

For Discussion
18 December 2007

Legislative Council Panel on Transport
Legislative Proposals to Enhance Road Safety

Purpose

This paper updates Members on our final stage of preparation of legislative proposals for implementing a package of measures to enhance road safety.

Background

2. In February 2005 and December 2006, we sought support from this Panel¹ to implement the following measures to combat and deter drink driving and other inappropriate driving behaviour and to enhance road safety –

- (a) to raise the imprisonment term of the offence on causing death by dangerous driving;
- (b) to raise penalties on drink driving offences and to empower the Police to conduct screening breath tests at random;
- (c) to impose mandatory requirement for traffic offenders to attend Driving Improvement Courses (“DICs”) and to increase penalties for non-compliance to such a requirement; and
- (d) to extend the Probationary Driving Licence (“PDL”) scheme, which is currently applicable to novice motorcyclists, to novice private car and light goods vehicle (LGV) drivers.

¹ Papers CB(1)298/04-05(05) and CB(1)951/04-05(05) were discussed at the meetings of the Panel on Transport on 17 December 2004 and 25 February 2005; and Paper CB(1)453/06-07(04) was discussed on 15 December 2006.

3. With the support from the Panel and the Transport Advisory Committee, we conducted wide consultation, which included the Road Safety Research Committee of the Road Safety Council, motoring associations, and all relevant transport trades, on the proposed measures. The proposals are generally supported by these bodies.

4. To implement the proposed measures, legislative amendments to the Road Traffic Ordinance (“RTO”)(Cap. 374), the Road Traffic (Driving Licence) Regulations (Cap. 374B), and the Road Traffic (Driving-offence Points) Ordinance (“DOP Ordinance”) (Cap. 375), as well as minor consequential amendments to other legislation, are required. We are at the final stage of preparing the Amendment Bill which will cover the key proposals as set out below.

Causing death by dangerous driving

5. Under Section 36 of the RTO, a person convicted of the offence of causing death by dangerous driving is liable to a maximum fine of \$50,000 and five years of imprisonment. The person is also liable to disqualification from driving for not less than two years for a first conviction and for not less than three years for a second or subsequent conviction. In the light of the general public view that the maximum imprisonment term is not commensurate with the severity of the offence, and to strengthen the deterrent effect, we propose to amend this section by raising the maximum imprisonment term from five years to ten years.

Drink Driving

Additional penalties

6. Under Sections 39, 39A, 39B and 39C of the RTO, drink driving offenders are liable to a maximum fine of \$25,000 and three years of imprisonment. The offender is liable to be disqualified from driving for not less than two years for a second or subsequent conviction. If a traffic accident is caused by drink driving and causes the death of another person, the driver can be charged with causing death by dangerous driving under Section 36 of the RTO.

7. Drink driving is a serious offence that can bring about grave consequences not only to the driver of the vehicle concerned but also to other road users. In order to strengthen the deterrent effect, we propose to amend Sections 39, 39A, 39B, and 39C, such that a person convicted of any of the offences under these Sections shall be subject to the following additional penalties:

(a) disqualification from driving for not less than three months on a first conviction; and

(b) requirement to attend DIC on a mandatory basis.

Screening Breath Tests

8. Under the existing Section 39B of the RTO, the Police can only require a person to provide a specimen of breath for a roadside screening breath test if there is reasonable suspicion that he has alcohol in his body when driving or attempting to drive a vehicle on a road, or if he has been involved in a traffic accident, or has committed a moving traffic offence.

9. We propose to amend section 39B to empower the Police to require a person who is driving or attempting to drive a motor vehicle on a road to provide a breath specimen for a screening breath test, without the need for any reasonable suspicion. This practice is expected to be a strong deterrent against drink driving, since drivers can no longer take the chance to escape from taking a breath test if they have not committed an offence or have not been involved in a traffic accident.

Mandatory Requirement to attend DICs

The Mandatory DIC Scheme

10. DICs are courses specially designed to instill in drivers a stronger sense of road safety and good driving behaviour. Currently, under Section 72A of the RTO, the court has the discretionary power to order offenders of traffic offences that carry five driving-offence points (DOPs) or above to complete DICs at his own cost and within a period of three months.

11. We propose to introduce legislative amendments to the RTO and DOP Ordinance, such that in addition to the above category of offenders under the existing Section 72A, a person shall be required to attend DICs on a mandatory basis if he belongs to either of the following categories –

- (a) repeat traffic offenders who have accumulated 10 or more DOPs under the DOP Ordinance within a period of two years; or
- (b) persons convicted of any one of the following serious offences, which are offences incurring 10 DOPs, under the RTO –
 - Section 36 on causing death by dangerous driving
 - Section 37 on dangerous driving
 - Sections 39, 39A, 39B and 39C on drink driving offences
 - Section 41 on driving in excess of speed limit by more than 45 kph
 - Section 55 on motor racing and speed trials

Penalties for non-compliance to the DIC requirement

12. The current maximum penalties for non-compliance of the court order for attending DIC are a fine of \$3,000 and one-month imprisonment. To tie in with the new mandatory DIC scheme, we propose to introduce new measures to deter non-compliance and to rectify the existing anomaly that a person convicted of non-compliance of the court order for attending DIC may only be required to pay a fine without the need to attend the DIC. We propose to amend the existing RTO and DOP Ordinance to provide for the following penalties for a person failing to comply with the mandatory requirement to complete DIC :-

- (a) the maximum fine is raised from \$3,000 to \$5,000 for first conviction of non-compliance to the DIC requirement²;
- (b) a person convicted of non-compliance shall be ordered to complete a DIC again. If he fails to comply with this second order, he is liable to a fine of \$10,000, two months' imprisonment, and disqualification from driving for not less than three months;
- (c) if the person has been disqualified from driving and has been ordered to complete a DIC when convicted of a serious offences (as set out at para. 11(b)), the disqualification period is either that

² The existing imprisonment term of 1 month remains unchanged.

ordered by the court or until he has completed the DICs, whichever is later; and

- (d) the Commissioner for Transport may refuse to issue, re-issue or renew all of his driving licences until he has completed the DIC as required.

Probationary Driving Licence Scheme for Novice Private Car and Light Goods Vehicle Drivers

13. The PDL scheme was introduced for motorcyclists in October 2000. Under the scheme, newly qualified motorcyclists are required to undergo a mandatory 12-month probationary period. The scheme may be considered as extended training for inexperienced drivers, allowing them to accumulate sufficient on-road driving experience. The display of “P” plate would also help remind other drivers to be more cautious of, and patient with, novice drivers. After the introduction of the PDL scheme, there has been a significant drop (nearly 35%) in the accident rates of novice motorcyclists³.

14. In view of the effectiveness of the PDL scheme, we propose to extend it to novice private cars and LGV drivers to enhance road safety⁴. Legislative amendments, mainly to the Road Traffic (Driving Licene) Regulations (Cap. 374B), are proposed. The main proposals are as follows -

- (a) when an applicant has passed the driving test for private car or LGV, he can only apply for a PDL. Upon satisfactory completion of the probationary period, the holder of the PDL may apply for a full driving licence;
- (b) the probationary period is 12 months;

³ In 1996-2000, preceding the introduction of the PDL scheme, the average accident involvement rate of novice motorcyclists (less than one year experience) was 72 per 1000 motorcyclists per year. This rate dropped to 47 per 1000 motorcyclists per year in 2001-2006 after the introduction of the PDL scheme.

⁴ In the past five years, on the average, the accident involvement rate per 1000 LGV drivers per year for drivers with less than one year’s driving experience was 3.72, as compared to 2.15 for LGV drivers with one year or more driving experience. For private car drivers, the average accident involvement rate per 1000 drivers per year for drivers with less than one year’s driving experience was 6.95, as compared to 3.51 for those with one year or more driving experience.

- (c) during the probationary period, drivers will be subject to the following restrictions –
- (i) displaying “P” plates at both the front and rear of the windscreen or body of the vehicle;
 - (ii) prohibited from driving at a speed of above 70km/h, even when the prescribed speed limit is above 70km/h; and
 - (iii) prohibited from driving on the offside lane of expressways where there are three or more lanes;
- (d) when a probationary driver of private car or LGV is convicted of a minor road traffic offence⁵, or breaches any of the restrictions set out in paragraph 14(c) above, his probationary period will be extended by six months;
- (e) the PDL of a probationary driver of private car or LGV will be cancelled under the following conditions –
- (i) when he is convicted of a serious road traffic offence⁶ during the probationary period; or
 - (ii) when he is convicted of/in breach of two or more minor road traffic offences or restrictions in para. 14(c) during the probationary period;
- (f) if the PDL is cancelled, the probationary driver will be required to retake the road test. On passing the test, a fresh 12-month probationary period will commence; and
- (g) having regard to this Panel’s suggestion, exemptions will be granted to the following persons since they already hold licence(s) of other vehicle types –

⁵ Minor road traffic offences are those that incur less than 10 DOPs under DOP Ordinance.

⁶ Serious road traffic offences are those that incur 10 or more DOPs under DOP Ordinance.

- (i) holders of a valid full driving licence of private cars for three years or more who have passed the LGV driving test, who apply for an LGV driving licence⁷; and
- (ii) holders of a valid full driving licence of medium goods vehicles or heavy goods vehicles, who apply for an LGV driving licence.

Proposed legislative timetable

15. We are finalizing the legislative proposals set out in paragraphs 5 to 14 above. We plan to submit the Amendment Bill to the Legislative Council in the first quarter of 2008.

Advice sought

16. Members are requested to note the legislative proposals for implementing a package of measures to enhance road safety.

**Transport and Housing Bureau
December 2007**

⁷ After the implementation of the proposed PDL scheme and if the driver has completed the probationary period, the requirement for holding a valid full driving licence will be adjusted from 3 years to 2 years.