



NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2020 [B7-2020]

JPSA Presentation
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Presenter: Howard Dembovsky

Prepared for the Portfolio Committee on Transport



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Disposing of the Shareholders Committee (S75)



“(1) The Minister may **[after a decision has been taken in the Shareholders Committee]** make regulations not inconsistent with this Act, ...”

- “Shareholders Committee” – includes MECs for Transport (Provinces) & SALGA (local authorities)
- Courts regard Regulations as “administrative action”*
 - *This is despite the provisions of S75(6)
 - When last did Parliament debate the making of **any** regulation to the NRTA?
- Creates an environment that is an open invitation to abuse and autocracy
- Extremely expensive tedious and risky to challenge
- The Courts are strenuously opposed to interfering with “the separation of powers”

Recommendation: Leave S75 alone – or repeal it entirely!



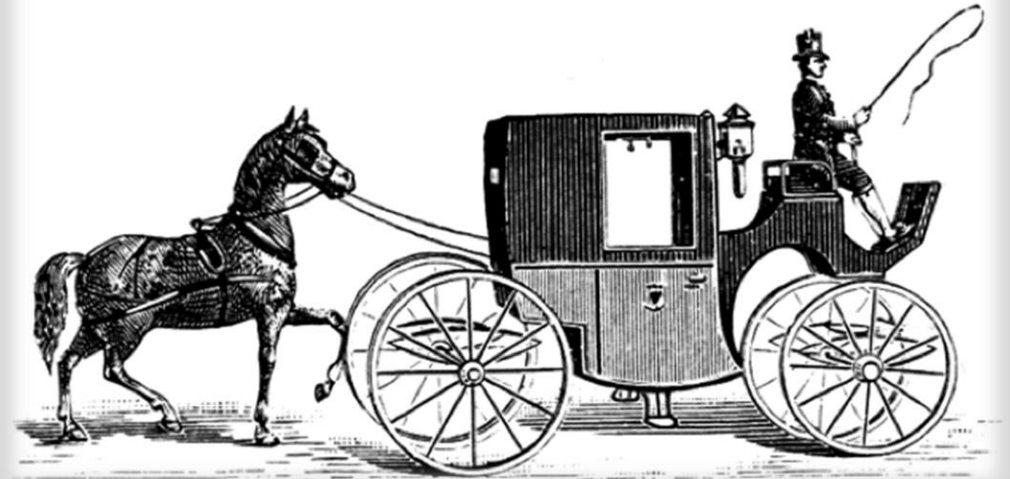
Regulation of driving schools (S28D to S28H)

- **FACT** – Poorly skilled and qualified drivers cause crashes
- **FACT** – **Reckless driving** causes most crashes
- **FACT** – “Hit and run” is not a cause; it is an effect
- **FACT** – Learner drivers/riders are not compelled to undergo **any** formal training!

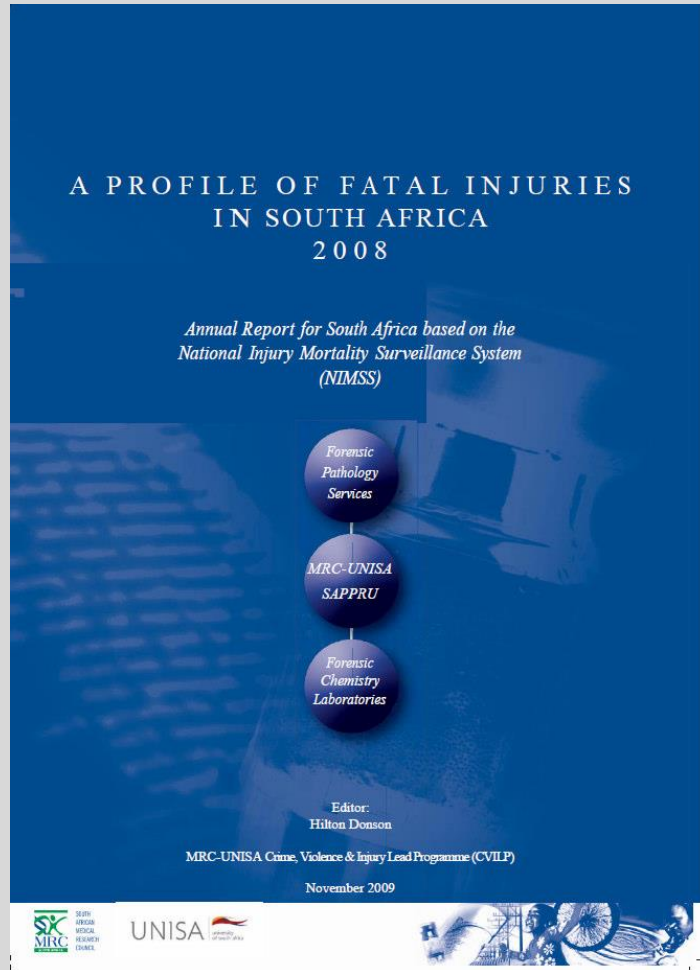
Recommendations:

- Modernise training and testing methods
- **Compel** professional basic driver training for learners
- Produce skilled, competent drivers (and riders)
- Change requirements for PrDP acquisition
- Streamline licensing/re-licensing and build in proper security features for licensing documents
- **Eradicate** corruption in DLTCs

This isn't working at all... I should warn others not to put their cart before the horse.



The alcohol “limit” (S65)



- S65 prohibits alcohol **and** drugs having a narcotic effect!
- The latest empirical alcohol-related fatalities data is from the **2008** NIMSS* report which is often incorrectly referred to as the 2010 NIMSS report
 - It has been repeatedly quoted by the RTMC and DoT
 - It is even quoted in the 2019 RTMC “alcohol and its implications for RTCs study”
 - It has been repeatedly quoted by the WHO
 - It has been quoted by **everyone** driving the prohibitionist narrative

Imagine what would happen if SA relied on 12-year-old COVID stats!

*“NIMSS” – National Injury Mortality Surveillance System



Why does everyone omit the most important facts?

Table III: Blood alcohol levels per transport user

Transport user	BAC's done n(%)	BAC positive n(%)	Mean BAC	Std. Dev.
Driver (1667)	748 (44.87)	431 (57.62)	0.17	0.08
Passenger (2107)	449 (21.31)	203 (45.21)	0.13	0.09
Pedestrian (3044)	1131 (37.16)	708 (62.6)	0.21	0.09
Railway case (299)	155 (51.84)	63 (40.65)	0.2	0.09
Cyclist (337)	162 (48.07)	70 (43.21)	0.16	0.08
Unspecified (1666)	397 (23.83)	231 (58.19)	0.17	0.09
Total	3042	1706	0.21	0.1

- That on average “58 %” of deceased drivers quoted therein were **more than three times over the current limit.**
- That on average “63%” deceased pedestrians were **more than four times over current the limit.**
- That on average the BAC in respect of all transport-related deaths was **more than four times over current the limit!**

What rationale informs the conclusion that the current limit is the cause of so many road fatalities?



BAC “limits” in SADC member states

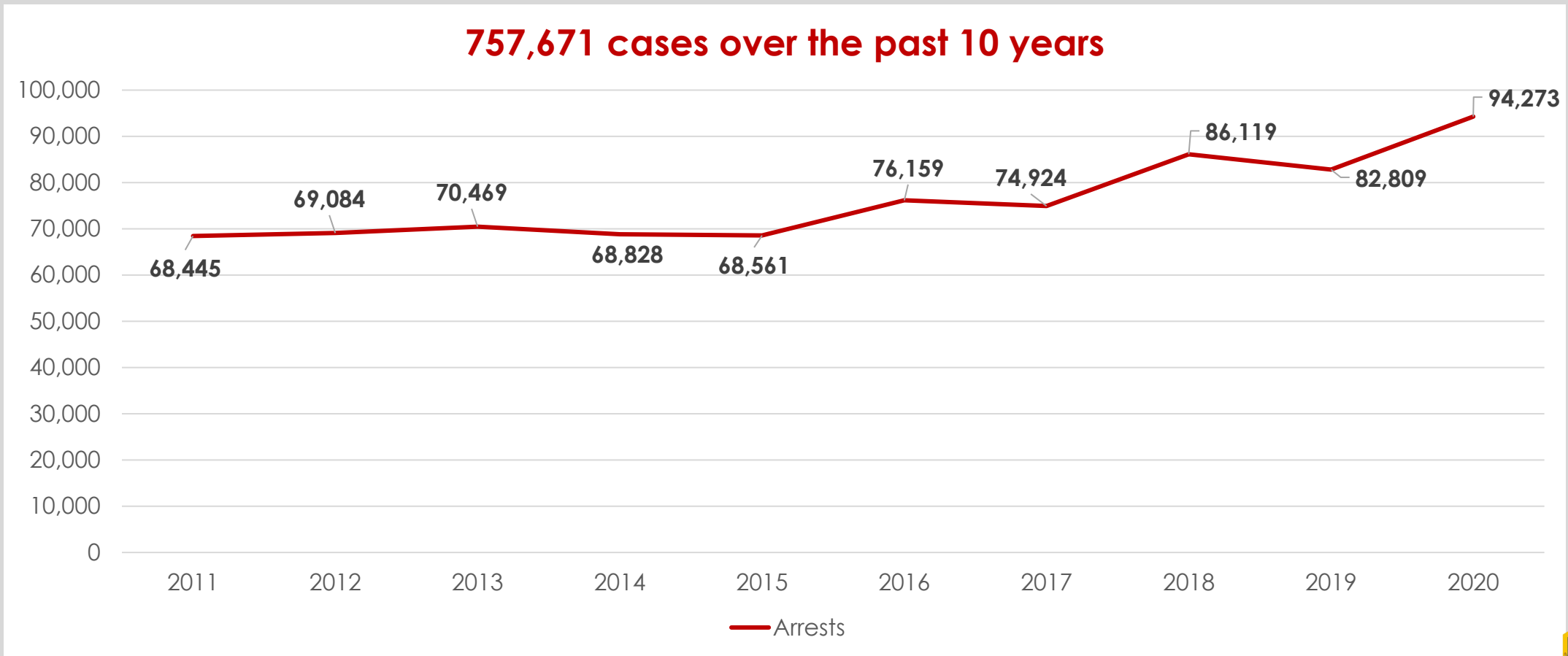
1. **Angola** – 0,06g/100ml (0.06%)
2. **Botswana** – 0,08g/100ml (0.08%)
3. **Comoros** – no data
4. **Democratic Republic of Congo** – no data
5. **eSwatini** – 0,05g/100ml (0.05%)
6. **Lesotho** – 0,08g/100ml (0.08%)
7. **Madagascar** – 0,08g/100ml (0.08%)
8. **Malawi** – 0,08g/100ml (0.08%)
9. **Mauritius** – 0,05g/100ml (0.05%)
10. **Mozambique** – 0,06g/100ml (0.06%)
11. **Namibia** – 0,05g/100ml (0.05%)
12. **Seychelles** – no data
13. **South Africa** – 0,05g/100ml (0.05%)
14. **United Republic of Tanzania** – no data
15. **Zambia** – 0,08g/100ml (0.08%)
16. **Zimbabwe** – 0,08g/100ml (0.08%)



Source: <https://www.rhinocarhire.com/Drive-Smart-Blog/List-of-Alcohol-Limits-by-Country.aspx>



People arrested for DUI Nationally – 2011 to 2020



Source: <https://www.crimestatssa.com/national.php>



People convicted of DUI Nationally – 2011 to 2020



The last indication was that less than 10% of charges for DUI resulted in a conviction.



Why arrests are so high and convictions are so low

- An allegation of DUI is an excellent tool for extortion
- Authorities are often too quick to arrest and like to use arrest to punish
- The chain of evidence is rarely properly maintained
- SAPS dockets go “missing”
- Forensic evidence is rarely provided timeously or at all
- Many cases are withdrawn on first appearance, others are provisionally withdrawn later
- A conviction for DUI is a serious affair!
 - Regardless of the sentence, a **minimum** 10-year criminal record prevails
 - Rightly so, criminal courts **will not** convict anyone if the State does not prove its case
- **How will removing the “limit” cure any of this?**



What deters DUI elsewhere?

- The social stigma narrative
- The relative certainty of being caught
- The relative certainty of facing consequences
- The speed with which consequences arise
- **NOTE:** The severity of the punishment is **not** usually a considerable deterrent factor



What is South Africa's current approach?

- Using self-worshiping officials and celebrities to drive the social narrative
- Threatening people with “a minimum of 7 days in jail before being allowed to make a bail application”
- Very little proper enforcement of existing provisions, including mandatory driving licence suspension
- No requirement to test drivers who are involved in crashes
- Close to no enforcement regarding intoxicated pedestrians
- Continued reliance on blood alcohol testing
- And now, proposing an abolitionist approach

Why South Africa should **not** adopt a “zero tolerance” approach

- Bear in mind that other SADC member states with **much better road safety records than ours** have higher “limits” than our current “limit” which is **less than 0,05%**
- There **will be SERIOUS** unintended consequences, which will include –
 - Arrests **will** skyrocket by several multiples for no good reason
 - Corruption **will** skyrocket
 - The conviction rate will either plummet or there will be even fewer employable people left
- It has not been proven that law enforcement officials can convict people **with** a limit in place
- Roadside courts will never pass constitutional muster
- Administrative fines is a **terrible** idea when it comes to DUI

Imagine: “pay as you go” DUI fines, like “pay as you go” speeding fines. It’s counterintuitive on every level!

What we believe **should** be done

- Drive the social narrative hard but bear in mind that it takes time
- Compel alcohol manufacturers to display the BAC & BrAC levels that their beverages will cause on bottles/cans/glasses
- Enforce the **current provisions of law properly** and introduce –
 - provisions to effectively tackle intoxicated pedestrians
 - compulsory testing of all drivers involved in crashes
 - serious consequences for owners of establishments that sell alcohol to already intoxicated persons
- Make extensive use of EBAT testing - move away from BAC towards BrAC
- Move away from the punitive approach for first-time offenders and towards the rehabilitative/restorative approach for those who do not injure or kill others and come down hard on those who do or who are repeat offenders

NOTE: Just like any other field of road safety, tackling alcohol abuse is a process NOT an event!

The rehabilitative/restorative approach we proposed in **2011**

- Equipping mobile EBAT centres, complete with charge office and holding facilities
- Releasing accused persons into the custody of friends/family & providing contact details for defence lawyers to call
- Expediting trials before courts and on conviction sentence to –
 - Attend rehabilitative lectures
 - Work with EMS personnel attending & cleaning up crash scenes & observing paramedics at work
 - Work in a trauma unit, cleaning trauma rooms & observing trauma unit medical professionals at work
 - Work in a mortuary
 - Community service in physical rehabilitation centres
- On successful completion – no criminal record is recorded
- Failure to complete – back to court for a punitive sentence to be imposed

NOTE: Our proposal was and remains that this should only be available to first-time offenders who do not injure or kill others and that strict health and safety protocols should be in place

In conclusion...

- Any interventions should focus on achieving true road safety goals
- Decisions must be based on evidence, not emotion or a need to stamp authority
- Threats must stop and positive, measurable action must become the norm
- There must be a complete transformation to approaches

