

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 565

Pretoria, 18 July 2012
Julie

No. 35528

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GENERAL NOTICE

NOTICE 575 OF 2012

DEPARTMENT OF TRANSPORT

PUBLICATION FOR COMMENTS: NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2012

The Minister of Transport hereby publishes the above draft Bill and the Memorandum on the objects of the Bill for public comments. Interested persons are requested to submit written comments and inputs on the above Bill by Not later than 18 August 2012.

Comments should be directed to the Director General, Department of Transport for attention of Adv Masombuka or Ngwako Thoka at:

The Department of Transport

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REPUBLIC OF SOUTH AFRICA

NATIONAL ROAD TRAFFIC AMENDMENT BILL

—————
(As introduced in the National Assembly as a section 76 Bill)
(The English Text is the official text of the Bill)
—————

(MINISTER OF TRANSPORT)

[B-2012]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions
from existing enactments

_____ Words underlined with a solid line indicate insertions in
existing enactments

BILL

To amend the National Road Traffic Act, 1996, so as to insert certain definitions and to amend others; to provide for the registration and licensing of motor vehicles, manufacturers, builders, body builders, importers and manufacturers of number plates; to empower the MEC to register an applicant as a manufacturer, body builder, builder, importer and manufacturer of number plates; to empower only a provincial Department responsible for Transport or municipality to operate a driving licence testing centre; to empower the chief executive officer of the Road Traffic Management Corporation to approve and register a driving licence testing centre; to empower the Minister to prescribe training procedures and disqualifications of Inspectors of licences, examiners of vehicles, examiners for driving licences, traffic officers and traffic wardens appointed by an authority; to impose a duty on drivers to be in physical possession of driving licences or proof thereof when driving a motor vehicle; to empower the driving licence testing centres to issue a driving licence; to prohibit the issuance of a driving licence or learner's licence of a person who has been convicted of using an aid material in order to pass the driving licence test; to set the date of 1 May 2003 as the date upon which the provision of section 18(6)(a) shall come into effect; to regulate the registration and grading of applicants as driving school instructors and direct how the application and registration of driving school instructors , to

regulate the driving school industry and to prohibit the operation of unregistered and ungraded driving schools and utilization of ungraded driving school instructors, To empower the MEC to approve applications for the registration of driving schools; to empower the Minister to prescribe regulations on how to handle applications as a driving school instructor; to empower the MEC to suspend, cancel or deregister a driving school when suspected of contravening this Act; to empower the CEO to declare as void, documents purporting to be driving licences, to empower the inspectorate of the driving licence testing centres to destroy such documents; to provide for the prohibition of driving a motor vehicle while under the influence of alcohol and while the blood alcohol content is above certain levels; to streamline the processes of incident management systems; to provide for the authorisation for operation on the public road of a registered vehicle which does not comply with the Act; to provide for the Minister's powers to make regulations; to provide for the process of incorporation of standards into the Act; to empower the Minister to appoint a person, authority or a body as an inspectorate of driving licence testing centre, to provide for the circumstances under which driving licences should be suspended; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 93 of 1996, as amended by section 1 of Act 8 of 1998, section 1 of Act 21 of 1999 and section 1 of Act 64 of 2008

1. Section 1 of the National Road Traffic Act, 1996 (hereinafter referred to as "the principal Act"), is hereby amended by—

(a) the insertion after the definition of "authorised officer" of the following definition:

“**body builder**” means a person who builds and fits new bodies on chassis or chassis cabs, or modifies existing bodies;”;

(b) the substitution for the definition of “builder” of the following definition:

“builder” means any person who manufactures or assembles motor vehicles in whole [or in part from used components, or modifies motor vehicles using new or used components];”;

(c) the insertion after the definition of “driving licence testing centre” of the following definition:

“**driving school**” means any person or body of persons, who conducts or offers instruction or training in the operation of motor vehicles in the preparation of an applicant for examination to obtain a learners licence driving licence or professional driving permit in terms of this Act and who has been registered in terms of this Act;”;

(d) the substitution for the definition of “instructor ” of the following definition:

“instructor” means any person who [for direct reward]—

- (a) instructs or teaches any [other] person in the driving of a motor vehicle;
- (b) teaches any [other] person the rules of the road, or road traffic signs and motor vehicle controls in order to obtain a learner’s or a driver’s licence; or
- (c) teaches a holder of a driving licence in preparation of an application to obtain a professional driving permit;”;

- (e) the substitution for the definition of “motor vehicle ” of the following definition:

“motor vehicle” means any self-propelled vehicle and includes—

(a) a trailer; and

(b) a vehicle having an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such, engine or motor, or both such engine or motor, but does not include—

(i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

- (f) the substitution for the definition of “pedal cycle ” of the following definition:

“pedal cycle” means any bicycle or tricycle designed for propulsion solely by means of human power; or any bicycle or tricycle with a with a maximum design speed not exceeding 45 km/h and that is characterised by an engine and which the—

(a) cylinder capacity does not exceed 50 cm³ if, the spark (positive) ignition type; or

(b) maximum net power output does not exceed 4 kW, in the case of other internal combustion engine; or

(c) maximum continuous rated power does not exceed 4 kW, in the case of other internal electric motors;”;

(g) the insertion after the definition of “province” of the following definition:

“provincial inspectorate ’ means any person or body of persons appointed by the MEC to conduct inspections and evaluations to ensure compliance with this Act; “;

(h) the insertion after the definition of “inspector of licences” of the following definitions:

“inspectorate of driving schools’ means a person, an authority or a body appointed in terms of section 28E

“inspectorate of driving licence testing centres’ means a person, an authority or a body appointed in terms of section 11

“inspectorate of manufacturers, builders, body builders and importers’ means a person, an authority or a body appointed in terms of section 7

“inspectorate of driving testing stations’ means a person, an authority or a body appointed in terms of section 41

Amendment of section 3B of Act 93 of 1996, as amended by section 2 of Act 21 of 1999

2. Section 3B of the principal Act is hereby amended by the addition of paragraph (e) after paragraph (d) of sub regulation (1)

(e) a traffic warden

Amendment of section 3C of Act 93 of 1996, as amended by section 2 of Act 21 of 1999

3. Section 3C of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (2) of the following paragraph:

(aA) a traffic officer if he or she has or acquires a direct or indirect financial interest in a transport services business;

Amendment of section 3D of Act 93 of 1996, as amended by section 2 of Act 21 of 1999

4. Section 3D of the principal Act is hereby amended by-

- (a) the substitution for the heading for section 3D of the following heading:

“Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences, traffic officer and traffic warden”;

- (b) the substitution for subsection (1) of the following subsection

“(1) The minimum requirements for registration as an inspector of licences, an examiner of vehicles, an examiner for driving licences, a traffic officer or a traffic warden, as the case may be, shall be that the applicant—“;

(c) the substitution for paragraph (a) of subsection (1) of the following paragraph:

(a) has obtained an appropriate [**diploma**] qualification at a training centre approved by the Shareholders Committee;

(d) the substitution for paragraph (b) of subsection (1) of the following paragraph

(b) is a fit and proper person to be registered as such and does not have any previous conviction for any crime as contemplated in schedule 1 or 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and

(e) the substitution for subsection (2) of the following subsection:

(2) The qualification referred to in subsection (1) (a) shall—

“(a) in the case of an examiner of vehicles, indicate the classes of motor vehicles he or she is qualified to inspect, examine and test; or

(b) in the case of an examiner for driving licences, indicate the codes of learner’s licences and driving licences for which a person may be examined and tested by such examiner.

Amendment of section 3E of Act 93 of 1996, as amended by section 2 of Act 21 of 1999

5. Section 3E of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (1) of the following paragraph:

(aA) such person was convicted for a crime as contemplated in Schedule 1 or 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

Amendment of section 5 of Act 93 of 1996, as amended by section 3 of Act 8 of 1998 and section 4 of Act 21 of 1998

6. Section 5 of the principal Act is hereby amended by-

(a) the substitution for the heading of section 5 of the following heading:

“Registration of manufacturers, builders, body builders, importers and manufactures of number plates.”.

(b) the substitution for subsection (1) of section 5 of the following subsection:

5. (1) Every manufacturer, builder, body builder or importer, shall apply in the prescribed manner to the chief executive officer for registration as a manufacturer, builder, body builder, importer or manufacturer of number plates.

(c) the substitution for subsection (4) of the following subsection:

(4) The chief executive officer may, in the prescribed manner, suspend for such period as he or she may deem fit, or cancel, the registration of a manufacturer, builder, bodybuilder or importer or manufacturer of number plates.

(d) the substitution for subsection (5) of the following subsection:

“(5) A manufacturer, builder, body builder or importer shall, in the prescribed manner, register every motor vehicle manufactured, built or imported by him or her, before he or she distributes or sells such vehicle.”.

(e) the substitution for subsection (6) of the following subsection:

“(6) Manufacturers, builders, body builder and importers shall not manufacture, build, modify, import, sell or distribute motor vehicles unless registered in accordance with the prescribed conditions.”.

Amendment of section 7 of Act 93 of 1996

7. Section 7 of the principal Act is hereby amended by—

(a) the substitution for the heading of section 7 of the following heading:

“Appointment of inspectorate of manufacturers, builders, body builders and importers.”.

(b) the substitution for subsection (1) of the following subsection:

“(1) The Minister may appoint a person, an authority or a body as an inspectorate of manufacturers, builders, body builders and importers.”; and

(c) the substitution for subsection (2) of the following subsection:

“(2) The powers and duties of the inspectorate contemplated in subsection (1) in relation to the registration and inspection of manufacturers, builders, body builders and importers shall be as prescribed.”.

Amendment of section 8 of Act 93 of 1996, as substituted by section 6 of Act 21 of 1999

8. Section 8 of the principal Act is hereby amended by the substitution for the following section

“8. No person shall operate a driving licence testing centre unless such testing centre is registered and graded.”

Amendment of section 8A of Act 93 of 1996, as inserted by section 6 of Act 21 of 1999 and amended by section 5 of Act 64 of 2008

9. Section 8A of the principal Act is amended by—

(a) the substitution for the heading of section 8A of the following heading:

“Application for registration [of] as driving licence testing centre”;

(b) the substitution for subsection (1) of the following subsection:

“(1) **[Any]** A provincial [department] Department responsible for [State] Transport or [registering authority] municipality desiring to operate a driving licence testing centre shall in the prescribed manner apply to the **[inspectorate of driving licence testing centres]** chief executive officer for approval and the registration of such testing centre.”; and

(c) the substitution for subsection (2) of the following subsection:

“(2) A driving licence testing centre may, on the prescribed conditions be registered and graded to operate a mobile facility that may test applicants for learner’s licences **[only]** at places other than at such centre.”.

Amendment of section 9 of Act 93 of 1996, as substituted by section 7 of Act 21 of 1999

10. Section 9 of the principal Act is hereby substituted for the following section:

“9. On receipt of an application referred to in section 8A, the chief executive officer may after the recommendation from the inspectorate of driving

licence testing centres **[shall]**, and if satisfied that, in relation to the driving licence testing centre concerned, the prescribed requirements for the registration of such a testing centre have been met, register and grade such testing centre in the prescribed manner, and give notice of such registration and grading in the *Gazette*."

Amendment of section 10 of Act 93 of 1996, as substituted by section 8 of Act 21 of 1999

11. Section 10 of the principal Act is hereby substituted for the following section:

"10. The inspectorate of driving licence testing centres **[may] shall**, if a registered driving licence testing centre no longer complies with the requirements referred to in section 9, suspend the registration of that testing centre for such period as it deems fit, **[or] and make recommendations to the chief executive officer to** regrade or cancel it, in the prescribed manner."

Amendment of section 11 of Act 93 of 1996, as substituted by section 9 of Act 21 of 1999 and amended by section 6 of Act 64 of 2008

12. Section 11 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) The Minister shall, **[after a decision has been taken by the Shareholders Committee,]** appoint a person, an authority or a body as an inspectorate of driving licence testing centres; and

(b) the addition of subsection (5) after after subsection (4):

“(5) The Minister shall after consultation with the MEC’s prescribe the relationship between the inspectorate and any provincial inspectorate.”.

Amendment of section 12 of Act 93 of 1996

13. Section 12 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) unless he or she keeps valid proof of such licence or document or any other prescribed authorisation in the original format with him or her in the vehicle.”.

Amendment of section 13 of Act 93 of 1996

14. Section 13 of the principal Act is amended by-

(a) the substitution for the heading of section 13 of the following heading:

“**Licence to drive, [either learners or driving licence]**”

Amendment of section 15 of Act 93 of 1996, as amended by section 8 of Act 21 of 1999

15. Section 15 of the principal Act is hereby amended by the

(a) substitution for subsection (1) of the following subsection—

“(1) Notwithstanding the provisions of section 23 a person shall be disqualified from obtaining or holding a learner’s or driving licence—”;

- (b) the substitution for paragraph (g) of subsection (1) of the following paragraph
- “(g) if he or she is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor [**or**] and is certified as such in the prescribed manner; or”;
- (c) the insertion after subsection (1) of the following subsection:
- “(1A) The Minister may prescribe the conditions in terms of which a certificate to attest to a fact as contemplated in subsection (1) is required.”; and
- (d) the substitution for subsection (2) of the following subsection:
- “(2) The chief executive officer [**concerned**] may, if he or she deems it expedient and on such conditions as he or she may deem fit, declare that any person shall no longer be subject to any disqualification, suspension or cancellation by a competent authority referred to in subsection (1)(b), (c) or (d), respectively: Provided that in the case of any cancellation such declaration shall be subject to section 25(9).”.

Amendment of section 16 of Act 93 of 1996 as amended by section 11 of Act 21 of 1999

16. Section 16 of the principal Act is hereby amended by—
- (a) the substitution for subsection (2) of the following subsection:
- (1) Any person who-
- (a) Is the holder of a licence authorising the driving of a motor vehicle in terms of this chapter; and
- (b) Becomes aware thereof that he or she is disqualified from holding such licence,

“shall, within a period of 21 days after having so become aware of the disqualification, submit the licence to the chief executive officer.”;

- (b) the substitution for subsection (3) of the following subsection:

“(3) When a licence is submitted in terms of subsection (2) the chief executive officer shall cancel it and if the licence was issued in a prescribed territory he or she shall notify the authority which issued it of the cancellation: Provided that if the chief executive officer is satisfied that the holder thereof is competent to drive the class of motor vehicle concerned with the aid of glasses, an artificial limb or any other physical aid, the chief executive officer shall issue or authorise the issue of a new licence in the prescribed manner reflecting the conditions on which it is issued.”; and

- (c) the addition of subsection (4) after subsection (3):

“(4) A person who is the holder of a driving licence who desires to—

(a) surrender such licence; or

(b) be issued with a licence for another class of motor vehicle authorised by the category of licence he or she holds,

may request the chief executive officer to cancel such licence or to issue him or her with another category of licence as applicable.”.

Amendment of section 17 of Act 93 of 1996, as amended by section 7 of Act 64 of 2008

17. Section 17 is hereby amended by the substitution for the following section:

17. (1) Subject to section 24, a person desiring to obtain a learner's licence shall [in person] apply therefor in the prescribed manner to an appropriately graded driving licence testing centre.

(2) Upon receipt of the application [in terms of section 1], the driving licence testing centre [concerned shall, if it is satisfied from the information furnished or from such further information as such centre may reasonably request, that the applicant is not disqualified from obtaining a learner's licence, determine a day on and time at which the applicant shall present himself or herself to be evaluated in the manner and in respect of the matters prescribed] shall deal with the application in the prescribed manner.

(3) If the driving licence testing centre is satisfied that the applicant, after being evaluated in the prescribed manner, has sufficient knowledge of the matters prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a learner's licence, the driving licence testing centre shall issue a learner's licence in the prescribed manner to such applicant [in respect of the appropriate class of motor vehicle, and the driving licence testing centre shall—

- (a) in the case where the applicant is found to be competent to drive with the aid of spectacles or contact lenses, an artificial limb or other physical aid, endorse the licence accordingly; and
- (b) in the case where the applicant is a physically disabled person who has to drive a vehicle adapted for physically disabled persons, or a vehicle adapted specifically for that physically disabled applicant, endorse the licence accordingly].

(4) No person shall wilfully or negligently—

- (a) issue a learner's licence; [or]
- (b) authorise the issue of a learner's licence;
- (c) endorse or fail to endorse a learner's licence, contrary to this [Chapter] section; or
- (d) produce, print or manufacture any document similar to a learner's licence.

(5) Any applicant for a learner's licence who makes use of any unauthorised aid during a test for a learner's licence or is found in possession of an aid that may assist a person in answering a test for a learner's licence shall automatically be disqualified from reapplying for a learners licence for a period of 12 months from the date caught in the act in a prescribed manner.

(6) If [the court makes an order disqualifying the applicant from reapplying for a learner's licence, and the State leads evidence to the effect that the applicant has obtained a learner's licence in the meanwhile, the court shall require the accused to produce any such licence and shall deal with it in the manner contemplated in section 34(1)(b)] a person has been convicted in terms of subsection (5) the registrar or the clerk of the court shall inform the chief executive officer in the prescribed manner and if the person so convicted has obtained a learner's or driving licence between the date of the offence and six months from the date of conviction, such licence shall be null and void from the date of conviction.".

Amendment of section 18 of Act 93 of 1996, as amended by section 12 of Act 21 of 1999, section 1 of Act 20 of 2003 and section 8 of Act 64 of 2008

18. Section 18 of the principal Act is hereby amended by—
- (a) the substitution for subsection (1) of the following subsection:

"(1) Subject to section 24, the holder of a learner's licence issued in terms of section 17, who desires to obtain a driving licence shall apply in the prescribed manner to an appropriately graded driving licence testing centre **[for a licence to drive a motor vehicle of a class of which is authorised by his or her learner's licence]** and such application shall be accompanied by a competency certificate issued by a registered driving school as contemplated in section 28F.";

- (b) the substitution for subsection (2) of the following subsection:
- “(2) Upon receipt of an application in terms of subsection (1), the driving licence testing centre concerned shall **[if it is satisfied from the information furnished in the application or from such further information as such centre may reasonably request, that the applicant is not disqualified from obtaining a driving licence, determine a day on and time at which the applicant shall present himself or herself to be examined by an examiner for driving licences in the manner and in respect of the matters as prescribed, and for such purpose the applicant shall supply a motor vehicle of the class to which his or her application relates] deal with the application in the prescribed manner.**”;
- (c) the substitution for subsection (3) of the following subsection:
- “(3) An examiner for driving licences shall test an applicant for a driving licence in the manner and in respect of the matters and with the equipment as prescribed.”;
- (d) the substitution for subsection (4) of the following subsection:
- (4) If the person tasked by the driving licence testing centre to issue licences is satisfied that the applicant after being evaluated in the prescribed manner has sufficient knowledge of the matters prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a driving licence, the examiner of driving licences shall authorise and the person tasked by the driving licence testing centre shall issue a driving licence in the prescribed manner to such applicant
- (e) the substitution for subsection (5A) of the following subsection:
- “(5A) Any applicant for a driving licence who makes use of any unauthorised aid during a test for a driving licence or is found in possession of an aid that may assist a person in passing a driving licence test shall be guilty of an offence and upon conviction shall **[be liable]**, in addition to any other sentence which the court may impose, **[to]**

automatically be disqualified from reapplying for a driving licence for a period not exceeding 12 months from the date of conviction.”;

- (f) the substitution for subsection (5B) of the following subsection:

(5B) If a person has been convicted in terms of subsection (5A) the registrar or the clerk of the court shall inform the chief executive officer in the prescribed manner and if the person so convicted has obtained a driving licence between the date of the offence and six months from the date of conviction, such licence shall be null and void from the date of conviction.”; and

- (g) the substitution for subsection (6) of the following subsection:

“(6) (a) Subject to paragraph (b), [A] a driving licence which has officially been included in an identity document shall [be deemed to be a driving licence issued under this Act, until a date fixed by the Minister by notice in the Gazette] not be accepted as proof of a driving licence.

(b) **[In respect of any notice issued in terms of paragraph (a), in the case of any] Notwithstanding paragraph (a), any person [who was unable to apply for such driving licence] who is in possession of a driving licence issued in an identity document who was unable to apply before 1 May 2003 for a driving licence card issued in terms of this Act due to him or her having been—**

- (i) admitted to any medical facility or detained in any state institution in terms of an order issued or sentence imposed by a court of law;
- (ii) posted by the Government on a foreign mission or assignment or being a spouse who accompanied such a person;
- (iii) **[on a contract of employment] employed** outside the borders of the Republic or being a spouse who accompanied such a person;
or
- (iv) a full-time student at a foreign academic institution[; or
- (v) a spouse of a person referred to in subparagraphs (ii) and (iii), **the date determined in that notice] before 1 May 2003 shall, upon proof**

submitted by any such person of the date of his or her discharge from such facility or, release from such institution or his or her return to the Republic, be **[deemed to be a date]** allowed to exchange such licence within six months after the date of such discharge from such facility, release from such institution or return to the Republic failing which, the licence will become invalid."

Amendment of section 19 of Act 93 of 1996, as amended by section 13 of Act 21 of 1999 and section 2 of Act 20 of 2003.

19. Section 19 of the principal Act is hereby amended by—

(a) the substitution of subsection (3) of the following subsection:

(3) Upon receipt of an application under subsection (1), the examiner for driving licences, if he or she is satisfied that the existing licence is a valid licence and that the applicant is the holder thereof, shall, subject to section 25, issue or authorise the issue of a driving licence on the prescribed form and in the prescribed manner in respect of the class of motor vehicle to which the existing licence relates."; and

(b) the substitution of subsection (4) of the following subsection:

"(4) Any person whose licence has become invalid in terms of **[subsection (3)] section 18(6)** and who requires a driving licence must apply anew for the issue of a licence in terms of **[section] sections 17 and 18.**"

Substitution of section 20 of Act 93 of 1996 as amended by Act No 20 of 2003

20. Section 20 of the principal Act is hereby amended by the insertion of subsection (1A) after subsection (1) :

“(1A) (a) A driving licence issued in terms of subsection (1) shall be deemed to be a driving licence issued under this Act, until a date fixed by the Minister by notice in the Gazette.”

Amendment of section 23 of Act 93 of 1996

21. Section 23 of the principal Act is hereby amended by-

(a) the substitution for the heading of section for the following heading:

“When foreign driving licence [not issued in terms of this Act] or international driving permit is deemed to be driving licence”.

(b) the substitution for subsection (1) of the following subsection:

(1) Subject to subsection (2) and the prescribed conditions—

(a) a licence authorising the driving of a motor vehicle and which was issued in any other country that is a contracting state to the Conventions together with an international driving permit where applicable; and

(b) a licence with or without an international driving permit which was issued while the holder thereof was not permanently or ordinarily resident in the Republic,

shall, in respect of the class of motor vehicle to which that licence relates and subject to the conditions thereof, be deemed to be a licence for the purposes of this Chapter: Provided that if that licence is a provisional licence it shall not

authorise the driving of a motor vehicle carrying passengers and in respect of which a professional driving permit is required.

(c) the substitution for subsection (2) of the following subsection:

(2) (a) The period in respect of which a licence referred to in subsection (1) shall be deemed to be a licence for the purposes of this Chapter, shall be as prescribed.

(b) The holder of a licence referred to in subsection (1) may, subject to the prescribed conditions, apply for a driving licence to take the place of such licence.”.

Amendment of section 24 of Act 93 of 1996

22. Section 24 of the principal Act is hereby amended by—

(a) the substitution for the heading of section 24 for the following heading:

“[Department] Approved department of State may issue learner’s or driving licence to person in its employment only”;
and

(b) the substitution for subsection (1) of the following subsection:

“(1) A provincial [department] Department of [State] Transport registered as a driving licence testing centre may issue a learner’s or driving licence as prescribed in sections 17 and 18 respectively, in the prescribed form to a person who is in the employment of such [department] Department of [State] Transport only.”.

Amendment of section 25 of Act 93 of 1996, as amended by section 15 of Act 21 of 1999

23. Section 25 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(1) **[If] Subject to subsection (2), if the holder—**

(a) of a learner’s or driving licence issued in terms of this Chapter, a repealed ordinance or any prior law, is disqualified in terms of section 15 from holding **[it] such licence**, the chief executive officer shall cancel such licence; or

(b) of a licence referred to in paragraph (a) would constitute a source of danger to the public by driving a motor vehicle on a public road~~[,]~~ **and an affirmation or affidavit in respect of the circumstances relating to such source of danger is submitted to the chief executive officer, he or she may cancel or suspend such licence.**”;

(b) the substitution for subsection (4) of the following subsection:

“(4) If any person, after having been examined and tested in terms of subsection(2)~~[(a)]~~ is found not to be competent to drive a motor vehicle of the class **[provided by him or her] for which he or she has a licence**, the chief executive officer shall forthwith cancel the licence concerned.”.

(c) the substitution for paragraph (a) of subsection (7) of the following paragraph:

- “(a) When a licence is cancelled or suspended in terms of subsection (1) or is cancelled in terms of subsection (3) (a) or (4), the holder thereof shall forthwith submit the licence [**or, in the case where it is contained in an identity document, that document**] to the chief executive officer or an inspector of licences authorised by him or her.”;
- (d) the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b)The chief executive officer or the inspector of licences, as the case may be, shall record particulars of the cancellation or suspension in the register for driving licences and where the licence has been suspended the chief executive officer or the inspector of licences, as the case may be, shall retain the licence until the period of suspension expires, where after it shall be returned to the holder thereof.”; and

- (e) the substitution for subsection (10) of the following subsection:

“(10) Where any circumstance arises in relation to the holder of a licence authorising the driving of a motor vehicle and which is issued in a prescribed territory or a foreign state, which would have disqualified such person as contemplated in section 15 from obtaining a driving licence, or if such holder would constitute a source of danger to the public by driving a motor vehicle on a public road, the chief executive officer may inform such person that such licence is of no force within the Republic, and as from the date on which such person is so informed the licence shall cease to be in force within the Republic and the chief executive officer shall retain such licence under the prescribed conditions.”.

Amendment of section 27 of Act 93 of 1996, as amended by section 16 of Act 21 of 1999 and section 11 of Act 64 of 2008

24. Section 27 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) on which an endorsement prescribed in terms of section 18[4] or a similar endorsement by a competent authority in a prescribed territory has been effected, is of the opinion that there are circumstances justifying the cancellation or amendment of such endorsement, he or she may apply to the MEC [chief executive officer] of the province in which he or she is permanently or ordinarily resident for the cancellation or amendment of such endorsement.”.

Amendment of section 28 of Act 93 of 1996, as amended by section 17 of Act 21 of 1999

25. Section 28 of the principal Act is hereby amended by—

(a) the substitution for the heading of section 28 of the following heading:

“Registration and Grading of Instructors”

(b) the substitution for subsection (2) of the following subsection:

“(2) No person shall employ any other person as an instructor, or make use of any other person's services as instructor, unless that other person is registered and graded as an instructor in terms of section 28B.

Amendment of section 28B of Act 93 of 1996

26. Section 28B of the principal Act is hereby amended by the addition of subsections (4) and (5) after subsection (3)

(4) Any person desiring to be registered as an instructor shall apply at a driving licence testing centre to the chief executive officer, in respect of one or more of the classes of motor vehicles for which a learner's or driving licence can be obtained and in terms of the prescribed conditions.

(5) Upon receipt of an application in terms of subsection (1) the driving licence testing centre shall follow the prescribed procedure

Insertion of sections 28D and 28E after 28C of the Principal Act

27. The principal Act is hereby amended by:-

(a) the insertion of section 28D after section 28C:

Registration , Grading and suspension or cancellation of driving School

28D (1) No person shall operate a driving school unless such driving school is registered and graded as prescribed.

(2) Any person or body of persons desiring to operate a driving school shall apply in the prescribed manner to the MEC in whose province such driving school will be operated for the registration of such driving school.

(3) If upon receipt of the application and on the recommendation of the provincial inspectorate, the MEC is satisfied that the driving school concerned has met all the requirements for registration, the MEC shall register and grade such driving school on the conditions and in the prescribed manner, and shall give notice of such registration and grading in the *Gazette*

(4) The MEC shall, if a registered and graded driving school no longer complies with the requirements and conditions for registration as prescribed, suspend or cancel the registration of such driving school or regrade the driving school in the prescribed manner.

(b) the insertion of section 28E after section 28D:

Appointment of inspectorate of driving schools

28E (1) The Minister shall, appoint a person, an authority or a body as an inspectorate of driving schools.

(2) The powers and duties of the inspectorate as contemplated in subsection 1 in relation to the inspection and control of standards, grading and operation of driving schools shall be as prescribed.

(3) The Minister may, in order to defray expenditure incurred by or on behalf of that inspectorate for the purposes of performance of its functions, prescribe the fees to be paid in respect of inspections carried out in terms of this Act.

Amendment of section 29 of Act 93 of 1996 as amended by section 18 of Act 21 of 1999

28. Section 29 of the Principal Act is hereby amended by the substituted for the following section:

29. (1) A document purporting to be a learner's or driving licence issued contrary to this Chapter, shall on the request of the inspectorate of driving licence testing centres or provincial inspectorate, be declared void by the chief executive officer and upon his or her request the holder of such document shall forthwith submit such document to the inspectorate of driving licence testing centres who shall destroy the document in the prescribed manner

(2) Notwithstanding the provisions of subsection (1), the chief executive officer may under the prescribed circumstances condone the issue of a document referred to in subsection (1) and declare such a document to be a valid licence from the date of issue of the document.”.

Amendment of section 30 of Act 93 of 1996

29. Section 30 of the principal Act is hereby amended by the substitution for the following section:

30. (1) No person who is the holder of a learner’s or driving licence shall allow such licence to be used by any other person.

(2) No person shall use any other person’s learner’s or driving licence and present such licence as his or her own.”.

Amendment of section 31 of Act 93 of 1996

30. Section 31 of the principal Act is hereby amended by the substitution for the following section:

31. No person who is the owner or operator, or is in charge, or control, of a motor vehicle shall employ or permit any other person to drive that vehicle on a public road unless that other person is licensed in accordance with this Chapter to drive the vehicle and shall take the necessary steps to ensure that such person is licensed before such person drives such vehicle.”.

Amendment of section 32 of Act 93 of 1996 as amended by section 5 of Act 8 of 1998

31. Section 32 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(1) No person shall drive a motor vehicle of a prescribed class on a public road except in accordance with the conditions of a professional driving permit issued to him or her in accordance with this Chapter and unless he or she keeps such permit with him or her in the vehicle: Provided that this subsection shall not apply to the holder of a learner’s licence who drives such vehicle while he or she is accompanied by a person **[registered as a professional driver in respect of that class of vehicle]** who is the holder of a professional driving permit in respect of that class of vehicle and who is in possession of such permit : Provided further that if the person accompanying such person is an examiner for driving licences, such examiner does not have to be the holder of a professional driving permit.”; and

- (b) the substitution for paragraph (a) of subsection (3) for the following paragraph:

“(a) Any document issued by a competent authority in any prescribed territory, other than a driving licence approved by the Minister by notice in the Gazette, and serving in that territory a purpose similar to that of a professional driving permit shall, subject to the conditions thereof and to such conditions as may be prescribed, be deemed to be a professional driving permit for the purposes of subsection (1).”.

Amendment of section 33 of Act 93 of 1996

32. Section 33 of the principal Act is hereby amended by—

- (a) the substitution for subsection (1) of the following subsection:

“(1) If any person is charged with any offence in terms of this Act relating to the driving of a motor vehicle or a failure to stop after or report an accident, he or she shall produce every licence and permit of which he or she is the holder [, **or a duplicate thereof issued in terms of**

this Act if he or she is not in possession of the original,] to the court at the time of the hearing of the charge.”; and

(b) the substitution for subsection (3) of the following subsection:

“(3) No person referred to in subsection (1) shall, without reasonable excuse, refuse or fail to produce in terms of that subsection the licence and permit **[or duplicate]** so referred to on request.”.

Amendment of section 34 of Act 93 of 1996

33. Section 34 of the principal Act is hereby amended by—

(a) the substitution for subsection (3) of the following subsection:

“(3) Where a court has issued an order under subsection (1) (a) or (b) the registrar or clerk of the court shall, subject to subsection (2), **[in the case where the licence –**

(a) **is contained in an identity document, endorse such licence accordingly and return the identity document to the holder thereof; or**

(b) **is not contained in an identity document,] retain such licence and deal with it in the prescribed manner.”; and**

(b) the addition of subsection (4) after subsection (3):

“(4) Where a court has issued an order in terms of subsection (1) (c) the registrar or clerk of the court shall notify the chief executive officer in the prescribed manner of such order and the chief executive officer shall record such order in the register for driving licences.”.

Amendment of section 57 of Act 93 of 1996, as amended by section 29 of Act 21 of 1999

34. Section 57 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) Passenger Rail Agency of South Africa, Transnet Limited, or a person in **[its] their** employment who has either generally or specifically been authorised thereto, may in respect of any railway level crossing on any public road for which Passenger Rail Agency of South Africa or Transnet limited is responsible, cause or permit to be displayed, in the prescribed manner, any such road traffic signs as Passenger Rail Agency of South Africa or Transnet Limited or such person may deem expedient.”.

Amendment of section 58 of Act 93 of 1996, as amended by section 15 of Act 64 of 2008

35. Section 58 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The driver of a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the performance of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No.68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person**[issued with the necessary authorisation]** driving a vehicle while engaged in civil protection as contemplated in regulations 47(1) and 55(2) of the Disaster Management Act, 2002 (Act No 57 of 2002), may disregard the directions of a road traffic sign which is displayed in the prescribed manner: Provided that—

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or any vehicle driven by a person **[issued with the necessary authorisation]** while he or she is so engaged in civil protection, such vehicle shall be fitted with a device capable of emitting a prescribed sound

and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign.”

Amendment of section 60 of Act 93 of 1996, as amended by section 15 of Act 64 of 2008

36. Section 60 of the principal Act is hereby amended by the substitution for the following section:

60. Notwithstanding the provisions of section 59, the driver of a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the carrying out of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person **[issued with the necessary authorisation and]** driving a vehicle while engaged in civil protection as contemplated in regulations 47(1) and 55(2) of the Disaster Management Act, 2002 (Act No 57 of 2002), may exceed the applicable general speed limit:

Provided that—

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or any vehicle driven by a person while he or she is so engaged in civil protection, **[issued with the necessary authorisation,]** such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp

shall be in operation while the vehicle is driven in excess of the applicable general speed limit.”.

Amendment of section 62 of Act 93 of 1996

37. Section 62 of the principal Act is hereby amended by the insertion of the following section:

“Response to a road incident

“62A In the event of a road incident, the emergency services shall immediately respond to the incident and render all the necessary services in compliance with the Incident Management System Policy as published by the Minister in the Government Gazette and any other applicable legislation

Amendment of Section 65 of the Principal Act

38. Section 65 of the principal Act is hereby amended by-

(a) the substitution for subsection (2) of the following subsection:

(2) No person shall on a public road-

(a) Drive a vehicle; or

(b) Occupy the driver's seat of a motor vehicle the engine of which is running,

While the concentration of alcohol in any specimen of blood taken from any part of his or her body is not less than [0,05] 0,02 gram per 100 millilitres, or in a case of a professional driver referred to in section 32, not less than [0,0,02] 0,00gram per 100 millilitres.

(b) by the substitution for subsection (3) of the following subsection:

(3) If in any prosecution for an alleged contravention of a provision of subsection (2), it is proved that the concentration of alcohol in any specimen of blood taken from any part of the body of the person concerned was not less than [0,05] 0,02 gram per 100 millilitres at any time within two hours after the alleged contravention, it shall be presumed , in the absence of evidence to the contrary, that such contravention was not less than [0,05] 0,02 gram per 100 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32 , not less than [0,02] 0,00 gram per 100 millilitres, it shall be presumed, in the absence of evidence to the contrary ,that such concentration was not less than [0,02] 0,00 gram per 100 millilitres at the time of the alleged contravention.

(c) the substitution for subsection (5) of the following subsection:

(5) No person shall on a public road-

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running,

While the concentration of alcohol in any specimen of breath exhaled by such person is not less than [0,24] 0,10 milligrams per 1000 millilitres, or in the case of a professional driver referred to in section 32, not less than [0,10] 0,00 milligrams per 1000 millilitres.

3. (d) the substitution for subsection (6) of the following subsection:

(6) If in any prosecution for a contravention of the provision of subsection (5), it is proved that the concentration of alcohol in any specimen of breath of person concerned was not less than [0,24] 0,10 milligrams per 1000 millilitres of breath taken at any time within two hours after the alleged contravention, it shall be presumed , in the absence of evidence, that such concentration was not less than [0,24] 0,10 milligrams per 1000 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not

less than [0,10] 0,00 milligrams per 1000 millilitres at the time of the alleged contravention”.

Amendment of section 75 of Act 93 of 1996 as amended by section 20 of Act 64 of 2008

39. Section 75 of the principal Act is hereby amended by-
- (a) the substitution for the heading of section 75 for the following heading:

“Powers of the Minister [to make regulations]”

- (b) the substitution for subsection 6 of the following subsection:

“(6) Before the Minister makes any regulation, the Minister must cause a draft of the proposed regulations to be published in the Gazette together with a notice calling upon all interested persons to lodge in writing, and within a period specified in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations which they would like to raise or make, with the Director-General for submission to the Minister :

Provided that, if the Minister thereafter decides to alter the draft regulation as a result of any objections or representations submitted thereafter, it shall not be necessary to publish such alterations before making the regulations.”.

Amendment of section 76 of Act 93 of 1996 as amended by section 20 of Act 64 of 2008

40. Section 76 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) If any standard is at any time after the incorporation thereof in the regulations amended or replaced, the notice incorporating that standard in the regulations shall, unless otherwise stated therein, be deemed to refer to that standard as so amended or replaced, as the case may be.”.

Amendment of section 80 of Act 93 of 1996

41. Section 80 of the Principal Act is hereby amended by the substitution for the following section

80. Any disabled person who has been exempted from the laws relating to parking in accordance with the laws of any province, and to whom proof of such exemption has been issued, shall be deemed to be so exempted from the laws applicable in the areas of jurisdiction of all local authorities in the Republic, **[but only to the extent to which that disabled person is exempted from the laws applicable in the area of jurisdiction of the local authority concerned]**”.

Amendment of section 81 of Act 93 of 1996 as amended by section 20 of Act 64 of 2008

42. Section 81 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The MEC may, after the applicant has paid the fees or charges referred to in subsection 7(3) and subject to such conditions as he or she may determine, authorise in writing, either generally or specifically, the operation on a public road of a registered vehicle which does not comply with the provisions of this Act or the conveyance in a safe manner on a public road of passengers or any load otherwise than in accordance with this Act.”.

Amendment of section 85 of Act 93 of 1996

43. Section 85 of the principal Act is hereby amended by the substitution for the following section:

85 (1) An application for the issue of a document as proof of a driving licence shall be made to the Minister or the relevant MEC and such application shall be accompanied by the full names, Identity Number of the applicant and the appropriate fees if any.”.

(2) If Minister or MEC is satisfied that the application in terms of subsection (1) above is in order, he or she shall issue such document serving as proof of a driving licence on from CL as shown in schedule 2.”

Short title and commencement

44. This Act is called the National Road Traffic Amendment Act, 2012, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2012

1. BACKGROUND

The Bill proposes to give effect in the short term to some of the principal strategies contained in the Road Safety Strategy 2001-2005. The Bill implements the strategic interventions highlighted in the Road Safety Strategy. Furthermore, it deals with the registration of driving schools and instructors in South Africa with the aim of regulating the industry and it prohibits the operation of unregistered and ungraded driving schools. The Bill amends certain definitions and also provides some new definitions.

2. OBJECTS OF THE BILL

The Bill aims to:

- provide for the registration and licensing of motor vehicles, manufacturers, builders, body builders, importers and manufacturers of number plates;
- empower the MEC to register an applicant as a manufacturer, body builder, builder, importer and manufacturer of number plates; to empower only a provincial Department responsible for Transport or municipality to operate a driving licence testing centre;
- empower the chief executive officer of the Road Traffic Management Corporation to approve and register a driving licence testing centre;
- empower the Minister to prescribe training procedures and disqualifications of Inspectors of licences, examiners of vehicles, examiners for driving licences, traffic officers and traffic wardens appointed by an authority;

- impose a duty on drivers to be in physical possession of driving licences or proof thereof when driving a motor vehicle;
- empower the driving licence testing centres to issue a driving licence;
- prohibit the issuance of a driving licence or learner's licence of a person who has been convicted of using an aid material in order to pass the driving licence test;
- set the date of 1 May 2003 as the date upon which the provision of section 18(6)(a) shall come into effect;
- regulate the registration and grading of applicants as driving school instructors and direct how the application and registration of driving school instructors, to regulate the driving school industry and to prohibit the operation of unregistered and ungraded driving schools and utilization of ungraded driving school instructors;
- empower the MEC to approve applications for the registration of driving schools;
- empower the Minister to prescribe regulations on how to handle applications as a driving school instructor;
- empower the MEC to suspend, cancel or deregister a driving school when suspected of contravening this Act;
- empower the CEO to declare as void, documents purporting to be driving licences;
- empower the inspectorate of the driving licence testing centres to destroy such documents;

- empower the Minister to appoint a person, authority or a body as an inspectorate of driving licence testing centre, to provide for the circumstances under which driving licences should be suspended; and to provide for matters connected therewith.

The Bill achieves this by—

- (a) Amending the National Road Traffic Act, 1996 (Act No.93 of 1996), so as to insert certain definitions and to amend others;
- (b) providing for the addition of traffic wardens on the application process for officers and on the minimum requirements;
- (c) providing for the registration and suspension of body builders and the prohibition of such body builders unless registered;
- (d) providing for application process for the provincial Department of Transport or municipality desiring to operate a driving licence testing centre;
- (e) providing for the operation of a mobile testing facility by the Driving Licence Testing Centre;
- (f) prohibit the willful or negligent endorsement or issuance of learner's licence contrary to the Act;
- (g) prohibit the possession and use of an aid that may assist a person in answering a test for a learner's license and the disqualification of such applicants;

- (h) provide for the requirement of a competency certificate from a registered driving school upon application for a driving licence by an applicant who desires to obtain a driving licence;
- (i) amending the provisions of section 18 of the Act to determine the 1 May 2003 as the date upon which the licence contained in an identity document shall cease to be a licence;
- (j) making new provision regarding the process by which driving licences are issued;
- (k) providing for the manner of application for a driving school, the registration and grading of driving schools and instructors;
- (l) prohibiting the use of one's driving licence by another;
- (m) providing for the Passenger Rail Agency of South Africa to display road traffic signs at any railway level crossing on any public road;
- (n) deleting obsolete provisions.

3. DISCUSSION

- Clause 1 amends existing definitions and inserts new definitions.
- Clause 2 amends section 3B of the principal Act by adding traffic wardens
- Clause 3 amends section 3C of the principal Act by providing that no person shall be registered or remain registered in terms of subsection (1) as a traffic officer if he or she has or acquires a direct or indirect financial interest in a transport services business.
- Clause 4 amends section 3D of the principal Act by adding traffic warden on the heading, adding traffic warden on subsection 1, substituting the

word diploma with the word qualification in subsection 1(a) and subsection 2.

- Clause 5 amends section 3E of the principal Act by providing for the suspension or cancellation of the registration of an examiner for driving licences or an examiner of vehicles, if such person was convicted for a crime as contemplated in Schedule 1 or 2 of the Criminal Procedure Act, 1977 (Act No.51 of 1977)
- Clause 6 amends section 5 of the principal Act by adding the word body builders on the heading and in subsections 1, 4,5,6, further provides that manufacturers, builders, body builders and importers shall not manufacture, build, modify, import, sell or distribute motor vehicles unless registered in accordance with the prescribed conditions.
- Clause 7 amends section 7 of the principal Act by adding the words body builders on the heading, adding the word body builders in subsection 1 and 2.
- Clause 8 amends section 8 of the principal Act by providing that no person shall operate a driving licence testing centre unless such testing centre is registered and graded.
- Clause 9 amends section 8A of the principal Act by providing that a provincial department responsible for transport or municipality desiring to operate a driving licence testing centre shall apply in the prescribed manner to the Chief executive officer for approval and registration of such testing centre, by further providing for the operation of a mobile facility for the purpose of testing applicants for learners licence at any other place than at such centre
- Clause 10 amends section 9 of the principal Act by providing that the Chief Executive Officer may after recommendation from the inspectorate of driving licence testing centre, register and grade such testing centre and give notice of such registration and grading in the Gazette.
- Clause 11 amends section 10 of the principal Act by providing that the inspectorate of driving licence testing centre shall recommend to the CEO

if the DLTC does no longer comply with the requirements to have such DLTC regraded or cancelled.

- Clause 12 amends section 11 of the principle Act by providing that the Minister shall after consultation with the MEC's prescribe the relationship between the inspectorate and any provincial inspectorate.
- Clause 13 amends section 12 of the principal Act by providing that no person shall drive a motor vehicle on the public road unless he or she keeps valid proof of such licence or document or any other prescribed authorization in the original format with him or her in the vehicle.
- Clause 14 amends section 13 of the principal Act by amending the heading to that section and deleting the words "either learner's or driving licence"
- Clause 15 amends section 15 of the principal Act by providing that a person shall be disqualified from obtaining or holding a learner's or driving licence if he or she is among others addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor and is certified as such in the prescribed manner, further that the Minister may prescribe conditions in terms of which a certificate to attest to a fact as contemplated in subsection (1) is required.
- Clause 16 amends section 16 of the principal Act by providing that any person who is the holder of a licence authorizing the driving of a motor vehicle in terms of this chapter; and becomes aware thereof that he or she is disqualified from holding such licence, shall, within a period of 21 days after having so become aware of the disqualification, submit the licence to the Chief Executive Officer, further by adding subsection 4 to provide that a person who is the holder of a driving licence who desires to surrender such licence, or be issued with a licence for another class of motor vehicle authorized by the category of licence he or she holds may request the CEO to cancel such licence or to issue him or her with another category of licence as applicable.

- Clause 17 amends section 17 of the principle Act by providing that upon receipt of an application for a learners licence, the driving licence testing centre shall deal with the application in the prescribed manner, further that no person shall willfully or negligently issue a learners licence or authorize the issue of a learners licence, endorse or fail to endorse a learners licence contrary to this section or produce, print or manufacture any document similar to a learners licence, by providing further that any applicant for a learner's licence who makes use of any unauthorized aid during a test for a learners licence or is found in possession of an aid that may assist a person in answering a test for a learner's licence shall automatically be disqualified from reapplying for a learner's licence for a period of 12 months from the date caught in the act in a prescribed manner, further providing that if a person has been convicted in terms of subsection (5) the registrar or the clerk of the court shall inform the CEO in the prescribed manner and if the person so convicted has obtained a learner's or driving licence between the date of the offence and six months from the date of conviction, such licence shall be null and void from the date of conviction.
- Clause 18 amends section 18 of the principal Act by providing that the holder of a learner's licence issued in terms of section 17 who desires to obtain a driving licence shall apply in the prescribed manner to an appropriately graded driving licence testing centre and such application shall be accompanied by a competency certificate issued by a registered driving school as contemplated in section 28D, further that upon receipt of an application in terms of subsection (1), the driving licence testing centre shall deal with the application in the prescribed manner, further that if the person tasked by the driving licence testing centre to issue licences is satisfied that the applicant after being evaluated in the prescribed manner has sufficient knowledge of the matters prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a driving licence, the examiner of driving licences shall issue a

driving licence in the prescribed manner to such applicant, further more by providing that the person who is in possession of a driving licence issued in an identity document who was unable to apply before 1 May 2003 for a driving licence card issued in terms of this Act due to him or her having being amongst others being a spouse who accompanied a person who was posted by the Government on a foreign mission or assignment, or employed outside the borders of the republic or being a spouse who accompanied such a person before 1 May 2003 shall, upon proof submitted by any such person of the date of his or her discharge from such facility or release from such institution or his or her return to the Republic, be allowed to exchange such licence within six months after the date of such discharge from such facility, release from such institution or return to the Republic failing which, the licence will become invalid.

- Clause 19 amends section 19 of the principal Act by providing that the examiner of driving licences shall upon receipt of an application under subsection 1, if he or she is satisfied that the existing licence is a valid licence and that the applicant is the holder thereof, subject to section 25, issue or authorize the issue of a driving licences on the prescribed form and in the prescribed manner in respect of the class of motor vehicle to which the existing licence relates, further that any person whose licence has become invalid in terms of section 18(6) and who requires a driving licence must apply anew for the issue of licence in terms of sections 17 and 18.
- Clause 20 amends section 20 of the principal Act by providing that a driving licence issued in terms of subsection 1 shall be deemed to be a driving licence issued under this Act until a date fixed by the Minister by notice in the Gazette.
- Clause 21 amends section 23 of the principal Act by under this amending the heading to the section and adding the words “ when foreign driving licence or international driving permit is deemed to be a driving licence, further providing for circumstances when a driving licence authorizing the

driving of a motor vehicle which was issued in any other country that is a contracting state to the conventions and an international driving permit which was issued while the holder thereof was not permanently or ordinarily resident in the Republic shall be deemed to be a driving licence

- Clause 22 amends section 24 by providing that a provincial department of transport registered as a driving licence testing centre may issue a learner's or driving licence as prescribed in section 17 and 18 respectively, in the prescribed form to a person who is in the employment of such department of transport only.
- Clause 23 amends section 25 of the principal Act by providing that if the holder of a learner's or driving licence issued in terms of this Chapter, a repealed ordinance or any prior law, is disqualified in terms of section 15 from holding such licence, the CEO shall cancel such licence or if the holder of a licence referred to in paragraph (a) would constitute a source of danger to the public by driving a motor vehicle on a public road and an affirmation or affidavit in respect of the circumstances relating to such source of danger is submitted to the CEO, he or she may cancel or suspend such licence, further providing that if any person after having been examined and tested in terms of subsection (2) is found not to be competent to drive a motor of the class for which he or she has a licence, the CEO shall forthwith cancel the licence concerned.
- Clause 24 amends section 27 of the principal Act by providing that where the holder of licence authorizing the driving of a motor vehicle in the Republic; and on which an endorsement in terms of section 18(4) or a similar endorsement by a competent authority in a prescribed territory has been affected, is of the opinion that there are circumstances justifying the cancellation or amendment of such endorsement, he or she may apply to the MEC of the province in which he or she is permanently or ordinarily resident for the cancellation or amendment of such endorsement.
- Clause 25 amends section 28 of the principal Act by substituting the heading to that section with a new heading, further prohibiting the

employment of any person as an instructor, or making use of any other person's services as an instructor, unless that other person is registered and graded as an instructor in terms of section 28B.

- Clause 26 amends section 28B of the principal Act by adding subsections (4) and (5) after subsection (3) to provide for any person desiring to be registered as an instructor to apply at a driving licence testing centre to the CEO in respect of one or more classes of motor vehicles for which a learner's or driving licence can be obtained and in terms of the prescribed conditions.
- Clause 27 inserts section 28D and E after section 28C to provide for the registration and grading of Driving schools, and to provide for any person desiring to operate a driving school to apply to the MEC in whose province such driving school will operate in a prescribed manner. The MEC shall register and grade the driving school after recommendation by the provincial inspectorate, and he or she shall give notice of such registration or grading in the Gazette., and furthermore MEC shall if a registered and graded driving school no longer complies with the requirements and conditions for such registration as prescribed, suspend or cancel the registration of such driving school or regrade the driving school in the prescribed manner further that the Minister shall appoint a person, an authority or a body as an inspectorate of driving schools, further that the powers and duties of the inspectorate in respect to inspection and control of standards, grading and operation of driving schools shall be prescribed.
- Clause 28 amends section 29 of the principal Act by providing that a document purporting to be a learner's or a driving licence issued contrary to this Chapter, shall on the request of the inspectorate of driving licence testing centre or provincial inspectorate be declared void by the chief executive officer and upon his or her request, the holder of such document shall forthwith submit such document to the ispectorate of driving licence testing centre who shall destroy the document in the prescribed manner,

further providing that the CEO may under the prescribed circumstances condone the issue of a document referred to in subsection (1) and declare such a document to be a valid licence from the date of issue of the document.

- Clause 29 amends section 30 of the principal Act by providing that no person shall use any other person's learner's or driving licence and present such licence as his or her own.
- Clause 30 amends section 31 of the principal Act by providing that no person who is the owner or operator, or is in charge, or control, of a motor vehicle shall employ or permit any other person to drive that vehicle on a public road unless that other person is licenced in accordance with this chapter to drive the vehicle and shall take the necessary steps to ensure that such person is licenced before such person drives such vehicle.
- Clause 31 amends section 32 of the principal Act by providing that no person shall drive a motor vehicle of a prescribed class on a public road except in accordance with the conditions of a professional driving permit issued to him or her in accordance with this Chapter and unless he or she keeps such permit with him or her in the vehicle: Provided that this subsection shall not apply to the holder of a learner's licence who drives such vehicle while he or she is accompanied by a person who is the holder of a professional driving permit in respect of that class of vehicle and who is in possession of such permit : Provided further that if the person accompanying such person is an examiner for driving licences, such examiner does not have to be the holder of a professional driving permit, providing further that any document issued by a competent authority in any prescribed territory, other than a driving licence approved by the Minister by notice in the *Gazette*, and serving in that territory a purpose

similar to that of a professional driving permit shall, subject to the conditions thereof and to such conditions as may be prescribed, be deemed to be a professional driving permit for the purposes of subsection (1).

- Clause 32 amends section 33 of the principal Act by deleting the following words in subsection 1” **or a duplicate thereof issued in terms of this Act if he or she is not in possession of the original**”, further by deleting the words **“or duplicate”**in subsection 3.
- Clause 33 amends section 34 of the principal Act by adding subsection 4 after subsection 3 thus providing that where a court has issued an order in terms of subsection (1) (c) **(i.e. declaring him or her to be disqualified from obtaining a licence, or a licence and permit, either indefinitely or for such period as the court may deem fit)** the registrar or clerk of the court shall notify the CEO in the prescribed manner of such order and the CEO shall record such order in the register for driving licence.
- Clause 34 amends section 57 of the principal Act by providing that Passenger Rail Agency of South Africa, Transnet Limited, or a person in their employment who has either generally or specifically been authorised thereto, may in respect of any railway level crossing on any public road for which Passenger Rail Agency of South Africa or Transnet limited is responsible, cause or permit to be displayed, in the prescribed manner, any such road traffic signs as Passenger Rail Agency of South Africa or Transnet Limited or such person may deem expedient.

- Clause 35 amends section 58 of the principal Act by deleting the words “**issued with the necessary authorization**” in subsection 3 and by further adding the words “**while engaged in civil protection as contemplated in regulations 47(1) and 55(2) of the Disaster Management Act, 2002 (Act No 57 of 2002)**” thereby enabling the driver of a fire-fighting vehicle, fire fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the performance of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No.68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person driving a vehicle while engaged in civil protection as contemplated in regulations 47(1) and 55(2) of the Disaster Management Act, 2002 (Act No 57 of 2002) to disregard the directions of a road traffic sign which is displayed in the prescribed manner.
- Clause 36 amends section 60 of the principal Act by providing that Notwithstanding the provisions of section 59, the driver of a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the carrying out of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person driving a vehicle while engaged in civil protection as contemplated in

regulations 47(1) and 55(2) of the Disaster Management Act, 2002 (Act No 57 of 2002), may exceed the applicable general speed limit.

- Clause 37 amends section 62 of the principal Act by the insertion of section 62A which provides that in the event of a road incident, the emergency services shall immediately respond to the incident and render all the necessary services in compliance with the Incident Management System Policy as published by the Minister in the Government Gazette and any other applicable legislation.
- Clause 38 amends section 65 by reducing alcohol limit from 0,05 gram per milliliters to 0,02 gram per milliliters for drivers and for professional drivers from 0,02 gram per milliliters to 0.00 milliliters per gram in a specimen of blood taken and reduce the concentration of alcohol in any specimen of breath exhaled by such person from 0,24 to 0,10 milligrams per milliliters or in the case of a professional driver from 0,10 to 0,00 milligrams per milliliters .
- Clause 39 amends section 75 of the principal Act by providing for Minister's powers and empowering the Minister to make regulations.
- Clause 40 amends section 76 of the principal Act by providing that any if any standard is at any time after the incorporation thereof in the regulations amended or replaced, the notice incorporating that standard in the regulations shall unless otherwise stated therein, be deemed to refer to that standard as so amended or replaced as the case may be.

- Clause 41 amends section 80 of the principal Act by providing that any disabled person who has been exempted from the laws relating to parking in accordance with the laws of any province, and to whom proof of such exemption has been issued, shall be deemed to be so exempted from the laws applicable in the areas of jurisdiction of all local authorities in the Republic.
- Clause 42 amends section 81 of the principal Act by providing for the circumstances under which a registered vehicle which does not comply with the provisions of this Act be authorized to operate on a public road.
- Clause 43 amends section 85 of the principal Act by providing that an application for the issue of a document as a proof of driving licence be made to the relevant MEC or Minister and such application shall be accompanied by the full names and identity number of such applicant and appropriate fees if any.

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4. CONSULTATION

Provincial departments responsible for transport and traffic in the provinces and other stakeholders were consulted.

5. FINANCIAL IMPLICATIONS

None.

6. CONSTITUTIONAL IMPLICATIONS

None.

7. PARLIAMENTARY PROCEDURE

- 7.1 The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely “road traffic regulation”.
- 7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No.41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.
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