

SPEECH

SECOND READING THE ROAD TRAFFIC (Amendment) Bill

DRUG DRIVING

MADAM SPEAKER,

I move that the Road Traffic (Amendment) Bill be read a second time.

2. The House would agree with me that consumption of alcohol and other drugs in general is increasing globally and the impact of substance abuse is visible. There is, thus, an urgent need for concerted and coordinated actions to address the potential dangers of driving under the influence of a drug or an intoxicating substance. The risk factors associated with driving under the influence of alcohol and drugs such as illicit, prescriptive and over the counter are numerous. Poor judgement and impaired decision making in a high stakes situation could result in substantial damage to property, to the loss of lives and injury to other persons. When judgement is impaired while driving under the influence of a drug or intoxicating substance, key decisions must be taken by Government to eliminate the associated risks which may cause severe road casualties.

3. Just like alcohol, the effect of drugs can be amplified in the case of two wheelers, as riding a motorcycle requires more balance, co-ordination and accuracy than driving a car. The consumption of drugs, coupled with the consumption of alcohol, mainly by young people, during the weekend nights is a major concern warranting stringent actions.

Madam Speaker

4. As a general reflection on the number of fatalities in Mauritius, it is observed that the annual number of fatalities has been quite stable during the last 10 years, fluctuating in the range of 130 to 160. This corresponds to a fatality rate of 3-4 fatalities per 10,000 vehicles and about 12 fatalities per 100,000 inhabitants.

5. The rate of fatality per 100,000 population for year 2018 was 11.7 as compared to 12.8 in 2017. Correspondingly the number of killed was 143 in 2018 against 157 the preceding year. The trend during this year till now is reducing and we hope that all our road safety efforts and tightening of the Road Traffic Act will bring even better results in the coming days.

6. From January 2019 to 01 May 2019, we have had 44 fatal accidents as compared to 59 last year for the same period and correspondingly 47 killed as compared to 66 last year for the same period.

7. The most vulnerable group of road users still remain the 'auto/motorcyclists' constituting 40% of the casualties. Then comes, the 'passengers' constituting some 25% and 'pedestrians' amounting to 16% of all the casualties.

The age group mostly involved in road crashes lies in the bracket of 15 to 29 years of age.

8. Concerning drugs, according to records available from the Forensic Science Laboratory, out of 151 cases of 'Fatal Road Accidents' referred for toxicological tests for drug detection by the Police in the year 2018, it is found that as at now, twenty percent (20 %) showed the presence of drugs in their body fluids, and for the year 2017, this figure was thirty-six percent

(36 %).

9. As a result, the rationale behind amending the Road Traffic Act is therefore, to make drug driving an offence. This will make our roads safer for all road users and will prevent our close ones, our children and our families from being killed by impaired drivers who are driving under the influence of a drug or any other intoxicating substance. Substance abuse may affect the functioning of the brain and may lead to impaired driving such as delaying reaction time, reducing motor coordination and motor performance. It can also increase drowsiness, alter perception and reduce the time for information processing which may ultimately increase the risks of a fatal crash. On the international level, there is a growing concern about drug use and road safety and countries like United Kingdom, Australia, Spain, Sweden have come up with relevant drug driving legislations to address this issue.

10. In that respect, upon my invitation, Dr Mercier Guyon, a Forensic Medicine and Emergency Doctor and Head of a Licensed Training Centre of Haute Savoie, visited Mauritius and after consultations with stakeholders, has made recommendations on measures to be taken to detect and track drivers driving under the influence of drugs, including synthetic drugs. Accordingly, the Road Traffic (Amendment) Bill on drug driving has been elaborated by my Ministry in consultation with the State Law Office, the Police, the Anti-Drug and Smuggling Unit, the Forensic Science Laboratory and the Ministry of Health and Quality of Life.

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11. The objectives of amending the Road Traffic Act is to provide that any person who, whilst being under the influence of a drug or an intoxicating substance—

- (a) rides a cycle on a road or any other public place;
- (b) drives, or attempts to drive, a motor vehicle on a road or any other public place;
- (c) drives, or attempts to drive, a vehicle which is involved in a road accident;
- (d) is in charge of a motor vehicle on a road or any other public place; or
- (e) occupies the front seat of a motor vehicle as a competent driver supervising a learner driver who is driving the motor vehicle on a road or any other public place,

shall commit an offence as per Section 123E of the proposed Road Traffic (Amendment) Bill.

12. The bill provides severe penalties if a person under the influence of an illicit drug or therapeutic drug above the threshold limit or an intoxicating substance causes the **death** of another person by driving a motor vehicle on a road or public place without due care and attention. He will be liable to a fine of not less than 25,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding 5 years.

13. Provision has also been made so that a person under the influence of drug, intoxicating substance or therapeutic drug above threshold limit cannot ride a cycle on a road or public place. In case he does, he will have on conviction by Court to pay a fine of not less than 5,000 rupees nor more than 25,000 rupees. On a second or subsequent conviction, he will be liable to a fine of not less than 25,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding 12 months.

14. With amendments to the Road Traffic Act for drug driving, a person commits an offence if he is under the influence of a drug and is driving or is in charge of a motor vehicle on a road or public place or if he is teaching a learner driver whilst being seated in the front seat. On conviction, he will have to pay a fine of not less than 20,000 rupees nor more than 50,000 rupees and he will be imprisoned for a term not exceeding 5 years. On a second or subsequent conviction, he will be liable to a fine of not less than 50,000 rupees nor more than 75,000 rupees together with imprisonment for a term of not less than 12 months nor more than 8 years.

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15. Testing the presence of a drug in the body fluids ascertains whether a particular drug is present and in some cases the concentration thereof. The Bill, therefore, provides for the procedures and methods of detecting the presence of a drug or an intoxicating substance in a person's body fluids whilst he is driving or is in charge of a motor vehicle or is riding a cycle and is suspected of being under the influence of a drug or an intoxicating substance.

16. Accordingly, three tests are to be performed, namely the ‘**field impairment test**’, the ‘**preliminary drug test**’ and the ‘**blood laboratory test**’.

16(a) If a police officer has reasonable ground to suspect that a person is under the influence of a drug, he will require the person to undergo a **field impairment test**, either at or near the place where the requirement is made or at the nearest police station.

16(b) The “field impairment test” is a test conducted by a police officer on a person in order to assess, by observation, the person’s physical state in terms of difficulty to keep balance, difficulty to stand properly, slurred speech and signs of over excitation, euphoria, apathy.

16(c) In order to be systematic in his approach, the police officer will, while conducting the field impairment test, fill in a “field impairment questionnaire’ set out in the Thirteenth Schedule.

16(d) If the field impairment test is positive, that is, the person’s physical state is impaired, **a preliminary drug test** will be carried out where the person will have to provide a specimen of saliva or urine.

16(e) If the preliminary drug test is positive which indicates that a person is under the influence of a drug, a police officer will require that person to provide, at a hospital, a specimen of blood for a laboratory test. This is the Evidential test and the result of which will be produced in Court.

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17. It should be noted that the provisions proposed in the Road Traffic (Amendment) Bill to cover for Drug Driving offences will also be backed by provisions in the Dangerous Drugs Act especially as regards to the illicit drugs and abuse of therapeutic drugs.

18. In the proposed amendments to the Road Traffic Act, we have three different scenarios, namely, **'illicit drugs, 'intoxicating substance' and 'therapeutic drugs'**. For certain drugs there will be a zero tolerance, as they are **illicit drugs**. They are namely, amphetamine, benzoylecgonine, cocaine, Delta-9-tetrahydrocannabinol (cannabis), lysergic acid diethylamide, Methylamphetamine, MDMA, 6-monoacetylmorphine (heroin). The illicit drugs described in the First Schedule to the Dangerous Drugs Act will also be covered under the Road Traffic Act through a special provision. Therefore, if the police officer has reasonable ground to suspect that the person's physical state is impaired because he may be under the influence of an intoxicating substance and that a preliminary drug test with the saliva or urine does not indicate that the person is under the influence of a drug, the police officer may still require that person to provide, at a hospital, a specimen of blood for a laboratory test. A police officer will, on requiring any person to provide a specimen of blood or urine for a laboratory test, warn him that a failure, without reasonable excuse, to provide the specimen of blood may render him liable to prosecution and may be used against him as evidence.

19. In addition to the above, an “**intoxicating substance**”, means a dangerous drug specified in the First Schedule to the Dangerous Drugs Act, other than a drug specified in Part I of the Twelfth Schedule, of the proposed Road Traffic (Amendment) Bill. These include Synthetic Cannabinoids (such as Black Mamba, Simik, Bat Dans la Tete and so on), Fentanyl Analogs, Bath Salts and New Psychoactive Substances amongst others. **The definition of an ‘intoxicating substance’ also includes such other substance as may be prescribed given that this is a highly evolving sector as new drug substances continue to flood the international market and they easily find their way on the local market.**

20. On top of that, the provisions of the Bill ensures that if a person is making an abuse of any **therapeutic drug**, a “specified limit”, has been inserted in relation to that drug mentioned in the Part II of the Twelfth Schedule, thereby making it an offence. The presence of the following therapeutic drugs up to a ‘specified limit’ in the blood may be accepted. These are Clonazepam, Diazepam, Flunitrazepam, Lorazepam, Methadone, Morphine, Oxazepam and Temazepam.

21. If a police officer has reasonable ground to suspect that a person is under the influence of a drug or intoxicating substance, he may arrest a person without warrant where that person refuses to undergo a field impairment test, a preliminary drug test and provide a specimen of blood or urine for a laboratory test.

22. As regards penalties, under section 123 JA, **if a person is riding a cycle on a road or public place and who, without reasonable excuse, fails to undergo a field impairment test, provide a specimen of urine or saliva for the preliminary drug test, or a specimen of blood for laboratory test, he shall commit an offence and shall, on conviction, be liable to a fine of not less than 5,000 rupees nor more than 25,000 rupees. In the case of a second or subsequent conviction, the offender shall be liable to a fine of not less than 25,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding 12 months.**

23. If a person is **driving a motor vehicle** on a road or a public place and he fails to submit himself to the above tests namely, **to undergo a field impairment test, a preliminary drug test or provide a specimen of blood or urine for analysis**, he commits an offence and will have to pay a fine of not less than 20,000 rupees nor more than 25,000 rupees and to imprisonment for a term not exceeding 5 years. On a second or subsequent conviction, the person will be liable to a fine of not less than 50,000 rupees nor more than 75,000 rupees together with imprisonment for a term of not less than 12 months nor more than 8 years.

24. The Bill also makes provision for the Police to **detain** a person if following the preliminary drug test there is an indication that the person is under the influence of a drug. A person may also be detained upon a refusal to submit to a Field Impairment Test or a preliminary drug test where he is required to submit a sample of saliva or urine or to provide a specimen of blood at hospital.

25. Provisions have also been made in the Bill for the disqualification and cancellation of a driving licence of a driver driving under the influence of drugs or intoxicating substance.

26. By the same token, arrangements are being made to bring clarity in all the sections in the Road Traffic Act which pertains to the procedures and methods of detecting whether a person driving or being in charge of a motor vehicle or riding a cycle is under the influence of alcohol.

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27. Responsibilities of government start with formulation, adoption and promulgation of policies, laws and regulations to ensure safety of its citizens. In the field of road safety, it is believed that there should be continued commitment and support from government to prevent that actions on drug and alcohol abuse whilst driving do not fade and lose focus. Such loss of focus is likely to cascade downward and result in a softening of acceptable standards and potential for accidents to return to previous levels. For this to happen, the sustained effort of enforcement by the Police will act as a guardian and key to determining the results concerning substance abuse and road accidents that affect the motoring skills and good judgement of the drivers. I am informed here, that the number of contraventions established by the Police is **202,170** for year 2015; **228,189** for year 2016; **235, 994** for year 2017; **239, 494** for year 2018 and **51, 592** as at 31 March 2019. It is expected that the number of contraventions will further increase with the forthcoming law on drug driving and that such cases will not go unnoticed. Defaulters are therefore cautioned to be on their guard.

28. Without visible enforcement and swift penalties, a drug driving law has little chance of changing behaviour. My Ministry on the other hand will carry out a vigorous campaign prior to the readiness of the relevant authorities to act on the law. It is to be highlighted that in other countries, Police have specially trained drug recognition and evaluation officers who can detect whether or not a driver is drug impaired. In line with international practices, Police will be trained on carrying out Field Impairment Tests to assess the physical impairment in suspected cases of drug driving. In addition, following the procurement of the related equipment, namely, the roadside kit, further training will be imparted to the Police officers. On the other hand, the Forensic Science Laboratory is also in the process of acquiring the required laboratory testing equipment to detect the presence of dangerous and synthetic drugs in human bodies.

29. With this framework in mind, **MADAM SPEAKER**, I now commend the Bill to the House.

3 May 2019