

REGULATORY IMPACT ASSESSMENT

Title of Proposal

1. Review of drink driving legislation in Northern Ireland, including blood alcohol limits, penalties and police powers.

Purpose and intended effect of measure

Objectives

2. The main objectives of this consultation are as follows:
 - i. To reduce fatal and serious collisions where driver/rider alcohol is a causation factor;
 - ii. To review the current legislation relating to blood alcohol limits and recommend appropriate limits to the Minister;
 - iii. To review the penalties associated with drink driving and recommend appropriate penalties to the Minister where appropriate;
 - iv. To review police powers in relation to detecting drink drivers.

Background

3. The current legal blood alcohol content (BAC) limit applicable to all drivers in Northern Ireland is 80mg of alcohol per 100ml of blood.
4. The penalties for exceeding this limit range from a minimum 12-month driving disqualification up to 14 years imprisonment and unlimited fines. There are higher penalties for high risk offenders.
5. While the penalties in Northern Ireland and GB are among the most severe in Europe, we are at present, along with Ireland and Malta, the only member states in the EU that allow citizens to legally drive at BAC levels above 50mg /100ml.
6. An EU recommendation in January 2001 suggested that all Member States introduce a BAC limit of 50mg per 100ml and a lower limit of 20mg per 100ml for certain higher-risk drivers, for example novice drivers, lorry drivers and motorcyclists.
7. PSNI has more than doubled the number of breath tests carried out annually in the five years since the introduction of the Road Safety Strategy for Northern Ireland in November 2002.

8. Current legislation¹ in Northern Ireland requires a constable to have 'reasonable cause to suspect' that a person is driving, has driven or will attempt to drive a vehicle while they have alcohol in their body before they can require a breath test. A key part of the EU recommendation is that police forces be given unrestricted power to breath test without the need for the constable to have 'reasonable suspicion'.
9. Random breath testing has been implemented in many other countries and is viewed as having made a significant contribution to detecting and deterring drink driving.

Risk Assessment

10. From 2003 to 2007, around 20% of all road deaths and 10% of all serious injuries in Northern Ireland have been caused by drivers who are impaired through alcohol or drugs.
11. An average of 25 people were killed and 119 seriously injured every year from 2003 to 2007 in collisions attributable to driver/rider alcohol or drugs.
12. Based on the estimated value to society of avoiding such deaths or serious injuries, it is believed that the total value of preventing these casualties over these five years would have been in the region of £286m.
13. A 2008 survey (the NI Road Safety Monitor) indicated that 79% of motorists who drink would not drive after one drink, and 87% would not drive after two drinks. While the survey indicates that many drivers not only avoid exceeding the current drink drive limit but try to avoid any alcohol, it is expected that others will be persuaded that it is unsafe to drive after one drink.
14. There are no reliable data on the numbers of people who currently drink to levels below the present limit and drive in Northern Ireland. Analysis of 345 cases of driver / rider fatalities here between 2003 and 2007 showed that 18 of those fatalities (5%) had levels of alcohol in their system below the legal limit.²
15. There is significant evidence to show that drivers aged between 17 and 24 years old are more likely to be involved in collisions attributable to alcohol (35% of what?). Research also clearly indicates a marked difference in impairment at lower levels of BAC to young drivers. Clearly less experienced drivers will be also less able to deal with the unexpected even without the addition of impairment through alcohol.

Options

¹ Road Traffic (Northern Ireland) Order 1995, Articles 14-21

² It should be noted that this does not imply that alcohol was the cause of the fatal collision or was the only impairing drug present.

16. The options to be considered are whether to:

- Do nothing – i.e. retain the current limit of 80 mg/100ml; or
- Introduce a limit of 50 mg/100ml for most drivers and a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers; or
- Introduce a 20mg/100ml limit for all drivers.

Costs

Option 1: Do nothing

17. There would be no direct cost. Some drivers would continue to drink and have collisions in the mistaken belief that it is safe to drive as long as the current limit is not exceeded. There would be no change to penalties or police powers.

Option 2: Introduce a limit of 50 mg/100ml for most drivers and a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers

18. Assuming similar levels of enforcement and compliance with the new limits as with the current limit, there would be no additional cost to the PSNI, Courts Service or other agencies. If compliance levels are less than at present, there may be additional costs, in for example, the increased numbers of detections and prosecutions.

Option 3: introduce a 20mg/100ml limit for all drivers

19. Assuming similar enforcement and compliance levels, there would be no additional cost to the PSNI, Courts Service or other agencies. If compliance levels are less than at present, there may be an additional cost for the increased number of detections, prosecutions etc.

Penalties and Police Powers

20. Increased police powers for random breath testing may result in additional costs to the police, for example in mounting checkpoints and associated administration, and to the Court Service for processing offenders. However, it is anticipated that regionally this would be outweighed by the resulting reduction in alcohol-related collisions and casualties.

21. Dependent on the nature of penalties introduced and levels of non-compliance, there may be costs associated with processing of, for example, fixed penalty notices and/or penalty points for offences at lower BAC levels. However, this cost would only arise if it were above and beyond, rather than instead of, prosecutions.

Benefits

Option 1

22. If enforcement and compliance levels remain the same as at present, then we do not anticipate any benefit from this option.

Option 2 and Option 3

23. Both options would make a positive contribution to road safety in terms of deterring and detecting drink drivers.

24. It is anticipated that the clear message that drinking and driving is not acceptable at any level, reinforced by a lower limit or limits and with clear public commitment to rigorous enforcement by the police would present an opportunity to engender a new culture separating alcohol from driving.

25. Research has indicated that a reduction to 50mg could result in between one and two lives saved every year, and around 10 fewer serious injuries. At today's casualty values, this represents a financial saving of between £3.5m and £5.1m per annum. There is no research estimate for a reduction to 20mg, however it is anticipated that this would produce broadly similar benefits.

26. If lesser penalties such as penalty points and/or fines were introduced for lower BAC levels, there may be a benefit to the police, courts and other agencies in terms of reduced administration costs associated with fewer prosecutions. It is understood that an administrative penalty costs less to process than proceedings in a District Judges Court with a 'guilty' plea; which would, in turn, be less than such proceedings with a 'not guilty' plea. Furthermore, it would be expected that lesser penalties would be accepted much more readily and without challenge than, for example, disqualification.

Business sectors affected

27. There are no identified direct costs for business, charities or voluntary organisations although there may be an indirect impact on certain organisations or individuals.

28. It has been argued that tougher drink driving laws rigorously enforced would have a detrimental impact on licensed premises, particularly in rural areas. It is uncertain how many such premises rely on customers who drink a few units of alcohol and drive home afterwards and who would be disinclined to visit the premises if they could not legally do this.

29. It should be stated that DOE's research survey indicates that a significant proportion of motorists who drink alcohol respond that they already refuse to drive after one drink and a majority of respondents say they would not travel in a car with a driver who has had one drink³.

³ NI Road Safety Monitor 2008, NISRA, October 2008: 79% of motorists interviewed who drink alcohol said they would not normally drive after one drink; and 61% of respondents said they would not travel in a car in which the driver has had one drink.

30. New legislation would mean that drivers could be over the limit after one drink. The long standing road safety message from Government is already that no one should drive after even one drink. The Department's proposals will bring the law into line with the road safety message. However, there is no compelling evidence to suggest that a lower limit will result in people frequenting licensed premises less.
31. In countries where there are lower limits and stricter enforcement, there are many initiatives designed at maintaining customer numbers in licensed premises while ensuring road safety, for example designated driver schemes, community taxi services and local bus initiatives. Such initiatives are often sponsored by the drinks industry. There is no reason to believe that such schemes could not work equally well in Northern Ireland, and indeed some similar programmes have been run here in over the festive season in the past.
32. Furthermore, it should be noted that these proposals include reductions in the drink drive limit and do not, in themselves, remove a person's right to use any mode of transport. They simply propose that vehicles should not be driven by a person above a BAC limit than is lower than is currently the case.
33. The meaning of 'professional driver' has yet to be defined. It is likely to mean any driver who is licensed to carry passengers or goods for hire and reward but this might be further refined to also specify the nature of the vehicle being driven possibly as being licensed to carry goods or passengers or exceeding a prescribed weight or number of seats. The Minister will take this decision following the consultation process.
34. The extent to which these proposals might impact on such drivers is unclear, as we have no data on levels of compliance with drink drive limits or behaviours and attitudes towards driving after one alcoholic drink among different types of driver. However, it is clear that professional drivers may carry heavy loads, drive large and/or more complex vehicles, or carry a greater number of passengers either in one trip or over a series of journeys. They typically will cover greater distances and drive for longer than, say a typical motorist. Any risk increases with greater exposure and the outcome of a collision in such circumstances might be larger numbers of casualties. It is also clear that a professional driver also has a significant duty of care to their passengers and/or other road users.
35. Equally, because many professional drivers are employed on a hire or reward basis, a driving disqualification would potentially have a greater impact on their livelihood than on other drivers. It must be remembered however, that driving penalties are typically temporary measures designed to improve driver behaviour, and any impact tends to be for a limited period. However, it might be inevitable that a drink drive conviction would result in hardship for a professional driver, even if he or she was able to continue in employment or subsequently resume his/her career after a disqualification.

Other Impact Assessments

36. There are no disproportionate equality, environmental, rural or health issues involved. In addition, the proposed measure will have no impact on development, sustainable or otherwise.

Consultation with small business: the Small Business Impact Test

37. Not applicable

Enforcement and Sanctions

38. Enforcement will be a matter for the police and the courts.

Monitoring and Review

39. The Department will continue to monitor road traffic casualty statistics and police enforcement statistics including those specifically on drink driving. The Department will also continue with anti-drink driving publicity and awareness campaigns.

Consultation

40. Comments have been invited on the proposals set out in the accompanying consultation document. Comments are also invited on this partial regulatory impact assessment. It will be amended to take account of any comments made during the consultation.

Contact Point

Harry Green
Road Safety Strategy & Policy Branch
Clarence Court
Belfast
BT2 8GB
Tel. (028) 9054 0073
E-mail: harry.green@doeni.gov.uk