

立法會
Legislative Council

LC Paper No. CB(1)2927/09-10
(These minutes have been seen by
the Administration)

Ref : CB1/BC/9/09

Bills Committee on Road Traffic (Amendment) Bill 2010

**Minutes of the third meeting
held on Saturday, 3 July 2010, at 9:00 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Andrew CHENG Kar-foo
Hon CHEUNG Hok-ming, GBS, JP
Hon CHAN Kin-por, JP
Hon IP Wai-ming, MH
- Members absent** : Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Agenda Item I
- Mr Alan CHU
Deputy Secretary for Transport and Housing (Transport) 3
- Miss Erica NG
Principal Assistant Secretary for Transport and Housing
(Transport) 2
- Ms Irene HO
Assistant Secretary for Transport and Housing (Transport)
2C
- Mr Eamonn MORAN
Law Draftsman
Department of Justice
- Miss Elaine NG
Government Counsel
Department of Justice

Mr Stephen VERRALLS
Chief Superintendent (Traffic) (Acting)
Hong Kong Police Force

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

Ms Nancy NGAN Suk-fan
Superintendent (Law Revision and Projects) (Traffic
Branch Headquarters) (Acting)
Hong Kong Police Force

Mr TSANG King-man
Assistant Commissioner/Technical Services
Transport Department

Mr Harry CHAN
Chief Engineer/Road Safety and Standards
Transport Department

Attendance by invitation : Tsuen Wan District Tourists and Passengers Omnibus Operators Association

Mr TANG Chi-keung
Chairman

United Friendship Taxi Owners & Drivers Association Ltd.

Mr LEUNG Chak-sang
Chairman

New Lantao Bus Company (1973) Limited

Mr Peter MOK
Director

The Kowloon Taxi Owners Association Ltd.

Mr YUM Tai-ping
Chairman

Hong Kong Kowloon Taxi & Lorry Owners' Association

Mr WONG Po-keung
Board of Director

Motor Transport Workers General Union - Taxi Driver Branch

Mr LOW Shih-cheng
Chairman

Front Line Taxi Driver Association

Mr LAM Kwai-keung
Chairman

Tuen Mun District Tourists and Passengers Omnibus Operators Association

Mr Dick YIP
Chairman

Yuen Long District Tourists and Passengers Omnibus Operators Association

Mr YIP Wing-ching
Chairman

Association of N.T. Radio Taxicabs Ltd.

Mr TSANG Wai-hung
Vice Chairman

Hong Kong District Tourists and Passengers Omnibus Operators Association

Mr CHAN Chi-tak
Chairman

New Territories West Buses/Coaches Association

Mr MAN Hoi-tik
Chief Committee Officer

G.M.B. Maxicab Operators General Association

Mr SO Sai-hung
Chairman

Taxi & P.L.B. Concern Group

Mr LAI Ming-hung
Chairman

Individual

Mr Michael MAK Kwok-fung
Wan Chai District Councillor

Koon Wing Motors Ltd.

Mr Robert MA
Director

Lok Ma Chau China - Hong Kong Freight Association

Mr Stanley CHAING
Chairman

Tai Wo Motors Ltd.

Mr Aaron NG Hoi-shan
Vice Chairman

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Advisor 1

Mr Joey LO
Council Secretary (1)3

Action

I. Meeting with deputations and the Administration

Meeting with the Administration and deputations/individual

1. Tsuen Wan District Tourists and Passengers Omnibus Operators Association
2. United Friendship Taxi Owners & Drivers Association Ltd.
(LC Paper No. CB(1)2415/09-10(01) – joint submission)
3. New Lantao Bus Company (1973) Limited
(LC Paper No. CB(1)2427/09-10(01) – submission)
4. The Kowloon Taxi Owners Association Ltd.
(LC Paper No. CB(1)2415/09-10(01) – joint submission)

5. Hong Kong Kowloon Taxi & Lorry Owners' Association
(LC Paper Nos. CB(1)2390/09-10(01) and CB(1)2415/09-10(01) –
submission and joint submission)
6. Motor Transport Workers General Union - Taxi Driver Branch
(LC Paper No. CB(1)2390/09-10(02) – submission)
7. Front Line Taxi Driver Association
8. Tuen Mun District Tourists and Passengers Omnibus Operators
Association
9. Yuen Long District Tourists and Passengers Omnibus Operators
Association
10. Association of N.T. Radio Taxicabs Ltd.
11. Hong Kong District Tourists and Passengers Omnibus Operators
Association
12. New Territories West Buses/Coaches Association
(LC Paper No. CB(1)2390/09-10(03) – submission)
13. G.M.B. Maxicab Operators General Association
14. Taxi & P.L.B. Concern Group
(LC Paper No. CB(1)2415/09-10(02) – submission)
15. Mr Michael MAK Kwok-fung, Wan Chai District Councillor
16. Koon Wing Motors Ltd.
(LC Paper No. CB(1)2427/09-10(02) – submission)
17. Lok Ma Chau China - Hong Kong Freight Association
18. Tai Wo Motors Ltd.
(LC Paper No. CB(1)2427/09-10(03) – submission)

Submissions from deputation/individuals not attending the meeting

1. Dr YANG Mo, Southern District Councillor
(LC Paper No. CB(1)2390/09-10(04) – submission)
2. The Goods Vehicle Fleet Owners Association Limited
(LC Paper No. CB(1)2390/09-10(05) – submission)

3. A member of the public
(LC Paper No. CB(1)2390/09-10(06) – submission)

Meeting with the Administration

- LC Paper No. CB(1)2390/09-10(07) -- List of follow-up actions arising from the discussion at the meeting on 21 June 2010
- LC Paper Nos. CB(1)2390/09-10(08) and CB(1)2415/09-10(03) -- Administration's response to issues raised at meeting on 21 June 2010

Other relevant papers

- LC Paper No. CB(3)648/09-10 -- The Bill
- LC Paper No. CB(1)2081/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division
- File Ref: THB(T)CR 3/14/3231/00 -- Legislative Council Brief on Road Traffic (Amendment) Bill 2010 issued by the Transport and Housing Bureau

At the invitation of the Chairman, ten deputations as listed in the appendix presented their views.

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

- Admin 3. The Administration was requested to:
- (a) provide information on the application of similar provision of "causing grievous bodily harm by dangerous driving" in overseas jurisdictions, such as Australia and Northern Ireland; and
 - (b) consider whether the provision of causing serious bodily harm by dangerous driving could be dealt with separately from the Bill.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)2929/09-10(03) on 29 September 2010.)

II. Any other business

Meeting arrangement

4. Members agreed that the next meeting would be held at the beginning of October 2010.

(Post-meeting note: With the concurrence of the Chairman, the fourth and fifth meeting had been scheduled for Tuesday, 5 October and 2 November 2010 at 2:30 pm. Members were informed of the meeting arrangements vide LC Paper No. CB(1)2643/09-10 issued on 27 July 2010.)

5. There being no other business, the meeting ended at 10:55 am.

Council Business Division 1
Legislative Council Secretariat
29 September 2010

**Proceedings of the third meeting of
Bills Committee on Road Traffic (Amendment) Bill 2010
on Saturday, 3 July 2010, at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000440	Chairman	Opening remarks by the Chairman	
000441 - 000740	Tsuen Wan District Tourists and Passengers Omnibus Operators Association	Presentation of views as follows: (a) heavier criminal liabilities should be imposed on drink driving and drug driving; (b) insured owner of vehicles should not be exposed to the exclusion of civil liabilities by insurance companies; (c) delinquent drivers should be personally subject to civil as well as criminal liabilities; and (d) discretion should be given to drivers who took drugs for medical reasons or upon doctors' advice.	
000741 - 000849	United Friendship Taxi Owners & Drivers Association Ltd.	Presentation of views (LC Paper No. CB(1)2415/09-10(01))	
000850 - 001054	New Lantao Bus Company (1973) Limited	Presentation of views (LC Paper No. CB(1)2427/09-10(01))	
001055 - 001225	The Kowloon Taxi Owners Association Ltd.	Presentation of views (LC Paper No. CB(1)2415/09-10(01))	
001226 - 001435	Hong Kong Kowloon Taxi & Lorry Owners' Association	Presentation of views (LC Paper Nos. CB(1)2390/09-10(01) and CB(1)2415/09-10(01))	
001436 - 001825	Motor Transport Workers General Union - Taxi Driver Branch	Presentation of views (LC Paper No. CB(1)2390/09-10(02))	

Time marker	Speaker	Subject(s)	Action required
001826 - 002848	<p>Front Line Taxi Driver Association</p> <p>Tuen Mun District Tourists and Passengers Omnibus Operators Association</p> <p>Yuen Long District Tourists and Passengers Omnibus Operators Association</p> <p>Association of N.T. Radio Taxicabs Ltd.</p> <p>Hong Kong District Tourists and Passengers Omnibus Operators Association</p>	<p>Presentation of views as follows:</p> <p>(a) heavier penalty should be imposed on drink driving, but the penalties for drink driving and dangerous driving should be dealt with separately;</p> <p>(b) the penalties for driving under the influence of drugs for taking over-the-counter/prescription drugs vis-à-vis illicit drugs of abuse should be considered separately, and only those drivers who took drugs of abuse should be penalized, whereas those who took over-the-counter drugs or prescription drugs should not, as they might not be aware of the ingredients of the drugs and their effect on one's ability to drive;</p> <p>(c) exemption should be given in motor insurance to owners of commercial vehicles who had exercised their best endeavour to ascertain that employed drivers had not consumed alcohol (or illicit drugs) before driving. The owners should not be held responsible for the delinquent behaviour of the drivers if due diligence had been exercised to ensure compliance; and</p> <p>(d) the Police had been too ready to lay the more serious charge of "dangerous driving" even if the driver had only committed "careless driving" in some cases.</p>	
002848 - 003010	New Territories West Buses/Coaches Association	Presentation of views (LC Paper No. CB(1)2390/09-10(03))	
003011 - 003229	G.M.B. Maxicab Operators General Association	<p>Presentation of views as follows:</p> <p>(a) the penalties for drink driving should be considered separately from dangerous driving, as dangerous driving could be the result of a number of factors beyond the driver's control;</p> <p>(b) supported imposing heavier penalty on drink driving and drug driving; and</p> <p>(c) the owner should not be held responsible for the delinquent behaviour of the driver.</p>	
003237 - 003547	Koon Wing Motors Ltd.	Presentation of views (LC Paper No. CB(1)2427/09-10(02))	

Time marker	Speaker	Subject(s)	Action required
003548 - 003807	Lok Ma Chau China - Hong Kong Freight Association	<p>Presentation of views as follows:</p> <p>(a) supported imposing heavier penalty on drink driving, but the penalties for drink driving and dangerous driving should be dealt with separately;</p> <p>(b) the penalties for driving under the influence of drugs for taking over-the-counter/prescription drugs vis-à-vis drugs of abuse should be considered separately; and</p> <p>(c) the owner should not be held responsible for the delinquent behaviour of the driver.</p>	
003808 - 003906	Chairman Tai Wo Motors Ltd.	Presentation of views ((LC Paper No. CB(1)2427/09-10(03))	
003907 - 004206	Chairman Taxi & P.L.B. Concern Group	Presentation of views (LC Paper No. CB(1)2415/09-10(02))	
004200 - 005653	Chairman Administration	<p>The Administration advised that:</p> <p>(a) statistics had shown that most of the drivers convicted of drink driving were private vehicle drivers rather than professional drivers;</p> <p>(b) as drink driving was a common cause of dangerous driving, it was necessary to adjust the penalty level for dangerous driving accordingly when adjusting the penalty level for drink driving to ensure fairness and consistency in punishment;</p> <p>(c) the proposed amendments such as lengthening the minimum disqualification period for dangerous driving offences, and providing for consecutive implementation of imprisonment and disqualification would only affect repeat offenders of serious traffic offences but not the majority of the law-abiding professional drivers;</p> <p>(d) the proposed amendments did not affect the prosecution criteria and policy for road traffic offences. There were clear definitions for "dangerous driving" and "careless driving" respectively under existing laws. The Police would continue to take appropriate enforcement actions and make objective prosecution decisions based on all the circumstances and evidence of the case, scientific investigation findings, established</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>guidelines and the advice from the Department of Justice;</p> <p>(e) the transport trades' concern over the exclusion of liability was noted, and the Hong Kong Federation of Insurers (HKFI) had responded positively and would consider the feasibility of excluding the vehicle owners from liabilities if due diligence had been exercised; and</p> <p>(f) according to the proposed measures to combat drug driving, drivers who drove while being impaired by drugs would be prosecuted, while the offences would not adversely affect the majority of the law-abiding drivers who might need to take drugs for genuine medical reasons. A proposed list of illicit drugs specified for "zero tolerance" control would be drawn up with reference to the Australian model. The Administration would also propose to introduce preliminary drug test (impairment test and/or rapid oral fluid test) in Hong Kong. It aimed to come up with a preliminary proposal to tackle drug driving for public consultation around July 2010. The Administration would also consult the Panel on Transport and relevant professional bodies on the proposal during the summer.</p>	
005654 – 010015	Mr Michael MAK Kwok-fung	<p>Presentation of views as follows:</p> <p>(a) supported imposing heavier penalty on drink driving to commensurate with the severity of the consequences of traffic accidents resulting from drink driving; and</p> <p>(b) suggested stepping up public education and the printing of a warning label on the package of alcoholic drinks to deter drink driving.</p>	
010016 – 010823	Chairman Administration Mr IP Wai-ming	<p>Mr IP Wai-ming opined that the amendments had created the impression on the transport trade that the Administration was trying to introduce the offence of "causing grievous bodily harm by dangerous driving" under the pretext of combating drink driving. The offences of drink driving and dangerous driving should be dealt with separately, as dangerous driving could be caused by many factors other than drinking.</p> <p>The Administration explained that:</p>	The Administration to follow up as stated in paragraph 2(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(a) views had been received during public consultations that the existing sanctions against dangerous driving were too lenient in cases where no fatality was involved. The existing laws had failed to provide a middle ground penalty level between "dangerous driving" and "causing death by dangerous driving". Hence the provision of "causing grievous bodily harm by dangerous driving" was proposed with reference to experience in overseas jurisdictions including Australia and Northern Ireland;</p> <p>(b) the proposed penalties relating to causing grievous bodily harm by dangerous driving and the proposed penalties relating to drink driving would appear in separate provisions. The proposed circumstances of aggravation relating to drink driving would not apply if the driver did not drink; and</p> <p>(c) as evident in the Lok Ma Chau fatal accident in January 2009, there was a strong correlation between drink driving and dangerous driving in many cases.</p>	
010824 – 011136	Mr CHAN Kin-por Chairman	Mr CHAN Kin-por said that with the coordination of the Bills Committee's Chairman, the HKFI had attended a forum on combating drink/drug driving with the transport trade in June 2010. There were discussions on defining the liability of the vehicle owner, including the idea of formulating a guideline to facilitate the exercise of due diligence by the vehicle owner, so that he would not be held responsible for the delinquent behaviour of the driver. The HKFI was fully aware of the concerns of the transport trade. He would continue to follow up the issue with HKFI.	
011137 – 012355	Mr CHEUNG Hok-ming Deputations	<p>Mr CHEUNG Hok-ming's enquiry and the deputations' views about the proposal for mandating the professional driver to purchase a portable insurance plan against third party liabilities.</p> <p>The Administration advised that the proposal should be duly examined before considered views could be made. Mr CHAN Kin-por said that whether the proposal would be feasible depended on whether the level of insurance premium would be affordable to the professional drivers. He cautioned that the premium for taxi drivers could be high, as their rate of involvement in traffic accidents were over 20%.</p>	

Time marker	Speaker	Subject(s)	Action required
012356 – 013555	Chairman Deputations	<p>Lok Ma Chau China - Hong Kong Freight Association expressed strong objection against the proposal for drivers' portable insurance plan, and the motor insurance companies' exclusion clauses in the insurance policies. The Association considered that the Administration had the responsibility to ensure that insurance companies would provide compensation in the event of accident.</p> <p>Front Line Taxi Driver Association, Tuen Mun District Tourists and Passengers Omnibus Operators Association and Motor Transport Workers General Union – Taxi Driver Branch supported the imposition of heavier penalty on drink/drug driving, but expressed strong opposition to increasing the penalty for dangerous driving to deal with drink driving. They expressed doubts as to why the penalties for drink driving and dangerous driving could not be dealt with separately.</p> <p>Yuen Long District Tourists and Passengers Omnibus Operators Association and Taxi & PLB Concern Group sought clarification on the policies of prosecuting professional drivers suspected of careless/dangerous driving and drug driving.</p>	
013556 – 014652	Mr IP Wai-ming Chairman Administration	<p>Mr IP Wai-ming opined that:</p> <ul style="list-style-type: none"> (a) as many types of vehicles ranging from bus to taxi were involved, the proposal for the professional driver to purchase a mandatory portable insurance plan and the driver's affordability should be carefully considered; (b) the Administration should clearly define its prosecution policy on dangerous/careless driving; and (c) as heavier penalties for drink driving had already been proposed, the Administration should deal with the penalties for drink driving separately from dangerous driving, and to further consult the public on the proposed provision of "causing grievous bodily harm by dangerous driving". <p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) the Police would take appropriate enforcement actions and make objective prosecution decisions based on all the circumstances and evidence of the 	The Administration to follow up as stated in paragraph 2(b) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>case, scientific investigation findings, established guidelines and the advice from the Department of Justice. A driver suspected of drug driving would only be arrested if the Police had reasonable cause to believe that the driver had taken drugs, such as observing a coat of illicit drugs on his face; and</p> <p>(b) the provision of "causing grievous bodily harm by dangerous driving" was proposed in response to public opinion to bring in penalty terms set between "dangerous driving" and "causing death by dangerous driving" which was currently not covered by the existing laws.</p>	
014653 – 015010	Chairman Deputations Mr CHAN Kin-por	<p>Tsuen Wan District Tourists and Passengers Ominbus Operators Association opined that the commercial vehicle owners should not be held liable for the delinquent behaviour of the drivers if due diligence had been exercised. The scope of fund of the Motor Insurers' Bureau of Hong Kong (MIB) should be extended to cover the liabilities arising from such accidents.</p> <p>Mr CHAN Kin-por explained that the MIB fund had already been heavily used in instances where victims of accidents had been unable to recover the damages awarded to them against the owner or driver of a motor vehicle.</p>	
015011 - 015218	Chairman Mr IP Wai-ming Mr Andrew CHENG	Meeting arrangements	