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THIRTEENTH PARLIAMENT | THE FOURTH SENATE  
THIRD SESSION

DIRECTORATE OF SOCIO-ECONOMIC COMMITTEES

STANDING COMMITTEE ON ROADS, TRANSPORTATION AND  
HOUSING

REPORT ON THE PUBLIC TRANSPORT (MOTORCYCLE  
REGULATION) BILL, 2023 (SENATE BILLS NO. 38 OF 2023)

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PAPERS LAID	
DATE	23/10/2024
TABLED BY	Senate Majority leader
COMMITTEE	Roads, Transportation and housing.
CLERK AT THE TABLE	A. Macharia

OCTOBER, 2024

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## LIST OF ABBREVIATIONS

BSAK	Bodaboda Safety Association of Kenya
CAF	County Assemblies Forum
CCTV	Closed Circuit Television
CoG	Council of Governors
KNCHR	Kenya National Commission on Human Rights
MoRT	Ministry of Roads and Transport
NGEC	National Gender and Equality Commission
NTSA	National Transport and Safety Authority
NYS	National Youth Service
PSV	Public Service Vehicle
RSAK	Road Safety Association of Kenya
SACCOs	Savings and Cooperative Societies
KIPPRA	Kenya Institute of Public Policy Research and Analysis

## **PREFACE**

### **Establishment and Mandate of the Committee**

The Standing Committee on Roads, Transportation and Housing is established as per the Fourth Schedule of Standing Order 228 (3) and is mandated to: -

*'consider all matters relating to transport, roads, public works, housing, construction and maintenance of roads, rails and building, air, seaports and communications'<sup>1</sup>.*

In carrying out its duties, the Committee acts as an oversight body for Ministries, departments and or agencies, namely:

### **MINISTRY OF ROADS AND TRANSPORT**

**State Department of Roads** which has the following agencies-

- (a) Kenya Roads Board;
- (b) Kenya National Highways Authority;
- (c) Kenya Urban Roads Authority;
- (d) Kenya Rural Roads Authority;
- (e) Kenya Institute of Highways and Building Technology;
- (f) Kenya Institute of Technology;
- (g) Engineers Board of Kenya; and,
- (h) Mechanical and Transport Fund.

**State Department for Transport** which has the following agencies –

- (a) Kenya Railways Corporation;
- (b) Kenya Railways Training School;
- (c) Northern Corridor Transit and Transport Coordination;
- (d) Lamu Port South Sudan Ethiopia Transport Corridor Authority;
- (e) Kenya Airports Authority;
- (f) Kenya Civil Aviation Authority;
- (g) East African School of Aviation;
- (h) Kenya Ports Authority;
- (i) National Transport and Safety Authority;
- (j) The Nairobi Metropolitan Area Transport Authority; and
- (k) The Railway City Development Authority.

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<sup>1</sup> Senate Standing Order, (2023). The Government of Kenya

## **MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT**

**State Department for Housing and Urban Development** which has the following agencies-

- (a) National Housing Corporation;
- (b) National Housing Development Fund;
- (c) Civil Servants Housing Scheme Fund; and
- (d) Estate Agents Registration Board.

**State Department for Public Works** which has the following agencies-

- (a) National Construction Authority;
- (b) Kenya Building Research Centre;
- (c) The National Building Inspectorate;
- (d) Board of Registered Architects and Quantity Surveyors;
- (e) Contractors and Builders Retention Fund; and
- (f) Building Surveyors Registration Board.

## **MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS**

**State Department for Shipping and Maritime Affairs** which has the following agencies-

- (a) The Kenya National Shipping Line;
- (b) Kenya Maritime Authority; and
- (c) Bandari Maritime Academy.

The Committee also works closely with the Council of Governors (CoG) and the County Assemblies Forum (CAF).

### **Committee Membership**

1	Sen. Paul Karungo Thangwa, MP	<b>Chairperson</b>
2	Sen. Peris Pesi Tobiko, CBS, MP	<b>Vice-Chairperson</b>
3	Sen. Nderitu John Kinyua, MP	Member
4	Sen. (Rtd) Justice Stewart Madzayo, CBS, MP	Member
5	Sen. Wambua Enoch Kiiio, MP	Member
6	Sen. Dr. Lelegwe Steve Ltumbesi, CBS, MP	Member
7	Sen. Chute Mohamed Said, MP	Member
8	Sen. Kajwang' Moses Otieno, CBS, MP	Member
9	Sen. Edwin Watinya Sifuna, MP	Member

## **CHAIRPERSON'S FOREWORD**

**Mr. Speaker Sir,**

The Public Transport (Motorcycle Regulation) Bill, 2023 is an Act of Parliament to provide for the regulation of the public motorcycle transport (*Bodaboda*) industry and for connected purposes. It was published vide Kenya Gazette Supplement No. 158 (Senate Bills No. 38) on 1<sup>st</sup> September, 2023. The Bill was read a first time on Tuesday, 17<sup>th</sup> October, 2023 and thereafter committed to the Standing Committee on Roads, Transportation and Housing for consideration.

The principal objective of the Bill is to put in place a legal framework to regulate the use of Motorcycle (*bodaboda*) and three wheelers (*tuk-tuks*) in Kenya, by introducing new provisions for their registration, operation and safety at the county level.

**Mr. Speaker Sir,**

It is remarkable to note that, Bodaboda business serves as a vital source of income, especially for the youth, generating over 1.5 million direct jobs. With its low capital requirements, most youths embark on their micro-entrepreneurial journey by initially working as riders for motorcycle owners and later transitioning to owners through a pay-to-own model. The business has evolved into a fully-fledged subsector, featuring a profitable end-to-end value chain encompassing motorbike importers, assemblers, dealers, spare part dealers, technicians, riding schools, and e-riding apps, among others.

The Kenya Institute for Public Policy Research and Analysis highlights the sector's significance not only in job creation but also in generating government revenue, estimated at sixty billion Kenya shillings per annum. Despite numerous efforts by the government to regulate the *bodaboda* sector through enacting the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and establishing a Taskforce on *bodaboda* reforms in 2019, the sector remains informal and inadequately regulated.

**Mr. Speaker Sir,**

It is in light of this that the Public Transport (Motorcycle Regulation) Bill, 2023 seeks to address these issues by establishing a Motorcycle Transport and Safety Board in every County. The Board will be mandated to regulate, manage and coordinate all the matters concerning the *bodaboda* transport sector within the county.

**Mr. Speaker Sir,**

Pursuant to the provisions of Article 118 of the Constitution and 145(5) of the Senate Standing Orders, the Standing Committee on Roads, Transport and Housing proceeded to undertake public participation on the Bill. The Committee invited interested members of the public to submit their representations on the Bill and received views from the

following stakeholders- Ministry of Roads and Transport (MRT), Council of County Governors (CoG), National Transport and Safety Authority (NTSA), Kenya National Commission on Human Rights (KNCHR), National Gender and Equality Commission (NGEC), Road Safety Association of Kenya (RSAK), Bodaboda Safety Association of Kenya (BAK).

The Committee extensively considered the provisions of the Bill and the submissions received from different stakeholders. Based on the deliberations undertaken, the Committee made various observations and recommendations that are contained in the proposed Committee stage amendments (*Annex 2*).

**Mr. Speaker Sir,**

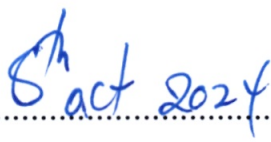
The Committee wishes to sincerely thank the offices of the Speaker and Clerk of the Senate for the necessary support provided in facilitating the process that led to the production of this report. I also take this opportunity to express my gratitude to all the stakeholders who submitted their memoranda on the Bill to the Committee.

My sincere appreciation to the Members of Committee for their thoughtful insights and contributions that culminated into the amendments on the Bill.

**Mr. Speaker Sir,**

On behalf of the Standing Committee on Roads, Transportation and Housing, and pursuant to provisions of Senate Standing Order 148(1), it is my pleasant honour to present to this House the Report on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 of 2023).

Signed.....

Date.....

**SEN. PAUL KARUNGO THANGWA, MP**

**CHAIRPERSON**

**STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING**

## **CHAPTER ONE: INTRODUCTION**

### **1.0 Background**

The Public Transport (Motorcycle Regulation) Bill, 2023 (*Annex 3*) is a Bill proposing regulation of the Bodaboda industry and for connected purposes. The principal objective of this Bill is to put in place a legal framework to regulate the use of Motorcycle (*bodaboda*) and three wheelers (*tuk-tuks*) in Kenya, by introducing new provisions for their registration, operation, and safety at the county level.

The Bill seeks to address these issues by establishing Motorcycle Transport and Safety Board in every County. The Board will be mandated to regulate, manage and coordinate all the matters concerning the Bodaboda transport sector within the county.

The Motorcycle Transport Bill, sponsored by Sen. (Dr.) Boni Khalwale, CBS, MP, was published vide Kenya Gazette Supplement No. 158 (Senate Bills No. 38) on 1<sup>st</sup> September, 2023 and read a First Time in the Senate on Tuesday, 17<sup>th</sup> October 2023, and thereafter referred to the Senate Standing Committee on Roads, Transportation and Housing.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders, the Standing Committee on Roads, Transport and Housing proceeded to undertake public participation on the Bill. The Committee invited interested members of the public to submit their representations on the Bill, by way of written memoranda on 20<sup>th</sup> October 2023 (*Annex 4*). The Committee received submissions on the Bill from the following stakeholders- Ministry of Roads and Transport (MRT), Council of Governors (CoG), National Transport and Safety Authority (NTSA), Kenya National Commission on Human Rights (KNCHR), National Gender and Equality Commission (NGEC), Road Safety Association of Kenya (RSAK) and Bodaboda Safety Association of Kenya (BAK).

The Committee considered the provisions of the Bill and the proposed amendments to the Bill from stakeholders on 12<sup>th</sup> and 22<sup>nd</sup> March, 2024 and prepared Committee amendments to Bill. Based on the deliberations undertaken, the Committee made various observations and recommendations as contained in chapter three of this report.

### **1.2 Situational Analysis**

Bodaboda business serves as a vital source of income, especially for the youth, generating over 1.5 million direct jobs. With its low capital requirements, most youths embark on their micro-entrepreneurial journey by initially working as riders for motorcycle owners and later transitioning to ownership through a pay-to-own model. The business has evolved into a fully-fledged subsector, featuring a profitable end-to-

end value chain encompassing motorbike importers, assemblers, dealers, spare part dealers, technicians, riding schools, and e-riding apps, among others.

In fact, the Kenya Institute of Public Policy Research and Analysis highlights the sector's significance not only in job creation but also in generating government revenue, estimated at sixty Billion Kenyan shillings, per annum. Despite numerous efforts made by the government to regulate the Bodaboda sector through enacting the National Transport and Safety Authority (Operation of Motorcycles) Regulations 2015 and establishing a Bodaboda taskforce in 2019, the sector remains informal and inadequately regulated.

While some Bodaboda operators have obtained operating licenses, formed saving and credit societies, acquired insurance covers, and established self-help groups, a consensus is growing that the sector needs further streamlining to eliminate errant operators and foster better relationships with the public and authorities.

This refinement is crucial in mitigating negative aspects such as insecurity and accidents resulting from reckless driving, which account for over 65% of accidents and contribute to nearly 32% of insecurity cases, according to the National Transport and Safety Authority (NTSA) survey.

Other attempts to streamline this sector include the move made by the government in 2008, to zero-rate import duty on motorcycles up to 250cc, making the motorcycles affordable for average Kenyan households, opening up new job opportunities. Further, in March 2022 the government decided to crack down on all Bodaboda operators across the country following an assault incident of a female motorist in Nairobi. This brought the sub-sector into the spotlight, generating widespread criticism. The operators were granted 60 days to obtain smart licenses and join registered savings and cooperative societies (SACCOs).<sup>2</sup>

### **1.3 Challenges facing the Bodaboda Sector in Kenya<sup>3</sup>**

Amidst the tremendous steps undertaken to regulate this sector, there exists no coherent and comprehensive legal framework to govern it and recognition of the sector as part of public service vehicle operator by the Transport License Board. There also exists limited resources and manpower that hinder effective enforcement of regulations, especially outside major cities.

On the part of operations, this sector tends to function outside the formal system, making regulation difficult. The industry is also dominated by a fairly youthful

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<sup>2</sup> <https://hapakenya.com/2024/01/26/boda-boda-licensing-a-crucial-step-for-the-future-of-the-sector/>

<sup>3</sup> <https://crimeresearch.go.ke/wp-content/uploads/2019/01/Boda-Boda-Motorcycle-Transport-And-Security-Challenges-In-Kenya-Summary-Of-Findings-And-Recommendations.pdf>

population who are not professionally trained, are less educated and of lower socio-economic standing.

Insecurity concerns continue to compromise this sector as the lack of a database of all Bodaboda operators in Kenya is a policy gap and an impending threat to the nation. Some riders are associated with both petty and violent crimes while other are major facilitators of crimes of commission. In addition, safety concerns related to overloading, speeding, and inadequate passenger protective gears have also attributed to a significant number of motorcycle accidents.

#### **1.4 Legal, Institutional and Regulatory Frameworks in the Road Transport Sector**

**Constitution of Kenya 2010:** Provides the foundation for transport development, emphasizing devolution and empowering county governments to manage local transport infrastructure.

**The NTSA (Operation of Motorcycles) Regulations 2015** were put in place in a bid to regulate the sector. These regulations outline key requirements for motorcycles, including:

- (a) **Driver Licensing:** A valid Class A motorbike license obtained through training and testing is mandatory.
- (b) **Vehicle Standards:** Minimum safety features like brakes, lights, and tires are mandated. The NTSA conducts inspections to ensure compliance.
- (c) **Helmet and Safety Gear:** Mandatory helmet use for both rider and passenger.
- (d) **Passenger Safety:** Only one passenger is allowed, with some exceptions for children riding with an adult. Passengers must sit astride the motorcycle with a proper seat and footrests.
- (e) **Insurance:** Third-party liability insurance might be mandatory, but enforcement can be weak.
- (f) **Headlights:** Motorcycles must have their headlights on at all times while riding.<sup>4</sup>

**Transport Licensing Act (Cap. 404)** The Transport Licensing Board (TLB) was established to regulate public service vehicle operations.

**Traffic Act, Cap 403:** This act provides general regulations for road use in Kenya, including those specific to motorcycles. It includes provisions on licensing, insurance, roadworthiness of vehicles, and penalties for traffic offenses.

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<sup>4</sup> <https://www.ntsa.go.ke/>

**The Kenya Roads Act, 2007:** This act addresses road management and infrastructure, indirectly impacting the Bodaboda sector by outlining the responsibilities of road authorities in maintaining road safety standards.

**Public Service Vehicles (PSV) Regulations:** Although primarily aimed at matatus (public mini busses), these regulations also affect Bodaboda operators who may provide similar services. They cover aspects like fare regulation, safety standards, and operator conduct.

**County Legislation:** Various counties in Kenya have enacted their own bylaws to regulate the *bodaboda* sector within their jurisdictions. These local laws may cover aspects such as designated parking areas, operational hours, and additional safety requirements.

## **1.5 Overview of the Bill**

The Salient features of the Bill are as follows -

### **1. Part I - Preliminary**

This contains the preliminary provisions and sets out various definitions of terms used in the Bill.

### **2. Part II – Regulation of Motorcycle**

While Clause 4 provides for the establishment of the County Motorcycle Transport and Safety Board, Clause 5 is for the composition of the Board which shall consist of-

- (a) a chairperson appointed by the county governor;
- (b) the county executive Committee member responsible for matters relating to transport;
- (c) the county executive Committee member responsible for matters relating to finance;
- (d) the County Attorney;
- (e) the County Police Commander or a representative designated in writing;
- (f) four persons appointed by county executive Committee member responsible for matters relating to transport; and
- (g) two persons appointed by the county executive Committee member responsible for matters relating to transport to represent groups with special interests in the motorcycle transportation industry.

Clause 6, which is sectioned in two parts, highlights the provisions for the function of the Board which shall be responsible for shall be responsible for the regulation, management, and coordination of all matters relating to the motorcycle transport sector

within the county. Section two set out that, without prejudice to the generality of subsection (1), the functions of the Board shall include:

- (a) developing policies, regulations, and guidelines on motorcycle transport and safety matters within the county;
- (b) managing and controlling motorcycle transport services within the county, including registration and licensing of motorcycle riders, designate parking and routes;
- (c) ensuring compliance with the provisions of this Act and any other laws related to the transport sector within the county;
- (d) conducting research and collecting data on transport and safety matters within the county; and
- (e) developing and implementing programs to promote road safety, including training and education of riders and passengers.

While Clause 8 provides for Cross-county recognition of registration for all riders, Clause 9 sets out mandatory conditions for Savings and Cooperative Societies (SACCOs) membership, either under ownership or operation of a motorcycle.

Clause 10 provides for the training of riders as a prerequisite for operation of a motorcycle and the board shall ensure that the training courses in authorised driving schools include: safe and defensive riding techniques; traffic laws and regulations; customer care and etiquette; handling of emergency situations; basic motorcycle maintenance; and security awareness and precautions. And upon completion, a ride is issued a certificate

Clause 11 and 12 highlights the provision for responsibilities for the Owner and rider, respectively, mainly for purposes of accountability and passengers wellbeing.

Clause 13 on its part, outlines the responsibilities of a passenger for purposes of safety.

Clause 16 and 17 sets out the requirement for the carriage of passengers and loads by the motorcycle operator, respectively.

Clause 21 necessitates that protective gear be availed by the supplier, distributor or any other person involved in the sale of motorcycle within the county

### **3. Part III – Offences and Penalties**

Clause 27 provides for general penalties on any person who contravenes any provision of these Act and whose penalty is not provided for elsewhere under this Act, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or, both.

## **2.0 CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL**

### **2.1 Introduction**

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee on Roads, Transportation and Housing, resolved to undertake public participation on the Bill. Therefore, an advertisement was placed in the Daily Nation and Standard newspapers inviting members of the public to submit written memoranda on the Bill. The advert was also posted on the Parliament website and social media platforms. Further, the Committee invited and received submissions from the following stakeholders:

- i. Ministry of Roads and Transport (MRT)
- ii. Council of County Governors (CoG)
- iii. National Transport and Safety Authority (NTSA)
- iv. Kenya National Commission on Human Rights (KNCHR)
- v. National Gender and Equality Commission (NGEC)
- vi. Road Safety Association of Kenya (RSAK)
- vii. Bodaboda Safety Association of Kenya (BAK)

In response to the newspapers adverts requesting for submissions, the Committee received submissions from stakeholders and they are organized clause-by-clause and set out in a matrix attached as *Annex 5* while copies of the stakeholder submissions on the Bill are collectively attached as *Annex 6*.

### **2.2 Overview of stakeholders' Submissions on the Bill**

#### **2.2.1 Part I - Preliminary**

##### **Clause 1 – Short Title**

The National Gender and Equality Commission (NGEC) proposed to amend the short title by including the term 'Bicycle' in the provisions of the Bill, to regulate the *bodaboda* bicycle as well.

*The Committee observed that the Bill should remain specific to two wheeled and three wheeled motorcycles since expanding the scope would introduce a matter that was not initially envisaged since bicycles are not powered by engines.*

##### **Clause 2 – Interpretation**

The National Gender and Equality Commission (NGEC) also proposed to amend the definition of '*bodaboda*' to read "*bodaboda*" means a motorcycle or bicycle used for commercial purposes to include bicycle on the definition.

*The Committee rejected the amendment as bicycles are not powered by engines and expanding the scope beyond the two wheeled and three wheeled motorcycles could introduce a matter that was not initially envisaged.*

## **2.2.2 Part II – Regulation of Motorcycle**

### **Clause 4 – Establishment of the County Motorcycle Transport and Safety Board**

The Ministry of Roads and Transport (MRT) and National Transport and Safety Authority (NTSA) held the view that the Bill duplicates the provisions under Section 21 (Establishment of the County Transport and Safety Committee) and Section 22 (County Committees to be under the supervision of the Authority) of the NTSA Act. Further the Bill duplicates the provisions of National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015. In addition, the Ministry submitted that the establishment of the Committees would result in huge financial implications placing a huge burden on the taxpayer and consume a significant budgetary allocation to the County Governments.

The Council of County Governors (COG) was of the view that the County Transport and Safety Committees had not been operationalised in many counties because of the ambiguity of the status in relation to the powers of the County Governments. As a result, COG stated that the establishment of the Board is unnecessary and unconstitutional since the powers given to it are supposed to be discharged by the County Executive Committee member in charge of transport.

*The Committee resolved that the County Executive Committee member in charge of transport be empowered and the Member be mandated to, if necessary, establish a Board to ensure efficiency in provision of services.*

On the other hand, the *Bodaboda* Safety Association of Kenya (BAK) proposed that it should be mandated to register riders across the country, for easy coordination with the Board in counties and provide a crucial point of reference in case a rider moves from one county to another.

*The Committee rejected the proposal on the basis that the association is a private entity and therefore registration should be voluntary. In addition, for purposes of central reference, the Bill requires persons using motorcycles for commercial purposes to register with the Board.*

### **Clause 5 – Composition of the Board**

The Road Safety Association of Kenya (RSAK) proposed an amendment to the clause by increasing the representation of the special interest groups from the current two (2) to four (4), while drawing the representation from the SACCOs or *bodaboda* leadership and ensuring that the representatives reflect the two genders.

*The Committee accepted the proposal and resolved to amend the provisions to reduce the number of persons nominated by the County Executive Committee Member to two and increase the number of persons nominated to represent groups with special interests in the motorcycle transportation industry to four. In particular, the Bodaboda riders should be represented in the Board.*

The Bodaboda Safety Association of Kenya proposed that the Board member should be a bonafide chairperson of the *bodaboda* Association in the county and should be nominated by the Association as it is well structured from the national level, County, Sub County, Ward, and Stage Level with proper leadership. Therefore, this will reduce the chances of political interference when appointing a person to represent the riders.

*The Committee rejected the proposal because the Association is not recognised in law and since membership is voluntary there could be a multiplicity of associations that would be locked out by prescribing this in law.*

The Kenya National Commission on Human Rights (KNCHR) proposed an amendment to the clause to provide for qualification and experience of the Board Members, the number of board members required and the procedure of filing a vacancy.

*The Committee accepted the proposal subject to amendment of the Bill to provide for vacancy, term of office, and other administration provisions such as number of meetings.*

NGEC proposed the amendment of **Clause 5 (d)** by substituting “the County Attorney” with “the county executive Committee member” responsible for matters relating to youth affairs as most *bodaboda* operators are youths.

*The Committee rejected the proposal and observed that not all counties had the position to appoint county executive Committee member for youth. However, it was resolved that the Bill be amended to provide for the possibility of the county attorney to appoint a representative to sit in the Board.*

NGEC further proposed for amendment of **Clause 5 (f)** by substituting the entire clause with “one person representing the region nominated by the National Transport and Safety Authority.” They argued that the four persons proposed in the Bill, are ambiguous in that there are no criteria for the appointment. The Commission proposed for a regional representative of NTSA who is the regulator of the sector.

*The Committee resolved to amend the Bill to provide that the representatives of the special interest groups have at least secondary education and that the nominees of the CECM be persons who have post-secondary educational qualifications.*

In **Clause 5 (g)**, NGEC made a proposal to amend this paragraph by substituting the entire clause with the following “four persons appointed by the county executive Committee member responsible for matters relating to transport representing the youth,

persons with disabilities, women, and older members of society, nominated by their respective organizations. They argued that the two persons as proposed in the Bill also lack criteria of appointment, yet the four persons proposed by the Commission represent the special interest groups as both owners, riders, and passengers.

*The Committee rejected the proposal as the current number of members of the Board as proposed by the Bill is eleven and therefore the increase of members in this category from two to four will increase the number to thirteen. In addition, the Code of Governance for State Corporations proposes a maximum of nine members and therefore the increase of members in this category from two to four will increase the number from eleven to thirteen.*

The NGEC proposed the insertion of a new paragraph in **Clause 5 (h)** to read as follows; 'Appointment shall take into consideration gender, youth and persons with disabilities', in compliance with the principle of gender balance and representation of persons with disabilities.

*The Committee agreed with the stakeholder's proposal to amend the clause to ensure that the appointments take into consideration gender, youth, and persons with disabilities.*

#### **Clause 6 – Functions of the Board**

The Road Safety Association of Kenya proposed that the Board should work with the leadership of the *bodaboda* Association and other associations to implement the policies as a requirement.

*The Committee rejected the proposal as the membership of the Board already included representation of persons within the bodaboda sector.*

#### **Clause 7 – Registration of Motorcycles riders**

The KNCHR, NGEC and RSAK were of the view that NTSA should register the commercial motorcycles instead of the Board. This was on the basis that according to the National Assembly's Departmental Committee on Transport and Infrastructure Report on the National Transport and Safety Authority (Amendment) Bill, 2022, the government currently registers all motorcycles in the country whether locally assembled or imported. They maintained that a national database would allow the public to authenticate the rider's details even if the riders are not registered in any specific county. In addition, this acknowledges the right to freedom of movement.

*The Committee rejected the proposal and further noted that since county transport is a devolved function, the Board should be established at the county level and therefore the primary register should be maintained at the county. In addition, nothing stops the counties from sharing the information with NTSA for purposes of a central national*

*registry. The Committee resolved that this clause be amended to require that a copy of the register be shared with the Authority periodically.*

KNCHR, NGEN and RSAK further proposed to amend the clause to provide for instances of revocation of certificate of registration.

*The Committee agreed with the stakeholders' proposal to amend the clause to provide for instances of suspension or revocation of registration.*

MRT and KNCHR proposed that the National Transport and Safety Authority Operation of (Motorcycles) Regulations 2015 be amended to cater for emerging issues such as a database for operators, safety and insecurity perpetrated by *bodaboda* operators. The justification for this amendment is that the legislative proposal seeks to convert the National Transport and Safety Authority Operation of (Motorcycles) Regulations 2015 to legislation, yet the regulations are operational and have the force of law. They added that the enforcement of the Traffic Act (Cap 403), the National Transport and Safety Authority, Act 2012 and attendant Regulations should be strictly enforced to ensure that motorcycle riders do not ride on pavements, or ride in opposite directions in traffic and operate in designated locations.

*The Committee did not accept the proposal on the ground that pursuant to Section 54 of the National Transport and Safety Authority Act, 2012 the Board in consultation with the Cabinet Secretary can draft Regulations. Further, from a comprehensive comparison of the NTSA Act and NTSA Regulations, the Senate Bill sought to enhance the constitutional architecture of devolution whereas the Act and Regulations derogated the powers and functions constitutionally awarded to county governments.*

RSAK held the view that the Bill should state who sets the registration fees and propose a fee that will ensure that the same does not bar the youth to join the industry.

*The proposal was rejected since Kenya is a free-market economy and county governments are at liberty to set the fees. In addition, the fees should be contained in either the respective county legislation or Regulations and not under the Bill. However, the Council of Governors could consider the fees they set to forestall price wars that would impact the economies of the counties negatively.*

#### **Clause 8 - Cross-county recognition of registration**

NGEC proposed an amendment of this clause to clarify whether once registered in a specific County, a rider can operate in any other County of their choice and in the event of an accident or other unlawful acts, which County would be responsible to take action on the rider. The Commission's suggestion was underpinned by the fact that any rider who for one reason or other would want to operate in another County, can get a permit.

*The Committee resolved to delete this clause as the Bill already provides for cross - County recognition of registration. Further, accidents and unlawful criminal behaviour*

*fall under traffic laws and criminal jurisdiction implemented under the criminal procedure code.*

#### **Clause 9 - Savings and Cooperative Societies Membership,**

The RSAK proposed that the clause to be amended by specifying who holds the SACCOs accountable as it is likely that a small group of people may gang up and form a SACCO which monopolizes a county. The proposal was either to have the Board, the NTSA or the Ministry of Transport be the one to hold SACCOs accountable.

*The Committee noted that SACCOs are accountable to the SACCO Societies Regulatory Authority which has the power to issue a licence or revoke a licence to SACCO societies. The Committee resolved to amend this clause to ensure that owners of the motorcycles are the ones registered under the Cooperative Society and not the riders.*

#### **Clause 10 - Training of Riders**

The RSAK proposed that the curriculum design should not be discriminatory based on literacy of education levels, as well as mandating NYS to train the riders. The reason for this is because some of the riders are school dropouts and or uneducated and the industry provides an economic mainstay for the youths.

*The Committee resolved to amend the provision to reflect that the training course should be approved by the Authority and that the County Executive Committee member may provide the way the training may be offered in the local languages in the County.*

#### **Clause 11 - Responsibilities of the owner**

The NTSA were of the view that the provisions duplicate those under the NTSA Act and the NTSA Regulations.

*The Committee resolved to amend the clause to provide for additional provisions related to obligations of the owner.*

#### **Clause 12 – Responsibilities of a rider**

In subsection (1) the NGEC proposed that **Clause 12(d)** be amended by substituting the phrase “person at a time” with “adult passenger at a time save for instances when the circumstances do not permit”. The justification for this was that the interpretation of a passenger in the proposed Bill is a person. The Commission submitted that it is not safe for a child who is a person and some vulnerable persons (sick, older frail persons, some form of disability) to be carried as passengers without the support of another passenger.

*The proposal was adopted by the Committee because it creates clarity.*

Further, NGEC proposed the deletion of **Clause 12 (f)**, which states that; ‘ensure that a passenger sits astride the motorcycle’. Their justification of this deletion was that the

sitting position is determined by many factors including gender, age, ability, etc and besides the stated factors that should be an individual preference.

*The Committee did not accept the stakeholder's proposal on grounds that this provision places the obligation on a passenger to sit astride a two wheeled motorcycle as in some cultural contexts it was taboo for a woman to sit astride a motorcycle ridden by a male person who is not their relative.*

### **Clause 13 – Responsibilities of Passengers**

NGEC proposed that **clause 13 (1) (d)** which reads; '*sit astride in the seat fixed behind the rider's seat*', to be deleted on basis that several factors will be an impediment to sitting astride including gender, advanced age, pregnancy, faith, beliefs etc besides it being a personal reference.

*The Committee did not accept the proposal because this provision places the obligation on a passenger to sit astride a two wheeled motorcycle as in some cultural contexts it was taboo for a woman to sit astride a motorcycle ridden by a male person who is not their relative. In addition, the safety of passenger is paramount, thus, law enforcement officers could make a decision to determine whether the passenger was risking their lives by failing to sit astride.*

Moreover, NGEC proposed that **clause 13 (2) (a)** to be substituted with "Young Children and vulnerable persons who are carried together with another adult shall also wear helmets". The reasoning behind this is that the Bill is not clear on the assumption that the safety of a child of more than 9 years as a solo pillion passenger is guaranteed. The justification by the Commission is that the safety of children will be compromised by being solo passengers.

*The Committee resolved to amend the clause to reflect 13 years and delete the requirement for helmets designed for children and instead reiterate the need for every user of a two wheeled motorcycle to wear a helmet.*

The NGEC proposed for the deletion of **Clause 13 (2) (b)**, as not all persons with disabilities have a problem with sitting astride as it depends on the category of the disability.

*The Committee agreed with the proposal to delete clause 13 (2) (b) for ambiguity.*

### **Clause 16 - Carriage of passengers**

The NGEC proposed deletion of this clause, citing that the provision is already captured in clause 12 and 13.

*The Committee rejected the proposal and resolved to amend the provision to capture thirteen years instead of nine years.*

### **Clause 17 – Carriage of Loads**

The RSAK was of the view that the width and weight of the load to be carried should be specific to the road used since motorcycles service both feeder roads and highways.

The BAK proposed the deletion of clause 17 (1) (c) that reads ‘*whose weight is more than thirty kilograms for a motorcycle whose carrying capacity does not exceed fifty cc and 50 kilograms for a motorcycle whose carrying capacity does not exceed four hundred cc*’. The justification behind this was that the provision will result in targeting by the Police and most loads are above 30kgs.

*The Committee rejected the proposal and proposed an amendment of the clause to increase the load from thirty kilograms to fifty kilograms which had been provided for elsewhere in the Bill.*

### **Clause 21 – Protective Gear**

The NTSA and the Senate were of the view that the provisions in the Bill and the Regulations require bundling of the motorcycle with two helmets and two reflective jackets before transfer.

*The Committee resolved to amend this clause by deleting the provision, noting that this provision will eventually lead to additional expenses since a person buying a motorcycle may already have the reflective jackets or the helmets and therefore would not need more protective gear. Additionally, the Bill already placed an obligation on the owner to have the two items and therefore there was no need to require the same under clause 21.*

## **2.2.3 PART III - Offences and Penalties**

### **Clause 27 – General Penalties**

The RSAK proposed that the Bill should provide for instant fines instead of protracted court cases as this blanket clause may be abused by law enforcement officers.

*The Committee did not adopt the proposal since the penalty clause is only applicable where one is found culpable of an offence under the Bill. Further, the imposition of instant fines had failed due to the lack of a framework to operationalize it.*

### **2.2.4 New Clauses**

The following new clauses were proposed by the stakeholders:

The *Bodaboda* Safety Association of Kenya further proposed to amend the Bill by introducing a new clause for the provision of tenure of office and vacancy of office, which includes the qualifications of the chairperson and members of the Board.

*The Committee agreed with the stakeholder's proposal and amended the Bill to provide for the tenure of office, vacancy of office, and qualifications of the chairperson and members of the Board.*

NGEC was of the view that a county government may enact county-specific legislation for the better carrying out of the purposes and provisions of this Act. The rationale of this proposal was that Part 2 of the Fourth Schedule to the Constitution designates public road transport as one of the functional areas of the county government.

*The Committee accepted the proposal and resolved to amend the Bill to empower counties to develop county specific legislation that may be used to cover functional areas that are not covered under the Bill.*

In addition, RSAK proposed for the inclusion of a speed limit for motorcycles as young people are racing at the expense of the passengers.

*The Committee rejected the proposal and noted that imposition of speed limits was dynamic in nature and as such should not be set in legislation but rather in Regulations. In addition, since speed limits are nationwide, it may be pivotal to ensure that the same are set centrally.*

## **2.4 General Comments**

The Council of County Governors (CoG) proposed that the Bill be withdrawn and redrafted to conform with delineation of functions under the Constitution.

*The Committee rejected the proposal and noted that the Bill conforms to the provisions of the Constitution.*

The KNCHR was of the view that the Committee should require the Ministry of Roads and Transport and Interior and National Coordination to make the report of the 2019 Taskforce on Motorcycle Transport Reforms public.

*The Committee resolved to request the Ministry of Interior and National Coordination to publish the report on 2019 Taskforce on Motorcycle Transport Reforms.*

Cumulatively, RSAK also made the following proposals for consideration, THAT:

- i. The Bill should encourage the riders to leverage on technology to access clients such as Uber and Bolt or encourage respective SACCOs to form an online platform for pitching.
- ii. The Bill should encourage the use of cashless money systems such as MPESA.
- iii. The Bill should require respective county governments to provide civic education to all actors in the *bodaboda* industry relating to their rights and obligations.

- iv. The Bill should require county governments to install streetlights and CCTV cameras in their jurisdictions to reduce the occurrence of *bodaboda* criminals.
- v. The Bill should require county governments to construct sheds for operators that can also act as points of revenue collection.
- vi. The Bill should require SACCOs to register with the National Association or Federation.
- vii. The Bill should recommend and gazette speed governors for motorcycles to limit speed to 40 km (about 24.85 mi)/hr to 50km (about 31.07 mi)/hr for commercial motor vehicle
- viii. The Bill should recommend instant fines instead of protracted court cases.
- ix. The Bill should require rider to acquire a certificate of good conduct before being cleared by the Board upon renewal of the certificate
- x. The Bill should require that training and testing employ use of technology to eliminate corruption and human interference.

*All the enlisted proposals were not carried by the Committee.*

- xi. The Bill should require that the helmets be customized to the motorcycle number plate

*The proposal was rejected but the Committee resolved to amend the Bill to require the owner to brand the commercial motorcycle with a colour band prescribed by the county executive Committee member.*

- xii. The motorcycle should have number plates in front

*The Committee agreed to the proposal and resolved that the National Transport Authority and the Ministry review Traffic (Registration Plates) Rules, to ensure that number plates on motorcycles are also placed in the front.*

The RSAK was of the view that interventions should be made to ensure realignment of administrative structure of the NTSA to remove political interference in implementation of their mandate. In addition, RSAK noted that vehicle inspection process has been ineffective and therefore, the Committee should require the enforcement of public participation, including encouraging the participation of RSAK, in the current review of Vehicle Inspection Standards.

*The Committee rejected the proposal and proposed that an amendment be made to ensure that the motorcycles that are utilized for public use are inspected and registered as PSVs.*

### **3.0 CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

During consideration of stakeholder submissions on the Bill, the Committee made the following observations and recommendations-

#### **Clause 4 - Establishment of the County Motorcycle Transport and Safety Board**

That the establishment of the Board is unnecessary and unconstitutional since the powers given are supposed to be discharged by the County Executive Committee member in charge of transport.

#### **Recommendation**

**That clause 4 of the Bill be amended to empower the County Executive Committee member in charge of transport to, if necessary, establish a Board to ensure efficiency in provision of services.**

#### **Clause 5 – Composition of the Board**

That the Code of Governance for State Corporations proposes a maximum of nine members. Further, that the Bill proposed that four persons be appointed by the County Executive Committee member and only two persons to represent the motorcycle sector, yet they are the biggest stakeholders.

#### **Recommendation**

**That clause 5 of the Bill be amended to reduce the number of persons nominated by the County Executive Committee Member to two and increase the number of persons nominated to represent groups with special interests in the motorcycle transportation industry to four. In particular, the *Bodaboda* riders should be represented in the Board.**

The Committee observed that the number of Board members, the procedure of filling a vacancy, qualifications and experience of the Board members had not been provided for in the Bill.

#### **Recommendation**

**The Bill be amended to provide for vacancy, term of office and other administrative provisions such as number of meetings.**

#### **Clause 5 (d) – ‘the county attorney’**

That the County Attorney may be unable to attend all sittings of the Board and therefore there was need to ensure that the County Attorney could be represented. The Committee further noted that given the novelty of the policy decisions that are likely to arise from the Board then it was important to ensure compliance with the law from the onset.

### **Recommendation**

**The Bill be amended to provide for the possibility of the County Attorney to appoint a representative to sit on the Board.**

### **Clause 5 (f) – ‘four persons appointed by county executive Committee member responsible for matters relating to transport’**

Regarding the substitution of the entire clause with “one person representing the region nominated by the National Transport and Safety Authority,” the Committee observed that as a national government entity, the Authority should not sit in the county boards and that nothing stops the Boards from seeking advice from the Authority. However, there was need to provide for qualifications for the appointees by both the CECM and the representatives of the special interest groups.

### **Recommendation**

**The Bill be amended to provide for the representatives of the special interest groups that have at least secondary education and that the nominees of the CECM be persons who have post-secondary educational qualifications.**

### **Clause 7 – Registration of Motorcycle riders**

The Committee observed that county transport is a devolved function, hence, the Board should be established at the county level and therefore the primary register should be maintained at the county and allow the sharing of information with NTSA for purposes of a central national registry

### **Recommendation**

**The Bill be amended to require that a copy of the register be shared with the Authority periodically.**

In addition, the Committee observed that there was need to provide for instances of revocation of certificate of registration.

### **Recommendation**

**The Bill be amended to provide for instances of suspension or revocation of registration.**

On the matter of setting the registration fee and who is mandated to collect the registration fees, the Committee noted that since Kenya is a free-market economy and county governments are at liberty to set the fees and such fees should be contained in either the respective county legislation or Regulations and not under the Bill.

## **Recommendation**

**The Council of Governors to consider the registration fees they set to forestall price wars that would impact the economies of the counties negatively.**

### **Clause 8 – cross-county recognition of registration**

On the matter of whether once registered in a specific county, a rider can operate in any other County of their choice, the Committee observed that the provision in clause 8 could be taken advantage of and create “fee wars” in respect to registration in counties. Further, since accidents and unlawful criminal acts fall under the Traffic Act and criminal jurisdiction, the arrest and prosecution for criminal offences is a matter implemented under the criminal procedure code.

## **Recommendation**

**That clause 8 be deleted to avoid replication under the Bill.**

### **Clause 9 – Savings and cooperative Societies Membership**

The Committee noted that SACCOs are accountable to the SACCO Societies Regulatory Authority (SASRA) which has the power to issue a licence or revoke a licence to SACCO societies. However, the Committee observed that since the provision did not provide for money deposit taking, there was need to have owners of motorcycles become members of cooperative societies and not SACCOs.

## **Recommendation**

**That clause 9 be amended to ensure that owners of motorcycles for commercial use are registered under the Cooperative Society and not the riders.**

### **Clause 10 – Training Riders**

The Committee observed that counties should be allowed to translate the curriculum to the local languages in the county to ensure that literacy is not a bar to entry into the industry. Regarding the NYS providing training to the riders, the Committee observed that vocational training is offered after completion of the National Service programme.

## **Recommendation**

**That clause 10 be amended to reflect that the training course should be approved by the Authority and that the County Executive Committee member may provide for Regulations on the training to be offered in the local languages in the county.**

### **Clause 11 – Responsibilities of the Owner**

The Committee observed that the requirement for a rider to have a contract with the owner was a new matter contained in the Bill.

### **Recommendation**

**That clause 11 be amended to provide for the additional provisions related to obligations of the owner.**

### **Clause 12 – Responsibilities of the rider**

The Committee observed that the word “person” usually refers to an adult person or a corporate entity.

### **Recommendation**

**That clause 12 (1) (d) be amended by substituting the phrase “person at a time” with “adult passenger at a time”**

### **Clause 12 (1) (f) – ‘ensure that a passenger sits astride the motorcycle’**

The Committee observed that in some cultural contexts it was taboo for a woman to sit astride a motorcycle ridden by a male person who is not their relative.

### **Recommendation**

**That clause 12 (1) (f) be amended by deleting this provision, as the safety of the passenger is paramount. Further, law enforcement officers could make a decision to determine whether the passenger was risking their lives by failing to sit astride.**

### **Clause 13 – Responsibilities of passengers**

The Committee observed that while the previous provision places an obligation on the rider, this provision places the obligation on a passenger to sit astride a two wheeled motorcycle. In some cultural contexts it was taboo for a woman to sit astride a motorcycle ridden by a male person who is not their relative. The Committee however noted that the safety of the passenger is paramount.

### **Recommendation**

**The Committee therefore recommends that clause 13 (1) (d) be amended by deleting this provision.**

### **Clause 13 (2) (a) – ‘a child who is less than nine years old may be carried together with an adult provided the child is seated between the rider and the adult and wears a helmet designed for children’**

The Committee was of the view that life is sacred and must be protected, hence, all passengers on a two wheeled motorcycle must be required to wear helmets. The Committee observed that the Regulations provided for a child who is thirteen years and below to be carried together with an adult and that the Bill should reflect the age proposed by the Regulations since the same has been in operation. Further, the Committee observed that vulnerable persons had not been defined.

### **Recommendation**

**That clause 13 (2) (a) be amended to reflect thirteen (13) years, delete the requirement for helmets designed for children and instead reiterate the need for every user of a two wheeled motorcycle to wear helmet.**

### **Clause 13 (2) (b) – ‘persons with disabilities will be exempted from the requirement to sit astride while being carried on a motorcycle’**

The Committee observed that not all persons with disability had physical disability that impeded them from sitting astride.

### **Recommendation**

**The Committee therefore recommends that clause 13 (2) (b) be amended by deleting this provision.**

### **Clause 16 – Carriage of Passengers**

The Committee noted that the Regulations provided for a child of up to thirteen years to be accompanied by an adult passenger.

### **Recommendation**

**The Committee therefore recommends that clause 16 be amended to capture thirteen years instead of nine years.**

### **Clause 17 – Carriage of Loads**

The Committee observed that the width and weight of the load needed to be specific for both feeder and tarmac roads while provision in clause 17 (1) (c) could use the same weight for the sake of uniformity.

### **Recommendation**

**That clause 17 be amended to increase the load from thirty kilograms to fifty kilograms.**

### **Clause 21 – Protective Gear**

The Committee observed that the provision in this clause will eventually lead to additional expenses since a person buying a motorcycle may already have the reflective jackets or the helmets and therefore would not need more. Besides, the Bill already placed an obligation on the owner to have the two items, thus, there was no need to require the same under clause 21.

### **Recommendation**

**That clause 21 be amended by deleting this provision.**

### New Clauses

The Committee observed that the Bill did not give provisions for vacancy and qualifications of the chairperson and members of the Board.

#### **Recommendation**

**That a new clause be inserted to provide for the tenure of office, vacancy of office, and qualifications of the chairperson and members of the Board.**

The Committee observed that there was need to introduce a new clause for County transport as it is a county function under the Constitution and county specific legislation may be used to cover functional areas that are not covered under the Bill.

#### **Recommendation**

**That the Bill be amended by introducing a new clause to empower counties to develop county specific legislation.**

### General Comments of the Bill

The Committee observed that there was need to exercise power to request the Ministry of Roads and Transport and Ministry of Interior and National Coordination to make public the 2019 Taskforce Report on Motorcycle Transport Reforms.

#### **Recommendation**

**The Committee resolved to write to the Ministry to request for the report and to require the Ministry to publish the report.**

The Committee observed that in order for the implementer who is the police officer to promptly distinguish between PSV motorcycles, which fall under the ambit of this legislative framework, and private motorcycles which do not, there was need to require the owner of the motorcycles used for commercial purposes to have their motorcycles branded with a colour band prescribed by the county executive Committee member.

#### **Recommendation**

**That the Bill be amended to require the owner to brand the commercial motorcycle with a colour band prescribed by the county executive Committee member.**

The Committee observed that the need for motorcycles to have number plates in front would enhance identification of the motorcycles and owners of old motorcycle to be given three years to comply while every new motorcycle should have the number plate at the front

**Recommendation**

**That the National Transport and Safety Authority and the Ministry review the Traffic (Registration Plates) Rules, to ensure that number plates on motorcycles are also placed in the front.**

The Committee observed that motorcycles used for public use should be inspected and registered in the county as PSVs.

**Recommendation**

**That an amendment be made to ensure that the motorcycles that are utilized for public use are inspected and registered as PSVs.**

## LIST OF ANNEXES

<b>Annex 1:</b>	Minutes of the Committee in considering the Bill
<b>Annex 2:</b>	Committee stage amendments
<b>Annex 3:</b>	The Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No.38 of 2023)
<b>Annex 4:</b>	Newspaper advert for submission of memoranda on the Bill
<b>Annex 5:</b>	Matrix on stakeholder submissions
<b>Annex 6:</b>	Copies of stakeholder submissions



**MINUTES OF THE SIXTY-EIGHTH SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON TUESDAY, 12<sup>TH</sup>  
MARCH, 2024 AT 10.00 A.M. AT THE LAKE TURKANA, KICC BUILDING.**

**PRESENT**

- |  |                     |
|--|---------------------|
| 1. Sen. Peris Tobiko, CBS, MP                  | - Vice –Chairperson |
| 2. Sen. John Kinyua Nderitu, MP                | - Member            |
| 3. Sen. Enoch Kiiio Wambua, MP                 | - Member            |
| 4. Sen. Edwin Watenya Sifuna, MP               | - Member            |
| 5. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member            |

**ABSENT WITH APOLOGY**

- |   |               |
|---|---------------|
| 1. Sen. Paul Karungo Thangwa, MP        | - Chairperson |
| 2. Sen. Mohamed Said Chute , MP         | - Member      |
| 3. Sen. Moses Kajwang', CBS, MP         | - Member      |
| 4. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP | - Member      |

**SECRETARIAT**

- |                        |                              |
|------------------------|------------------------------|
| 1. Mr. Charles Ngatia  | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria   | - Clerk Assistant III        |
| 3. Ms. Sombe Toona     | - Legal Counsel I            |
| 4. Mr. Malcom Ngugi    | - Legal Counsel I            |
| 5. Ms. Janice Lekuton  | - Research Officer III       |
| 6. Mr. Ian Otieno      | - Audio Officer              |
| 7. Mr. Mohamed Ibrahim | - Assistant Sergeant-At-Arms |
| 8. Mr. Caleb Njogu     | - Intern                     |

**MIN/SEN/RTH/389/2024**

**PRELIMINARIES**

The meeting was called to order at half past Ten O'clock and commenced with a word of prayer by Sen. Peris Tobiko, CBS, MP.

**MIN/SEN/RTH/390/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Edwin Watenya Sifuna, MP and seconded by Sen. John Kinyua Nderitu, MP as follows –

1. Prayer;

2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Sixty Seventh meeting;
4. Matters Arising from the Minutes of the Sixty Seventh meeting;
5. Consideration of the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No.38 Of 2023) (*Committee Paper No.42*);
6. Any Other Business; and
7. Adjournment and Date of the Next Meeting.

**MIN/SEN/RTH/391/2024**

**CONFIRMATION OF THE MINUTES OF THE SIXTY SIXTH MEETING**

Minutes of the Sixty Seventh (67<sup>th</sup>) meeting held on 7<sup>th</sup> March, 2024 were confirmed as a true record of the deliberations having been proposed by Sen. Peris Tobiko, CBS, MP and Seconded by Sen. John Kinyua Nderitu, MP.

**MIN/SEN/RTH/392/2024**

**CONSIDERATION OF THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023 (SENATE BILLS NO.38 OF 2023) (COMMITTEE PAPER NO.42)**

The Committee was taken through Committee Paper No. 42 on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No.38 Of 2023). The Committee was informed that the Committee had received memoranda on the Bill from stakeholders and the National Transport and Safety Authority (NTSA) was not in favour of the Bill because in their view, there was adequate legislation to regulate the public transport motorcycle industry.

The Committee was then taken through a comparison matrix of the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No.38 of 2023), the National Transport and Safety Authority Act and the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and made the following observations-

1. The *boda boda* sector was a huge industry in the country and which had the potential for stimulating economic growth if it was well organized and therefore there was need to have a standalone law regulating the sector with the players at the core of its regulation.
2. The composition of membership of county transport and safety committee provided for in the NTSA Act derives most of its membership from the national government, whereas the Bill proposed majority of the membership of the County Motorcycle Transport and Safety Board to be from the county government.
3. The Committee recommended that the composition of members to the County Motorcycle Transport and Safety Board should have more representation from the players in the *boda boda* sector within the county;
4. Since public road transport and trade licences are devolved functions under Part 2 of the 4<sup>th</sup> Schedule of the Constitution, the licensing for operation of the public

motorcycle should be under the County Government and not the National Government;

5. That there was need to benchmark with Rwanda as a point of reference on the policies and laws that had streamlined the motorcycle industry in the country;
6. That operation licences for the *boda boda* riders would be recognised across the counties; and
7. That the operation licence fee be regulated to ensure that that the amount is similar for in counties.

MIN/SEN/RTH/393/2024

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at twenty minutes to twelve O'clock.

SIGNED.....



DATE..... 21-03-2024

(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)



**MINUTES OF THE SEVENTIETH SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON FRIDAY, 22<sup>ND</sup>  
MARCH, 2024 AT 10.00 A.M. AT THE SOPA LODGE, NAIVASHA, NAKURU  
COUNTY.**

**PRESENT**

- |                                  |                     |
|----------------------------------|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice –Chairperson |
| 3. Sen. John Kinyua Nderitu, MP  | - Member            |

**APOLOGIES**

- |  |          |
|--|----------|
| 1. Sen. Mohamed Said Chute , MP                | - Member |
| 2. Sen. Moses Kajwang’, CBS, MP                | - Member |
| 3. Sen. Enoch Kiiro Wambua, MP                 | - Member |
| 4. Sen. Edwin Watinya Sifuna, MP               | - Member |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP        | - Member |
| 6. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member |

**SECRETARIAT**

- |                        |                              |
|------------------------|------------------------------|
| 1. Mr. Charles Ngatia  | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria   | - Clerk Assistant III        |
| 3. Ms. Sombe Toona     | - Legal Counsel I            |
| 4. Mr. Malcom Ngugi    | - Legal Counsel II           |
| 5. Ms. Lorna Okatch    | - Research Officer II        |
| 6. Mr. Ian Otieno      | - Audio Officer              |
| 7. Mr. Mohamed Ibrahim | - Assistant Sergeant-At-Arms |

**MIN/SEN/RTH/400/2024**                      **PRELIMINARIES**

The meeting was called to order at half past Ten O’clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/401/2024**                      **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. John Kinyua Nderitu, as follows –

1. Prayer;
2. Adoption of the Agenda;

3. Consideration of the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 of 2023) (*Committee Paper No.42*);
4. Any Other Business; and
5. Adjournment and Date of the Next Meeting

**MIN/SEN/RTH/402/2024**

**CONSIDERATION OF THE MATRIX ON THE PROVISIONS OF THE PUBLITRANSPORT (MOTORCYCLE REGULATION) BILL, 2023 (SENATE BILLS NO. 38 OF 2023), THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT AND THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLES) REGULATIONS, 2015**

The Committee was taken through the Matrix on the provisions of the Public Transport (Motorcycle Regulation) Bill, (Senate Bills No. 38 of 2023), The National Transport and Safety Authority (NTSA) Act and the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015.

The committee made the following observations-

1. The NTSA Regulations provide for children up to thirteen years to be carried with an adult whereas Clause 13 (2) (a) of the Bill provides for the age of the children to be carried with an adult as 9 years;
2. Clause 17 (1) (c) of the Bill provides for the maximum load weight of luggage carried by the passengers to be 30 Kgs whereas the NTSA Regulation provides for a load capacity of 50 Kgs;
3. Regulation 9 of NTSA Regulations require an operator of a motorcycle to be member of a body corporate like company/Sacco whereas Clause 9 of the Bill provides that only owners of the motorcycle should be compelled to be members of a Savings and Cooperative Societies membership; and,
4. Clause 21 of the Bill provides that protective gear be sold alongside the motorcycles whereas the Regulation 4 of the NTSA Regulations forbid the transfer of motorcycles unless bundles with two helmets and two reflective jackets. The Committee resolved that the provision in Bill to sell protective gear alongside the motorcycles be deleted so that the motorcycle is sold on its own.

**MIN/SEN/RTH/403/2024**

**CONSIDERATION OF STAKEHOLDERS MATRIX ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023**

The Committee was taken through the stakeholders Matrix on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No.38 of 2023) and made the following observations and recommendations-

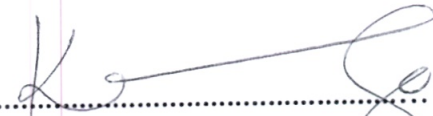
1. The proposed amendment to clause 1 on short title by National Gender and Equality Commission (NGEC) to include bicycles in the provisions of the Bill was rejected since motorcycles do not have motors and the Bill is meant to regulate motorcycles;
2. The proposed amendment on Clause 4 on establishment of the county motorcycle transport and safety board by Ministry of Roads and Transport (MRT), NTSA & Council of Governors (CoG) to provide that the County Executive Committee Member in charge of transport may appoint a County Transport & Safety Committee;
3. Under Clause 7 Kenya National Commission on Human Rights (KNCHR) and NGEC and Road Safety Association of Kenya (RSAK) proposed that since county transport is a devolved function, the Board is better established at the County level and therefore the primary register should be maintained at the county. The Committee adopted the proposal. The Committee further accepted the proposal that the Board established in the Bill should have the power of revocation of certificate of registration; and
4. Under clause 7 on registration of motorcycle riders, RSAK proposed that Bill should state who sets the registration fees and propose a fee that will ensure that the same will not bar the youth to join the industry. The Committee accepted the proposal and resolved that this be provided for in the Regulations.

**MIN/SEN/RTH/404/2024**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned at seventeen-minutes to Three O'clock.

SIGNED.....



DATE.....

16-04-2024

**(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)**



**MINUTES OF THE SEVENTY FIRST SITTING OF THE STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING HELD ON FRIDAY, 22<sup>ND</sup> MARCH, 2024 AT 3.00 P.M. AT THE SOPA LODGE, NAIVASHA, NAKURU COUNTY.**

**PRESENT**

- |                                  |                     |
|----------------------------------|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice –Chairperson |
| 3. Sen. John Kinyua Nderitu, MP  | - Member            |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. Mohamed Said Chute , MP                | - Member |
| 2. Sen. Moses Kajwang', CBS, MP                | - Member |
| 3. Sen. Enoch Kiio Wambua, MP                  | - Member |
| 4. Sen. Edwin Watanya Sifuna, MP               | - Member |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP        | - Member |
| 6. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member |

**SECRETARIAT**

- |                        |                              |
|------------------------|------------------------------|
| 1. Mr. Charles Ngatia  | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria   | - Clerk Assistant III        |
| 3. Ms. Sombe Toona     | - Legal Counsel I            |
| 4. Mr. Malcom Ngugi    | - Legal Counsel II           |
| 5. Ms. Lorna Okatch    | -Research Officer II         |
| 6. Mr. Ian Otieno      | - Audio Officer              |
| 7. Mr. Mohamed Ibrahim | - Assistant Sergeant-At-Arms |

**MIN/SEN/RTH/406/2024**

**PRELIMINARIES**

The meeting was called to order at half past Three O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/407/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. John Kinyua Nderitu, as follows –

1. Prayer;
2. Adoption of the Agenda;

3. Resumption of Consideration of the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 Of 2023) (*Committee Paper No.42*);
4. Any Other Business; and
5. Adjournment and Date of the Next Meeting

**MIN/SEN/RTH/408/2024**

**CONSIDERATION OF THE PUBLIC  
TRANSPORT (MOTORCYCLE REGULATION)  
BILL, 2023 STAKEHOLDERS MATRIX**

The Committee was taken through the stakeholders Matrix on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 Of 2023) and made the following observations and recommendations-

1. Clause 9 on savings and cooperative society membership- Road Safety Association of Kenya (RSAK) proposed that the Bill should state who holds the Sacco accountable. The justification was that individuals may team up and misuse the opportunities availed for management of motorcycle operators. The Committee observed that the County Committee can suspend the operations of an errant SACCO by revocation of operating licences but only as far as operations of the motorcycle are concerned;
2. Clause 10- on training of riders RSAK proposed that National Youth Service (NYS) should be used to train riders. The Committee rejected the proposal with the justification that not all counties have NYS institutions. The Committee recommended that the curriculum for training of riders be developed by the NTSA;
3. The Committee accepted the proposal by the National Gender and Equality Commission (NGEC) to delete clause 13(2) (a) on responsibilities of passengers in respect of helmets on children. The Committee observed that the regulation should be silent and be left as the responsibility and decision of the accompanying adult;
4. The NGEC proposal to delete clause 13(2) (b) which stipulates that persons with disabilities will be exempted to sit astride while being carried on a motorcycle was accepted by the Committee;
5. A proposal by NGEC to delete Clause 17 on carriage of loads was rejected and the Committee resolved to retain the clause but amend it as per clause 13(3) on the age of the child to be 13 years;
6. The Committee resolved that Clause 17(c) on carriage of loads which stipulates that a motorcycle rider shall not carry a load whose weight is more than 30 Kgs be amended to indicate 50 Kgs. The Committee further resolved that the words "whose carrying capacity does not exceed fifty cc and kilograms for motorcycle whose carrying capacity does not exceed four hundred cc" be deleted;
7. RSAK proposal on general penalties which proposes instant fines instead of protracted court cases was rejected with the justification that implementation of instant fines under the Traffic Act has been a challenge;
8. The Committee accepted the proposal by NGEC on part IV on powers of inspection and enforcement to insert a new clause stating that a county government may enact

County Legislation generally for the better carrying out for the purposes and provisions of this Act;

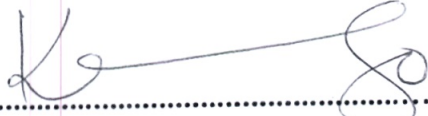
9. The Committee resolved to compel the Ministry of Interior and National Administration to make public a 2019 report of the Taskforce on Motorcycle Transport Reforms.

MIN/SEN/RTH/409/2024

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at fifteen-minutes to Five O'clock.

SIGNED.....



DATE.....

16-04-2024

(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)



**MINUTES OF THE EIGHTY FIFTH SITTING OF THE STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING HELD ON SATURDAY, 15<sup>TH</sup> JUNE, 2024 AT THE SERENA BEACH RESORT & SPA, MOMBASA AT 10.30 A.M.**

**PRESENT**

- |  |                     |
|--|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP               | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP                  | - Vice –Chairperson |
| 3. Sen. (Rtd) Justice Stewart Madzayo, EGH, MP | - Member            |
| 4. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP        | - Member            |
| 5. Sen. Moses Kajwang', CBS, MP                | - Member            |

**APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Mohamed Said Chute , MP  | - Member |
| 2. Sen. Edwin Watanya Sifuna, MP | - Member |
| 3. Sen. Enoch Wambua, MP         | - Member |
| 4. Sen. John Kinyua Nderitu, MP  | - Member |

**SECRETARIAT**

- |                          |                               |
|--------------------------|-------------------------------|
| 1. Ms. Mary Chesire      | - Ag. Director, DSEC          |
| 2. Mr. Charles Ngatia    | - Clerk Assistant I           |
| 3. Ms. Peris Mukuria     | - Clerk Assistant III         |
| 4. Mr. Sombe Toona       | - Legal Counsel I             |
| 5. Ms. Christine Isemeck | - Research Officer III        |
| 6. Mr. Lemeteki Lorinyu  | - Media Relations Officer III |
| 7. Mr. Mohamed Ibrahim   | - Sergeant-at Arms            |
| 8. Mr. Simon Muinde      | - Audio Officer               |

**MIN/SEN/RTH/487/2024**

**PRELIMINARIES**

The meeting was called to order at Thirty-Five minutes past Ten O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/488//2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. (Rtd) Justice Stewart Madzayo, EGH, MP as follows –

1. Prayer;
2. Adoption of the Agenda;

3. Consideration of Committee Paper No. 42 C on consideration and adoption of the Report on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 Of 2023);
4. Any Other Business; and
5. Adjournment and Date of the Next Meeting.

MIN/SEN/RTH/489/2024

**CONSIDERATION OF COMMITTEE PAPER NO. 42 C ON CONSIDERATION AND ADOPTION OF THE REPORT ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023 (SENATE BILLS NO. 38 OF 2023)**

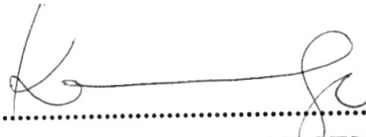
The Committee was taken through the proposed Committee Stage Amendments to the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 Of 2023).

Members considered the draft Committee stage amendments and the draft report on the Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 Of 2023) for tabling in the Senate and made amendments thereto. The Committee stage amendments and the report on the Bill were adopted having been proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP.

MIN/SEN/RTH/490/2024

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned at Thirteen minutes past Twelve O'clock. The next meeting will be by notice.

SIGNED.....

DATE..06/08/2024.....

**(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)**

14<sup>th</sup> June, 2024

The Clerk of the Senate  
Parliament Buildings  
NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE PUBLIC TRANSPORT  
(MOTORCYCLE REGULATION) BILL, 2023 (SENATE BILLS NO. 38 OF 2023)**

**NOTICE** is given that Sen. Karungo P. Thangwa, Chairperson, Senate Standing Committee on Roads, Transportation and Housing, intends to move the following amendments to the Public Transport (Motorcycle Regulation) Bill, Senate Bills No. 38 of 2023, at the Committee Stage—

**CLAUSE 4**

**THAT** the Bill be amended—

(a) by inserting the following new clause immediately before clause 4—

Roles of the County  
executive committee  
member.

**3A.** (1) The county executive committee member shall be responsible for the regulation, management, and coordination of all matters relating to the motorcycle transport sector within the county.

(2) Without prejudice to the generality of sub-section (1), the county executive committee member shall—

- (a) develop policies, regulations, and guidelines on motorcycle transport and safety matters within the county;
- (b) manage and control motorcycle transport services within the county, including registration and licensing of motorcycle riders, designate parking and routes;
- (c) ensure compliance with the provisions of this Act and any other laws related to the transport sector within the county;
- (d) conduct research and collect data on transport and safety matters within the county; and
- (e) develop and implement programs to promote road safety, including training and civic education of riders and passengers.

(b) by deleting clause 4 and substituting therefor the following new clause—

Appointment of Board

**4.** The County executive member may delegate the functions under section 3A to a Board.

**CLAUSE 5**

**THAT** Clause 5 of the Bill be amended—

- (a) by inserting the words “or their representative” immediately after the words “county attorney” in paragraph (d);
- (b) by deleting the word “four” and substituting therefor the word “two” in paragraph (f);
- (c) by deleting the word “two” and substituting therefor the word “four” in paragraph (g);
- (d) by renumbering the existing provision to subsection (1) and by inserting the following new subsection—

(2) While making the appointments under subsection (5), the county executive committee member shall —

- (a) take in to consideration the one third gender rule and ensure that the youth and persons with disabilities are represented in the membership of the Board;
- (b) ensure that two out of the four people appointed under paragraph (g) are active motorcycle riders; and
- (c) consider the diversity in respect to the qualifications of the persons being appointed.

**CLAUSE 6**

**THAT** Bill be amended by deleting clause 6 and inserting therefor the following new clauses—

Qualifications  
for  
appointment.

**6.** (1) A person qualifies to be appointed as the Chairperson of the Board if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least five years’ experience in matters relating to transport;
- (c) has resided in the county for a period of not less than five years.; and
- (d) meets the requirements of Chapter Six of the Constitution

(2) A person qualifies to be appointed as a member of the Board, if the person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) has not been convicted of a criminal offence which attracts imprisonment for a term not exceeding six months;

- (c) has not been adjudged bankrupt or entered into a composition or arrangement with the creditors of the person;
- (d) is not disqualified under any other written law from appointment as such;
- (e) in the case of a member under paragraph (f) has atleast a post secondary education qualification; and
- (f) in the case of a member under paragraph (g) has atleast a secondary school qualification.

Tenure of office.

**6A.** (1) The Chairperson and members of the Board, shall hold office for a term of three years and may be eligible for re-appointment for an additional final term of three years.

(2) Despite subsection (1), the Chairperson or a member of the Board may be removed from office if that person—

- (a) has been absent from three consecutive meetings of the Committee without justifiable cause or the written permission of the Chairperson;
- (b) is adjudged bankrupt or enters into a composition or arrangement with the creditors of the person;
- (c) is convicted of an offence involving anti-economic crimes or corruption;
- (d) becomes incapable of carrying out the functions of their office due to an infirmity of mind or body;
- (e) violates Chapter Six of the Constitution; or
- (f) fails to disclose any interest in a matter under consideration by the Committee as provided for under this Act.

Remuneration of the Board.

**6B.** The Chairperson and the members of the Board shall be paid such sitting allowances or other remuneration for expenses as recommended by the Salaries and Remuneration Commission.

Vacancy.

**6C.** (1) The office of the Chairperson or a member of the Board shall become vacant if the holder—

- (a) dies;
- (b) resigns from office in writing addressed to the county executive committee member;

(c) is absent from three consecutive meetings of the Board without good cause; or

(d) is removed from office under subsection (2).

(2) A person may be removed as a chairperson or member of the Board if that person—

(a) is absent without permission of the Chairperson or the county executive committee member from three consecutive meetings of the Board;

(b) contravenes the provisions Chapter Six of the Constitution;

(c) is incapacitated by prolonged physical or mental illness and is unable to discharge the duties of his or her office;

(d) is convicted of an offence and imprisoned for a term of more than six months;

(e) fails to comply with the provisions of the Act relating to disclosure of interest; or

(f) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors.

Committees of the Board.

**6D.** The Board may establish such committees as it may consider necessary for the performance of its functions and the exercise of its powers under the Act.

Conduct of affairs and business of the County Board.

**6E.** (1) The conduct of affairs and business of the Board shall be in accordance with the First Schedule of this Act.

(2) Subject to subsection (1), the Board may amend its own procedures for the better carrying out of its functions.

## CLAUSE 7

**THAT** clause 7 of the Bill be amended—

(a) by deleting subclause (1);

(b) in subclause (2) by deleting the words “with the Board” and substituting therefor the words “in accordance to the Act”;

(c) in subclause (3) by deleting the word “Board” appearing immediately after the words “made to the” and substituting therefor the words “the county executive committee member”

(d) in subsection (4) by deleting the word “Board” appearing immediately after the word “The” at the beginning of the subclause and substituting therefor the words “county executive committee member”;

(e) by inserting the following new subsection immediately after subsection (5)—

(6) The county executive committee member shall submit a copy of the register to the Authority every three months.

(f) by inserting the following new clause immediately after clause 7 –

Power to suspend or revoke certificate of registration.

7A. (1) The county executive committee member may suspend or revoke any certificate of registration issued under this Act on the grounds that the owner of the motorcycle or the rider of the motorcycle has failed or neglected to comply with the provisions of the Act.

(2) Prior to suspension of the certificate of registration under subsection (1) the county executive committee member shall—

(a) inform the holder of a registration certificate of the reasons for the proposed suspension or revocation; and

(b) give the holder of a registration certificate an opportunity to be heard in respect to the proposed suspension or revocation.

**CLAUSE 8**

**THAT** the Bill be amended by deleting clause 8.

**CLAUSE 9**

**THAT** the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

Cooperative Societies  
Membership.  
Cap. 490.

9. (1) A person who owns a motorcycle for commercial purposes shall register with a Cooperative Society recognised under the Cooperative Societies Act.

(2) Each Cooperative Society shall provide proof of registration of an owner confirming their membership at the request of the county executive committee member.

(3) For purposes of this Act, the membership of an owner to a Cooperative Society shall not be for purposes of forming a gang or cartel by the owners or the riders who work for them.

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended—

- (a) in subclause (1) by deleting the word “Board” appearing immediately after the words “approved by the” and substituting therefor the word “Authority”
- (b) in subclause (2) by deleting the word “Board” appearing immediately after the word “The” and substituting therefor the word “Authority”
- (c) by inserting the following new subsection immediately after subsection (3)—
  - (4) The county executive committee member may provide for the manner in which the training may be offered in the local languages in the county.

**CLAUSE 11**

**THAT** clause 11 of the Bill be amended—

- (a) by inserting the following new subsection immediately after subsection (1)—
  - (1A.) Every owner of a motorcycle operating for commercial purposes shall—
    - (a) ensure the motorcycle bears a colour band that is prescribed by the county executive committee member; and
    - (b) cause the motorcycle to be registered as a Public Service Motorcycle by the Authority.
- (c) by inserting the following new subclause immediately after subclause (2)—
  - (3) Every owner shall ensure —
    - (a) no structural modifications to the motorcycle are undertaken that may obstruct the visibility of the rear number plates;
    - (b) no structural modifications to the motorcycle are undertaken that may affect the safe operation of the motorcycle;
    - (c) no modifications to the exhaust system or any other noise abatement device of a motorcycle are done so as to cause the noise emitted by the motorcycle to be above that emitted by the motorcycle as originally manufactured.

**CLAUSE 12**

**THAT** clause 12 of the Bill be amended

- (a) in subsection (1)—
  - (i) by deleting the word “Board” appearing immediately after the words “issued by the” in paragraph (b) and substituting therefor the words “county executive committee member”;
  - (ii) by deleting the word “person” appearing immediately after the words “more than one” in paragraph (d) and substituting therefor the words “adult passenger”;

- (iii) by deleting the words “passengers are carried on a proper seat with foot rests securely fixed to the motorcycle behind the rider’s seat” appearing immediately after the words “ensure that” in paragraph (e) and substituting therefor the words “a passenger is carried on a proper seat with foot rests securely fixed to the motorcycle behind the seat of the rider”;
  - (iv) by deleting paragraph (f); and
  - (v) by deleting the words “loads exceeding fifty kilograms and passengers” appearing immediately after the words “ensure that” in paragraph (h) and substituting therefor the words “a load exceeding fifty kilograms and an adult passenger”.
- (b) in subsection (2) by deleting the words “unless that person has a valid certificate of registration issued by the Board” appearing immediately after the words “not ride a motorcycle” in paragraph (b) and substituting therefor the words “that has not been duly registered under this Act”.

**CLAUSE 13**

**THAT** clause 13 of the Bill be amended—

- (a) in subsection (1) by deleting paragraph (d); and
- (b) by deleting subsection (2).

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended in subclause (3) by deleting the word “Board” appearing immediately after the word “The” and substituting therefor the following new words “county executive committee member”

**CLAUSE 15**

**THAT** clause 15 of the Bill be amended by deleting the word “Board” appearing immediately after the words “authorised by the” and substituting therefor the following new words “county executive committee member”

**CLAUSE 16**

**THAT** clause 16 (3) of the Bill be amended by deleting the word “nine” appearing immediately after the words “is less than” and substituting therefor the word “thirteen”.

**CLAUSE 17**

**THAT** clause 17 of the Bill be amended in subclause (1) by deleting the word “thirty kilograms for a motorcycles whose carrying capacity does not exceed fifty cc and kilograms for a motorcycle whose carrying capacity does not exceed four hundred cc” appearing immediately after the words “is more than” in paragraph (c) and substituting therefor the word “fifty kilograms”.

**CLAUSE 18**

**THAT** clause 18 of the Bill be amended —

- (a) in subclause (1) by deleting the words “county transport and safety board” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”; and
- (b) in subclause (6) “county transport and safety board” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”

#### **CLAUSE 19**

**THAT** clause 19 of the Bill be amended —

- (a) in subclause (1) by deleting the word “Board” appearing immediately after the words “issued by the” and substituting therefor the words “county executive committee member”;
- (b) in subclause (2) “Board” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”; and
- (c) in subclause (4) “Board” appearing at the beginning of the subclause and substituting therefor the words “The county executive committee member”.

#### **CLAUSE 21**

**THAT** the Bill be amended by deleting clause 21.

#### **CLAUSE 23**

**THAT** clause 23 of the Bill be amended —

- (a) in subclause (1) by deleting the word “Board” appearing immediately after the words “device approved by” and substituting therefor the words “the county executive committee member”
- (b) in subsection (2) by inserting the word “(1)” immediately after the words “to in subsection”
- (c) in subsection (3) by deleting the word “Board” appearing immediately after the words “The” and substituting therefor the words “the county executive committee member”
- (d) in subclause (4) by deleting the word “Board” appearing immediately after the words “device to the” and substituting therefor the words “the county executive committee member”.

#### **CLAUSE 26**

**THAT** clause 26 (3) of the Bill be amended by deleting the word “County Transport and Safety Board” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”.

#### **CLAUSE 27**

**THAT** clause 27 of the Bill be amended by deleting the word “these” appearing immediately after the words “any provision of” and substituting therefor the word “this”.

**CLAUSE 28**

**THAT** clause 28 of the Bill be amended by inserting the following new clause—

County legislation.

**28A.** A county government may enact legislation related to regulation of motorcycles within its respective county.

**NEW CLAUSE 30**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 29 –

Consequential amendments.

**30.** Section 21 and 22 of the National Transport and Safety Act be deleted and substituted with the following new sections —

County transport and safety committees

**21.** (1) The Authority may establish in each county, a committee to be known as the county transport and safety committee.

(2) A county transport and safety committee established under subsection (1) shall consist of—

- (a) the county executive committee member in charge of transport in the respective county or their representative;
- (b) one person responsible for overseeing the registration and licensing of vehicles within the county nominated by the Board;
- (c) one person nominated by the Association of Public Transport Operators in the county to represent the Association;
- (d) one person with knowledge and experience in matters relating to transport within the county nominated by the county governor;
- (e) one person nominated by the county governor to represent consumers of public transport within the county; and
- (f) the officer in charge of traffic in the county who shall be the secretary to the committee and an *exofficio*

member.

(3) The persons nominated under subsection (2)(b), (c), (d) and (e) shall be appointed by the Cabinet Secretary by notice in the Gazette.

(4) The members of the county transport and safety committee shall appoint from amongst themselves, a person who shall be the chairperson of the committee.

Functions of the county transport and safety committee.

22. Each county transport and safety committee shall be under the direction and supervision of the Authority and shall—

- (a) prepare and submit to the Authority such audit reports as the Authority may require on the safety, reliability and efficiency of the road transport system within the county; and
- (b) advise the Authority on matters affecting the road transport system within the county.

## INSERTION OF SCHEDULE

### SCHEDULE

s. 6E

#### CONDUCT OF BUSINESS AND AFFAIRS OF BOARD

Meetings of the Board.

1. (1) The Board shall meet at least once in every three months to conduct the business of the Board.

(2) The Chairperson shall convene the ordinary meetings of the Board.

(3) Despite the provisions of subparagraph (1), the Chairperson shall, upon a written request by at least five members, convene a special meeting of the Board at any time where the chairperson considers it expedient for the transaction of the business.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting shall be given to every by the respective Secretary.

(5) The quorum for the conduct of the business of the Board shall be five members.

(6) The chairperson shall preside at every meeting of the Board at which the Chairperson is present and in the Chairperson's absence, the members present shall elect one person from their number to preside over the meeting and that person shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the Board may determine its own procedure and for the attendance of other persons at its meetings thereof.

Disclosure of Interest.

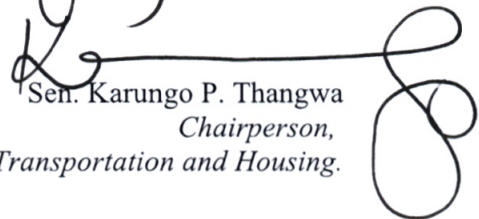
2. (1) If a member of the Board is directly or indirectly interested in any matter before the Council or the county e-waste committee and is present at the respective meeting at which the matter is the subject of consideration, that member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the member's interest in the matter and shall not take part in the deliberations relating to the matter, or vote on, the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

c

Dated....., 2024.

24th July

  
Sen. Karungo P. Thangwa  
Chairperson,  
Standing Committee on Roads, Transportation and Housing.

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 158 (Senate Bills No. 38)*

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2023**

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**NAIROBI, 1st September, 2023**

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**THE PUBLIC TRANSPORT (MOTORCYCLE  
REGULATION) BILL, 2023**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

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**PART II — REGULATION OF MOTORCYCLES**

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- 7—Registration of motorcycle riders.
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- 10—Training of riders.
- 11—Responsibilities of an owner.
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- 13—Responsibilities of a passenger.
- 14—Employment Contracts.
- 15—Engine capacity.
- 16—Carriage of Passengers.
- 17—Carriage of Loads.
- 18—Motorcycle ambulances.
- 19—Delivery motorcycles.
- 20—Unauthorized goods.
- 21—Protective gear.
- 22—Insurance.
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**PART III — OFFENCES AND PENALTIES**

24—Carriage of persons intending to commit an offence.

25—Riding on pavements and opposite direction.

26—Ganging up by riders.

27—General penalties.

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28—Powers of inspection and enforcement.

29—Regulations.

**THE PUBLIC TRANSPORT (MOTORCYCLE  
REGULATION) BILL, 2023**

**A Bill for**

**AN ACT of Parliament to provide for the regulation of  
the bodaboda industry and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Public Transport  
(Motorcycle Regulation) Act, 2023.

Short title.

2. In this Act—

Interpretation.

“Authority” means the National Transport and Safety  
Authority established under section 3 of the National Transport  
and Safety Authority Act;

No. 33 of 2012.

“Board” means the County Motorcycle Transport and  
Safety Board established under section 4;

“bodaboda” means a motorcycle used for commercial  
purposes;

“commercial purposes” means the use of a bodaboda for  
any trade or business;

“county executive committee” has the meaning assigned to  
it in section 2 of the County Governments Act, 2012;

No. 17 of 2012.

“county government” has the same meaning assigned to it  
in the County Governments Act, 2012;

“cubic capacity” means the volume of cylinder of a  
motorcycle engine;

“customer care” means the provision of courteous and  
professional services to customers;

“designated parking” means parking areas or zones set  
aside by county governments for motorcycles;

“delivery motorcycle” means a motorcycle that is designed  
or adapted primarily for the transportation of goods or other  
items, including any motorcycle that is used for the purpose of  
delivery or courier services;

“employment contract” means a written or oral agreement  
between the owner of a motorcycle and a rider which provides

for the terms and conditions of employment, including remuneration, working hours, duties and responsibilities, and other relevant matters.

“insurance” means a contract of insurance issued by an insurance company registered under the Insurance Act; Cap. 487

“lane-splitting” means the riding of a motorcycle on a public road at a speed not exceeding fifteen kilometres per hour between rows of stationary motor vehicles or, if the motor vehicles are in motion, at a speed which exceeds the speed of those motor vehicles;

“motorcycle” means any mechanically propelled vehicle with less than four wheels the weight of which unladen does not exceed eight hundred kilograms and operated for commercial purposes;

“owner” means the registered owner of a motorcycle;

“passenger” means a person being transported on a motorcycle for commercial purposes;

“reflective jacket” means a vest or jacket made of reflective material worn by a rider or passenger for visibility purposes; and

“rider” means the person operating or person in control of a motorcycle.

**3.** This Act shall apply to all motorcycles used for commercial purposes including public transport services. Application.

## **PART II — REGULATION OF MOTORCYCLES**

**4.** There shall be established in every county, a County Motorcycle Transport and Safety Board. Establishment of the County Motorcycle Transport and Safety Board.

**5.** The Board shall consist of—

- (a) a chairperson appointed by the county governor;
  - (b) the county executive committee member responsible for matters relating to transport;
  - (c) the county executive committee member responsible for matters relating to finance;
  - (d) the County Attorney;
  - (e) the County Police Commander or a representative designated in writing;
- Composition of the Board.

- (f) four persons appointed by county executive committee member responsible for matters relating to transport; and
- (g) two persons appointed by the county executive committee member responsible for matters relating to transport to represent groups with special interests in the motorcycle transportation industry.

6. (1) The Board shall be responsible for the regulation, management, and coordination of all matters relating to the motorcycle transport sector within the county.

Functions of the Board.

(2) Without prejudice to the generality of sub-section (1), the functions of the Board shall include—

- (a) developing policies, regulations, and guidelines on motorcycle transport and safety matters within the county;
- (b) managing and controlling motorcycle transport services within the county, including registration and licensing of motorcycle riders, designate parking and routes;
- (c) ensuring compliance with the provisions of this Act and any other laws related to the transport sector within the county;
- (d) conducting research and collecting data on transport and safety matters within the county; and
- (e) developing and implementing programs to promote road safety, including training and education of riders and passengers.

7. (1) No person shall use a motorcycle for commercial purposes in a county unless it is registered in accordance with this Act.

Registration of motorcycle riders.

(2) A person who wishes to operate a motorcycle for commercial purposes in a county shall register it with the Board.

(3) An application for registration shall be made to the Board in the prescribed form and shall be accompanied by the prescribed fee.

(4) The Board shall issue a certificate of registration to the applicant if it is satisfied that the motorcycle meets the requirements prescribed under this Act.

(5) The certificate of registration shall be renewed annually upon payment of the prescribed fee.

**8.** (1) Notwithstanding any other provision of this Act, a rider who is registered with a Board in one county shall be recognized as registered by any other Board in any other county.

Cross-county recognition of registration.

(2) The recognizing board shall recognize the registration of the rider in the same category as the registering board.

(3) The recognizing board may request for any relevant information or documentation from the registering board for the purpose of verifying the registration details of the rider.

**9.** (1) A person who owns or operates a motorcycle for commercial purposes shall register with a Savings and Cooperative Societies recognized under the Cooperative Societies Act.

Savings and Cooperative Societies membership.

No. 12 of 1997.

(2) Each Savings and Cooperative Societies shall provide proof of registration of an owner or rider confirming their membership at the request of the Board.

(3) For the purposes of this Act, the membership of a Savings and Cooperative Societies by a rider of a bodaboda shall not be for the purpose of forming a gang or cartel by the riders.

**10.** (1) A person shall not operate a motorcycle unless they have successfully completed a training course approved by the Board.

Training of riders.

(2) The Board shall ensure that training courses in authorized driving schools include training on—

- (a) safe and defensive riding techniques;
- (b) traffic laws and regulations;
- (c) customer care and etiquette;
- (d) handling of emergency situations;

- (e) basic motorcycle maintenance; and
- (f) security awareness and precautions.

(3) Upon completion of the training course, a rider shall be provided with a certificate.

**11.**(1) Every owner of a motorcycle operating for commercial purposes shall not cause or permit any person to ride their motorcycle unless such person is the holder of a valid driving licence or a valid provisional licence endorsed in respect of that class of motorcycles and a valid employment contract.

Responsibilities  
of an owner.

- (2) Every owner shall issue to the rider—
  - (a) two helmets which comply with the standards established by the Kenya Bureau of Standards and are of the prescribed colour;
  - (b) two reflective jackets which are of the prescribed colour.

**12.**(1) Every rider of a two-wheeled motorcycle shall—

Responsibilities  
of a rider.

- (a) have a valid driving license issued by the Authority;
- (b) have a certificate of registration issued by the Board;
- (c) ensure that they shall not ride or carry a person on a motorcycle without the prescribed protective gear properly fastened;
- (d) not carry more than one person at a time;
- (e) ensure that passengers are carried on a proper seat with foot rests securely fixed to the motorcycle behind the rider's seat;
- (f) ensure that a passenger sits astride the motorcycle;
- (g) ensure that the headlights of the motorcycle are on at all times when riding;
- (h) ensure that loads exceeding fifty kilograms and passengers are not carried at the same time;
- (i) keep the protective gear in a clean, dry and generally wearable condition;

- (j) ensure that the rear number plates are visible at all times;
- (k) overtake on the right hand side and not overtake in the same lane occupied by vehicle being overtaken;
- (l) observe traffic lights;
- (m) observe all traffic rules as provided under the Traffic Act;
- (n) not park in undesignated areas.
- (2) Every rider of a three wheeled motorcycle shall—
  - (a) not ride a motorcycle unless that person has a valid driving licence issued by the Authority;
  - (b) not ride a motorcycle unless that person has a valid certificate of registration issued by the Board;
  - (c) not ride a motorcycle without properly wearing a seat belt or carry passengers who have not properly worn their seat belts;
  - (d) not carry more than three passengers;
  - (e) ensure that the headlights of the motorcycle are on at all times when riding;
  - (f) overtake on the right hand side and not to overtake in the same lane occupied by the vehicle being overtaken;
  - (g) observe traffic lights;
  - (h) not to lane split where other motor vehicles are traveling at a speed exceeding ten kilometers per hour or in public roads near junctions, interchanges, turnoffs, or highway entries and exits;
  - (i) keep the seat belts in a clean, dry and generally wearable condition;
  - (j) observe all traffic rules as provided under the Traffic Act.

Cap. 403

**13.** (1) Every passenger on a two-wheeled motorcycle shall —

Responsibilities of a passenger.

- (a) properly wear a helmet and reflective jacket whenever being carried;
- (b) not board or be carried on a motorcycle that already has a passenger except as provided in subsection (2) (a) and Section 16;
- (c) not board or be carried on a motorcycle that is carrying any load exceeding fifty kilograms;
- (d) sit astride in the seat fixed behind the rider's seat.

(2) For the purposes of this Act—

- (a) a child who is less than nine years old may be carried together with an adult provided the child is seated between the rider and the adult and wears a helmet designed for children;
- (b) persons with disabilities will be exempted from the requirement to sit astride while being carried on a motorcycle.

(3) Every passenger in a three wheeled motorcycle shall—

- (a) wear seatbelt whenever being carried; and
- (b) not board or be carried on a motorcycle that already has the maximum number of passengers prescribed under section 16.

(4) Every passenger who is carried on a two- wheeled motorcycle without wearing a helmet and reflective jacket commits an offence and is liable under this Act.

**14.** (1) Every owner of a motorcycle who engages the services of a rider shall enter into a written employment contract with the rider.

Employment  
Contracts.

(2) The employment contract shall provide for—

- (a) the terms and conditions of employment;
- (b) the duration of the contract;
- (c) the remuneration and benefits of the rider;
- (d) the working hours and overtime arrangements; and
- (e) the procedures for the termination of the contract.

(3) The Board shall develop model employment contracts for use by owners of motorcycles and riders.

**15.** No person shall use or operate a three-wheeled motorcycle with an engine capacity exceeding two hundred and fifty cubic capacity on a public road unless authorized by the Board.

Engine capacity.

**16.** (1) A two-wheeled motorcycle rider shall carry only one passenger.

Carriage of Passengers.

(2) A three-wheeled motorcycle rider shall carry only three passengers.

(3) The passenger capacity in subsection (1) and subsection (2) shall not include a child who is less than nine years old travelling with an adult passenger.

**17.** (1) A motorcycle rider shall not carry a load—

Carriage of Loads.

- (a) whose width projects more than fifteen centimeters beyond the outside end of the handle bars;
- (b) whose height is more than two metres from the ground;
- (c) whose weight is more than thirty kilograms for a motorcycle whose carrying capacity does not exceed fifty cc and kilograms for a motorcycle whose carrying capacity does not exceed four hundred cc;
- (d) which projects to the rear beyond the maximum overall length of the motorcycle more than sixty centimeters. The rear extremity of the load must be plainly indicated by a conspicuous red marker during the day and by a red light at night.

(2) The rider of a motorcycle carrying loads shall ensure that no part of the load carried drags on the road.

(3) For the purpose of this Act the term “load” excludes luggage carried by a passenger provided such luggage does not exceed ten kilograms in weight and does not project more than fifteen centimeters beyond the outside end of the handle bars.

(4) The luggage in sub-section (3) may be carried together with the passenger provided the luggage is properly secured between the rider and the passenger.

18. (1) The County Transport and Safety Board may establish regulations for the use of motorcycle ambulances.

Motorcycle ambulances.

(2) Motorcycle ambulances shall be equipped with medical equipment and supplies approved by the relevant national and county health authority.

(3) Motorcycle ambulances shall be operated by trained medical personnel who hold valid medical licenses and are registered with the relevant national and county health authority.

(4) Motorcycle ambulances shall be fitted with distinctive markings and lights for identification and to alert other road users.

(5) Motorcycle ambulances shall comply with all other provisions of this Act relating to motorcycles, including but not limited to registration, insurance, and safety requirements.

(6) The County Transport and Safety Board shall monitor the use of motorcycle ambulances to ensure compliance with the regulations and requirements set out in this Act.

(7) No person shall operate a motorcycle as an ambulance unless compliant with the provisions of this Act and any relevant laws and regulations.

(8) Any person who violates the regulations and requirements set out in this section commits an offence.

19. (1) Delivery motorcycles shall be distinguished from passenger motorcycles and shall be subject to regulations issued by the Board.

Delivery motorcycles.

(2) The Board may issue special licenses for delivery motorcycles subject to compliance with the requirements for registration, insurance, and safety.

(3) The owner or rider of a delivery motorcycle shall ensure that the motorcycle is fitted with appropriate storage compartments to prevent loss or damage to goods in transit.

(4) Board may designate specific routes and parking areas for delivery motorcycles.

(5) Delivery motorcycle shall not carry passengers or be used for any purpose other than the transportation of goods.

**20.** (1) A person shall not transport any unauthorized goods including contraband or goods restricted under the Narcotic Drugs and Psychotropic Substances (Control) Act and the Firearms Act on a motorcycle.

Unauthorized goods.

No. 4 of 1994.  
Cap. 114.

(2) Any person found to be carrying unauthorized goods on a motorcycle commits an offence and is liable under this Act.

**21.** A supplier, distributor or person involved in the business of selling motorcycles within the county shall sell, distribute or otherwise convey a motorcycle with two helmets and two reflective jackets which comply with the standards established by the Kenya Bureau of Standards and the bear the prescribed colour.

Protective Gear.

**22.** Every owner of a motorcycle shall have at the minimum a motor commercial public service vehicle insurance cover.

Insurance.

**23.** (1) Every owner of a motorcycle shall ensure that the vehicle is fitted with a security device approved by Board.

Security.

(2) The security device referred to in sub-section shall include a tracking device that allows for real-time monitoring of the location of the motorcycle.

(3) The Board shall establish and maintain a database of all security devices approved for use on motorcycle in the county.

(4) The owner or rider of a motorcycle shall ensure that the security device is functional at all times and shall report any malfunction or damage to the device to the Board.

(5) The collection, processing, and use of data obtained through the security device shall be subject to the provisions of the Data Protection Act.

No. 24 of 2019.

### **PART III — OFFENCES AND PENALTIES**

**24.** (1) Any rider who knowingly and intentionally carries a person or persons who are intending to commit an offence, shall be held strictly liable for any offence committed by the said person or persons.

Carriage of persons intending to commit an offence.

(2) For the purposes of this section, the term “offence” shall include any criminal act or activity as defined by Penal Code or any other relevant law.

(3) The rider shall be liable to pay any fines or penalties arising from the offence committed by the said person or persons, in addition to any penalties imposed by this Act.

(4) This section shall not apply where the rider was unaware or had no reasonable grounds to believe that the person or persons being carried were intending to commit an offence.

**25.** (1) Any person who rides a motorcycle on a pavement or pedestrian walkway, or in any other area that is not designated for motorcycle use commits an offence.

Riding on pavements and opposite direction.

(2) Any person who rides a motorcycle in the opposite direction of traffic flow on a one-way street or a designated lane commits an offence.

(3) Any person found guilty of an offence under this section shall be liable on conviction to a fine not exceeding KSh. 20,000 or to imprisonment for a term not exceeding six months or to both.

**26.** (1) Any rider who participates in ganging up with other riders in an attempt to intimidate, threaten or harm another person in the event of an incident, including but not limited to an accident, commits an offence.

Ganging up by riders.

(2) Upon conviction, the offender shall be liable to a fine not exceeding KSh. 100,000 or to imprisonment for a term not exceeding one year, or to both.

(3) The County Transport and Safety Board shall work in collaboration with the relevant law enforcement agencies to ensure that any such incidents are investigated and prosecuted in accordance with this provision.

(4) This provision shall apply to all motorcycle riders and passengers operating on public roads within the county.

**27.** A person who contravenes any provision of these Act and whose penalty is not provided for elsewhere under this Act, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or, both.

General penalties.

**PART IV – MISCELLANEOUS**

**28.** (1) The Board and an authorized officer appointed by the Board shall have the power to inspect any motorcycle for the purpose of ensuring compliance with this Act.

Powers of inspection and enforcement.

(2) The owner or rider of a motorcycle shall cooperate with an authorized officer conducting an inspection under this section and shall provide all necessary documents and information.

(3) A rider shall ensure that while operating and prior to inspection by an authorized officer, the motorcycle shall—

- (a) have a valid insurance;
- (b) be mechanically fit;
- (c) have the prerequisite protective gear as defined under section 21 of this Act; and
- (d) any other requirements as may be prescribed by the Board from time to time.

(4) An authorized officer may require the owner or rider of a motorcycle to produce proof of registration, insurance, and any other documents required by this Act.

(5) An authorized officer may issue a notice of non-compliance to the owner or rider of a motorcycle found to be in violation of this Act, specifying the nature of the violation and requiring the violation to be rectified within a specified period.

**29.** The Cabinet Secretary responsible for matters relating to transport may make regulations for the better carrying into effect of the provisions of this Act.

Regulations.

## MEMORANDUM OF OBJECTS AND REASONS

### Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to put in place a legal framework to regulate the use of motorcycles (*bodabodas*) in Kenya by introducing new provisions for their registration, operation, and safety at the county level.

Clauses 1 to 3 of the Bill provide for the title of the Bill, interpretation of various terms used and application of the law. The Act shall apply to regulation of *bodabodas* by the county governments.

Clauses 4 to 6 of the Bill provide for the establishment, composition and functions of the County Motorcycle Transport and Safety Board in every county. The Bill provides that the Board shall be responsible for the regulation, management, and coordination of all matters relating to the *bodaboda* transport sector within the county.

Clauses 7 to 8 of the Bill provide for the registration of *bodaboda* riders. It further provides for cross-county recognition of registration by respective boards in every county.

Clause 9 of the Bill provides for a requirement of Savings and Cooperative Societies membership for both owners and riders of *bodabodas*.

Clause 10 of the Bill provides for training of riders. A person shall not operate a *bodaboda* unless they have successfully completed a training course approved by the Board. The course includes; safe and defensive riding techniques, traffic laws and regulations, customer care and etiquette, handling of emergency situations, basic motorcycle maintenance and security awareness.

Clauses 11 to 13 provide for the responsibilities of the owner, rider and passenger of a *bodaboda*.

Clause 14 gives provision for the requirement of employment contracts between owners and riders. Every owner of a *bodaboda* who engages the services of a rider shall enter into a written employment contract with the rider. It requires that the employment contract shall provide for the terms and conditions of employment, duration, remuneration and benefits of the rider, working hours and overtime arrangements as well as procedures for the termination of the contract.

Clause 15 of the Bill provides for the engine capacity restriction for *bodabodas* used for commercial purposes. No person shall use or operate a *bodaboda* with an engine capacity exceeding 250cc on a public road unless authorized by the Board.

Clause 16 provides for limitation on carriage of passengers. A *bodaboda* rider shall carry only one passenger unless it is a tricycle of which the capacity shall be two passengers.

Clause 17 of the Bill provides for restrictions on the carriage of loads by *bodabodas*.

Clause 19 of the Bill provides for a distinction between delivery *bodabodas* and passenger *bodabodas* .

Clause 20 of the Bill provides for unauthorized goods providing that no person shall transport any unauthorized goods, including contraband, or goods restricted under the Narcotic Drugs and Psychotropic Substances (Control) Act and Firearms Act on a *bodaboda*.

Clause 21 of the Bill provides for the requirement and criteria of protective gear.

Clause 22 of the Bill provides for insurance for *bodabodas*.

Clause 24 to 27 of the Bill provide for offences and penalties.

Clause 28 of the Bill provides for the powers of inspection and enforcement. The Board and an authorized officer appointed by the Board shall have the power to inspect any *bodaboda* for the purpose of ensuring compliance with provisions of the Bill.

#### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill therefore delegates legislative powers to the Cabinet Secretary for purposes of implementation of the objectives of the Bill.

The Bill does not however limit fundamental rights and freedoms.

#### **Statement on how the Bill concerns county governments**

The Bill seeks to put in place a legal framework to regulate the use of *bodabodas* for commercial purposes at the county level. The Bill therefore concerns county governments in terms of Articles 110(1)(a) of the Constitution in that it contains provisions that affect the functions and powers of the county governments as per paragraph 5(d) of Part 2 of the Fourth Schedule to the Constitution.

The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

#### **Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 12th April, 2023.

BONI KHALWALE,  
*Senator.*

# National News

## Advise Court dismisses application by Aimi ma Lukenya Society to stop the demolitions on EAPCC land in Mavoko Vacate public land now, Wahome warns

Cabinet secretary says having a share certificate is not enough for anyone to claim ownership of any parcel of land

BY NYABOGA KIAGE AND PUS MAUNDU

Anyone who is currently occupying public land should vacate with immediate effect, Lands Cabinet Secretary Alice Wahome has said.

In what looks like a move to play catch up in order to avert more Kenyans from losing their property as it happened in the Mavoko land case, the CS said the eviction processes will be implemented by the Ethics and Anti-Corruption Commission (EACC), Anti-Recovery Agency (ARA) and the National Police Service.

Wahome, who was recently inserted to the ministry, also warned Kenyans that having a share certificate is not enough for anyone to claim ownership of any piece of land.

"The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect. I wish

to advise the public that there are people out there conning members of the public to buy land using share certificates. Share certificates are not legal documents to confirm ownership," Ms Wahome said.

The CS, who was accompanied by the ministry's principal secretary Nixon Korir, asked Kenyans to carry out due diligence by checking the status of the parcels they want to purchase from the Lands ministry, where they will be given maps from the survey department.

In relation to Mavoko land which has hit the headlines, Ms Wahome and Mr Korir said records at the ministry clearly show that it belongs to the East African Portland Cement Company (EAPCC).

"Any other documents purported to be held in respect to the said land do not originate from this office. The ministry has already forwarded the relevant documents to the office of the Director



Lands Cabinet Secretary Alice Wahome after officially opening the Regional Conference on Customary Tenure Rights in Eastern Africa in Nairobi on Tuesday. WILFRED NYANGARESI / NATION

The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect

Lands CS Alice Wahome

" of Criminal Investigations (DCI) to support them in the ongoing investigations," she said.

Until a week ago, some of the people who were occupying the Mavoko land were paying money meant for acquiring title deeds after they were asked to do so by the management of Aimi Ma Lukenya Sacco management.

Asked whether the ministry will compensate the people whose buildings were demolished, Ms Wahome said the only people who will do so are those who fraudulently sold the land to them. "Those who sold the parcel of land knowing very well that they did not own it are the peo-

ple who should do the compensation," she said.

Yesterday, the Environment and Lands Court sitting in Machakos dismissed an application to stop the demolition of houses on the EAPCC land in Mavoko.

Lady Justice Annet Nyukuri said the application by Aimi ma Lukenya Society, which claims the land, did not meet the legal threshold to warrant an injunction. "There is no evidence to support the plaintiff's claim that it purchased the property in question. Therefore, I find that the applicant has failed to establish a prima facie case," Ms Nyukuri said.

Wiper leader Kalonzo Musyoka represented the Aimi ma Lukenya Society in the application, which followed a ruling by the same court in favour of EAPCC.

Mr Musyoka had argued that the demolitions, which started on Friday last week, were a violation of the right to housing and a crime against human rights. But Ms Nyukuri said Mr Musyoka had introduced the human rights issue as an afterthought.

Machakos Governor Wavinya Ndeti had led a team of county officials to attend the hearing.

REPUBLIC OF KENYA



### THIRTEENTH PARLIAMENT | SECOND SESSION THE SENATE

#### INVITATION FOR SUBMISSION OF MEMORANDA

At the sittings of the Senate held on Tuesday, 17<sup>th</sup> October, 2023 and Wednesday, 18<sup>th</sup> October, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk\\_senate@parliament.go.ke](mailto:clerk_senate@parliament.go.ke) and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 3<sup>rd</sup> November, 2023 at 5.00 p.m.**

BILL	Committee Referred To	Email Address
a) The Public Holidays (Amendment) Bill, 2023 (Senate Bills No. 31 of 2023)	Standing Committee on National Security, Defence and Foreign Relations	<a href="mailto:senate.nsdf@parliament.go.ke">senate.nsdf@parliament.go.ke</a>
b) The Parliamentary Powers and Privileges (Amendment) Bill, 2023 (Senate Bills No. 37 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senate.lahrc@parliament.go.ke">senate.lahrc@parliament.go.ke</a>
c) The Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 of 2023)	Standing Committee on Roads, Transportation and Housing	<a href="mailto:roadstranshousingcomm.senate@parliament.go.ke">roadstranshousingcomm.senate@parliament.go.ke</a>
d) The Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023)	Standing Committee on Finance and Budget	<a href="mailto:financebudgetcomm.senate@parliament.go.ke">financebudgetcomm.senate@parliament.go.ke</a>
e) The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)	Standing Committee on Trade, Industrialization and Tourism	<a href="mailto:tradeindtourismcomm.senate@parliament.go.ke">tradeindtourismcomm.senate@parliament.go.ke</a>
f) The Energy (Amendment) Bill, 2023 (Senate Bills No. 42 of 2023)	Standing Committee on Energy	<a href="mailto:energycommittee.senate@parliament.go.ke">energycommittee.senate@parliament.go.ke</a>
g) The Sugar Bill, 2023 (National Assembly Bills No. 34 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:agriculturecommittee.senate@parliament.go.ke">agriculturecommittee.senate@parliament.go.ke</a>

The bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J.M. NYGGENYE, CBS,  
CLERK OF THE SENATE.



SUOMI  
FINLAND



giz  
German Cooperation  
International Development

#### INVITATION TO TENDER: TENDER FOR SUPPLY OF ASSORTED BRANDED MERCHANDISE - 91176330

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is implementing technical cooperation measures on behalf of the Government of the Republic of Finland and the Federal Republic of Germany.

The GIZ Office Nairobi invites bidders to submit, **free of charge, and without obligation on part of GIZ**, a bid based on the indicated terms and conditions. Non-conformity to all conditions mentioned will lead to exclusion of the bid. Bids should be submitted in the requested quantity. Partial or incomplete bids will be considered non-responsive.

Send a blank email expressing your interest with tender reference **GIZ/91176330** in the subject line to **[KE\_Inquiry@giz.de]** between **20.10.2023 to 24.10.2023**. **When sending a blank email, please enable email tracking or delivery receipt/confirmation on your email so that you can easily track if the email reached us.**

You will receive tender documents with further information on **25.10.2023**, thereafter **no tender documents will be received**. Clarification requests must be sent through the email **[KE\_Inquiry@giz.de]** by **26.10.2023 at 14:00hrs** to be responded to via email by **26.10.2023**.

If interested, please **submit your stamped and signed technical proposal, requested eligibility documents separately from financial offer (as per price schedule) as attachments in two separate emails via the following email: KE\_Inquiry@giz.de upon receipt of the tender documents on the stated date above.**

**NOTE:** Please enable email tracking when sending your response/s to GIZ. This is to ensure that if an email is not received, we can use the email tracking information to determine exactly what time the email reached our servers.

General Purchase Conditions and Procurement procedures of GIZ apply.

**Deadline for Submission: 31.10.2023 before midnight.**

Bidders **WILL NOT** be allowed to contact or discuss any aspect of the tender with GIZ before closing of the tender as this will lead to automatic disqualification. All clarifications to this tender to be channelled through the official email, **KE\_Inquiry@giz.de**.

"Njambi," Kevatta said. "Ni ndona Mau Mau. Uhoru udo ni nguturia (I have seen the letter I will have the matter investigated)." According to Njambi, who worked at State House as a seamstress up to 1999, the matter was never resolved.

One of Karumba's grandson, Tevin Nazario Mung'u has unsuccessfully petitioned State House, Kiambu County, Heres Council as well National Museums of Kenya in a bid to construct a mausoleum.

**Honour at last**

The closest the family got in honouring their patriarch was with National Museum of Kenya, which was at some point willing to assist but on condition that Karumba's descendants forked out \$14 million as consultancy and administrative fees.

In return, N.M.K was to provide expertise and conduct research and curate the exhibition, procure contractors for showcases and mounts, interactive, videos, audio-visuals, artworks, printing of texts and graphics for the exhibition and pay for them directly.

Still, the family does not have the honour they will have to contend with. Karumba's name being confined to a dusty town, Gwakung'u, near Ndaraga, owing to the land he never had an opportunity to farm as they hope that one day, the government will deem it fit to honour all genuine heroes.

akarenji@standardmedia.co.ke

**ARTEFACT**

**Former British armoury and holding cell in ruins**

Nestled within a eucalyptus tree plantation in Ndundu-ini village, Kirinyaga County lies remnants of a two-room house that once stood as a silent witness to the loud struggle for independence.

The structure, now in ruins, carries a legacy that echoes Kenyans' resilience and determination. Built during the dark era of colonialism, one room served as an armoury, clandestinely storing weapons and supplies used by colonialists and home guards during the struggle for independence.

The other room, however, held a much sinister purpose - it served as a makeshift prison where those who dared challenge colonial oppression were confined and subjected to harsh conditions.

To Josiah Ndong'o, a survivor of the oppressive regime, the house of exile 'Ithamirio ria Ndundu-ini' remains his worst nightmare.

In his twilight years, he bravely recounts the shocking experiences he endured during his incarceration in the two-room prison house.

He suffered physical and psychological hardships. He recalls the daily struggles for survival, constant fear of retribution, and deprivation of fundamental human rights. Yet, even within these walls of despair, his spirit persisted, fueled by a resilient



determination to see justice and liberation of the country from colonial rule.

"Built in 1954 by the British colonial regime, this house served a dual purpose during that time. It functioned as a secure storage facility for weapons, tightly guarded by the home guards. The house also operated as a prison where individuals who resisted colonial rule were detained, often enduring harsh torture, in their quest to extract information about the whereabouts of Mau Mau fighters and their plans," he said.

He faced brutal beatings that left him with a broken limb, a painful reminder of the inhumanity. "I and other inmates refused to surrender the information they sought from us.

The home guards fueled by anger and frustration, unleashed a torrent of violence upon us. Each blow inflicted pain, but we remained resolute. It was during that horrific incident that my limb was forcefully shattered," he said.

He said the weapons stored in the house were those collected from Mau Mau fighters captured by the colonialists. These weapons were part of those utilised by the home guards to suppress any attempts at escape from the colonial villages.

"When a Mau Mau soldier was arrested by either the colonialists or home guards, any weapon, be it a gun, machete, or rungu, was brought to this house to prevent the freedom fighters from accessing them again," he said.

Today, he urges the government to remember the sacrifices made by Mau Mau veterans and honour the heroes who fought against colonial oppression.

"We are hopeful that President William Ruto will expedite the compensation process for the immense suffering and torture inflicted upon us during the colonial period. We urge the government to prioritise this matter and provide restitution for the pain and trauma we endured," he said.

Muchira Ruraga, an ex-freedom fighter in Kirinyaga, said his unwavering determination and quick thinking helped him narrowly escape clutches of imprisonment after being apprehended by home guards.

"I was a dedicated fighter against colonial rule and became a target for the oppressive forces. As the night grew darker, I found myself surrounded. With every passing second, the risk of being imprisoned grew stronger. I made a daring move, running through the dense vegetation surrounding the village, I escaped," he said.

He added that he couldn't allow himself to be arrested, having heard stories of the atrocities that awaited those in captivity.

[Amos Kiarie]

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | SECOND SESSION

**THE SENATE**

**INVITATION FOR SUBMISSION OF MEMORANDA**

At the sitting of the Senate held on Tuesday, 17<sup>th</sup> October, 2023 and Wednesday, 18<sup>th</sup> October, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk\\_senate@parliament.go.ke](mailto:clerk_senate@parliament.go.ke) and copy the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **13<sup>th</sup> November, 2023 at 5.00 p.m.**

Bill	Committee Referred To	Email Address
a) The Public Holidays (Amendment) Bill, 2023 (Senate Bills No. 31 of 2023)	Standing Committee on National Security, Defence and Foreign Relations	<a href="mailto:senate.nsdfr@parliament.go.ke">senate.nsdfr@parliament.go.ke</a>
b) The Parliamentary Powers and Privileges (Amendment) Bill, 2023 (Senate Bills No. 37 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senatejlhrc@parliament.go.ke">senatejlhrc@parliament.go.ke</a>
c) The Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 of 2023)	Standing Committee on Roads, Transportation and Housing	<a href="mailto:roadstranshousingcomm.senate@parliament.go.ke">roadstranshousingcomm.senate@parliament.go.ke</a>
d) The Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023)	Standing Committee on Finance and Budget	<a href="mailto:financebudgetcomm.senate@parliament.go.ke">financebudgetcomm.senate@parliament.go.ke</a>
e) The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)	Standing Committee on Trade, Industrialization and Tourism	<a href="mailto:tradeindtourismcomm.senate@parliament.go.ke">tradeindtourismcomm.senate@parliament.go.ke</a>
f) The Energy (Amendment) Bill, 2023 (Senate Bills No. 42 of 2023)	Standing Committee on Energy	<a href="mailto:energycommittee.senate@parliament.go.ke">energycommittee.senate@parliament.go.ke</a>
g) The Sugar Bill, 2023 (National Assembly Bills No. 34 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:agriculturelivestock.senate@parliament.go.ke">agriculturelivestock.senate@parliament.go.ke</a>

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J.M. NYEGENGE, CBS,**  
CLERK OF THE SENATE.

**NEW FLOATZ**  
by Bata

Light feels right. Play it safe.

Dry comfort all day. Skids you not!

**HAPPY MASHUJAA DAY**

Enjoy Comfort with Style

**STAKEHOLDER VIEWS ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023**

**(SENATE BILLS NO. 38 OF 2023)**

<b>NO.</b>	<b>CLAUSE</b>	<b>STAKEHOLDER</b>	<b>PROPOSED AMENDMENT</b>	<b>OBSERVATIONS</b>	<b>RESOLUTION</b>
1.	Short title	NGEC	<p><b><u>Proposal</u></b></p> <p>Include Bicycle in the provisions of the Bill.</p> <p><b><u>Rationale</u></b></p> <p>The bicycle Bodaboda also needs to be regulated.</p>	The Committee observed that the Bill should remain specific to two wheeled and three wheeled motorcycles since expanding the scope would introduce a matter that was not initially envisaged since bicycles are not powered by engines.	The proposal was not adopted.
2.	Clause 2 Interpretation		<p><b><u>Proposal</u></b></p> <p>Amend the definition of Bodaboda to include bicycle.</p>		
3.	Clause 4 Establishment of the County Motorcycle Transport and Safety Board	MRT & NTSA & COG	<p>The Bill duplicates the provisions under Section 21 (Establishment of the County Transport and Safety Committee) and Section 22 (County Committees to be under the supervision of the Authority) of the NTSA Act. Further the Bill duplicates the provisions of National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015.</p> <p>Further, the Ministry submits that the establishment of the Committees would result in huge financial implications placing a huge burden on the taxpayer and consume</p>	<p>The Committee noted that pursuant to Part 2, Paragraph 5 of the Fourth Schedule of the Constitution, county transport and in particular public road transport is a mandate of the county governments and therefore the County Governments should be facilitated to manage that responsibility.</p> <p>The Committee observed that the provisions under the NTSA Act were made prior to the first election under the</p>	Empower the County Executive Committee member in charge of transport and mandate the Member to, if need be, establish a Board to ensure efficiency in provision of services.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>a significant budgetary allocation to the County Governments.</p> <p>According to the COG, the County Transport and Safety Committees have not been operationalised in many counties because of the ambiguity of the status in relation to the powers and the County Governments.</p> <p>In addition, the CoG posits that the establishment of the Board is unnecessary and unconstitutional since the powers given it are supposed to be discharged by the County Executive Committee member in charge of transport.</p>	<p>Constitution which might have resulted in the failure to acknowledge the role of the county government in public road transport.</p> <p>The Committee further observed that out of the seven members in the county committees established under section 21 of the National Transport and Safety Authority Act only three represent county government interests yet public road transport is a devolved function.</p> <p>In addition, the Committee noted that even the two persons appointed by the county governor are only appointed after a recommendation by the Authority which goes against the principle of distinctness of levels of governments and introduces some form of subsidiarity of county governments which is contrary to the Constitution.</p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
				As for the proposal to have the functions placed under the County Executive Committee member in charge of transport and mandate the Member to, if need be, establish a committee to ensure efficiency in provision of services, the Board noted that the same would facilitate the counties to determine based on their priorities whether further resources needed to be allocated to the Board.	
4.		BAK	<p><b><u>Proposal</u></b></p> <p>The Association should register riders across the country.</p> <p><b><u>Rationale</u></b></p> <p>This will allow for easy coordination with the Board in counties and also provide a central point of reference in case a rider moves from one county to another.</p>	<p>The Committee observed that the association is a private entity and therefore registration should be voluntary.</p> <p>The Committee further observed that for purposes of a central reference, the Bill requires persons using motorcycles for commercial purposes to register them with the Board (Clause 7)</p>	The proposal was not adopted.
5.	New Clauses		<p><b><u>Proposal</u></b></p> <p>Provide for tenure of office and vacancy of office.</p>	The Committee noted that the proposal to provide for vacancy and qualifications of the	Amend the Bill to provide for the tenure of office, vacancy of office,

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			Insert qualifications of the chairperson and members of the Board.	chairperson and members of the Board would enrich the Bill.	and qualifications of the chairperson and members of the Board.
6.	Clause 5  Composition of the Board.	RSAK	<p><b><u>Proposal</u></b></p> <p>Increase the representation of the special interest groups to four (4) from the current two (2). The representation should be drawn from SACCOs or BodaBoda Leadership.</p> <p>In addition, ensure that the representatives reflect the two genders.</p>	<p>The Committee noted that the Bill currently proposes a membership of 11 and that the proposal will increase the number to 13.</p> <p>The Committee observed that Mwongozo: the Code of Governance for State Corporations proposes a maximum of nine members.</p> <p>The Committee further observed that the Bill proposed for four persons to be appointed by the county executive committee member and only two persons to represent the motorcycle sector yet they are the biggest stakeholders.</p>	Amend the provisions to reduce the number of persons nominated by the County Executive Committee Member to two and increase the number of persons nominated to represent groups with special interests in the motorcycle transportation industry to four. In particular, the Bodaboda riders should be represented in the Board.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
7.		BAK	<p><b><u>Proposal</u></b></p> <p>The Board member should be a bonafide chairperson of the bodaboda in the county and should be nominated by the Association.</p> <p><b><u>Rationale</u></b></p> <p>The Bodaboda Association is well structured from National Level, County, Sub-county, Ward and Stage Level with proper leadership. It has been instrumental in assisting the national government on matters security safety and economic empowerment.</p> <p>This will reduce the chances of political interference when appointing a person to represent the riders.</p>	<p>The Committee observed that the Association is not recognised in law. The Committee further observed that since membership is voluntary there could be a multiplicity of associations that would be locked out by prescribing this in law.</p>	<p>The proposal was not adopted.</p>
8.		KNCHR	<p><b><u>Proposal</u></b></p> <p>The qualifications and experience of the Board members has not been provided. The number of Board members is not provided for and the procedure of filing a vacancy is also not provided for.</p>	<p>The Committee noted that the Bill provides for eleven members of the Board.</p> <p>The Committee further noted that the provisions on vacancy, term of office, and other administration provisions such as number of meetings would enrich the Bill.</p>	<p>Amend the Bill to provide for vacancy, term of office, and other administration provisions such as number of meetings.</p>
9.		NGEC	<p><b><u>Proposal</u></b></p> <p>Amend paragraph (d) of the Board by substituting “the County Attorney” with “the</p>	<p>The Committee observed that the County Attorney may be unable to attend to the Board at all its sittings and therefore</p>	<p>The proposal was not adopted.</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>county executive committee member responsible for matters relating to youth affairs.</p> <p><b><u>Rationale</u></b></p> <p>Most bodaboda operators are youth.</p>	<p>there was need to ensure that they could be represented. The Committee further noted that given the novelty of the policy decisions that are likely to arise from the Board then it was important to ensure compliance with the law from the onset.</p> <p>With regard to the proposal to replace the county attorney with the county executive committee member for youth, it was noted that not all counties had the position and in any case the matters that would be tackled in the Board would heavily be related to the transport sector. In addition, whereas the sector had recruited many youth, there was a diversity in age amongst the people who participated in it.</p>	<p>The Committee however resolved that the Bill be amended to provide for the possibility of the county attorney to appoint a representative to sit in the Board.</p>
10.			<p><b><u>Proposal</u></b></p> <p>Amend paragraph (f) by substituting the entire clause with “one person representing the region nominated by the National Transport and Safety Authority.”</p>	<p>The Committee noted that as a national government entity the authority should not sit in the county Boards and that nothing stops the Boards from seeking advice from the Board.</p> <p>The Committee observed that the proposal to provide for</p>	<p>Amend the Bill to provide that the representatives of the special interest groups have at least secondary education and that the nominees of the CEC be persons</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p><b><u>Rationale</u></b></p> <p>The four persons as proposed in the Bill are ambiguous in that there is no criteria for the appointment. The Commission has proposed a regional representative of NTSA who is the regulator of the sector.</p>	<p>qualifications for the appointees by both the CEC and the representatives of the special interest groups would enrich the Bill.</p>	<p>who have post secondary educational qualifications.</p>
11.			<p><b><u>Proposal</u></b></p> <p>Amend paragraph (g) by substituting the entire clause with the following “Four persons appointed by the county executive committee member responsible for matters relating to transport representing the youth, persons with disabilities, women, and older members of society, nominated by their respective organizations.</p> <p><b><u>Rationale</u></b></p> <p>The two persons as proposed in the Bill also lack criteria of appointment. The four persons proposed by the Commission represent the special interest groups as both owners, riders and passengers.</p>	<p>The Committee noted that the current number of members of the Board as proposed by the Bill is 11 and therefore the increase of members in this category from two to four will increase the number to thirteen.</p> <p>Mwongozo: the Code of Governance for State Corporations proposes a maximum of nine members.</p>	<p>The proposal was not adopted.</p>
12.			<p><b><u>Proposal</u></b></p>	<p>The Committee noted that one of the principles upon which</p>	<p>Amend the Bill to ensure that the</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>Insert new paragraph (h) as follows-; Appointment shall take into consideration gender, youth and persons with disabilities inclusion.</p> <p><b><u>Rationale</u></b></p> <p>To comply with the principles of gender balance and representation of persons with disabilities.</p>	our Constitution is premised is diversity in representation and therefore the Bill would be enriched by this provision.	appointments take in to consideration gender, youth and persons with disabilities.
13.	Clause 6 Functions of the Board.	RSAK	<p><b><u>Proposal</u></b></p> <p>Require the Board to work with the leadership of the Bodaboda Association and other association to implement the policies.</p>	The Committee observed that the membership of the Board already included representation from persons within the sector.	The proposal was not adopted.
14.	Clause 7 Registration of motorcycle riders.	KNCHR and NGEC and RSAK	<p><b><u>Proposal</u></b></p> <p>NTSA should register the commercial motorcycles instead of the Board.</p> <p><b><u>Rationale</u></b></p> <p>According to the National Assembly's Departmental Committee on Transport and Infrastructure Report on the National Transport and Safety Authority (Amendment) Bill, 2022, the government currently registers all motorcycles in the</p>	The Committee noted that since county transport is a devolved function, the Board should be established at the county level and therefore the primary register should be maintained at the county. The Committee further noted that despite this, nothing stops the counties from sharing the information with NTSA for purposes of a central national registry.	<p>The proposal was not adopted.</p> <p>Amend the Bill to require that a copy of the register is shared with the Authority periodically.</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			country whether locally assembly or imported.		
			A national database will allow the public to authenticate the rider's details even if the riders are not registered in any specific county. In addition, this acknowledges the right to freedom of movement.		
15.			<p><b><u>Proposal</u></b></p> <p>Provide for instances of revocation of certificate of registration.</p>	The Committee noted that this proposal would enrich the Bill.	Amend the Bill to provide for instances of suspension or revocation of registration.
16.		MRT & KNCHR	<p><b><u>Proposal</u></b></p> <p>The National Transport and Safety Authority Operation of (Motorcycles) Regulations 2015 be amended to cater for emerging issues such as a database for operators, safety and insecurity perpetrated by bodaboda operators</p> <p><b><u>Rationale</u></b></p> <p>It seems that the legislative proposal seeks to convert the National Transport and Safety Authority Operation of (Motorcycles) Regulations 2015 to legislation yet the regulations are operational and have the force of law.</p>	<p>The Committee noted that the Legislature is constitutionally empowered to make law and the power to make regulations are delegated by the Legislature.</p> <p>The Committee further noted that pursuant to Section 54 of the National Transport and Safety Authority Act, 2012 the Board in consultation with the Cabinet Secretary can draft regulations. However,</p>	The proposal was not adopted.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>The enforcement of the Traffic Act (Cap 403), The National Transport and Safety Authority, Act 2012 and Attendant Regulations should be strictly enforced to ensure that motorcycle riders don't ride on pavements, ride in opposite directions in traffic and operate in designated locations.</p>	<p>amendments to the regulations are yet to be proposed.</p> <p>The Committee further observed that after a comprehensive comparison of the NTSA Act and the NTSA Regulations, the Senate Bill was the one that sought to enhance constitutional architecture of devolution whereas the Act and Regulations derogated from the powers and functions constitutionally awarded to county governments.</p>	
17.		RSAK	<p><b><u>Proposal</u></b></p> <p>The Bill should state who sets the registration fees and propose a fee that will ensure that the same is not a bar to the youth to join the industry.</p>	<p>The Committee noted that Kenya was a free market economy and that county governments were at liberty to set the fees. In addition, the Committee noted that fees should be contained in either the respective county legislation or regulations and not under the Bill.</p> <p>However, the Committee also noted that there was a need for the council of governors to consider the fees they set so as to forestall price wars that</p>	The proposal was not adopted.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
				would impact the economies of the counties negatively.	
18.	Clause 8 Cross-county recognition of registration	NGEC	<p><b><u>Proposal</u></b></p> <p>There is a need to clarify as to whether once registered in a specific county, a rider can operate in any other County of their choice and in the event of an accident or other unlawful acts who will be responsible for this rider.</p> <p><b><u>Rationale</u></b></p> <p>Commission would be that any rider who by one reason or other would want to operate in another county, can get a permit.</p> <p>The Commission proposes that registration be by NTSA.</p>	<p>The Committee observed that the Bill provides for cross county recognition of registration under clause 8 and that although the provision was on the face of it well meaning, it could be taken advantage of and create “fee wars” in respect to registration in counties.</p> <p>The Committee further observed that since accidents and unlawful criminal acts fall under criminal jurisdiction the arrest and prosecution for criminal offences is a matter implemented under the criminal procedure code and therefore need not be replicated under the Bill.</p>	Delete Clause 8
19.	Clause 9 Savings and Cooperative Societies membership	RSAK	<p><b><u>Proposal</u></b></p> <p>The Bill should state who holds the SACCOs accountable. Whether it is the Board, the NTSA or the Ministry of Transport.</p> <p><b><u>Rationale</u></b></p>	<p>The Committee noted that SACCOs are accountable to the SACCO Societies Regulatory Authority which has the power to issue a licence or revoke a licence to SACCO societies. However, the Committee observed that since the</p>	Amend the Bill to ensure that owners are the ones registered under the Cooperative Society and not the riders.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>Cartels may gang up and form a SACCO which monopolises a county.</p>	<p>provision did not necessary provide for deposit taking, there was need to have owners become members of cooperative societies and not a SACCOs.</p> <p>In addition, the committee noted that the registration should be required of the owner and not the rider since the rider may willing stop working for the owner and seek to work for an owner in a different part of the country or one who is registered under a different cooperative society.</p>	
20.	<p>Clause 10 Training of riders.</p>	RSAK	<p><b><u>Proposal</u></b></p> <p>The curriculum design should not be discriminatory based on literacy of education levels.</p> <p>NYS should be used to train the riders.</p> <p><b><u>Rationale</u></b></p>	<p>The Committee noted that the curriculum should be developed by the Authority to ensure that all training courses are uniform in the country and that a practical exam is administered rather than a written exam. However, it was observed that counties should be allowed to translate the curriculum to the local languages in the county in order</p>	<p>Amend the provision to reflect that the training course should be approved by the Authority and that the County Executive committee member may provide for the manner in which the training may be offered in the local</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			Some of the riders are school drop outs and or uneducated and the industry provides a economic mainstay for these youths.	to ensure that literacy is not a bar to entry in to the industry.  In regard to NYS, the Committee observed that vocational training is offered after completion of the National Service programme.  The Committee may make a policy decision on this matter	languages in the county.
21.	Clause 11 Responsibilities of the Owner	NTSA	<b><u>Proposal</u></b>  The provisions duplicate those under the NTSA Act and the NTSA regulations.	The committee noted that the requirement for a rider to have a contract with the owner is only contained in the Senate Bill.  The Committee further noted that the regulations also require the owner to—  (a) ensure no structural modifications to the motorcycle are undertaken that may obstruct the visibility if the rear number plates;  (b) ensure no structural modifications to the motorcycle are undertaken that may affect the safe operation of the motorcycle;	Amend the Bill to provide for the additional provisions related to obligations of the owner.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
				(c) ensure no modifications to the exhaust system or any other noise abatement device of the a motorcycle are done so as to cause the noise emitted by the motorcycle to be above that emitted by the motorcycle as originally manufactured	
22.	Clause 12 Responsibilities of a rider.	NGEC	<p><b><u>Proposal</u></b></p> <p>In subsection (1)</p> <p>Propose to amend paragraph (d) by substituting the phrase “person at a time” with “adult passenger at a time save for instances when the circumstances do not permit”</p> <p><b><u>Rationale</u></b></p> <p>The interpretation of a passenger in the proposed Bill is a person. The Commission submits that it is not safe for a child who is a person and some vulnerable persons (sick ,older frail persons, some form of disability) to be carried as passengers without the support of another passenger.</p>	The Committee noted that the word “person usually refers to an adult person or a corporate entity. However, the proposal does create clarity.	The proposal was adopted.

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
23.			<p><b><u>Proposal</u></b></p> <p>Delete paragraph (f)</p> <p><b><u>Rationale</u></b></p> <p>Sitting position is determined by many factors including gender, age, ability etc and besides the stated factors that should be an individual preference.</p>	<p>The Committee noted that the requirement under paragraph (f) of the Bill for passengers to sit astride the two-wheeled motorcycle sought to enhance the safety of passengers.</p>	<p>The proposal was not adopted.</p>
24.	13 Responsibilities of a passenger.	NGEC	<p><b><u>Proposals</u></b></p> <p>Delete clause 13(1) (d)</p> <p><b><u>Rationale</u></b></p> <p>A number of factors will be an impediment to sitting astride including gender, advanced age, pregnancy, faith, beliefs etc besides it being a personal reference.</p>	<p>The Committee noted that while the previous provision places an obligation on the rider, this provision places the obligation on a passenger to sit astride a two wheeled motorcycle.</p> <p>The Committee observed that the safety of the passenger is paramount. In addition, the Committee observed that law enforcement officers were capable of making a decision to determine which passengers would be exempt from this provision.</p>	<p>The proposal was not carried.</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
25.			<p><b><u>Proposal</u></b></p> <p>Substitute clause 13 (2) (a) with “Young Children and vulnerable persons who are carried together with another adult shall also wear helmets”</p> <p><b><u>Rationale</u></b></p> <p>The Bill is not very clear on the assumption that the safety of a child of more than 9 years as a solo pillion passenger is guaranteed. The proposal by the Commission is for all children whose safety will be compromised by being solo passengers.</p>	<p>The Committee noted that the Bill under clause 13 (2) (a) actually requires the child to wear a helmet. In addition, the clause 13 (1) (a) makes reference to every passenger being required to wear a helmet and reflective jacket whenever they are on a motorcycle. In addition, the committee noted that the notion of helmets designed for a child is ambiguous and may cause unnecessary disruption in the sector.</p> <p>The Committee observed that the regulation provided for a child who is thirteen years and below to be carried together with an adult and that the Bill should reflect the age proposed by the regulations since the same has been in operation.</p> <p>Further, the Committee observed that vulnerable persons had not been defined by the stakeholder.</p>	<p>Amend clause 13 (2) (a) to reflect 13 years. Delete the requirement for helmets designed for children.</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
26.			<p><b><u>Proposal</u></b></p> <p>Delete clause 13(2) (b)</p> <p><b><u>Rationale</u></b></p> <p>Not all persons with disabilities have a problem with sitting astride as it depends on the category of the disability.</p>	The Committee noted that not all persons with disability had physical disability that impeded them from sitting astride and therefore the provision under the Bill need to be deleted.	That clause 13 (2) (b) be deleted for ambiguity.
27.	Clause 16 Carriage of passengers	NGEC	<p><b><u>Proposal</u></b></p> <p>Delete clause 16</p> <p><b><u>Rationale</u></b></p> <p>This provision is already captured in clause 12 and 13 above.</p>	The Committee noted that the regulations provided for a child up to thirteen years to be accompanied by an adult passenger.	Amend the provision to capture thirteen years instead of nine years.
28.	Clause 17 Carriage of Loads.	RSAK	<p><b><u>Proposal</u></b></p> <p>The width and weight of the load to be carried should be specific to the particular type of road since motorcycles service both feeder roads and highways.</p>	The Committee noted that the load of fifty kilograms would suffice for both feeder roads and tarmac.	The proposal was rejected. However, the Committee proposed an amendment to increase the load from thirty kilograms to fifty kilograms which had been provided
29.		BAK	<p><b><u>Proposal</u></b></p>	The Committee noted that the Bill had provided for a load of	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			<p>Delete Clause 17 (1) (c).</p> <p><b><u>Rationale</u></b></p> <p>This provision will result in targeting by the Police. Children 30kgs, while adults are 50kg or above. Additionally, most loads are past 30kgs.</p>	<p>50kgs elsewhere and therefore the sake of uniformity the same should be provided for under this provision.</p>	<p>for elsewhere in the Bill.</p>
30.	Clause 21	NTSA and the Senate Bill	<p>Both the provisions in the Bill and the regulations require bundling of the motorcycle with a two helmets and two reflective jackets before transfer.</p>	<p>The Committee noted that this provision will eventually lead to additional expenses since a person buying a motorcycle may already have the reflective jackets or the helmets and therefore would not need more.</p> <p>The Committee further noted that since the Bill already placed an obligation on the owner to have the two items there was no need to require the same under clause 21.</p>	<p>The Bill by amended by deleting the provision.</p>
31.	Clause 27 General Penalties.	RSAK	<p><b><u>Proposal</u></b></p> <p>The Bill should propose instant fines instead of protracted court cases.</p> <p><b><u>Rationale</u></b></p>	<p>The Committee noted that the penalty clause is only applicable where one is found culpable of an offence under the Bill. The Committee further noted that the imposition of instant fines had failed due to</p>	<p>The proposal was not adopted.</p>

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	OBSERVATIONS	RESOLUTION
			This blanket clause may be abused by law enforcement officers.	the lack of a framework to operationalise it.	
32.	Part IV New clause	NGEC	<p><b><u>Proposal</u></b></p> <p>A county government may enact county-specific legislation generally for the better carrying out of the purposes and provisions of this Act</p> <p><b><u>Rationale</u></b></p> <p>Part 2 of the Fourth Schedule to the Constitution designates public road transport as one of the functional areas of the county government.</p>	The Committee noted that County transport is a county function under the Constitution and county specific legislation may be used to cover functional areas that are not covered under the Bill.	Amend the Bill to empower counties to develop county specific legislation.
33.		RSAK	<p><b><u>Proposal</u></b></p> <p>The Bill should propose a speed limit for motorcycles.</p> <p><b><u>Rationale</u></b></p> <p>Young people are racing at the expense of passengers.</p>	The Committee noted that the imposition of speed limits was dynamic in nature and as such should not be set in legislation but in regulations. In addition, since speed limits are nationwide, it may be pivotal to ensure that the same are set centrally.	The proposal was not adopted.

#### GENERAL COMMENTS ON THE BILL

NO.	STAKEHOLDER	COMMENTS ON THE BILL	OBSERVATIONS	RESOLUTION
1.	CoG	The Council proposes that the Bill be withdrawn and redrafted to conform with delineation of functions under the Constitution.	The Committee observed that the Bill conforms to the Constitution.	The proposal was not carried.
2.	KNCHR	The Committee should require the Ministry of Roads and Transport and Interior and National Coordination. make the report of the 2019 Taskforce on Motorcycle Transport Reforms public.	The Committee observed that it had the power to request the Ministry of Roads and Transport and Ministry of Interior and National Coordination to make public the 2019 Taskforce Report on Motorcycle Transport Reforms.	The Committee resolved to write to the Ministry to request for the report and to require the Ministry to publish the report.
3.	RSAK	<b><u>Proposal</u></b> The Bill should encourage the riders to leverage on technology to access clients such as Uber and Bolt or encourage respective SACCOs to form an online platform for pitching.	The Committee noted that since the industry is a private enterprise and Kenya is a free-market economy it would not be prudent to legislate this requirement as it may lead to a legislation-based monopoly.	The proposal was not carried.
4.		<b><u>Proposal</u></b> The Bill should encourage the use of cashless money systems such as MPESA.	The Committee noted that since the industry is a private enterprise and Kenya is a free-market economy it would not be prudent to legislate this requirement as it	The proposal was not carried.

NO.	STAKEHOLDER	COMMENTS ON THE BILL	OBSERVATIONS	RESOLUTION
			may lead to a legislation-based monopoly.	
5.		<p><b><u>Proposal</u></b></p> <p>The Bill should require respective county governments to provide civic education to all actors in the Bodaboda industry relating to their rights and obligations.</p>	The Committee noted that the function of provision of civic education to all actors in the Bodaboda industry relating to their rights and obligations was necessary to ensure access to information.	The proposal was carried.
6.		<p><b><u>Proposal</u></b></p> <p>The Bill should require county governments to also install street lights and CCTV cameras in their jurisdictions to reduce the occurrence of boda boda criminals.</p>	The Committee noted that pursuant to Part 2, Paragraph 5 of the Fourth Schedule of the Constitution, Street Lighting is a function of County governments and as such should be provided for in the county budgets. However, the Committee also noted that prioritization of resources was done by the county assembly and the county executive.	The proposal was not carried.
7.		<p><b><u>Proposal</u></b></p>	The Committee noted that the Bill requires the Board to designate parking for the riders under Clause 6 (2) (b).	The proposal was not carried.

NO.	STAKEHOLDER	COMMENTS ON THE BILL	OBSERVATIONS	RESOLUTION
		The Bill should require county governments to construct sheds for operators that can also act as points of revenue collection.		
8.		<p><b><u>Proposal</u></b></p> <p>The Bill should require SACCOs to register with the National Association or Federation.</p>	The Committee noted that clause 9 the Bill does not the limit the SACCOs to a locality.	The proposal was not carried.
9.		<p><b><u>Proposal</u></b></p> <p>The Bill should recommend and gazette speed governors for motorcycles to limit speed to 40 km/hr to 50km/hr for commercial motor vehicle</p>	The Committee noted that the Bill does not propose any speed limits and that because of the dynamic nature of speed limits, they should be regulated under regulations.	The proposal was not carried.
10.		<p><b><u>Proposal</u></b></p> <p>The Bill should recommend instant fines instead of protracted court cases.</p>	The Committee noted that the Bill is silent on the penalty for speeding, however the Bill does require the rider to observe all traffic rules as provided for under the Traffic Act (Clause 12).	The proposal was not carried.
11.		<p><b><u>Proposal</u></b></p>	The Committee noted that the Bill only requires a rider to be trained but not provide for	The proposal was not carried.

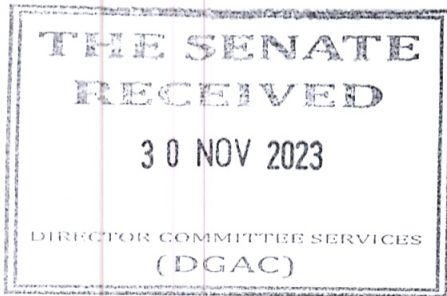
NO.	STAKEHOLDER	COMMENTS ON THE BILL	OBSERVATIONS	RESOLUTION
		The Bill should require rider to acquire a certificate of good conduct before being cleared by the Board upon renewal of the certificate	other documentation to be submitted by the rider at the point of engagement. The Committee observed that the proposal would cause some cumbersomeness since the owner would not be in a position to verify the authenticity of the certificate.	
12.		<p><b><u>Proposal</u></b></p> <p>The Bill should require that training and testing employ use of technology to eliminate corruption and human interference.</p>	The Committee noted that the Bill is silent on the manner with which a training course is to be conducted. It further noted that this requirement could easily bar many people from accessing the industry.	The proposal was not carried.
13.		<p><b><u>Proposal</u></b></p> <p>The Bill should require that the helmets be customized to the motorcycle number plate.</p>	The Committee while considering this issue during prepublication scrutiny was of the view a colour and not the registration number was sufficient to distinguish the motorcycles.	The proposal was not carried.
14.		<p><b><u>Proposal</u></b></p>	The Committee noted that the proposal would enhance identification of the motorcycles and directed that	Resolved that the National Transport Authority and the

NO.	STAKEHOLDER	COMMENTS ON THE BILL	OBSERVATIONS	RESOLUTION
		The motorcycle should have number plates in front.	the owners of the old motorcycles be given three years to comply while every new motorcycle should have the number plate at the front.	Ministry review the The Traffic (Registration Plates) Rules, to ensure that number plates in motorcycles are also placed in the front.
15.	RSAK	Interventions should be made to ensure realignment of administrative structure of the NTSA to remove political interference in implementation of their mandate	The Committee noted that the NTSA was a body corporate and that its mandate was statutorily protected.	The Proposal was not adopted
16.		The Vehicle inspection process has been ineffective. The Committee should require the enforcement of public participation, including encouraging the participation of RSAK, in the current review of Vehicle Inspection Standards	The Committee noted that the review of the standards was a process taking place at the Executive arm of government and that the RSAK could participate.	

**Stakeholders**

- (a) Ministry of Roads and Transport (MRT)
- (b) Council of County Governors (CoG)
- (c) National Transport and Safety Authority (NTSA)

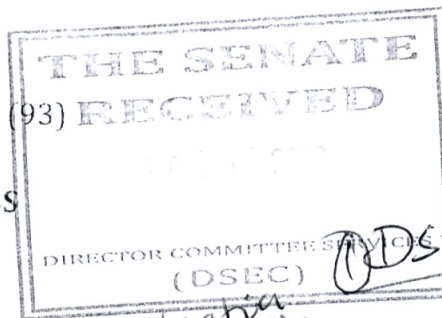
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- (d) Kenya National Commission on Human Rights (KNCHR)
  - (e) National Gender and Equality Commission (NGEC)
  - (f) Road Safety Association of Kenya (RSAK)
  - (g) Bodaboda Safety Association of Kenya (BAK)q
- 
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REPUBLIC OF KENYA  
MINISTRY OF ROADS AND TRANSPORT  
STATE DEPARTMENT FOR TRANSPORT  
*Office of the Principal Secretary*

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Website: [www.transport.go.ke](http://www.transport.go.ke)  
When replying please quote

TRANSCOM BUILDING  
NGONG ROAD  
P.O. Box 52692 - 00100  
NAIROBI



28<sup>th</sup> November 2023

MOT&I/C/ADM/034/7/2 VOL.I (93)

Mr. Jeremiah M. Nyegenye, CBS  
The Clerk of the Senate  
Parliament Buildings  
NAIROBI

Dear Mr. Jeremiah

Handwritten notes: 3) Mr. Ngatia, kindly deal, 30/11/2023, DSEC, 2) HD - VK, kindly deal, 30.11.2023

RESPONSE TO A STATEMENT REQUESTED ON THE SUBMISSION OF VIEWS ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATIONS) BILL, 2023 (SENATE BILLS NO. 38 OF 2023)

Reference is made to a letter of Ref. No: SEN/DSEC/RTH/CORR/2023/131 dated 26<sup>th</sup> October 2023 from the Senate on the above subject matter.

Enclosed herewith, please find signed response by the Cabinet Secretary, Ministry of Roads and Transport as requested by the Senate Standing Committee on Roads, Transportation and Housing regarding Ministry's views on the proposed Public Transport (Motorcycle Regulations) Bill, 2023 (Senate Bills No. 38 of 2023)

Yours Sincerely  
  
Mohamed Daghar  
PRINCIPAL SECRETARY

Encl



REPUBLIC OF KENYA  
MINISTRY OF ROADS AND TRANSPORT

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**RESPONSE TO A STATEMENT REQUESTED ON THE SUBMISSION OF VIEWS ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATIONS) BILL, 2023 (SENATE BILLS NO. 38 OF 2023)**

**Hon. Chairman,** I am pleased to apprise this Honourable Committee in regard to statement requested on the Ministry's views on the Public Transport (Motorcycle Regulations) Bill, 2023 (Senate Bills No. 38 of 2023) as communicated vide letter *Ref. No: SEN/DSEC/RTH/CORR/2023/131* dated 26<sup>th</sup> October 2023.

**Hon. Chairman,** the Ministry has reviewed the Bill and submit as follows: -

1. The Public Transport (Motorcycle Regulations) Bill, 2023 hereinafter (the Bill) seeks to regulate the use of motorcycles at the County level. It further seeks to establish a County Motorcycle Transport and Safety Board which shall be responsible for the regulation, management, and coordination of all matters relating to the Motorcycle transport sector within the Country.
2. The National Transport and Safety Authority is established under the NTSA Act (No. 33 of 2012) and its functions and mandate include to: -
  - (a) Advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety;
  - (b) Implement policies relating to road transport and safety;
  - (c) Plan, manage and regulate the road transport system in accordance with the provisions of this Act;
  - (d) Ensure the provision of safe, reliable and efficient road transport services; and
  - (e) Administer the Act of Parliament set out in the First Schedule and any other written law.

Further, at Section 21 and 22 of the NTSA Act, there is established the County Transport and Safety Committee and its functions thereof.

**Section 21 provides as follows: -**

- (1) The Authority may establish in each county, a committee to be known as the County Transport and Safety Committee.
- (2) A county transport and safety committee established under subsection (1) shall consist of: -
  - (a) The officer in charge of traffic in the county who shall be the secretary to the committee;
  - (b) Two persons responsible for overseeing the registration and licensing of vehicles within the county nominated by the Board;
  - (c) One person nominated by the Association of Public Transport Operators to represent the Association;
  - (d) One person with knowledge and experience in matters relating to transport within the county nominated by the county governor; and
  - (e) Two persons nominated by the county governor on the recommendations of the Authority to represent such special interests with the county as the Authority shall determine.
- (3) Notwithstanding the provisions of subsection (2), where the county transport and safety committee is constituted before the first elections under the Constitution, the Cabinet Secretary shall nominate persons under subsections 2 (d) and (e) and shall hold office pending the appointment by the county governor.
- (4) The persons nominated under subsection 2 (b), (c), (d) and (e) shall be appointed by the Cabinet Secretary by notice in the Gazette.
- (5) The members of the county transport and safety committee shall appoint from amongst themselves, a person who shall be the chairperson of the committee.

**Section 22 further provides: -**

Each county transport and safety committee shall be under the direction and supervision of the Authority and shall; -

- (a) Oversee the management and regulation of the road transport system by the Authority at the county level;
- (b) Prepare and submit to the Authority such audit reports as the Authority may require on the safety, reliability and efficiency of the road transport system with the county;
- (c) Advise the Authority on matters affecting the road transport system within the county; and
- (d) Perform such other functions as may be assigned to it by the Authority.

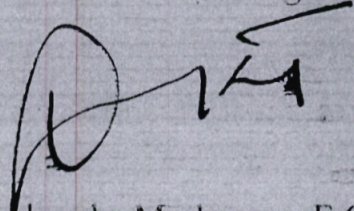
**Hon. Chairman**, in view of the above, it is notable that the proposed Bill contains provisions which are a duplication of those contained in the NTSA Act.

3. Under the NTSA Act, the Cabinet Secretary in consultation with the Board made the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015. These Regulations apply to all Motorcycles operating on a public road in Kenya.
4. Establishment, operationalization and sustainability of the proposed County Motorcycle Transport and Safety Boards in all the 47 counties would result into a huge financial implication. This would place a substantial burden on the taxpayers besides consuming significant budgetary allocation to County Governments.

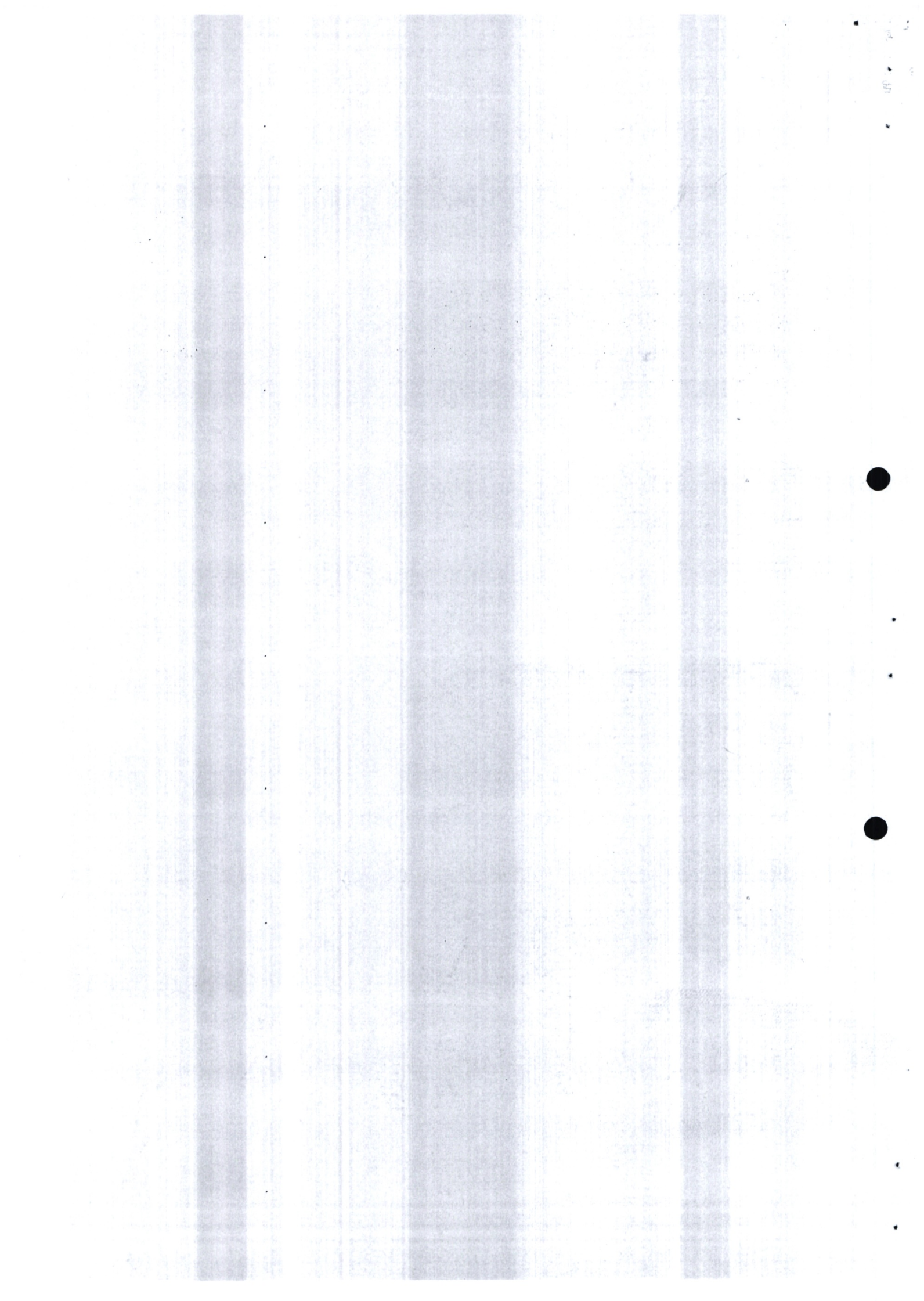
We note that most and if not all of the issues that the Bill seeks to address are covered under the said Regulations.

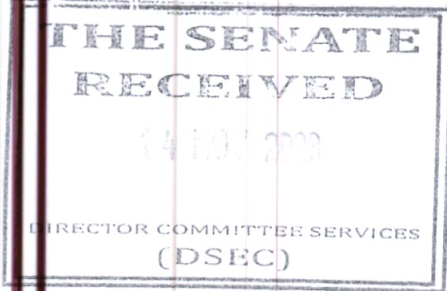
5. It is therefore our view that all the issues that Bill seeks to address have been adequately provided for under the existing legal framework i.e. NTSA Act and the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015.

As I submit **Hon. Chairman**, I wish to inform the Committee that the scope of the functions of the County Transport and Safety Committees covers public transport vehicles including Motorcycles.



Hon. Kipchumba Murkomen, E.G.H  
**CABINET SECRETARY**





**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS**

**ADVISORY ON**

**THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023**

**PRESENTED TO**

**THE SENATE STANDING COMMITTEE ON ROADS AND TRANSPORTATION**

**DATED: 9<sup>TH</sup> NOVEMBER 2023**

Kenya National Commission on Human Rights  
1st Floor, CVS Plaza, Lenana Road  
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① Mr. Ngatia  
Kindly deal  
Hobich  
15/11/2023

② HOD-V.K  
Kindly deal  
[Signature]  
14/11/2023

① DSEC  
DLS  
Kindly deal  
[Signature]  
14/11/2023

## **A. ABOUT THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS**

1. The Kenya National Commission on Human Rights (“KNCHR” or “National Commission”) is an independent National Human Rights Institution established under Article 59 of the Constitution with a broad mandate to promote a culture of respect for human rights in the Republic of Kenya. The operations of the National Human Rights Commission are guided by the United Nations Paris Principles on the establishment and functioning of Independent National Human Rights Institutions commonly referred to as the Paris Principles and is accredited as an ‘A’ status institution for its compliance with the Paris Principles by the Global Alliance of National Human Rights Institutions (GANHRI). The Commission also enjoys Affiliate Status before the African Commission on Human and Peoples’ Rights.
2. The National Commission under Article 249 of the Constitution has a mandate to secure observance of all state organs of democratic values and principles and to promote constitutionalism. Article 10 of the Constitution requires all state organs to ensure they uphold constitutionalism and the rule of law whenever they make public policy decisions or interpret the constitution. One of the strategies pursued by the Commission to secure observance of all state organs of democratic values and principles is through the issuance of advisories.

**The Commission wishes to respond to the proposed Public Transport (Motorcycle Regulation) Bill, 2023 as follows:**

## **B. CALLS FOR REGULATION OF THE BODABODA SECTOR**

3. The Commission acknowledges that the conversation around regulation of motorcycles has been and continue to be part of the national agenda. In March 2019, the Cabinet Secretary for Interior and Co-ordination of National Government and the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works vide a Gazette Notice NO. 2570<sup>1</sup> established a Taskforce on Motorcycle Transport Reforms. The Taskforce was to among others, examine the existing policy, institutional, legislative, and

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<sup>1</sup>Gazette Notice NO. 2570 on Taskforce on Motorcycle Transport Reforms  
[http://kenyalaw.org/kenya\\_gazette/gazette/volume/MTk0Mg--/Vol.CXXI-No.33/](http://kenyalaw.org/kenya_gazette/gazette/volume/MTk0Mg--/Vol.CXXI-No.33/)

administrative systems governing Public service motorcycle subsector. The Commission has not accessed the Taskforce report as is not publicly available.

4. The National Crime Research Centre in 2018<sup>2</sup> released a research report detailing the link between bodaboda motorcycle transport and security challenges in the country. The report provided a number of recommendations touching on policy and administrative issues, including the need to enforce existing laws and regulations.
5. There is no doubt that bodaboda operators are frequently mobilized in political campaigns and can become actors in political violence. The lynch mob mentality has been a trend and motorists involved in accidents with bodaboda operators flee accident scenes for fear of their lives. In March 2022, a woman was physically and sexually assaulted after a traffic incident with a bodaboda operator. This led to nationwide condemnation of the act, including by the Commission, and a call for stricter regulations for the bodaboda sector. This was followed by police operations against non-compliant operators and a Presidential directive for fresh registration of bodaboda operators.<sup>3</sup> The extent and outcome of this exercise remains indeterminate.

### C. COMMENTS ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023

6. The Commission notes that the Bill provides for the regulation of the bodaboda industry, by among others, proposing for the establishment of the County Motorcycle Transport and Safety Board under **Clause 4**, mandated to develop policies, regulations, and guidelines on motorcycle transport and safety matters within the county and conduct registration of motorcycles riders. The Commission notes that the **composition of the proposed Board has not complied** with the Mwangozo Guidelines in terms of appointment, composition and size. Qualifications, experience and circumstances where under which a vacancy could occur in the Board have not been provided in the proposed Bill. As such, the Board will not be properly anchored.

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<sup>2</sup> National Crime Research Centre report on Boda Boda Motorcycle Transport and Security Challenges in Kenya available at <https://www.crimeresearch.go.ke/wp-content/uploads/2020/11/Report-on-Boda-boda-Motorcycle-Transport-and-Security-Challenges-in-Kenya-2018.pdf>

<sup>3</sup> See Nation reporting at <https://nation.africa/kenya/news/female-motorist-i-was-assaulted-robbed-as-mob-recorded-3741804>

7. The Commission observes that **Clause 7** of the Bill mandates the Board to register all motorcycles to be used for commercial purposes. However, the Commission understands that the government currently and by practice, register all motorcycles in the country whether locally assembled or imported. This was confirmed by the Principal Secretary, State Department for Transport in March 2023 when he appeared before the National Assembly’s Departmental Committee on Transport and Infrastructure.<sup>4</sup>
8. The Commission further notes that a number of legislative proposals contained in the Bill are already provided for in the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 (amended in 2022)<sup>5</sup>. The title of the Bill “Public Transport (Motorcycle Regulation) Bill, 2023” appears to suggest that the proposed Bill wants to transform 2015 Regulations into an Act of Parliament, yet the latter still has a force of law and is enforceable.

#### **D. THE COMMISSION’S RECOMMENDATIONS**

9. Based on the above observations on the Bill, the Commission is of the view that the provisions of the proposed Bill are already provided in the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 (amended in 2022). Therefore, the Standing Committee on Roads and Transportation is called upon to halt the consideration of this Bill.
10. In the alternative, the Commission suggests that the National Transport and Safety Authority (Operation of Motorcycles) be amended to cater for emerging issues within the sector such as a customized database for operators, safety and insecurity perpetrated by bodaboda operators.
11. The Commission advises that the Standing Committee on Roads and Transportation need to enhance its oversight on the motorcycle/bodaboda sector to ensure that the Traffic Act (Cap 403), National Transport and Safety Authority, Act 2012 and attendant Regulations

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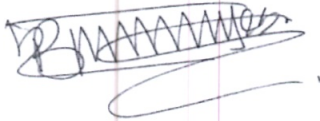
<sup>4</sup> National Assembly’s Departmental Committee on Transport and Infrastructure Report on the National Transport and Safety Authority (Amendment) Bill, 2022 available at <http://www.parliament.go.ke/sites/default/files/2023-04/Report%20on%20Consideration%20of%20the%20National%20Transport%20and%20Safety%20Authority%2028Amendment%29%20Bill-1.pdf> p.12-13

<sup>5</sup> National Transport and Safety Authority (Operation of Tourist Service Vehicles) Regulations, 2015 available at [http://kenyalaw.org:8181/exist/kenyalex/sublegview.xql?subleg=No.%2033%20of%202012#/akn/ke/act/ln/2015/19/sec\\_1](http://kenyalaw.org:8181/exist/kenyalex/sublegview.xql?subleg=No.%2033%20of%202012#/akn/ke/act/ln/2015/19/sec_1)

are strictly enforced. Enforcement of these laws and regulations would ensure that motorcycle riders, for instance do not ride on pavements, ride in opposite direction in traffic and operate only from designated locations.

12. That the Ministries of Roads and Transport and Interior and National Coordination make public the report of the 2019 Taskforce on Motorcycle Transport Reforms and provide a status of implementation of the recommendations thereto.

Signed by,

A handwritten signature in black ink, appearing to read 'Bernard Mogesa', with a long horizontal flourish underneath.

Dr. Bernard Mogesa PhD, CPM

**Commission Secretary/Chief Executive Officer**



# BODABODA SAFETY ASSOCIATION OF KENYA

TEL: 0713444473  
 Email: info@bak.co.ke  
 Web: www.bak.co.ke

Ref: BAK/M/01/2023

Your Ref.....

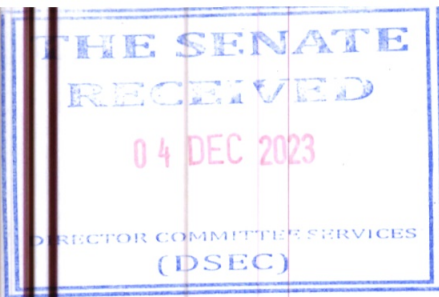
1/11/ 2023

*The Public Transport (Motorcycle Regulation) 860 Bill, 2023- Boda Boda Safety Association of Kenya*

Clause	Description	OUR INPUT	Justification
<b>PART II CLAUSE</b>	Establishment of the County Motorcycle Transport and Safety Board. Composition of the Board.	The board member from the bodaboda sector should not be appointed by the county executive committee as stated. They must be nominated by the association.	The bodaboda sector is well structured from National level, County, sub county, ward and stage level with proper leadership. The association should be allowed to nominate the true bonified chairperson of the bodaboda in the county to be in the board. This will help in avoiding the governor and his team to nominate their friends, people who campaigned for them or cronies. It will give a chance to riders to choose their representative that they trust.
CLUSE 17 (1) (c)	Carriage of Loads.	Delete Clause	This will make our people to be a police target because most loads are past 30kgs even our customers maybe kids are bellow 30kg but most clients are 50 Kgs and above.

**On the same matter we wish to request that the bill recognizes the presence of the association it has been vital in coordinating the bodaboda sector with the national government through providing one link to all the counties, on matters security, safety and economic empowerment.**

**Coordination of other partners and riders and also streamlining of the bodaboda sector in Kenya. The national office MUST be recognized and allowed to coordinate and register riders across the country this will easily help in coordinating the boards in counties and also for ease reference incase a rider moves from one county to another**



## COUNCIL OF GOVERNORS

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Our Ref: COG/6/41 Vol.6 (67)

J.M. Nyegenye  
The Clerk of the Senate  
Parliament Buildings  
Nairobi



1<sup>st</sup> December, 2023

Dear Mr. Nyegenye

DSEC  
Kindly Seal  
04/12/2023

### SUBMISSION OF THE COUNCIL'S POSITION ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023

The above subject matter refers.

3) MR. NGABWA  
Kindly deal  
Robert  
04/12/2023

2) HOD-VK  
Kindly deal  
04/12/2023

The Council of Governors has reviewed the **Public Transport (Motorcycle Regulation) Bill, 2023** and submits as follows:

1. Providing for the regulation of the motor cycle (boda boda) industry as proposed in the Public Transport (Motorcycle Regulation) Bill 2023 is positive and progressive.
2. However, the Council posits that the Bill should be implemented within the constitutional structures in place.
3. Paragraph 5 of Part 2 of the Fourth Schedule of the Constitution assigns county transport, including traffic, parking and public road transport to the county governments
4. Article 179 of the Constitution creates the County Executive Committee as the executive authority in a County.
5. The establishment of the County Motorcycle Transport and Safety Board, whose powers have not been delegated by the County Executive Committee, usurps the constitutional and statutory mandate of the County Executive Committee.
6. Section 21 of the National Transport and Safety Authority Act No. 33 of 2012 establishes the County Transport and Safety Committee whose mandate includes among others to oversee the management and regulation of the transport system at the county level. Therefore, establishing a new Board shall not only lead to conflicting roles but also violate the functional distinctness of national and county governments. The County Transport and Safety Committees have not been operationalized in many counties because of the ambiguity of the status in relation to the powers of the County Governments.

7. Creation of the County Motorcycle Transport and Safety Board is unnecessary and unconstitutional. The Constitution already mandates the County Executive Committee and therefore the County Executive Committee member in charge of transport to discharge the proposed obligations.

This is therefore to request that the Bill is withdrawn for redrafting to align with the distribution of functions between the national government and the county governments.

Please accept our highest esteem and regards.

Yours sincerely,



**Mary Mwit**  
**Chief Executive Officer**

**MEMORANDUM ON THE PUBLIC TRANSPORT  
(MOTORCYCLE REGULATION) BILL 2023**

**PRESENTED TO THE SENATE OF THE THIRTEENTH  
PARLIAMENT**

**SUBMITTED TO CLERK OF THE SENATE**

**P.O BOX 41842-00100, NAIROBI**

**IN THE MATTER OF CONSIDERATION BY THE STANDING  
COMMITTEE ON ROADS, TRANSPORTATION AND  
HOUSING**

**THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION)  
BILL, 2023**

**SUBMITTED BY:**

**MR DAVID KIARIE**

**CHAIRMAN ROAD SAFETY ASSOCIATION OF KENYA**

**LUNGA LUNGA PLAZA, INDUSTRIAL AREA**

**NAIROBI**

**TEL +2547 21858984**

**Email address : [info@roadsafetyassociationofkenya.org](mailto:info@roadsafetyassociationofkenya.org)**

## **1.0 INTRODUCTION**

Road Safety Association of Kenya (hereinafter **RSAK**) is duly registered under the Societies Act and, its objectives are inter alia-- to develop and promote road safety education through education; publicity campaigns, development of training materials and a range of publications focusing on safe road use which will result in the reduction of road accidents in Kenya; To develop a research, analysis and statistics data base on road safety and transport in Kenya; To promote and encourage adherence to laws, rules and regulations governing road use; To assist in the implementation of laws, rules and regulations which pertains to road safety; To examine the analysis of up to data trends of road deaths, injuries and related problems and seek solutions for the same by engaging relevant stakeholders; To submit proposals to the relevant authorities for providing and improving facilities for road users and transport users; To develop and/or promote products and incentives that promotes and improves road safety; To seek technical and financial support for purposes of development of road safety in Kenya; To strengthen and promote the cooperation between stakeholders in the transport industry across Kenya; To organize seminars, meetings and conferences for the better management and development of road safety practices; and To do other things for the advancement of the general safety and awareness of the people of Kenya, and undertake all such activities towards the attainment of the above objects.

The RSAK has reviewed and interrogated The Public Transport (Motorcycle Regulation) Bill 2023. It submits this memorandum in line with its mandate. Further, it responds to the invitation for public participation and submission of memoranda by the Clerk of the Senate vide letter dated 26<sup>th</sup> October, 2023 addressed to its Chairperson.

This memorandum highlights RSAK's select views of the proposals included in the Bill.

## **2.0 BACKGROUND/CONTEXT**

Without doubt bodaboda sector has immensely contributed positively to Kenya's public transport and socio-economic development, however, the sector is unregulated hence some of its members (small percentage) have become rowdy, blatantly violate the traffic rules and engage in crime in many areas.

Kenya has experienced many preventable accidents caused by bodaboda riders due to disobedience of traffic rules which according to some, only applies to motor vehicles users and pedestrians not

knowing that bodabodas are equally road users. There has been an Increase in the numbers of criminals using boda bodas or boda boda like motorcycles to access and escape from crime scenes and boda bodas are used to monitor the situation to prepare for crimes. They are often used in smuggling drugs, illegal arms and other contrabands. Boda boda riders have also been linked to teen pregnancies among school girls they transport. Equally, boda boda operators have also been victims of murderous attacks and brutal killings and thefts of their motorcycles. Motorcycles are stolen and some are dismantled and sold as spare parts in the black-market.

The thriving boda boda sub-sector has also been blamed for increasing road traffic accidents as a result of impunity and violation of laws. Boda boda accidents are frequent owing to risky riding behaviours such as riding while under the influence of alcohol and drugs, poor upkeep of motorcycles and low levels of professional training.

Statistically, boda boda accidents are reportedly among the top ten surgical cases in many Kenyan public hospitals, which is costly both for the patients and the nation in terms of hospital stay, operative costs and rehabilitation.

We opine that this sector is ripe for regulation and this bill is timely. We take the position that the existing regulation are weak and there is a need to cure all gaps existing.

### **3.0 THE ISSUES**

#### **3.1 PART 11 OF THE BILL- REGULATION OF MOTOCYLES**

**Clause 5** of the Bill proposes for the formation and the Composition of the County Motorcycle Transport and Safety Board.

Observation- The membership provided for in clause (f) and (g) does not take care of the gender card.

The Special Interest group being given two slot is a disservice to the stakeholders. We recommend the same to be increased to at least Four (4) drawn from the respective SACCOs or Boda Boda leadership.

**Clause 6** of the Bill proposes the different functions of the Board

Observation- The Board should work closely with stakeholders especially the leadership of the Bodaboda Associations and other Associations such as Road Safety to implement the policies.

**Clause 7** of the Bill proposes for registration of the Commercial Motorcycles with the Board

Observation- The prescribed fees should not be too high to deter our young men from doing Business. The Clause is silent on who sets the fees.

Further, we propose that there exist a national wide data base equivalent to that of NTSA for digital registration. Members of the Public can authenticate the rider details even if they are not members of the specific County. Kenyans move from one county to another and limiting the database to a specific county can disadvantage people visiting from other counties.

**Clause 9** of the Bill proposes for formation of SACCOs by Owners and operators.

Observation – The Bill is silent on who holds the SACCOs accountable. Is it the Board or the NTSA or the Parent Ministry in the National Government bearing in mind cartels can gang up and form a SACCO which monopolises a county.

**Clause 10** of the Bill proposes Training for the riders

Observation- We take cognizance of the fact that training is mandatory for any rider but aware that some riders are drop outs and/or uneducated. The Curriculum design should not be discriminatory rendering some of the drop outs / uneducated Kenyan youths jobless.

We recommend that NYS be allowed to train riders.

**Clause 17** of the Bill Proposes the carriage load width

Observation- The clause makes a general assumption that all roads are of same size. Some County roads are feeder roads while other counties have highways. The width and the weight should be specific to a particular type of road.

This part of the bill is silent on the requirement of monitoring speed for commercial motorcycles both two-wheeled or three-wheeled. Most of our young people are in racing competition at the expense of the passengers.

### **3.2 PART 111-OFFENCES AND PENALTIES**

Observation- The Penalties are comprehensive and exhaustive.

Clause 27 being a blanket clause can be over abused by law enforcement officers.

We recommend for instant fines instead of protracted court cases.

#### **4.0 CONCLUSION AND RECOMMENDATION**

Considering the above observations, RSAK acknowledges that the Public Transport (Motorcycle Regulation) Bill 2023 has presented important reform questions on issues of law and regulation of BodaBoda sector and is timely.

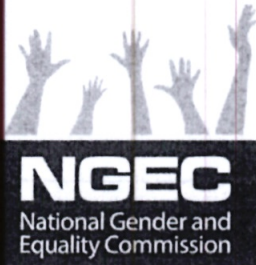
We conclude that boda boda is prominent due to its movement to one's point of convenience and ability to get the operators on call. The opportunities in the industry are immense as witnessed through the economic contributions of bodaboda in the urban and rural areas which include; employment of several youths as riders, emergence of boda boda spare parts shops, boda boda garages and shopping centres, petrol stations, garages and food kiosks which are supported by the industry. The sector **MUST** be regulated to reduce road accidents and health complications to the riders. Regulation will lead to more benefits and engage more youths who would otherwise be idle if the industry collapses hence engage in crime.

#### **4.2 Recommendations**

The Bill has extensively covered recommendations we would have submitted. We do add the following:

- i. Encourage riders to use Cashless money system and technology -For effective transactions to use MPESA for instance. To navigate the terrain and easy access of clients, enroll to platform such as Uber and Bolt. Or encourage respective SACCOs to form an online platform for pitching.
- ii. The respective County Government to offer civic education to all actors in the boda boda industry about their rights and obligations.
- iii. The County Governments should also install street lights and CCTV cameras in their jurisdictions to reduce the occurrence of boda boda criminals.
- iv. The County Governments should also assist the sub-sector by constructing sheds for operators that can also act as points of revenue collection.
- v. Riders be trained by National Youth Service officials.
- vi. SACCOs to be in a National association or Federation.

- vii. Recommended and gazette Speed governors for motorcycles to limit speed to 40km/hr to 50km/hr for commercial motor vehicle.
- viii. We recommend for instant fines instead of protracted court cases.
- ix. Riders to have certificate of good conduct before being cleared by the board upon renewal of the certificate.
- x. Training and testing should employ use of technology to eliminate corruption and human interference.
- xi. Helmets should be customized with the motorcycle's number plate.
- xii. Motor cycles should have number plates in front.



**National Gender and Equality Commission**

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Ref. No. NGEC/CS/NAS/005/VOL.III (124)

30<sup>th</sup> October 2023

**Jeremiah M. Nyegenye, CBS**

Clerk of the Senate

Clerk's Chambers

Parliament Building

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Dear Mr. Nyegenye,

**SUBMISSION OF MEMORANDUM ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL,2023 (SENATE BILL No. 38 OF 2023)**

Reference is made to your call for the submission of memoranda on the Public Transport (Motorcycle Regulation) Bill,2023 (Senate Bill No. 38 of 2023).

The National Gender and Equality Commission (NGEC) is a Constitutional Commission with the mandate of promoting gender equality and non-discrimination for all persons in Kenya, with a focus on Special Interest Groups (SIGs) who include women, children, Persons with Disabilities (PWDs), youth, older members of society and minority and marginalized groups.

Section 8 (b) of the National Gender and Equality Commission Act, No. 15 of 2011 mandates the Commission to, '*monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions;*

In line with its mandate, the Commission presents the attached memorandum analyzing the proposed Bill and making proposals for amendment where necessary.

Yours sincerely,

Betty Sungura, MBS

**COMMISSION SECRETARY/CEO**

Encl.

*"Gender Equality and Non-Discrimination"*



**MEMORANDUM ON THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, 2023 (SENATE BILL No. 38 OF 2023)**

<b>S/NO</b>	<b>Clause</b>	<b>Provisions of the clause</b>	<b>Proposed Amendment</b>	<b>Rationale</b>
<b>1.</b>	<b>Short Title</b>	This Act may be cited as the Public Transport (Motorcycle Regulation) Act, 2023.	<p>A) Propose to amend by inserting after the term “motorcycle” the following “and bicycle”</p> <p>Further propose to amend all the relevant provisions that refer to motorcycles only to include bicycles as well.</p> <p>B) An alternative proposal is to substitute the term “motor cycle” with “Boda boda”.</p> <p>Further amend the interpretation of “Boda Boda” as follows-;</p> <p>“boda boda” includes two-wheel motorcycles, three wheeled motorcycles and bicycles used for commercial purposes</p>	<p>There are some parts of the country where the bicycle is preferable as a means of transport because of the cost factor for both the owner, rider, and passenger.</p> <p>The bicycle boda bodas also need to be regulated.</p>

PART II – REGULATION OF MOTORCYCLES				
2.	<p><b>Clause 4</b> Establishment of the County Motorcycle Transport and Safety Board</p> <p>Composition of the Board</p>	<p>4. There shall be established in every county, a County Motorcycle Transport and Safety Board.</p> <p>5. The Board shall consist of—            (a) a chairperson appointed by the county governor;            (b) the county executive committee member responsible for matters relating to transport;            (c) the county executive committee member responsible for matters relating to finance;            (d) the County Attorney;            (e) the County Police Commander or a representative designated in writing;            (f) four persons appointed by county executive committee member responsible for matters relating to transport; and</p>	<p>Propose to amend sub-clause (d) of the Board by substituting “the County Attorney” with “the county executive committee member responsible for matters relating to youth affairs;</p> <p>Amend clause (f) by substituting the entire clause with “ one person representing the region nominated by the</p>	<p>The proposed amendment in this clause on the membership is in line with the mwongozo code on governance on membership of Boards (7-9)</p> <p>The CEC responsible for youth affairs is proposed because most of the Boda boda riders are youth.</p> <p>The four persons as proposed in the Bill are ambiguous in that there is no criteria for the appointment. The Commission has proposed a regional</p>

			National Transport and Safety Authority”	representative of NTSA who is the regulator of the sector.
		(g) two persons appointed by the county executive committee member responsible for matters relating to transport to represent groups with special interests in the motorcycle transportation industry	Amend by deleting the entire sub-clause (g) by and substituting it with the following “Four persons appointed by the county executive committee member responsible for matters relating to transport representing the youth, persons with disabilities, women, and older members of society, nominated by their respective organizations.  <b>New subclause (h)</b> Amend by inserting a new subclause (h) as follows-; Appointment shall take into consideration gender, youth and persons with disabilities inclusion	The two persons as proposed in the Bill also lack criteria of appointment. The four persons proposed by the Commission represent the special interest groups as both owners, riders and passengers.  To comply with the principles of gender balance and representation of persons with disabilities.
3.	<b>New proposed clauses under part II</b>	Tenure of office, vacancy of office and Qualifications  <b>Tenure of office</b>  <b>Vacancy of office</b>	The Board shall serve a term of three years renewable once	The three provisions have not been included in the proposed Bill.

		<p style="text-align: center;"><b>Qualifications</b></p>	<p>1) The Office of the chairperson or a member of the Board shall become vacant if the holder—</p> <ul style="list-style-type: none"> <li>(a) dies;</li> <li>(b) resigns from office by notice in writing addressed to the Governor or the Committee Executive member responsible for Transport</li> <li>(c) is convicted of a criminal offence and sentenced to a term of imprisonment;</li> <li>(d) completes the term of office;</li> <li>(e) is absent from three consecutive meetings of the committee without good cause;</li> </ul> <p>or ;</p> <ul style="list-style-type: none"> <li>(f) is removed from office on any of the following grounds_</li> <li>(i) gross violation if the Constitution or any other written law;</li> <li>(ii) gross misconduct or behaviour;</li> <li>(iii) incompetence or neglect of duty or bankruptcy</li> </ul> <p>Insert a clause on the qualifications of the chairperson and the members of the Board.</p>	
<b>PART II – REGULATION OF MOTORCYCLES</b>				

4.	<p><b>Clause 7</b> Registration of motorcycle riders</p>	<p>7. (1) No person shall use a motorcycle for commercial purposes in a county unless it is registered in accordance with this Act. (2) A person who wishes to operate a motorcycle for commercial purposes in a county shall register it with the Board (3) An application for registration shall be made to the Board in the prescribed form and shall be accompanied by the prescribed fee (4) The Board shall issue a certificate of registration to the applicant if it is satisfied that the motorcycle meets the requirements prescribed under this Act.</p>	<p>The Commission proposes that commercial motorcycles should be registered by National Transport and Safety Authority instead of the Board.</p> <p>The clause does not provide for instances when the certificate of registration can be revoked.</p>	<p>The functions of the Authority in Section 4 of the NTSA Act include-; 4( c) Plan, manage and regulate the road transport system in accordance with the provisions of this Act; (d) ensure the provision of safe, reliable, and efficient road transport services; and</p> <p>Registration by the Authority will ensure uniformity in the registration criteria and that all Boda Boda cycles are in a centralized database.</p>
5.	<p><b>Clause 8</b> Cross-county recognition of registration</p>	<p>8. (1) Notwithstanding any other provision of this Act, a rider who is registered with a Board in one county shall be recognized as registered by any other Board in any other county. (2) The recognizing board shall recognize the registration of the rider in the same category as the</p>	<p>The purpose of this provision and the implications thereto are not very clear.</p> <p>There is a need to clarify as to whether once registered in a specific county, a rider can operate in any other County of their choice and in the event of</p>	<p>The proposal by the Commission would be that any rider who by one reason or other would want to operate in another county, can get a permit. The Commission has proposed in the alternative in serial No 4 above that the function of</p>

		<p>registering board.</p> <p>(3) The recognizing board may request for any relevant information or documentation from the registering board for the purpose of verifying the registration details of the rider.</p>	<p>an accident or other unlawful acts who will be responsible for this rider.</p>	<p>registration should ideally be handled by NTSA.</p>
6.	<b>Clause 12 Responsibilities of a rider.</b>	<p>12. (1) Every rider of a two-wheeled motorcycle shall—</p> <p>(a) have a valid driving license issued by the Authority;</p> <p>(b) have a certificate of registration issued by the Board;</p> <p>(c) ensure that they shall not ride or carry a person on a motorcycle without the prescribed protective gear properly fastened;</p> <p>(d) not carry more than one person at a time</p> <p>(e) ensure that passengers are carried on a proper seat with foot rests securely fixed to the motorcycle behind the rider's seat;</p> <p>(f) ensure that a passenger sits astride the motorcycle;</p>	<p>Propose to amend subclause (d) by substituting the phrase “person at a time” with “adult passenger at a time save for instances when the circumstances do not permit”</p>	<p>The interpretation of a passenger in the proposed Bill is a person. The Commission submits that it is not safe for a child who is a person and some vulnerable persons (sick ,older frail persons, some form of disability) to be carried as passengers without the support of another passenger.</p> <p>Sitting position is determined by many factors including</p>

			Propose to amend subclause (f) by deleting without any replacement	gender, age, ability, etc and besides the stated factors that should be an individual preference.  These two proposals also appreciate the fact that boda boda transport is the most readily available and affordable means of transport in emergency and medical situations for special interests groups.
7.	<b>Clause 13 Responsibilities of a passenger</b>	13. (1) Every passenger on a two-wheeled motorcycle shall —  (a) properly wear a helmet and reflective jacket whenever being carried; (b) not board or be carried on a motorcycle that already has a passenger except as provided in subsection (2) (a) and Section 16; (c) not board or be carried on a motorcycle that is carrying any load exceeding fifty kilograms; (d) sit astride in the seat fixed behind the rider's seat.	Amend by deleting clause 13(1) (d) without any replacement.	For the same reason given in clause 6 above.

		<p>(2) For the purposes of this Act—</p> <p>(a) a child who is less than nine years old may be carried together with an adult provided the child is seated between the rider and the adult and wears a helmet designed for children;</p> <p>(b) persons with disabilities will be exempted from the requirement to sit astride while being carried on a motorcycle</p>	<p>The Commission proposes the substitution of sub clause 2(a) with the following -;</p> <p>“Young Children and vulnerable persons who are carried together with another adult shall also wear helmets”</p> <p>Propose to delete 2(b) without any replacement</p>	<p>The Bill is not very clear on the assumption that the safety of a child of more than 9 years as a solo pillion passenger is guaranteed. The proposal by the Commission is for all children whose safety will be compromised by being solo passengers.</p> <p>Not all persons with disabilities have a problem with sitting astride as it depends on the category of the disability. However, as indicated in serial No. 6 above, a number of factors will be an impediment to sitting astride including gender, advanced age, pregnancy, faith, beliefs etc besides it being a personal reference</p>
<b>8.</b>	<b>Clause 16 Carriage of passengers</b>	<p>16. (1) A two-wheeled motorcycle rider shall carry only one passenger.</p> <p>(2) A three-wheeled motorcycle rider shall carry only three passengers.</p> <p>(3) The passenger capacity in subsection (1) and subsection (2) shall not include a child who is less than nine years old travelling with an adult passenger</p>	Delete clause 16 without any replacement	The provisions in the proposed clause 16 have already been captured in clauses 12 and 13 above.
<b>PART IV – MISCELLANEOUS</b>				

9.	<b>New proposed clause under part IV</b>	County Legislation	A county government may enact county-specific legislation generally for the better carrying out of the purposes and provisions of this Act	Part 2 of the Fourth Schedule to the Constitution designates public road transport as one of the functional areas of the county government
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**General Comment**

The Commission indeed lauds the step taken in formulating a framework to regulate the boda boda sector. Many riders have turned rogue causing a lot of loss of lives and disabilities to special interest groups and the Commission looks forward to the Bill being passed into law.