

LCQ8: Driving a motor vehicle under the influence of medicines or drugs

Following is a question by the Hon Chan Hak-kan and a written reply by the Secretary for Transport and Housing, Ms Eva Cheng, at the Legislative Council meeting today (February 24):

Question:

Recently, there were several traffic accidents allegedly caused by drivers who have taken drugs, but the existing legislation has not empowered the Police to require such drivers to provide body fluid specimens for drug testing. In this connection, will the Government inform this Council:

(a) of the total number of traffic accidents in the past 12 months which involved drivers who have taken medicines or drugs; among such accidents, the number of cases in which the drivers involved were convicted, as well as the highest penalty imposed;

(b) according to the existing guidelines of the Police, whether the Police has the authority to require drivers who are suspected of driving after taking medicines or drugs to stop driving immediately;

(c) what short-term measures the authorities have put in place to combat the situation of drivers driving after taking medicines or drugs;

(d) whether it will consider amending the legislation to empower the Police to require drivers involved in traffic accidents to provide body fluid specimens for drug testing; if so, when the relevant work will commence and the specific procedure of drug testing; if not, the reasons for that; and

(e) whether the authorities will consider including the behaviour of drug driving in the scope of the study and consultation to be conducted on the compulsory drug testing scheme; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the various parts of the question is as follows:

(a) According to records of the Police, there were four traffic accidents involving drivers suspected of driving under the influence of drugs in the past 12 months.

Among the above cases, one case happened in May last year, while the other three in January this year. For the case that happened last year, the driver concerned was prosecuted for inhaling a dangerous drug and driving under the influence of drugs. The driver was given 18 months' probation, disqualified from driving for 24 months and mandated to attend the driving improvement course. With regard to the cases happened in January this year, the Police have instituted prosecution against the drivers. The cases are pending for trial.

(b) If a police officer suspects that a driver is under the influence of alcohol or drugs, he will require the driver to stop the vehicle and take a screening breath test to ascertain whether he is under the influence of alcohol. The police officer will also observe the driver closely and record his behaviour. If the test result indicates that the driver has not consumed alcohol or the alcohol level in his body does not exceed the prescribed limit, and the police officer has reasonable cause to suspect that the driver is under the influence of drugs, he will ask the driver whether he has taken drugs. The police officer will also search the driver and the

vehicle concerned to ascertain whether the driver is in possession of dangerous drugs. If the driver admits that he has taken drugs, or the police officer finds dangerous drugs when searching the vehicle or the driver, the police officer will arrest the driver. If necessary, the police officer will, with the driver's consent, take the driver to a doctor for detailed examination.

(c) The Police closely monitor incidents involving drug driving, and have given instructions to front-line police officers reminding them of the relevant procedures. In fact, if drug driving is involved in an accident or an accident with personal injury or fatality, the relevant driver may be charged with dangerous driving, or causing death by dangerous driving.

Separately, we will step up publicity reminding drivers to watch out for drug label warnings, such as "This drug may cause drowsiness" or "Do not drive after taking this drug", before taking any drugs. A person must not drive if he has to take drugs which may affect driving, and should use other transport modes instead.

The Government will continue to follow the five-pronged strategy to combat the drug problem by launching more vigorous anti-drug initiatives on education and publicity, treatment and rehabilitation, legislation and enforcement, external cooperation, and evidence-based research.

(d) We understand the public concern about traffic accidents caused by motorists who drive under the influence of drugs, particularly narcotics. Since a wide range of drugs are available in the market and reaction to drugs varies among individuals, it is difficult to ascertain the effect of each type of drug on driving behaviour. Therefore, imposing a regulation on all drug types and setting standards for all of them involves highly complex issues. We plan to accord priority to dangerous drugs such as ketamine and heroin.

Having the means to differentiate a motorist who drives under the influence of drugs is a prerequisite for combating drug driving effectively. We have been following overseas studies and legislation on drug driving closely. In recent years, some countries have introduced different ways to ascertain whether a driver is driving under the influence of drugs. For example, in the United Kingdom, field impairment tests were introduced to test the driver's sensory and motor reactions or check his pupils in assessing whether he is under the influence of drugs; some Australian State Governments have introduced rapid testing devices for testing oral fluid to ascertain initially whether a driver has taken certain drugs before conducting further tests (e.g. blood test). For the time being, the rapid test devices used in Australia is only for testing the drugs of abuse commonly found there. We are looking for rapid test devices which can identify drugs commonly abused in Hong Kong (such as ketamine), and their reliability.

We will draw reference from overseas experience in considering the feasibility of various test methods and which method is more suitable under Hong Kong's circumstances. We will also study how the legislation should be amended to better facilitate the enforcement actions and evidence collection by the Police, including the need for heavier penalties to deter drug driving. We hope to formulate some initial proposals for public consultation in around mid-2010.

(e) At present, drug driving is governed by the Road Traffic Ordinance (Cap. 374). As mentioned above, we are now studying how best the relevant legislation may be strengthened and hope to formulate initial proposals for public consultation in around mid-2010. The compulsory drug testing proposal being examined by the Narcotics Division mainly targets youth drug abuse. The proposal aims to enhance the deterrent effect through compulsory testing to prevent the problem from deteriorating, and identify as early as possible young drug

abusers and provide them with drug treatment and rehabilitation services. The proposal does not focus on drug driving, and the relevant arrangements and considerations are also different. The Security Bureau plans to explore the matter with stakeholders and initiate consultation with the public on specific options in 2010.

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