

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)

P. O. Box 73552 - 00200,

NAIROBI, KENYA

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ACTS, 2014

NAIROBI, 19th December, 2014

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No. 12 of 2014**

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

Date of Assent: 3rd December, 2014

Date of Commencement: 19th December, 2014

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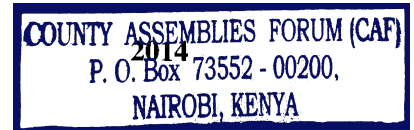
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THE KERICHO COUNTY TRANSPORT ACT, 2014

AN ACT of Kericho County Assembly to establish the county department of transport, to provide for matters relating to traffic, parking, street lighting, public road transport and for connected purposes

ENACTED by the county assembly of Kericho as follows—

PART I- PRELIMINARY**1. Short title and commencement**

This Act may be cited as the Kericho County Transport Act 2014 and shall come into operation upon publication in the Kenya Gazette.

2. Interpretation

In this Act—

“authorised person” means any person responsible for carrying out any duty or function or delegated to carry out any duty or function in terms of this Act and includes a traffic officer, traffic conductor, enforcement officers and any other authorised person authorised under any other laws of Kenya;

‘motorcycle operator’ means a cyclist of a motorcycle taxi;

“county executive committee member” means the county executive committee member in charge of public works, roads and transport;

“department” means the county department of transport established under section 5 of this Act;

“hazardous materials” means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce by all modes;

“motor vehicle” includes a vehicle, machine, bus, tractor, truck trailer or semi-trailer, propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“officer” means an officer as stipulated in Section 5 (2) of this Act;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or

mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;

“permit” means operating authority issued under this Act;

“person” includes an individual, firm, partnership, Association or corporation;

“ranking facility” includes—

- (a) a place upon a public road from which a public transport service may apply for hire or convey and drop off passengers; and
- (b) any place demarcated or designated for the exclusive parking of specific public transport vehicles by a road traffic sign.

“vehicle” means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw bar to a break down vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

“trailer” means any vehicle designed to be drawn by a motor vehicle, but does not include a sidecar attached to a motor cycle;

3. Objects and purpose

The objects of this Act is to provide for all matters necessary to—

- (a) provide for adequate, safe and efficient county transport facilities and services at a reasonable cost to the people;
- (b) facilitate the management, planning and development of county transport facilities and transport infrastructure; and
- (c) give effect to, and ensure a balanced transport policy and planning.

4. Application

This Act applies to Kericho County transport, infrastructure and services.

PART II—THE DEPARTMENT OF TRANSPORT

5. Department of transport

(1) There shall be in the County a County department of transport.

(2) The head of the department shall be an officer as prescribed by the relevant county executive’s organizational structure as approved by the county assembly.

6. Organization of department; officers and employees

(1) The county department of transport may, in consultation with the county public service board from time to time, create, abolish, transfer and consolidate divisions, and other units within the department not expressly established by law as may be necessary for the efficient operation of the department.

(2) Each officers and employees shall be a person qualified by training and experience for the performance of the duties assigned to them.

7. Functions, powers and duties of the department.

The department, by or through the officer shall have the following general functions, powers and duties:

(1) To coordinate and develop a comprehensive and balanced transport policy and planning for the county;

(2) To coordinate and assist in the balanced development and operation of transport facilities and services in the county;

(3) To make such studies and analysis of transport problems relating to any aspect of transport in the county.

(4) To partner with and co-operate with—

(a) officials of the national government's department having duties and responsibilities concerning transport;

(b) officials and representatives of public corporations;

(c) official representatives of neighboring counties and of inter-county agencies on problems affecting transport in the county or counties;

(d) officials and representatives of transport facilities and systems in the county; and

(e) Persons, organizations and groups utilizing, served by, interested in or concerned with transport facilities and systems in the county.

(5) To exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;

(6) To formulate and execute contracts, keep accounts, record personnel data, compile statistics and engage in research opportunities;

(7) To prepare plans, specifications, designs and estimates, and, by the procedures and methods provided by the laws relating thereto, to

construct and reconstruct parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities;

(8) To operate and maintain parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities; and

(9) The department of transport shall have power to cooperate with the agencies of other counties and of the National government which are connected with national defense, in the formulation and execution of plans for the rapid and safe movement over county roads of troops, vehicles of a military nature, and materials affecting national defense.

PART III—TRAFFIC AND PUBLIC ROAD TRANSPORT

8. Transportation of hazardous materials

The department is hereby authorized to promote safety in the transportation of hazardous materials by all modes of transport.

9. Right of entry

An authorised officer may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with such facility.

10. Operating licence

(1) No person shall drive a motor vehicle on a public road—

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the relevant law; and
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the motor vehicle.

11. Preventing engagement of a public transport vehicle

(1) No person shall through use of force, intimidation, threats or by any other means, prevent or try to prevent—

- (a) any person from obtaining or engaging a public transport vehicle; or
- (b) the driver of a public transport vehicle from taking on passengers; or
- (c) the operation of any public vehicle which is lawfully operated.

(2) Any person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding Kenya Shillings Five Thousands or imprisonment for one month or both.

12. Conveying dangerous or offensive articles in public transport vehicles

A person who is in charge of a public transport vehicle shall not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing—

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has reasonably been exposed to or contaminated by an infectious or contagious disease.

(2) For purposes of this section a person contemplated by section (1) shall include—

- (a) An escaped convict;
- (b) Any person escaping from a quarantined area;
- (c) any other person as the county executive member may determine.

(3) Any person who contravenes this section commits an offence and is liable to a fine not exceeding Kenya Shillings fifty thousand or imprisonment for 6 months or both.

13. Boarding and disembarking of public transport vehicles

(1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.

(2) No person may board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.

(3) No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

(4) While boarding or disembarking priority shall be given to persons with disabilities, elderly persons, pregnant women and any other person with special needs.

(5) Any person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding Kenya Shillings One Thousand or imprisonment not exceeding two weeks or both.

14. Queues at public transport facilities

(1) The department may establish ranking facilities in the county and may further erect or cause to be erected a queue sign or queuing barrier in any suitable form for the purpose of queuing;

(2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave;

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single file when required to do so by an approved public transport conductor or authorised official of the county;

(4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue; and

(5) Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or authorised official when on duty.

15. Payment of fares

(1) A passenger must pay the determined fare for the journey.

(2) The fare to be paid shall not exceed the amount displayed on the vehicle .

16. Rights and duties of passengers when a public transport vehicle becomes defective

(1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must disembark such defective vehicle and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.

(2) Upon agreement with the driver or owner or operator of the defective public transport vehicle, passengers should be allowed to travel with the next available public transport vehicle for the remainder of the distance in respect of the paid fares, at the cost of the owner of the defective public transport vehicle.

(3) A driver or owner or operator who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence and shall be liable to a fine not exceeding fifty thousand shillings.

(4) Where the vehicle has become defective in an area, the driver shall take reasonable steps to ensure the security of the passengers.

17. Actions prohibited on a public transport vehicle

The following actions are prohibited on a public transport vehicle when passengers are on board—

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (g) forcibly causing the driver to deviate from his route;
- (h) endangering the life of another passenger;
- (i) interfering with the actions of the driver.
- (j) showing or displaying any pornographic material; or
- (k) littering on the vehicle or outside the vehicle; or
- (l) any other actions prohibited by any other law.

(2) Any person who contravenes sub-section (1) commits an offence and is liable to a fine not exceeding Kenya Shillings Ten Thousand or to an imprisonment for a term not exceeding 6 months or both.

18. Property left in public transport vehicles

The driver of a public transport vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must—

- (a) deliver that property to the person who left it behind; or
- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer or county government transport department or to the nearest police station and de-posit it with the officer on duty and obtain a receipt for it.

19. Obstruction and disruption of traffic

(1) No person may park or allow a public transport vehicle to park in a stopping place designated for specific public transport vehicles.

(2) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

(3) No public transport vehicle may park in a demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

20. Duties of pedestrians

(1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 150 metres from such pedestrian crossing or intersection.

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal, which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(7) Any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding two thousand shillings if it's a driver and five hundred shillings if it's a pedestrian.

21. Use of hooter

(1) No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this Act or any other law or on the grounds of safety.

(2) Any person who contravenes this section commits an offence and is liable to a fine not exceeding Kenya Shillings Ten Thousand.

22. Prohibition on use of communication device while driving

(1) Subject to any other law, no person shall drive a motor vehicle on a public road while holding, using or operating a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body 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;

(2) An authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device;

(3) The authorised officer must, when confiscating any hand held communication device—

- (a) inform the owner of such communication device of the reasons of confiscating and impounding;
- (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- (c) follow all procedures contained in any policy of the County dealing with the confiscation and impoundment of property.

(3) Any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding twenty thousand shillings or imprisonment of six months or both.

(4) The authorized officer shall release the impounded device once the offender has settled the penalty as stipulated in Section 22 (3).

23. County to install street lighting

The county government shall install street lights within the County with special attention to the following areas; Major Traffic Routes, High Crime Urban Areas, Town Centres, Pedestrian Crossings, Pedestrian Subways, residential areas, foot bridges and shopping centres.

24. Maintenance of street lights

The department shall be responsible for the maintenance of streetlights

25. Damage to street lights

(1) No person shall willfully, carelessly or negligently cause damage to any streetlight.

(2) Any person who contravenes this section shall, upon conviction be liable to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding one year or to both.

PART IV—PARKING

26. Parking on a public road

(1) No person shall park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic.

(2) Any person who contravenes this section shall upon conviction be liable to a fine not exceeding Kenya Shillings Ten Thousand or imprisonment for 6 months or both.

27. Prohibited parking areas

(1) Unless required or permitted by this Act or by a traffic control device, or in compliance with the directions of a traffic officer, or to avoid conflict with other traffic, no person shall stop or park a vehicle—

- (a) at an intersection nearer than ten metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten metres on the approach to a stop sign or yield signs;
- (c) within five metres of any fire hydrant, or when the hydrant is not located at the curb, within five metres of the point on the edge of the roadway nearest the hydrant;
- (d) within ten metres of the approach to a pedestrian crossing;
- (e) on a sidewalk;
- (f) facing oncoming traffic;
- (g) on any bridge or approach to any bridge;
- (h) in a passenger loading or unloading space posted as such by a traffic control device except when actually taking or discharging passengers;
- (i) on any portion of a public road posted as “No Parking”;
- (j) on any land owned by the county which the county uses or permits to be used as a playground, recreation area, utility lot, or public park, except in such areas designated or posted for parking or as is permitted by the County Executive Member;
- (k) on any space posted as a fire lane except for emergency vehicles;
- (l) on any space posted for disabled persons parking unless such vehicle is designated as a disabled persons vehicle;

- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit; or
- (o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

(2) Any person who contravenes this section shall commit an offence and shall be liable to a fine not exceeding Kenya Shillings ten thousand or imprisonment for 6 months or both.

28. 'No parking' and 'street maintenance'

Notwithstanding any other provision in this Act, the department through any of its authorised officers or employees, is hereby authorized to cause moveable signs to be posted on or near a road to indicate "No Parking", or "Street Maintenance" and when so posted, such signs shall take precedence over all other traffic control devices.

29. Towing away of vehicle

Any vehicle parked contrary to this act may be towed away at the owner's expense.

30. Parking on alleys

(1) No person shall park a vehicle on any alley unless a traffic control device otherwise permits, except for the following purposes:

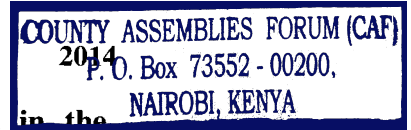
- (a) the loading or unloading of goods from a commercial vehicle for a reasonable period; or
- (b) the loading or unloading of goods or passengers from a vehicle other than a commercial vehicle for a reasonable period.

(2) Notwithstanding Subsection (1) above, no person, while loading or unloading passengers or goods, shall park in such a manner as may obstruct the passage of other vehicles along the alley.

(3) Any person who carries out an activity that is not permitted by law in a designated parking space commits an offence and is liable to a fine not exceeding Kenya Shillings Ten Thousand or imprisonment for 6 months or both.

31. Parking on private property

No person shall park a vehicle or permit a vehicle to be parked on private property without the permission or authorization of the owner of the private property or a person having lawful possession or control of the private property.



32. Parking of trailers upon public road, movement in the Central Business District

(1) No person shall park or permit to be parked, any trailer upon any public road unless the said trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed part of the vehicle and subject to the provisions pertaining to vehicles.

(2) Trailers shall not be driven within the central business district unless driven at a prescribed time and road.

(3) The trailers driven in sub clause 2 must have a permit for it to be driven in the central business district.

(4) Any person who breaches the provisions of this section commits an offence and is liable to a fine not exceeding Kenya Shilling One Hundred Thousand or to imprisonment of One year or to both.

33. Parking on taxi zone

No person shall park or permit to be parked a vehicle that is not a taxicab, in an area posted as a taxi zone.

34. Parking a taxi cab within a taxi zone with 'Not for Hire' sign

(1) The operator of a taxicab, except when answering a call, shall not park the taxicab upon any roadway other than within a taxi zone, unless such taxicab is displaying a "Not for Hire" sign and the operator is out of the taxicab.

(2) Nothing in this part shall be construed as to allow parking contrary to any other provision of this Act.

35. Compliance of this act by taxicabs

Notwithstanding the establishment of a taxi zone on a roadway, an operator of a taxicab stopping or parking in such a zone shall comply with the requirements of this Act.

36. Parallel parking

When parking a vehicle on a roadway, a person may only park a vehicle—

- (a) with the sides of the vehicle parallel to the curb or edge of the roadway, and the right wheels of the vehicle not more than five hundred millimeters from the right curb or edge of the roadway; or
- (b) in the case of a one-way highway where parking on either side is permitted, with the sides of the vehicle parallel to the curb or edge of the roadway, the wheels that are the closest to a curb or

edge of the roadway not more than five hundred millimeters from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

37. Angle parking where no parking guidelines are visible

When a sign indicates that angle parking is permitted or required, and no parking guidelines are visible on the roadway—

- (a) a person may only park a vehicle with the vehicle's sides at an angle of between thirty (30) and sixty (60) degrees to the curb or edge of the roadway; and
- (b) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred (500) millimeters from the curb or edge of the roadway; or
- (c) in the case of a motorcycle, with the nearest wheel of the motorcycle not more than five hundred (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

38. Motorcycle operators

- (1) All motorcycle operators shall have designated stages and parking areas.
- (2) All motorcycle operators riding a motorcycle—
 - (a) can only carry one passenger at a time; and
 - (b) must always wear a helmet and reflective clothing while on it.
- (3) Any person who contravenes this section shall commit an offense and shall be liable to a fine not exceeding Kenya Shillings Ten Thousand or imprisonment for one year or both.

PART VI—SAFE AND ADEQUATE SERVICE, JUST AND REASONABLE CHARGES

39. Safe and adequate service; just and reasonable charges

- (1) Every corporation, person or public transport service providers performing a transport service in the county, shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable.
- (2) All charges made or demanded by any such corporation, person or transport service provider for the transportation of passengers or property or for any service rendered or to be rendered in connection



therewith shall be just and reasonable and not more than allowed by law or by order of the officer of transport and made as authorized by this Act.

(3) Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers or property or in connection therewith or in excess of that allowed by law or by order of the officer is prohibited.

(4) All transport service providers have a general duty to deal reasonably with customers and adequately address customer complaints.

PART VIII—GENERAL PROVISIONS

40. Regulations

The Committee executive member in consultation with the department may pursuant to this Act make any further regulations for the administration of this Act including but not limited to regulations relating to—

- (a) Matatu termini;
- (b) Taxi- cabs;
- (c) Motor cycles;
- (d) Bicycles; and
- (e) tri-cycles.