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OF
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REPUBLIEK
VAN
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Government Gazette Staatskoerant

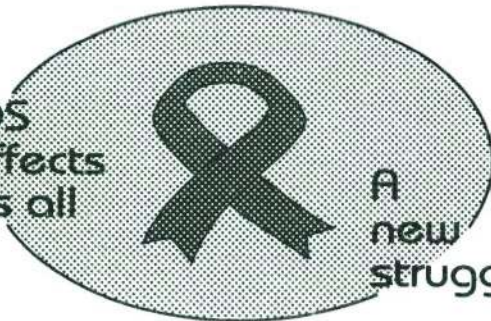
Vol. 419

PRETORIA, 19 MAY 2000
MEI

No. 21188

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DEPARTMENT OF HEALTH

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GENERAL NOTICE

NOTICE 1983 OF 2000

DEPARTMENT OF TRANSPORT DEPARTEMENT VAN VERVOER

PUBLICATION FOR PUBLIC COMMENT: CROSS-BORDER ROAD TRANSPORT AMENDMENT BILL

The draft legislation set out in the schedule hereto, which the Minister of Transport proposes to introduce in Parliament, is hereby published for public comment in compliance with section 154(2) of the Constitution of the Republic of South Africa 1996 (Act no 108 of 1996)

Interested parties are invited to lodge their written comments not later than 15th June 2000 with:

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S.Msikinya
Waarnemende Direkteur Generaal

**PUBLIKASIE VIR OPENBARE KOMMENTAAR: WYSIGINGSONTWERP OP DIE
OORGRENSPADVERVOER**

Die Engelse teks van die wysigingsontwerp in die bylae hierby uiteengesit, wat die Minister 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet no 108 van 1996)

Belanghebbendes word uitgenooi om hulle kommentaar nie later nie as 15 Junie 2000 in te dien by:

Mr F.M Mabena
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REPUBLIC OF SOUTH AFRICA

CROSS-BORDER ROAD TRANSPORT AMENDMENT BILL

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

(MINISTER OF TRANSPORT)

[B -2000]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINSWETSONTWERP OP DIE OORGRENSPADVERVOER

(Soos ingedien in die Nasionale Vergadering as 'n artikel 76-wetsontwerp)
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)

(MINISTER VAN VERVOER)

[W -2000]

GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), so as to amend four definitions; to provide anew for the appointment of the National Road Transport Inspectorate by the Chief Executive Officer; to provide anew for the representation of the Board including the criteria for the determination of board members who should vacate office after the 18 months period.

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

Amendment of section 1 of the Cross-Border Road Transport Act, 1998

1. Section 1 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

(a) by the substitution for the definition of "foreign carrier" of the following definition:

"**'foreign carrier'** means a carrier [who undertakes cross-border road transport] with a vehicle which is registered in a state other than the Republic.";

(b) by the substitution for the definition of "reward" of the following definition:

"**'reward'** means compensation of any nature whatsoever in cash or in kind received for the transport of passengers or received in terms of a contract concluded for the hiring of a vehicle and a driver or the hiring of a vehicle and the separate hiring of a driver."

(c) by the substitution for the definition of "vehicle" of the following definition:

"**'vehicle'** means :-

(a) in relation to cross-border freight road transport, any mechanically propelled road vehicle-

(i) which is constructed, adapted or used for the carriage of freight, excluding a semi-trailer and a trailer in the case of [an articulated

- vehicle]** a combination of vehicles; and
- (ii) which either by itself or as part of **[an articulated vehicle]** a combination of vehicles exceeds a maximum gross mass of 3 500kg;
- (b) in relation to cross-border passenger road transport, any mechanically-propelled road vehicle which is constructed or adapted for the conveyance of passengers or any other vehicle which is used to convey passengers; and
- (c) in relation to cabotage, any mechanically-propelled road vehicle and, in the case of **[an articulated vehicle]** a combination of vehicles, also a trailer and a semi-trailer."
- (d) by the substitution for the definition of "cabotage" of the following definition:
- "cabotage"** means transport undertaken on a public road by a foreign carrier with a vehicle which involves—
- (a) the unloading **[or]** and offloading of freight or passengers within two points in the Republic; or
- (b) the unloading of freight or passengers in the Republic for conveyance to a third state which is not the state of registration of the vehicle used for such transport and where such state of registration is not traversed;

Amendment of section 5 of the Cross-Border Road Transport Act, 1998

2. Section 5 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by deletion of subsection (2) and by substitution of same by the following:
- "(2) (a) The Board consists of seven (7) members of whom six (6) must be appointed by the Minister. The seventh member is the Chief Executive Officer by virtue of holding that office.
- (b) The members to be appointed are the Chairperson and the Deputy Chairperson, who

- must be fit and proper persons with experience in cross-border road transport industry and the four additional members of whom—
- (i) one must not be employed by the State and who is fit on account of his technical expertise in the cross-border road transport of freight.
 - (ii) one must not be employed by the State and who is fit on account of his technical expertise in the cross-border road transport of passengers.
 - (iii) two must have special qualifications, skills, expertise or experience in cross-border road transport industry, labour and consumer sector.
- (3) Prior to the appointment of a person to the Board, the Minister must—
- (a) by notice in the *Gazette*, publish his or her intention to appoint that person and invite public comment or objections within the period specified in the notice; and
 - (b) take into account any comment or objection received by him or her in accordance with such notice.
- (4) The Minister may nominate a representative to participate in a non-voting capacity in the deliberations of any meeting of the Board or the Regulatory Committee."

Amendment of section 7 of the Cross-Border Road Transport Act, 1998

3. Section 7 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by substitution of the letter (c) after the word "paragraph" in paragraph (a) of subsection (2) with (b);
- (b) by deletion of paragraphs (b) and (c) of subsection (2) and substitution of same by the following:

"(b) Four members of the Board referred to in section 5(3)(a), (b) and (c) may subject to the recommendations of the Chairperson and Deputy Chairperson of the Board vacate their offices every 18 months."

Amendment of section 14 of the Cross-Border Road Transport Act, 1998

4. Section 14 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by deletion of paragraph (c) of subsection (1).

Amendment of section 33 of the Cross-Border Road Transport Act, 1998

5. Section 33 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by the substitution for subsection (1) for the following subsection:
"(1) The Regulatory Committee **[must]** may, before considering any application for the granting, renewal[, **transfer**] or amendment of a permit issued for either three months, six months or one year authorising cabotage or for granting, renewal[, **transfer**] or amendment of a three months, six months or one year permit for cross-border passenger road transport, publish in the *Gazette* the particulars of any application as may be prescribed and invite any person to make representations in the manner and within the time prescribed, in respect of such application, except where the agreement provides otherwise and subject to the provisions of subsection (2)."

Amendment of section 37 of the Cross-Border Road Transport Act, 1998

6. Section 37 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by the substitution for subsection (1) for the following subsection:
"(1) The **[Board]** Chief Executive Officer must appoint the National Road Transport inspectorate, consisting of the National Road Transport Inspectors."

Amendment of section 38 of the Cross-Border Road Transport Act No. 4 of 1998

7. Section 38 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), is hereby amended—

- (a) by the substitution for paragraph (h) of subsection (1) for the following subsection:
"(h) impound a vehicle which is reasonably suspected of being or having been used for **[cross-border road transportation]** unauthorised transport contrary to the Act or an agreement ;"

Short title

8. This Bill shall be called the Cross-Border Road Transport Second Amendment Bill and shall come into operation upon date of publication in the *Gazette*.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WETSONWERP

Tot wysiging van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), ten einde vier definisies te wysig; opnuut voorsiening te maak vir die aanstelling van die nasionale Padvervoerinspektoraat deur die Hoof- Uitvoerende Beampte; opnuut voorsiening te maak vir die samestelling van die Raad insluitende die kriteria vir die aanstelling van lede van die Raad wie hulle ampte elke 18 maande moet ontruim.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:-

Wysiging van artikel 1 van die Wet op Oorgrenspadvervoer, 1998

1. Artikel 1 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

(a) deur die omskrywing van "buitelandse karweier" deur die volgende omskrywing te vervang:

" **'buitelandse karweier'** 'n karweier [**wat oorgrenspadvervoer onderneem**] met 'n voertuig wat in 'n ander staat as die Republiek geregistreer is;"

(b) deur die omskrywing van "vergoeding" deur die volgende omskrywing te vervang:

" **'vergoeding'** vergoeding van enige aard, hetsy in geld of in natura, of enige vergoeding wat ontvang word ingevolge 'n kontrak wat gesluit is vir die huur van 'n voertuig en 'n bestuurder of die huur van 'n voertuig en die afsonderlike huur van 'n bestuurder;"

(c) deur die omskrywing van "voertuig" deur die volgende omskrywing te vervang:

“ ‘voertuig’-

- (a) met betrekking tot die oorgrenspadvervoer van goedere, enige meganiese aangedrewe padvoertuig-
 - (i) wat gebou of aangepas is of gebruik word vir die vervoer van goedere, behalwe ‘n leunwa en ‘n sleepwa in die geval van ‘n **[geartikuleerde voertuig]** kombinasie van voertuie; en
 - (ii) wat óf op sy eie óf as deel van ‘n **[geartikuleerde voertuig]** kombinasie van voertuie ‘n maksimum bruto massa van 3 500 kg oorskry;
- (b) met betrekking tot die oorgrenspadvervoer van passasiers, enige meganiese aangedrewe padvoertuig wat gebou of aangepas is vir die vervoer van passasiers of enige ander voertuig wat vir die vervoer van passasiers gebruik word; en
- (c) met betrekking tot cabotage, enige meganiese aangedrewe padvoertuig, en in die geval van ‘n **[geartikuleerde voertuig]** kombinasie van voertuie ook ‘n leunwa en ‘n sleepwa;”
- (d) deur die omskrywing van “cabotage” deur die volgende omskrywing te vervang:

“ ‘cabotage’ vervoer wat met ‘n voertuig op ‘n openbare pad deur ‘n buitelandse karweier onderneem word, wat behels dat-

 - (a) goedere of passasiers tussen twee punte in die Republiek op- **[of]** en afgelaai word;”

Wysiging van artikel 5 van die Wet op Oorgrenspadvervoer, 1998

2. Artikel 5 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig-

- (a) deur subartikels (2) en (3) deur die volgende subartikels te vervang:
 - “(2) (a) Die Raad bestaan uit sewe (7) lede van wie ses (6) deur die Minister aangestel moet word. Die sewende lid is die Hoof-Uitvoerende Beamppte ampshalwe.
 - (b) Die lede wat aangestel moet word is die Voorsitter en die Adjunkvoorsitter, wie geskikte persone moet wees met ervaring in die oorgrenspadvervoerbedryf en die vier addisionele lede van wie-
 - (i) een persoon op grond van sy/haar tegniese kundigheid in die oorgrenspadvervoer van goedere
 - ‘n geskikte persoon is en wat nie in diens van die

Staat is nie:

- (ii) een persoon op grond van sy/haar tegniese kundigheid in die oorgrenspadvervoer van passasiers 'n geskikte persoon is en wat nie in diens van die Staat is nie;
- (iii) twee persone met spesiale kwalifikasies, vaardigheid, deskundigheid of ervaring in die oorgrenspadvervoerbedryf asook die arbeid- en verbruikersektor.

Wysiging van artikel 7 van die Wet op Oorgrenspadvervoer, 1998

3. Artikel 7 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

- (a) deur die letter (c) na die woord “paragraaf” in paragraaf (a) van subartikel 2 deur die letter (b) te vervang;
- (b) deur paragrawe (b) en (c) van subartikel (2) deur die volgende paragraaf te vervang:

“(b) Vier lede van die Raad verwys na in artikel 5(3)(a), (b) en (c) mag, onderhewig aan die aanbevelings van die Voorsitter en Adjunkvoorsitter van die Raad, hulle ampte elke 18 maande ontruim.”

Wysiging van artikel 14 van die Wet op Oorgrenspadvervoer, 1998

4. Artikel 14 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

- (a) deur paragraaf (c) van subartikel (1) te skrap.

Wysiging van artikel 33 van die Wet op Oorgrenspadvervoer, 1998

5. Artikel 33 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Reëlingskomitee **[moet] kan**, alvorens enige aansoek oorweeg word om die toestaan, hernuwing**[, oordrag]** of wysiging van 'n cabotage-permit vir òf drie maande òf ses maande òf een jaar, of om die toestaan, hernuwing**[, oordrag]** of wysiging van 'n permit van drie maande, ses maande of 'n jaar vir die oorgrenspadvervoer van passasiers, die besonderhede van enige aansoek soos voorgeskryf in die Staatskoerant publiseer en enige persoon uitnoui om op die voorgeskrewe wyse en binne die

voorgeskrewe tydperk kommentaar te lewer op sodanige aansoek, behalwe waarneer 'n ooreenkoms anders bepaal en behoudens die bepalings van subartikel (2).”

Wysiging van artikel 37 van die Wet op Oorgrenspadvervoer, 1998

6. Artikel 37 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die nasionale Padvervoerinspekteurs, word deur die [Raad] Hoof-Uitvoerende Beampte aangestel.”

Wysiging van artikel 38 van die Wet op Oorgrenspadvervoer, 1998

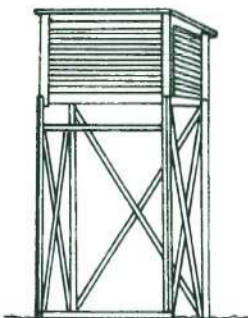
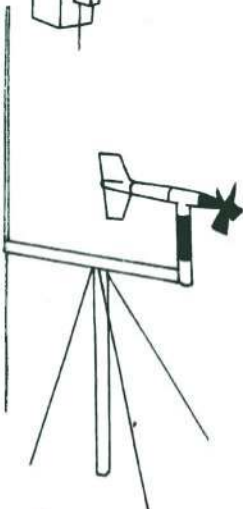
7. Artikel 38 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998), word hierby gewysig—

(a) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:

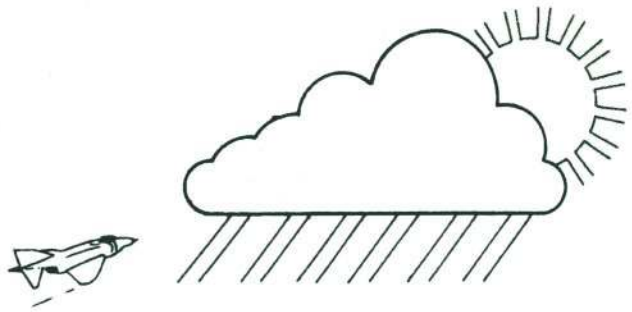
“(h) beslag lê op 'n voertuig indien redelikerwys vermoed word dat sodanige voertuig gebruik word of gebruik is vir [oorgrenspadvervoer] ongemagtigde vervoer wat strydig is met die Wet of 'n ooreenkoms.

Kort titel

8. Hierdie Wetsonderwerp word die Tweede Wysiging van die Oorgrenspadvervoer genoem en sal inwerking tree op datum van die publikasie daarvan in die *Staatskoerant*.

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