

**For discussion
24 February 2006**

LEGISLATIVE COUNCIL PANEL ON TRANSPORT

Measures to Combat Drink Driving and the Use of Hand-held Mobile Phone While Driving

Purpose

This paper sets out the existing legislation and measures to combat drink driving and the use of hand-held mobile phone while driving.

Drink Driving

Legislation

2. The drink driving legislation was introduced in December 1995. Under Section 39 of the Road Traffic Ordinance (Cap. 374), a person who drives with an alcohol concentration exceeding the prescribed limit will be liable to a maximum fine of \$25 000 and 3 years' imprisonment, and will incur 10 driving-offence points¹. The offender will be disqualified from driving for not less than 2 years for a second or subsequent conviction. The prescribed limit set in December 1995² was tightened in October 1999 to achieve a greater deterrent effect. The current prescribed limit is –

- 50 milligrams of alcohol per 100ml of blood; or
- 22 micrograms of alcohol per 100ml of breath; or

¹ Where 15 or more points have been incurred by a person within a period of 2 years, he shall be disqualified from holding or obtaining a driving licence (a) for a period of 3 months if no previous disqualification has been imposed on him; and (b) for a period of 6 months if any previous disqualification has been imposed on him under the Road Traffic (Driving Offence Points) Ordinance (Cap 375).

² The prescribed limit in 1995 was -

- 80 milligrams of alcohol per 100ml of blood; or
- 35 micrograms of alcohol per 100ml of breath; or
- 107 milligrams of alcohol per 100ml of urine.

- 60 milligrams of alcohol per 100ml of urine.

Enforcement

3. The Police have been taking active enforcement actions against drink driving. Major enforcement campaigns are conducted during festive seasons when drink driving is more common. The number of prosecutions against drink driving increased from 649 in 1996 to 1 321 in 2005.

Education and Publicity

4. The Road Safety Council has produced publicity materials to enhance public awareness of the serious consequences of drink driving. Leaflets are distributed to motorists through the Transport Department, driving test centres and District Offices. Television and Radio Announcements of Public Interest are regularly broadcast. The Police also launch publicity programmes to tie in with major enforcement operations during festive seasons.

Drink Driving Accident Statistics

5. Following the introduction of the drink driving legislation in December 1995, there has been a marked decrease in the percentage of drink driving accidents among all traffic accidents, from 10.2% in 1996 to 2.8% in 2001 and to 2% in 2005. The number of night-time (8 pm to 8 am) fatal traffic accidents³ has also decreased, from 112 in 1995 to 46 in 2005.

6. While the percentage of drink driving accidents has dropped to a relatively low level, between 2001 and 2005, drink driving accidents accounted for an average of 10.6% of all fatalities⁴ in traffic accidents. During the same period, the average fatality rate⁵ of drink driving accidents was 3%, which was higher than the average of 0.9% for all traffic accidents. Similarly, the average

³ Drink driving is more common from 8 pm to 8 am.

⁴ Fatalities are defined as deaths within 30 days of the accidents.

⁵ The fatality rate refers to the percentage of total fatalities over total casualties.

Killed and Serious Injuries (KSI)⁶ rate of drink driving accidents was 22.4%, compared with 16.6% for all traffic accidents.

7. Although the above statistics may not be conclusive, it appears that the drink driving legislation does have some effect in reducing the number of drink driving traffic accidents. We also notice that if there are drink driving accidents, it is likely that they may lead to higher casualties than other accidents.

Overseas Practices

Legal Limit of Blood Alcohol Concentration

8. In comparing the legal limit of Blood Alcohol Concentration (BAC), we note that 80 mg and 50 mg per 100 ml of blood are the most commonly adopted limits in overseas countries⁷. The prescribed level in Hong Kong (50 mg per 100 ml of blood) is thus rather stringent. Only a few countries adopt a lower limit than that of ours.

Penalties for Drink Driving

9. We have compared the penalties for drink driving in Hong Kong with those overseas. Details are at **Annex A**. Briefly, the maximum fines for this offence in overseas countries range from HK\$2 000 to HK\$75 000 and the years of imprisonment range from zero to 3. The demerit points for the offence vary from 3 to 25 on first conviction. Some countries would suspend the driving licences of offenders for 3 months, while others would cancel the licences. There are heavier penalties for the second or repeated convictions. We note that the penalty levels in Hong Kong are comparable to those of other countries.

⁶ Serious injuries are casualties detained in hospital as “in-patients” for over 12 hours after the traffic accidents. KSI rate is the percentage of KSI casualties over total casualties.

⁷ Countries adopting a BAC level of 80 mg per 100 ml of blood include Italy, Canada, Singapore, UK, and some states of USA. Those adopting a BAC level at 50 mg per 100 ml of blood include Australia, Austria, Belgium, Denmark, Germany and France.

Measures to Consider

Legislation

10. We consider the existing legal limit of BAC adequate and appropriate to combat drink driving. The presence of the drink driving legislation has also been successful in reducing accidents and night-time fatal traffic accidents. There are however suggestions that in view of the relatively higher death and KSI rates for drink driving accidents, the Government should consider suspending the offender's driving licence upon first conviction. We consider that the drink driving situation has improved and may not warrant such a measure. We will continue to monitor closely the relevant accident and prosecution statistics. Should the drink driving problem deteriorate, we will consider additional measures, including examining the feasibility and implications of this proposal.

Enhanced Education and Publicity

11. Apart from advising motorists that drink driving is dangerous, we will further enhance education and publicity by taking the following measures –

- (a) enrich the module on drink driving in driver training / improvement programmes;
- (b) educate students in tertiary institutions, who are potential drivers, of the dangers of drink driving; and
- (c) incorporate messages against drink driving in the publicity campaigns on smart driving.

12. We will continue to foster social norms of disapproving drink driving and warn motorists of the likely consequences of such behaviour.

Random Breath Testing

13. Currently, the Police are empowered to require a person to provide a specimen of breath for the screening test if he is involved in a traffic accident, or

commits a moving traffic offence or is suspected of drink driving. There have been suggestions that Random Breath Testing (RBT) should be introduced to increase the deterrent effect. RBT refers to the setting up of roadside testing sites, with the Police randomly stopping vehicles and requiring drivers to take the breath test, even if there is no prior traffic accident, or even suspicion of their committing drink driving. The locations and times for the testing sites vary. The Police would have to be empowered to require a driver to carry out such a test on a mandatory basis.

14. While RBT would have a stronger deterrent effect on potential offenders, we are aware that there are concerns about Police power, human rights, public acceptability, as well as practical problems, such as congestions and higher possibility of conflicts between the Police and the public. We also note that in overseas countries, there is no consensus in this regard. For instance, RBT is practised in Australia, France, Belgium, Sweden, the Netherlands and New Zealand but not in Singapore, Germany, Canada and the United Kingdom.

15. Given the many considerations involved, we are hesitant about introducing RBT in Hong Kong in the near future. We will, however, continue to monitor overseas practices and new developments in this regard.

Use of Mobile Phone While Driving

Legislation

16. The prohibition against the use of hand-held mobile phones while driving came into force in July 2000. The prohibition was extended to the use of hand-held telecommunications equipment in July 2001. As the number of this offence increased substantially in recent years, we have included this offence in the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance on 1 January 2006, so that prosecution can be done by way of fixed penalty tickets.

Enforcement

17. The Police have been taking active enforcement actions against this

offence⁸. The number of prosecutions has jumped from 2 988 in 2001 to 7 813 in 2005. The new legislation was implemented on 1 January 2006. In that month alone, 1 547 fixed penalty tickets were issued. This is more than 50% of the total number of prosecutions in 2002 and almost 20% of that in 2005, and to some extent shows that the use of fixed penalty tickets is an effective enforcement means. However, more time would be needed to observe whether enhanced enforcement actions would be more effective in combating the offence.

Education and Publicity

18. The Police have been conducting on-street education and publicity campaigns, seminars and talks to remind the public of safety problems involving the use of hand-held telecommunications device while driving. Television and Radio Announcements of Public Interest on this theme are regularly broadcast. Publicity leaflets are also distributed to motorists. We will continue our efforts in this regard.

Accident Statistics

19. In the past 5 years, less than 3 drivers involved in traffic accidents each year were found to be using mobile phone while driving. However, we are mindful that the very low figure is partly attributable to the difficulty in ascertaining whether the drivers are using mobile phones at the time of the accidents.

Penalties for use of hand-held mobile phone while driving

20. We have compared the penalty for the use of mobile phones while driving in Hong Kong with those in overseas countries. Details are at **Annex B**. The fines for the offence in Hong Kong are HK\$450 to \$2 000, which are comparable to the level of fines (from HK\$360 to HK\$2 500) in other countries.

⁸ The numbers of prosecutions for using handheld mobile phone or telecommunications equipment while the vehicle is in motion in the past few years are –

2001	2 988
2002	3 818
2003	6 188
2004	7 640
2005	7 813

Next Steps

21. To recap, for drink driving, we will take the following measures —
- (a) continue to step up enforcement actions, particularly during festive seasons;
 - (b) continue to carry out education and publicity campaigns;
 - (c) continue to monitor the accident and prosecution statistics; and
 - (d) monitor overseas practice and new developments in regard to RBT.
22. As for the use of hand-held mobile phones while driving, we will take the following steps —
- (a) continue to take active enforcement actions;
 - (b) continue to carry out education and publicity campaigns; and
 - (c) review the effectiveness of the new legislation.

Advice Sought

23. Members are invited to note the content of the paper.

Summary of Penalties for Drink Driving Offences

Country/State /Province & Prescribed Limits	Penalties for first offence					Penalties for second offence				
	Fine		Imprisonment	Licence suspension	Demerit points	Fine		Imprisonment	Licence suspension	Demerit points
	Local Currency	HKD				Local Currency	HKD			
Hong Kong										
BAC: \geq 50 mg /100ml of blood	\leq \$25 000	\leq \$25 000	\leq 3 yrs	No	10	\leq \$25 000	\leq \$25 000	\leq 3 years	\geq 2 years	10
New South Wales (Australia)										
BAC : 50 to 80 mg /100ml of blood	\$1 100	\$6 600	N.A.	3 - 6 months	3	\$2 200	\$13 200	N.A	6 months to unlimited	3
BAC : 80 to 150 mg /100ml of blood	\$2 200	\$13 200	\leq 9 months	6 months to unlimited		\$3 300	\$19 800	\leq 1 year	1 year to unlimited	
BAC : \geq 150 mg /100ml of blood	\$3 500	\$21 000	\leq 18 months	1 year to unlimited		\$5 500	\$33 000	\leq 2 years	2 years to unlimited	
Singapore										
BAC : \geq 80 mg /100ml of blood	\$1 000 - \$5 000	\$4 700 - \$23 500	\leq 6 months	\geq 1 year	N.A	\$3 000 to \$10 000	\$14 100 - \$47 000	\leq 1 year	\geq 1 year	N.A.
Quebec (Canada)										
BAC : \geq 80 mg /100ml of blood	\geq \$600	\geq \$3 800	N.A.	1 year	4	N.A	N.A.	\geq 14 days (\geq 3 months for 3 rd or more offence)	3 years (5 years for 3 rd or more offence)	4
UK										
BAC : \geq 80 mg /100ml of blood	\leq £5 000	\leq \$75 000	\leq 6 months	\geq 1 year	3-11	\leq £5 000	\leq £75 000	\leq 6 months	\geq 3 years	3-11

Country/State /Province & Prescribed Limits	Penalties for first offence					Penalties for second offence				
	Fine		Imprisonment	Licence suspension	Demerit points	Fine		Imprisonment	Licence suspension	Demerit points
	Local Currency	HKD				Local Currency	HKD			
New Zealand										
BAC : \geq 80 mg /100ml of blood	\leq \$4 500	\leq \$25 650	\leq 3 months	\geq 6 months	Note 1	\leq \$4 500 (\leq \$6 000 for 3 rd or more offence)	\leq \$25 650 (\$34 200 for 3 rd or more offence)	\leq 3 months (\leq 2 years for 3 rd or more offence)	\geq 6 months (\geq 1 year for 3 rd or more offence)	Note 1
Arizona (USA)										
BAC : 80 to 150 mg /100ml of blood	\geq \$250	\geq \$2 000	\geq 10 days	\geq 3 months	8	\$500-\$750	\$4 000 - \$6 000	3- 8 months	1 - 3 years	8
BAC : \geq 150 mg /100ml of blood			\geq 1 month			\geq \$500	\geq \$4 000	\geq 4 months	\geq 1 year	
Japan										
BAC: 34 to 57 mg /100ml of blood (Driving under influence)	Max. of 1 year imprisonment or a fine of up to 0.3M yen (HK\$22 350)			\leq 2 years	6	Information not available				
BAC: \geq 57 mg /100ml of blood (Driving under influence)					13					
Seriously Impaired (Driving drunk)	Max. of 3 years imprisonment or a fine of up to 0.5M yen (HK\$37 250)			2 years	25					

Note 1 : In New Zealand, 50 demerit points will be accrued for offenders who are under the age of 20 -

- who drive or attempt to drive with excess alcohol in breath or blood;
- who fail or refuse to wait for result of a breath screening test;
- who fail or refuse to take evidential breath test or blood test.

However, there is no demerit points accrued for offenders who are 20 years of age or above driving with excess alcohol in breath or blood.

Fines for Using Mobile Phone While Driving

Countries/State/Province	Fine	
	Local Currency	HKD
Hong Kong	450 (fixed penalty tickets) to 2 000	450 – 2 000
South Korea	47	360
Queensland, Australia	225	1 300
Western Australia	100	570
UK	30 up to 1 000 (2 500 for drivers of lorries, buses and coaches)	400 – 13 500 (33 500 for drivers of lorries, buses and coaches)
Newfoundland, Canada	200	1 400
Denmark	300	400
France	40	370