



**Road Traffic (Fixed Penalty – Drink Driving) Bill 2017**

**Joint Oireachtas Committee**

**Pre-Legislative Scrutiny**

**Wednesday 12<sup>th</sup> April 2017**

**Opening Statement on behalf of the  
Vintners' Federation of Ireland**

I would like to thank the Committee and you Mr Chairman for the opportunity to come here today for a pre-legislative discussion on the Road Traffic (Fixed Penalty – Drink Driving) Bill 2017.

### **Background**

The Vintners' Federation of Ireland represent publicans in the 25 counties outside of Dublin. Over 90% of our members are in family owned, family run premises with relatively small businesses. Most recent Revenue figures show that 52% of all publicans are in licence bracket 1 (with a turnover of under €190,000 per annum) and 78% are between brackets 1 and 2 (with a turnover of less than €390,000 per annum).

The vast majority of our members live and work in the communities that they serve. In many instances their customers are not alone customers, but they are also neighbours and friends or sons and daughters of neighbours and friends. Our members are responsible citizens and members of the community and would not want in any way to be associated with any negative impact on their communities.

The question of fatalities on the road is a very emotive subject. Many have lost lives and many families have been affected. There is no community, or sector of a community, that has not been touched by a road fatality. Our members are not immune from that and many also have been affected.

The issue of alcohol as a factor in these road fatalities is also a very emotive subject and the Federation is very clearly on the record in saying that we do not condone drunk driving and that the full rigours of the law should be visited on those who have been caught drunk driving.

However difficult it may be, we need to try to take the emotion out of this discussion and look at it as objectively as possible on the basis of the evidence available. The primary document that is currently being used in relation to this proposal is a report from the Road Safety Authority entitled "Fatal Collisions 2008-2012, Alcohol as a Factor". 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.

### **Road Safety Authority Report**

This report states that alcohol is a *contributory factor in 38% of all deaths on the road*. This headline has been bandied about by many commentators in the context of the current proposal to give the impression that by implementing this legislation this figure will be significantly reduced. We need to analyse this figure more. Of this 38%, 9% are pedestrians and can in no way be affected by the proposal, leaving 29% where alcohol is a *factor* as per the report.

I enclose below Table 28 from page 56 of the said report. This gives the breakdown available in the various alcohol bands.

**Table 28. Level of Alcohol in Blood or Urine of Private Car and Van Drivers**

N	DRIVER		MOTORCYCLIST		TOTAL	
	N	%	N	%	N	%
<b>BLOOD</b>						
<b>21-50</b>	16	10.6	1	4.5	17	9.8
<b>51-80</b>	7	4.6	1	4.5	8	4.6
<b>81-100</b>	7	4.6	2	9.1	9	5.2
<b>101-150</b>	20	13.2	4	18.2	24	13.9
<b>151-200</b>	25	16.6	4	18.2	29	16.8
<b>201-250</b>	37	<b>24.5</b>	5	<b>22.7</b>	42	<b>24.3</b>
<b>251+</b>	39	<b>25.8</b>	5	<b>22.7</b>	44	<b>25.4</b>
<b>TOTAL</b>	151	100.0	22	100.0	173	100.0
<b>URINE</b>						
<b>21-50</b>	2	15.4	1	100.0	3	21.4
<b>101-150</b>	1	7.7	0	0.0	1	7.1
<b>151-200</b>	4	<b>30.8</b>	0	0.0	4	<b>28.6</b>
<b>201-250</b>	2	15.4	0	0.0	2	14.3
<b>251+</b>	4	<b>30.8</b>	0	0.0	4	<b>28.6</b>
<b>TOTAL</b>	13	100.0	1	100.0	14	100.0
<b>BREATH</b>						
<b>FAILED</b>	11		0		11	
<b>TOTAL</b>	175		23		198	100

The first glaring figure is that in these accidents 80.4% of those involved are over twice the legal limit. As we have stated above in these cases the full rigours of the law should be implemented. You can see from this report that 4.6% of the 29% are in the 51-80 bracket. This equates to 1.3% of the total. Of interest, and as noted by Deputy Murphy in her contribution last week, there are twice the number in the 21-50 bracket compared to 51-80 bracket.

Of course legislation that would reduce or eliminate this 1.3% would be welcome and justified if there were evidence that in these cases alcohol was a determined cause of the accident. There is no such evidence.

In Section 4.3.7 on page 53 of the report it states *“Twenty eight (11%) of the 250 collisions cited alcohol as the sole contributory factor. An additional 3 had alcohol and a vehicle factor noted (2 with worn tyres and 1 with other)”*. There is no evidence provided to say if any of the 11% fall into the 51-80 category or indeed which category they fall into.

Further on that same page the report states that *“In 301 of the 330 alcohol related collisions, other behavioural contributory factors in combination with alcohol include speed, drugs, dark clothing, dangerous behaviour, fatigue and distraction”*. Again, there is no evidence that alcohol was a factor, other than a presence.

**What we have is evidence of a presence of alcohol but no evidence that alcohol is the cause.** These are two very different things.

It is also important to note the level of evidence regarding culpability. The report under Section 1.3 on page 14 states “*Where culpability is cited this is not judicial culpability. This report is focused on the pre-crash behaviour of the parties involved in the collision and not the result of a prosecution*”. The underlining of the words “not judicial” is the reports, not mine. What we are looking at here is opinion based rather than judicial based.

In essence there is no evidence to support the step being proposed by the Minister.

### **Increased Fatalities**

At this Committee last week the Minister referred to an increase fatalities on the road between 2012 and 2016 and suggested “*we need to look into why this is the case*”. We don’t believe too much searching is required. Since 2012 there has been a major increase in commercial activity and in employment leading to significantly more traffic on the roads. Anyone who travels regularly can confirm this. At the same time there has been a corresponding significant reduction in Garda presence in the Garda Traffic Corps. The conclusion does not demand rocket science.

Also at the Committee the Minister accused the Federation of being cynical in our opposition to this piece of legislation. We reject this accusation totally. We have put our case in a reasoned and logical way based solely on the report that the Minister has been relying on. We have adhered to the figures in that report at all times.

We are certainly not prepared to take a lecture on cynicism from a Minister who comes into this Committee and makes a virtue of doing something that he says will save lives (which we dispute) while at the same time opposing a Bill (Public Health (Alcohol) Bill), that all medical commentators can confirm will save lives, because as he says “*of the effect it will have on retailers. It could well put some of them out of business*”. That is cynicism in the extreme.

In any situation the penalty must fit the breach of law. There is a graduated penalty system in place at present that fits the breach of law. The Minister appears to accept a graduated penalty system is appropriate as what he is proposing is part of such a system.

### **What Needs to be Done?**

A holistic approach to all the causes of fatalities on the road needs to be put in place. It needs to cover all the aspects covered by the Road Safety Authority report.

There needs to be continuation of a comprehensive education programme around speeding, phone usage, drug, alcohol and other relevant issues.

In addition having legislation without enforcement is futile. There needs to be proper enforcement of the law that is there.

### **Conclusion**

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.