

**SPECIAL ISSUE**

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2012**

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**THE TRAFFIC (AMENDMENT) (NO. 2) ACT****No. 38 of 2012***Date of Assent: 1st November, 2012**Date of Commencement: By Notice***ENACTED** by the Parliament of Kenya, as follows -

1. This Act may be cited as the Traffic (Amendment) Act, 2012 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint, and different dates may be appointed for the coming into operation of different provisions.

Short title and commencement.

2. The Traffic Act, in this Act referred to as “the principal Act”, is amended in section 6 by inserting the following new subsections immediately after subsection (9) –

Amendment of section 6 of Cap. 403.

“(10) The Registrar may, where he has reasonable grounds to believe that a motor vehicle has been registered in error, fraudulently or in any manner contrary to the provisions of this Act, withdraw the registration of the motor vehicle.

(11) Where the registration of a motor vehicle is withdrawn under subsection (10) –

- (a) the owner shall forthwith return the registration book and identification plates to the Registrar for cancellation; and

(b) the Registrar may cause to be published in the Gazette or in a daily newspaper of national circulation all the details of the motor vehicle and forward the details to the Commissioner of Customs services or the Inspector-General of the Police who shall seize and detain the motor vehicle.”

Amendment of  
section 9 of Cap  
403.

3. Section 9 of the principal Act is amended in subsection (2) by deleting all the words appearing immediately after the words “inform the Registrar” in the part before the proviso and substituting therefor the following words -

“in the prescribed form of the sale or disposition, name, postal and email addresses and telephone number of the new owner, the mileage recorded on the mileage recorder (if any), of the motor vehicle, and such other particulars as may be prescribed, and shall deliver the registration book in respect of such vehicle to the Registrar together with the transfer fee, whereupon the vehicle shall be registered in the name of the new owner”.

Amendment of  
section 14 of Cap.  
403.

4. Section 14 of the principal Act is amended by deleting the words “one thousand” and “two thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

Repeal and  
replacement of  
section 16 of  
Cap. 403.

5. The principal Act is amended by repealing section 16 and replacing it with the following new

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section –

Application  
for licence.

16.(1) An application for a license under this Part shall be made to a licensing officer in the prescribed form accompanied by the fee payable and the vehicle registration book.

(2) Every vehicle more than four years old from the recorded date of manufacture shall be subjected to inspection by the motor vehicle inspection unit.”

6. Section 19 of the principal Act is amended by inserting the following new subsection immediately after subsection(1) –

Amendment of  
section 19 of Cap.  
403.

“(1A) Any outstanding amount shall attract two percent interest per month or part thereof, but the interest shall not exceed the maximum amount of fee owed on the licence.”

7. Section 29 of the principal Act is amended in subsection (1) by deleting the words “one thousand” and “two thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

Amendment of  
section 29 of  
Cap. 403.

8. Section 30 the principal Act is amended in sub-section (6) –

Amendment of  
section 30 of  
Cap.403.

(a) by deleting the words “two thousand” and “five thousand” and substituting

therefor the words “twenty thousand” and “thirty thousand” respectively;

- (b) by renumbering subsection (6) as subsection (7) and inserting the following new subsection -

“(6) A driver of a public service vehicle or a commercial vehicle shall be required to undergo every three years a driving test under section 39 successfully as a condition for each renewal of the licence.”

9. Section 36 of the principal Act is amended in subsection (3) by deleting the words “one hundred” and substituting therefor the words “ten thousand”.

10. Section 41 of the principal Act is amended by deleting the words “one thousand” and “two thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

11. Section 43 of the principal Act is amended in subsection (1) by deleting the words “not less than two hundred shillings and not exceeding two thousand shillings” and substituting therefor the words “not exceeding one hundred thousand shillings”.

12. Section 44 of the principal Act is amended in subsection (1) by deleting the words “ten thousand” and “eighteen months” and substituting therefor the

Amendment of  
section 36 of  
Cap. 403.

Amendment of  
section 41 of  
Cap. 403.

Amendment of  
section 43 of Cap.  
403.

Amendment of  
section 44 of Cap  
403.

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words “one hundred thousand” and “two years” respectively.

13. Section 45 of the principal Act is amended in subsection (1), by deleting the words “fifteen thousand” and “two years” and substituting therefor the words “one hundred thousand” and “two years” respectively;

Amendment of section 45 of Cap 403.

14. The principal Act is amended by inserting the following new section immediately after section 45 –

Insertion of new section 45A in Cap 403.

Driving on pavement, pedestrian walkway, etc.

“45A. (1) No person shall, in order to avoid a buildup of traffic on a road, drive a motor vehicle on, or through, a pavement or a pedestrian walkway.

(2) A person who contravenes subsection (1) commits an offence and shall be liable-

(a) for a first conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding thirty thousand shillings, and

(b) for a second or subsequent conviction to imprisonment for a term not exceeding six months”

15. Section 47 of the principal Act is amended by deleting subsection (1) and inserting the

Amendment of section 47 of Cap 403.

following new subsection –

“(1) Any person who drives a motor vehicle on a road recklessly, or at speed, or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is at the time or which might reasonably be expected to be on the road, is guilty of an offence and liable

(a) for a first conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding two years, and

(b) for a second or subsequent conviction, to a fine not exceeding three hundred thousand shillings, or imprisonment for a term not exceeding one year, and the court shall exercise the power conferred by Part VIII of canceling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified for holding or obtaining a driving licence for a period of two years

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starting from the date of conviction or the end of any prison sentence imposed under this section, whichever is later.”

16. The principal Act is amended by repealing section 49 and replacing it with the following new section –

Repeal and replacement of section 49 of Cap. 403.

Driving without due care and attention.

“49.(1) Any person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence and liable –

(a) for a first offence, to a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand shillings.

(b) for a second or subsequent offence, to a term of imprisonment not exceeding two years or to a fine not exceeding two hundred thousand shillings,

and the court may exercise the power conferred by Part VIII of suspending any driving licence or provisional driving licence held by the

offender disqualified from holding or obtaining a driving licence for a period of twelve months starting from the date of conviction or the end of any prison sentence imposed under this section, whichever is the later.

(2) Where any person is charged with an offence under section 47 and the court considers that the evidence is such as to justify a conviction under this section but not under section 47, the court may convict such person of an offence under this section."

Amendment of section 51 of Cap 403.

17. Section 51 of the principal Act is amended in subsection (2) by deleting the words "ten thousand" and substituting therefor the words "twenty thousand".

Amendment of section 52 of Cap. 403

18. Section 52 of the principal Act is amended by deleting subsection (2) and inserting the following new subsection-

"(2) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable -

(a) for a first conviction, to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding

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six months; and

- (b) for a second or subsequent conviction, to a fine not exceeding seventy thousand shillings or a term of imprisonment not exceeding one year.

and the court shall exercise the power conferred by Part VIII of canceling any driving licence held by the offender and declaring the offender disqualified from holding or obtaining a driving license for a period of two years starting from the date of conviction.”

19. Section 52A of the principal Act is amended in subsection (4) by deleting the words “one thousand” and substituting therefor the words “ten thousand”.

Amendment of  
section 52A of  
Cap. 403

20. Section 53 of the principal Act is amended by deleting subsection (4) and inserting the following new subsection -

Amendment of  
section 53 of Cap.  
403.

“(4) Any person who leaves any vehicle on a road in such a position or manner or in such a condition as to cause or to be likely to cause any danger to any person shall be guilty of an offence and liable -

- (a) for a first conviction, to a fine not exceeding fifty thousand shillings or to imprisonment

for a term not exceeding one year ;and

- (b) on a second or subsequent conviction, to a fine not exceeding seventy-five thousand shillings, or to imprisonment for a term not exceeding eighteen months, and the court shall exercise the power conferred by Part VIII of canceling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified from holding or obtaining a driving licence for a period of two years starting from the date of conviction or the end of any prison sentence imposed under this section, whichever is the later.”

Amendment of  
section 60 of  
Cap. 403.

**21.** Section 60 of the principal Act is amended in subsection (2) by deleting the words “two hundred” and substituting therefor the words “ten thousand”.

Amendment of  
section 61 of  
Cap. 403.

**22.** Section 61 of the principal Act is amended in subsection (4) by deleting the words “five hundred” and substituting therefor the words “ten thousand”.

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23. Section 65 of the principal Act is amended in subsection (1) by deleting the words “three thousand” and “nine months” and substituting therefor the words “fifty thousand” and “two years” respectively.

Amendment of  
section 65 of  
Cap. 403.

24. Section 66A of the principal Act is amended by deleting subsection (2) and inserting the following new subsections –

Amendment of  
section 66A of  
Cap. 403.

“(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable –

(a) on a first conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding twelve months; and

(b) on each subsequent conviction, to a fine not exceeding seventy thousand shillings or to imprisonment for a term not exceeding two years, and the court shall order the suspension of any driving licence held by the person for such period, not being less than thirty days, as it may deem fit.

(3) Where a person is convicted for a second or subsequent offence in respect of the same public service vehicle, the court shall exercise the powers conferred by section 99 (2) by ordering the suspension of the public service vehicle licence for the vehicle for such period, not being less than thirty days, as it may deem fit”.

Amendment of  
section 67 of  
Cap. 403.

**25.** Section 67 of the principal Act is amended in subsection (1) by deleting the words “two thousand” and “five thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

Amendment of  
section 72C of  
Cap. 403.

**26.** Section 72C of the principal Act is amended in subsection (2) by deleting the words “five hundred” and substituting therefor the words “ten thousand”.

Amendment of  
section 72G of  
Cap. 403.

**27.** Section 72G of the principal Act is amended –

(a) in subsection (1) by deleting the words “two hundred” and “five hundred” and substituting therefor the words “five thousand” and “ten thousand” respectively.

(b) in subsection (4) by deleting the words “two hundred” and “five hundred” and substituting therefor the words “five

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thousand” and “ten thousand” respectively.

28. Section 75 of the principal Act is amended by deleting the words “one thousand” and “two thousand” and substituting therefor the words “five thousand” and “ten thousand.” respectively.

Amendment of section 75 of Cap. 403.

29. Section 79 of the principal Act is amended in subsection (4) by deleting the words “five hundred” and substituting therefor the words “five thousand.”

Amendment of section 79 of Cap. 403.

30. Section 81 of the principal Act is amended by deleting the words “three thousand” and substituting therefor the words “ten thousand”.

Amendment of section 81 of Cap. 403.

31. Section 83 of the principal Act is amended by deleting the words “two thousand” and substituting therefor the words “ten thousand”.

Amendment of section 83 of Cap. 403.

32. Section 85 of the principal Act is amended by deleting the words “one thousand” and “three months” and substituting therefor the words “one hundred thousand” and “two years” respectively.

Amendment of section 85 of Cap. 403.

33. Section 86 of the principal Act is amended by deleting the words “one thousand” and “three months” and substituting therefor the words “one hundred thousand” and “two years” respectively.

Amendment of section 86 of Cap. 403.

34. Section 87 of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “one hundred thousand”.

Amendment of section 87 of Cap. 403.

Amendment of  
section 88 of Cap.  
403.

**35.** Section 88 of the principal Act is amended by deleting the words “five hundred” and substituting therefor the words “ten thousand”.

Amendment of  
section 89 of  
Cap. 403.

**36.** Section 89 of the principal Act is amended in subsection (3) by deleting the words “two hundred” and substituting therefor the words “two thousand”.

Amendment of  
section 94 of  
Cap. 403.

**37.** Section 94 of the principal Act is amended by deleting the words “five hundred” and substituting therefor the words “five thousand.”

Amendment of  
section 101 of  
Cap. 403.

**38.** Section 101 of the principal Act is amended-

(a) in subsection (2), by deleting the words “two hundred” and substituting therefor the words “ten thousand”.

(b) in subsection (3), by deleting the words “two hundred” and substituting therefor the words “ten thousand”.

Amendment of  
section 103 of  
Cap. 403.

**39.** Section 103 of the principal Act is amended by deleting subsection (2) and inserting the following new subsection-

“(2) A person who contravenes or fails to comply with this section shall be guilty of an offence and liable, for a first conviction, to a fine not exceeding thirty thousand shillings and for a second or subsequent conviction,

to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding twelve months, and in addition, the court may order confiscation of the instrument by which the offence was committed.”

40. Section 104 of the principal Act is amended by deleting the words “two thousand” and “five thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

Amendment of section 104 of Cap. 403.

41. Section 105 of the principal Act is amended in subsection(2) by deleting the words “to a fine not exceeding one thousand” and substituting therefor the following words –

Amendment of section 105 of Cap. 403.

“on a first conviction, to a fine not exceeding thirty thousand shillings, and for a second or subsequent conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term of one year..”

42. The principal Act is amended by inserting the following section immediately after section 105

Insertion of new section 105A in Cap. 403.

Driver of a public service vehicle to undergo fitness test.

“105A. (1) A driver of a public service vehicle or a commercial vehicle shall, after every three years from the date of issue of a driving license pursuant to section 30, or renewal of such license, whichever is the case, undergo a physical fitness test, including an eye and hearing test by a qualified medical

practitioner.

(2) A driving license shall not be renewed under this Act unless the person seeking the renewal produces to a licensing officer a report prepared by the medical practitioner certifying the condition of the applicant's physical fitness, including the condition of the person's eye sight and hearing ability, and whether or not that condition or ability makes the applicant fit to drive a motor vehicle."

**43.** Section 106 of the principal Act is amended –

(a) in subsection (5) by deleting the words “four thousand shillings or to imprisonment for a term not exceeding twelve months or to both” and substituting therefor the following words

–  
“to a fine not exceeding fifty thousand shillings and for a second or subsequent conviction to a fine not exceeding seventy five thousand shillings, or to imprisonment for a term not exceeding twelve months”.

(b) in subsection (8) by deleting the words “one thousand shillings” and substituting therefor the words -

Amendment of  
section 106 of  
Cap. 403.

“twenty thousand shillings or to imprisonment for a term not exceeding six months.”

44. Section 111 of the principal Act is amended in subsection (3) by deleting the words “one thousand” and substituting therefor the words “ten thousand”.

Amendment of section 111 of Cap. 403.

45. Section 113 of the principal Act is amended by deleting the words “four thousand” and substituting therefor the words “ten thousand”.

Amendment of section 113 of Cap. 403.

46. Section 114 of the principal Act is amended in subsection (1) by deleting the words “four thousand” and “twelve months” and substituting therefor the words “one hundred thousand” and “two years” respectively.

Amendment of section 114 of Cap. 403.

47. The principal Act is amended by inserting the following new section immediately after section 117 -

Insertion of new section 117A in Cap 403.

Assignment of demerit points on conviction for certain offences.

“117A. (1) Subject to subsection (2), where a person is convicted of an offence specified in the Schedule, the court may, in addition to any penalty, order -

- (a) that the demerit points specified in that Schedule in relation to the offence be recorded against any license held by that person;

and

(b) that the person be disqualified in accordance with subsection (4).

(2) Subsection (1) shall not apply if the penalty imposed by the court on the convicted person includes an order disqualifying that person from holding or obtaining a driver's license.

(3) Where a person is served with a prescribed notice under section 117 in respect of an offence to which that section relates, and pays the maximum penalty in accordance with that section –

(a) the number of demerit points specified in the Schedule shall be recorded; and

(b) the police shall record in respect of that person –

(i) details of the offence committed;

(ii) the date on which the maximum penalty was paid;

- (iii) the number of demerit points specified in the schedule in relation to that offence; and
- (iv) as of that date, the total number of demerit points recorded against the licence of that person.
- (4) Where the demerit points accumulated by a person total to –
- (a) ten or more but less than fourteen, that person shall be disqualified from holding or obtaining a driver's licence for a period of six months;
- (b) fourteen or more but less than twenty, that person shall be disqualified from holding or obtaining a driver's licence for a period of one year;
- (c) twenty or more, that person shall be disqualified from holding or obtaining a driver's licence for a period of two years.

(5) Where demerit points have been recorded against a person's licence under this section, and for a period of three years after the date of the latest recording no further demerit points are recorded, the demerit points shall be expunged from the records:

Provided that in calculating the period of three years, no account shall be taken of any period of disqualification pursuant to subsection (4), or by virtue of an order of the court under any other provision of this Act."

Amendment of section 118 of Cap. 403.

48. Section 118 of the principal Act is amended in subsection (2) by deleting the words "five hundred" and "one thousand" and substituting therefor the words "ten thousand" and "twenty thousand" respectively.

Insertion of Schedule into Cap 403.

49. The principal Act is amended by inserting the following new Schedule –

**SCHEDULE**

**(s. 117A)**

<i>Description of offence</i>	<i>Demerit points</i>
Driving without registration plates affixed.....	4
Driving while disqualified .....	14

Driving under the influence of alcohol .....	14
Exceeding the prescribed speed limit	
(i) By 10 to 20 Kph .....	2
(ii) By 21 to 30 Kph .....	4
(iii) By 31 Kph or more .....	6
Causing death by driving or obstruction .....	14
Careless driving .....	4
Racing or speed trials on a road .....	6
Driving motor vehicle under the influence of drink or drugs .....	14
Failure to stop when so required by a police officer .....	2
Not stopping after an accident where damage or injury is caused .....	2
Failure to report an accident .....	6
No headlamps on vehicles .....	6
No registration plate light on vehicle .....	2
No tail-lamp on vehicle .....	4
No device for deflecting beam of head-lamp .....	2
Sounding a horn so as to make an unreasonable noise .....	2
Failure to observe silence zones .....	2
Driving defective vehicle .....	2

## Driving motor vehicle in violation of the rules of the road by –

(a) Overtaking on the nearside of other traffic .....	3
(b) Failing to allow passage to other overtaking vehicles .....	2
(c) Overtaking in a manner obstruction of oncoming vehicles.....	6
(d) Crossing so as to obstruct traffic .....	3
(e) Driving on to one road from another and causing obstruction .....	3
(f) Driving on to a road from a place not being a road causing obstruction to traffic .....	3
(g) Overtaking without a clear view .....	6
(h) Reversing a vehicle further than necessary .....	2
Failure to obey commands of police officer to stop or otherwise .....	2
Failure to obey red light or stop sign .....	6
Failure to comply with any other traffic sign .....	2
Failure to observe provisions concerning pedestrian crossing .....	4
Failure to supply specimen of breath when so required by police office .....	14
Failure to submit to breath analysis or willful alteration of alcohol concentration in breath or blood .....	14
Reckless driving .....	14