



THE AUTOMOBILE ASSOCIATION OF SOUTH AFRICA NPC

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20 November 2020

The Parliamentary Portfolio Committee on Transport

c/o Valerie Carelse (via e-mail: trafficbill@parliament.gov.za)

Parliament Street
Cape Town
8000

Dear Sirs and Mesdames,

NATIONAL ROAD TRAFFIC AMENDMENT BILL [B7 – 2020]

Please find enclosed our comments on the abovementioned Bill. For convenience, our comments follow the paragraph numbering of the Bill, with specific reference to sections of the National Road Traffic Act (93 of 1996) as applicable.

Where we propose an alteration in wording, the original wording from B7-2020 will be struck through, and our proposed wording underlined.

Paragraphs: definitions j,l and u, 11, 12, 13, 53(f)

Sections of NRTA affected: numerous, with numerous new sections created

Detail

Creates a framework for regulating microdots

Comment

Our concern is not only with the detail of these proposals, but their necessity.

Microdots are a security technology which is of particular usefulness to vehicles. However, vehicles are fitted with many other security technologies such as high security locks, electronic alarm/immobilisers, satellite tracking, remote disablement of a vehicle by a smartphone app, gearlocks, steering locks, and so-forth.

Government has not, at any stage of the development of microdot regulation, set out reasons why it believes microdots should be singled out for regulation while other security technologies are left to the free market, nor indeed why – or whether – there is research and evidence implying a need for any regulation of security technologies at all.

Microdots also have utility in asset identification and control beyond the motor sector, and the AA's view is that it is premature to tie this economic sector to the National Road Traffic Act.

We also have concerns that a company in private enterprise which produces microdots would, if the Bill were enacted in its current form, be at risk of arbitrary deregistration at the whim of government, since no clear guidelines for registration criteria have been published.

It appears these criteria will be published in Regulations, which places them beyond Parliamentary scrutiny and leads to an entire economic sector operating substantially at the pleasure of the Minister of Transport.

If indeed there is a persuasive case to be made for regulation of microdots, the AA's view is that it is a matter for the Department of Trade and Industry, rather than Transport, which latter is already over-burdened with responsibilities, many of which are not being executed in a satisfactory manner.

Our proposal

There may well be persuasive reasons for regulating microdots in the fashion envisaged. However, we request government to delay this process and publish more details related to its intent, existing research, and the rationale behind the proposals, taking into account the concerns the AA has expressed above.

Paragraph 17

Section of NRTA affected: 11

Detail

Increases the Minister's powers to appoint inspectorate of driving licence testing centres

Comment

The Minister is currently required to appoint the inspectorate of driving licence testing centres after a decision has been taken by the Shareholders Committee.

However, the amendment to subsection 11(1) deletes the reference to the Shareholders Committee, allowing the Minister a free hand in this regard. The AA is concerned that this removes transparency from the process and denies the members of the Shareholders Committee the opportunity to make inputs which may be relevant.

The AA is opposed to any attempt to dilute the Shareholders Committee's role in administering road safety. See also our comment on Paragraph 47.

Our proposal

The original wording of subsection 11 (1) should be retained.

Paragraph 31

Section of NRTA affected: 28

Detail

Grading of driving instructors

Comment

This paragraph makes provision for a grading system for driving instructors. This would require a system of tests beyond the current Driving Licence Instructor's Test.

The standard of the current test is, in the AA's view, inadequate and stands alongside the parallel problem that the country's driving licence test curriculum has become outdated and does not reflect the current state of vehicle technologies.

As such, any talk of grading instructors, laudable though such a concept may be, is premature.

Our proposal

The AA does not oppose the inclusion of a provision for grading instructors, but questions its usefulness at the current time.

Grading standards cannot be created without a full and comprehensive review of the existing driving licence test curriculum and driving instructor test standards. The review of the K53 curriculum, embarked upon more than a decade ago, has yet to translate into regulation, and the AA is concerned that the delay is costing lives.

Paragraph 37

Section of NRTA affected: 31

Detail

Places extra onus on the owner of a vehicle to ensure proper licensing

Comment

Currently, the NRTA prevents an owner or operator, or person in charge, from allowing an unlicensed person to drive a vehicle on public roads.

However, a new subsection (2) places a positive onus on ensuring a person is licenced and requires the owner or operator to "take the necessary steps to ensure that such a person is licensed accordingly.". This wording is somewhat imprecise and could be interpreted to mean a duty is imposed to assist a person to obtain a driving licence.

It is clear that the legislator's intent is to ensure such a person is properly licensed, and we propose a wording change to more clearly reflect that intent.

Our proposal

Re-word paragraph (2) to read: "The owner or operator shall, before the person referred to in subsection (1) drives a vehicle as contemplated in subsection (1), ~~take the necessary steps to ensure~~ verify that such a person is licensed accordingly."

Paragraph 45

Sections of NRTA affected: definition e, new Section 62A

Detail

Response to road incidents

Comment

This proposed new section creates an onus upon the emergency services to respond to a road incident and "*..render all the necessary services as prescribed*". To this end, a new definition of "emergency services" is created, encompassing "*emergency medical services provided by an organ of state or private body...*"

This amendment appears to compel private emergency services to respond to road incidents, but lacks detail on cost or utilisation aspects. This is especially relevant in terms of air ambulance services.

Our presumption is that the "necessary services" will be prescribed in Regulations. This is a concerning development – the AA feels that professional, suitably-trained emergency services

staff are best-placed to make decisions on what services should be rendered on an incident-by-incident basis.

The AA's further concern is that this amendment could, in essence, outsource incident response to the private sector and thereby threaten the existence of State emergency services.

Also, if private sector emergency services find that being compelled to respond to road incidents is loss-making, it could lead to reduction in emergency services capacity and loss of skilled EMS staff.

The AA believes it is right and proper that State emergency medical services be compelled to respond to road incidents as a duty of care towards citizens, but that it is inappropriate to impose this duty on a private body without first establishing a framework within which it should take place. We are not aware of an road traffic legislation proposals which have established such a framework.

Our proposal

Proposed Section 62A should be withdrawn and a consultative process embarked upon to outline government's aims in respect of emergency response to road incidents and determine the most sustainable manner in which they could be attained.

Paragraph 46

Section of NRTA affected: 65

Detail

Reduction in alcohol levels to zero

Comment

The reduction in permissible blood and breath alcohol levels to zero is unlikely to achieve a substantial change in road user behaviour.

The reduction in allowable Blood Alcohol Concentration (BAC) from 0.08% to 0.05% took effect in 1999.

The AA wishes to draw government's attention to the National Injury Mortality Surveillance System (NIMSS) studies conducted by the Medical Research Council and UNISA, which showed that despite the reduced BAC limit, the percentage of driver fatalities with a BAC above zero rose from 53.2% in 1999 to 57.6% in 2008.

There are similar studies from around the world which the AA would be happy to share with the Department which conclude there is no correlation between reducing alcohol limits and reduced fatalities in specific areas.

The empirical evidence thus shows no benefit from BAC reductions in South Africa.

The effect of a zero limit will be that drivers whose blood or breath alcohol level is non-zero, but who are not in any way impaired, will be unjustly criminalised. We refer specifically to the effect of mouthwashes, certain medicines containing alcohol, and to the documented effects of gut fermentation syndrome in which the metabolism of some people produces detectable levels of alcohol.

Government should abide by the original principle that legislation on alcohol and driving seeks to prevent impaired driving, not the complete absence of alcohol in a driver's body.

Our proposal

The AA proposes a minimum BAC of 0.02%, and the equivalent Breath Alcohol Level, to avoid criminalising drivers who have trace amounts of alcohol in their systems, but are in no way impaired.

Paragraph 47

Section of NRTA affected: 75

Detail

Further intrusion on the role of the Shareholders Committee

Comment

The amendment of subsection (1) removes the Shareholders Committee's role in making regulations.

The AA is opposed to this move on the basis that the Shareholders Committee allows regional views on road safety to be expressed at a national level, and reduces the likelihood of divergent Provincial traffic safety legislation arising.

Our proposal

The existing wording of subsection (1) should be retained.