

《2001年道路交通法例(修訂)條例草案》委員會
二零零一年十一月九日會議後
採取的跟進行動

目的

本文件旨在回應委員要求提供與駕駛改進計劃有關的資料。

背景

2. 在二零零一年十一月九日舉行的《2001 年道路交通法例(修訂)條例草案》委員會會議上，委員要求政府進一步考慮以下事項：

- (a) 參加駕駛改進計劃的資格；
- (b) 法庭可選擇施行的各種懲處方法；
- (c) 已被扣 11 至 14 分的職業司機分項數字。

參加駕駛改進計劃的資格

3. 推行駕駛改進計劃，旨在於現行的懲處方法以外，引進教育方法來減少道路交通罪行的發生。因此，政府建議，除了被法庭命令參加這項計劃的人士外，司機也可以自發參加。所有司機，不論被記的違例駕駛分數的多寡，均可自發修習駕駛改進課程。

4. 為鼓勵司機參加這項計劃，政府並建議，如司機圓滿修畢有關課程，可在他已累積的違例駕駛總分數中扣減 3 分。不過，為確保計劃不會遭濫用，我們建議司機最多只可以每兩年獲得扣減分數一次，同時亦不可預先儲存可獲扣減的分數，以備日後觸犯法例時，用來抵銷會被記的違例駕駛分數。這些條件與海外已推行同類計劃的國家所定的條件相若。

法庭可選擇施行的懲處方法

5. 正如上文解釋，司機可循兩種途徑修習駕駛改進課程，即自發參加，或被法庭命令參加。前一種途徑，是為主動要改進自己的駕駛行為的司機而設；後一種途徑的設置對象，是法庭認為參加這計劃對他們有幫助的違例司機。為此，我們建議在條例草案第 72A 條賦予法庭權力，可命令觸犯《道路交通(違例駕駛記分)條例》(第 375 章)所定表列罪行的被定罪人士修習駕駛改進課程；這項修習駕駛改進課程的命令，可以與法庭對該罪行可施行的懲處一同執行，也可以取代有關罰則。

6. 法案委員會的一名委員建議，除了對觸犯「輕微」交通罪行的司機施加的懲罰外，法庭不應獲授權命令觸犯了這類交通罪行的司機修習駕駛改進課程(輕微交通罪行指會引致司機被記違例駕駛分數 5 分或以下的罪行)。另一方面，對於觸犯「嚴重」交通罪行的司機(嚴重交通罪行指會引致司機被記違例駕駛分數 5 分以上的罪行)，法庭除施加其他懲處外，還可強制他們修習駕駛改進課程。

7. 觸犯不同交通罪行而引致的違例駕駛分數各有不同，有關記分只是顯示有關罪行相對的嚴重程度的其中一個指標。罪行的嚴重程度，須視乎觸犯罪行時的情況而定。舉例來說，一名司機在一條滿是行人的道路上超速 16 公里，與另一名在一條偏遠而人車稀少的道路上超速 46 公里的司機相比，雖然後一項罪行會引致司機被扣 10 分，而前一項罪行只會被扣 3 分，但前者所犯的罪行並不一定對其他道路使用者構成較低危險。

8. 法庭有責任確保所施加的罰則與被定罪人士所犯罪行的嚴重程度相稱。擬議的第 72A 條只是讓法庭可有彈性地視乎每宗交通違例案件的性質和情況，在認為適當的情況下，命令有關人士修習駕駛改進課程。

9. 讓法庭可有彈性地在施加的罰則外，同時要求被定罪人士修習駕駛改進課程，或以修習課程取代罰則的建議，已於美國、加拿大和新西蘭等國家推行，而駕駛改進課程在上述國家亦已實行了二十多年。有關條文載於附件 A 至 D。

已被記 11 至 14 分的職業司機分項數字

10. 根據我們的統計資料，截至二零零一年十一月二十六日，被記違例駕駛總分數為 11 至 14 分的各類車輛駕駛執照數目如下：

車輛種類	被扣違例駕駛總分數為 11 至 14 分的駕駛執照數目
重型貨車	2 084
中型貨車	2 086
輕型貨車	6 990
私家巴士	2 015
私家小巴	1 594
公共巴士 — 非專利	2 014
公共巴士 — 專利	71
公共小巴	1 573
的士	1 724
總數	20 151

11. 不過，由於司機可以通過駕駛考試獲發牌駕駛超過一類車輛，20 151 這個數字並非被記 11 至 14 分的職業司的機實際數目。此外，該等被扣 11 至 14 分的司機在累積分數期間或曾駕駛不同種類的車輛。

政府總部
運輸局
TRAN 3/7/28 Pt7
二零零一年十一月二十七日

Extracted from the Statutes of the State of Minnesota, USA

Chapter Title: TRAFFIC REGULATIONS

Section: 169.89

Text:

169.89 Penalties.

Subdivision 1. Violation. Unless otherwise declared in this chapter with respect to particular offenses, it is a petty misdemeanor for any person to do any act forbidden or fail to perform any act required by this chapter; except that: (a) a violation which is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property; or (b) exclusive of violations relating to the standing or parking of an unattended vehicle, a violation of any of the provisions of this chapter, classified therein as a petty misdemeanor, when preceded by two or more petty misdemeanor convictions within the immediate preceding 12-month period; is a misdemeanor to which the provisions of subdivision 2 shall not apply.

Subd. 2. Petty misdemeanor penalty; no jury trial. A person charged with a petty misdemeanor is not entitled to a jury trial but shall be tried by a judge without a jury. If convicted, the person is not subject to imprisonment but shall be punished by a fine of not more than \$300.

Subd. 3. Obsolete

Subd. 4. Driver's record. When a person is arrested for a violation of any provision of this chapter, or a violation of any provision of a city ordinance regulating traffic, the court before whom the matter is heard shall determine the driver's record of the person from the commissioner of public safety before pronouncing sentence and the expense incident to the procurement of this information is taxable as costs upon the conviction.

Subd. 5. Driver improvement clinic; attendance. In conjunction with or in lieu of other penalties provided by law for violation of this chapter or a municipal ordinance enacted in conformance thereto, the trial court may in its judgment of conviction order the convicted person to attend and satisfactorily complete a course~~s~~ of study at an approved ~~driver~~
~~improvement~~ clinic or youth-oriented ~~driver~~
~~improvement~~ clinic. The commissioner of public safety may, upon the motion of the commissioner of public safety or upon recommendation of the court, suspend, for a period of not to exceed 30 days, the operator's license, provisional license, permit, or nonresident operating privilege of any person who fails or refuses to comply with an order to attend an approved driver improvement clinic or youth-oriented driver improvement clinic. The requirement of attendance at an approved driver improvement clinic or youth-oriented driver improvement clinic is not a fine.

imprisonment, or sentence within the meaning of section 609.02. The court may not order a convicted person to attend any driver improvement clinic or youth-oriented driver improvement clinic which is located more than 35 miles from the person's residence. For the purposes of this section "an approved driver improvement clinic or youth-oriented driver improvement clinic" means a clinic whose curriculum and mode of instruction conform to standards promulgated by the commissioner of public safety.

HIST: (2720-281) 1937 c 464 s 131; 1939 c 430 s 27; 1947 c 428 s 34; 1965 c 711 s 5; 1969 c 118 s 1; 1969 c 1129 art 1 s 18; Ex1971 c 27 s 15; 1973 c 123 art 5 s 7; 1973 c 421 s 2; 1979 c 233 s 1; 1980 c 520 s 2; 1986 c 444; 1994 c 636 art 2 s 3; 1998 c 388 s 2; 2000 c 488 art 5 s 1

Annex B

Extracted from the Statutes of the State of Virginia, USA

46.2-505. Court may direct defendant to attend driver improvement clinic.

Any circuit or general district court or juvenile court of the Commonwealth, or any federal court, charged with the duty of hearing traffic cases for offenses committed in violation of any law of the Commonwealth, or any valid local ordinance, or any federal law regulating the movement or operation of a motor vehicle, may require any person found guilty, or in the case of a juvenile found not innocent, of a violation of any state law, local ordinance, or federal law, to attend a **driver improvement** clinic. The attendance requirement may be in lieu of or in addition to the penalties prescribed by 46.2-113, the ordinance, or federal law. The court shall determine if a person is to receive safe driving points upon satisfactory completion of a **driver improvement** clinic conducted by the Department or by any business, organization, governmental entity or individual certified by the Department to provide **driver improvement** clinic instruction. In the absence of such notification, no safe driving points shall be awarded by the Department.

Persons required by the court to attend a **driver improvement** clinic shall notify the court if the **driver improvement** clinic has or has not been attended and satisfactorily completed, in compliance with the court order. Failure of the person to attend and satisfactorily complete a **driver improvement** clinic, in compliance with the court order, may be punished as contempt of such court.

(1974, c. 453, 46.1-514.18; 1989, c. 727; 1995, c. 672.)

Extracted from the Statutes of Saskatchewan, Canada

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c. T-19.1 TRAFFIC SAFETY COURT OF SASKATCHEWAN, 1988

(3) No provision of this Act limits or otherwise affects the power of a presiding justice of the peace pursuant to any other Act or law.

1988-89, c.T-19.1, s.7; 1997, c.38, s.3.

Powers of traffic justice

8(1) In this section, "driver improvement program" means a course of study or instruction for the improvement of the knowledge, attitudes and skills of persons in the operation of motor vehicles that is approved by the Lieutenant Governor in Council.

(2) Where a person is convicted pursuant to this Act of an offence mentioned in clause 7(1)(a), the traffic justice may, notwithstanding any other Act or law in force in Saskatchewan prescribing a fine or penalty for the offence:

(a) suspend the passing of sentence on the person;

(b) impose on the person the prescribed fine or penalty with respect to the offence but suspend the operation of the sentence and direct the person to attend a driver improvement program;

(c) impose on the person the prescribed fine or penalty with respect to the offence, direct the person to attend a driver improvement program and, in any case where the traffic justice considers it appropriate, reduce the fine or penalty so imposed or order that no fine or penalty be paid with respect to the offence;

(d) impose no fine or penalty on the person for the offence but direct the person to attend a driver improvement program.

(3) A traffic justice may:

(a) summon a person who does not attend a driver improvement program as directed by the traffic justice pursuant to clause (2)(b), (c) or (d) to appear before the traffic justice; and

(b) in the absence of an explanation from the person mentioned in clause (a) for his not attending the driver improvement program that, in the opinion of the traffic justice, is reasonable, impose on the person the prescribed fine or penalty for the offence.

1988-89, c.T-19.1, s.8.

Extracted from the Statutes of New Zealand

Transport Act 1962 135

Commenced : 1 May 1963

V : Road Traffic

Miscellaneous Provisions with Respect to Motor Driving

68 Power of Court to order attendance at traffic improvement of defensive driving course

[68. Power of Court to order attendance at traffic improvement or defensive driving course---(1) Where any person is convicted of an offence against this Part of this Act or of any other offence (whether against this Act or any other enactment or any bylaw) in connection with the driving of a motor vehicle, the Court may, whether or not it imposes any other penalty in respect of the offence, order that person to attend---

- (a) A course of instruction at a traffic improvement school approved under section 39A of this Act; or
- (b) A course conducted by a defensive driving organisation approved under section 39A of this Act.

(2) Any person who has been ordered under subsection (1) of this section to attend a course shall, within 21 days after being required to do so, pay to the person in charge of the course the fee usually charged for that course.

(3) Every person commits an offence who, having been ordered to attend a course,---

- (a) Fails to attend the course in accordance with the order; or
- (b) Fails to pay any fee that he is required to pay under subsection (2) of this section.]

This section was substituted for the original s. 68 (as variously amended) by s. 18 (1) of the Transport Amendment Act (No. 3) 1983.