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CONTENTS

	<i>Gazette</i>	<i>Page</i>
	<i>No.</i>	<i>No.</i>
PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS		
673	177	3
Gauteng Provincial Road Traffic Act, 1997: Gauteng Provincial Road Traffic Amendment Bill, 2018: For public comments and general information		

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 673 OF 2018

**GAUTENG**
LEGISLATURE**THE GAUTENG PROVINCIAL GOVERNMENT INTENDS TO INTRODUCE
THE GAUTENG PROVINCIAL ROAD TRAFFIC AMENDMENT BILL 2018 IN
THE GAUTENG PROVINCIAL LEGISLATURE**

The above mentioned Bill is hereby published in English in the Gauteng Provincial Extraordinary Gazette No. 177 dated 29 June 2018 for public comments and general information.

The Bill seeks to amend the Gauteng Provincial Road Traffic Act, 1997, so as to empower the MEC to prescribe certain requirements for the operators of breakdown vehicles in relation to the towing of another vehicles on public roads; and to provide for matters incidental thereto.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary
Committee Coordinator (Mr. S Mthiyane)
Gauteng Provincial Legislature
Private Bag X52
Johannesburg
2000

Tel: (011) 498 5553
Mobile: (082) 9677518
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Comments must reach the above office on or before 13 August 2018.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG PROVINCIAL LEGISLATURE

**GAUTENG PROVINCIAL ROAD
TRAFFIC AMENDMENT BILL, 2018**

—————

(As introduced in the Gauteng Provincial Legislature as a Government Bill in terms of Rule 192(1) of the Standing Rules of the Gauteng Provincial Legislature (Version 5 - Revision 8))

(The English text is the official text of the Bill)

—————

(Member of the Executive Council responsible for Roads and Transport)

[B —2018]

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicates omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

1. BILL

To amend the Gauteng Provincial Road Traffic Act, 1997, so as to empower the MEC to prescribe certain requirements for the operators of breakdown vehicles in relation to the towing of another vehicles on public roads; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Province of Gauteng, as follows:—

Insertion of Chapter IIIA into Act

2. The following Chapter is hereby inserted in the Gauteng Provincial Road Traffic Act, 1997 (Act No. 10 of 1997) (hereinafter referred to as the "principal Act"), after Chapter III:

"CHAPTER IIIA

BREAKDOWN VEHICLES

Towing of vehicles

16A. The MEC may prescribe certain requirements to be adhered to or followed by an operator of a breakdown vehicle wherever the operator tows another vehicle on a public road."

Substitution of heading of Chapter IV of Act

3. The following heading is hereby substituted for the heading of Chapter IV of the principal Act:

"INSPECTORATE OF BREAKDOWN VEHICLE OPERATORS,
INSPECTORATE OF TESTING STATIONS AND INSPECTORATE OF
DRIVING LICENCE TESTING CENTRES".

Insertion of section 16B into Act

4. The following section is hereby inserted in Chapter IV of the principal Act, before section 17:

"Appointment of inspectorate of breakdown vehicle operators

16B. (1) The MEC may appoint a provincial inspectorate of breakdown vehicle operators as prescribed.

(2) The powers and duties of the said inspectorate of breakdown vehicle operators in relation to the inspection and the operations of the breakdown vehicle operators must be prescribed.

(3) The MEC may, in order to defray the expenditure incurred by or on behalf of the said inspectorate for the purposes of performing its functions, prescribe fees to be paid in respect of inspections carried out in terms of this section."

Amendment of section 25 of Act

5. Section 25 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

- "(b) subject to the regulations made under the National Road Traffic Act, 1996—
- (i) the stoppage and parking of vehicles on public roads;
 - and
 - (ii) the towing of vehicles on a public road by operators of breakdown vehicles;".

Amendment of Arrangements of Sections

6. The Arrangements of Sections in the principal Act is hereby amended—
(a) by the insertion of the following Chapter, after Chapter III:

"CHAPTER IIIA

BREAKDOWN VEHICLES

16A. Towing of vehicles";

(b) by the substitution for the heading of Chapter IV of the following heading:

"INSPECTORATE OF BREAKDOWN VEHICLE OPERATORS,
INSPECTORATE OF TESTING STATIONS AND INSPECTORATE OF
DRIVING LICENCE TESTING CENTRES"; and

(c) by the insertion in Chapter IV of the following section, before section 17:

"16B. Appointment of inspectorate of breakdown operators".

Short title and commencement

7. This Act is called the Gauteng Provincial Road Traffic Amendment Act, 2018, and comes into operation on the date determined by the Premier by proclamation in the Provincial *Gazette*.

MEMORANDUM OF OBJECTS ON THE GAUTENG PROVINCIAL ROAD TRAFFIC AMENDMENT BILL, 2018

1. BACKGROUND

The Gauteng Provincial Road Traffic Act, 1997 (Act No. 10 of 1997) (the “principal Act”), was brought into operation on 18 October 2000. The purpose of the principal Act was to consolidate and to amend the provisions relating to road traffic which should apply in the Province.

The conduct and behaviour of tow truck operators, which in many instances undermines road rules and consumer interests, has brought the issue of the provincial road traffic into sharp focus. In response to that, research on tow truck operations in the province was conducted and subsequently a policy was drafted.

The policy outlines the goals, objectives and principles necessary to govern the towing industry. The goal is to regulate, promote professional business practices and contribute towards the transformation of the industry. In essence, the policy intends to ensure that towing services are improved in terms of safety, affordability, accessibility and reliability. It is also intended to promote the transformation of the industry and to support emerging tow truck operators in line with the broad-based black economic empowerment goals of the provincial government.

In pursuance of the implementation of the policy, it became apparent that there is a lacuna in law – there was no express provision in law authorising or empowering the Member of the Executive Council (MEC) responsible to road and traffic in the Province to regulate the towing industry. It therefore became necessary that the principal Act must be amended. The amendment Bill seek to empower the MEC to prescribe certain requirements for the operators of tow trucks (breakdown vehicles) in relation to the towing of another vehicles on public roads.

2. SOCIAL IMPACT

The amendment Bill intends to, among others, ensure that the conduct of tow truck operators do not unfairly discriminate directly or indirectly against anyone on one or more grounds such as race, gender, sex, ethnic or social origin. It is envisaged that members of the public will be treated with dignity.

3. ENVIRONMENTAL IMPACT

It is envisaged that, by regulating the towing industry, the negative environmental impact on the provincial road network will be greatly reduced.

4. FINANCIAL IMPLICATIONS OF THE BILL

The amendment Bill will bear no additional costs to the department, save to say that the Regulations emanating from that will bear some costs which will be offset by application fees.

5. IMPLICATIONS FOR LOCAL GOVERNMENT

The implications of the amendment Bill for local government relate to law enforcement. To this effect, law enforcement agencies have been part and parcel of the drafting of the amendment Bill. There are no additional financial implications for local government.

6. PUBLIC CONSULTATION

Extensive consultations were done with the tow truck industry on the policy and the development of the amendment Bill and are broadly in agreement that the industry should be regulated in order to ensure the safety of the public, to improve quality of services and standards, and to provide a conducive and competitive environment among the various tow truck operators.

The industry acknowledges that as their business operations occur on public roads, tow truck operators should adhere to all existing road traffic regulations. In addition, the amendment Bill was published for public comments and no comments were received.

7. CLAUSE-BY-CLAUSE EXPLANATION

Clause 1 of the amendment Bill inserts Chapter IIIA, section 16A inclusive, into the principal Act to specifically refer to breakdown vehicles and to empower the MEC to prescribe certain requirements to be adhered to by an operator of a breakdown vehicle.

Clause 2 of the amendment Bill substitute the heading of Chapter IV of the principal Act to insert thereof the following words “Inspectorate of Breakdown Vehicle Operators”.

Clause 3 of the amendment Bill inserts a new section, i.e. section 16B, into the principal Act that provides for the appointment of inspectorate of breakdown vehicle operators.

Clause 4 of the amendment Bill amends section 25 (regulations section) of the principal Act by the substitution in subsection (1) for paragraph (b) of a new paragraph (b) which, in essence, inserts a new subparagraph (ii) into paragraph (b) in order to empower the MEC to make regulations regarding the towing of vehicles on a public road by operators of breakdown vehicles.

Clause 5 of the amendment Bill amends the arrangements of sections of the principal Act to cater for the above mentioned amendments.

Clause 6 of the amendment Bill provides for the short title and the commencement of the Act, once the amendment Bill is assented to and signed by the Premier as an Act of the Provincial Legislature.

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