



**Submission to the**

**Department of Transport**

**on the**

**National Road Traffic Act, 1996 (act no.93 of  
1996)**

**National Road Traffic Amendment Bill, 2015**

The attempt to reduce the terrible carnage on our roads is a commendable one on the part of the Department of Transport. We acknowledge the problems that alcohol misuse and abuse has caused in our society. Indeed, any measure that would help to reduce road deaths and injuries, would be welcome. However, in trying to do what is right, the Department must not then do what is wrong and unfair, and make the lives of ordinary people even harder than they are. In our view, the proposed amendments to Section 65 of the National Road Traffic Act, 1996, removing all reference to graduated concentrations of alcohol permitted for the safe operation of a motor vehicle, are wrong at this point in time, unfair, misdirected, and have the effect of criminalising ordinary people.

### **1. Lack of Public Transport:**

South Africa has an extremely inadequate public transport network and though the various government administrations have spent a lot of effort, time, and financial resources in improving not just the infrastructure but access, the country is not in any position to claim that the population can travel without dependence on private cars. The extent of the need outside of major cities and especially in rural communities, becomes even more critical.

Mr Logan Maistry, spokesperson for the ministry of Transport, writing in the New Age Newspaper<sup>i</sup>, says that

“The right to movement is a fundamental right. The choice of movement is also a fundamental right. Therefore the right of citizens to reliable and safe public transport cannot be compromised. The commuter is the most important person and mutual respect is of paramount importance.”

He goes on to say that the “... public transport strategy is expected to improve public transport services for more than half the country’s population.”

This means that the ministry of Transport itself recognises that at present the public transport network to more than half the country needs improvement.

The CSIR, in GUIDELINES FOR HUMAN SETTLEMENT PLANNING AND DESIGN, says:

Public transport policy, strategy, planning, operations and management are all currently in a state of flux in South Africa. In the recent past, in most urban areas the focus of public transport bodies was largely the provision of basic services for low-income communities, whose travel choices do not extend to walking, cycling or driving to their destinations. In most medium- to high-income areas, only rudimentary services exist which can barely be considered an alternative to the motor car. Accordingly, public transport services in South Africa have been designed to serve the perceived need to assemble labour from distant suburbs and satellite low-income dormitories, at centralised workplaces. There were, and still are, very few off-peak services. Public transport to serve non-work trip purposes has also been neglected. In recent years, public transport has come to be dominated by minibus taxis, which do not run to schedule and which have tended to follow the line of least resistance through the townships and settlements, in order to give operators the opportunity of maximising the number of journeys, and thus their profits. Service to customers has not been of primary concern.<sup>ii</sup>

Thus it is of grave concern to read the proposed changes to the NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO.93 OF 1996), contained in the NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2015. In particular, the amendment to Section 65, proposing the criminalisation of motorists who

happen to have alcohol in their systems, at levels that at present are considered legal and acceptable, and that do not in any way constitute an impediment to good and safe driving.

The logic in the proposed amendment is that any amount of alcohol in the motorists constitutes a threat to safe and good driving. It is extremely illogical to jump to such a conclusion if at present, according to the department itself, and international norms in most countries, existing alcohol limits have not been shown to be a problem.

“Every single South African should know and understand that our country has one of the worst road safety records in the world, losing over 40 people a day to traffic crashes, with a further 20 being left permanently disabled and several hundred suffering serious injuries. There are approximately 1 million crashes a year in South Africa.”

“Most of these crashes (a reliably estimated at 90% plus) are unnecessary and occur due to law infringement. Government can only do certain things to keep our roads safe, but it is the responsibility of every single citizen to ensure their own, their families and their community safety.”<sup>iii</sup>

If 90% plus of accidents are caused by people breaking the law as it stands, it means that lowering the limit will not reduce the death toll. What will reduce the death toll is the enforcement of the law as it stands at present. Lowering the limits will not achieve any more than just criminalise law-abiding citizens who have negligible and safe levels of alcohol in the body, and who have to travel in many places where there is either rudimentary or non-existent public transport.

## **2. Religious Freedom:**

The right to religious freedom is enshrined in the Constitution, and it would be a tragic day if that right was infringed upon under the guise of road safety. Many religious ceremonies and rituals, including those of the main Christian denominations and African traditional rituals, involve the use of wine and traditional beer taken in very small amounts that are at present considered insignificant to impair a motorists' ability to drive safely and properly. Under the new legislation everyone who partakes of these religious rituals and drives home is committing a criminal offence. Since these are not the persons responsible for the carnage on our roads, why are these people being targeted for criminalisation?

## **3. Medical Treatment and Diet:**

Many over-the counter medicines, foods, and supplements, have varying levels of alcohol in them. Many parents who wake up with these ailments, and take these medications, cannot then drive their children to school or drive to work themselves because they will be committing a criminal offence. Many ordinary people who unknowingly eat or drink many foods and drinks which sometimes ferment naturally, or have trace amounts of alcohol in them, and then drive, will be breaking the law. These persons are not physically impaired to drive safely, and are not the people responsible for the carnage on our roads, so why are they also being turned into criminals, especially since many have no access to the alternative of public transport?

## **4. Criminalisation of Ordinary People:**

If at present over 90% of the carnage on the roads is due to a failure to enforce the law as it stands, why is the Department not focusing its energies on *enforcement of the law* instead of seemingly shifting the responsibility from a lack of serious enforcement to the criminalisation of ordinary people. The argument is also often made that people should use private taxis at night or in places where there is no public transport. This is an insult to many poor people who cannot afford private

taxis and, even more discriminatory, many of these private taxis are reluctant to enter townships to collect or deliver passengers. This means that again the poor in these townships are being marginalised even further. That means that anyone with any trace amounts of alcohol, which at present are legal and acceptable, has to either walk home or remain stuck wherever they are. In a country still struggling with unacceptably high crime rates, this is an unfair, unnecessary, and onerous burden to put on all people.

## 5. Enforce the Present Law:

Since the Department itself recognises that lack of enforcement is the major enabler illegal driving behaviour at present, before anyone asks for a reduction in the present legal alcohol limits, maybe there should be a drive to employ more law enforcement officers, following the '4 E's' in the Road Safety Strategies<sup>iv</sup> :

The 4 E's are:

- heavy and visible ENFORCEMENT;
- EDUCATION to support the enforcement;
- ENGINEERING, involving low cost remediation in hazardous locations, as well as vehicle engineering standards; and
- EVALUATION which is research and data collection

Only after these have been proven to have either been done or to have failed, and there is a reasonable level of reliable public transport, then the question of changing the present levels of blood alcohol levels can be opened. Before that happens, let us not infringe on religious freedom, and let us prevent the criminalisation of ordinary people while the real killers on our roads slip through the net because the present laws are not being enforced rigorously enough.

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For further information please contact

**Matsepane Morare SJ**

[matsepane@cpl.org.za](mailto:matsepane@cpl.org.za)

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<sup>i</sup> [http://www.thenewage.co.za/blogdetail.aspx?mid=186&blog\\_id=%20390](http://www.thenewage.co.za/blogdetail.aspx?mid=186&blog_id=%20390) accessed 01-04-2015

<sup>ii</sup> [http://www.csir.co.za/Built\\_environment/RedBook/Vol\\_I/Chapter\\_05/Chapter\\_05\\_02/Chapter\\_05\\_02\\_Vol\\_I1.pdf](http://www.csir.co.za/Built_environment/RedBook/Vol_I/Chapter_05/Chapter_05_02/Chapter_05_02_Vol_I1.pdf) accessed the 1- 04-2015

<sup>iii</sup> Arrive Alive: Department of Transport. Decade of Action and Arrive Alive: National Road Safety Strategy 2011-2020. Pg 19

<https://www.arrivealive.co.za/documents/road%20safety%20strategy%20for%20south%20africa%202011.pdf>

Accessed 11- 02- 2015.

<sup>iv</sup> Ibid.