

Citizen Participation and Public Petitions Committee

17th Meeting, 2022 (Session 6), Wednesday
7 December 2022

PE1961: Make it a specific offence to assault,
threaten or abuse a private hire or taxi driver
while at work

Petitioner	Edward Grice on behalf of the Scottish Private Hire Association (SPHA)
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to expand the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 to include private hire and taxi drivers by: <ul style="list-style-type: none">• Creating a specific criminal offence of assaulting, threatening or abusing private hire or taxi drivers while they are engaged in private hire or taxi work; and• Considering such offences as aggravated when the offence is committed whilst the driver is enforcing a licensing or operational condition.
Webpage	https://petitions.parliament.scot/petitions/PE1961

Introduction

1. This is a new petition that was lodged on 11 August 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 76 signatures have been received.

5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE1961: Make it a specific offence to assault, threaten or abuse a private hire or taxi driver while at work

Petitioner

Edward Grice on behalf of the Scottish Private Hire Association (SPHA)

Date lodged

11 August 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to expand the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 to include private hire and taxi drivers by:

- creating a specific criminal offence of assaulting, threatening or abusing private hire or taxi drivers while they are engaged in private hire or taxi work; and
- considering such offences as aggravated when the offence is committed whilst the driver is enforcing a licensing or operational condition.

Previous action

We have raised and discussed this issue with Jackson Carlaw MSP and with Katy Clark MSP.

Background information

The Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 created a new offence for situations where a retail worker is assaulted, threatened or abused while engaged in their work. The offence can result in a fine, with penalties escalating to a prison sentence, and with aggravating factors adding the potential for a more significant fine or sentence. The offence is considered as aggravated if the worker is assaulted, threatened or abused while enforcing a statutory age restriction (such as alcohol or tobacco sales).

We believe that a similar offence is required to protect private hire and taxi drivers while at work.

Annexe B



Briefing for the Citizen Participation and Public Petitions Committee on petition PE1961: Make it a specific offence to assault, threaten or abuse a private hire or taxi driver while at work, lodged by Edward Grice

Background

The [petition](#) was lodged by Edward Grice on behalf of the [Scottish Private Hire Association](#).

It seeks the extension of existing statutory measures applying to retail workers to:

- make it a specific offence to assault, threaten or abuse a private hire or taxi driver whilst they are engaged in their work
- provide for the aggravation of that offence where the driver is seeking to enforce a licensing or operational condition.

The existing statutory measures referred to in the petition are set out in the [Protection of Workers \(Retail and Age-restricted Goods and Services\) \(Scotland\) Act 2021](#) ('the 2021 Act').

The 2021 Act resulted from a [Member's Bill](#) introduced by Daniel Johnson MSP in 2019 – the [Protection of Workers \(Retail and Age-restricted Goods and Services\) \(Scotland\) Bill](#) ('the Member's Bill').

Consideration of the Member's Bill

The then [Economy, Energy and Fair Work Committee took the lead in scrutinising the Member's Bill](#). Its [Stage 1 Report](#) expressed support for the general principles of the Bill whilst also highlighting some concerns.

Those concerns included whether the proposal, in the Member's Bill as introduced, to have an offence which also covered 'obstructing and hindering', might cover behaviour not serious enough to justify criminal sanctions. Amendments made during parliamentary scrutiny removed this element of the offence. Thus, the offence in the 2021 Act deals with assaulting, threatening or abusing a retail worker.

The types of behaviour covered by the 2021 Act may also be prosecuted under other common law and statutory offences which are not restricted to specific classes of victim (discussed below).

Arguments made in favour of the Member's Bill included that it would increase the protection for retail workers:

- helping to increase awareness of the physical and verbal abuse faced by retail workers
- encouraging action to tackle such behaviour, including reporting to the police
- facilitating the collection of data on offences against retail workers.

The justification for focusing on retail workers is discussed in both the [policy memorandum](#) and the [Stage 1 Report](#).

Further information on the Member's Bill is set out in two SPICe briefings:

- [Protection of Workers \(Retail and Age-restricted Goods and Services\) \(Scotland\) Bill](#)
- [Protection of Workers \(Retail and Age-restricted Goods and Services\) \(Scotland\) Bill: Consideration prior to stage 3](#)

Other statutory and common law offences

The types of behaviour covered by the offence in the 2021 Act, and the proposal in the petition, are generally also covered by offences protecting the wider public. For example:

- the common law offence of assault
- the statutory offence of threatening or abusive behaviour under section 38 of the [Criminal Justice and Licensing \(Scotland\) Act 2010](#).

There are however other examples of statutory offences protecting specific categories of worker which overlap with more general offences. These include elements of the offences set out in the [Emergency Workers \(Scotland\) Act 2005](#).

Frazer McCallum
Senior Researcher
29/08/22

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C

Scottish Government submission of 8 September 2022

PE1961/A – Make it a specific offence to assault, threaten or abuse a private hire or taxi driver while at work

Thank you for your email of 11 August 2022 in which you requested the Scottish Government's written response to the issues raised in petition PE1961. Included below is factual information which may assist in considering the petition.

The Petitioner, Edward Grice on behalf of the Scottish Private Hire Association (SPHA), has called on the Scottish Parliament to urge the Scottish Government to expand the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 ("the 2021 Act") to include private hire and taxi drivers by:

- creating a specific criminal offence of assaulting, threatening or abusing private hire or taxi drivers while they are engaged in private hire or taxi work; and
- considering such offences as aggravated when the offence is committed whilst the driver is enforcing a licensing or operational condition.

It would of course be for the Scottish Parliament to agree legislation to expand the 2021 Act rather than the Scottish Government directly. Indeed, as is discussed below, the 2021 Act was based on a Members' Bill proposal from Daniel Johnson MSP rather than being a Scottish Government introduced Bill.

The Scottish Government recognises the important role that private hire and taxi drivers play within our local communities. Violence of any kind is totally unacceptable and every person has the right to feel safe and protected from abuse and violence regardless of where they work.

There are a range of general criminal laws which protect everyone from abuse and violence including private hire and taxi drivers. For example,

the statutory offence of threatening or abusive behaviour (under section 38 of the Criminal Justice and Licensing Scotland Act 2010), the common law offence of assault and the common law offence of breach of the peace are all relevant offences which can be used to prosecute those who commit threatening or abusive acts or violent acts against anyone including private hire or taxi drivers.

It is worth noting the maximum penalty for offences in this area are up to life imprisonment (for the common law offence of assault and common law offence of breach of the peace). The Scottish Government fully supports law enforcement agencies having extensive powers to deal with attacks and threats made including when these are against private hire or taxi drivers.

Enforcement of the law is of course for Police Scotland, the Crown Office and Procurator Fiscal Service and ultimately the criminal courts. In any given case, it is for the independent court to sentence based on the facts and circumstances before it. They do this within the overall legal framework which includes laws passed by Parliament. The Scottish Government fully supports law enforcement agencies taking robust enforcement action to deal with any attacks and threats made against private hire and taxi drivers if they consider that necessary in any given case.

As an important aspect of how independent courts sentence, they are able to consider all the relevant facts and circumstances of any given case. This means they can and will take into account the circumstances of any offence committed including where it relates to a private hire or taxi driver ensuring a passenger complies with a certain condition. They can do this without a specific statutory aggravation operating.

As indicated above, it may be helpful for the Committee to note the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill (“the Bill”), which is mentioned in the context of the petition, was a Members’ Bill introduced by Daniel Johnson MSP. Given the specific context of this petition, the Committee may wish to assess how the subject Committee dealing with the Bill at the time of Parliamentary scrutiny assessed the merits for extending the effect of the Bill to other types of work and employment.

I hope this is helpful.