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An Comhchoiste um Iompar, Turasóireacht agus Spórt

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Joint Committee on Transport, Tourism and Sport

General Scheme of the Road Traffic
(Fixed Penalty Notice – Drink Driving) Bill, 2017

June 2017

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Chair's Foreword



The Minister for Transport, Tourism and Sport, Mr. Shane Ross T.D., has referred the General Scheme of the Road Traffic (Fixed Penalty Notice - Drink Driving) Bill 2017 to the Joint Committee on Transport, Tourism and Sport for its consideration.

The proposed measure seeks to amend the penalties associated with drink driving and ensure that all drivers detected over the legal limit receive a stated period of disqualification.

The Joint Committee undertook its first dedicated consideration of the General Scheme of the Road Traffic (Fixed Penalty Notice – Drink Driving) Bill 2017 on 5 April 2017, meeting with Minister Shane Ross, T.D. The Joint Committee had also previously considered this issue during a number of meetings on Ireland's Road Safety Strategy and heard evidence from a number of stakeholders on the matter, including the Road Safety Authority, the Irish Road Victims Association, An Garda Síochána and the Irish Road Haulage Association. It also heard from the Vintners' Federation of Ireland and the Licensed Vintners Association as part of the pre-legislative process. The Road Safety Authority re-presented (as requested) during this process also. In addition, the Joint Committee received written submissions from a number of interested parties.

The Joint Committee is strongly supportive of any measure which is aimed at improving road safety and saving lives on our roads. As Members of the Oireachtas, we all too often hear the harrowing and heart breaking impact of road fatalities and serious injuries on families in every village, town and city across the country, and in this regard the majority of Members of the Committee are supportive of the principled intention of the proposed legislation.

When considering the measure proposed in the General Scheme of the Road Traffic (Fixed Penalty Notice - Drink Driving) Bill 2017, some Members of the Joint Committee were not persuaded by the rationale provided to it, particularly in terms of the evidence presented. However, other Members were satisfied. Attempts by the Joint Committee to test the evidence presented were frustrated by Data Protection issues, a matter which some Members of the Committee were disappointed with. Based on the evidence presented to date, some Members of the Joint Committee believe that the

proposed amendment to the penalties applicable to drink driving could possibly be regarded as disproportionate, particularly so in rural areas of the country where access to public transport services is limited. However, other Members of the Joint Committee disagreed and argued that the proposed amendment was necessary in the interest of Road Safety.

The Joint Committee on Transport, Tourism and Sport has now completed its consideration of the General Scheme of the Road Traffic (Fixed Penalty Notice - Drink Driving) Bill 2017.

Brendan Griffin, T.D.

Chairman

Joint Committee Transport, Tourism and Sport

14 June 2017

1. Engagement Process

1.1 Meetings

The Joint Committee convened on 5 April 2017 to undertake its first dedicated consideration of the General Scheme of the Road Traffic (Fixed Penalty Notice – Drink Driving) Bill 2017.

Meeting of Joint Committee on Transport, Tourism and Sport 5 April 2017	
Witness	Relevant Documents
Mr. Shane Ross, T.D., Minister for Transport, Tourism and Sport	Opening Statement
	<i>Briefing Documents from Department of Transport, Tourism and Sport:</i>
	<ul style="list-style-type: none"> • Draft General Scheme of the Road Traffic (Fixed Penalty Notice – Drink Driving) Bill 2017 • Regulatory Impact Analysis
	Transcript

Prior to meeting with Minister Ross, the Committee held a series of related hearings on Road Safety Strategy in Ireland.

Meeting date	Stakeholder	Links
8 February 2017	Road Safety Authority	Transcript
1 March 2017	Irish Road Victims Association	Transcript

In addition, a number of stakeholders who had not previously appeared before the Committee as part of its hearings on Road Safety were invited to appear before the Committee as part of the Pre-Legislative Scrutiny of the General Scheme of the Bill. This meeting took place on 12 April 2017 and the transcript is available [online](#).

Meeting of Joint Committee on Transport, Tourism and Sport 12 April 2017		
Organisation	Witnesses	Relevant Documents
Vintners' Federation of Ireland	Mr. Pat Crotty, President Mr. Pdraig Cribben, Chief Executive Officer	Opening Statement

Licensed Vintners Association	Mr. Donall O’Keeffe, Chief Executive Officer, Ms. Deirdre Devitt, Chair	Opening Statement
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Following these meetings, the Committee agreed to meet again with the Road Safety Authority to explore issues arising.

Meeting of Joint Committee on Transport, Tourism and Sport 17 May 2017	
Witnesses	Relevant Documents
Ms. Moyagh Murdock, CEO, Road Safety Authority	Opening Statement
Ms. Velma Burns, Research Manager, Road Safety Authority	Transcript

1.2 Written Submissions

Witnesses who appeared before the Committee as part of the series of hearings on Road Safety generally were also invited to specifically consider the Heads of the Bill and afforded the opportunity to submit a written response to the proposed Bill.

A list of those who submitted a written submission is detailed below:

Name and Organisation	Link
Mr. Leo Lieghio	Submission
Professor Anne Drummond (Professor of Occupational Safety & Health and Director of the UCD Centre for Safety & Health at Work, University College Dublin)	Submission
Ms. Moyagh Murdock (CEO, Road Safety Authority)	Fatal Collisions 2008-2012: Alcohol as a Factor Submission

2. Key Points

2.1 Minister Shane Ross, T.D. [8 February 2017 and 5 April 2017]

Minister Shane Ross, T.D., in his introduction, stated that the focus of the Bill was to amend the penalties associated with drink driving:

“I am concerned that in certain cases where people have breached the alcohol limit while driving, the awarding of three penalty points sends out the message that it is not a serious offence. I therefore intend to remove the current penalty and replace it with a disqualification period so all people who are found to be drink driving will receive an automatic disqualification from driving...[this] will help to send a message that driving under the influence is never acceptable.” (Minister Ross, 8 February 2017)

The Minister raised a number of key points:

- The proposed measure is supported by a range of groups, including the Road Safety Authority (RSA), road traffic victims groups, the Automobile Association and the Garda. A survey conducted by the RSA in January 2017 indicated that 91% of those surveyed supported automatic disqualification for all drivers caught driving over the limit.
- The proposed measure does not constitute a change in blood alcohol limits but instead changes the penalties associated with driving above the legal limit. The Committee was advised that having a law on the Statute Book which allows drink drivers to receive penalty points whilst driving over the legal limit (50-80 mg category) rather than an automatic disqualification creates a perception that “drink driving is not really serious in some instances” or that offences in the 50-80 mg bracket are lesser offences.
- Referencing concerns about the potential negative impact this legislation may have on rural Ireland, it was noted that 81% of alcohol-related road deaths occur in rural Ireland and that there is over 90% public support in rural areas for a measure such as this.
- While there is some recognition that there is no single factor in road deaths and no single solution, the proposed measure will (a) ensure that drivers detected over the legal limit are no longer legally able to drive and (b) contribute to the cultural messages about the acceptability of drink driving by “send[ing] the message that drink driving is never acceptable”.

2.2 Stakeholder Views

A range of witnesses addressed this matter before the Committee. The key points expressed by each group are set out below.

2.2.1 ROAD SAFETY AUTHORITY (RSA) [8 FEBRUARY 2017]

The RSA is Ireland's statutory road safety organisation and the RSA asserted that, on the basis of evidence-based research, the proposed legislation should be passed.

- Alcohol was a factor in 38% of fatal crashes between 2008 and 2012 (29% drivers and 9% pedestrians).

“Our statistics show that 38% of fatalities involved alcohol in some shape or form. In 30% of those deaths, the alcohol level was below the prevailing limit at the time, but we deem any amount of alcohol to be impairing” (Ms. Murdock, 8 February 2017)

- In situations where alcohol is a factor, speeding and other risk-taking behaviours are more likely to be present.
- It supports the introduction of automatic disqualification for those detected over the legal limit as it believes that this would offer a stronger deterrent to drink driving than the current penalties in operation.

“All [the] evidence confirms that we have a serious problem with alcohol consumption and driving at levels below 80mg and the current sanction is not working. Intuitively, we know that a driver is less likely to get behind the wheel after drinking if he or she knows they might lose their licence rather than face a fine and penalty points. It is much less of a risk. We believe the Bill will have a strong deterrent effect on would-be drink drivers...We believe that losing one's licence for three months for a confirmed BAC between 51mg and 80mg is a much more compelling deterrent for a driver considering whether to drink and drive compared to the current sanction of penalty points and a €200 fine. There is a mixed message being given that it is acceptable to drink at that level and get away with an administrative fine. It is clear that the deterrent is not working.” (Ms. Murdock, 17 May 2017)

2.2.2 IRISH ROAD VICTIMS ASSOCIATION (IRVA) [1 MARCH 2017]

- The IRVA expressed its support for the Minister's proposed measure:

"We support these changes wholeheartedly. The evidence is there that if the changes deter people from drink-driving, lives will be saved. Members have in their hands the power to enact legislation that will save lives. We cannot excuse or condone drunk or otherwise impaired driving at any level, so I ask Members to please think very carefully of the message they will be sending out." (Ms Price, 1 March 2017)

- Addressing concerns about the impact that this legislative change might have on rural Ireland, the IRVA noted that this proposal does not change the current offence but, rather, the penalty attached to that offence.

2.2.3 VINTNERS' FEDERATION OF IRELAND (VFI) [12 APRIL 2017]

- The VFI attributed the incidence of drink driving to lack of enforcement:

"Why do they think that is okay? They do not expect to be caught and they do it every night." (Mr. Crotty, 12 April 2017)

- The VFI disputed the figures used to support this proposed legislation.

"The primary document that is currently being used in respect of this proposal is a report from the [RSA]...It is our belief that a proper analysis of that report will show that there is no justification for the measures being proposed by the Minister." (Mr. Cribben, 12 April 2017)

"May I address the issue of the 35 deaths? That has been used as a headline figure... Some 4.6% of the 29% of the accidents in which alcohol was a factor - a factor rather than the cause - were in the 51 to 80 mg bracket. That percentage is way short of 35...[T]he Minister was wrong when he used the figure of 35 fatalities. He was misleading when he did so....That equates to 1.3% of the total...In effect, the Minister is addressing 1.3% of total road fatalities. Of course legislation that would reduce or eliminate the 1.3% would be welcome and justified if there were evidence that in those cases, alcohol was a determined cause of the accident. However, there is no such evidence in this report." (Mr. Cribben, 12 April 2017)

- The VFI contended that, whilst alcohol had been deemed to be a factor in the RSA’s report, *Fatal Collisions 2008-2012: Alcohol as a Factor*, “we do not know to what level it is a factor from the report”.
- The VFI further asserted that no data had been provided as to the proportion of fatalities where alcohol was deemed the sole factor falling within the 50-80 mg category, which is the focus of this proposed legislation.

“There is no evidence provided in the report to show if any of the 11%, where it says alcohol was the sole factor, were in the 51-80 mg category or indeed which category they fall into.” (Mr. Cribben, 12 April 2017)

- The VFI summarised their position as follows:

“A forensic analysis of the RSA report does not support the proposal put forward by the Minister. We believe that the current provisions are adequate and appropriate and should not be changed.” (Mr. Cribben, 12 April 2017)

2.2.4 LICENSED VINTNERS ASSOCIATION (LVA) [12 APRIL 2017]

- The LVA highlighted the lack of public transport options available to those who live outside major urban areas (such as Dublin).
- The LVA indicated that it supports as appropriate the current drink driving limits and related penalties and welcomed the retention of the current blood alcohol content limit of 50 mg.
- Addressing the question of why young people appear to be disproportionality engaged in drink driving, the LVA posited that this might stem from the limited number of public awareness campaigns in recent years and lower levels of enforcement.

2.2.5 ROAD SAFETY AUTHORITY (RSA) [17 MAY 2017]

- Appearing before the Committee to address some of the contentions made by the VFI, the RSA countered as below:

“This brings me to the critical point made by some that there is no justification for the introduction of an automatic disqualification of drivers at BAC levels of 51mg to 80mg, and that the RSA’s pre-crash report provides no evidence that alcohol was a contributory factor in these collisions. I categorically refute that. The analysis in table

28 of the RSA's pre-crash report on alcohol, which the Vintners Federation of Ireland, VFI, has presented in its statement, shows that eight drivers and motorcyclists involved in fatal collisions, for whom a blood alcohol reading was available, had a BAC between 51mg and 80mg. A further 17 drivers and motorcyclists had a BAC below 50mg. A total of 25 drivers and motorcyclists with a confirmed BAC between 21mg and 80mg were responsible, therefore, for killing themselves and-or others because they consumed alcohol. Additional analysis conducted by the RSA, which is in table 1 and which was shared with the committee on 29 March 2017, showed that 35 people lost their lives and eight people were seriously injured as a result of these 25 drivers and motorcyclists choosing to drive while impaired at BAC levels of between 21mg and 80mg. The VFI has attempted to downplay the value of the lives of these people, as well as the lives of their families, by reducing them to an insignificant statistic. Presenting the figure of 1.3% is a selective use of the data in an attempt to undermine the impact of drinking and driving." (Ms. Murdock, 17 May 2017)

- Referencing the role that alcohol played in these collisions, the RSA asserted that presence equates with cause:

"It is important to clarify that the vintners were at pains to state our report had stated there was a presence of alcohol and that we had not stated it was the cause. We did state it was the cause. Let us not beat about the bush. The presence of alcohol was the cause, just as the presence of a burglar in one's house when things went missing was the cause." (Ms. Murdock, 17 May 2017)

"From our research, all the 250 drivers who consumed alcohol and were involved in a fatal collision were deemed culpable of causing the fatal collision due to their actions, as per the investigation. That other contributory factors were also identified in many of these collisions is ancillary to the current debate... Collisions are complex events and result from a complex interplay of many behavioural and vehicle-infrastructure factors, and, ultimately physics and biology. It is disingenuous to say there is no evidence to support that alcohol was a factor other than a presence in collisions where the toxicology showed levels of 51-80 mg. It shows not only a lack of understanding of the effects of alcohol on the body or an unwillingness to accept the facts in the first instance, but also a lack of understanding of the cognitive skills required to complete the driving task safely." (Ms. Murdock, 17 May 2017)

- The RSA rejected the VFI's characterisation of its analysis of the report (*Fatal Collisions 2008-2012: Alcohol as a Factor*) as "forensic":

"I feel compelled to clarify a final point, and make sure it is on the record, in reference to the submission by the VFI to the committee, in which it described their interpretation of our pre-crash report as "forensic". The only valid interpretation of what happened in the fatal crashes outlined in this report was conducted by the investigating gardaí who conducted the forensic collision investigations, the expert

statements of medical experts, coroners, and witness statements. Their conclusions are reflected in our report and the RSA has presented these facts. The VFI's submission is not a forensic analysis of this report...The federation has conducted a disingenuous and selective interpretation of the report and it is not in full possession of all the facts in coming to its conclusion." (Ms. Murdock, 17 May 2017)

2.3 Additional Stakeholder Views Received

2.3.1 MR. LEO LIEGHIO¹

- Mr. Lieghio rejected the contention that this measure will hinder people in rural Ireland from socialising (“Is it not possible for them to socialise in a pub over a coffee or a cup of tea?”). He stated that this proposal does not stop people from rural Ireland partaking in alcohol but rather their facility to drive afterwards.
- He further stated that he did not accept that the figures utilised by Minister Ross are incorrect (“the figures are accurate and speak volumes”).
- Finally, he called on the Committee to support this measure and recommended further measures (introduction of a charge of vehicular manslaughter; confiscation of cars for repeat offenders; trials to take place in criminal courts; mandatory sentencing for those convicted).

Extract from written submission

“I am begging this committee to recommend this Bill and let it be only the beginning, a stepping stone to cutting road deaths... it will make people that otherwise would disregard a few penalty points and a fine think twice if their licence is at risk and surely this will help save lives..”

2.3.2 PROFESSOR ANNE DRUMMOND (PROFESSOR OF OCCUPATIONAL SAFETY AND HEALTH & DIRECTOR OF THE UCD CENTRE FOR SAFETY AND HEALTH AT WORK, UNIVERSITY COLLEGE DUBLIN)

Professor Drummond was the Principal Investigator of a research study on Work-Related Road Traffic Fatalities in the Republic of Ireland which was recently published (15 March 2017) by the Institution of Occupational Safety and Health (UK). The key findings related to alcohol were:

- Alcohol was a factor in 14% of collisions where workers died (29 cases).
- Alcohol was a factor in 26% of collisions where a non-worker died following a collision with a working vehicle (164 cases).

¹ Mr. Lieghio also appeared as a witness before the Joint Committee on Transport, Tourism and Sport as part of the delegation from the Irish Road Victims Association (1 March 2017).

Concerning the specific measure proposed in the General Scheme of the Road Traffic (Fixed Penalty Notice – Drink Driving) Bill 2017, Professor Drummond stated that she “support[s] any measure that is considered likely to reduce the number of collisions resulting in serious injuries and fatalities on Irish roads.”

2.3.3 Ms. MOYAGH MURDOCK (CEO, ROAD SAFETY AUTHORITY)

In the course of its written submission, the RSA responded directly to a number of statements made by representatives of the VFI during their appearance before the Committee (12 April 2017).

“..[the VFI] state that we must try to take the emotion out of the discussion and look at the evidence available. I think it is important to state that the RSA’s pre-crash report is a factual document...The data has been compiled in line with best practice research standards. There is no emotion in the report, just facts.”

- The RSA emphasised that the evidence that forms the basis of their report (*Fatal Collisions 2008-2012: Alcohol as a Factor*) derives from data gathered by experts working across numerous fields, including Garda investigators, Forensic Collision Investigators, PSV Inspectors, coroners and medical experts.
- Clarifying the relevant figures, the RSA confirmed that the figure of 38% of fatal collisions involving the consumption of alcohol by at least one party equated to 29% of fatal collisions involving a driver/motorcyclist having consumed alcohol and 9% of fatal collisions involving a pedestrian having consumed alcohol.
- The RSA rejected the contention that alcohol had not been established as a causative factor in these collisions. Referencing international evidence concerning the impact of alcohol on the body, the RSA asserted that there was no ambiguity in terms of the role that alcohol played in these cases.
- The RSA reiterated its support for the proposed measure on the basis that the revised penalty was perceived as acting as a “much more compelling deterrent for a driver considering whether or not to drink and drive” as compared to the sanction currently in place. In addition, Ms. Murdock posited that such a measure would potentially reduce drink driving numbers in the 21-50 mg level.

2.4 Committee Consideration and Views

Committee Members highlighted their support of measures to improve road safety. However, during the course of the pre-legislative scrutiny process, a diverse range of, at times, divergent views emerged in relation to the proposed legislation.

2.4.1 ENFORCEMENT OF EXISTING MEASURES

A theme which emerged over the course of the pre-legislative scrutiny process concerned the importance of enforcing existing legislative measures. For some Members, whilst the proposed measures were welcomed, their successful implementation was viewed as potentially hindered by inadequate enforcement. Others emphasised the importance of enforcing existing legislation in the first instance rather than introducing new measures.

2.4.2 EVIDENCE-BASED POLICY MAKING

In terms of this particular piece of legislation and in the course of the pre-legislative scrutiny process concerned, the nature of the evidence presented to the Committee underpinning the proposed legislative changes was questioned.

Members specifically sought clarification as to the evidentiary basis of the rationale underpinning the proposal – primarily focusing on the nature of the rationale for changing the penalty for drivers found within the 50-80 mg range. Information was also sought as to the levels of recidivism by drivers identified in the 50-80 mg range who were issued with fixed penalty notices on foot of their first offence.

In terms of the figures presented, the means by which a vehicular collision was characterised as an alcohol-related accident was also explored. The RSA responded by noting that the data analysis undertaken did not provide details of contributory factors in weighted terms but reiterated that the presence of alcohol indicates that it was a contributory factor in a collision.

2.4.3 DISPROPORTIONATE IMPACT ON RURAL IRELAND

A number of Members indicated that they felt that this proposed measure disproportionately impacts on rural Ireland. For instance, this proposed measure could be seen as “anti-rural” given the limited/lack of public transport options available in rural as compared to urban areas. The potential “damage” to rural Ireland was also referenced, with the local pub characterised as the final meeting place in many villages (with the closure of local post offices and small shops).

Both the Minister and the RSA rejected such a contention.

2.4.4 EXCESSIVE LEVELS OF ALCOHOL IN THE BLOOD THE NEXT MORNING

A number of Members raised concerns about the impact of this legislation on those who, having consumed alcohol during the evening/night and arranged for transportation home, might be detected above the legal alcohol limit the following morning.

The Minister responded to such concerns by that stating that, notwithstanding the perceived “injustice”, the driver is impaired in such instances as their blood alcohol content remains over the legal limit. The RSA contended that drink driving the morning after results in impaired driving.

This report was considered by the Joint Committee on Transport, Tourism and Sport and adopted by the Committee at its meeting on 14 June 2017.

Brendan Griffin T.D.

Chairman

14 June 2017