



NEGOTIATING MANDATE

TO: HON M RAYI, MP
CHAIRPERSON OF SELECT COMMITTEE ON
ECONOMIC AND BUSINESS DEVELOPMENT

NAME OF BILL: NATIONAL LAND TRANSPORT
AMENDMENT BILL

NUMBER OF BILL: B7B – 2016

DATE OF DELIBERATION: 25 OCTOBER 2018

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Transport met today, Thursday the 25th of October 2018, and agreed to mandate the KwaZulu-Natal delegation to **support** the **National Land Transport Amendment Bill [B7B-2016]**; with the following proposed amendments as outlined in the Committee Report, attached hereto.

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HON NN SIBHIDLA-SAPHETHA, MPL
CHAIRPERSON: PORTFOLIO COMMITTEE
ON TRANSPORT

.....
25.10.2018
DATE

KZN TRANSPORT PORTFOLIO COMMITTEE PROPOSED AMENDMENTS ON THE NATIONAL LAND TRANSPORT AMENDMENT BILL (B7B-2016)

Definition of e-hailing services

The following 4 provisions be added to reinforce and fortify the definition of e-hailing services as a separate and distinct category:

E-hailing services are:

- “Available for hire of a vehicle and a driver for a journey at a charge arranged beforehand with the operator”;
- “Neither the operator nor the driver charges the passengers individual fares”;
- “The person hiring the service has the right to decide the route, date and time of travel”; and
- “The passengers are conveyed to a common destination, and includes vehicles hired with drivers contemplated in section 66A.”

The Definition of ‘e-hailing services’ currently provided for in the Bill should be enhanced and reinforced to guard against ambiguity or misinterpretation. In order to avoid unintended consequences at the point of granting of licenses by Regulatory Entities, the Committee proposes that:

- E-hailing services are not restricted to areas of operation and dedicated routes as these are roaming services.
- It is necessary to specifically define the appropriate and applicable application process and timeframes for the consideration and granting of operating licences for e-hailing service operators by regulatory entities.
- That Regulatory Entities must be provided sufficient guidance by way of the appropriate legislative and regulatory framework to inform a consistent application and implementation thereof including applying the appropriate Guidelines as prescribed by the National Department of Transport as a practice note for all PREs and MREs.

Amendment of 66A (1) (b)

“(b) The regulatory entity granting an operating licence for such service may specify, with regards to central business districts, highly traffic congested areas or specific areas of public spaces [the area] for picking up of passengers, subject to section 57(5).”

Deletion of Section 66A (2).

A review and amendment of Section 66(5) of the Bill is required due to backlogs at various municipalities in the issuance of operating licences.

Limitation of areas or ranks specifications

- Imposing pre-determined location requirements upon e-hailing services defeats the protections offered by e-hailing platforms such as real-time tracking of every journey and access to an in-app 'panic button' among other things.
- Limiting an e-hailing service provider to specific areas is a practical impossibility by the nature of the roaming service and the technology involved, as well as the consumers in the market it services.

Vehicle markings/branding

E-hailing drivers are already targets for criminal and violent attacks. If their vehicles were marked, it would make them more obvious targets of attacks and the rate and volume of such occurrences would increase thereby equally endangering the lives of drivers and commuters.

- E-hailing vehicles are marked "digitally" since only approved drivers and vehicles are allowed to use the platform.
- Once the driver and commuter are matched, the commuter knows which vehicle model and vehicle registration should be arriving at the specified location.
- Metered taxis require physical markings in order to remain identifiable to prospective consumers when hailed from the street/rank.

The Committee proposes the addition of a subsection 1A as follows:

"A Municipal Regulatory Entity or other regulatory entity must establish a process whereby interim licences are issued within 14 (fourteen) days which would be valid pending the final decision to be made by the Municipal Regulatory Entity referred to in subsection (1) where, for whatever reason, the decision to be taken referred to in subsection (1) has not yet been made after a week after the application for operating licence was received by the Municipal Regulatory Entity."

Proposal that S66A (1) (b) be amended as follows:

"(b) The regulatory entity granting an operating licence for such service may specify, with regards to central business districts, highly traffic congested areas or specific areas of public spaces [the area] for picking up of passengers, subject to section 57(5)."

Proposal to Repeal Section 66A (2)

Proposal that Section 66A is amended by the addition and insertion of the following subsections:

Electronic Hailing Services

66A (2) if the operating licence specifies the area as envisaged in subsection (1) (b) such a vehicle may –

(c) Leave the area or zone described in the operating licence if, on the return journey, it is to carry the same passengers that it carries on the outward journey or if the vehicle is to return to that area empty; and

(d) Pick up passengers outside that area or zone if the fare is pre-booked and the passengers will return to such area.

Proposes an amendment to Section 66A (5)(a) and (b) and insertion of subsections (9) to (12)

(5) Subject to subsection (9):

...”

(9) No regulation may be made unless the Minister or the MEC:

(a) has published:

(i) such draft regulation;

(ii) a statement explaining the need for and the intended operation of the regulation;

(iii) a statement of the expected impact of the regulation;

(iv) a notice inviting submissions in relation to the regulation and stating where, how and by when submissions are to be made; and

(b) has, once submissions referred to in paragraph

(a) (iv) have been received and considered:

(i) a consultation report must be prepared which must include:

(aa) a general account of the issues raised in the submissions made during the consultation; and

(bb) a response to the issues raised in the submissions;

(ii) submitted the regulation and the consultation report to Parliament or the applicable provincial legislature (hereafter referred to as “the applicable legislature”), as the case may be, in terms of subsection 12.

(10) The period allowed for making submissions referred to in subsection (9) (a) (iv) must be at least six weeks.

(11) In deciding whether to make a regulation, the maker must take into account all submissions received by the expiry of the period referred to in section (10) and any deliberations of the applicable legislature.

(12) Before making a regulation in terms of subsection (5), the Minister or MEC, as the case may be, must submit the regulation to the applicable legislature, for a period of at least 30 days while the applicable legislature is in session, together with-

(a) the documents mentioned in subsection (9) (a); and

(b) a report on the consultation process referred to in subsection (9) (b)(i)."

Amendment of section 1 of Act 5 of 2009

The addition of the paragraph "as prescribed by the Minister under section 66(4) (c A), or is equipped with an electronic hailing application or similar technology that complies with requirements so prescribed, or both such meter and application or technology;" on the definition of Metered Taxi Services on Section 1 (c). Already the definition states that a metered taxi is equipped with a sealed meter either a manual meter or digital meter or similar technology, in good working order, for the purpose of determining the fare payable.

Word or Phrase

Definition

E-Hail App - A software program residing on a smartphone which performs one or more of the following functions:

Allows a passenger to identify the location(s) of available Taxicabs in a given area and allows an operator to identify the location of a passenger who is currently ready to travel;

Allows a passenger to hail a Taxicab via the device;

Allows a Driver to receive a hail request from such a passenger if the application provides for connecting a passenger to a Driver.

Ride-hailing/e-hailing service – Computer Definition. Transportation from an unlicensed taxi service such as Uber or Lyft. Also called a "ride-sharing" service, which is a misnomer when applied to single-fare rides but accurate when referring to the carpool service that the companies offer.

Section 66 1 (a) (b)

Proposes that:

- (a) the entity granting the operating licence may specify an area for picking up passengers and must provide a holding bay for vehicles; (b) if the operating licence or permit specifies such an area or zone, the vehicle may leave that area or zone if, it has been allocated a trip automatically or manually;
An example is King Shaka International Airport where there is a Taxi Pick Up area regardless of the way it has been hailed.

Section 66(1) (c) (d)

Proposes that the paragraph be put as follows:

- (c) the vehicle may pick up passengers outside of that area when they enter into that particular area or zone, if the fare is pre-booked and the passengers will return to such area; and (d) any particular journey may be operated at a fare not determined by the meter if the fare for that journey has been agreed upon before the journey begins, but the meter must be kept running for the information of passengers.

Section 66(5)

Proposes that the paragraph be put as follows:

- (5) analogy meter or digital meter or similar technology meter, must- (a) have the facility to estimate distances and fares, taking into account distance and time, and communication such estimate to passengers in advance, and (b) communicate the fare to the passenger at the conclusion of the journey, by (c) either analogy or digital means.

Section 5(5)

Proposes that the MEC and the Minister exercise their function of fare collection and ticketing systems by also including players in the industry i.e Operators and Service Providers.

In conclusion, the Committee are concerned about two clauses in the Bill:

Section 66A (1) (b) – Area Restrictions

These provisions could be used to artificially restrict the area in which Uber driver-partner operators, and affect the overall level of service to the customer (i.e. the rider).

Section 66A (5) (b) – Special Markings

If the e-hailing vehicle is required to have special markings, drivers will be made even more vulnerable to attack. The customer (i.e. the passenger) can easily recognise the vehicle s/he has booked from the data on his/her smartphone.