



CAG

Citizen consumer and civic Action Group

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October 14, 2024

Shri Pankaj Agrawal
Secretary
Ministry of Road Transport and Highways (MoRTH)
Government of India
Transport Bhawan, 1, Parliament Street
New Delhi-110 001.

Dear Sir,

Sub: Comments on the proposed amendments to the Motor Vehicles Act 1988, for your kind consideration.

I am writing on behalf of Citizen consumer and civic Action Group (CAG). CAG is a 39-year-old non-profit and non-political organisation that works towards protecting citizens' rights in consumer and environmental issues and promoting good governance processes including transparency, accountability and participatory decision making.

CAG has been working in the road safety domain and sustainable transportation sector for the past many years. We are also a part of pan India network working on road safety, the Road Safety Network, which has been employing multiple approaches including policy intervention and advocacy, citizen awareness, media engagement, and independent research to address the complex road safety crisis.

In response to the draft of the proposed amendments to the Motor Vehicles Act 1988, we have given our suggestions and comments that we believe will help in improving road safety in India. It is attached with this cover letter in the requested format.

We are hopeful that our suggestions will be favourably considered. We look forward to hearing from you.

Thanking you,

Regards,

S. Saroja
Executive Director



Trustees

Mr. K. Ashok Vardhan Shetty IAS (Retd)
Dr. George S. Thomas (Orthopaedic Surgeon)
Dr. R. Hema (Associate Professor)

Dr. C. Rammanohar Reddy (Economist and Editor)
Dr. Sandeep Murali (General Surgeon)
Mr. Sriram Panchu (Senior Advocate)
Dr. Suchitra Ramkumar (Doctor and Teacher)

Advisors

Mr. N.L. Rajah (Senior Advocate)
Ms. Tara Murali (Architect)

Stakeholder Comments On The Proposed Amendments To The Motor Vehicles Act, 1988("MV Act")

Name Of Stakeholder: Citizen consumer and civic Action Group (CAG)

Date: 14/10/2024

Risk Factor related Provisions

1. Sr. No.	2. Section Number	3. Comment/ Suggestion	4. Rationale For Comment/Suggestion	5. Suggested Change
1.	Section 112.	<p>It is proposed to maintain the status quo and develop scientific guidelines for deciding speed limits. Further, two proposed amendments to Section 112 seek to:</p> <p>(1) enable policymakers to include the consideration of road type in addition to the vehicle type, for the determination of speed limits.</p> <p>(2) empower the central and state governments to frame scientific speed limit</p>	<p>While it is good practice to consult all relevant stakeholders, the draft insertion seems to interfere with the powers of the State.</p> <p>Road Transport is a State subject and regulation of speed limits falls under the purview of the State Government, irrespective of a state or national highway. Moreover, there is no time period or procedure defined for such consultation. It is also not clear whether concurrence is mandatory for speed limits to be fixed or revised. As this is a governance related aspect between State Government and Highway , the nature of such consultation can be covered by guidelines if needed.</p> <p>Further, the two further amendments are proposed to Section 112 that seek to:</p> <p>(1) enable policymakers to include the consideration of road type in addition to the vehicle type, for the determination of speed</p>	<p>Section 112. Limits of speed.—</p> <p>(1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle under this Act or by or under any other law for the time being in force:</p> <p>Provided that such maximum speed shall in no case exceed the maximum fixed for any motor vehicle or class or description of motor vehicles and for any road type or class or description of roads, by the Central Government by notification in the Official Gazette.</p> <p>Provided further that the maximum speed limits shall be fixed in accordance with the scientific guidelines prescribed by the Central Government in this behalf, in</p>

		<p>guidelines for determining speed limits under their jurisdiction.</p> <p>By scientific guidelines, it is meant that differential speed limits may be set for different types of roads/vehicles keeping in mind global best practices and local context.</p> <p>(3) “in consideration of public safety” is added to stress that the guidelines should use this as a guiding principle.</p> <p>(4) “or convenience” deleted since the primary consideration ought to be safety given that over 70% of crashes, fatalities and injuries are attributed to speeding.</p>	<p>limits.</p> <p>(2) empower the central and state governments to frame scientific speed limit guidelines for determining speed limits under their jurisdiction.</p> <p>(3) “in consideration of public safety” is added to stress that the guidelines should use this as a guiding principle.</p> <p>(4) “or convenience” deleted since the primary consideration ought to be safety given that over 70% of crashes, fatalities and injuries are attributed to speeding.</p>	<p>consideration of public safety.</p> <p>(2) The State Government or any authority authorised in this behalf by the State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety for convenience or because of the nature of any road or bridge, by notification in the Official Gazette, and by causing appropriate traffic signs to be placed or erected under section 116 at suitable places, fix such maximum speed limits or minimum speed limits as it thinks fit for motor vehicles or any specified class or description of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads:</p> <p>Provided that no such notification is necessary if any restriction under this section is to remain in force for not more than one month.</p> <p>Provided further that the maximum or minimum speed limits shall be fixed in accordance with scientific guidelines prescribed by the State Government in this behalf.</p> <p>Explanation: For the purposes of this section, scientific guidelines mean</p>
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				<p>protocols prescribing differential speed limits for different types of roads characteristics such as habited and inhabited, insections and junctions amongst others, keeping in mind global best practices and local context.</p> <p>...</p>
2.	Section 183.	<p>It is proposed to add an amendment to include other vehicle types such as two-wheelers, three-wheelers and quadricycles within the ambit of Section 183.</p> <p>Enhanced penalties are also proposed based on the quantum of speed violation.</p>	<p>Section 183 provides for the penalties for violation of speed limits but after the amendment in 2019, two-wheelers, three-wheelers and quadricycles have been left out of the scope of penalties.</p> <p>44.5% of the total fatalities involved two-wheeler users in 2022 as per MoRTH data.</p> <p>Due to this policy gap, the penalty for speeding by two-wheelers or three-wheeled motor vehicles is either not imposed or lighter penalties under Section 177 or Section 177A are imposed.</p> <p>Speed limits may also be imposed by other sections of the Act, such as s.118 under the Motor Vehicles (Driving) Regulations (such as in a work, hospital or school zone), or s.129 (limits on speed of vehicles carrying children).</p> <p>Enhanced penalties are also proposed based on the quantum of speed violation.</p>	<p>Section 183. Driving at excessive speed, etc.—</p> <p>(1) Whoever, drives or causes any person who is employed by him or subjects someone under his control to drive a motor vehicle in contravention of the speed limits referred to in section 112, section 118, section 129 or any other provision of this Act in this regard, shall be punishable in the following manner, namely:--</p> <p>(i) where such motor vehicle is a light motor vehicle category 1 or light motor vehicle category 2 or a motorcycle or a three-wheeled motor vehicle, with fine which shall not be less than one thousand rupees but may extend to two thousand rupees in case the excessive speed is less than 20 percent over the posted speed limit, and shall not be less than two thousand rupees but may extend to four thousand rupees in case the excessive speed is more than 20 percent but less than 40 percent over the posted speed limit, and shall be five thousand rupees in case the excessive speed is more than 40</p>

				<p>percent over the posted speed-limit;</p> <p>(ii) where such motor vehicle is a medium goods vehicle or a medium passenger vehicle or a heavy goods vehicle or a heavy passenger vehicle with fine which shall not be less than two thousand rupees, but may extend to four thousand rupees in case the excessive speed is less than 20 percent over the posted speed limit, and shall not be less than four thousand rupees but may extend to ten thousand rupees in case the excessive speed is more than 20 percent but less than 40 percent over the posted speed limit, and shall be twenty thousand rupees in case the excessive speed is more than 40 percent over the posted speed limit; and</p> <p>(iii) for such motor vehicle as may be notified by the Central Government, other than those specified under sub-clause (i) and sub-clause (ii), with penalty which shall not be less than five hundred rupees but may extend to thousand rupees; and</p> <p>(iii)(iv) for the second or any subsequent offence under this sub-section the driving licence of such driver shall be impounded as per the provisions of the sub-section (4) of section 206.</p>
3.	Section 185.	It is proposed to include a more stringent BAC level for young novice drivers compared to the general	Section 185 applies a flat threshold of 30 mg per 100 ml. It treats all drivers equally irrespective of their driving experience and age despite several studies consistently indicating that inexperienced and young people are at a far higher risk for accidents	<p>Section 185 Driving by a drunken person or by a person under the influence of drugs—Whoever, while driving, or attempting to drive, a motor vehicle, —</p> <p>(a) of 25 years and above, has, in his blood,</p>

		<p>population as per WHO recommendations to curb drunk driving incidents among young novice drivers.</p>	<p>(compared to experienced adults) due to several factors:</p> <ol style="list-style-type: none"> 1. They are more likely to make critical decision errors that could result in a fatal crash due to inexperience. 2. They tend to engage in risky behaviours such as speeding . 3. They are more susceptible to distractions. <p>According to MoRTH, in 2022 drunk driving was responsible for 10,080 accidents, 8,809 injuries and 4,201 deaths - an increase of 10.2%, 26.8% and 17.3% respectively, compared to 2021. While data on drunk driving fatalities by age group is lacking, it is noteworthy that drivers aged 18 to 25 accounted for the third highest number of road fatalities at 19.8% (33,350) in 2022, marking them as a significant risk group.</p> <p>The overlap between the legal driving age (18 years) and the legal drinking age (18-25 years) in India means that young, inexperienced drivers, whose bodies and brains are still adapting to alcohol, are on the roads. This poses a risk to both themselves and other road users.</p> <p>Hence a proposal to implement a stricter blood alcohol level (of less than 20 mg alcohol per 100 ml of blood) for young drivers (ages 18 to 25 as it falls into both categories of young and inexperienced</p>	<p>alcohol exceeding 30 mg. per 100 ml. of blood or between the ages of 18 and 25, has, in his blood, alcohol exceeding 20 mg. per 100 ml. of blood detected in a test by a breath analyser, or in any other test including a laboratory test, or</p> <p>(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle.</p> <p>Shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine of ten thousand rupees, or with both; and for a second or subsequent offence, with imprisonment for term which may extend to two years, or with fine of fifteen thousand rupees, or with both.</p> <p>Explanation.—For the purposes of this section, the expression “drug” means any intoxicant other than alcohol, natural or synthetic, or any natural material or any salt, or preparation of such substance or material as may be notified by the Central Government under this Act and includes a narcotic drug and psychotropic substance as defined in clause (xiv) and clause (xxiii) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985.'</p>
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			drivers) is suggested in line with WHO's suggested standards for young novice drivers.	
4.	Section 194B.	<p>It is proposed to remove the option between safety belt or child restraint systems for children under 12 years of age.</p> <p>As per WHO recommendations, the proposed amendment prescribes enforceable provisions for the use of a CRS, using both an age and height limits. It also clarifies that this provision is not applicable to motor cycles, removing any ambiguity.</p>	<p>Section 194B(2) requires all children below the age of 14 to be secured by means of a safety belt (seatbelt) or a child restraint system (CRS) in every motor vehicle. The section is in contravention to the Rule 138(6) of the Central Motor Vehicle Rules that states that "On and after 1st April 2016, the driver of motor vehicle of M1 category, manufactured on and after 1st October 2014, excluding transport vehicles and special purpose vehicles shall ensure that a child, up to age of twelve years, carried in the vehicle is seated in an appropriate child restraint system conforming to AIS: 072-2009".</p>	<p>Section 194B. Use of safety belts and the seating of children:-</p> <p>(1) Whoever drives a motor vehicle other than a motor-cycle without wearing a safety belt or carries passengers not wearing seat belts shall be punishable with a fine of one thousand rupees: Provided that the State Government, may by notification in the Official Gazette, exclude the application of this sub-section to transport vehicles to carry standing passengers or other specified classes of transport vehicles.</p> <p>(2) Whoever drives a motor vehicle other than a motor-cycle or causes or allows it to be driven with a child who, not having attained the age of twelve years or not having attained a height of 150 cm, whichever is lesser, is not secured by a safety-belt-or child restraint system of a standard as prescribed by the Central Government, shall be punishable with a fine of one thousand rupees.</p> <p>Explanation - "Child restraint system" means any device that is, – (a) designed for use in a motor vehicle to restrain, seat, or position children in the rear seat; and (b) prescribes the age, weight, height and facing position mandates for the use of</p>

				such a device.
5.	Section 194G	It is proposed to expand the provision to include other vehicles which are being used to transport school children as well.	<p>There is a major gap in defining and regulating other vehicles such as auto-rickshaws which also transport school children. These vehicles are currently excluded from the ambit of the provision.</p> <p>Further, introducing the terms school bus and school vans is unnecessary as the same is adequately covered under the proposed amended definition of educational institution vehicle.</p>	<p>194G. Punishment for offences relating to school bus, school van, or educational institution bus vehicle—</p> <p>Whoever drives, causes or allows to be driven, a school bus or a school van or an educational institution bus or any other vehicle that is being used as school transport or such other vehicle as may be notified by the Central Government, while transporting students or staff of a college, school or other educational institution, in contravention of the provisions of this Act shall be punishable with twice the penalty or fine corresponding to that offence under this Act.</p> <p>Explanation 1: For the purposes of this section, school bus means a vehicle with a seating capacity of thirteen passengers and above excluding driver designed and constructed specially for school going children.</p> <p>-</p> <p>Explanation 2: For the purposes of this section, school van means a vehicle as defined under AIS:204.</p>

Other Provisions having Significant Safety Implications

1. Sr. No.	2. Section Number	3. Comment/ Suggestion	4. Rationale For Comment/Suggestion	5. Suggested Change
6.	Section 2.(11)	There is a major gap in defining and regulating other vehicles which also transport school children. These vehicles are excluded from the current definition.	It is proposed to expand the definition to include all vehicles which are used to transport school children.	2.(11) "Educational institution bus vehicle" means an omnibus any motor vehicle constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf, to carry more than six persons excluding the driver, which is owned or leased or hired by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities; Provided further, that any motor vehicle that is being used to transport children of an educational institution, including privately organised vehicles, shall fall under this definition for the duration of use of such motor vehicle for the said purpose.
7.	Section 2.(17)	Status quo should be maintained regarding the definition so far as it relates to motor cars.	In the interest of public safety, it is proposed that the definition should contain within its scope motor cars.	2.(17) "heavy passenger motor vehicle" means any public service vehicle or private service vehicle or educational institution bus or omnibus any motor vehicle constructed or adapted to carry more than six persons excluding the driver, the gross vehicle weight of any of which,or a motor car the unladen weight of which, exceeds 12,000 kilograms;
8.	Section	This is a welcome	The rationale for including design speed for	2.(42B)-three-wheeled motor vehicle-

1. Sr. No.	2. Section Number	3. Comment/ Suggestion	4. Rationale For Comment/Suggestion	5. Suggested Change
	2.(42B)	step as three-wheeled motor vehicles are required to be given consideration for provisions such as speeding and use of seat-belts. However, it is proposed to delete the qualifier of maximum design speed in the definition of three-wheeled motor vehicle.	the definition of three-wheeled motor vehicles is not clear. For all other vehicle types, only weight, passenger capacity or engine capacity is considered for definition.	“three-wheeled motor vehicle” means a motor vehicle with three wheels symmetrically arranged in relation to longitudinal median plane with such engine cylinder capacity or such power, as the case may be, as may be prescribed by the Central Government and a maximum design speed exceeding fifty kilometre per hour;
9.	Section 7.	<p>The intent appears to be that a person seeking to drive a transport vehicle of LMV-1 category is required to possess an LMV-1 non-transport vehicle licence for one year. Similarly, for driving a transport vehicle of LMV-2 category or higher, a LMV-2 licence for non-transport category should be possessed for one year.</p> <p>However, the proposed provision has a drafting lacuna where it fails to state in the precursor condition i.e. the requirement of specifically possessing a non-transport vehicle licence for one year.</p> <p>Moreover, there seems to be a gap in transition from LMV1 licence to LMV2 licence in light of the proposed draft of Section 9(6) “Provided also that a person who has passed a test in driving a light motor vehicle category 2 shall be deemed also to have passed a test in driving a light motor vehicle category 1.”</p> <p>Therefore, a clarification is sought for the difference between the licence provision for LMV1 and LMV2.</p>		<p>Section 7. Restrictions on the granting of learner’s licences for certain vehicles. –</p> <p>(1) No person shall be granted a learner’s licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year:</p> <p>a. a light motor vehicle category 1 of transport category unless he has held a driving licence to drive a light motor vehicle category 1 of non-transport category, or</p> <p>b. a light motor vehicle category 2 of non-transport category unless he has held a driving licence to drive a light motor vehicle category 1 of non-transport category, or</p>

1. Sr. No.	2. Section Number	3. Comment/Suggestion	4. Rationale For Comment/Suggestion	5. Suggested Change
				<p>c. any other motor vehicle of transport category unless he has held a driving licence to drive a light motor vehicle category 2 of non-transport category, as the case may be, for at least one year.</p> <p>Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.</p> <p>(2) Subject to the proviso to sub-section (1) of section 4, no person under the age of eighteen years shall be granted a learner's licence to drive a motor cycle with without automatic gear selection except with the consent in writing of the person having the care of the person desiring the learner's licence.</p>