

LCQ15: Illegal carriage of passengers for hire or reward by motor vehicles

Following is a question by the Hon Frankie Yick and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (May 26):

Question:

Some transport trade organisations have indicated that the activities of using motor vehicles for illegal carriage of passengers for hire or reward (illegal carriage of passengers) have become rampant in recent months. The third party risks insurance for the vehicles concerned may be invalidated due to the vehicles having been used for illegal carriage of passengers, and this may result in a loss of protection for their passengers and other road users. In this connection, will the Government inform this Council:

(1) given that in last year, among the cases in which fines were imposed for the offence of illegal carriage of passengers, as many as 70 per cent were cases in which the convicted persons were only fined \$2,000 or below, whether it has assessed if this level of penalty is on the low side and lacks deterrent effect; if it has assessed and the outcome is in the affirmative, whether it has lodged appeals against the cases in which the penalties were on the low side; if so, of the details; if not, the reasons for that;

(2) given that while there were 221, 226 and 172 convictions for the offence of illegal carriage of passengers in 2018, 2019 and 2020 respectively, only 39, 78 and 44 vehicles were detained with vehicle licences suspended by the Transport Department in the corresponding years, whether it has assessed if the figures for the latter are on the low side;

(3) given that the Government has planned to amend the legislation to increase the penalties for illegal carriage of passengers, of the latest progress of such work and the legislative timetable; and

(4) of the Government's measures, before the raised penalties are implemented, to step up efforts in combating the activities of illegal carriage of passengers, with a view to enhancing the protection for road users?

Reply:

President,

Pursuant to section 52 of the Road Traffic Ordinance (the Ordinance) (Cap. 374), no person shall drive or use a motor vehicle, or suffer or permit a motor vehicle to be driven or used, for the carriage of passengers for hire or reward unless the vehicle complies with certain conditions stipulated in the Ordinance (e.g. a hire car permit (HCP) is in force for the vehicle). Otherwise, it is an offence. The Government has been closely monitoring the

use of motor vehicles for illegal carriage of passengers for hire or reward, and taking stern enforcement actions against illicit acts.

My reply to the Hon Frankie Yick's question is as follows:

(1) According to the Ordinance, any person who uses a motor vehicle for illegal carriage of passengers for hire or reward is liable to a maximum fine of \$5,000 and imprisonment of three months, plus suspension of vehicle licence and impoundment of vehicle for three months on the first conviction. For subsequent convictions, a maximum fine of \$10,000 and imprisonment of six months may be imposed along with the suspension of vehicle licence and impoundment of vehicles for six months.

In passing sentence, the court will consider the facts and all relevant factors of each case. As to whether an appeal against a sentence is warranted, the Government will deliberate on a host of considerations, including relevant precedent cases, the gravity of the offences committed by offenders and the trends of the offences concerned.

(2) After receiving the notification from the Police about a motor vehicle having been ruled by the court as being involved in illegal carriage of passengers for hire or reward, the Transport Department (TD) will arrange to impound the vehicle concerned in accordance with established procedures. As stipulated in the Ordinance, the TD will serve a notice to the registered owner within 14 days after the date of conviction about the intended arrangement of suspending the licence of the vehicle concerned and delivering the vehicle into the custody of the TD. The numbers of vehicles involved in convictions in relation to the offence of driving for illegal carriage of passengers for hire or reward in 2018, 2019 and 2020 were 89, 102 and 116 respectively. Each case of illegal passenger carriage and the vehicle concerned may involve in more than one conviction at the same time.

The arrangement of suspending the vehicle licence and delivering vehicles into the custody of the TD will be affected by various operational factors, such as the number of spaces and the waiting time in the vehicle pounds. Besides, if a party lodges appeals against a conviction, or makes representations in writing within the specified period of time showing cause why the vehicle licence should not be suspended, or applies for a hearing before a Transport Tribunal, the TD will hold over the arrangement of vehicle licence suspension and vehicle impoundment until the determination of the case by the court or the Transport Tribunal.

(3) To strengthen the deterrent effect of the penalties for illegal carriage of passengers for hire or reward, and to enhance the safety protection for passengers and road users, the TD has conducted a review on the penalties for related offences, and undertaken consultation regarding proposals of raising the fine as well as lengthening the period for suspension of vehicle licence and impoundment of vehicles. The drafting of legislative amendments is underway. They will be submitted by the Government to the Legislative Council for consideration in due course.

(4) The Government takes a multi-pronged approach comprising enforcement,

education and publicity in combating the illegal carriage of passengers for hire or reward by motor vehicles.

On law enforcement, the Police has been keeping an eye on the situation by collecting intelligence as well as conducting investigation and follow-up actions on complaint cases. The Police will continue to closely monitor any illegal carriage of passengers for hire or reward and follow up on related complaints. Suitable enforcement actions will be taken should there be sufficient evidence.

On education and publicity, the TD has put in place a number of measures to prevent members of the public from inadvertently riding on private cars that carry passengers for hire or reward without valid HCPs. Such measures include publicity through online promotional video, broadcasting announcements on the radio, displaying samples of HCPs on the TD's website, and putting up posters in public places. These efforts serve to further enhance the public's awareness of legal hire car service and promote the identification of a valid hire car by checking if it has a valid HCP. Members of the public are encouraged to enquire with the service operator or make use of the TD's Online Checking System to ascertain whether an HCP has been issued in respect of the private car concerned before the journey starts. The TD will continue with the publicity efforts and work with the Police on information exchange in order to combat illegal carriage of passengers for hire or reward.