

立法會

Legislative Council

LC Paper No. CB(1)496/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/09

Bills Committee on Motor Vehicle Idling (Fixed Penalty) Bill

**Minutes of the eighth meeting held on
Monday, 11 October 2010, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon IP Wai-ming, MH
Hon Tanya CHAN

Members absent : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon CHEUNG Hok-ming, GBS, JP
Hon Cyd HO Sau-lan
Dr Hon PAN Pey-chyou
Hon LEUNG Kwok-hung

Public officers attending : **Agenda item II**
Mr Carlson CHAN
Deputy Director of Environmental Protection (3)

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Mr W C MOK
Assistant Director of Environmental Protection
(Air Policy)

Miss Susanna LAI
Senior Administrative Officer
(Air Policy Division)
Environmental Protection Department

Mr Paul O'BRIEN
Senior Assistant Law Draftsman
Department of Justice

Ms Angie LI
Government Counsel
Department of Justice

Mr Stephen Harvey VERRALLS
Chief Superintendent (Traffic Branch
Headquarters)
Hong Kong Police Force

Ms Angela NG
Senior Superintendent
(Administration, Traffic Branch Headquarters)
Hong Kong Police Force

Mr Shylock WONG
Superintendent (Law Revision and Projects,
Traffic Branch Headquarters)
Hong Kong Police Force

Miss Alice AU YEUNG
Principal Transport Officer/Bus & Railway 2
Transport Department

Mrs Erika HUI
Deputy Commissioner for Labour
(Occupational Safety and Health)
Labour Department

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Dr Raymond LEUNG
Occupational Health Consultant (1)
Labour Department

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Ms Kitty CHENG
Assistant Legal Adviser 5

Ms Sarah YUEN
Senior Council Secretary (1)6

Mr Ken WOO
Council Secretary (1)2

I Confirmation of minutes of meeting

- (LC Paper No. CB(1)2912/09-10 - Minutes of meeting held on 8 July 2010
LC Paper No. CB(1)2913/09-10 - Minutes of meeting held on 21 July 2010)

The minutes of the meetings respectively held on 8 and 21 July 2010 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(3)598/09-10 - The Bill
File Ref: EP CR 9/150/27 - Legislative Council Brief issued by the Environmental Protection Department
LC Paper No. CB(1)2962/09-10(01) - Administration's response to issues raised at the meeting on 21 September 2010
LC Paper No. CB(1)2971/09-10 - Summary of views expressed by deputations attending the meetings on 1 and 7 June 2010)

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LC CB(1)2834/09-10(01)	Paper	No. -	prepared by the Secretariat and the Administration's response Assistant Legal Adviser 5's letter dated 12 August 2010 to the Administration and the Administration's reply letter dated September 2010
LC CB(1)2837/09-10(01)	Paper	No. -	Administration's response to issues raised at the meeting on 21 July 2010
LC CB(1)2541/09-10(01)	Paper	No. -	Administration's response to issues raised at the meeting on 8 July 2010
LC CB(1)2240/09-10(04)	Paper	No. -	Administration's response to the issues raised at the meeting on 7 June 2010
LC CB(1)2366/09-10(02)	Paper	No. -	Administration's supplementary response to issues raised at the meeting on 7 June 2010
LC CB(1)2240/09-10(03)	Paper	No. -	Administration's response to issues raised at the meeting on 1 June 2010
LC CB(1)2366/09-10(01)	Paper	No. -	Administration's supplementary response to issues raised at the meeting on 1 June 2010
LC CB(1)2240/09-10(02)	Paper	No. -	Administration's response to issues raised at the meeting on 27 May 2010
LC CB(1)2962/09-10(01)	Paper	No. -	Administration's response to issues raised at the meeting on 21 September 2010)

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

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3. The Administration took members through the Administration's paper on its response to the issues raised at the meeting on 21 September 2010 (LC Paper No. CB(1)2962/09-10(01)). Some members requested the Administration to reconsider their earlier suggestions of exempting all vehicles from the proposed idling prohibition during hot months, granting school private light buses with fewer than 16 seats the same exemption as that applicable to non-franchised buses, and extending the exemption at public light bus (PLB) stands from the first two PLBs to the first three PLBs of each route. Ms Miriam LAU further asked whether consideration would be given to granting exemption to all drivers on days when the "Thunderstorm Warning" was issued. While agreeing to consider the proposed exemption for school private light buses with fewer than 16 seats, the Administration made the following points in response to the other suggestions –

- (a) The proposed exemption during hot months was not preferred. In fact, a wide range of exemptions had already been proposed in the Bill such as a three-in-sixty-minute grace period as well as an extensive list of exemptions to cater for the specific operational requirements of different transport trades. The Administration had recently also proposed to grant exemption to all taxi stands, and to all drivers on days when the "Very Hot Weather Warning" or the "Amber, Red or Black Rainstorm Signal" were issued. It should also be noted that the number of days on which temperature reached 27 degrees Celsius amounted to half a year. The targeted approach proposed by the Administration in drawing up exemption arrangements would better help deliver the objectives of the Bill and cater to the specific needs of the transport trades;
- (b) The Administration did not consider it desirable to further extend the exemption at PLB stands to cover the first three PLBs of each route at a stand after taking into account all relevant factors, including the coverage of the present proposed exemption for PLBs, the close proximity of many PLB stands to pedestrians and people working or living nearby the roads, as well as the time required for filling a PLB with passengers and for PLBs at the end of the queue to move up. As the Bill did not require drivers to stay inside a PLB while the engine was switched off, drivers could wait outside their PLBs when there was a long queue at the stand. They might also choose to stay inside another PLB at the

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front of the queue the driver of which would be exempted from the proposed idling prohibition; and

- (c) If the rain that came with the "Thunderstorm Warning" was so heavy as to cause concern about difficulty of compliance with the proposed idling prohibition, the "Amber, Red or Black Rainstorm Signal" would probably have been issued, which would trigger the granting of exemption from the proposed idling prohibition throughout the day concerned.

4. Ms Miriam LAU and Ms LI Fung-ying were of the view that the Administration's suggestion highlighted in paragraph 3(b) above might not always be feasible given the crowded environment of many PLB stands, particularly those in Mongkok where there were no shelters/covers, and double and even triple parking was common. In such circumstances, the drivers of queuing PLBs might not be able to get off their PLBs if they were cramped in the middle queue. Ms LAU considered it necessary to develop before implementation of the proposed idling prohibition at PLB stands the retrofit device for PLBs which could enable the operation of air-conditioning system by battery when the engine was switched off, and to involve the PLB trade when field testings were conducted for the device.

5. On the Occupational Safety and Health Ordinance (Cap. 509) (OSHO), the Administration explained that it imposed a general duty on employers to ensure, so far as reasonably practicable, the safety and health at work of their employees. Since the safety and health of professional drivers while driving on the road would be subject to a large number of factors outside the control of their employers, e.g. the design of vehicles, driving skills and attitude of other drivers, the use of roads by other users, etc., OSHO was not applicable to the driving work of professional drivers. In addition, as OSHO did not cover self-employed persons, the proposal to extend its scope to cover the driving work of professional drivers could not protect the safety and health of many professional drivers, such as PLB drivers who were self-employed, if the concern about the potential health risk problem posed by the idling prohibition could be established. The Administration, therefore, considered that exemptions under the Bill should be considered separately from the suggestion of extending the coverage of OSHO to the driving work of professional drivers. Notwithstanding, the existing road traffic legislation had extensive provisions safeguarding the safety of drivers driving on the road.

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6. As regards assessment of the risk of heat stress posed by the idling prohibition to professional drivers, the Administration informed the meeting that the Labour Department (LD) had, in response to the request of the Bills Committee, conducted such an assessment and passed the findings to the Environmental Protection Department for its reference. The Administration also informed the Bills Committee that LD had published general guidelines on heat stress prevention for employers and employees, and professional drivers could refer to those guidelines for information on risk factors, symptoms and preventive measures for heat stress.

- Admin 7. After discussion, the Administration was requested to provide response to the following issues raised by members -
- (a) To ascertain the details of the retrofit device which, according to Mr Andrew LEUNG, had been developed for trials on taxis to enable the operation of air-conditioning system by battery when the engine was switched off, and to arrange for trials on the device where appropriate;
 - (b) To convey to the Hong Kong Productivity Council (HKPC) the suggestion that the PLB trade should be involved in conducting trials on the retrofit device being developed by HKPC for PLBs to enable the operation of air-conditioning system by battery when the engine was switched off;
 - (c) To advise which of the designated taxi and PLB stands presently not provided with covers/shades for passengers/queuing taxis/PLBs would be provided with the facilities;
 - (d) To clearly explain with examples the types of activities that would be categorized as "operational activities" for the conduct of which the vehicles listed in section 3(2) of Schedule 1 to the Bill would be exempted, and to review the Chinese translation of the term "operational activities";
 - (e) To consider members' view that school private light buses with fewer than 16 seats should be granted the same exemption as that applicable to non-franchised buses; and

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- (f) To consider Ms LI Fung-ying's view that the Labour Department should issue guidelines to advise what measures should be taken to protect drivers working at public transport vehicle stands (e.g. PLBs) in over crowded street and without shades from the impact of the proposed idling prohibition.

Date of next meeting

8. Members agreed that the next meeting would be held on Monday, 25 October 2010, at 4:30 pm.

II Any other business

9. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
24 November 2010

**Proceedings of the eighth meeting of
the Bills Committee on Motor Vehicle Idling (Fixed Penalty) Bill
on Monday, 11 October 2010, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes of meeting			
000236 – 000456	Chairman	<ul style="list-style-type: none"> - Confirmation of minutes of meetings - Opening remarks 	
Agenda item II – Meeting with the Administration			
000457 – 001152	Chairman Administration Ms Miriam LAU Mr Andrew LEUNG	<ul style="list-style-type: none"> - Discussion on the development of the retrofit device to enable the operation of air-conditioning system by battery when the engine was switched off, and how the Transport Department could help facilitate the retrofitting process (Paragraph 1 of the Administration’s response to issues raised at the meeting on 21 September 2010 (LC Paper No. CB(1)2962/09-10(01)) - Request of the Administration to ascertain the details of the retrofit device which, according to Mr Andrew LEUNG, had been developed for trials on taxis to enable the operation of air-conditioning system by battery when the engine was switched off 	Administration to provide information (paragraph 7 of minutes)
001153 – 002035	Chairman Administration Ms LI Fung-ying Ms Miriam LAU Mr WONG Kwok-hing	<ul style="list-style-type: none"> - Discussion on the need to provide covers/shades at designated taxi and PLB stands to protect not only passengers but also drivers of queuing taxis/PLBs in preparation for implementation of 	Administration to provide information (paragraph 7 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>proposals under the Bill (Paragraph 2 of LC Paper No. CB(1)2962/09-10(01))</p>	
002036 – 002635	<p>Chairman Administration Ms Miriam LAU</p>	<ul style="list-style-type: none"> - Discussion on the need for the Administration to exercise greater flexibility, and be more ready to convert existing informal taxi and red minibus (RMB) stands into formal ones where necessary (Paragraph 3 of LC Paper No. CB(1)2962/09-10(01)) - The Chairman's view that the issue of “informal” taxi/RMB stands should be followed up by the Panel on Transport 	
002636 – 005649	<p>Chairman Administration Ms Miriam LAU Ms LI Fung-ying</p>	<ul style="list-style-type: none"> - Discussion on the need and desirability of exempting all vehicles from the proposed idling prohibition during hot months, such as from June to September or to October, in consideration of professional drivers' occupational safety and health (Paragraphs 4 and 5 of LC Paper No. CB(1)2962/09-10(01)) - Discussion on the implementation details of the three-in-sixty-minute grace period, and whether there might be implementation difficulties or abuse - Discussion on whether exemption from the proposed idling prohibition should be granted on days when the "Thunderstorm 	

Time marker	Speaker	Subject(s)	Action required
		<p>Warning" was issued, and on the implementation details of the exemption recently proposed to be granted on days when the "Very Hot Weather Warning" or "Amber, Red or Black Rainstorm Signal" was issued</p> <p>- Discussion on the enforcement agents of the proposed idling prohibition and how consistency in enforcement could be ensured, having regard that both traffic wardens and environmental protection inspectors would be involved (Schedule 2 to the Bill)</p>	
005650 – 011247	<p>Chairman Administration Ms Miriam LAU Ms LI Fung-ying</p>	<p>- Discussion on the need to clearly explain the types of activities that would be categorized as "operational activities" for the conduct of which the vehicles listed in section 3(2) of Schedule 1 to the Bill would be exempted, so as to address public concern about possible abuse of the proposed exemption (Paragraphs 6 and 7 of LC Paper No. CB(1)2962/09-10(01))</p>	<p>Administration to provide information (paragraph 7 of minutes)</p>
011248 – 012559	<p>Chairman Administration Mr WONG Kwok-hing Mr CHAN Kam-lam Ms Miriam LAU</p>	<p>- Discussion on the need to grant school private light buses with fewer than 16 seats the same exemption as that applicable to non-franchised buses (Paragraph 8 of LC Paper No. CB(1)2962/09-10(01))</p>	<p>Administration to provide information (paragraph 7 of minutes)</p>

Time marker	Speaker	Subject(s)	Action required
012600 – 014354	Chairman Administration Ms Miriam LAU Mr WONG Kwok-hing	<ul style="list-style-type: none"> - Discussion on the need to extend the exemption at PLB stands from the first two PLBs to the first three PLBs of each route in consideration of the unique operating environment of the PLB trade, and of the recent death of the PLB driver in a PLB queuing at a PLB stand in Mongkok with the engine switched off (Paragraphs 9 and 10 of LC Paper No. CB(1)2962/09-10(01)) - Discussion on the need to develop for PLBs as soon as practicable a retrofit device that could enable the operation of air-conditioning system by battery when the engine was switched off, and to involve the PLB trade in conducting trials on the device 	Administration to provide information (paragraph 7 of minutes)
014355 – 020926	Chairman Administration Ms Miriam LAU Mr WONG Kwok-hing Ms LI Fung-ying Mr IP Wai-ming Mr CHAN Kam-lam	<ul style="list-style-type: none"> - Discussion on LD's assessment of the potential impact of the proposed idling prohibition on the occupational health of professional drivers, whether OSHO should be amended to extend its coverage to the driving duties of professional drivers, and the need for LD to issue guidelines to advise what measures should be taken to protect drivers working at public transport vehicle stands (e.g. PLBs) in overcrowded street and without shades from the impact of the proposed idling prohibition (Paragraphs 11 to 13 of LC Paper No. CB(1)2962/09-10(01)) 	Administration to provide information (paragraph 7 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"><li data-bbox="619 309 1177 533">- Mr CHAN Kam-lam's expression of support for the proposal to extend the exemption at PLB stands from the first two PLBs to the first three PLBs of each route <li data-bbox="619 611 1177 835">- Ms Miriam LAU's emphasis of the need to look into compliance problems that would be faced by PLB drivers at those informal RMB stands in Mongkok under the current proposals of the Bill <li data-bbox="619 913 930 936">- Date of next meeting	

Council Business Division 1

Legislative Council Secretariat

24 November 2010