

Approved for tabling.

By N.A.
17/2/15

Refer 2nd

By the champion,
Departmental
committee on
transport, public
works & housing
Hon. Maina Kariuki
on Tuesday 17/2/15

PARLIAMENT
OF KENYA
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS
AND HOUSING



REPORT ON THE CONSIDERATION OF THE TRAFFIC (AMENDMENT)
BILL, 2014

Parliament Buildings
Nairobi

February, 2015



1.0 PREFACE

Mr. Speaker, Sir

1.1. Mandate of the Committee

The Committee on Transport, Public Works and Housing is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to, inter alia, 'study and review all legislation referred to it'.

1.2 Membership

The Committee on Transport, Public Works and Housing was constituted by the House on Thursday 16th May, 2013 comprising of the following members:-

1. The Hon. Maina Kamanda, M.P. – (Chairperson)
2. The Hon. Eng. Mahamud Maalim, M.P. – (Vice Chairperson)
3. The Hon. Eng. Stephen Ngare, M.P.
4. The Hon. Ali Wario, M.P.
5. The Hon. Arch. David Kiaraho, M.P.
6. The Hon. Cecily Mbarire, M.P.
7. The Hon. Capt. Clement Wambugu, M.P.
8. The Hon. Eng. John Kiragu, M.P.
9. The Hon. Gideon Konchella, M.P.
10. The Hon. Barchilei Kipruto, M.P.
11. The Hon. Mark Lomunokol, M.P.
12. The Hon. Grace Kipchoim, M.P.
13. The Hon. Mathias Robi, M.P.
14. The Hon. Joseph Lomwa, M.P.
15. The Hon. Peter Shehe, M.P.
16. The Hon. Stephen Manoti, M.P.
17. The Hon. Emmanuel Wangwe, M.P.
18. The Hon. K.K. Stephen Kinyanjui Mburu, M.P.

19. The Hon. Suleiman Dori, M.P.
20. The Hon. Edick Omondi Anyanga, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Many Naicca, M.P.
23. The Hon. Mishi Juma, M.P.
24. The Hon. Aduma Owuor, M.P.
25. The Hon. Chachu Ganya, M.P.
26. The Hon. Omar Mwinyi, M.P.
27. The Hon. Ahmed Abbas Ibrahim, M.P.
28. The Hon. Omulele Christopher, M.P.
29. The Hon. Mukwe James Lusweti, M.P.

1.3 Committal and Consideration of the Bill

Mr. Speaker, Sir,

On 27th August, 2014, the Traffic (Amendment) Bill, 2014 sponsored by the Hon. Joseph Lekuton, MP, was read a first time and thereafter committed to the Departmental Committee on Transport, Public Works and Housing for consideration pursuant to Standing Order No. 127.

Mr. Speaker, Sir,

The Committee placed an advert in the local dailies on 24th September 2014 calling for any memoranda from the public on the Bill Pursuant to Article 118 of the Constitution and Standing Order No. 127 (3). The Committee in partnership with the International Institute for Legislative Affairs also organized a stakeholder forum on 17th November 2014 at Panafric Hotel to get more input from the public.

Mr. Speaker, Sir,

While examining the Bill, the Committee noted that the principle object of the Bill is to amend the Traffic Act (Cap. 403) to make provisions for the safety of children on roads around learning institutions or when using school transport.

Mr. Speaker, Sir,

The Committee will propose appropriate amendments to the Bill in Clauses 2, 3 and 4.


1.4 Acknowledgement

Mr. Speaker, Sir,

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. The Committee wishes to thank all the stakeholders for their participation in scrutinizing the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this Report.

Mr. Speaker, Sir,

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Transport, Public Works and Housing, to table its Report in the House on the consideration of the Traffic (Amendment) Bill, 2014 for consideration Pursuant to Standing Order 127 (4).

Signed:..........Date:.....17/2/015.....

(HON. MAINA KAMANDA, EGH, MP)

CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

2.0 ANALYSIS OF PERTINENT ISSUES IN THE TRAFFIC (AMENDMENT) BILL, 2014

2.1 The Bill proposes to amend the Traffic Act (Cap. 403)

The Bill seeks to regulate the speed of vehicles around schools in order to protect children when crossing the road to and from schools. It imposes an obligation on the roads authorities to ensure that there are effective measures around schools to ensure safety of children from motor vehicles.

2.2 The Bill proposes conditions to be met by school transport vehicles

Clause 4 of the Bill provides for vehicles used to transport children to be fitted with child safety equipment, design safety features or structures.

2.3 The Bill contains penalties for offences

Clauses 3 and 4 provides for the penalties to be paid upon contravention of the sections of the Bill.

2.4 Financial Implication of the Bill

The Bill has no financial implication.

3.0 ANALYSIS OF CLAUSES

Clause	Highlights	Comments
1.	Short title	This is the short title of the Bill
2.	Contains proposed amendments to Section 42 on the speed of motor vehicles	An amendment to introduce a thirty kilometers per hour speed limit around schools.
3.	Proposes amendments to Section 43 of Cap. 403 on the penalties in relation to speed.	This proposed amendment is to impose a fine upon contravention of section 42. It also provides for the service upon

		the offender by a police officer of a notification of traffic offence and summons to appear in court.
4.	Amendment on Section 105A to provide for the insertion of a new section	A new section that prescribes for the fitting of child safety equipment, design safety features or structures to any vehicle transporting children to and from school.
5.	Proposes amendment to the Schedule to Cap 403.	A new Schedule that provides for the fines to be paid upon exceeding the prescribed speed limit in the designated areas.

4.0 COMMITTEE'S PROPOSED AMENDMENTS

The Committee is considering the following amendments to the Traffic (Amendment) Bill, 2014 for introduction during the Committee Stage of the Bill:-

CLAUSE 2

That Clause 2 of the Bill be amended in the new sub-clause (3A)-

- a) by deleting the word "thirty" appearing immediately after the words "speed exceeding" and substituting therefor the word "fifty";
- b) in paragraph (d) by inserting the following words "as may be designated as a pedestrian crossing by the highway authority" immediately after the words "from school"; and
- c) by deleting paragraphs (b), (c) and (e).

Justification

A thirty kilometers per hour speed limit would cause unnecessary traffic snarl-ups in the areas around schools.

The proposals enable the highway authority to identify and designate as pedestrian crossings, sections of the roads where children would be most vulnerable when crossing to and from school and where such areas are not situated within the boundaries of a school.

Deletion of clauses (b), (c) and (e) will ensure that there are no ambiguities as regards the areas where the speed limit shall apply.

CLAUSE 3

That Clause 3 of the Bill be amended—

- a) by deleting the existing paragraph (a) and substituting therefor the following new paragraph—
 - “(a) inserting the following new sub-section immediately after sub-section (1)—
 - “(1A) A person who contravenes the provisions of section 42(3A) is guilty of an offence and shall be liable to a fine not exceeding twenty thousand shillings.”; and
- b) by renumbering the proposed new subsections in paragraph (b) accordingly.

Justification

The requirement that a person who fails to comply with the set speed limit pay a fine not exceeding twenty thousand shillings would ensure that there is no corruption encouraged especially where it would not be possible to clearly determine the extent by which an offender exceeds the speed limit. The discretion would therefore be on the judicial officer to impose a fine that does not exceed twenty thousand shillings depending on the severity of the offence and the circumstances of each case.

CLAUSE 4

That Clause 4 of the Bill be amended—

(a) by deleting sub clause (2) of the proposed section 105B and substituting therefor the following new sub clause (2)—

“(2) Notwithstanding subsection (1), a motor vehicle designated for transporting children to or from school or for any non-school related activity when they are in a group shall:—

- (a) be fitted with seat belts designed to be used by children;
- (b) be painted in yellow colour and have other signage as may be prescribed;
- (c) comply with the conditions imposed on public service vehicles under this Act; and
- (d) not operate between the hours of 10:00 pm and 5:00 am.”;

(b) by deleting sub-clauses (3), (4) and (5);

(c) in sub-clause (7) by deleting the words ‘of fifty thousand’ appearing immediately after the word ‘fine’ and substituting therefor the words ‘not exceeding thirty thousand’;

(d) by deleting sub-clause (8) and substituting therefor the following new sub-clause (8)-

“Notwithstanding subsection (7), a person who being the registered owner or driver of a vehicle used for transporting children, who authorizes or permits the use of a vehicle used for transporting children or is negligent to prevent contravention with this Act commits an offence and shall be liable to a fine not exceeding thirty thousand shillings or imprisonment for a term not exceeding two months, or to both.”; and

(e) by inserting the following new sub-clauses (9) and (10) immediately after sub-clause (8)—

“(9) Subsections (1), (2)(a) and (b) shall come into force within twelve months after the enactment of this Act.

(10) The Cabinet Secretary shall, within a period not exceeding twelve months after the enactment of this Act, make the Regulations prescribing matters required to be prescribed under this section.”.

Justification

- (a) The requirement for painting of motor vehicles, the regulation of operating hours as well as the compliance by drivers with the conditions imposed on drivers of public service vehicles are intended to further enhance child safety in road transport on matters that may expose them or where extra caution is necessary for visibility of other drivers.
- (b) The prescription of operating hours provides for flexibility in road use so as to focus more on the times when children would be most vulnerable while going to or coming from school.
- (c) In regard to penalties for offences related to the section, it is necessary to differentiate between the offences related to exceeding the thirty kilometers per hour speed limit around schools and the offences related to exceeding the fifty kilometers per hour speed limit around townships and municipalities.
- (d) The requirement of liability on only the registered owner of the vehicle used for transporting children or the driver operating the vehicle would guard against imputing liability on persons who may not have a direct control on the vehicle.
- (e) In order to realize the benefits of safety in child road transport, it is critical to set timelines within which the required Regulations must be made. In addition, it is necessary to peg the operationalization of the sections requiring Regulations to the enactment of the required Regulations.

CLAUSE 5

That Clause 5 of the Bill be deleted.

Justification

Clause 5 which creates a new Schedule to the Act prescribing for the penalties to be paid upon exceeding the speed limit under section (3A) will no longer be applicable as this would be provided for in the new section (1A) in clause 3.

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MINUTES OF THE 3RD SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON MONDAY 16TH FEBRUARY, 2015 IN THE BOARD ROOM ON 2ND FLOOR PROTECTION HOUSE, AT 3: 40 PM.

PRESENT

1. Hon. Maina Kamanda, M.P. – Chairperson
2. Hon. Johnson ManyNaicca, M.P.
3. Hon. Ahmed Abbas Ibrahim, M.P.
4. Hon. Joseph Lomwa, M.P.
5. Hon. Ali Wario, M.P.
6. Hon. Omar Mwinyi, M.P.
7. Hon. Mark Lomunokol, M.P.
8. Hon. Barchilei Kipruto, M.P.
9. Hon. Emmanuel Wangwe, M.P.
10. Hon. Chachu Ganya, M.P.
11. Hon. Omulele Christopher, M.P.
12. Hon. Peter Shehe, M.P.
13. Hon. Grace Kipchoim, M.P.
14. Hon. Suleiman Dori, M.P.
15. Hon. Mukwe James Lusweti, M.P.

ABSENT WITH APOLOGY

1. Hon. (Eng.) Mahamud Maalim, M.P. –Vice Chairman
2. Hon. Mathias Robi, M.P.
3. Hon. Edick Omondi Anyanga, M.P.
4. Hon. Gideon Konchella, M.P.
5. Hon. Aduma Owuor, M.P
6. Hon. Stephen Manoti, M.P.
7. Hon. (Capt.) Clement Wambugu, M.P.
8. Hon. Eng. John Kiragu, M.P.
9. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
10. Hon. Simon Nyaundi Ogari, M.P.
11. Hon. (Arch.) David Kiaraho, M.P.
12. Hon. (Eng.) Stephen Ngare, M.P.
13. Hon. Mishi Juma, M.P.
14. Hon. Cecily Mbarire, M.P.

IN ATTENDANCE

1. Mr. Samuel Kalama
2. Mr. Abdifatah M. Bule
3. Ms. Nuri K. Nataan
4. Ms. Christine Odiambo

NATIONAL ASSEMBLY

- First Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant
Legal Counsel

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Consideration and adoption of the draft report on Traffic (Amendment) Bill, 2014
4. Consideration and adoption of the draft Committee programme for the Months of February and March 2015
5. Any Other Business

MIN/DC-L/2015/012

PRELIMINARIES

The Chair called the meeting to order at 3:40 pm and opened it with a word of prayer.

MIN/DC-L/2015/013

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed and seconded by Hon. Johnson ManyNaicca, MP and Hon. Joseph Lomwa, MP respectively.

MIN/DC-L/2015/014 Consideration and adoption of the draft report on Traffic (Amendment) Bill, 2014

The Committee deliberated on the draft report on the Traffic (Amendment) Bill, 2014 and adopted it with following amendment:-

That:-

The clause 4, sub-clause 6 (d) deleted

Justification

The operating hours prescribed in clause 4, sub-clause 6 (d) is ambiguous as children might be in school any time, therefore the speed which is 50 kilometers per hour is applicable at all times at such places.




MIN/DC-L/2015/015 Consideration and adoption of the draft Committee programme for the Months of February and March 2015

Agenda differed

MIN/DC-L/2015/016

ADJOURNMENT

And there being no other business, the Chair adjourned the meeting at 5.30 pm.

SIGNED.....

HON MAINA KAMANDA, M.P

(Chairperson)

DATE.....17/2/015



MINUTES OF THE 52ND SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON TUESDAY 28TH OCTOBER, 2014 IN THE MEDIA CENTRE, MAIN PARLIAMENT BUILDINGS, AT 10: 50 AM.

PRESENT

1. Hon. Maina Kamanda, M.P. – Chairperson
2. Hon. Aduma Owuor, M.P.
3. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
4. Hon. Omulele Christopher, M.P.
5. Hon. Simon Nyaundi Ogari, M.P.
6. Hon. Mathias Robi, M.P.
7. Hon. Emmanuel Wangwe, M.P.
8. Hon. (Arch.) David Kiaraho, M.P.
9. Hon. Mukwe James Lusweti, M.P.
10. Hon. Stephen Manoti, M.P.
11. Hon. Cecily Mbarire, M.P.
12. Hon. Barchilei Kipruto, M.P.
13. Hon. (Eng.) Stephen Ngare, M.P.
14. Hon. Chachu Ganya, M.P.
15. Hon. Ahmed Abbas Ibrahim, M.P.
16. Hon. Peter Shehe, M.P.
17. Hon. Mark Lomunokol, M.P.
18. Hon. Suleiman Dori, M.P.
19. Hon. Grace Kipchoim, M.P.
20. Hon. Joseph Lomwa, M.P.
21. Hon. Omar Mwinyi, M.P.

APOLOGY

1. Hon. (Eng.) Mahamud Maalim, M.P. – Vice Chairman
2. Hon. MishiJuma, M.P.
3. Hon. Johnson Manya Naicca, M.P.
4. Hon. Gideon Konchella, M.P.
5. Hon. Eng. John Kiragu, M.P.
6. Hon. Edick Omondi Anyanga, M.P.
7. Hon. (Capt.) Clement Wambugu, M.P.
8. Hon. Ali Wario, MP

IN ATTENDANCE

- NATIONAL ASSEMBLY

- | | |
|---------------------------|------------------|
| 1. Mr. Samauel Kalama | Clerk Assistant |
| 2. Ms. Nuri K. Nataan | Clerk Assistant |
| 3. Mr. Abdifatah M. Bule | Clerk Assistant |
| 4. Ms. Christine Odhiambo | Legal Counsel |
| 5. Mr. Jimmy Muguna | Research Officer |

IN ATTENDANCE

- STAKEHOLDERS

- | | |
|----------------------------|--|
| 1. Mr. HarsletWanjala | Handicap International |
| 2. Mr. Philip G. Nyankundi | International Institute of Legislative Affairs |
| 3. Ms. Lynn S. Kabaka | International Institute of Legislative Affairs |
| 4. Dr. Caroline Murithi | Getrude's Children's Hospital |
| 5. Mr. JeroenShol | Handicap International |
| 6. Mr. Vincent K. Kimosop | International Institute of Legislative Affairs |
| 7. Ms. Bright Oywaya | Association for Safe International Road Travel |
| 8. Ms Marlin Muiruri | International Institute of Legislative Affairs |
| 9. | |

MIN/DC-L/2014/209

PRELIMINARIES

The Chair called the meeting to order at 10:50 am and opened it with a word of prayer,

MIN/DC-L/2014/210

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as proposed and seconded by Hon. K.K. Stephen Kinyanjui Mburu, M.P. and Hon. Grace J. Kipchoim, MP respectively.

MIN/DC-L/2014/211

CONSIDERATION OF TRAFFIC (AMENDEMENT), 2014

The Chair invited the Chief Executive Officer (CEO) of International Institute of Legislative Affairs to make presentation on any representations they may have on the Bill.

The CEO briefed the Committee as follows:-

That:-

- Clause 2 of the Bill be amended as follows-

(a) In sub clause (3A) paragraph (d) by inserting the following words “as may be designated as a pedestrian crossing by a Highway Authority or a county government” after the words “from school”.

(b) by inserting a new subsection (3B) and renumbering the Bill accordingly as follows-

“(3B) The Cabinet Secretary may prescribe the hours that the speed limits stipulated under this section may apply in relation to school operating hours.”

(c) in sub clause (3B) by inserting the words “or a county government” after the words “Highway Authority” in the introductory paragraph.

Justification

The proposals enable the legal framework to in addition cover the sections of the roads where children are most vulnerable when crossing to and from school where such areas are not situated within the boundaries of a school.

The prescription of operating hours provides for flexibility in road use so as to focus more on the times when children would be most vulnerable while going to or coming from school.

In accordance with the Fourth Schedule to the Constitution, the roads’ function is shared between the national and county governments. It is therefore necessary to provide the mutual obligation on both levels of government in implementing the Clause. The clause has been provided for in the Bill, it would only work on the roads that are assigned to the national government which will leave the roads under the county governments where most of the schools would be located.

- **Clause 3 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph–**

(b)insertingthe following new subsections immediately after subsection (1)–

“(1A) A police officer shall serve the person driving or in charge of a motor vehicle who commits an offence under section 42, with a police notification of traffic offence, charging the person of having committed the offence under the section.

(1B) The notification issued under subsection (1A) shall for all purposes be regarded as a summons issued under the Criminal Procedure Code.

(1C) The person served with the notification under subsection (1A) -

- (a) shall not be obliged to attend court in answer to the charge if he has pleaded guilty in writing and sent the notification, together with the amount of the statutory maximum penalty or penalties for the offence or offences to which he has pleaded guilty, by prepaid registered post, by hand or by any other approved money payment system, to the court indicated in the notification so as to reach that court within thirty days; or
- (b) shall be obliged to attend court in answer to the charge within forty eight hours of such service if the person does not plead guilty and where the period of forty eight hours expires during the weekend or a public holiday, on the next day which is not a public holiday or on a weekend.

(1D) The procedure and requirements stipulated under section 117 (5),

(6), (7), (8), (9) and (10) shall apply to this section.”

Justification

The enforcement of speed limits would be more effective where a person who pleads guilty of the offence pays the fines instantly without the having to appear in court. At the same time, a person who does not plead guilty is provided with an opportunity to appear in court within a reasonable time. This reduces the incidences of corruption hence increasing compliance since the motorists would not have terminate their journeys so as to attend to the court process.

- **Clause 4 of the Bill be amended as follows–**

- (a) by deleting sub clause (2) of the proposed section 105B and substituting therefor the following new sub clause (2)–

- “(2) Notwithstanding subsection (1) a motor vehicle designated for transporting children to or from school or for any non-school related activity when they are in a group shall –

- (a) be fitted with the prescribed child safety equipment, design safety features or structures;

- (b) be painted in yellow colour and other signage as may be prescribed;

- (c) comply with the conditions imposed on public service vehicles under this Act; and

(d) not operate between the hours of 10:00 pm and 6:00 am.”

(b) by inserting a new sub clause (6) after sub clause (5) and renumbering the clause accordingly as follows-

“(6) A person who drives or is designated to drive a motor vehicle for transporting children to and from school shall meet the conditions imposed on drivers of public service vehicles as set out under this Act where appropriate.”

(c) by deleting sub clause (7) and substituting therefor the following new sub clause (7) as follows-

(7) A person who contravenes this section commits an offence and shall be liable-

(a) where the contravention is related to subsection (4) to a fine not exceeding ten thousand shillings; or

(b) where the contravention is related to other subsections other than subsection (4) to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding two months or to both.

(d) by inserting a new sub clause (9) and (10) as follows-

“(9) The Cabinet Secretary shall, within a period not exceeding three years make the Regulations stipulated under this section.

(10) Subsection (2)(a), (3), (4) and (5) shall come into force upon the enactment of the Regulations prescribed under this section.”

Justification

The requirement for painting of motor vehicles, the regulation of operating hours as well as the compliance by drivers with the conditions imposed on drivers of public service vehicles are intended to enhance the child safety in road transport on matters that may expose them or where extra caution is necessary for visibility of other drivers.

In regard to penalties for offences related to the section, it is necessary to differentiate the offences related to public transport of children and private transport of children, which mainly occurs at family level.

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In order to realize the benefits of safety in child road transport, it is critical to set timelines within which the required Regulations must be made. In addition, it is necessary to peg the operationalization of the sections requiring Regulations to the enactment of the required Regulations.

Committee Observations

The Committee observed the following:-

- The logistics aspect of collecting fines from traffic offenders is cumbersome and there is need to have comprehensive mechanisms of collecting fines.
- The Committee further noted that there is need to engage more stakeholders to get their inputs on the Traffic (Amendment) Bill 2014. The International Institute of Legislative Affairs pledged to invite stakeholders for a forum on the same on 17th October 2014.

MIN.NO. DC-L/2014/212ADJOURNMENT

And the time being 12.30 pm the meeting was adjourned.

SIGNED.....

HON MAINA KAMANDA, M.P
(Chairperson)

DATE.....17/2/015.....



MINUTES OF THE 53RD SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 30TH OCTOBER, 2014 AT MEDIA CENTRE, AT 10: 40 AM.

PRESENT

1. Hon. Omulele Christopher, M.P.- Chairing
2. Hon. Johnson Many Naicca, M.P.
3. Hon. Ahmed Abbas Ibrahim, M.P.
4. Hon. Joseph Lomwa, M.P.
5. Hon. Omar Mwinyi, M.P.
6. Hon. Mark Lomunokol, M.P.
7. Hon. Barchilei Kipruto, M.P.
8. Hon. Emmanuel Wangwe, M.P.
9. Hon. Chachu Ganya, M.P.
10. Hon. Peter Shehe, M.P.
11. Hon. Grace Kipchoim, M.P.
12. Hon. Mukwe James Lusweti, M.P.

ABSENT WITH APOLOGY

1. Hon. Maina Kamanda, M.P. – Chairperson
2. Hon. (Eng.) Mahamud Maalim, M.P. –Vice Chairman
3. Hon. Mathias Robi, M.P.
4. Hon. Edick Omondi Anyanga, M.P.
5. Hon. Gideon Konchella, M.P.
6. Hon. Aduma Owuor, M.P.
7. Hon. Stephen Manoti, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Eng. John Kiragu, M.P.
10. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
11. Hon. Simon Nyaundi Ogari, M.P.
12. Hon. (Arch.) David Kiaraho, M.P.
13. Hon. (Eng.) Stephen Ngare, M.P.
14. Hon. Mishi Juma, M.P.
15. Hon. Cecily Mbarire, M.P.

IN ATTENDANCE

- NATIONAL ASSEMBLY

- | | |
|--------------------------|-----------------------|
| 1. Mr. Samuel Kalama | First Clerk Assistant |
| 2. Mr. Abdifatah M. Bule | Third Clerk Assistant |
| 3. Ms. Nuri K. Nataan | Third Clerk Assistant |
| 4. Ms. Christine Odiambo | Legal Counsel |

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Consideration of the Traffic (Amendment) Bill, 2014
4. Any Other Business

MIN/DC-L/2014/213 PRELIMINARIES

The Chair called the meeting to order at 10:40 am and opened it with a word of prayer.

MIN/DC-L/2014/214 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed and seconded by Hon. Johnson Many Naicca, MP and Hon. Joseph Lomwa, MP respectively.

MIN/DC-L/2014/215 Consideration of the Traffic (Amendment) Bill, 2014, 2014

The Committee deliberated on the Bill and agreed as follows:-

That:-

CLAUSE 2

That Clause 2 of the Bill be amended in the new sub-clause (3A)-

- a) by deleting the word "thirty" appearing immediately after the words "speed exceeding" and substituting therefor the word "fifty";
- b) in paragraph (d) by inserting the following words "as may be designated as a pedestrian crossing by the highway authority" immediately after the words "from school"; and
- c) by deleting paragraphs (b), (c) and (e).

Justification



The proposals enable the highway authority to identify and designate as pedestrian crossings, sections of the roads where children would be most vulnerable when crossing to and from school and where such areas are not situated within the boundaries of a school.

Deletion of clauses (b), (c) and (e) will ensure that there are no ambiguities as regards the areas where the speed limit shall apply.

CLAUSE 3

That Clause 3 of the Bill be amended by deleting the existing clause 3 and substituting therefor the following new clause (3)-

“(1A) A person who contravenes the provisions of section (3A) shall be liable to a fine not exceeding twenty thousand shillings.

(1B) A police officer shall serve upon the person driving or in charge of a vehicle and who commits an offence under section 42 (1), (2) and (3), with a police notification of traffic offence in the prescribed form charging the person of having committed the offence under the section.

(1C) The police notification served under subsection (1B) shall require the person to attend court to answer such charge as may be preferred within forty eight hours of service of the notification.

(1D) The procedure stipulated under section 117 (4), (5), (6), (7), (8), (9) and (10) shall apply to this section.”

Justification

The requirement that a person who fails to comply with the set speed limit pay a fine not exceeding twenty thousand shillings would ensure that there is no corruption encouraged especially where it would not be possible to clearly determine the extent by which an offender exceeds the speed limit. The discretion would therefore be on the judicial officer to impose a fine that does not exceed twenty thousand shillings depending on the severity of the offence and the circumstances of each case.



CLAUSE 4

That Clause 4 of the Bill be amended—

(a) by deleting sub clause (2) of the proposed section 105B and substituting therefor the following new sub clause (2)—

“(2) Notwithstanding subsection (1), a motor vehicle designated for transporting children to or from school or for any non-school related activity when they are in a group shall—

- (a) be fitted with safety belts designed to be used by children;
- (b) be painted in yellow colour and have other signage as may be prescribed;
- (c) comply with the conditions imposed on public service vehicles under this Act; and
- (d) not operate between the hours of 10:00 pm and 5:00 am.”;

(b) by deleting sub-clauses (3), (4) and (5);

(c) In sub-clause (6) by inserting the following new paragraph immediately after paragraph (c)-

“(d) for the hours that the speed limit stipulated under this section may apply in relation to school operating hours.”;

(d) in sub-clause (7) by deleting the words ‘of fifty thousand’ appearing immediately after the word ‘fine’ and substituting therefor the words ‘not exceeding thirty thousand’;

(e) by deleting sub-clause (8) and substituting therefor the following new sub-clause (8)-

“Notwithstanding subsection (7), a person who being the registered owner or driver of a vehicle used for transporting children, who authorizes or permits the use of a vehicle used for transporting children or is negligent to prevent contravention with this Act commits an offence and shall be liable to a fine not exceeding thirty thousand shillings or imprisonment for a term not exceeding two months, or to both.”; and

(f) by inserting the following new sub-clauses (9) and (10) immediately after sub-clause (8)—

“(9) Subsections (1), (2)(a) and (b) shall come into force within twelve months after the enactment of this Act.

(10) The Cabinet Secretary shall, within a period not exceeding twelve months after the enactment of this Act, make the Regulations prescribing matters required to be prescribed under this section.”.

Justification

The requirement for painting of motor vehicles, the regulation of operating hours as well as the compliance by drivers with the conditions imposed on drivers of public service vehicles are intended to further enhance child safety in road transport on matters that may expose them or where extra caution is necessary for visibility of other drivers.

The prescription of operating hours provides for flexibility in road use so as to focus more on the times when children would be most vulnerable while going to or coming from school.

In regard to penalties for offences related to the section, it is necessary to differentiate between the offences related to exceeding the thirty kilometers per hour speed limit around schools and the offences related to exceeding the fifty kilometers per hour speed limit around townships and municipalities.

The requirement of liability on only the registered owner of the vehicle used for transporting children or the driver operating the vehicle would guard against imputing liability on persons who may not have a direct control on the vehicle.

In order to realize the benefits of safety in child road transport, it is critical to set timelines within which the required Regulations must be made. In addition, it is necessary to peg the operationalization of the sections requiring Regulations to the enactment of the required Regulations.



CLAUSE 5

That Clause 5 of the Bill be deleted.


Justification

Clause 5 which creates a new Schedule to the Act prescribing for the penalties to be paid upon exceeding the speed limit under section (3A) will no longer be applicable as this would be provided for in the new section (1A) in clause 3.

MIN/DC-L/2014/216

ADJOURNMENT

And there being no other business, the Chair adjourned the meeting at 12.30 pm.

SIGNED..........

HON MAINA KAMANDA, M.P

(Chairperson)

DATE.....17/2/05.....

