Bill for Introduction into the National Assembly—

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THE TRAFFIC (AMENDMENT) BILL, 2014

A Bill for

AN ACT of Parliament to amend the Traffic Act
(Cap. 403)

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Traffic (Amendment) Act, 2014.

2. Section 42 of the Traffic Act (hereinafter referred to as “the Principal Act”) is amended by inserting the following new subsections immediately after subsection (3)—

“(3A) A person shall not drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive, any vehicle at a speed exceeding thirty kilometres per hour on any road within the boundaries of—

(a) a nursery, primary or secondary school;

(b) an institution where children reside or normally access by children;

(c) a public playing ground which is normally accessed by children;

(d) an area used by children when crossing to and from school; or

(e) any health facility.

(3B) The highway authority shall—

(a) erect and maintain traffic signs as prescribed in the Act so as plainly to indicate to drivers entering or leaving such roads or areas referred to under subsection (3A) where the thirty kilometres per hour speed limit restriction begins and ends;
(b) erect, construct and maintain speed limiting road design features such as speed bumps or rumble strips, and traffic circles on the roads referred to under subsection (3A) at the areas specifically designated for pedestrian crossing or on any road within a built up area or any section of a road where forward visibility is short;

(c) ensure that traffic routes in the vicinity of nursery, primary or secondary schools and those giving access to the schools are planned, designed, equipped and maintained with safety features such as wide pavements, footpaths, cycle-tracks, roadside barriers, pedestrian crossings and underpasses and footbridges with appropriate signs and markings; and

(d) ensure that there are no man-made or natural obstructions, including stationary vehicles on roads and parking areas in the vicinity of schools that might block children’s view of the road and vehicles travelling along it, or drivers’ view of children.

3. The principal Act is amended in section 43 by—

(a) deleting subsection (1) and substituting therefor the following new subsection—

“(1) A person who contravenes section 42 shall be liable to a fine as stipulated in the First Schedule”;

(b) inserting the following new subsections immediately after subsection (1)—

“(1A) A police officer shall serve upon the person driving or in charge of a vehicle and who commits an offence under section 42, with a police notification of traffic offence in the prescribed form charging the person of having committed the offence under the section.
(1B) The police notification served under subsection (1A) shall require the person to attend court to answer such charge as may be preferred within forty eight hours of service of the notification.

(1C) The procedure stipulated under section 117 (4), (5), (6), (7), (8), (9) and (10) shall apply to this section."

4. The principal Act is amended by inserting the following new section immediately after section 105A—

**105B.** (1) A person or institution shall not designate or use a vehicle for transporting children to and from school or school or non-school related activity unless the vehicle meets the prescribed standards.

(2) Notwithstanding subsection (1), a vehicle designated for transporting children to or from school or for any non-school related activity when they are in a group shall be fitted with the prescribed child safety equipment, design safety features or structures.

(3) The child safety equipment, design features and structures referred to in subsection (1) shall be in accordance with the prescribed standards.

(4) A person who, carries or permits another person to carry a child under the age of eight years, on board a vehicle shall ensure that—

(a) the vehicle is fitted with the prescribed child restraint device or seat; and

(b) the child is always placed in the device or seat whenever on board a vehicle in accordance with the prescribed instructions or guidelines.
(5) The child restraint device or seat stipulated under this section shall be in accordance with the prescribed standards.

(6) The Cabinet Secretary shall prescribe—

(a) the maximum number of children that a vehicle designated for transporting them to and from school can carry, depending on the class of the vehicle;

(b) for continuous inspection of vehicles transporting children;

(c) for specialised instructions to be provided and undertaken by any person driving a vehicle for children transport.

(7) A person who contravenes this section commits an offence and shall be liable to a fine of fifty thousand shillings or to imprisonment for a term not exceeding two months or to both.

(8) Notwithstanding subsection (7), a person who being the owner, manager, teacher of a school or a driver of a vehicle transporting children, who authorizes or permits the use of a vehicle used for transporting children or is negligent to prevent contravention with this Act commits an offence and shall be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding two months or to both.

5. The principal Act is amended by—

(a) inserting the following new Schedule immediately before the existing Schedule—
<table>
<thead>
<tr>
<th>Description of offence</th>
<th>Fine (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeding Speed Limit -</td>
<td></td>
</tr>
<tr>
<td>By 5 to 10 Kph</td>
<td>10,000</td>
</tr>
<tr>
<td>By 11 to 20 Kph</td>
<td>15,000</td>
</tr>
<tr>
<td>By 21 to 30 Kph</td>
<td>20,000</td>
</tr>
<tr>
<td>By 31 Kph or more</td>
<td>25,000</td>
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</tbody>
</table>

(b) renaming the existing Schedule as the Second Schedule.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Traffic Act (Cap. 403) to make provision for the safety of children on roads around learning institutions or when using school transport.

The Bill seeks to regulate the speed of vehicles around schools in order to protect children when crossing the road to or from school. It imposes an obligation on the highway authority to ensure that there are effective measures around schools to ensure safety of children from motor vehicles.

The Bill further seeks to prescribe fixed statutory penalties for offences related to speed. It proposes maximum penalties depending on the level at which one exceeds the prescribed speed limit. It is intended that this will improve efficiency in the enforcement of offences related to speed as well as reduce corruption.

The Bill also seeks to provide for safety of children in motor vehicles used for school transport. This is intended to ensure safety of children when being transported to and from school in motor vehicles designated for school transport.

The Bill delegates the power to prescribe standards to the Cabinet Secretary.

This Bill does not concern county governments and neither does it affect the powers and functions of county governments as set out in Part 2 of the Fourth Schedule to the Constitution.

The Bill shall not occasion additional expenditure of public funds.

Dated the 30th July, 2014.

JOSEPH LEKUTON,
Member of Parliament