

立法會
Legislative Council

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**Panel on Transport
Meeting on 15 July 2022**

Background brief on legislative proposals to enhance road safety

Purpose

This paper provides background information on the Administration's legislative proposals to enhance road safety by (a) tightening the use of mobile phones by drivers while driving; (b) tightening the requirement on the use of child restraint devices ("CRDs") by child passengers in private cars; (c) extending the mandatory installation and wearing requirement of seat belts; and (d) mandating cyclists to wear protective helmets. It also summarizes the major views and concerns expressed by members of the Panel on Transport ("the Panel") on the above subjects.

Background

Motorists' use of mobile communication devices while driving

2. Under the Road Traffic (Traffic Control) Regulations (Cap. 374G), if a motor vehicle being driven by a motorist is in motion, it is an offence for the motorist to use a mobile phone while holding it in his hand or between his head and shoulder, or use other telecommunications equipment while holding it in his hand. In addition, under the Road Traffic Ordinance (Cap. 374), if a motorist uses a mobile phone or other smart device while driving in such a way as to affect his driving, he may have committed the offence of "dangerous driving" or "careless driving", even if he is using a hands-free device and irrespective of whether his driving has caused a traffic accident. Simply placing of mobile phones on the dashboard, irrespective of the number, does not contravene any provisions under the Road Traffic Ordinance.

3. There has been public concern about motorists, particularly taxi drivers, placing several mobile phones on the dashboard while driving. The Transport

Department (“TD”) is conducting a study on the technology development in mobile phones and vehicle devices as well as the change in users’ habits. It is considering the direction of regulating the number and location of mobile phones to be placed by motorists, and the mode in which the mobile phone is used as well as the purpose of using it, etc.

Requirement on the use of CRDs

4. Under the Road Traffic (Safety Equipment) Regulations (Cap. 374F), a child of 2 years of age or less must be restrained by an approved CRD when travelling in the front seat of a private car. A child passenger of 2 years of age or less travelling in the rear seat is also required to use a CRD if one is fitted. There is no statutory requirement to mandate the installation of CRD in the rear seat of a private car for child passengers.

5. TD published an updated version of the Road Users’ Code in June 2020, which includes a newly added section on “Child Safety in Cars”. The section sets out the prevailing statutory requirements, instructions and rules concerning the use of CRD.

6. The Administration briefed the Panel at its meeting on 20 December 2013 on its proposal to tighten the mandatory requirement on the use of CRD in private cars and recommended using body height and age as the criteria concerned. The Administration then commenced the formulation of the legal framework.

Installation and wearing of seat belts on franchised buses

7. The Committee on Enhancement of Franchised Bus Safety (chaired by TD) was formed in early 2019 to discuss, study, implement and promote measures to further enhance franchised bus safety in Hong Kong. One of the enhancement measures taken forward by all franchised bus operators include the installation of in-vehicle safety devices.

8. Under this measure, all new double-deck buses procured from July 2018 are equipped with seat belts on all passenger seats. For the existing buses, franchised bus operators planned to install seat belts on all seats on the upper deck of around 1 900 buses. Installation works have commenced in the third quarter of 2020 for target completion in three years.

Wearing of bicycle helmets

9. At present, there is no mandatory requirement for cyclists to wear bicycle helmets in Hong Kong. TD has consulted various trades and stakeholders, including cycling clubs, automobile associations, driving centres, transport and logistics sectors, medical groups, operators of shared bicycles and food delivery operators, from April to May 2022 regarding whether it should be a mandatory requirement and is now collating and analysing the views collected.

Major views and concerns of members

Motorists' use of mobile communication devices while driving

10. The Panel was briefed by the Administration at its meeting on 28 February 2014 on the actions taken by the Administration to address members' concern over the alleged simultaneous use of a number of smart phones while driving by some taxi drivers. The Administration advised that regulating the operation of mobile phones with fingertips while driving and the number of mobile phones placed inside vehicles might affect not only taxi drivers but also all commercial vehicles and other drivers.

11. Several members opined that drivers were bound to be distracted to a certain extent by operating smart phones while driving, and that the Administration should enact legislation to regulate the act of taxi drivers operating smart phones while driving as soon as practicable, not until it was proven that there was a correlation between such act and traffic accidents. A member pointed out that the purpose of the existing legislation forbidding a driver holding a mobile telephone in his hand or between his head and shoulder while driving was to avoid causing distraction to the driver. He considered that regulating the use of mobile phones in other forms should achieve the same legislative intent.

12. There was a view that the taxi trade understood the genuine need for some drivers to use mobile phones while driving and hence the trade only requested to restrict the number of mobile phones placed inside vehicles to combat the discount gangs, who solicited business by making use of taxi-hiring service mobile applications. Another member opined that the Administration should regulate or limit the number of smart phones fixed on the dashboard to one or two, which would meet the needs of an ordinary person.

Requirement on the use of CRDs

13. The Administration briefed the Panel at its meeting on 20 December 2013 on the proposal to raise the mandatory requirement of using child restraint device in private cars. Members generally supported the said proposal.

14. A member raised concerns over the financial burden which would be imposed on private car owners if the standards of CRDs were set too high, resulting in high cost of CRDs. The Administration replied that with the introduction of the new safety requirements, there would be more models of CRDs available in the market and the prices of CRDs might be lowered.

15. Regarding the question of the application of the proposed legislative requirements on drivers who carried child passengers occasionally and during emergencies, the Administration responded that in view of the envisaged difficulties in law enforcement, it would not consider exempting drivers occasionally carrying child passengers from the CRD requirements. In case of emergencies but no CRD was available in a private car, the Administration advised that the use of other modes of transport could be an option.

Installation and wearing of seat belts on franchised buses

16. The Administration briefed the Panel at its meeting on 20 March 2020 on the follow-up actions taken by the Administration in relation to the recommendations put forth in the Report submitted by the Independent Review Committee on Hong Kong's Franchised Bus Service to the Chief Executive, which included the enhancement of safety of franchised buses. A member recommended that all franchised bus should be retrofitted with seat belts as well as seat belt sensors to alert bus captains those passengers who did not wear seat belts properly by means of buzzing sound or lights. The Administration took note of the member's suggestion.

17. At the Panel meeting on 18 June 2021, members were briefed on the status of the franchises of three of the five franchised bus companies, which included the safety measures adopted by the three franchisees. In response to a member's enquiry on the progress of retrofitting passenger seat belts on franchised buses, the Administration advised that by 2022, about 3,000 new and existing buses would be equipped or retrofitted with passenger seat belts. The Administration said that it would study ways to encourage passengers to wear seat belts, including the installation of suitable devices to remind them.

Wearing of bicycle helmets

18. At the Panel meeting on 28 January 2011, members discussed the Government's policies on promoting cycling safety and cyclists' use of safety equipment in Hong Kong. On the need to mandate the wearing of helmets by cyclists, the Administration advised that only a few jurisdictions had laws requiring all cyclists to wear helmets, and the mainstream overseas practice was to promote use of cycling safety equipment through education and publicity.

19. Members disagreed with the approach and called for more stringent measures to enhance cycling safety as the numbers of bicycle accidents in the past decade were alarming. As cycling activities were gaining popularity in new towns and in new development areas in the New Territories, Members were of the view that it was necessary to require cyclists to wear helmets by legislation. A motion was carried at the above meeting in this regard¹.

20. The Administration briefed the Panel on its measures to promote cycling safety at its meeting on 7 November 2011. In response to a member's suggestion of requiring at least young cyclists to wear helmets on a mandatory basis, the Administration said that such an approach should take into consideration public acceptance, in particular regarding enforcement and prosecution. As regards a members' enquiry on whether the Administration would consider requiring cyclists who used bicycles for commuting to wear helmets on a mandatory basis, the Administration replied that there might be enforcement problems as it would be difficult to differentiate persons cycling for recreational purposes from those cycling for commuting and also because some people cycled for both purposes.

21. Members expressed concern that simply encouraging cyclists to wear helmets voluntarily through education and publicity campaigns might not be effective and once again called for the early enactment of legislation to require the mandatory use of helmets by cyclists riding on public roads.

Latest position

22. The Administration will consult the Panel at its meeting to be held on 15 July 2022 on the legislative proposals for restricting the use of mobile communication devices by drivers while driving, installation and wearing requirement of child restraint devices and seat belts, and the wearing of safety helmets.

¹ The wording of the motion is "That this Panel urges the Government to study the introduction of legislation to require cyclists to wear helmets."

Relevant papers

23. A list of relevant papers is in **Appendix**.

Council Business Division 4
Legislative Council Secretariat
11 July 2022

The legislative proposals to enhance road safety

List of relevant papers

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
7.11.2011	Panel on Transport (“TP”)	Administration's paper on cycling safety	<u>CB(1)227/11-12(04)</u>
		Paper on promotion of cycling safety prepared by the Legislative Council Secretariat (Updated background brief)	<u>CB(1)194/11-12</u>
		Minutes	<u>CB(1)1363/11-12</u>
20.12.2013	TP	Administration's paper on proposal to raise the mandatory requirement of using child restraint device in private cars	<u>CB(1)543/13-14(05)</u>
		Paper on using child restraint device in private cars prepared by the Legislative Council Secretariat (Background brief)	<u>CB(1)543/13-14(06)</u>
		Minutes	<u>CB(1)920/13-14</u>
28.2.2014	TP	Administration's paper on use of smart phones by taxi drivers while driving	<u>CB(1)912/13-14(07)</u>
		Paper on use of smart phones by taxi drivers while driving prepared by the Legislative Council Secretariat (background brief)	<u>CB(1)912/13-14(08)</u>

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
		Minutes	<u>CB(1)1574/13-14</u>
15.2.2017	Council meeting	<u>Hon WONG Ting-kwong raised a question on the use of mobile phones while driving</u>	
31.5.2017		<u>Hon Frankie YICK raised a question on using smart phones/devices while driving</u>	
2.5.2018		<u>Hon Frankie YICK raised a question on placing smart phones/devices on dashboard</u>	
		<u>Dr Hon Pierre CHAN raised a question on child restraint device</u>	
29.5.2019		<u>Hon CHAN Kin-por raised a question on the use of mobile phones or telecommunications equipment while driving</u>	
20.3.2020	TP	Administration's paper on enhancement of safety of franchised buses and creation of directorate posts in the Transport Department	<u>CB(4)378/19-20(06)</u>
		Paper on safety of franchised bus operations prepared by the Legislative Council Secretariat (Updated background brief)	<u>CB(4)378/19-20(07)</u>
		Minutes	<u>CB(4)804/19-20</u>
17.3.2021	Council meeting	<u>Dr Hon Priscilla LEUNG raised a question on cycling safety</u>	
18.6.2021	TP	Administration's paper on franchises of Citybus Limited (Franchise for Airport and North Lantau Bus Network), Long Win	<u>CB(4)1087/20-21(03)</u>

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
		Bus Company Limited and New World First Bus Services Limited	
		Paper on franchises of Citybus Limited (Franchise for Airport and North Lantau Bus Network), Long Win Bus Company Limited and New World First Bus Services Limited prepared by the Legislative Council Secretariat (Updated background brief)	<u>CB(4)1087/2021(04)</u>
		Minutes	<u>CB(4)1335/20-21</u>
23.6.2021	Council meeting	<u>Hon Wilson OR raised a question on child safety in cars</u>	
8.9.2021		<u>Hon Frankie YICK raised a question on drivers' use of mobile phones or tablet computers while driving</u>	
7.10.2021	Research paper	<u>Statutory requirement to use protective child seats in private cars</u>	
11.10.2021	TP	Administration's response to the letter from Hon Elizabeth QUAT on enhancing the safety of taxis	<u>CB(4)1641/20-21(01)</u>
11.4.2022	Research paper	<u>Mandatory usage of bicycle helmets in Singapore</u>	
11.4.2022	Finance Committee	<u>Examination of Estimates of Expenditure 2022-23 THB(T)047</u>	
		<u>Examination of Estimates of Expenditure 2022-23 THB(T)049</u>	

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
22.6.2022		<u>Dr Hon David LAM raised a question on the wearing of helmets by cyclists</u>	

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