposal of increasing the maximum imprisonment term of causing death by dangerous driving from 5 years to 10 years, we have considered not only court judgments and overseas practices, but also different views of the community. Some even propose that the maximum penalty should be life imprisonment. We consider that increasing the maximum imprisonment term to 10 years can strike a balance among the different views in the community. We have carried out extensive consultation on the proposal to increase the maximum imprisonment term to 10 years. The proposal has been generally supported by different sectors of the community, including the Legislative

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		<p>Council Panel on Transport, the Transport Advisory Committee, automobile associations as well as various transport trades.</p>
	<p>(b) Sentencing in respect of the offence of causing death by dangerous driving by the court (Paragraphs (I)(2), (3), (5) and (7) of the submission)</p>	<ul style="list-style-type: none"> • In cases involving the offence of dangerous driving, because each case has its specific circumstances (including road conditions, weather, the driver's physical condition, behaviour of other road users, etc), apart from the maximum penalty, the judge has to consider all relevant factors when handing down a sentence. • The imprisonment terms on the convicted cases of causing death by dangerous driving with imprisonment sentence vary from one case to another. Relevant information shows that the court imposed a penalty of 5-year imprisonment in at least one case where the offence was committed in 2004.
	<p>(c) Road design and enforcement actions may also cause traffic accidents and the Administration should be held accountable. (Paragraph (I)(4) of the submission)</p>	<ul style="list-style-type: none"> • The design and construction of roads, traffic signs, road markings and pedestrian facilities in Hong Kong all comply with international standards. The markings and traffic signs on roads have their respective functions. Drivers have to pay attention to the road conditions ahead when driving and they should be able to see such markings clearly. The painting of markings on roads to order, warn or provide information to

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		<p>drivers is also widely adopted worldwide. The Administration will review the existing traffic facilities and signs from time to time and listen to the opinion of the public. Appropriate changes will be made if necessary.</p> <ul style="list-style-type: none"> • The main objective for installing speed enforcement cameras on roads is to combat speeding. Advance warning signals to alert drivers are erected on the road sections installed with fixed speed enforcement camera housings.
8.	<p>Support the proposed penalty on drink driving but object to the proposal of empowering the Police to conduct RBT. (Paragraph (2) of the submission)</p>	<ul style="list-style-type: none"> • The views on supporting raising of penalties on the offence of drink driving are noted. • Our proposal of empowering the Police to conduct random breath test (RBT) is made in response to the requests of Legislative Councillors and the public. The Police are aware that there are some concerns over the exercise of such power, and therefore have drawn up arrangements for conducting RBT, which include : <ul style="list-style-type: none"> (i) RBT will be restricted to traffic officers trained in handling drink-driving cases; (ii) RBT will normally be conducted during roadblock operations or as part of other enforcement checks; and (iii) a quick and simple hand-held pre-screening device is

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		<p>being considered to speed up the RBT checking process and avoid undue delay/inconvenience to motorists</p> <ul style="list-style-type: none"> Once RBT has been introduced, the Police will closely monitor its effectiveness. Experience gained from early results will be taken into account when considering the future scope of RBT enforcement actions. The Legislative Council Panel on Transport will be consulted on any proposed changes to the above arrangements by the Police in future.
9.	Support the mandatory driving improvement course scheme and raise of penalty. (Paragraph (3) of the submission)	<ul style="list-style-type: none"> Views are noted.
10.	Support extending the probationary driving licence scheme for motorcyclists to novice drivers of private cars and light goods vehicles. (Paragraph (4) of the submission)	<ul style="list-style-type: none"> Views are noted.
<u>Hon Shek Lai-him, Abraham</u> (Submission dated 18 April 2008)		
11.	Support that drink driving offenders should be disqualified from driving for not less than three months on first conviction.	<ul style="list-style-type: none"> Views are noted.

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	<p>There is no need for more drastic measures for the time being. The suspension of driver licence is a grave alert to the first time offenders. Together with the requirement to take driving improvement course on a mandatory basis, the proposal is appropriate and justifiable.</p>	

Transport and Housing Bureau
April 2008