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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS
AND HOUSING

REPORT OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT,
PUBLIC WORKS AND HOUSING ON THE NATIONAL TRANSPORT AND
SAFETY AUTHORITY BILL, 2012

Clerk's Chambers
National Assembly
NAIROBI

SEPTEMBER 2012

PAPER LAID
by the Chair, Departmental Committee on Transport, Public Works and Housing
P.O. Box 10000
Nairobi
20/9/12
[Signature]

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PREFACE

The Departmental Committee on Transport, Public Works and Housing was constituted pursuant to provisions of Standing Order No. 198 and mandated to among other things, investigate , inquire into and report on all matters relating to the mandate, management , activities, administration , operations and estimates of the assigned Ministries and departments. The Committee is also mandated **to study and review all legislation referred to it and make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.**

The Members of the Committee are:-

- i. Hon. David Were, M.P.- **Chairperson**
- ii. Hon. Isaac Muoki, M.P. – **Vice - Chairperson**
- iii. Hon. Edwin Yinda, M.P.
- iv. Hon. Yusuf K. Chanzu, M.P.
- v. Hon. (Dr.) Wilbur Otichilo, M.P.
- vi. Hon. Clement Wambugu, M.P.
- vii. Hon. Benjamin Langat. M.P
- viii. Hon. Walter Nyambatti, M.P
- ix. Hon. Joseph Kiuna, M.P.
- x. Hon. Boaz Kaino, M.P.

The National Transport and Safety Authority Bill, 2012 was moved by the Minister for Transport. It was read a first time on 28th August 2012 and committed to the Committee. Debate on the Second reading commenced and was concluded on 12th September 2012.

This Report contains the amendments proposed by Committee members.
It is my pleasure to present the report to the House.

A handwritten signature in black ink, appearing to read 'D. Were', with a large, stylized flourish above it.

HON. DAVID WERE, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT,
PUBLIC WORKS & HOUSING

CONSIDERATION OF THE NATIONAL TRANSPORT AND SAFETY AUTHORITY BILL, 2012

On 19th September 2012, the Committee with the assistance of Parliamentary Legal Counsel, considered the Bill by itself. Members considered the Bill Clause by Clause, as follows;

1) PART 1- PRELIMINARY

Clause 1 -No amendments proposed

Clause 2 -The Committee noted that under the definition of the word “levy”, the correct section was 46 and not 45.

2) PART II – ESTABLISHMENT OF TH NATIONAL TRANSPORT AND SAFETY AUTHORITY

Clauses 3-5 -No amendments proposed

3) PART III-MANAGEMENT OF THE AUTHORITY

Clause 6 -The Committee proposed that under sub clause (f) the word six be replaced with five and a new sub clause be inserted to cater for two persons from the Transport Sector.

Clauses 7-25 -No amendments proposed

4) PART IV – LICENSING PROVISIONS

Clauses 26-39 -No amendments proposed

Clause 40 -The Committee proposed that under Sub Clause (1) immediately below sub clause (1b), the word “three” be replaced with the word “one”, to reduce the penalty as generally offenses under the Penal Code do not carry hefty fines. Likewise, the word “or both” at the end of the sentence should be deleted.

Clause 41 - The Committee proposed that the fine of five hundred

thousand was too punitive and should be replaced with one hundred thousand and the words “or both appearing at the end of the Section should be deleted.

Clause 42 -The Committee proposed that the fines of two thousand and five thousand proposed were too lenient and should be replaced with five thousand and twenty thousand respectively. The words “or both” appearing at the end of sub section (2) should also be deleted.

Clause 43– No amendments proposed

Clause 44-The Committee proposed that under sub section (4), three hundred thousand shillings was a hefty fine and should be replaced with one hundred shillings and the last sentence from the word or, be completely deleted.

5) PART V- FINANCIAL PROVISIONS

Clauses 45-51 -No amendments proposed

Clause 52- The Committee proposed that the word “Commission” appearing at the end of sub clause (1) was misplaced and should be replaced by the word “Authority”, likewise under sub clause (2, the word “audit” should be deleted and be replaced with “Finance Management” which is the name of the relevant Act.

6) PART VI – MISCELLANEOUS PROVISIONS

Clause 53- The Committee proposed that the words “or both” appearing at the end of sub clause (1) should be deleted.

Clause 54-No amendments proposed

7) PART VII – REPEAL AND TRANSITIONAL PROVISIONS

Clause 55 - The Committee noted that this clause was missing.

Clauses 56- 63 - No amendments proposed

8) SCHEDULE

First Schedule-The Committee noted that the relevant Statute was Cap 403 and not 406.

Second Schedule-The Committee proposed that under Section 1(1), provision should be included to deter the Board from meeting too frequently. The Meeting also proposed that the word "Commission" under Section 1(7) is misplaced and should be replaced with the word "Board".

SUMMARY OF PROPOSED AMENDMENTS

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY BILL, 2012

COMMITTEE STAGE AMENDMENTS

NOTICE is given that the Member for Matungu and Chairman of the Departmental Committee on Transport, Public Works and Housing (Hon. David Were, MP) intends to move the following amendments to the National Transport and Safety Authority Bill 2012, at the Committee Stage-

CLAUSE 2

THAT, clause 2 be amended in the definition of the term “levy” by deleting the expression “section 45” and substituting therefor the expression “section 46”.

CLAUSE 6

THAT, clause 6(1) be amended—

- (a) in paragraph (f), by deleting the word “six” and substituting therefor the word “four”;
- (b) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) two persons appointed by the Cabinet Secretary to represent groups with special interests in the transportation industry”.

CLAUSE 40

THAT, clause 40 be amended by—

- (a) in subclause (1), by—

- (i) deleting the words “three hundred” appearing immediately after the words “not exceeding” and substituting therefor the words “one hundred”;

(ii) deleting the words “or to both”;

(b) in subclause (2), by deleting the words “or to both”.

CLAUSE 41

THAT, clause 41 be amended by—

(a) deleting the words “five hundred” and substituting therefor the words “one hundred”;

(b) by deleting the words “or to both”.

CLAUSE 42

THAT, clause 42(2) be amended by—

(a) deleting the words “two thousand” and “five thousand” and substituting therefor the words “five thousand” and “twenty thousand” respectively;

(b) by deleting the words “or to both”.

CLAUSE 44

THAT, clause 44(4) be amended by—

(a) deleting the words “three hundred” and substituting therefor the words “one hundred”;

(b) by deleting the words “or to both such fine and imprisonment”.

CLAUSE 52

THAT, clause 52 be amended in subclause (1), by deleting the word “Commission” and substituting therefor the word “Authority”.

CLAUSE 53

THAT, clause 53(1) be amended by deleting the words “or to both”.

FIRST SCHEDULE

THAT, the First Schedule be amended by deleting the expression “Cap. 406” and substituting therefor the expression “Cap. 403”.

SECOND SCHEDULE

THAT, the Second Schedule be amended in paragraph 1—

- (a) by deleting subparagraph (1) and substituting therefor the following new subparagraph—

“(1) The Board shall meet at most twelve times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.”

- (b) by deleting the word “Commission” in subparagraph (7) and substituting therefor the word “Board”.

A handwritten signature in black ink, appearing to read 'D. Were', with a long horizontal stroke extending to the right.

HON. DAVID WERE, MP

**MINUTES OF THE 163RD SITTING OF THE DEPARTMENTAL COMMITTEE
ON TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON THURSDAY
20TH SEPTEMBER 2012, IN ROOM 7, MAIN PARLIAMENT BUILDINGS
AT 10:00 AM**

PRESENT

Hon. David Were, M.P.- Chairperson
Hon. Edwin Yinda, M.P.
Hon. Yusuf K. Chanzu, M.P.
Hon. Joseph Kiuna, M.P.

ABSENT WITH APOLOGY

Hon. Isaac Muoki, M.P. – Vice – Chairperson
Hon. Clement Wambugu, M.P.
Hon. Benjamin Langat, M.P.
Hon. Walter Nyambati, M.P.
Hon. (Dr.) Wilbur Ottichilo, M.P.
Hon. Boaz Kaino, M.P.

IN ATTENDANCE **KENYA NATIONAL ASSEMBLY**
Ms. Josephine Kusinyi -Clerk Assistant

MIN. NO. 872/2012 **PRELIMINARY**

The Chair called the meeting to order at 10:30am and said a word of prayer.

MIN. NO. 873/2012 **ADOPTION OF THE AGENDA**

The following Agenda of the Meeting was adopted;

- i. Confirmation of Minutes of previous sittings
- ii. Adoption of Committee's Reports on the two Traffic (Amendment) Bills 2012 by the Minister for Transport and Hon. Jakoyo Midiwo, MP
- iii. Adoption of Committee's Report on the National Transport and Safety Authority Bill, 2012

MIN.NO.874/2012 CONFIRMATION OF MINUTES

Minutes of the 161st and 162nd Sittings held on 19th September 2012 were confirmed as a true record and signed by the Chair.

MIN.NO.875/2012 ADOPTION OF COMMITTEE'S REPORTS

The following Reports were adopted:

- i. Report on the Traffic Amendment Bill, Bill No. 29 of 2012
- ii. Report on the Traffic Amendment Bill, Bill No. 8 of 2012
- iii. Report on the National Transport and Safety Authority Bill, 2012.

MIN. NO. 876/2012 ADJOURNMENT OF THE MEETING

There being no other business for consideration, the meeting was adjourned at

SIGNED CHAIRPERSON

DATE 20TH SEPTEMBER 2012

MINUTES OF THE 162ND SITTING OF THE DEPARTMENTAL COMMITTEE
ON TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON
WEDNESDAY 19TH SEPTEMBER 2012, IN THE COMMITTEE ROOM ON
2ND FLOOR, CONTINENTAL HOUSE AT 4:00 PM

PRESENT

Hon. David Were, M.P.- Chairperson
Hon. Benjamin Langat, M.P
Hon. Edwin Yinda, M.P.

ABSENT WITH APOLOGY

Hon. Isaac Muoki, M.P. – Vice – Chairperson
Hon. Clement Wambugu, M.P.
Hon. Walter Nyambati, M.P
Hon. (Dr.) Wilbur Ottichilo, M.P.
Hon. Yusuf K. Chanzu, M.P.
Hon. Joseph Kiuna, M.P.
Hon. Boaz Kaino, M.P.

IN ATTENDANCE

Hon. Jakoyo Midiwo, MP
Hon. Emilio Kathuri, MP

IN ATTENDANCE

Ms. Josephine Kusinyi
Mr. Michael Karuru

KENYA NATIONAL ASSEMBLY

-Clerk Assistant
-Legal Counsel

MIN. NO. 867/2012 PRELIMINARY

The Chair called the meeting to order at 4:30pm and said a word of prayer.

MIN. NO. 868/2012 ADOPTION OF THE AGENDA

The Agenda of the Meeting, to consider the Traffic (Amendment) Bill, 2012 and the National Transport and Safety Authority Bill, 2012 was adopted.

**MIN.NO.869/2012 CONSIDERATION OF THE TRAFFIC (AMENDMENT)
BILL, 2012**

The Meeting considered the above Bill, sponsored by Hon. Jakoyo Midiwo, MP, as follows;

Clause 1 -No amendments proposed

Clause 2 -The Meeting proposed that the clause be deleted as it was a hectic proposal to surrender identification plates to the Registrar at every sale or transfer of a motor vehicle.

Clause 3 -No amendments proposed

Clauses 4-6 -The Meeting proposed these clauses be deleted as they were already contained in the Minister's Bill at Clauses 12, 13 and 14 respectively.

Clause 7 -The Meeting proposed that the clause be deleted, as life imprisonment for a traffic offense was extremely punitive.

Clause 8 -No amendments proposed

Clause 9 - The Meeting proposed that under the new sub clause 5A(a), the words "up to ten" be deleted and replaced with "more than 20", so as to increase the number of kilometers per hour that can be considered high in terms of violation of speed limits.

Clause 10 -The Meeting proposed that under sub clause 1A, the notice of roads to be closed should also be contained in the print media and radio stations, in addition to the Gazette.

Clause 11- No amendments proposed

Clause 12-The Meeting proposed that under 103C (3), the words ten before years and five before hundred be replaced with three and one respectively and the words 'or to both' appearing at the end be deleted.

Clause 13 -be deleted as it is captured in the Minister's Bill.

Clause 14- The Meeting proposed that Section 117B be deleted as the Traffic

Department was still important.

**MIN.NO.870/2012 CONSIDERATION OF THE NATIONAL TRANSPORT
AND SAFETY AUTHORITY BILL, 2012**

The Meeting considered the above Bill, sponsored by the Minister for Transport, as follows;

Clause 1 -No amendments proposed

Clause 2 -The Meeting noted that under the definition of the word “levy”, the correct section was 46 and not 45.

Clauses 3-5 -No amendments proposed

Clause 6 -The Meeting proposed that under sub clause (f) the word six be replaced with five and a new sub clause be inserted to cater for two persons from the Transport Sector.

Clauses 7-39 -No amendments proposed

Clause 40 -The Meeting proposed that under Sub Clause (1) immediately below sub clause (1b), the word “three” be replaced with the word “one”, to reduce the penalty as generally offenses under the Penal Code do not carry hefty fines. Likewise, the word “or both” at the end of the sentence should be deleted.

Clause 41 - The Meeting proposed that the fine of five hundred thousand was too punitive and should be replaced with one hundred thousand and the words “or both appearing at the end of the Section should be deleted.

Clause 42 -The Meeting proposed that the fines of two thousand and five thousand proposed were too lenient and should be replaced with five thousand and twenty thousand respectively. The words “or both” appearing at the end of sub section (2) should also be deleted

Clause 43– No amendments proposed

Clause 44-The Meeting proposed that under sub section (4), three hundred

thousand shillings was a hefty fine and should be replaced with one hundred shillings and the last sentence from the word or, be completely deleted.

Clauses 45-51 -No amendments proposed

Clause 52- The Meeting proposed that the word “Commission” appearing at the end of sub clause (1) was misplaced and should be replaced by the word “Authority”, likewise under sub clause (2, the word “audit” should be deleted and be replaced with “Finance Management” which is the name of the relevant Act.

Clause 53- The words “or both” appearing at the end of sub clause (1) should be deleted.

Clause 54-No amendment proposed

Clause 55 - The Meeting noted that this clause was missing.

Clauses 56- 63 - No amendments proposed

First Schedule-The Meeting noted that the relevant Statute was Cap 403 and not 406.

Second Schedule-The Meeting proposed that under Section 1(1), provision should be included to deter the Board from meeting too frequently. The Meeting also proposed that the word “Commission” under Section 1(7) is misplaced and should be replaced with the word “Board”.

MIN. NO. 871/2012 ADJOURNMENT OF THE MEETING

There being no other business for consideration, the meeting was adjourned at 6:34pm.

SIGNED CHAIRPERSON

DATE 20TH SEPTEMBER 2012

MINUTES OF THE 161ST SITTING OF THE DEPARTMENTAL COMMITTEE
ON TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON
WEDNESDAY 19TH SEPTEMBER 2012, IN THE COMMITTEE ROOM ON 2ND
FLOOR, CONTINENTAL HOUSE AT 10:30 AM

PRESENT

Hon. David Were, M.P.- Chairperson
Hon. Isaac Muoki, M.P. – Vice – Chairperson
Hon. Clement Wambugu, M.P.
Hon. Benjamin Langat, M.P.
Hon. Edwin Yinda, M.P.
Hon. Joseph Kiuna, M.P.
Hon. Boaz Kaino, M.P.

ABSENT WITH APOLOGY

Hon. Walter Nyambati, M.P.
Hon. (Dr.) Wilbur Ottichilo, M.P.
Hon. Yusuf K. Chanzu, M.P.

IN ATTENDANCE

Hon. Emilio Kathuri, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Ms. Josephine Kusinyi -Clerk Assistant
Mr. Michael Karuru -Legal Counsel

MIN. NO. 862/2012 PRELIMINARY

The Chair called the meeting to order at 10:30am and said a word of prayer.

MIN. NO. 863/2012 ADOPTION OF THE AGENDA

The Agenda of the Meeting, to consider the Traffic (Amendment) Bill, 2012 and the National Transport and Safety Authority Bill, 2012 was adopted.

The Meeting considered the above Bill, sponsored by the Minister for Transport, as follows;

Clause 1 -No amendments proposed

Clause 2 -The Meeting proposed to delete the Word “Commissioner of Police” appearing under the proposed new sub clause 11(b) under Section 6 of the Principal Act, and replace it with Inspector General of Police, in order to comply with the Constitution.

Clauses 3-7 -No amendments proposed

Clause 8 -The Meeting proposed that the driver of a public Service Vehicle or Commercial vehicle undergo a driving test every 3years, as a condition for renewal of licence.

Clauses 9-11-No amendments proposed

Clause 12 -The Meeting proposed to reduce the penalties contained therein to one hundred thousand and two years respectively, to avoid congestion of prison cells as the earlier proposed penalty was too high for the group targeted.

Clause 13 - The Meeting proposed to reduce the penalties contained therein to one hundred thousand and two years respectively, for the same reasons as Clause 12.

Clause 14 -The Meeting proposed an additional sub clause 3, to make provision for a second offender to be jailed for six months without an option of fine, to make the punishment more punitive. The words or both at the end of sub clause 2 should be deleted to avoid double punishment to an offender, in circumstances where the Court orders that both jail term and fine applies.

Clause 15 – The Meeting proposed deletion of the words “or

both” appearing at the end of sub clause 1(a).

Clauses 16-17 -No amendments proposed.

Clause 18 -The words or both appearing at the end of sub clause 2(a) and (b) be deleted.

Clauses 19-20 -No amendments proposed.

Clause 21 -The Meeting proposed that the penalty of twenty thousand shillings was too high for the offence envisaged and as such this should be reduced to ten thousand Shillings.

Clause 22 -No amendments proposed

Clause 23 -The Meeting proposed that the penalty of thirty thousand shillings proposed therein was too low and should be increased to fifty thousand shillings.

Clause 24 -The Meeting proposed that a new sub clause be inserted to increase the maximum hours of driving to 12 hours, due to the improved technology in motor vehicles, as compared to 8 hours that was prescribed as maximum hours of driving permissible per day. Further, the words “or to both” appearing at the end of sub clause 2(a) be deleted.

Clauses 25-31 - No amendments proposed

Clauses 32-34 -The Meeting proposed that the penalties in these clauses all be harmonized to read one hundred thousand shillings instead of ten thousand shillings.

Clause 35 -No amendments proposed

Clause 36 -The Meeting proposed that the penalty therein be reduced to five thousand shillings, as ten thousand shillings was too punitive for the offence.

Clause 37 -No amendments proposed

Clause 38 -The Meeting proposed that the penalty of twenty thousand shillings proposed under sub clause (a) and (b) be reduced to ten thousand shillings.

Clause 39 - The meeting proposed that the words “or to both” be deleted.

Clause 40 -No amendments proposed.

Clause 41 -The meeting proposed that the words “or to both” be deleted.

Clause 42 -The meeting proposed that this clause be deleted and a new clause be inserted to cater for drivers’ physical examination, in terms of hearing and eye sight.

Clause 43- The meeting proposed that the words “or both” appearing at the end of sub clause (b) be deleted.

Clauses 44-47 -No amendments proposed.

Clause 48 -The meeting proposed that the fine of fifty thousand and seventy five thousand respectively, proposed therein were too hefty and should be reduced to ten thousand and twenty thousand respectively.

Clause 49 -No amendments proposed.

Schedule - No amendments proposed.

**MIN.NO.865/2012 CONSIDERATION OF THE NATIONAL TRANSPORT
AND SAFETY AUTHORITY BILL, 2012**

This Agenda was deferred to the afternoon sitting.

MIN. NO. 866/2012 ADJOURNMENT OF THE MEETING

There being no other business for consideration, the meeting was adjourned

at 1:00pm.

SIGNED

CHAIRPERSON

DATE

20TH SEPTEMBER 2012