

立法會
Legislative Council

LC Paper No. LS96/10-11

**Paper for the House Committee Meeting
on 7 October 2011**

**Legal Service Division Report on
Road Traffic (Amendment) (No. 2) Bill 2011**

I. SUMMARY

1. **Objects of the Bill** To amend the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation to introduce a package of measures to improve the safety of operation of public light buses.
2. **Comments**
 - (a) The safety measures introduced by the Bill include –
 - (i) imposing a cap on the maximum speed (80 km/hour) at which a public light bus (PLB) may travel;
 - (ii) requiring every PLB to be fitted with a speed limiter approved by the Commissioner for Transport (the Commissioner);
 - (iii) requiring PLBs which are of any description to be specified by the Secretary for Transport and Housing to be fitted with an electronic data recording device (blackbox);
 - (iv) requiring applicants for PLB driving licences to attend and complete a pre-service training course before issue of the licence;
 - (v) requiring every PLB driver to display a driver identity plate in the PLB when it is in passenger service; and
 - (b) Non-compliance with the new requirements is an offence under the Bill.
3. **Public Consultation** The Administration has consulted the registered owners, the operators and trade associations of the PLB trade. While the consultees supported the continuous improvement of PLB safety, they expressed concern about the additional operating costs to be borne by them for implementing the new measures.
4. **Consultation with LegCo Panel** The Panel on Transport discussed the Administration's proposals at its meetings on 26 November 2009 and 25 February 2011. While Panel members in general expressed support for the proposals, some members opined that blackbox should be included as a basic equipment of all PLBs instead of only newly registered PLBs.
5. **Conclusion** In view of the above concerns of the PLB trade and views of members of the Transport Panel, members may consider whether a Bills Committee should be formed to scrutinize the Bill in detail.

II. REPORT

Objects of the Bill

To amend the Road Traffic Ordinance (Cap. 374) (RTO) and its subsidiary legislation to introduce a package of measures to improve the safety of operation of public light buses (PLBs), and to make related and miscellaneous amendments to RTO.

LegCo Brief Reference

2. THB(T)CR 5/14/3231/00 issued by the Transport and Housing Bureau on 28 June 2011.

Date of First Reading

3. 13 July 2011.

Comments

4. The key features of the Administration's legislative proposal for introducing new measures to improve the safety of operation of PLBs are set out in the following paragraphs.

Maximum speed limit for PLBs on roads

5. Under section 40 of RTO, the maximum speed at which a vehicle may be driven on a road is 50 km per hour unless there is in effect a variation in the speed limit. Under section 40(5) of RTO, where a variation in the speed limit is in effect and permits a vehicle to travel on a road in excess of 70 km an hour, the maximum speed at which a medium goods vehicle, heavy goods vehicle or bus shall travel on such road shall be 70 km an hour. Driving in excess of the above speed limits is an offence under section 41 of RTO. At present, there is no statutory speed limit applicable to PLBs.

6. Clauses 5 and 6 of the Bill amend sections 40 and 41 of RTO to the effect that the maximum speed at which a PLB is permitted by law to travel on any road in Hong Kong is 80 km an hour, even though the speed limit for certain roads in Hong Kong is over 80 km an hour. According to paragraph 4 of the LegCo Brief, the Administration believes that imposing a maximum

speed limit for PLBs on roads is a direct way to deter speeding behaviour of PLB drivers.

Mandating installation of speed limiter on all PLBs

7. According to paragraph 5 of the LegCo Brief, the Transport Department (TD) has introduced administrative measures through new licensing conditions since June 2010 to require the installation of a speed limiter of a type approved by TD on all newly registered PLBs and the retrofitting of such a device on all existing PLBs. The Administration considers that such administrative measures have limitation in their effectiveness because there is no criminal sanction for non-compliance with the licensing conditions or for tampering with the speed limiter.

8. Clause 12 of the Bill adds new regulation 24B to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) (CMV Regulations) to require every PLB to be fitted with a speed limiter approved by the Commissioner for Transport (the Commissioner) and to display a sign of maximum speed of PLB (as specified by the new regulation 24B(12)) at a conspicuous position in the passengers' compartment of the relevant PLB. The new regulation 24B also sets out the installation and maintenance requirements of speed limiters fitted on PLBs.

9. Under the new regulation 121(5) of CMV Regulations, any person who without lawful authority or reasonable excuse wilfully interferes with the proper operation of any part of a fitted speed limiter, or alters the set speed with which a fitted speed limiter is calibrated to a value that does not comply with the relevant regulation commits an offence and is liable to a fine at level 3 (i.e. \$10,000) and to imprisonment for 6 months.

Mandating installation of electronic data recording device on certain PLBs

10. The new regulation 24C of the CMV Regulations sets out the requirement to install and maintain electronic data recording device (blackbox) on certain PLBs. Unlike the new regulation 24B which is proposed to apply to all PLBs, the new regulation 24C is to apply only to a PLB which is of a description specified in the new Schedule 18 to the CMV Regulations. It is noted that no such description is proposed in the said Schedule. According to paragraph 6 of the LegCo Brief, the Administration expects that the new requirement under regulation 24C may be applied to newly registered PLBs within 12 months after enactment of the Bill in order to allow those blackbox suppliers to have sufficient lead time to complete the design, testing and production of blackbox for new PLBs. Furthermore, the Administration may give consideration to retrofit blackboxes to existing PLBs, subject to technical

feasibility and availability of suitable blackbox models for retrofitting. The Legal Service Division is asking the Administration the timetable for specifying in the new Schedule the description of PLBs to which the new regulation 24C will apply.

11. Under the new regulation 121(6) of CMV Regulations, any person who without lawful authority or reasonable excuse wilfully interferes with the proper operation of any part of a fitted blackbox, alters the over-speed threshold stored in a fitted blackbox, removes a fitted blackbox, or falsifies or destroys any data stored in a fitted blackbox, commits an offence and is liable to a fine at level 3 (i.e. \$10,000) and to imprisonment for 6 months.

12. In respect of motor vehicles with a fitted blackbox, the new section 67A of RTO proposes to empower the Commissioner to retrieve data stored in the blackbox. It also empowers the police to retrieve data stored in a blackbox when there is reasonable cause to believe that a motor vehicle with a fitted blackbox has been involved in an accident or any offence under RTO. Since the Bill proposes to require blackboxes to be installed on specified PLBs only, the Legal Service Division will be seeking clarification with the Administration on the reason for applying the new section 67A to all motor vehicles with a fitted blackbox.

Mandating attendance at pre-service course before issue of PLB driving licence

13. At present, under section 8 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (the Driving Licences Regulations), an applicant for a full driving licence to drive a PLB (PLB driving licence) is required to pass the relevant driving test without the need to attend any pre-service training course.

14. Part 4 of the Bill proposes to amend the Driving Licences Regulations to require applicants for a PLB driving licence to attend and complete a pre-service course at a pre-service training school designated by the Commissioner under the new Part XB of RTO (new sections 102H to 102N) before making application for such licence. The new section 102I provides that the Commissioner may determine the fees payable for the designation or renewal of a pre-service training school and the maximum fees that may be charged for the pre-service course and issue of certificates. The new section 102J empowers the Commissioner to revoke a designation in specified circumstances and provides that the proprietor of a pre-service training school may appeal to a Transport Tribunal against the revocation. Furthermore, any public officer authorized in writing by the Commissioner may enter and inspect the operation, records and books of the designated schools under the new section 102M.

Mandating display of PLB driver identity plate

15. At present, pursuant to regulation 51 of Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (PSV Regulations), taxi drivers are required to display their identity plates in the taxis when they are in passenger service. No similar statutory requirement is imposed on PLB drivers.

16 Clause 18 of the Bill amends the PSV Regulations to impose a requirement for the display of a PLB driver identity plate in a PLB that is standing for the purpose of picking up passengers or that is used for the carriage of passengers for hire or reward. It also provides that the Commissioner may specify by notice published in the Gazette, which is not subsidiary legislation, the size, design and construction of the PLB driver identity plate, as well as its position of display in the PLB. Failure to comply with the new requirement is proposed to be an offence punishable by a fine of \$2,000.

Commencement

17. If enacted, the Bill, except Part 4 on mandatory attendance at and completion of a pre-service course for driving PLBs, will come into operation on the date of its publication in the Gazette. Part 4 of the Bill will come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

Public Consultation

18. According to paragraph 21 of the LegCo Brief, the Administration has consulted the registered owners and holders of passenger service licence for PLBs, the operators and trade associations of the PLB trade. While the PLB owners, operators and trade members support the continuous improvement of PLB safety, they have expressed concern about the additional operating costs to be borne by them for implementing the new measures. They are also concerned that the new safety measures would make the public label PLBs as unsafe.

Consultation with LegCo Panel

19. The Panel on Transport discussed the Administration's plans to make speed limiters a basic equipment of all PLBs and to make blackbox as a

basic equipment of newly registered PLBs at its meetings on 26 November 2009 and 25 February 2011. While Panel members in general expressed support for the plans, some members opined that blackbox should be included as a basic equipment of all PLBs instead of only newly registered PLBs. The Administration explained that given the variety of existing PLB models, there was difficulty in identifying a reliable standard model of blackbox that would suit the different models of PLBs. Some members suggested that in order to prevent PLB operators from passing the costs for installing blackboxes and the speed limiters onto passengers, the Administration should consider subsidizing at least part of the relevant installation costs.

Conclusion

20. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. In view of the concerns of the PLB trade and views expressed by members of the Transport Panel mentioned above, members may consider whether a Bills Committee should be formed to scrutinize the Bill in detail.

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