

立法會
Legislative Council

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Bills Committee on Road Traffic (Amendment) Bill 2021

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Road Traffic (Amendment) Bill 2021 ("the Bill"), and gives a brief account of the relevant discussion held by the Panel on Food Safety and Environmental Hygiene ("the Panel").

Background

Existing provisions concerning drivers' duty to stop in case of traffic accidents involving an animal

2. At present, section 56(1)(b)(ii) of the Road Traffic Ordinance (Cap. 374) ("RTO") provides that the driver of a vehicle shall stop if an accident involving that vehicle occurs whereby damage is caused to an animal other than an animal in or on that vehicle or a trailer drawn by it. Under section 56(4) of RTO, "animal" is defined to mean any horse, cattle, ass, mule, sheep, pig or goat.

3. Sections 56(2) and 56(2A) of RTO further stipulate that the driver shall, if required, give his particulars¹ to any police officer or any person having reasonable grounds for so requiring such information; otherwise, he shall report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable and in any case not later than 24 hours after the accident. Any person who contravenes section 56(1), (2) or (2A) of RTO commits an offence and is liable to a fine of \$15,000 and to imprisonment for six months.

¹ The particulars include (a) the driver's name and address; (b) the name and address of the owner of the vehicle; and (c) the registration or identification mark or number of the vehicle.

Proposal to improve the welfare of animals involved in traffic accidents

4. According to the Administration, the number of cats and dogs kept by the public has been increasing in recent years. Concomitant with the increase, the risk of these animals going astray or being abandoned and getting injured or killed after being hit by vehicles has gone up. There has been growing public concern that since drivers are not required under the current legislation to stop the vehicle in case of accidents involving damage to cats or dogs, the injured cats and dogs may not be able to receive timely attention and medical treatment.²

5. After conducting a public consultation exercise in 2018, the Administration has proposed to amend RTO to expand the definition of "animal" and to require drivers to stop the vehicle if they hit cats or dogs, so that cats and dogs injured in traffic accidents may receive more timely attention and medical treatment. This will help reduce such accidents and further safeguard animal welfare.

The Road Traffic (Amendment) Bill 2021

6. The Administration introduced the Bill into the Legislative Council ("LegCo") on 24 February 2021. The main purpose of the Bill is to add "cat" and "dog" to the definition of "animal" under section 56 of RTO, such that the driver of a vehicle must stop and comply with certain requirements if, because of the vehicle, an accident occurs and causes damage to an animal as defined in that section.

Relevant discussion held by the Panel

7. The Panel was consulted on the legislative proposal at the meeting on 8 May 2018. Members' major views and concerns are summarized below.

Scope of definition of "animal"

8. Members in principle supported the Administration's proposal to expand the scope of "animal" under section 56 of RTO to require a driver to stop the vehicle in case of a traffic accident involving damage to a cat or dog, as it would afford better protection to these animals. Some members, however, expressed concern that for conservation of migratory species of wild animals, such as monkey and wild boar, the Administration should further review the need to enhance the protection for common community animals. A motion to that effect (see **Appendix I**) was passed by the Panel.

² At present, if the Police receives any reports on injuries to animals in traffic accidents, it will inform, and solicit assistance from, the Agriculture, Fisheries and Conservation Department ("AFCD") and/or the Society for the Prevention of Cruelty to Animals.

9. In response, the Administration advised that it had studied the relevant practices and related legislation in other highly urbanized places as Hong Kong, including Singapore, the United Kingdom ("UK") and New York State of the United States of America. The Administration found that the relevant legislative provisions in Singapore and UK were similar to the current section 56 of RTO, except that theirs covered dogs as well. The relevant legislation in New York, on the other hand, covered both cats and dogs, among others. Having regard to the international trend, the Administration saw merits to update RTO by bringing cats and dogs under the coverage of section 56 thereof.

10. The Administration further explained that horse, cattle, ass, mule, sheep, pig and goat were classified as "domestic animals" having high economic value to the owners in the old days when Hong Kong had not yet undergone rapid development and urbanization and its economic activities yet transformed from agricultural to industrial. The legislative intent of section 56(1)(b)(ii) of RTO was to protect the interests of livestock owners, facilitating, among others, the seeking of compensation from the drivers concerned for the former's loss incurred from traffic accidents causing damage to their domestic animals. Since wild animals (including monkeys and wild boars as referred to by some members) were not kept specifically by any individual (i.e. without owner), their inclusion under RTO would be out of context. That said, the Administration noted the different views over the scope of "animal" defined in RTO and the need to step up protection for certain types of wild animals.

Drivers' legal responsibility

11. Some members pointed out that in the rural areas of the New Territories, animals wandering or straying on the streets was commonplace, and it was difficult for drivers to see moving objects (including cats and dogs) clearly particularly at night time. Concern was raised about what additional legal responsibility the drivers would have if the new requirements (to stop the vehicle if an accident involving that vehicle and causing damage to a cat or dog occurred, and to report the accident to the nearest police station no later than 24 hours after the accident) were imposed.

12. According to the Administration, the above proposal meant to require drivers to stop and report to the Police in case of a traffic accident involving damage to a cat or dog. The knocking down or killing of a cat or dog in a traffic accident *per se* was not an offence. The Administration, however, stressed that acts of cruelty to animals and negligence in taking care of the animals would amount to an offence under the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO"). Under PCAO, any person who cruelly beat, kicked, ill-treated, over-rode, over-drove, over-loaded, tortured, infuriated or terrified any animal, or by wantonly or unreasonably doing or omitting to do any act, caused any unnecessary suffering to any animal committed an offence and should be liable on conviction to a fine of \$200,000 and imprisonment for three years. In other words, if a driver intentionally caused suffering to an animal (including

cats and/or dogs) by knocking it down and leaving the scene, he/she might, subject to the evidence available, be liable to prosecution under PCAO.

Enforcement and publicity

13. There were suggestions that the Administration should enhance publicity on the new requirements in the future, and AFCD should work with relevant departments to ensure effective handling of traffic accidents involving damage to animals (including securing timely and appropriate veterinary treatment for the animals). Some members pointed out that the problem of speeding was quite serious on some roads, resulting in the knocking down or killing of animals by vehicles from time to time. In these members' views, the Administration should consider further measures, such as erecting purpose-designed road signs and/or installing speed enforcement cameras, to reduce the number of accidents involving damage to animals at traffic black spots.

14. According to the Administration, after the passage of the legislative amendment, it would, before the amendment took effect, launch a series of publicity activities including (a) distributing posters and leaflets and publicizing relevant information on the website through departments such as AFCD, the Transport Department, the Hong Kong Police Force and the Home Affairs Department, and (b) making announcements at the Road Safety Council's Road Safety Bulletin for all road users' information.

15. Concern was also expressed that as the number of cases reported to the Police concerning traffic accidents involving injuries to cats and dogs would likely increase after the passage of the legislative amendment, the Administration should critically assess the resources requirements for the Police to enforce the proposed new provision(s).

16. In response, the Administration advised that as RTO currently did not require drivers to stop their vehicles or report to the Police on traffic accidents involving cats and dogs, the Police did not keep statistics on cases of such a nature and hence was unable to make an assessment on additional resources needed. The Administration, nevertheless, assured members that it was mindful that additional resources might be required for the Police to provide services for reported cases of traffic accident involving damage to a cat or dog. Where necessary, it would submit bids for additional manpower according to the standing procedures.

Relevant papers

17. A list of the relevant papers on the LegCo website is in **Appendix II**.

食物安全及環境衛生事務委員會
Panel on Food Safety and Environmental Hygiene

在 2018 年 5 月 8 日的會議上就
議程項目 V"《道路交通條例》(第 374 章)的修訂建議
(涉及貓和狗的意外)"通過的議案

Motion passed under agenda item V "Proposed amendments to
the Road Traffic Ordinance (Cap. 374) (accidents involving cats and dogs)"
at the meeting on 8 May 2018

(議案中文措辭)

本事務委員會要求政府當局將猴子及(非家畜)野豬等本港常見的社區動物亦一併納入《道路交通條例》(第 374 章)第 56 條第(4)款的涵蓋範圍，以進一步保障本港社區動物的安全。

動議人：毛孟靜議員

(English translation of the motion)

This Panel requests the Administration to also include common community animals in Hong Kong such as monkeys and non-domesticated wild boars under the scope of section 56(4) of the Road Traffic Ordinance (Cap. 374), so as to enhance the protection of local community animals.

Moved by: Hon Claudia MO

Appendix II

Relevant papers on Road Traffic (Amendment) Bill 2021

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	8.5.2018 (Item V)	<u>Agenda</u> <u>Minutes</u>
	26.6.2018*	Administration's response to the motion passed at the Panel meeting on 8 May 2018 (paragraphs 5 and 6 of LC Paper No. <u>CB(2)1693/17-18(01)</u>)
	4.9.2018*	Administration's response to issues raised at the Panel meeting on 8 May 2018 (Annex E to LC Paper No. <u>CB(2)1977/17-18(01)</u>)

* Issue date