Chapter 6
Legislation and Enforcement

INTRODUCTION

6.1 To cultivate a considerate and responsible driving culture, enforcement and public education have to go hand-in-hand. Apart from mounting promotional efforts to change the mindset of the motoring community as set out in Chapter 5, comprehensive legislation and effective enforcement are necessary to combat undesirable driving behaviour. The Panel has reviewed road safety related legislation and enforcement measures to identify areas for further improvement.

LEGISLATION

Traffic offences

6.2 Major traffic offences are provided for in the Road Traffic Ordinance (Cap. 374) and the associated regulations listed in Figure 6.1. The enforcement agents are the Hong Kong Police Force (HKPF).

Figure 6.1 – Road Traffic Ordinance (Cap. 374) and the associated regulations

<table>
<thead>
<tr>
<th>Road Traffic Ordinance (Cap. 374)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 36</td>
<td>Causing death by dangerous driving</td>
</tr>
<tr>
<td>Section 37</td>
<td>Dangerous driving</td>
</tr>
<tr>
<td>Section 38</td>
<td>Careless driving</td>
</tr>
<tr>
<td>Section 39</td>
<td>Drink/drug driving</td>
</tr>
<tr>
<td>Section 39A</td>
<td>Driving with alcohol concentration above the prescribed limit</td>
</tr>
<tr>
<td>Section 41</td>
<td>Driving in excess of speed limit</td>
</tr>
<tr>
<td>Section 55</td>
<td>Restriction on motor racing</td>
</tr>
</tbody>
</table>
6.3 To ensure that Hong Kong’s road safety regime is on par with international standards and meets the changing needs of the community, the Panel notes that the Government has kept relevant legislation under constant review. Amendments have been introduced in previous years to curb undesirable driving habits and to raise safety requirements. Details of the amendments are set out below.

**Seat belt**

6.4 Seat belts can protect motorists and passengers and reduce the chance of death or serious injury in case of accidents. In 1983, legislation was first introduced on compulsory fitting and wearing of seat belts for drivers and front seat passengers in private cars. Since then such a requirement has been progressively extended to include drivers and front seat passengers of all types of vehicles. The seat belt legislation was further extended to cover rear seat passengers of private cars and taxis in June 1996 and January 2001 respectively.

6.5 In view of the relatively high rear seat casualty rate for accidents involving public light bus (PLB) and given that PLB is a popular mode of public transport, the Government considers it necessary to install passenger protection equipment, including seat belts and high back seats, on new PLBs to enhance passenger safety. The Panel notes that legislative amendments to this effect were passed by the Legislative Council in November 2002. To allow sufficient time for the vehicle manufacturers to develop and produce the new passenger protection equipment,
Legislation and Enforcement

the Government intends to bring the amendments into effect in August 2004. **The Panel welcomes this move.**

6.6 There are suggestions to require passengers of all public transport vehicles to wear seat belts and to ban standing passengers. The Panel has reservations about extending the compulsory requirement of fitting and wearing seat belt beyond taxis and PLBs to buses and banning standing passengers in view of operational difficulties and traffic implications. The Panel also notes that some bus companies have installed seat belts on seats of higher risk exposure.

**Drink driving**

6.7 Driving under the influence of alcohol is dangerous, as alcohol impairs judgement of speed and distance, slows down reaction time, affects co-ordination of body movements, blurs vision and gives a false sense of confidence. A legal limit of alcohol concentration in a driver’s blood, urine and breath was first introduced in December 1995. Since 1 October 1999, the legal limit has been tightened up from 80 mg to 50 mg per 100 ml of blood to increase the deterrent effect on drink driving.

6.8 The Panel notes that since the introduction of the drink driving legislation in December 1995, the percentage of drivers involved in traffic accidents who had consumed alcohol showed a downward trend from 10.2% in 1996 to 6% in 1998. After the legal limit of alcohol concentration had been tightened up on 1 October 1999, the percentage of drivers involved in traffic accidents who had consumed alcohol dropped further from 4.2% in 1999 to 3.2% in 2002.

**Dangerous driving**

6.9 The offence of ‘reckless driving’ was changed to ‘dangerous driving’ with effect from 1 July 2000 to address the difficulty in prosecuting reckless driving arisen from the need to prove the driver’s subjective mental state. The test for dangerous driving is more objective, as it places the emphasis on actual driving behaviour rather than the driver’s state of mind. Two criteria have been laid down for dangerous
driving – one is whether the driver’s driving standard is far below that of a competent and careful driver, and the other is whether the driver’s driving manner would cause obvious danger to others, or himself, or serious damage to property.

6.10 The Panel notes that before the new legislation came into effect, the number of reckless driving cases from July 1999 to June 2000 was 170. After the new legislation took effect on 1 July 2000, the number of dangerous driving cases rose from 169 in 2000 to 222 and 237 in 2001 and 2002 respectively.

Use of hand-held mobile phone while driving

6.11 Overseas researches show that use of mobile phone while driving increases the risk of collision by four to six times mainly due to distraction and its possible effect on drivers’ reaction time in emergency situations. The use of hand-held mobile phones while driving is prohibited in Australia, Malaysia, Singapore and Switzerland.

6.12 Use of hand-held mobile phones while driving has been prohibited in Hong Kong since 1 July 2000. The prohibition was further extended to the use of hand-held telecommunication equipment, such as radio phones used in taxis, on 1 July 2001. The Panel agrees that such legislative changes can reduce distraction to drivers and are in line with international practices.

Probationary driving licence for motorcyclists

6.13 An analysis of the road traffic accidents in Hong Kong reveals that motorcycles have a much higher accident involvement rate than that of private cars and light goods vehicles. Amongst motorcyclists, inexperienced drivers, i.e. those with one year or less driving experience, is five times more prone to traffic accidents than experienced drivers. In light of these, a probationary driving licence scheme was introduced to motorcyclists on 1 October 2000. Under the scheme, holders of the probationary driving licence are subject to additional driving restrictions during the one-year probation period, including the requirement to display a “P” plate on the motorcycle and prohibitions on carrying passengers and driving at a speed
above 70 km/h (even when the prescribed speed limit of the road sections concerned exceeds 70 km/h).

6.14 The Panel notes that between 1997 and 2000, the average accident involvement rate of motorcyclists with less than one year driving experience was 4.9 times higher than experienced motorcyclists. Between October 2000 to 2002, after the implementation of the probationary driving licence scheme, the average accident involvement rate of probationary motorcyclists reduced by about 60%. The Panel considers this a marked improvement which demonstrates the effectiveness of the scheme in reducing traffic accidents involving inexperienced motorcyclists. It also has the advantage of allowing new drivers to obtain on-the-road experience, including expressway driving experience, before being issued with a full driving licence, as discussed in Chapter 5. **The Panel recommends that the Government explore the feasibility of expanding the existing probationary driving licence scheme for motorcyclists to new private car and light goods vehicle drivers.**

**Higher penalties for excessive speeding**

6.15 Speeding is one of the major contributory factors of traffic accidents. The Panel notes that since January 2001, the Government has increased the fixed penalty for speeding by more than 30 km/h from $450 to $600. The penalties for speeding by more than 45 km/h has also been revised upwards with an increase in fine from $800 to $1,000 and an increase in driving offence points from 8 to 10.

**Legislative amendments under deliberation**

6.16 The Panel notes that some legislative amendments are under consideration by the Administration. One of them concerns failure to keep a safe distance from the vehicle in front which is often the cause of multiple collisions. At the moment, this act does not constitute any specific offence under the law, and can only be prosecuted under ‘careless driving’, of which the collection of evidence is rather complicated. HKPF are reviewing the feasibility of introducing a new offence against ‘failing to keep a safe distance’ or ‘tailgating’, to simplify the prosecution process.
6.17 Other proposed legislative changes under deliberation include imposition of fixed penalties for failing to drive in the nearside lane of an expressway and using hand-held mobile phone while the vehicle is in motion. The Panel recommends that preparations for the proposed legislative changes be expedited.

6.18 There are suggestions for a hefty increase in fines and a much harsher driving offence point system. Members consider that the Government should continue to monitor the enforcement statistics and accident trend, and to make adjustment on the penalty level where necessary.

ENFORCEMENT

6.19 Road safety legislation needs to be complemented by an effective enforcement regime to achieve the intended effect. Many submissions to the Panel, including those from transport trade associations, pointed to the need to step up enforcement for abrupt lane changing, tailgating, speeding and other undesirable driving behaviour to increase the deterrent effect. The Panel has examined the current enforcement regime and identified areas to be further strengthened.

6.20 The Panel has also reviewed enforcement statistics. Although the total enforcement figures have shown a downward trend, enforcement statistics for certain offences, namely, speeding, lane discipline offences, drink driving and using hand-held mobile phone while driving, remain static.

Selective Traffic Enforcement Policy

6.21 The Panel notes that HKPF have since 1993 been adopting a Selective Traffic Enforcement Policy (STEP) to target offences that are known to be causes for traffic accidents. There are annual reviews on the list of priority offences under STEP to ensure an efficient allocation of resources and to enhance the effectiveness of enforcement efforts.
6.22 Current enforcement focuses on expressways under STEP include –

- speeding;
- lane discipline offences;
  - failing to confine to the nearside lane
  - inappropriate lane changing
  - tailgating
- drink driving;
- using hand-held mobile phone while vehicle is in motion;
- overloading and insecure load; and
- road work signage and lighting offences.

6.23 The Panel endorses the STEP approach and recommends that HKPF continue to devise enforcement programmes in tandem with the publicity plan mounted by the RSC. Members consider that education for motorists on appropriate driving behaviour should be supplemented by enforcement as a deterrent.

**Enforcement tools**

6.24 Advanced technology can put roads under 24-hour surveillance and enhance enforcement efficiency. The Speed Enforcement Camera (SEC) system is a proven effective tool to deter speeding and enhance road safety. A pilot scheme on Tolo Highway (**Figure 6.2**) has been put into operation since early 1999. A study indicated...
that, one year after the installation of the SEC system, the number of speeding related accidents on Tolo Highway reduced by 23%, and there was a 70% reduction in the number of vehicles exceeding 15 km/h of the speed limit.

6.25 The Panel notes that installation works for 75 additional locations for SECS are underway. Of the 16 SEC sites for Tuen Mun Road, 14 have been installed while the installation works for the remaining two would be completed before end 2003. As for the 59 locations outside Tuen Mun Road, the installation works for 22 sites have been completed and the remaining 37 are still ongoing. The Panel recommends that TD work closely with the Highways Department, HKPF and other relevant parties to put these SECS into operation by early 2004.

6.26 The Panel is aware that apart from the 75 locations on the existing road network, SECS will be installed along strategic routes, including the Deep Bay Link, Shenzhen Western Corridor and Route 9. Members recommend that TD explore the feasibility of expanding the SEC coverage to new strategic road network (SRN) routes, existing SRN routes which do not have such systems as well as other routes with speeding problems.

6.27 The Panel also recommends that, after the planned SECS have been put into operation, HKPF deploy more resources for mobile enforcement and patrolling to monitor other undesirable driving behaviour which cannot be captured by SEC such as abrupt lane changing and tailgating.

6.28 The Panel notes that apart from SECS, HKPF’s enforcement efforts are aided by the following tools –

- portable Speed Detecting Radars (with camera) – introduced since 1991 for detection of speed violation offence (Figure 6.3);
Legislation and Enforcement

- hand-held Laser Speed Detector – introduced since 1996 for detection of speeding and tailgating offences (*Figure 6.4*);
- overt/covert In-car Video System – introduced since 1989 for detection of speeding and offences relating to bad driving manner and lane discipline (*Figure 6.5*);
- Motorcycle Video System – introduced since 1999 for detection of speeding and offences relating to bad driving manner and lane discipline (*Figure 6.6*);
- Hand-held Drink Driving Screening Device – introduced in 1995 for detection of drink driving offence (*Figure 6.7*); and
- Red Light Camera (RLC) system – introduced in 1993 to deter drivers from red light jumping.

6.29 **The Panel recommends that HKPF continue to make good use of advanced technology and acquire additional equipment to facilitate traffic enforcement.**
6.30 The Panel received a suggestion from the public to adopt the ‘third party reporting’ system in New Zealand\(^1\) to supplement HKPF’s enforcement efforts. The Panel notes that a similar reporting mechanism has been adopted in Hong Kong for years. Each of the five Police Traffic Formations has a Traffic Investigation Group responsible for the investigation of public complaints on undesirable driving manners. Members of the public can lodge complaints by e-mail, letter, fax, telephone or in person to any Police station or via the Transport Complaints Unit of the Transport Advisory Committee. In 2001 and 2002, a total of 4,769 and 5,241 traffic complaints were reported and investigated by HKPF respectively. However, many prosecutions failed because the complainants were unwilling to follow up and give evidence in court. **The Panel encourages the public to play its part and join hands with HKPF to combat undesirable driving behaviour.**

6.31 The Panel is of the view that enhancement of road safety is a continuous exercise requiring collaboration between the Government, road users and other related organisations. Apart from conducting constant reviews on existing legislation and deploying new strategy and advanced technology for effective enforcement, it is of utmost importance that the Government works closely with RSC, District Councils and other relevant parties to map out the directions for a sustainable road safety programme for the years to come.

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\(^1\) Under the ‘third party reporting’ system used by the New Zealand Police, members of the public are invited to report undesirable driving behaviour via electronic means or a specific form. On receipt of such reports, the New Zealand Police will issue ‘advisory notes’ to the drivers concerned. The system is used for advising rather than instituting prosecution against the drivers.