

GOVERNMENT GAZETTE 19903

PRETORIA, 9 APRIL 1999 NOTICE 524

REPUBLIC OF SOUTH AFRICA

NOTICE 524 OF 1999
DEPARTMENT OF TRANSPORT
NATIONAL ROAD TRAFFIC ACT, 1998 (ACT No. 93 OF 1996)
DRAFT NATIONAL ROAD TRAFFIC REGULATIONS, 1999

The Minister of Transport intends to make the regulations in the Schedule for inclusion in the draft National Road Traffic Regulations. Interested parties are invited to submit written comments on the draft regulations to reach the Section: Road Traffic Legislation (for attention Mrs D Briesch), Private Bag X193, Pretoria, 0001, within 30 days of the date of publication of this notice.

The following regulations are proposed to be made under the National Road Traffic Act, 1996 (Act No. 93 of 1996):

- A. Prohibition on use of communication device; and
- B. Special classification of vehicle in relation to motor vehicle licence fees.

A. EXPLANATORY NOTE ON PROHIBITION ON USE OF COMMUNICATION DEVICE

The Minister of Transport was recently asked in Parliament whether it has been found that drivers using hand held cellular telephones in motor vehicles pose a threat to the safety of other road-users and if so, whether it is the intention to introduce legislation prohibiting the use of such telephones in motor vehicles. The Minister answered that the Police in Japan indicated in March 1997, that in the last half of 1996, 1 140 accidents were caused in Japan due to drivers being distracted by their cell phones. A total of 9 people were killed.

According to the Police 45% of these accidents happened while drivers were attempting to answer ringing phones, 28% while the drivers tried to combine driving with dialling, 18% while the drivers were talking over the phones and the remaining 11% of the accidents happened due to other causes such as the driver attempting to pick up dropped phones.

Using driving simulators, the driving skills of 12 people listening to music at moderate volume through headphones were assessed for the purpose of research done in South Australia. The average reaction time in response to unexpected events was 14% longer and they underestimated how fast they were driving. Mobile telephones present potentially more severe attention distractions than simply listening to music. Looking at and pressing phone dialling buttons in combination with any aural distraction, poses more of a road safety problem. In circumstances of multiple distraction, a driver's attention is almost entirely taken off the road. The most critical effect of this distraction (according to a report done for the South Australian Department of Transport) is found in the driver's higher-level mental processes such as perception, judgement, decision making, planning the route ahead and reacting to other road user's manoeuvres.

The SAPS and the road traffic enforcement community urged the Department of Transport to take action concerning the use of cell phones while driving based on their own observation of the driving skills of these drivers.

The Republic is in the process of following the example of Switzerland, Israel, Brazil and some states in Australia in prohibiting the use of cell phones while driving motor vehicles, unless a hands free device is used. It is expected that such legislation will form part of the National Road Traffic Regulations to be promulgated under the National Road Traffic Act of 1996.

TEXT OF PROHIBITION ON USE OF COMMUNICATION DEVICE**"Prohibition on use of communication device**

- 308A. (1)** No person shall drive a vehicle on a public road—
- (4) while holding a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body;
- (b) while using or operating a cellular or mobile telephone or other communication device unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used, to enable such driver to use or operate such telephone or communication device without holding it in the manner contemplated in paragraph (a), and remains so affixed while being used or operated.

(2) Subregulation (1) does not apply to the following persons while driving in execution of their duties—

- (a) the driver of a fire-fighting vehicle;
- (b) the driver of a rescue vehicle or an ambulance;
- (c) a traffic officer;
- (d) a member of the South African Police Service and a member of a municipal police service, both as defined in section 1 of the South African Police Service Act, 1995 (Act No. 66 of 1995);
- (e) a member of the South African National Defence Force; and
- (f) any person driving a vehicle while engaged in civil protection in accordance with an ordinance made in terms of the Civil Protection Act, 1977 (Act No. 67 of 1977):

Provided that he or she drives the vehicle concerned with due regard to the safety of other road users."

B. EXPLANATORY NOTE ON AMENDMENT OF REGULATION DEALING WITH SPECIAL CLASSIFICATION OF VEHICLE IN RELATION TO LICENCE FEES

Regulation 193 of the Road Traffic Regulations made under the Road Traffic Act, 1989 (Act No. 29 of 1989) was felt to be user-unfriendly with respect to its interpretation. The equivalent of regulation 193 in the draft National Road Traffic Regulations is regulation 21.

Except for the wording that is now easier to interpret, the regulation makes it clear that a person should apply for special classification, if his or her vehicle falls within the categories mentioned in the regulation, and be issued with a certificate of special classification before applying for licensing of the vehicle.

It is further proposed that a vehicle which is not a tractor or caravan and not designed for the conveyance of goods or persons or both, should be specially classified on the NATIS, which means the owner does not have to apply for special classification. Special classification happens automatically as the owner licenses his or her vehicle.

A person who receives a pension in terms of the Military Pensions Act, 1976 (Act No. 84 of 1976) and who suffers from a pensionable disability which has been determined at not less than 50 per cent in terms of that Act and by reason of such disability requires the use of such motor vehicle to enable him or her to earn his or her livelihood, will only be able to apply for special classification for his or her vehicle until 30 November 1999, after which all certificates of special classification issued to these persons will be invalid.

TEXT OF AMENDMENT OF REGULATION DEALING WITH SPECIAL CLASSIFICATION OF VEHICLE IN RELATION TO LICENCE FEES

"Special classification of vehicle in relation to motor vehicle licence fees

21. (1) The owner of a motor vehicle, other than a breakdown vehicle—
- (4) which is a trailer drawn by a tractor and not operated on a public road;
- (b) which is a tractor and not operated on a public road;

- (c) which—
- (i) has been adapted, rebuilt or changed to be used solely for racing purposes as a stock-car, racing car or racing cycle;
 - (ii) has been certified by the secretary of the racing club of which the owner of the motor vehicle is a member, as being solely used for racing purposes;
 - (iii) has been registered for the purpose of racing; and
 - (iv) is not operated on a public road;
- (d) which, in the opinion of the MEC, is 40 years or older of age, and which is used solely -
- (i) in any race or sport referred to in regulation 31 7;
 - (ii) in an event organised by a properly constituted motor club; or
 - (iii) for exhibition purposes;
- (4) which is a fire-fighting vehicle; or
- (f) which may only be operated on a public road under an exemption in terms of the Act, may apply to the MEC concerned for special classification of the vehicle concerned with respect to motor vehicle licence fees, at his or her appropriate registering authority, by making a declaration on form ELF1 to the effect that the vehicle is as contemplated in paragraphs (a) to (g), accompanied by—
- (i) the acceptable identification of the owner; and
 - (ii) any additional information or documents required by the MEC concerned.
- (2) (a) The MEC shall consider the application and notify the applicant and registering authority concerned accordingly.
- (b) If the application is granted, the registering authority shall issue a certificate of special classification on form ELF3 to the owner and record the particulars of the special classification on the register of motor vehicles.
- (3) The owner shall submit the certificate of special classification upon licensing of the vehicle concerned.
- (4) For the purposes of this regulation, the words "operated on a public road" shall not be construed to include the presence of such motor vehicle on a public road for the purpose of—
- (a) being driven to the premises of the wrier in order to take delivery thereof;
 - (b) crossing a public road from the premises of the owner to another over a distance of not more than one kilometre; or
 - (c) proceeding to or from a place where repairs are to be or have been effected to such motor vehicle.
- (5) A motor vehicle which is not a tractor or a caravan and which is not designed for the conveyance of persons, excluding the driver, or of goods, or both, shall be recorded as "specially classified" on the register of motor vehicles and the motor vehicle licence fees payable in respect of such vehicle shall be adjusted accordingly.
- (6) (4) The owner of a motor vehicle, other than a motor vehicle conveying persons or goods forward, who—
- (i) receives a pension in terms of the Military Pensions Act, 1976 (Act No. 84 of 1976);
 - (ii) suffers from a pensionable disability which has been determined at not less than 50 per cent in terms of that Act; and
 - (iii) by reason of such disability requires the use of such motor vehicle to enable him or her to earn his or her livelihood,
- may apply to the MEC on form ELF1 obtainable from the Corporation, to specially classify such motor vehicle, in relation to the payment of motor vehicle licence fees, and such application shall be accompanied by—
- (aa) the acceptable identification of the owner; and
 - (bb) any additional information or documents as may be required by the MEC concerned.
- On receipt of the application referred to in paragraph (a), the MEC concerned shall—
- (i) consider such application;
 - (ii) notify the applicant concerned and the appropriate registering authority accordingly; and
 - (iii) if the application is granted,
 - (aa) issue a certificate of classification on form ELF 3 obtainable from the Corporation; and

(bb) record such classification on the register of motor vehicles.

(c) On receipt of the certificate of classification referred to in paragraph (b)(iii)(aa), the owner shall submit such certificate to the appropriate registering authority when applying for the licensing of the motor vehicle in terms of regulation 24 or 30.

(d) This subregulation shall only apply until 30 June 1999, after which date any certificate issued under it, shall be invalid.

(7) (a) The MEC may at any time cancel a certificate of classification issued in terms of this regulation and notify the owner and registering authority concerned accordingly.

(b) The registering authority shall update the register of motor vehicles upon receipt of a notification contemplated in paragraph (a).

(8) If a motor vehicle which has been specially classified under this regulation is operated contrary to the conditions of its classification, such motor vehicle shall no longer be so specially classified and the owner of such motor vehicle shall be liable for the licensing thereof with effect from the date upon which it is so operated."

