

REPORT NO.

243



PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON TRANSPORT, TOURISM AND CULTURE

TWO HUNDRED FORTY THIRD REPORT
The Motor Vehicles (Amendment) Bill, 2016

(Presented to the Rajya Sabha on 8th February, 2017)
(Laid on the Table of Lok Sabha on 8th February, 2017)



Rajya Sabha Secretariat, New Delhi
February, 2017/ Magha, 1938 (Saka)

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COMPOSITION OF THE COMMITTEE
(Constituted on 1st September, 2016)

- 1. Shri Mukul Roy - Chairman**

Rajya Sabha

2. Shri Ritabrata Banerjee
3. Dr. K. Chiranjeevi
4. Dr. Prabhakar Kore
6. Shri Kiranmay Nanda
7. Shri Rangasayee Ramakrishna
8. Kumari Selja
9. Shri Rajeev Shukla
9. Shri Narendra Kumar Swain
10. Shri Lal Sinh Vadodia

Lok Sabha

11. Shri Subrata Bakshi
12. Shri Ram Charitra Nishad
13. Shri Vinod Chavda
14. Shri Rajeshbhai Naranbhai Chudsama
15. Kumari Arpita Ghosh
16. Shri Rahul Kaswan
17. Shri P. Kumar
18. Shri Harish Chandra Meena
19. Yogi Aditya Nath
20. Shri Kristappa Nimmala
21. Shri Rajesh Pandey
22. Shri Rajesh Ranjan
23. Shri P. Srinivasa Reddy
24. Shri Ram Kumar Sharma
25. Shri Prathap Simha
26. Shri Dushyant Singh
27. Shri Kunwar Haribansh Singh
28. Shri Rakesh Singh
29. Shri Shatrughan Sinha
30. Shri Manoj Tiwari
31. Shri K. C. Venugopal

SECRETARIAT

Shri J.G. Negi, Joint Secretary
Shri Swarabji B., Director
Shri Arun Kumar, Assistant Director
Smt. Catherine John L., Assistant Director
Shri P.P. Raumon, Committee Officer

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture, having been authorised by the Committee to present on its behalf, do hereby present this Two Hundred Thirty Ninth Report of the Committee on the Motor Vehicles (Amendment) Bill, 2016*.

2. The Bill was introduced in the Lok Sabha on the 9th August, 2016. In pursuance of rules relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha, referred** the Bill to the Committee on the 17th August, 2016 for examination and report within two months. On the request being made by the Chairman of the Committee, Hon'ble Chairman had granted extension of time for a period of two months *i.e.* upto 16th December, 2016. But the deliberations could not be concluded within the stipulated period and the Committee again requested extension. The Hon'ble Chairman, Rajya Sabha acceded to the request for the presentation of the Report to both the Houses of the Parliament upto 16th February, 2017.

3. The Committee took oral evidence of the Secretary and other officers of the Ministry of Road Transport and Highways and Ministry of Law and Justice at its meeting held on the 29th September and 14th October, 2016. The Committee heard the views of Secretaries, Ministries of Road Transport and Transport Commissioners of various States and Union Territories on 25th October, 2016 and 4th November, 2016. The Committee also heard the views of the representatives of various stakeholders and individuals at its meeting held on the 4th November, 2016.

4. The Committee considered the draft Report on the Bill in its meetings held on 9th December and 27th December, 2016 and adopted the same on 24th January, 2017.

5. The Committee wishes to express its thanks to the Secretary and other officers of the Ministry of Road Transport and Highways and Ministry of Law and Justice for the assistance and inputs provided during deliberations on the provisions of the Bill. The Committee also acknowledges the contribution of Secretaries, Road Transport of various States and representatives of various NGOs, stakeholders and individuals who submitted their valuable suggestions on the provisions of the Bill.

New Delhi;
January 24, 2017
4 Magha, 1938 (Saka)

MUKUL ROY
Chairman,
Department-related Parliamentary Standing
Committee on Transport, Tourism and Culture.

* Published in Gazette of India Extraordinary Part-II, Section-2, dated 9th August, 2016.

**Rajya Sabha Parliamentary Bulletin Part-II No 55911, dated 26th October, 2016.

ACRONYMS

GoM	-	Group of Ministers
GDP	-	Gross Domestic Product
RTA	-	Road Transport Authority
RTO	-	Road Transport Officers
CUTS	-	Consumer Unity & Trust Society
HMV	-	Heavy Motor Vehicle
MVA	-	Motor Vehicle Act
NHAI	-	National Highways Authority of India
MACT	-	Motor Accident Claims Tribunal
LMV	-	Light Motor Vehicle

REPORT

The Motor Vehicles (Amendment) Bill, 2016 was introduced in Lok Sabha on 9th August, 2016 and Hon'ble Chairman, Rajya Sabha in consultation with the Hon'ble Speaker, Lok Sabha referred this Bill on 17th August, 2016 to the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture for consideration, examination and report within 2 months. Since it is an exhaustive Bill and it required time for examination of stakeholders on the subject, the Committee sought extension of time for two months upto 16th December, 2016 from Hon'ble Chairman, Rajya Sabha. But the deliberations could not be concluded within the stipulated period and the Committee again sought extension of period upto 16th February, 2017 to present its Report to the Parliament and request of the Committee was acceded to by the Hon'ble Chairman, Rajya Sabha.

2. The Motor Vehicles Act, 1988 is the principal Act for regulating all the activities related to Motor Vehicles in the country. It has been amended four times *i.e.* in the year 1994, 2000, 2001 and 2015 to adapt it to the technological upgradation emerging in road transport, passenger, freight movement and in motor vehicle management. Many provisions of the Act either have lost its sheen in present context or there is a need to add more teeth to it especially vis-à-vis provisions pertaining to increasing penalty to enforce road safety and also provisions for incorporating modern technology. There is a need for amending the existing provisions to suit the present requirement.

3. Ministry of Road Transport and Highways constituted a Group of Ministers (GoM) under the Chairmanship of Shri Yoonus Khan, Minister for PWD and Transport, State Government of Rajasthan to deliberate on the issues facing the transport sector in the country. GoM gave its interim reports and suggested a series of recommendations.

4. The Ministry has claimed that there is a need for bringing out changes in the Principal Act. The Bill has given emphasis on road safety, computerization, enhanced penalty for traffic offences.

5. In the year 2015, as per Ministry's information 1,46,000 people died in road accidents and around 3 lakh people got injured. Road transport plays a vital role in the economy of the country and Road Transport constitutes 4.5 percent of the GDP of the country.

6. To address the issues faced by the transport sector, the Ministry had initiated the Road Transport and Safety Bill. But, several States have expressed apprehensions with regard to provisions relating to opening up of public transport as well as issues relating to the control and regulations of permits and taxation. Ministry of Road Transport and Highways has framed following guidelines which have to be given importance while making the amendments in the Principal Act:-

- (i) Good Samaritan law- It has been incorporated in the Bill with a view to

help those people who come forward after the accident and rescue and help the victim should not be harassed.

- (ii) Issue of learning License online
- (iii) Registration of vehicles at dealer's point.
- (iv) Accidental Insurance cover for the drivers of vehicles.
- (v) Review of periodicity for renewal of driving licenses.
- (vi) Liberalizing intra-city taxi permit system and other automobile aggregation policy.
- (vii) Steps for promoting low cost last mile connectivity.
- (viii) Strengthening rural transport.
- (ix) Strengthening public transport system.

7. During the deliberations of the meeting, the Committee also came across some suggestions which are worth consideration and may be included in the Bill, which will strengthen the Act further. Some of those points are as follows:

- (i) Wearing of headgear/helmet may be made mandatory for a two-wheeler rider, whether it is a 50 c.c. or 100 c.c. vehicle, if it is motorized then it should be compulsory for the riders (both major & minor).
- (ii) Mandatory test of competence must be fixed for driver.
- (iii) States may be delegated some powers to punish dealers, if they indulge in malpractices. (Section -56)
- (iv) Government vehicles may be exempted from getting insurance cover and the money saved from non-coverage should be spent on giving claims to accident victims through making a road safety fund.
- (v) Government may incorporate the provision for the manufacturers that the strength of axle of goods vehicle may be kept at par with the load to be carried by the vehicle.
- (vi) Indian roads are currently not suitable for vehicles which can run on 200 km or 250 km/hour speed and hence vehicles may be made which can better suit Indian road conditions. The provision in this regard may be added in the Bill.

8. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.

Clause 1 provides for the short title of the Bill as “the Motor Vehicles (Amendment) Act, 2016”, and seeks to provide for the commencement of the provisions of the Bill from such date as may be notified by the Central Government and different dates may be appointed for different States for different provisions of the Bill.

Clause 2 reads

9. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), in section 2,

(i) for clause (1), the following clauses shall be substituted, namely:—

'(1) "adapted vehicle" means a motor vehicle either specially designed and constructed, or to which alterations have been made under sub-section (2) of section 52, for the use of a person suffering from any physical defect or disability, and used solely by or for such person;

(1A) "aggregator" means a digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation;

(1B) "area" in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;';

(ii) after clause (4), the following clause shall be inserted, namely:—

'(4A) "community service" means an unpaid work which a person is required to perform as a punishment for an offence committed under this Act;';

(iii) after clause (9), the following clause shall be inserted, namely:—

'(9A) "driver refresher training course" means the course referred to in

sub-section (2A) of section 19;'

(iv) after clause (12), the following clause shall be inserted, namely:—

'(12A) "golden hour" means the time period lasting one hour following a traumatic injury during which there is highest likelihood of preventing death by providing prompt medical care;

(v) clause (18) shall be omitted;

(vi) in clause (24), for the words "invalid carriage", the words "adapted vehicle" shall be substituted;

(vii) in clause (26), for the words "invalid carriage", the words "adapted vehicle" shall be substituted;

(viii) after clause (38), the following clause shall be inserted, namely:

— '(38A) "scheme" means a scheme framed under this Act;' (ix) after clause (42), the following clause shall be inserted, namely:—

'(43A) "testing agency" means any entity designated as a testing agency under section 110B;'

(x) in clause (49), after the word 'rests', the words 'or moves' shall be inserted.

Clause 2 seeks to amend section 2 of the Motor Vehicles Act, 1988(Act) relating to definitions of certain expressions used in the Act such as, 'medium passenger motor vehicle', 'motor car' and 'weight' and to insert some new definitions in section 2, such as, 'adapted vehicle', 'aggregator', 'community service', 'driver refresher training course', 'golden hour', 'scheme' and 'testing agency'.

Clause 3 reads

10. After section 2A of the principal Act, the following section shall be inserted, namely:—

"2B. Notwithstanding anything contained in this Act and subject to such conditions as may be prescribed by the Central Government, in order to promote innovation and research and development in the fields of vehicular engineering, mechanically propelled vehicles and transportation in general, the Central Government may exempt certain types of mechanically propelled vehicles from the application of the provisions of this Act." .

Clause 3 seeks to insert a new section 2B in the Act to provide flexibility to the Central Government to exempt new technologies, inventions or innovations from the provisions of the principal Act so as to give such technologies and innovations.

11 The Committee observes that the insertion of Clause 2B to include new technologies, inventions and innovations in the Motor Vehicle Sector to develop and update itself with the modern technologies is a welcome step. Modern vehicular engineering will help in checking harmful emissions from the vehicles and save the ecosystem.

12. Clause 4 reads in section 8 of the principal Act,—

(i) in sub-section (1), for the words "the licensing authority having jurisdiction

in the area", the words "any of the licensing authority in the State" shall be substituted;

(ii) in sub-section (2), for the words "and with such fee", the words "with such fee and submit in such manner, including by electronic means" shall be substituted;

(iii) in sub-section (3),—

(a) after the word "application", the words "to drive a transport vehicle made" shall be inserted;

(b) the proviso shall be omitted;

(iv) in sub-section (4), in the proviso, for the words "invalid

carriage", the words "adapted vehicle" shall be substituted;

(v) in sub-section (5), for the words "passes to the satisfaction of the licensing authority such test" the words "satisfies such conditions" shall be substituted;

(vi) in sub-section (6), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that a licencing authority may issue a learner's licence in electronic form and such manner as may be prescribed by the Central Government."

Clause 4 seeks to amend section 8 of the Act to simplify the procedure for obtaining a learner's licence. It seeks to enable an applicant to apply to any licensing authority in the State, to use online means to submit the application, fee and other documents, and allow the government flexibility in determining the eligibility to obtain a learner's licence. It also seeks to provide for the issue of a learner's licence in electronic form.

13. The State of Karnataka raised the issue about amendment of Section 8 by Clause 4 which provides the procedure for obtaining learner's license. It seeks to enable an applicant to apply to any licensing authority in the State to use online means to submit the application, the fee and other documents and allow the Government the flexibility in determining the eligibility to obtain a learner's license. The State is concerned that the issuance of learners license in electronic form without testing his knowledge about driving license is not in favour of public interest. This facility will be misused.

14. The Ministry has informed that this issue of learners' license online is to enable the citizens of the country to get license in an easier way and also to avoid rush at the RTOs.

15. The Committee was informed by many States' representatives that filling up of online application and uploading of document need to be followed up by the appropriate written test prescribed by the individual concerned at the identified office premises. But the Committee feels that this amendment is a welcome step which will enable speedy submission of application form and documents. Learners license is not an address proof, the driving license is issued only after proper verification. The Committee is afraid that online procedure of obtaining learning license will be misused and people may get learner's driving license filling up the wrong information online. The Committee recommends that this section may be modified further to get rid off such possibilities if any, of misusing this facility by the miscreants.

16. Clause 5 reads in section 9 of the principal Act,—

(i) in sub-section (1), for the words "the licensing authority having jurisdiction in the area", the words "any of the licensing authority in the State" shall be substituted;

(ii) in sub-section (3), for the second proviso, the following proviso

shall be substituted, namely:—

"Provided further that a driving licence for driving an adapted vehicle may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such motor vehicle.";

(iii) in sub-section (4), the words "such minimum educational qualification as may be prescribed by the Central Government and" shall be omitted;

(iv) in sub-section (5), in the proviso, after the words "last such test", the words and figures "and such applicant shall be required to complete a remedial driver training course from any school or establishment under section 12" shall be inserted.

Clause 5 seeks to amend section 9 of the Act to simplify the procedure for the grant of a driving licence. It seeks to enable an applicant to apply to any licensing authority in the State, removes the requirement for minimum educational qualification as long as the applicant holds a certificate from a driver training school or establishment. It also seeks to provide that an applicant who fails the test of competence repeatedly shall be required to undergo a remedial driver training course before such applicant can apply again.

17. The State of Kerala has submitted before the Committee that in Clause 5 amending S.9 (4) - in the original Act, there is a provision for minimum educational qualification for grant of driving license and it can be retained in the Bill.

18. One stakeholder put some important points regarding strengthening the licensing system and suggested that Central Government should prescribe minimum period for basic training. Along with driving certificate issued by a school or establishment, applicant shall undergo mandatory test of competence at the licensing centre. Bill should empower Central Government to formulate guidelines for accreditation, monitoring and moderation of schools and establishments. State Governments should formulate guidelines for regulation of training fees and license fees.

19. In response, the Ministry has replied that the training imparted by a school or establishment referred to in S.12 shall ensure that the driver can read signs and perform logistical duty such as maintenance of driver logs, inspection of trucks and trailers, submission of pre-trip and post-trip records, determination of discrepancies in paperwork, effective communication to report safety hazards.

20. Moreover, under sub-Section (4) of S.9 schools and establishments which are providing vocational training and skilling facilities are subject to regulatory oversight. Hence, the training imparted will be of high quality covering all aspects of driving a particular type of motor vehicle. The focus is not merely on the educational qualifications but on better driving skills.

21. The Ministry has in their written submission said that under Section 9, Central Government has the power to prescribe test of competence.

22. The Committee notes that the Govt. want to do away with minimum educational qualifications prescribed for issuing a driving license.

23. The Committee feels that the person should be literate enough to read, write and understand the road signage. The Committee is of the view that Central Govt. should prescribe a mandatory test of competence for a new license holder under Section 9 of the Motor Vehicle Act. The competency test prescribed should be uniform throughout India and the State Governments should not be allowed to further dilute the prescribed competency test criteria.

24. Clause 6 reads in section 10 of the principal Act, in sub-section (2), in clause (c), for the words "invalid carriage", the words "adapted vehicle" shall be substituted.

Clause 6 seeks to amend section 10 of the Act to replace the term 'invalid carriage' with the term 'adapted vehicle'.

25. The Committee agrees with the provision of this Clause to replace the words 'invalid carriage' with adapted vehicle". Because people who are suffering from physical disabilities may like to have their vehicle modified which may suit to their requirements.

26. Clause 7 reads in section 11 of the principal Act, in sub-section (1), for the words "the licensing authority having jurisdiction in the area", the words "any licensing authority in the State" shall be substituted.

Clause 7 seeks to amend section 11 of the Act so as to allow a licence holder to apply to any licensing authority in the State for the addition of other classes or descriptions of motor vehicles to his or her driving licence.

27. The State of Karnataka has expressed its reservation against clause 7 which seeks to amend Section 11 of the Act so as to allow a license holder to apply to any licensing authority in the State for the addition of other classes or descriptions of motor vehicles to his/her driving license and have also stated that if amendment to Section 11 is promulgated section 28 (2) (a) and s. 65 (2) (b) are required to be amended after the implementation of Saarthi-IV and Vahan-IV for central repository.

28. The Committee notes that India is a fast moving country towards digitization and information technology revolutions. Internet has removed all sorts of geographical boundaries and enables the citizens to operate the network from anywhere in the country. The Government should adopt their own mechanism to check the identity proof and veracity of other documents physically before issuing the driving license.

29. The Committee agrees with the substitution of words "the licensing authority having jurisdiction in area" with the words "any licensing authority in the State". Every person has a residence/identity proof where he stays and he may get the driving license from any licensing authority in the State at this age of Internet. The Committee strongly feels that giving a license to a person after

ascertaining his identity from anywhere in the State will not only save his time and money but also remove the existing bottleneck. The Committee, therefore, recommends that the existing words “the licensing authority having jurisdiction in the area” must be substituted with the word “any licensing authority in the State”.

30. Clause 8 reads in section 12 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) Notwithstanding anything contained in any other provision, where any school or establishment has been accredited by a body notified by the Central Government under any other law for the time being in force, any person who has successfully completed a training module at such school or establishment covering a particular type of motor vehicle shall be eligible to obtain a driving licence for such type of motor vehicle.

(6) The curriculum of the training module referred to sub-section (5) shall be such as may be prescribed by the Central Government and the Central Government may make rules for the regulation of such schools or establishments."

Clause 8 seeks to amend section 12 of the Act to allow applicants who have obtained specialized training that has been devised by the Central Government, from accredited schools or establishments, to drive without being required to meet other requirements e.g. driving with light motor vehicle for at least one year before being granted a learner's licence to drive a transport vehicle.

31. Institute of Public Health submitted that there is a need for improvement in the current driving license system. Another stakeholder suggested to omit sub section 5 of Section 12 which allows applicants to obtain licence of a certain category of vehicles based on a certificate from an established school-such provision can lead to issuance of an HMV licence to a fresh applicant, without any test of competence, who is theoretically trained but lacks practical experience of driving any kind of motor vehicle on the road prior to obtaining the HMV licence. There is room for establishment, not adequately regulated, to issue certificates of training.

32. State of West Bengal raised the query that proposed S.12 (5) envisages important role for driver training schools accredited by a body notified by the Central Government. It is not clear why accreditation by a body notified by the State Government will not receive equal and concurrent authority. Formation of training modules, notification and accreditation of driver training schools should remain under the jurisdiction of State.

33. The Ministry responded that under Section 12 as amended, the Central Government may prescribe the curriculum for training of drivers. Such curriculum will improve driver training and thus strengthen road safety. The Ministry further submitted that under sub-section (5) the applicant would be required to undertake training from an accredited establishment. If an establishment is found to issue certificate of training

without providing the training as mandated in the curriculum prescribed by the Central Government or violates rules and regulations made by the Central Government under sub-section (6), then such establishment shall lose its accreditation.

34. The curriculum prescribed by the Central Government shall provide adequate training, including practical training as may be prescribed, to ensure that applicants are able to drive HMVs on roads in a safe manner.

35. The provision is expected to address the severe national shortage of competent long haul HMV drivers and thus improve logistics efficiency in the country.

36. In response, the Ministry has submitted that the amendment Bill does not dilute the authority of the State Government to license and regulate driver training school under S.12. This is to cover the institutions created under skill Development Programme using approved qualification curriculum.

37. The Committee observes that if a person has already undergone a specialized training prescribed by the Central Government then he may be given exemption from meeting other requirements viz. condition of driving of light motor vehicle for one year before granting a license to drive transport vehicle.

38. The Committee notes the assurance given by the Central Government that the Clause does not dilute the authority of the State Governments to issue license and regulate driving schools. The Committee also notes that India is a big country with varying geographical conditions necessitating rules and regulations required to suit the local conditions which can be better addressed by the concerned State Governments. Therefore, Committee recommends that every step should be made to strengthen the State Governments in regulating driving schools.

39. Clause 9 reads in section 14 of the principal Act, in sub-section (2),—

(i) in clause (a),—

(A) for the words "three years", the words "five years" shall be substituted;

(B) in the proviso, for the portion beginning with the words "one year" and ending with the word "and" the words "three years and renewal thereof shall be subject to such conditions as the Central Government may prescribe; and", shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) in the case of any other licence, subject to such conditions as the Central Government may prescribe, if the person obtaining the licence, either originally or on renewal thereof,—

(i) has not attained the age of thirty years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of forty years; or

(ii) has attained the age of thirty years but has not attained the

age of fifty years on the date of issue or, renewal thereof, be effective for a period of ten years from the date of such issue or renewal; or

(iii) has attained the age of fifty years but has not attained the age of fifty-five years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of sixty years; or

(iv) has attained the age of fifty-five years on the date of issue or as the case may be, renewal thereof, be effective for a period of five years from the date of such issue or renewal.";

(iii) the proviso shall be omitted.

Clause 9 seeks to amend section 14 of the Act to increase the length of time for which a driving licence shall remain valid.

40. The State of Kerala in their submission before the Committee stated that amending Section 14(2) under Clause 9 will create confusion regarding the period of validity of license.

41. The Ministry has replied that this provision extends the validity of licenses and will reduce the office work and is citizen friendly.

42. The Committee is happy to note that the Bill seeks to amend section 14(2) of the Motor Vehicle Act, 1988 which will increase the period from 3 years to 5 years and it has further categorized for the renewal of the driving license in the age group of 30s, 40s and 50s. The Committee feels it's a welcome step.

43. Clause 10 reads in section 15 of the principal Act,—

(i) in sub-section (1), in the first proviso, for the words "more than thirty days", the words "either six months prior to date of its expiry or within six months" shall be substituted;

(ii) in sub-section (3), for the words "thirty days", the words "six months" shall be substituted; and

(iii) in sub-section (4),—

- (a) for the words "thirty days", the words "six months" shall be substituted; and
- (b) in the second proviso for the words "five years after the driving licence has ceased to be effective, the licensing authority may", the words "six months after the driving licence has ceased to be effective, the licence authority shall" shall be substituted.

Clause 10 seeks to amend section 15 of the Act to allow a licence holder to apply for renewal of licence any time in a window of six months before expiry of licence and six months after. It also seeks to provide that any applicant who attempt to renew his or her driving licence more than six months after expiry shall have to undergo a test of competence.

44. The State of Kerala in their submission added that in Clause 10 amending Section 15(4), the proposed period of 'six months' may be enhanced to at least 2 years. Since the situation in Kerala is different from other States, a large number of people are working abroad and they visit the State once in 2 or 3 years only. At present they get 5 years to renew their license but in the proposed amendment, they will get only 6 months.

45. The Ministry has replied that this provision extends the renewal to be permitted to six months as against present provision of one month before or after the expiry. Hence, it is beneficial provision to citizens of India.

46. The Committee appreciates the move taken by the Ministry to increase the time period of renewal of driving license before and after its expiry date. The Committee feels that this change will help those people who go abroad and return after a gap of substantial period. The Committee further recommends that provision for renewal of license for those people who go abroad for longer period may get some extra relief *i.e.* time-period of one year before and after the expiry of the license for getting their license renewed.

47. Clause 11 read in section 19 of the principal Act,—

(iv) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where a licence has been forwarded to the licensing authority under sub-section (4) of section 206, the licensing authority, if satisfied, after giving the holder of the driving licence an opportunity of being heard, either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order disqualifying such person from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence—

(a) for a first offence, for a period of three months;

(b) for a second or subsequent offence, with revocation of the driving licence of such person:

Provided that where a driving licence is revoked under this section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government.";

(v) in sub-section (2),—

(a) after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted;

(b) for the proviso, the following proviso shall be substituted, namely:—

"Provided that the driving licence shall be returned to the holder at the end of the period of disqualification only if he successfully completes the driver refresher training course.";

(vi) after sub-section (2) the following such sections shall be inserted,

namely:—

"(2A) The licence holder whose licence has been suspended shall undergo the driver refresher training course from a school or establishment licenced and regulated under section 12 or such other agency, as may be notified by the Central Government.

(2B) The nature, syllabus and duration of the driver refresher training course shall be such as may be prescribed by the Central Government.”;

(vii) in sub-section (3) after the word, brackets and figure "sub-section (1)", the

words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

Clause 11 seeks to amend section 19 of the Act to provide for disqualification from holding driving licence and revocation of driving licence of drivers found to commit certain offence, such as, jumping red lights, driving under the influence of alcohol and drugs, driving licence using a mobile phone, driving in the wrong way etc. It also seeks to provide that such licence holders shall be required to complete a driver refresher training course, as prescribed by the Central Government.

48. Regarding amendment of Section 19 the Ministry has replied that the licensing authority shall have the power to disqualify a person from driving, if he or she has committed certain offences. For repeat offences, the driving license can be revoked. The section also provides for driver refresher training courses to enable drivers to unlearn bad driving habits. The Ministry further says that Bill under Section 19 provides for driver refresher training courses for drivers found to indulge in bad driving behavior such as jumping red lights, using mobile phones while driving, dangerous driving etc. This will ensure good driving behavior from drivers of transport vehicles.

49. The Committee is of the view that wrong driving of motor vehicles is dangerous not only for the occupants of the vehicle but it may also affect adversely the safety of other persons or vehicles on the road and brings others' lives under peril. The Committee feels that strong penal deterrence is necessary to ward off wrong doers from creating havoc on the road.

50. Clause 12 reads After section 25 of the principal Act, the following section shall be inserted, namely:—

"25A. (1) The Central Government shall maintain a National Register of Driving Licences in such form and manner as may be prescribed.

(2) All State Registers of Driving Licences shall be subsumed under the National Register of Driving Licences by a date to be notified by the Central Government.

(3) No driving licence issued, or renewed, under this Act shall be valid unless it has been issued a unique driving licence number under the National Register of Driving Licences.

(4) All State Governments and licensing authorities under this Act shall transmit all information including contained data in the State Register of Driving Licences in such form and manner as may be prescribed by the Central Government.

(5) The State Governments shall be entitled to access the National Register and update their records in such manner as may be prescribed by the Central Government.”.

Clause 12 seeks to insert a new section 25A in the Act to establish a National Register of Driving Licences containing data on all driving licences issued throughout India and facilitate the grant of licences in a transparent and efficient manner. It also seeks to enable the State Governments to transmit all information contained in the State Register of Driving Licences to the Central Government and to update the National Register in a manner to be prescribed by the Central Government. It also seeks to subsume all State Registers into the National Register by a date to be notified by the Central Government.

51. A stakeholder suggested that the National register of driving licenses should provide for mandatory use of biometric information to reduce the likelihood of a driver obtaining multiple licenses with false information. The use of biometric information can keep a check on the duplicity of licenses.

52. On this, the Ministry has replied that Sub-section (1) of the proposed section 25A states that the Central Government shall maintain the National Register of Driving Licenses in a form and manner that it may prescribe.

53. The Central Government may provide for the use of biometric information through rules made under this provision, if States request for such a provision.

54. The Ministry has further added that licensing system all over the country is becoming online and the data is directly getting recorded into the National Register. States have already adopted the VAHAN and SARATHI applications. So data is being shared and if, there is change, it gets reflected.

55. The Committee is not aware of the factual provision so far about the National Register of Driving Licenses. The Committee feels that before implementing the proposed changes at national level, every State has to be electronically equipped with the software of required information. The Committee, while discussing with various States on the matter, found that many States are asking for more time i.e., 2-3 years for making their offices electronically equipped. The Committee appreciates the steps taken by the Ministry to incorporate the instant section. But, at the same time recommends that the Ministry should extend help viz. financial, logistics and trained manpower to various States (when States ask for) to implement this section effectively.

56. The Committee hope that the modalities to be prescribed by the Central Government to update the National Register would be worked out by the Central Government in consultation with the States.

57. In section 26 of the principal Act,—

(i) in sub-section (1), for the words "the following particulars, namely", the words "particulars, including" shall be substituted;

(ii) sub-section (2), shall be omitted.

Clause 13 seeks to amend section 26 of the Act to omit the requirement on the part of the State Government to supply the Central Government with a copy of the State Register of Driving Licences.

58. Clause 14 says in section 27 of the principal Act,—

(i) after clause (d) the following clause shall be inserted, namely:—

"(da) the form and manner in which a licensing authority may issue a learner's licence under sub-section (6) of section 8;"

(ii) after clause (j) the following clauses shall be inserted, namely:—

"(ja) the curriculum of training modules and the regulation of schools and

establishments under sub-section (6) of section 12;

(jb) the conditions for the renewal of licence to drive transport vehicles carrying goods of dangerous or hazardous nature and other motor vehicles under clause (a) and clause (b) of sub-section (2) of section 14;"

(iii) after clause (n) the following clauses shall be inserted, namely:—

"(na) the manner of placing in the public domain of the name of the licence holder as referred to in sub-section (1A) of section 19;

(nb) providing for the nature, syllabus and duration of the driver refresher training course as referred to in sub-section (2B) of section 19;

(iv) after clause (o), the following clause shall be inserted, namely:—

"(oa) all or any of the matters referred to in section 25A;"

(v) in clause (p), after the word, brackets and figure "sub-section (1)", the words brackets and figure "and sub-section (2)" shall be inserted.

Clause 14 seeks to amend section 27 of the Act in consequence of the amendments proposed in Chapter II of the Act.

59. The Committee hopes that the curriculum of training modules, regulation of schools and establishments to be set up in the States and the training modules itself should be formulated in consultation with the State Governments. The

Committee recommends that appropriate guidelines may be formulated to transport the goods of hazardous and dangerous nature and also for specialized training programme for those drivers who are involved in driving of heavy oversized vehicles.

60. The Committee recommends that there should be a proper training by the Government for those drivers who are involved in driving heavy vehicles (Mega Vehicles) and also carrying goods of hazardous and dangerous nature.

61. Clause 15 says In section 40 of the principal Act, for the words "a registering authority", the words "any registering authority in the State" shall be substituted.

Clause 15 seeks to amend section 40 of the Act to allow an owner to register his motor vehicle by making an application to any registering authority in the State.

62. The Committee appreciates the initiative taken by the Ministry and hope that in a digitized world the geographical limits should not be imposed on citizens.

63. Clause 16 says in section 41 of the principal Act,—

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in the case of a new motor vehicle, the application for registration in the State shall be made by the dealer of such motor vehicle, if the new motor vehicle is being registered in the same State in which the dealer is situated.";

(ii) in sub-section (3),—

(a) for the words "to the owner of a motor vehicle registered by it a certificate of registration", the words "a certificate of registration in the name of the owner" shall be substituted;

(iii) in sub-section (6), the following proviso shall be inserted, namely:— "Provided that in case of a new motor vehicle, the application for the registration of which was made under the second proviso to sub-section (1),

such motor vehicle shall not be delivered to the owner until such registration

mark is displayed on the motor vehicle in such form and manner as may prescribed by the Central Government.";

(iv) in sub-section (7),—

(a) the words "other than a transport vehicle" shall be omitted; and

(b) after the words " date of issue of such certificate", the words "or for

such period as may be prescribed by the Central Government" shall be inserted;

(v) in sub-section (8), the words "other than a transport vehicle", shall be omitted;

(vi) in sub-section (10),—

(a) for the words "for a period of five years", the words " for such period, as may be prescribed by the Central Government" shall be substituted;

(b) the following proviso shall be inserted, namely:—

"Provided that the Central Government may prescribe different period of renewal for different types of motor vehicles.";

(vii) in sub-section (11),—

(a) for the words and figures " section 177, such amount not exceeding one hundred", the words, brackets, figures and letter " sub-section (1) of section 192B, such amount not exceeding five thousand" shall be substituted; and

(b) in the proviso, for the word and figures "section 177", the words brackets, figures and letter "sub-section (1) of section 192B" shall be substituted;

(viii) after sub-section (11), the following sub-section shall be inserted, namely:—

"(11A) If a dealer fails to make an application under the second proviso to sub-section (1), the registering authority may, having regard to the circumstances of the case, require the dealer to pay, in lieu of any action that may be taken

against him under sub-section (2) of section 192B, such amount not exceeding fifteen thousand rupees as may be prescribed under sub-section (13):

Provided that an action under sub-section (2) of section 192B shall be taken against the dealer where the dealer fails to pay the said amount.";

(ix) for sub-section (12), the following sub-section shall be substituted, namely:—

"(12) Where the owner or the dealer has paid the amount under sub-section (11) or sub-section (11A), as the case may be, no action

shall be taken against him under sub-section (1) or sub-section (2) of section 192B, as the case may be.";

(x) for sub-section (13), the following sub-section shall be substituted, namely:—

"(13) For the purposes of sub-section (11) and sub-section (11A), the State Government may prescribe different amounts having regard to the period of delay on the part of such owner or dealer in making an application under sub-section (1) or sub-section (8), as the case may be."

Clause 16 seeks to amend section 41 of the Act to provide for the registration of new motor vehicles by dealers and provide for penalties for dealers who fail to register a new motor vehicle. It also seeks to provide that new motor vehicles shall be delivered to the customers only after the affixation of the registration mark. It also seeks to empower the Central Government to prescribe the validity of a registration certificate for different classes of motor vehicles.

64. The State of Karnataka submitted before the Committee that the Registering Authorities of the Transport Department in the State who are public servants, whose orders are challengeable under section 57 dealing with appeals of the Act, and therefore, these officers are Authorities within the meaning of the Act and also under Article 12 of the Constitution, and they are accountable to the accuracies of the registered documents. Government authorities, that is, RTOs are accountable for any malfunctioning; empowering vehicle dealers who have a profit motive of promoting their sales, they may cheat the Government or customers by violating the rules and regulations. As per section 66 of the proposed Act, every transport vehicle needs permit for its operation in any public place. Further, for the purpose of levy of tax in respect of transport vehicle, inspection by the Registering Authority is mandatory since taxation is different for different classes of transport vehicles. For example, tax on floor area, tax on sitting capacity, tax on gross combination weight, gross vehicle weight etc. Hence, empowering the dealer as Registering Authorities may lead to misuse of power and fraudulent issue of RCs which is not in public interest.

65. The Committee notes that a number of State Governments are unhappy with the functioning of vehicle dealers as they are under-invoicing, overcharging customers on logistics/handling charges, taking extra insurance premiums and indulging in other malpractices. The Committee also notes that the vehicle dealer is an agent of the manufacturer and shall not be made an instrumentality of the Government to perform statutory functions and quasi judicial powers of registering authority. At the same time the Committee notes that RTOs throughout the country are overburdened and understaffed. Moreover, they are a den of corruption. The Committee, therefore, appreciates that the delegation of powers to dealers for registration of vehicles may alleviate a lot many problems of

the vehicle owners. However, the Committee recommends that strict guidelines may be prescribed for the functioning of the vehicle dealers. The Committee also recommends that the registration of vehicle by dealers may be made optional to the States depending on the State's specific requirements.

66. Clause 17 says -17.For section 43 of the principal Act, the following section shall be substituted, namely:—

“43. Notwithstanding anything contained in section 40, the owner of a motor vehicle may apply to any registering authority or other authority as may be prescribed by the State Government to have the motor vehicle temporarily registered and such authority shall issue a temporary certificate of registration and temporary registration mark in accordance with such rules as may be made by the Central Government”.

Clause 17 seeks to amend section 43 of the Act to enable the Central Government to make rules for the issue of temporary certificates of registration and temporary registration marks and it provides for an application for temporary registration to be made to a registering authority or any other authority as may be prescribed by the State Government.

67. West Bengal deposed before the Committee that proposed amendment to S.43 authorising Central Government to frame rules for temporary registration is also lopsided. State Government should also have power to frame such rules and enforce them.

68. The Ministry has replied that temporarily registered motor vehicles may be transported across State boundaries. Hence uniform rules for the entire country are required to be framed by the Central Government.

69. The Committee notes the comments of the Government. The Committee also recommends that the State governments should be permitted to issue temporary registration certificate which can be applicable within the State. The Committee is of the view that there should be a time limit of just one month for validity of a temporary registration certificate and it should be uniform throughout India.

70. Clause 18 says For section 44 of the principal Act, the following section shall be substituted, namely:—

"44.(1) Subject to such terms and conditions as may be prescribed by the Central Government in this behalf, a motor vehicle sold by an authorised dealer shall not

require production before a registering authority for the purposes of registration for the first time.

(2) Subject to such terms and conditions as may be prescribed by the State Government, a person in whose name a certificate of registration has been issued

shall not be required to produce the vehicle registered or transferred before a register authority."

Clause 18 seeks to amend section 44 of the Act to remove the requirement of the production of a motor vehicle before the registering authority at the time of registration.

Clause 18

71. One stakeholder suggested that amendment in section 44 is inappropriate. Provision should be made for appearance of buyer and seller before the registering authority.

72. The Ministry has replied that this has been included as per the recommendations of the GoM, which were made after great deliberation on their part. Some States like Delhi have successfully implemented similar process.

73. This would reduce corruption and provide a much-needed relief to the customers. This also streamlines the process of registration and clamps down on the practice of using new vehicles in their unregistered state.

74. The requirement of production of a new vehicle does not add any value to the entire process. Rather this acts as a tool for harassment.

75. The Committee notes that Delhi which is having the largest vehicular population is implementing the same scheme effectively. However, the Committee was informed that Delhi has implemented the scheme because it has inadequate officers to manage the vehicle registration whereas in many other States they have required infrastructure to deal with the vehicle registration. The Committee, therefore, recommends that this proposal in Clause 18 shall be made optional for the States to decide on the basis of the infrastructure and manpower available and the Committee further recommends that it should not be made as mandatory to be followed by all the States. The Committee also recommends that it may be implemented in such a way that the regional and local needs are effectively addressed and the dealers may not be able to manipulate the system or vehicle configurations to suit their needs.

76. Clause 19 says, in section 49 of the principal Act,—

(i) sub-section (1), for the words "registering authority, to that other registering authority" the words "State, to any registering authority in that State" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The intimation under sub-section (1) may be sent to the appropriate registering authority in electronic form along with the electronic form of such documents, including proof of authentication in such manner as may be prescribed by the Central Government.";

(iii) in sub-section (2), for the words "one hundred rupees", the words "five

hundred rupees" shall be substituted.

Clause 19 seeks to amend section 49 of the Act to simplify the process for recording change of residence on registration certificate by means of online application process. It also seeks to enhance the penalty for failure to provide the new information in a timely manner.

77. Some States and other private stakeholders strongly objected about the amendment to section 49 of the Act saying that it takes away the powers of officers to receive fees via electronic mode unless so authorized by the State Government.

78. The Ministry has replied that the amendment to section 49 merely enables payments to be made through the electronic mode.

79. The Committee observes that the change in address of vehicle owners is very common and it is the responsibility of the owner to intimate the authority in time. But, in the new amendment States are not involved in substitution of the existing addresses. The Committee recommends that the State Government may also be made part of the decision making body while making the final form of proof of authentication. The Committee recommends that the Authority which originally registered the vehicle should be involved while making the correction also.

80. Clause 20 says in section 52 of the principal Act,—

(i) in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters

for the alteration of motor vehicles and in such cases, the warranty granted by the manufacturer shall not be considered as void for the purposes of such alteration or retrofitment.”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) A manufacturer of a motor vehicle shall on the direction issued by

the Central Government, alter or retrofit safety equipment, or any other equipment

in accordance with such standards and specifications as may be specified by the Central Government.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), any person

may, with the subsequent approval of the registering authority, alter or cause to

be altered any vehicle owned by him to be converted into an adapted vehicle:

Provided that such alteration complies with such conditions as may be imposed by the Central Government.";

(iv) in sub-section (3), the words, brackets and figure "or by reason of replacement

of its engine without such approval under sub-section (2)" shall be omitted.

Clause 20 seeks to amend section 52 of the principal Act to allow owners to alter or retrofit equipment to their motor vehicle and provides that the warranty granted by the manufacturer shall not be declared void when such alteration or retrofitment is done in accordance with specifications laid down by the Central Government. It also empowers the Central Government to require manufacturers to retrofit safety and emissions control equipment on motor vehicles. It also seeks to enable the conversion of a motor vehicle into an adapted vehicle for use by persons with disabilities.

81. States and other stakeholders submitted before the Committee that S.T.U.s will face problems since the amendment of section 52 has removed the exception for persons owning more than 10 transport vehicles under which they were allowed to exchange engines between such vehicles in the fleet.

82. The Committee feels that under Clause 20, to make alteration or retrofitment in a vehicle should commensurate not only with the need of the owner but the attention may also be drawn to the effect of such changes on environment as well as traffic. A vehicle owner can change the fittings of his vehicle to suit his commercial need but at the same time changes carried out by the Vehicle owner should not play havoc on the road. The Committee recommends that the Ministry may give due care while formulating the rules for change or retrofitment in the vehicle. The Committee welcomes if the Ministry allows the person to get his vehicle converted into adapted vehicle as per his requirement on medical ground.

83. Clause 21 in section 55 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) If any registering authority or other prescribed authority has reasons to believe that any motor vehicle within its jurisdiction has been used in the commission of an offence punishable under section 199A, the authority may, after giving the owner an opportunity of making a representation in writing, cancel the certificate of registration of the vehicle for a period of one year:

Provided that the owner of the motor vehicle may apply for fresh registration in accordance with the provisions of section 40 and section 41."

Clause 21 seeks to amend section 55 of the Act to provide for the cancellation of the registration of a motor vehicle which has been used by a juvenile in contravention of the provisions of the principal Act.

84. The Committee observes that the proposed amendment is a step in right direction. It discourages the owner to hand over their vehicle to an unauthorized person who is not supposed to drive the vehicle. Such person may cause accident harming others' life and property besides committing an offence which is punishable under S.199-A.

85. Clause 22 says in section 56 of the principal Act,—

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no certificate of fitness shall be granted to a vehicle, after the 1st day of October, 2018, unless such vehicle has been tested at an automated testing station.";

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The "authorised testing station" referred to in sub-section (1) means any facility, including automated testing facilities, authorised by the State Government, where fitness testing may be conducted in accordance with the rules made by the Central Government for recognition, regulation and control of such stations.";

(iii) in sub-section (4), for the proviso, the following provisos shall be substituted, namely:—

"Provided that no such cancellation shall be made by the prescribed authority unless,—

(a) such prescribed authority holds such technical qualification as may be prescribed by the Central Government and where the prescribed authority does not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification, and

(b) the reasons recorded in writing cancelling a certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose certificate of fitness is sought to be cancelled:

Provided further that if the cancellation is confirmed by the authorised testing station, the cost of undertaking the test shall be borne by the owner of the vehicle being tested and in the alternative by the prescribed authority.";

(iv) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(6) All transport vehicles with a valid certificate of fitness issued under this section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government.

(7) Subject to such conditions as the Central Government may prescribe, the provisions of this section may be extended to non-transport vehicles."

Clause 22 seeks to amend section 56 of the Act to provide for automated testing facilities at authorized testing stations for grant of certificates of fitness to motor vehicles and to ensure that no certificate of fitness shall be granted after October 1 2018 unless the motor vehicle is tested at such automated testing facilities. It also empowers the Central Government to direct other motor vehicles, in addition to transport vehicles, to carry certificates of fitness. It also seeks to provide that transport vehicles with valid certificates of fitness shall carry clear visible distinguishable marks on their bodies.

86. It was submitted before the Committee that the move to amend section 56 of the Act to require all vehicles, transport and non-transport, to carry certificates of fitness is unwarranted since non-transport vehicles are engaged in public service. Moreover, sub-section (2) of the amended provision allows the owner of a vehicle to choose the testing station of his choice when his vehicle is found to be non-compliant with fitness standards. This defeats the purpose of inspecting the vehicle for reasons of road safety.

87. The Ministry has replied that the requirement of testing at automated testing stations is to ensure objectivity in the fitness certification and to reduce corruption.

88. These testing stations have to be authorized by the State Government.

89. Non-transport vehicles are not mandated to undergo fitness testing. Only an enabling provision has been provided and early implementation would help the cause of road safety.

90. The Committee after hearing various States and other stake holders on the subject came to the conclusion that cut off date for implementing the testing for vehicles from authorized testing stations w.e.f. 1st October, 2018 is not acceptable to many States. The States have requested the Committee to pursue their request to the Ministry to extend the date for a further period. Many of the States have submitted to the Committee that they may not be ready with the testing stations by October, 2018. The representative of the State of Uttar Pradesh submitted to the Committee that entire State has just one automated testing station. The Committee understands that every State has its own problems to deal with and it will certainly take time to switch over to automated testing stations. The Committee recommends that Ministry may take States into confidence to implement this procedure when they get automated stations installed in sufficient

number in each of the RTOs in their respective States in a fixed time-frame. The Committee notes that the idea is good but its implementation should be deferred till such time all the States are ready with adequate numbers of testing stations. The Central Govt. may, therefore, notify a suitable date (which may even be different for different States) by Executive Orders by which a State may enforce these provisions.

91. The Committee is surprised to see Clause 7 of the proposed amendment in Section 56 as it is saying that provision of this Section may be extended to non-transport vehicles also. Use of non-transport vehicles is quite different from the use of transport vehicles. The same Rule may not be applied to non-transport vehicle also. The Committee thinks that it will create problems for public. The Committee accordingly recommends the deletion of Sub Clause 7.

92. Clause 23 says that in section 59 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The Central Government may, having regard to the public safety, convenience, protection of the environment and the objects of this Act, make rules prescribing the manner of recycling of motor vehicles and parts thereof which have exceeded their life."

Clause 23 seeks to amend section 59 of the Act to enable the Central Government to make rules for the recycling of motor vehicles and motor vehicle parts at the end of their life.

93. The Committee feels that recycling of outdated and obsolete vehicle material by scientific method is the need of the hour. The Committee recommends that the Central Government may formulate a comprehensive policy for recycling of outdated Motor Vehicles keeping in mind the protection of environment and public safety.

94. Clause 24 says that after section 62 in the principal Act, the following sections shall be inserted, namely:—

"62A. (1) No registering authority shall register any motor vehicle that contravenes any rule made under clause (a) of sub-section (1) of section 110.

(2) No prescribed authority or authorised testing station shall issue a certificate of fitness under section 56 to any motor vehicle that contravenes any rule made under section 110.

62B. (1) The Central Government shall maintain a National Register of Motor Vehicles in such form and manner as may be prescribed by it:

Provided that all State Registers of Motor Vehicles shall be subsumed under the National Register of Motor Vehicles by such date as may be notified in the Official Gazette by the Central Government.

(2) No certificate of registration issued, or renewed, under this Act shall be valid unless it has been issued a unique registration number under the National Register of Motor Vehicles.

(3) In order to maintain the National Register of Motor Vehicles, all State Governments and registering authorities under this Act shall transmit all information and data in the State Register of Motor Vehicles to the Central Government in such form and manner as may be prescribed by the Central Government.

(4) State Governments shall be able to access the National Register of Motor Vehicles and update records in accordance with the provisions of this Act and the rules made by the Central Government thereunder."

Clause 24 seeks to insert new provisions, viz., sections 62A and 62B in the Act. Section 62A seeks to prohibit the registration of oversized vehicles and issuance of certificates of fitness to such vehicles. Section 62B seeks to establish the National Register of Motor Vehicles that shall contain data on all motor vehicles registered throughout India. It also provides that no certificate of registration shall be issued or renewed unless it has been issued a unique registration number under the National Register. It also enable the State Governments to transmit information and data contained in the State Registers of Motor Vehicles to the National Register and update the National Register in accordance with rules as may be prescribed by the Central Government.

95. The State of Maharashtra raised the issue of Unique Registration Number under the National Register and hoped that this should not be another additional number because the present system of giving registration numbers, which is in the case of Maharashtra is MH-04 and like that. So the same number may also be considered and States should not have too many numbers for the same vehicle which will unnecessarily increase the complication. Committee hopes that the Government will consider the concern of the States to protect their identity while formulating new scheme of numbers.

96. The Committee hopes that the Government will consider the concern of the States and protect their identity while formulating new scheme of number for vehicles.

97. The Committee welcomes the step of maintaining a National Register of Motor Vehicles.

98. Clause 25 says in section 63 of the principal Act,—

(i) in sub-section (1), for the words "the following particulars, namely", the words "particulars, including" shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Each State Government shall supply the updated details of the State Register of Motor Vehicles to the Central Government in such form as the Central Government may prescribe.";

(iii) after sub-section (3) the following sub-section shall be inserted, namely:—

"(4) All State Registers of Motor Vehicles shall be subsumed under the National Register of Motor Vehicles by such date as may be notified by the Central Government."

Clause 25 seeks to amend section 63 of the Act to enable the Central Government to prescribe the form in which a State Government shall supply the updated details of the State Register of Motor Vehicles to the Central Government.

99. The Committee notes the proposed amendment.

100. Clause 26 says in section 64 of the principal Act,—

(iv) after clause (d) the following clause shall be inserted, namely:—

"(da) providing for the period of validity of a certificate of registration under sub-section (7) of section 41;"

(v) after clause (e) the following clause shall be inserted, namely:—

"(ea) the period of renewal of certificate of registration of different types of motor vehicles under sub-section (10) of section 41;"

(vi) after clause (f) the following clauses shall be inserted, namely:—

"(fa) the issue of temporary certificate of registration and temporary registration mark under section 43;

"(fb) the terms and conditions under which a motor vehicle sold by an authorized dealer shall not require production before a registering authority

under sub-section (1) of section 44;"

(vii) after clause (j) the following clause shall be inserted, namely:—

"(ja) the form and manner for the electronic submission of the intimation of change of address, documents to be submitted along with such intimation

including proof of authentication under sub-section (1A) of section 49;"

(viii) after clause (l) the following clause shall be inserted, namely:—

"(la) specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles under sub-section (1) of section 52;

"(lb) the conditions for the alteration of any motor vehicle into an adapted vehicle under sub-section (2) of section 52;"

(ix) after clause (n) the following clauses shall be inserted, namely:—

"(na) the distinguishing mark to be carried on the body of transport vehicles under sub-section (6) of section 56;

(nb) the conditions under which the application of section 56 may be extended to non-transport vehicles under sub-section (7) of section 56;

(nc) the recycling of motor vehicles and parts thereof which have exceeded their life under sub-section (4) of section 59;"

(x) after clause (o), the following clauses shall be inserted, namely:— (oa) all or any of the matters under in section 62B; "(ob) all or any of the matters under sub-section (1) and sub-section (2) of section 63;"

Clause 26 seeks to amend section 64 of the Act in consequence of the amendments proposed in Chapter IV of the Act.

101. The Committee has noted the insertions to be made under this Clause.

102. Clause 27 says In section 66 of the principal Act,—

(xi) in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.";

(xii) in sub-section (3), after clause (p) the following clause shall be inserted, namely:—

"(q) to any transport vehicle having been issued a licence under a scheme under sub-section (3) of section 67 or sub-section (1) of section 88A, or plying under such orders as may be issued by the Central Government or by the State Government."

Clause 27 seeks to amend section 66 of the Act to exempt transport vehicles, operating with a licence under a scheme for the transportation of goods and passengers made under the provisions of chapter V of the Act from acquiring a permit. It also allows a transport vehicle which has been issued a permit or a licence under a scheme for the transportation of goods and passengers made under the provisions of chapter V of the Act to ply either under such permit or such licence at the discretion of the owner of the transport vehicle.

103. Stakeholders have submitted that the amendment to section 66 of the Act which now exempts transport vehicles from the provisions of Chapter V with regard to permits seems to undermine the legitimacy and monopoly of State Transport

Undertakings by allowing private sector players to start passenger transport services and thus this is against the public interest.

104. The Ministry has replied that the amendment in section 66 has been made to augment the existing transport capacities in States without undermining the infrastructure already in place. The powers are vested with the States to decide in the best interest of the citizens.

105. The Committee notes the provision of this Clause. The Committee hopes that the Commercial vehicles may be exempted from taking permit if it is involved in promotion and development of last mile connectivity, rural transport, reducing traffic congestion, improving economy etc. The Committee recommends that it should be specified in the Act itself that the vehicle involved in carrying out a special job may be exempted from taking permits. The representatives of the State of Haryana informed the Committee that the present definition of the vehicles which can be utilized for last mile connectively is not including a large variety of vehicles used in Haryana. The Committee, therefore recommends that the definition may be widened to include the concerns of the State Governments.

106. Clause 28 says after section 66 of the principal Act, the following sections shall be inserted, namely:—

"66A. (1) The Central Government may develop a National Transportation Policy consistent with the objects of this Act in consultation with State Governments and other agencies with a view to—

(i) establish a planning framework for passenger and goods transportation within which transport bodies are to operate;

(ii) establish a medium and long term planning framework for all forms of road transport, identify areas for the development of transport improvement infrastructure across India in consultation with the authorities and agencies related to ports, railways and aviation as well as with local and State level planning, land holding and regulatory authorities for the delivery of an integrated multi- modal transport system;

(iii) establish the framework of grant of permits and schemes;

(iv) establish strategic policy for transport by road and its role as a link to other means of transport;

(v) identify strategic policies and specify priorities for the transport system that address current and future challenges;

(vi) provide medium to long term strategic directions, priorities and actions;

(vii) promote competition, innovation, increase in capacity, seamless mobility and greater efficiency in transport of goods or livestock or passengers, and economical use of resources;

(viii) safeguard the interest of the public and promote equity, while seeking to enhance private participation and public-private partnership in the transport sector;

(ix) demonstrate an integrated approach to transport and land use planning;

(x) identify the challenges that the National Transportation Policy seeks to address;

(xi) address any other matter deemed relevant by the Central Government.

66B. No person who holds the permit issued under this Act shall—

(a) be disqualified from applying for a licence under the scheme made under sub-section (3) of section 67 or sub-section (1) of section 88A by reason of holding such permit; and

(b) be required to get such permit cancelled on being issued a licence under any scheme made under this Act."

Clause 28 seeks to insert new provisions, viz., sections 66A and 66B in the Act. Section 66A seeks to empower the Central Government to develop and implement a National Transportation Policy. Section 66B seeks to provide that permit holders shall not be disqualified from applying for a licence under a scheme for the transportation of goods and passengers made under the provisions of chapter V of the Act nor shall such permit holder be required to surrender the permit on being issued such a licence.

107. The Committee appreciates the proposed addition of section 66A & 66B of National Transportation Policy. The Committee feels that it will ease the transport, both the public and commercial, between the States. The Committee recommends that whatever policy Centre propose to formulate, all the States may be taken into confidence and the Government sector *i.e.*, public transport and public carriage may take priority over private contenders.

108. Clause 29 says *in* section 67 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:— "(1) A State Government, having regard to —

(a) the advantages offered to the public, trade and industry by the development of motor transport;

(b) the desirability of co-ordinating road and rail transport;

(c) the desirability of preventing the deterioration of the road system;

and

(d) promoting effective competition among the transport service providers,

may, from time to time, by notification in the Official Gazette issue directions

both to the State Transport Authority and Regional Transport Authority regarding the passengers' convenience, economically competitive fares, prevention of overcrowding and road safety.";

(ii) in sub-section (2) the following proviso shall be inserted, namely:—

"Provided that the State Government may subject to such conditions as it

may deem fit, and with a view to achieving the objectives specified in clause (d) of sub-section (1), relax all or any of the provisions made under this Chapter.";

(iii) after sub-section (2) the following sub-sections shall be inserted, namely:— "(3) Notwithstanding anything contained in this Act, the State Government may, by notification in the Official Gazette modify any permit issued under this

Act or make schemes for the transportation of goods and passengers and issue licences under such scheme for the promotion of development and efficiency in transportation—

- (a) last mile connectivity;
- (b) rural transport;
- (c) reducing traffic congestion;
- (d) improving urban transport;
- (e) safety of road users;
- (f) better utilisation of transportation assets;
- (g) the enhancement of economic vitality of the area, though competitiveness, productivity, and efficiency;
- (h) the increase in the accessibility and mobility of people;
- (i) the protection and enhancement of the environment;

- (j) the promotion of energy conservation;
- (k) improvement of the quality of life;
- (l) enhance integration and connectivity of the transportation system, across and between modes of transport; and
- (m) such other matters as the Central Government may be deemed fit.

(4) The scheme framed under sub-section (3), shall specify the fees to be charged, form of application and grant of a licence including the renewal, suspension cancellation or modification of such licence."

Clause 29 seeks to amend section 67 of the Act to empower the State Government to issue directions to the State Transport Authority and the Regional Transport Authorities to safeguard the convenience of passengers, prevent overcrowding, promote road safety and provide economically competitive fares. It also empowers the State Government to relax any of the provisions made under Chapter V and modify permits and make schemes for the transportation of goods and passengers to enhance last mile connectivity and rural transport, reduce traffic congestion, improve urban transport, promote safety of road users, better utilization of transport assets, enhance regional economic vitality, increase accessibility and mobility, protect the environment, promote energy conservation, improve the quality of life and enhance multimodal integration among other purposes.

109. The stakeholders have given suggestions that the introduction of licenses under sub-section (3) of section 67 may lead to a situation where licenses are issued liberally without any conditions imposed thereon and thus, it would be against public interest. It provides the State Governments the power to promote effective competition as opposed to curbing of uneconomic competition under the original provision. This can be made possible only through deregulation. But deregulation will adversely affect availability and consequently will be disadvantageous to public interest.

110. The Ministry has replied in response that these powers are proposed to be given to States to act in the interest of the public.

111. Clause 29 of the Bill is supposed to empower the State Governments to protect the convenience of passengers, promoting road safety etc. The Committee feels that this provision will go a long way in helping the public to travel by public transport.

112. Section 30 says in section 72 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the Regional Transport Authority may waive any such condition for a Stage carriage permit operating in a rural area, as it deems fit."

Clause 30 seeks to amend section 72 of the Act to empower the Regional Transport Authority to waive any permit condition for a stage carriage operating in a rural area.

113. The Save Life Foundation and some States suggested proviso to sub-section (2) of Section 72 allowing the RTA to waive any permit conditions for a stage carriage operating in rural areas. This is detrimental to the safety of road users as RTAs will be empowered to allow a stage carriage to carry more than prescribed number of passengers or weight of goods.

114. The State of Telangana has given a written representation saying that waiving condition of operation will lead to deregulation in stage carriage operation. The public in poor sector with less population will be affected severely.

115. The Ministry has replied that waiver is only in respect of the permit conditions. The RTAs cannot over-ride the legal stipulations regarding capacity of vehicles etc.

116. The Committee is of the view that waiving the provision of permit for a stage carriage in a rural area may prove beneficial for the people belonging to rural areas of India. The Committee hopes that RTA will perform their duty of waiving the permit condition for stage carriage to be operated in a rural area with due diligence and care and road safety may be accorded top priority.

117. Clause 31 says in section 74 of the principal Act,—

(i) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the Regional Transport Authority may in the interests of last mile connectivity waive any such condition in respect of any such types of vehicles as may be specified by the Central Government."

(ii) in sub-section (3), in the proviso to clause (b), after sub-clause (vi), the following sub-clause shall be inserted, namely:—

"(vii) self-help groups."

Clause 31 seeks to amend section 74 of the Act in order to empower the Regional Transport Authority to waive any permit condition for a contract carriage to promote low cost last mile connectivity solutions. It also seeks to facilitate empowerment of marginalised and vulnerable groups through preference in issuance of permits.

118. The State of Telangana has submitted that waiving the condition of operation will lead to deregulation in contract carriage operation and will create unhealthy and uneconomic competition among the passenger transport operators (STU and private stage carriage operators). The power of State Government in regard of Section 67 (d)

will be diluted. The STU will get crushed and wiped out by the way of inability to compete with this tourist bus permit.

119. The Committee feels that the instant proviso may help the people in overcoming the trauma of last mile connectivity if it is implemented efficiently. The Committee also hopes that as the Ministry has expressed their intention that this amendment will help in empowerment of marginalized and vulnerable groups through preference in issuance of permits, the States need not have to be worried about it.

120. Clause 32 says after section 88 of the principal Act, the following section shall be inserted, namely:—

"88A. (1) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, modify any permit issued under this Act or make schemes for national, multimodal and inter-State transportation of goods or passengers, and issue or modify licenses under, such scheme for the following purposes namely:—

- (a) last mile connectivity;
- (b) rural transport;
- (c) improving the movement of freight, and logistics;
- (d) better utilisation of transportation assets;
- (e) the enhancement to the economic vitality of the area, especially by enabling competitiveness, productivity and efficiency;
- (f) the increase in the accessibility and mobility of people;
- (g) the protection and enhancement of the environment;
- (h) the promotion of energy conservation;
- (i) improvement of the quality of life;
- (j) enhancement of the integration and connectivity of the transportation system, across and between modes of transport;
- (k) such other matters as the Central Government may deem fit:

Provided that the Central Government may, before taking any action under this sub-section consult the State Governments.

(2) Notwithstanding anything contained in sub-section (1), two or more States may make schemes for the operation within such States for the inter-State transportation of goods or passengers:

Provided that in the event of any repugnancy between the schemes made by the Central Government under sub-section (1) and schemes made by two or more States under this sub-section, the schemes made under sub-section (1) shall prevail.

Clause 32 seeks to insert a new section 88A in the Act to empower the Central Government to modify permits and make schemes for inter-state transport of goods and passengers.

121. The State of Telangana has submitted that it is a herculean task for the National Transport Authority to look after the preparation of Schemes for all the 29 States and 7 Union territories. It may not reflect the needs of the adjoining States. Further, the traffic demand between two States is better assessed by Transport Authorities of two States when compared with National Transport Authority.

122. The preparation of schemes for inter-State services shall be entrusted to the concerned State Governments as per the existing provisions of Section 88(5) & 88(6) of M.V. Act 1988.

123. The Ministry has replied that S.88 A does not contravene the right of any person to carry on their trade or business, the right to which is the substance of Article 19 (i) (g) of the Constitution of India.

124. The Committee agrees that the insertion of new Section 88 A would empower the Central Government to make schemes for national, multimodal and inter-state transport of passengers and goods but the Committee suggests that the views of State Governments may be solicited before making any type of improvements in this direction.

125. Clause 33 says in section 92 of the principal Act, for the words "stage carriage or contract carriage, in respect of which a permit", the words "transport vehicle, in respect of which a permit or licence" shall be substituted.

Clause 33 seeks to amend section 92 of the Act in order to void any contract for conveyance of a passenger in a transport vehicle licenced under a scheme made under Chapter V that seeks to negative or restrict liability on imposes condition for the enforcement of liability for the death or bodily injury suffered by such passenger arising out of the use of such transport vehicle.

126. Amendment in Clause 33 has been objected by many States and they have demanded that the term "license" is added along with the term "permit".

127. The Ministry in their response has informed that the rules for issue of licenses under all such schemes under sub-section (3) of s.67 will have to be made by the State Government with regard to the conditions specified in sub-section (4).

128. The Committee thinks that the words to be substituted carry wider meaning and suggests that while applying the provisions it should be interpreted in letter and spirit.

129. Clause 34 says in section 93 of the principal Act,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Agent or canvasser or aggregator to obtain licence.";

(ii) in sub-section (1),—

(a) after clause (ii), the following clause shall be inserted,
namely:—

"(iii) as an aggregator;"

(b) the following provisos shall be inserted, namely:—

"Provided that while issuing the licence to an aggregator the State Government shall follow such guidelines as may be issued by the Central Government:

Provided further that every aggregator shall comply with the provisions of the Information Technology Act, 2000 and the rules and regulations made thereunder."

Clause 34 seeks to amend section 93 of the Act in order to provide statutory recognition to transport aggregators.

130. Some States have shown their apprehension that this proposal is intended to encourage entry of aggregators who operate from other countries but aggregate taxi owner cum drivers into an organized cluster for providing taxi services. This will be detrimental to the city operation and increase personalized transport for affluent class and cause congestion on roads which is detrimental to public transport and also causes increase of pollution due to addition of small cars in the cities.

131. The Ministry has commented that all modes of public transport should be promoted so as to reduce dependence on personalized transport which will reduce congestion and pollution.

132. Further, Section 193, as amended in this Bill, clearly lays down penalties for aggregators for actions in contravention of the provisions of this Act.

133. Clause 34 of the Bill proposes certain amendments in Section 93 of the Principal Act which inter alia prescribes the issuance of licenses to aggregators. The Committee notes that it has been prescribed that while issuing the license to aggregators, the State Government shall follow such guidelines as may be issued by the Central Government. The proviso makes it amply clear that the State Governments should follow the guidelines issued by the Central Government for issuance of licenses to aggregators. The Committee feels that the control of transport vehicles are the exclusive domain of the State Governments. Through this amendment, the balance of power between the Centre and the State has been tilted and the Central Government will get a preponderance of power to control the aggregators throughout India. The Committee believes that there is no need to take away the rights of the State Governments with regard to control of transport vehicles. The Committee, therefore, recommends that every State Government should have its own powers and guidelines to control the operations of aggregators within the State. The Committee further recommends that in Clause 34, Section 93, sub-section (iii) (b) proviso, in place of the "State Government shall follow" with words "State Government may follow" be substituted. The Committee recommends that while encouraging aggregators certain effective protective

mechanism should be evolved for small operators and local taxi drivers to ensure that their livelihood is not jeopardized.

134. Clause 35 says in section 94 of the principal Act, after the words "permit" occurring at both the places the words "or licence issued under any scheme" shall be inserted.

Clause 35 seeks to amend section 94 of the Act in order to Act to oust the jurisdiction of civil courts to entertain any question or issue injunction relating to the issue of licences under a scheme made under Chapter V.

135. There is objection to the inclusion of the term licence in section 94 by some of the stakeholders.

136. The Ministry has stated that the rules for issue of licenses under all such schemes under sub-section (3) of section 67 will have to be made by the State Government with regard to the conditions specified in sub-section (4). All licenses issued must adhere to the said rules and hence there is very little scope for abuse in case of issue of licenses.

137. The Committee notes the amendment.

138. Clause 36 says in section 96 of the principal Act, in sub-section (2), after clause (xxxii), the following clauses shall be inserted, namely:—

"(xxxiiia) framing of schemes under sub-section (3) of section 67;

(xxxiiib) the promotion of effective competition, passenger convenience and safety, competitive fares and prevention of overcrowding,"

Clause 36 seeks to amend section 96 of the Act consequence of the amendment proposed in Chapter V.

139. There is strong objection by the public that section 96 has been amended to include rules for framing of schemes under rule making powers of the State Government. And hence, this is not in public interest.

140. The Ministry in response has submitted that this amendment has been inserted in order to harmonise the provisions of the Amendment Bill.

141. Some of the States have shown their apprehension regarding amendment of S.110 B which says 'the Central Government shall make rules for the accreditation, registration and regulation of testing agencies" and urged that the concurrence of State Government may be sought before issuing the rules.

142. The Ministry has said that this is a pro-citizen provision and would ensure quality. The implication would be national and not confined to any particular State.

143. The Committee feels that incorporation of Clause 36 will help in promoting effective competition among the transport providers while keeping in mind the safety and security of passengers besides other conveniences. The Committee recommends that the States may accord top priority in ensuring conveniences to commuters.

144. Clause 37 says in section 110 of the principal Act,—

(i) in sub-section (1), in clause (k), after the words "standards of the components", the words ", including software," shall be inserted;

(ii) in sub-section (2), after the words "in particular circumstances", the words "and such rules may lay down the procedure for investigation, the officers empowered to conduct such investigations, the procedure for hearing of such matters and the penalties to be levied thereunder" shall be inserted;

(iii) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2A) Persons empowered under sub-section (2) to conduct investigations referred to in sub-section (2) shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) any other matter as may be prescribed."

Clause 37 seeks to amend section 110 of the Act for the enforcement of standards for construction, equipment and maintenance of motor vehicles.

145. The Committee notes the provision to be incorporated.

146. Clause 38 says after section 110 of the principal Act, the following sections shall be inserted, namely:—

"110A. (1) The Central Government may, by order, direct a manufacturer to recall motor vehicles of a particular type or its variants, if—

(a) a defect in that particular type of motor vehicle may cause harm to the environment or to the driver or occupants of such motor vehicle or other road users; and

(b) a defect in that particular type of motor vehicle has been reported to the Central Government by—

(i) such percentage of owners, as the Central Government, may by notification in the Official Gazette, specify; or

(ii) a testing agency; or

(iii) any other source.

(2) Where the defect referred to in sub-section (1) lies in a motor vehicle component, the Central Government may, by order, direct a manufacturer to recall all

motor vehicles which contain such component, regardless of the type or its variants of such motor vehicle.

(3) A manufacturer whose vehicles are recalled under sub-section (1) or sub-section (2), shall—

(a) reimburse the buyers for the full cost of the motor vehicle, subject to any hire-purchase or lease-hypothecation agreement; or

(b) replace the defective motor vehicle with another motor vehicle of similar or better specifications which complies with the standards specified under this Act or repair it; and

(c) pay such fines and other dues in accordance with sub-section (6).

(4) Where a manufacturer notices a defect in a motor vehicle manufactured by him, he shall inform the Central Government of the defect and initiate recall proceedings and in such case the manufacturer shall not be liable to pay fine under sub-section (3).

(5) The Central Government may authorise any officer to conduct investigation under this section who shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) any other matter as may be prescribed.

(6) The Central Government may make rules for regulating the recall of motor vehicles, of a particular type or its variants, for any defect which in the opinion of the Central Government, may cause harm to the environment or to the driver or occupants of such motor vehicle or to other road users.

110B. (1) No motor vehicle, including a trailer or semi-trailer or modular hydraulic trailer or side car shall be sold or delivered or offered for sale or delivery or used in a public place in India unless a type approval certificate referred to in sub-section (2) has been issued in respect of such vehicle:

Provided that the Central Government may, by notification in the Official Gazette, extend the requirement of type approval certificate to other vehicles drawn or intended to be drawn by a motor vehicle:

Provided further that such certificate shall not be required for vehicles which are—

(a) intended for export or display or demonstration or exhibition; or

(b) used by a manufacturer of motor vehicles or motor vehicle components or a research and development centre or a test by agency for testing and validation or for data collection, inside factory premises or in a non-public place; or

(c) exempted by the Central Government.

(2) The manufacturer or importer of motor vehicles including trailers, semi-trailers, modular hydraulic trailers and side cars shall submit the prototype of the vehicle to be manufactured or imported for test to a testing agency for obtaining a type-approval certificate by such agency.

(3) The Central Government shall make rules for the accreditation, registration and regulation of testing agencies.

(4) The testing agencies shall conduct tests on vehicles drawn from the production line of the manufacturer or obtained otherwise to verify the conformity of such vehicles to the provisions of this Chapter and the rules and regulations made thereunder.

(5) Where the motor vehicle having a type-approval certificate is recalled under section 110A, the testing agency which granted the certificate to such motor vehicle shall be liable for its accreditation and registration to be cancelled."

Clause 38 seeks to insert new provisions, viz., sections 110A and 110B in the Act. Section 110A seeks to empower the Central Government to recall vehicles which do not meet standards and for making rules in this behalf. Section 110B seeks to provide for issue of type- approval certificates and the establishment and regulation of testing agencies for testing of motor vehicles and issue of type approval certificates, and for the making of rules in this behalf by the Central Government.

147. The Committee finds that the Clause 38 is one of the most important amendments as it speaks about recalling the vehicles which may cause harm to environment and may be risky for its occupants including driver and other road users. The Committee thinks that the owner of vehicles may also be compensated suitably and the manufacturer may reimburse the total cost of vehicle to its owner, if the vehicle is found to be faulty. The Committee hopes that inclusion of this section will go a long way in curbing the malpractices by the manufacturers. The Committee recommends that this Section may be implemented/invoked whenever it is required without favouring anyone and provision of penalty on manufacturers may be imposed if running of defective vehicles have caused harm to the environment.

148. Clause 39 says in section 114 of the principal Act, in sub-section (1), for the words "authorised in this behalf by the State Government", the words "or any other person authorised in this behalf by the State Government" shall be substituted.

Clause 39 seeks to amend section 114 of the Act in order to enable State governments to designate any agency as the enforcement agency for this section.

149. The stakeholders submitted before the Committee that under the amended section 114, power should be delegated only to such agency on condition that their equipment is foolproof and transparent and is accessible to the Transport Department. Weighing process should be recorded and fines collected electronically. Weighbridges

should be tamper proof and there must be audits carried out by independent parties every three months. Agencies who misuse their power under this section should be punished harshly with fine of Rs.25 lakhs or more and imprisonment of three years or more.

150. The Ministry has replied that law relating to the accuracy of the equipment is implemented by Weights and Measures department.

151. The Ministry has further added that the power to delegate is being vested with the States. The States will act in public interest.

152. The Committee notes the reply and feels that the measures to be taken under section 114 are the responsibility vested with the States and they have to implement and ensure the honesty of the agency to be employed for the job. The work is linked not only with the road safety but also with the revenue generation for the States.

153. Clause 40 says in section 116 of the principal Act,—

(i) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) Notwithstanding anything contained in sub-section (I), the National Highways Authority of India constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may cause or permit traffic signs, as provided in the First Schedule, to be placed or erected or removed on national highways for the purpose of regulating motor vehicle traffic and may order the removal of any sign or advertisement which in its opinion is so placed as to obscure any traffic sign from view or is so similar in appearance to a traffic sign as to mislead or is likely to distract the attention or concentration of the driver.";

(ii) in sub-section (3), after the words, brackets and figures "provided by sub-section (I)", the words, brackets, figures and letter "or sub-section (IA)" shall be inserted; and

Clause 40 seeks to amend section 116 of the Act in order to enable the NHAI to construct traffic signs for highways and for roads immediately leading up to highways.

154. The stakeholders said that section 116 has been amended to enable NHAI to erect traffic signs for highways and for roads leading immediately up to highways. This is against public interest because NHAI lacks the expertise to determine place of erection of such signs, or the need and demand for such signs.

155. The Ministry has replied that the purpose of the said amendment is to utilize fully the capacities of NHAI with regard to creation of safe road infrastructure.

156. The Committee feels that it is the duty of the organization which constructs it to maintain the same in all respects. NHAI plays the biggest role in constructing a highway and it is their responsibility to maintain it and guide the road user in a proper way. The Committee appreciates the move of Ministry to enable NHAI to

do the needful for smooth running of traffic. As far as expertise of NHAI regarding erection of traffic signs is concerned, it is the responsibility of NHAI to get suggestions and expertise of those who are having practical knowledge of the subject.

157. Clause 41 says in section 117 of the principal Act, the following provisos shall be inserted, namely:—

"Provided that the State Government or the authorised authority shall, give primacy to the safety of road users and the free flow of traffic in determining such places:

Provided further that for the purpose of this section the National Highways Authority of India, constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may also specify such places."

Clause 41 seeks to amend section 117 of the Act for the establishment of parking facilities for motor vehicles.

158. The Committee notes that many of the major accidents are caused and many lives are lost due to the wrong parking of vehicles in Highways. Parking spaces should be an integral part of all the road construction projects. A clear and effective policy in this regard is essential to curb the menace. The Committee feels that parking space is a very important aspect of the road safety and there is requirement of space for parking the vehicles by the road users to allow smooth traffic flow. The Committee recommends that NHAI may create parking for the public's vehicle along the highways at regular intervals. At the same time States should also construct and maintain parking spaces along State Highways.

159. Clause 42 says for section 129 of the principal Act, the following section shall be substituted, namely:—

"129. Every person, above four years of age, driving or riding or being carried on a motor cycle of any class or description shall, while in a public place, wear protective headgear conforming to such standards as may be prescribed by the Central Government:

Provided that the provisions of this section shall not apply to a person who is a Sikh, if, while driving or riding on the motor cycle, in a public place, he is wearing a turban:

Provided further that the Central Government may by rules provide for measures for the safety of children below four years of age riding or being carried on a motorcycle.

Explanation.—"Protective headgear" means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motor cycle a degree or protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear."

Clause 42 seeks to substitute section 129 of the Act. The new section 129 exempts children below four years of age from the ambit of this provision and empowers the Central Government to make rules for additional measures for the safety of children below four years.

160 There should be special rules and regulations to ensure safety of children, require child restraints, not allow children between ages of 0-4 years to ride on two-wheelers.

161. The Ministry has submitted that new Section 194B has been added to impose a penalty if child restraints system is not used. Section 129 empowers the Central Government to make rules to provide for measures for the safety of children below four years of age being carried on two wheelers.

161. The Committee observes that two wheeler riders carry more risk during driving compared to four-wheelers and it is an essential requirement that riders could wear protective headgears during driving. Riders who are above 4 years certainly need protective headgears for their safety. The Committee thinks that amendment in Section 129 will strengthen the authority to enforce the safety measures in the public interest. The Committee also recommends that the Government should make an appropriate rule on allowing children below four years in two wheelers. While formulating the rule, safety aspect of the below 4 year old child should be given the uppermost consideration regardless of any socio-economic situation prevailing in our country.

162. Clause 43 says after section 134 of the principal Act, the following section shall be inserted, namely:—

"134A. (1) A Good Samaritan shall not be liable for any civil or criminal action for any injury to or death of the victim of an accident involving a motor vehicle, where such injury or death resulted from the Good Samaritan's negligence in acting or failing to act while rendering emergency medical or non-medical care or assistance.

(2) The Central Government may by rules provide for the procedure for questioning or examination of the Good Samaritan, disclosure of personal information of the Good Samaritan and such other related matters.

'Explanation.—For the purpose of this section, "Good Samaritan" means a person, who in good faith, voluntarily and without expectation of any reward or compensation renders emergency medical or non-medical care or assistance at the scene of an accident to the victim or transporting such victim to the hospital'.

Clause 43 seeks to insert a new section 134A in the Act to protect Good Samaritans.

163. The Committee finds that the insertion of new Section i.e. 134 A which encourages in motivating the general public to come forward and help the accident victims at the time of need is a welcome step. It has been observed that many a times people instead of helping the accident victims, wait for police to arrive on the accident sites, so that the police could help the victims in reaching the nearby hospitals. Sometimes, in this process a substantial period of time is lost and victims succumb to injury. The Committee feels that people don't come forward to help the accident victims as they have doubt in their minds that the police will harass them. The Committee recommends that it is the responsibility of the local administration and police to make the people trust them that they will not be harassed in any manner if they extend their voluntary help to victims. At the same time, the Committee recommends that the police at the lower level who comes to the accident sites first, may be sensitized on this issue as they have to deal with the public directly and elicit people's support.

164. The Committee notes that the doctors and nurses who are attending the accident victims are often harassed by the police authorities. The Committee observes that to give effect to the concept of 'Good Samaritan' the doctors and nurses who are treating the accident victims should also get adequate legal protection. The Committee, therefore recommends that the doctors and nurses who are treating the accident victims should be included in the definition of "Good Samaritans".

165. Clause 44 says in section 135 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (c), the word "and" shall be omitted;

(b) in clause (d), for the word "highways", the word "highways and" shall

be substituted; and

(ii) after clause (d), the following clause shall be inserted, namely:—

"(e) any other amenities in the interests of the safety and the convenience of the public.";

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Central Government may, by notification in the Official Gazette, make one or more schemes to conduct in-depth studies on the causes and analysis of road accidents."

Clause 44 seeks to amend section 135 of the Act to empower the State government to make schemes for any amenities that they deem fit in the

interests of the public. It also empowers the Central Government to make schemes for in-depth studies and analysis of causes of road accidents.

166. A number of stakeholders put queries before the Committee that there is no scientific investigation of road crashes- it is important to improve data collection to account for driver fault, road conditions and other external causes in order to improve road safety. Further, Bill does not address efforts for creating awareness, education, and involving stakeholders for maximum reach. It does not address streamlining of the procedures and processes for road safety audit. There are lack of basic amenities, rest areas, secure parking zones and harassment by law enforcement and toll officials.

167. The Ministry has replied that Section 135 empowers the Central and State Governments to make schemes to conduct in-depth studies on the causes and analysis of road accidents. The Ministry further added that the road safety advocacy is the responsibility of the executive and need not be included in the Act.

168. Section 135 empowers the State Government to provide for wayside amenities on highways and provide truck parking complexes on highways and other amenities in the interests of the safety and convenience of the public.

169. Power to conduct road safety audits is proposed to be granted to the State Government under Section 135, wherein it may make schemes for in-depth studies on causes and analysis of road accidents. Safety audits of roads are important to determine causes and analyse road accidents. Hence State Governments are empowered to conduct safety audits.

170. The Committee is alarmed at the large number of road accidents occurring in the country. After hearing the stakeholders from various fields, the Committee came to the conclusion that there are many factors which cause accidents on road. Road designing/engineering, potholes, wrong signage, high speed and inferior driving skills are some of the reasons to quote. To reduce the accidents there is a need to take many measures by the State Governments. Secondly, causes of accidents are not the same at every place but it varies. The Committee recommends that some strategy may be formulated at the State level to address the causes of accident at a particular accident prone stretch and also to find its remedy to correct the problems.

171. In India, we lack a robust, scientific and standardized accident investigation and data collection system. The Committee notes that reasons for the large number of accidents are never studied or investigated to incorporate remedial measures. Simply by providing a framework to conduct road safety audit is not a sufficient mechanism for scientific investigation to understand the causes of road accidents. The Committee, therefore, recommends that a new Section 213 A may be inserted to authorise Central Government to prescribe the form and manner of scientific investigation on the causes of road accidents. It should also give powers to the State Governments to carry out road safety audits.

172. The Committee also notes that the present Bill failed to address the issue of accidents caused by faulty road designs and non-maintenance of roads and the accountability of the same. The Committee, therefore, recommends that a penalty

provision (Section 198A) may be inserted in the Bill to hold road contractors and concessionaires accountable for faulty design, construction and maintenance of roads.

173. As per available data, during the year 2015, approximately 1.5 lakh people died in the road accidents all over the country and around 5 lakh people got injured or disabled. The Committee notes that it is an alarming situation and a huge loss to the nation. The Stakeholders such as the Governments of the Centre and the State, road users, various governmental agencies etc. have to play their role in a positive way to minimize the road accidents.

174. The Committee recommends that Ministry of Road Transport and Highways and respective States to provide in their respective field, certain amenities viz. washrooms, medical stores, restaurants, petrol pumps etc. since people travel for hours together on the road and such type of amenities are needed and it should be made available to the public by the authorities.

175. The Committee further recommends that every road construction project/contract should invariably include the provisions such as washrooms, medical facilities, trauma centres, petrol pumps, parking spaces etc. In this direction the committee also recommends that availability of ambulance on the highways on every 30 km may be ensured by the operator of the Highways so that in case of any accident the injured may get the necessary medical treatment.

176. Clause 45 says after section 136 of the principal Act, the following section shall be inserted, namely:—

"136A. (1) The State Government shall ensure electronic monitoring and enforcement of road safety in the manner provided under sub-section (2) on National highways, State highways, roads or in any urban city within a State which has a population upto such limits as may be prescribed by the Central Government.

(2) The Central Government shall make rules for the electronic monitoring and

enforcement of road safety including speed cameras, closed-circuit television cameras, speed guns, body wearable cameras and such other technology.

Explanation.—For the purpose of this section the expression "body wearable camera" means a mobile audio and video capture device worn on the body or uniform of a person authorised by the State Government."

Clause 45 seeks to insert a new section 136A in the Act in order to allow electronic monitoring and enforcement.

177. State of West Bengal submitted before the Committee that the Bill has imposed significant financial responsibility on States. E.g. S.136 A mandates States to implement electronic enforcement of road safety even on National Highways. Income from National Highways goes to Central Funds and previously safety has been the

responsibility of the Central Government. However, no fund provision has been made to the States for such additional responsibility.

178. The Ministry has reacted in response saying that this is only an enabling provision for electronic enforcement giving it a legal cover. Central Government has committed substantial resources for road safety.

179. The Committee appreciates the insertion of Clause 136A for enforcement of safety on roads. It is a known fact that today road traffic is very high and to control them manually is an uphill task for any agency. It is high time for the State to go for electronic monitoring to enforce the road Rules and the Committee recommends that the Ministry should help all the States in acquiring expertise and other logistic supports to make roads more safe.

180. Clause 46 says - in section 137 of the principal Act, —

(i) after clause (a) the following clause shall be inserted, namely:—

"(aa) providing for the standards of protective headgear and measures for the safety of children below the age of four years riding under section 129;"

(ii) after clause (b) the following clause shall be inserted, namely:—

"(c) providing for criteria for the selection of cities by the State Governments where the electronic monitoring and enforcement under in sub-section (1) of section 136A is to implemented; and

(d) providing for electronic monitoring and enforcement under sub-section (2) of section 136A."

Clause 46 seeks to amend section 137 of the Act in consequence of the amendments proposed in Chapter VIII.

181. The Committee agrees with the proposed amendment to be brought under S.137 regarding protective headgear and measures for the safety of children below the age of four years riding under section 129. The Committee is of the view that every individual's life is valuable and it must be protected at any cost. It has been seen that many people buy helmets/headgear of inferior quality which is from the safety point of view is a costly compromise. The Committee recommends that the Government should ensure quality and standard of children's headgear by the manufacturer and this section may be implemented forcefully. The Committee further recommends that the Centre should allocate resources to the States to implement various new schemes and programmes envisaged in this Amendment Bill.

182. Clause 47 says In section 138 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The State Government may make rules for the purpose of regulating the activities in a public place of pedestrians and such means of transport as are propelled or powered by muscular power of either human beings or animals.

Clause 47 seeks to amend section 138 of the Act in order to empower States to regulate pedestrians and non-motorised transport.

183. The Committee observes that the insertion of new sub-section 1(A) under Section 138 is very important step towards streamlining the uncontrolled non-motorized vehicles and pedestrians. It is a fact that pedestrians are the most vulnerable section among the road users and more often the victims do not have any insurance cover for him/her. The Committee also stresses that the non-motorized vehicles do not follow road rules and create a lot of nuisance. They are traffic hazard for others also. The Committee recommends that for smooth traffic, there is a need of streamlining non-motorized vehicles by introducing minor penalty/punishment. Here the punishment may be prescribed as corrective measures like giving training on traffic rules and not as penalty in monetary term. The Committee recommends that the non-motorized vehicles should not be allowed on National Highways and main roads of metro cities.

184. Chapter X in the principal Act, shall be omitted.

Clause 48 seeks to omit Chapter X of the Act because no fault liability has been provided for under section 164 of the new Chapter XI.

185. Clause 48 says that Chapter X in the Principal Act shall be omitted. It is mentioned here that Chapter-X speaks about the liability without fault in certain cases and this chapter consists of 5 Sections i.e. from 140 to 144. Section 140 deals with liability to pay compensation in certain cases on the principle of no fault i.e. the liability of the owner of the vehicle to pay compensation in certain cases on the principle of no fault; where death or permanent disablement of a person has resulted from an accident arising out of a motor vehicle. In S.141 contains provisions on right to Claim compensation for death or permanent disablement.

186. The Committee notes the omission of Chapter X of the Act.

187. Clause 49 says for Chapter XI of the principal Act, the following chapter shall be substituted, namely:—

Clause 49 seeks to substitute Chapter XI of the principal Act with a new Chapter XI. This Chapter aims to simplify the third party insurance for motor vehicles. It empowers the Central Government to prescribe the premium and the corresponding liability of the insurer for such a policy. It also provides for compensation on the basis of no-fault liability, scheme for the treatment of accident victims during the Golden hour and provides for increase in the compensation to accident victims up to a limit of ten lakh rupees in the case of death and five lakh rupees in the case of grievous hurt. It also provides a scheme for interim relief to be given to claimants.

For Chapter XI of the principal Act, the following chapter shall be substituted, namely:—

"CHAPTER XI

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

145. In this Chapter,—

(a) "authorised insurer" means an insurer for the time being carrying on general insurance business in India and granted a certificate of registration by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 and any Government insurance fund authorised to do general insurance business under the General Insurance Business (Nationalization) Act, 1972;

(b) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of section 147 and includes a cover note complying with such requirements as may be prescribed, and where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be;

(c) "grievous hurt" shall have the same meaning as assigned to it in section 320 of the Indian Penal Code, 1860;

(d) "hit and run motor accident" means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose;

(e) "Insurance Regulatory and Development Authority" means the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999;

(f) "policy of insurance" includes certificate of insurance;

(g) "property" includes roads, bridges, culverts, causeways, trees, posts, milestones and baggage of passengers and goods carried in any motor vehicle;

(h) "reciprocating country" means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Act;

(i) "third party" includes the Government.

146. (1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force, in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter:

Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991.

Explanation.— For the purposes of this sub-section, a person driving a motor vehicle merely as a paid employee, while there is in relation to the use of the vehicle no such policy in force as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) The provisions of sub-section (1) shall not apply to any motor vehicle owned by the Central Government and used for the purposes relating to the defence of the country which is unconnected with any commercial objective, subject to an order made in writing in this regard by the Central Government.

(3) No order under sub-section (2) shall be made unless there has been established and maintained a fund in accordance with the rules made under this Act for meeting any liability to third parties arising out of the use of motor vehicles specified in that sub-section.

147. (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

(a) is issued by a person who is an authorised insurer; and

(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person including owner of the goods or his authorised representative carried in the motor vehicle or damage to any property of a third party caused by or arising out of the use of the motor vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a transport vehicle, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle in a public place.

Explanation— For the removal of doubts, it is hereby clarified that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public

place, notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) Notwithstanding anything contained under any other law for the time being in force, for the purposes of third party insurance related to either death of a person or grievous hurt to a person, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy under sub-section (1) in consultation with

the Insurance Regulatory and Development Authority:

Provided that the payment to a person by an insurer, under the third party insurance policy, shall be a sum of not exceeding ten lakh rupees in case of death and not exceeding ten five lakh rupees in case of grievous hurt, as may be prescribed by the Central Government from time to time.

(3) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the prescribed particulars of any condition subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Where a policy of insurance issued before the commencement of the Motor Vehicles (Amendment) Act, 2016 does not conform to the provisions of this Act, it shall be so amended as to conform to the provisions of this Act, within a period of three months from the date of commencement of the Motor Vehicles (Amendment) Act, 2016.

(5) Where a cover note issued by the insurer under the provisions of this Chapter or the rules or regulations made thereunder is not followed by a policy of insurance within the specified time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority or to such other authority as the State Government may prescribe.

(6) Notwithstanding anything contained in any other law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.

148. Where, in pursuance of an arrangement between India and any reciprocating country, the motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance for the time being in force in that country, then, notwithstanding anything contained in section 147 but subject to any rules which may be made under section 164B such policy of insurance shall be effective throughout the route or area in respect of which the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.

149. (1) The insurance company shall, upon receiving information of the accident, either through accident information report or otherwise, designate an officer to settle the claims relating to such accident.

(2) An officer designated by the insurance company for processing the

settlement of claim of compensation may make an offer to the claimant for settlement before the Claims Tribunal giving such details, within such time and after following such procedure as may be prescribed by the Central Government.

(3) If, the claimant to whom the offer is made under sub-section (2),—

(a) accepts such offer,—

(i) the Claims Tribunal shall make a record of such settlement, and such claim shall be deemed to be settled by consent; and

(ii) the payment shall be made by the insurance company within a maximum period of thirty days from the date of receipt of such record of settlement;

(b) rejects such offer, a date of hearing shall be fixed by the Claims Tribunal to adjudicate such claim on merits.

150. (1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 164 is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the award any sum not exceeding the sum assured payable thereunder, as if that person were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as its execution is stayed pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto, and to defend the action on any of the following grounds, namely:—

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:—

(i) a condition excluding the use of the vehicle—

(A) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward; or

(B) for organised racing and speed testing; or

(C) for a purpose not allowed by the permit under which the vehicle is

used, where the vehicle is a transport vehicle; or

(D) without side-car being attached where the vehicle is a two- wheeled vehicle; or

(ii) a condition excluding driving by a named person or by any person who is not duly licensed or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by non-disclosure of any material fact or by representation of any fact which was false in some material particular; or

(c) that there is non-receipt of premium as required under section 64VB of the Insurance Act, 1938.

(3) Where any such judgment or award as is referred to in sub-section (1) is obtained from a court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 and whether or not that person is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment or award were given by a court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment or award unless, before the commencement of the proceedings in which the judgment or award is given, the insurer had notice through the court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby, by reference to any condition other than those in sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue of this sub-section shall be recoverable by the insurer from that person.

(5) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the

amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess amount from that person.

(6) No insurer to whom the notice referred to in sub-section (2) or sub-section has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

(7) If on the date of filing of any claim, the claimant is not aware of the insurance company with which the vehicle had been insured, it shall be the duty of the owner of the vehicle to furnish to the tribunal or court the information as to whether the vehicle had been insured on the date of the accident, and if so, the name of the insurance company with which it is insured.

Explanation.— For the purposes of this section,—

(a) "award" means an award made by the Claims Tribunal under section 168;

(b) "Claims Tribunal" means a Claims Tribunal constituted under section 165;

(c) "liability covered by the terms of the policy" means the liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy; and

(d) "material fact" and "material particular" means, respectively, a fact or 25 particular of such a nature as to influence the judgment of a prudent insurer in determining whether he shall take the risk and, if so, at what premium and on what conditions.

151. (1) Where under any contract of insurance affected in accordance with the provisions of this Chapter, a person is insured against liabilities which he may incur to 30 third parties, then—

(a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors; or

(b) where the insured person is a company, in the event of a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,

if, either before or after that event, any such liability is incurred by the insured per his rights against the insurer under the contract in respect of the liability shall,

notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy issued for the purposes of this Chapter purporting, either directly or indirectly, to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency, shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2), the insurer shall be under the same liability to the third party as he would have been to the insured person, but—

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess amount; and

(b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance amount.

152. (1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 147 shall, on demand by or on behalf of the person making the claim, refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making an arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official

assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give, on the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provision of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 151, and for the purpose of enforcing such rights, if any, and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

153. (1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 147 shall be valid unless such third party is a party to the settlement.

(2) The Claims Tribunal shall ensure that the settlement is *bona fide* and was not made under undue influence and the compensation is made in accordance with the payment schedule referred to in sub-section (1) of section 164.

(3) Where a person who is insured under a policy issued for the purpose of this Chapter has become insolvent, or where, if such insured person is a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured person after the liability has been incurred to a third party and after the commencement of the insolvency or winding-up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid, shall be effective to defeat the rights transferred to the third party under this Chapter; but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

154. (1) For the purposes of sections 151, 152 and 153, a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

(2) The provisions of sections 151, 152 and 153 shall not apply where a company is wound-up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

155. Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of such event against his estate or against the insurer.

156. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then—

(a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured then the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

157. (1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

Explanation.—For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.

(2) The transferee shall apply within fourteen days from the date of transfer in

the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance.

158. (1) Any person driving a motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce—

- (a) the certificate of insurance;
- (b) the certificate of registration;
- (c) the pollution under control certificate;
- (d) the driving licence;

(e) in the case of a transport vehicle, also the certificate of fitness referred to in section 56, and the permit; and

(f) any certificate or authorisation of exemption that has been granted under this Act,

relating to the use of the vehicle.

(2) Where, owing to the presence of a motor vehicle in a public place, an accident occurs involving death or bodily injury to another person, if the driver of the vehicle does not at that time produce the required certificate, driving licence and permit referred to in sub-section (1) to a police officer, he or the owner shall produce the said certificates, licence and permit at the police station at which the driver makes the report required by section 134.

(3) No person shall be liable to conviction for offences under sub-section (1) or sub-section (2) by reason of the failure to produce the required certificate if, within seven days from the date on which its production was required under sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer-in-charge of the police station at which he reported the accident:

Provided that except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.

(4) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the State

Government for the purpose of determining whether the vehicle was or was not being driven in contravention of section 146 and on any occasion when the driver was required under this section to produce the certificate of insurance.

(5) In this section, the expression "produce the certificate of insurance"

means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 146.

159. The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within such time and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.

160. A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

161. (1) Notwithstanding anything contained in any other law for the time being in force or any instrument having the force of law, the General Insurance Council of India formed under section 9 of the said Act and the insurance companies for the time being carrying on general insurance business in India shall provide for paying in accordance with the provisions of this Act and the scheme made under sub-section (3), compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(2) Subject to the provisions of this Act and the scheme made under sub-section (3), there shall be paid as compensation,—

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of two lakh rupees or such higher amount as may be prescribed by the Central Government;

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees or such higher amount as may be prescribed by the Central Government.

(3) The Central Government may, by notification in the Official Gazette, make a scheme specifying the manner in which the scheme shall be administered by the Central Government or General Insurance Council, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation under this section.

(4) A scheme made under sub-section (3) may provide that,—

(a) a payment of such sum as may be prescribed by the Central Government as interim relief to any claimant under such scheme;

(b) a contravention of any provision thereof shall be punishable with imprisonment which may extend to two years, or with fine which shall not be less than twenty-five thousand rupees but may extend to five lakh rupees or with both;

(c) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of Central Government, by such officer or authority to any other officer or authority;

(d) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund under the Motor Vehicles Act, 1939 as it stood immediately before the commencement of this Act:

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

162. (1) Notwithstanding anything contained in the General Insurance Companies (Nationalisation) Act, 1972 or any other law for the time being in force or any instrument having the force of law, the insurance companies for the time being carrying on general insurance business in India shall provide in accordance with the provisions of this Act and the scheme made under sub-section (2), for treatment of road accident victims during the golden hour.

(2) The Central Government shall make a scheme for the cashless treatment of victims of the accident during the golden hour and such scheme may contain provisions for creation of a fund for such treatment.

163. (1) The payment of compensation in respect of the death of, or grievous hurt to, any person under section 161 shall be subject to the condition that if any compensation (hereafter in this sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law for the time being in force or otherwise, so much of the other compensation or other amount aforesaid as is equal to the compensation paid under section 161, shall be refunded to the insurer.

(2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle under any provision of this Act other than section 161 or any other law for the time being in force, the Claims Tribunal, court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 161 or an application for payment of compensation is pending under that section, and such Tribunal, court or other authority shall—

(a) if compensation has already been paid under section 161, direct the person liable to pay the compensation awarded by it to refund to the insurer, so much thereof as is required to be refunded in accordance with the provisions of sub-section (1);

(b) if an application for payment of compensation is pending under section 161 forward the particulars as to the compensation awarded by it to the insurer.

Explanation.—For the purpose of this sub-section, an application for compensation under section 161 shall be deemed to be pending—

(i) if such application has been rejected, till the date of the rejection of the application; and

(ii) in any other case, till the date of payment of compensation in pursuance of the application.

164. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, in accordance with such payment schedule as may be prescribed by the Central Government, to the legal heirs or the victim, as the case may be:

Provided that the minimum compensation to a person shall be a sum as may be prescribed by the Central Government from time to time not exceeding ten lakh rupees in case of death or not exceeding five lakh rupees in case of grievous hurt.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

164A. (1) The Central Government, may make schemes for the provision of interim relief to claimants praying for compensation under this Chapter.

(2) A scheme made under sub-section (1) shall also provide for procedure to recover funds disbursed under such scheme from the owner of the motor vehicle, where the claim arises out of the use of such motor vehicle or other sources as may be prescribed by the Central Government.

(3) A scheme made under sub-section (1) may provide that—

(a) any contravention of any provision thereof shall be punishable with imprisonment for such term which may extend to two years, or with fine which shall not be less than twenty-five thousand rupees but may extend to five lakh rupees or with both; and

(b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval, in writing, of Central Government, by such officer or authority to any other officer or authority.

164B. (1) The Central Government shall constitute a Fund to be called the Motor Vehicle Accident Fund and thereto shall be credited—

(a) a cess or tax or payment of a nature notified and approved by the Central Government;

(b) any grant or loan made to the Fund by the Central Government;

(c) any other source of income as may be prescribed by the Central Government.

(2) The Fund shall be constituted for the purpose of providing compulsory insurance cover to all road users in the territory of India.

(3) The Fund shall be utilised for the following, namely:—

(a) treatment of a person who has been grievously hurt in an accident till such time he may be stabilised;

(b) compensation to representatives of a person who died in hit and run motor accident, not caused by the deceased on whose behalf the claim is being made, and for which accident no person may be held liable;

(c) compensation to a person grievously hurt in an accident where no fault can be fixed upon either that person or on any other person involved in the accident; and

(d) compensation to such persons as may be prescribed by the Central Government.

(4) The maximum liability amount that shall be paid in each case shall be such as may be prescribed by the Central Government.

(5) In all cases specified in clause (a) of sub-section (3), when the claim of such person becomes payable, where amount has been paid out of this fund to any person, the same amount shall be deductible from the claim received by such person from the insurance company.

(6) The Fund shall be managed by such authority or agency as the Central Government may specify having regard to the following:—

(a) knowledge of insurance business of the agency;

(b) capability of the agency to manage funds; and

(c) any other criteria as may be prescribed by the Central Government.

(7) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(8) The accounts of the fund shall be audited by the Comptroller and Auditor- General of India at such intervals as may be specified by him.

(9) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the fund under this Act shall have the same rights, privileges and authority in connection with such audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(10) The accounts of the fund, as certified by the Comptroller and Auditor- General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annual to the Central Government and the Central Government shall cause the same to be laid before each House of the Parliament.

164C. (1) The Central Government may make rules for the purposes of carrying into effect, the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the forms to be used for the purposes of this Chapter including,—

(i) the form of the insurance policy and the particulars it shall contain as referred to in sub-section (3) of section 147;

(ii) the form for making changes in regard to the fact of transfer in the certificate of insurance under sub-section (2) of section 157;

(iii) the form in which the accident information report may be prepared, the particulars it shall contain, the manner and the time for submitting the report to the Claims Tribunal and the other agency under sub-section (1) of section 159;

(iv) the form for furnishing information under section 160;

and

(v) the form of the annual statement of accounts for the Motor Vehicle Crash Fund as referred to in sub-section (7) of section 164B;

(b) the making of applications for and the issue of certificates of insurance;

(c) the issue of duplicates to replace certificates of insurance lost, destroyed or mutilated;

(d) the custody, production, cancellation and surrender of certificates of insurance;

(e) the records to be maintained by insurers of policies of insurance issued under this Chapter;

(f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;

(g) the furnishing of information respecting policies of insurance by insurers;

(h) adopting the provisions of this Chapter to vehicles brought into India

by persons making only a temporary stay therein or to vehicles registered in a reciprocating country and operating on any route or within any area in India by applying those provisions with prescribed modifications;

(i) the requirements which a certificate of insurance is required to comply with as referred to in clause (b) of section 145;

(j) the minimum premium and the maximum liability of an insurer under sub-section (2) of section 147;

(k) such other amount to be paid to a person by an insurer under the proviso to sub-section (2) of section 147;

(l) the conditions subject to which an insurance policy shall be issued and other matters related thereto as referred to in sub-section (3) of section 147;

(m) the details of settlement, the time limit for such settlement and the procedure thereof under sub-section (2) of section 149;

(n) the extent of exemptions and the modifications under the proviso to sub-section (3) of section 158;

(o) the other evidence under sub-section (5) of section 158;

(p) such other agency to which the accident information report as referred to in section 159 may be submitted;

(q) the time limit and fee for furnishing information under section 160;

(r) the higher amount of compensation in respect of death under clause (a) of sub-section (2) of section 161;

(s) the fixed sum to be paid as compensation in respect of grievous hurt under clause (b) of sub-section (2) of section 161;

(t) a sum to be paid as interim relief as referred to in clause (a) of sub-section (4) of section 161;

- (u) the payment schedule under sub-section (1) of section 164;
- (v) the minimum compensation in case of death under the proviso to sub-section (1) of section 164;
- (w) such other sources from which funds may be recovered for the scheme as referred to in section 164A;
- (x) any other source of income that may be credited into the Motor Vehicle Crash Fund under sub-section (1) of section 164B;
- (y) the persons to whom compensation may be paid under clause (d) of sub-section (3) of section 164B;
- (z) the maximum liability amount under sub-section (4) of section 164B;
- (za) the other criteria under clause (c) of sub-section (6) of section 164B;
- (zb) any other matter which is to be or may be prescribed or in respect of which provision is to be made by rules.

164D. (1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter other than the matters specified in section 164C.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the other authority under sub-section (5) of section 147."

188. The Ministry has submitted to the Committee that Motor Vehicle third Party Insurance Liability cover is a statutory requirement under the Motor Vehicles Act, 1988. The Policy does not provide any direct benefit to the insured but covers the liabilities of the insured against damages arising from death/disability of third party loss or damage to third party property. As per the Insurance Information Bureau (IIB) data, approximately 94% of the claims are up to Rs.7.5 lakhs and that 96.13% are for less than Rs.10 lakhs. A perusal of the number of claims paid by the private sector as well as Government sector insurance companies shows that during the last 4 years (2011-12 to 2014-15), claims in 93% to 97% of the death and grievous hurt cases were below Rs.10 lakhs (Source IIB). In the case of grievously hurt during the last five years, almost 90% of the numbers of claims were up to Rs.5 lakhs. (as per IIB).

189. The Ministry further added that the Motor Vehicles (Amendment) Bill, 2016 aims to reform the third party motor vehicle insurance by providing for-

1. Fixing the limits of minimum compensation so as to ensure a fair and reasonable compensation to accident victims from present limit of Rs.50000/- to the revised limit of upto Rs.10 lacs in cases of no-fault liability.
2. Providing for payment of part of compensation as interim relief

3. Increased compensation in hit & run cases of Rs.2 lacs as against the present provision of Rs.25000/- in case of death and Rs.50000/- as against Rs.12500/- in case of grievous hurt.
4. Treatment to the accident victims during golden hour.
5. Inclusion of hired drivers for compensation payment.
6. Specifying the upper limit for which the insurance company would be liable for.

190. The Committee was informed that under section 147(2) of the Bill it is proposes to cap the liability of general insurance companies to Rs.5 lakh to 10 lakh in compensating the third party claims in case of road accident. It was submitted to the Committee that the proposal would expose millions of Third Party Vehicle insurance policy holders to unlimited risk. If a Tribunal or court awards compensation above 5 lakhs in case of injury and Rs.10 lakhs in case of death, the owner of the vehicle has to bear the burden of paying over and above to the third party. The Committee is of the view that the basic aim of insurance is to defray individual risk collectively over a vast group of premium contributors especially when the risk apprehended is likely to be beyond all the means of the individual. If this main purpose to save the individual is defeated there seems to be no necessity for insurance policy to mitigate the risk which an individual could not meet by himself. There is no *mens rea* in accidents and very purpose of insurance is to underwrite the cost of unforeseen contingencies. FDI was liberalized in insurance to strengthen the concept of insurance in a country in which life essentially is exposed to all sorts of unforeseen contingencies and calamities. Insurance Companies cannot run away from their basic responsibilities after collecting hefty amount of no claim insurance premium.

191. The Committee, therefore, recommends that the capping of liability of the insurance companies under third party insurance policy is patently incorrect and against the interest of the millions of road users. The Committee, therefore, recommends that proviso to section 147 (2) as included in Clause 49 may be omitted.

192. The Committee was informed by various stakeholders that under Section 147 of the Motor Vehicles Act 1988 a statutory cover has been given to safeguard the interest of the driver, cleaner and employees engaged in the working of the Motor Vehicles. However, in the proposed amendment the statutory coverage of the driver, cleaner and employee engaged in the vehicle are omitted from the liability of the Insurance Company.

193. The matter was taken up with the Ministry of Road Transport and Highways and they have informed the Committee that the amendment provides coverage to any person who dies or gets injured by a motor vehicle in a public place and therefore, shall include driver, cleaner and employee engaged in running the vehicle.

194. In fact, the amendment increases the ambit to cover employees who are otherwise not covered under the Workmen's Compensation Act.

195. The Committee notes the assurance of the Ministry of Road Transport and Highways and recommends that the Government should ensure that the driver, cleaner and employees engaged in a vehicle are fully protected under the insurance coverage. The Committee therefore recommends that the "Driver, cleaner and employees engaged in the working of the Motor Vehicles" be specifically mentioned in the clause.

196. The Committee is concerned over the apprehension expressed by the States about getting all State Government's vehicles insured. The States have submitted they are already in resource crunch and if the State will have to spend a big amount for making premium payment, it would adversely affect their exchequer. The Committee further recommends that the State Governments may be exempted from paying premium for the Government vehicles for two reasons, first these vehicles are in public service and second, the amount saved from premium payment may be spent on giving compensation to road accident victims.

197. Clause 50 says in section 165 of the principal Act, in the *Explanation*, for the words, figures and letter "section 140 and section 163A", the word and figures "section 164" shall be substituted.

Clause 50 seeks to amend section 165 of the Act in consequence of the amendments proposed in Chapters X and XI.

198. Committee notes the changes.

Clause 51 says in section 166 of the principal Act,—

(i) in sub-section (2), the proviso shall be omitted;

(ii) in sub-section (4), for the words, brackets and figures "sub-section (6) of section 158", the word and figures "section 159" shall be substituted;

(iii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not."

Clause 51 seeks to amend section 166 of the Act to ensure that a claim for compensation does not abate on the death of the claimant and may be continued by his legal representatives.

199. The Committee feels that the proposed sub-section (5) is a favourable step towards the family of the injured who succumbed to injuries and it will help the family financially.

196. Clause 52 says in section 168 of the principal Act, in sub-section (1),—

(iv) for the word and figures "section 162", the word and figure "section 163" shall be substituted;

(v) the proviso shall be omitted.

Clause 52 seeks to amend section 168 of the Act in consequence of the amendment proposed in Chapters X and XI.

200. The Committee notes the changes.

Clause 53 says In section 169 of the principal Act, after sub-section (3), the following section shall be inserted, namely,—

"(4) For the purpose of enforcement of its award, the Claims Tribunal shall also have all the powers of a Civil Court in the execution of a decree under the Code of Civil Procedure, 1908, as if the award were a decree for the payment of money passed by such court in a civil suit."

Clause 53 seeks to amend section 169 of the Act in order to confer powers of the Civil Court upon the Claims tribunals with regard to execution of a decree passed by itself.

201. The Committee feels that giving the power of civil court to the tribunal will not only expedite the disposal of cases but also help to the family of the victim of road accident to overcome the mental trauma and also for settlement of the financial claims. The Committee appreciates this move.

202. Clause 54 says in section 170 of the principal Act, for the word and figures "section 149" the word and figures "section 150" shall be substituted.

Clause 54 seeks to amend section 170 of the Act in consequence of the amendment proposed in Chapters X and XI.

203. The Committee notes the changes.

204. Clause 55 says -In section 173 of the principal Act, in sub-section (2), for the words "ten thousand", the words "one lakh" shall be substituted;

Clause 55 seeks to amend section 173 of the Act in order to increase the amount in controversy required for an appeal from the decision of the Claims Tribunal to be heard by the High Court.

205. Regarding Amendment of Section -173 to increase the minimum claim amount for which a person may appeal against an order of the claims Tribunal at the High Court.

206. On this, the Ministry has said that the increased amount in the Amendment Bill is to bring the minimum amount in line with present relation and also to prevent frivolous litigation from reaching the High Court.

207. The Committee feels that the proposal to increase the amount from ten thousand to one lakh required for an appeal from the decision of the claims tribunal to be heard by the High Court is on correct lines.

208. The Committee was informed that at present more than 10 lakh Third Party claims are pending before MACT and various judicial fora. With a view to address this malady it was suggested that the law provides for all claimants of road accidents to first approach insurance companies and file their claim details and documents. If they are dissatisfied with the compensation they may take recourse to approach MACT/judicial for a redressal.

209. This Committee was further informed that there is no hard coding of time limit for filing of claims before MACT consequent to the 1994 amendment to MV Act. Insurance companies receive intimation of claims filed before MACT after a lapse of 3-4 years. Further, the court proceedings take another 4-5 years leading to inordinate delay in settlement of compensation to victims of road accidents.

210. The Committee also noted that Delhi High Court had laid down an agreed procedure for investigation and reporting of road accidents to the court and to the insurer. Supreme Court has advised all the High Courts in the country to adopt similar procedure. This procedure has strict time lines for both intimation as well as settlement of Motor Accident Claims.

211. The Committee was informed that the delayed filing of claims and the courts condemning such delays without exception has led to several false and fraudulent claims -such as cooked up accidents, claims by wrong persons, multiple claims for the same accident, over compensation etc.

212. The Committee notes that above suggestions are full of merits and need to be codified in the legislation. The Committee, therefore, recommends that all claimants of road accidents should first approach the insurance companies for settlement of the claims and if they are dissatisfied they can approach the MACT and judicial fora.

213. The Committee further recommends that every claim of settlement should be filed before the MACT or with the insurer within a period of six months so that it acts as a catalyst for quick settlement and, at the same time, acts as a deterrent against deliberate delay in filing of claims as well as fraudulent/fictitious claims being preferred. The Committee also recommends that necessary legislative backing may be provided so as to ensure detailed accident report by police as prescribed by the Supreme Court and which is followed in Delhi.

214. Clause 56 says in section 177 of the principal Act, for the words "one hundred rupees" and "three hundred rupees", the words "five hundred rupees" and "one thousand and five hundred rupees" shall respectively be substituted.

Clause 56 seeks to amend section 177 of the Act in order to enhance the general penalties.

215. The Committee finds the increase in penalty as appropriate.

216. Clause 57 says after section 177 of the principal Act, the following section shall be inserted, namely:—

"177A. Whoever contravenes the regulations made under section 118, shall be punishable with fine which shall not be less than five hundred rupees, but may extend to one thousand rupees."

Clause 57 seeks to insert a new section 177A in the Act in order to provide for penalties for violation of the Rules of the Road Regulations and other regulations made under section 118 of the Act.

217. The Committee appreciates the proposal.

Clause 58 says in section 178 of the principal Act, in sub-section (3), for the words "two hundred rupees", the words "five hundred rupees" shall be substituted.

Clause 58 seeks to amend section 178 of the Act in order to enhance penalties for travelling without pass or ticket.

218. The Committee finds the increase in penalty from Rs. two hundred to five hundred as appropriate.

219. Clause 59 says in section 179 of the principal Act,—

(vi) in sub-section (1), for the words "five hundred rupees", the words "two thousand rupees" shall be substituted;

(vii) in sub-section (2), for the words "five hundred rupees", the words "two thousand rupees" shall be substituted.

Clause 59 seeks to amend section 179 of the Act in order to enhance penalties for disobedience of orders, obstruction, etc.

Clause 59

220. The Committee finds that the penalty for disobedience of order, obstruction and refusal of information to be given by a person to public servant while discharging his duties under this Act to be increased from five hundred to two thousand rupees under Section 179 (1) & (2) as appropriate.

221. Clause 60 says in section 180 of the principal Act, for the words "which may extend to one thousand rupees", the words "of five thousand rupees" shall be substituted.

Clause 60 seeks to amend section 180 of the Act in order to enhance penalty for allowing unauthorised persons to drive vehicles.

222. Section 180 deals with the owner of a motor vehicle who gives his vehicle to such a person who is not authorized to drive a vehicle under this Act is liable to pay fine of one thousand rupees. The Committee finds that the fine of five thousand rupees would be appropriate as a deterrent because a person who is not authorized to drive is a safety hazard.

223. Clause 61 says in section 181 of the principal Act, for the words "which may extend to five hundred rupees", the words " of five thousand rupees" shall be substituted.

Clause 61 seeks to amend section 181 of the principal Act. It enhances penalty for driving vehicles in contravention of section 3 and section 4 of the Act.

224. Clause 61 Under Section 181 the punishment/penalty (imprisonment 3 months/Rs.five hundred rupees) has been prescribed for driving vehicles in contravention of section 3 or section 4. The Committee thinks that to increase the penalty to five thousand rupees is appropriate.

225. Clause 62 says in section 182 of the principal Act,—

- (i) in sub-section (1), for the words "which may extend to five hundred rupees", the words " of ten thousand rupees" shall be substituted;
- (ii) in sub-section (2), for the words " one hundred rupees", the words "ten thousand rupees" shall be substituted.

Clause 62 seeks to amend section 182 of the Act, in order to enhance the penalties for offences relating to licences.

226. Section 182 deals with the offence of a person who has been disqualified from having a driving license drives a vehicle in a public place or any place or applies for a license without disclosing the endorsement to his earlier license. The Committee notes that the fine to be imposed on such an offender is appropriate.

227. Clause 63 says for section 182A of the principal Act, the following sections shall be substituted, namely:—

"182A. (1) Whoever, being a manufacturer, importer or dealer of motor vehicles, sells or delivers or alters or offers to sell or deliver or alters, a motor vehicle that is in contravention of the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine of one lakh rupees per such motor vehicle or with both:

Provided that no person shall be convicted under this section if he proves that, at the time of sale or delivery or alteration or offer of sale or delivery or alteration of such motor vehicle, he had disclosed to the other party of the manner in which such motor vehicle was in contravention of the provisions of Chapter VII or the rules and regulations made thereunder.

(2) Whoever, being a manufacturer of motor vehicles, fails to comply with the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend one hundred crore rupees or with both.

(3) Whoever, sells or offers to sell, or permits the sale of any component

of a motor vehicle which has been notified as a critical safety component by the Central Government and which does not comply with Chapter VII or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine of one lakh rupees per such component or with both.

(4) Whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both.

182B. Whoever contravenes the provisions of the section 62A, shall be punishable with fine which shall not be less than five thousand rupees, but may extend to ten thousand rupees."

Clause 63 seeks to amend section 182A of the Act, in order to enhance penalties for contravention of provisions of Chapter VII by manufacturers, importers, dealers and owners of motor vehicles. It is also proposed to insert a new section 182B in the Act in order to provide for penalty for registration and issuance of certificate of fitness to oversized vehicles.

228. Clause 63 speaks about the punishment prescribed for offences related to construction, manufacture, sale and alteration of motor vehicles and its components. The Committee finds that proposed substitution is good for checking unscrupulous elements in the Motor Vehicle industry both the dealer as well as the manufacturer and of course buyer upto some extent.

229. As it is a fact that any alteration or retrofitting which is not permissible under this Act is detrimental to the environment as well as for pedestrians and commuters. The Committee thinks that fine of Rupees hundred crore prescribed in Section 182 A (2) to be awarded to such manufacturer who fails to comply with the provisions of chapter VII of the Act will act as a deterrent.

230. Clause 64 says in section 183 of the principal Act,—

(viii) in sub-section (1),—

(a) after the words "Whoever drives", the words "or causes any person who is employed by him or subjects someone under his control to drive" shall be

inserted;

(b) for the words "with fine which extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees", the following shall be substituted, namely:—

"in the following manner, namely:—

(i) where such motor vehicle is a light motor vehicle with fine which shall not be less than one thousand rupees but may extend to two thousand rupees;

(ii) where such motor vehicle is a medium goods vehicle or a medium passenger vehicle or a heavy goods vehicle or a heavy passenger vehicle with fine which shall not be less than two thousand rupees, but may extend to four thousand rupees; and

(iii) for the second or any subsequent offence under this subsection the driving licence of such driver shall be impounded as per the provisions of sub-section (4) of section 206."

(ii) sub-section (2) shall be omitted.

(iii) in sub-section (3), after the word "mechanical", the words "or electronic" shall be inserted.

(iv) in sub-section (4), for the words, brackets and figure "sub-section (2)", the words, brackets and figure "sub-section (1)" shall be substituted.

Clause 64 seeks to amend section 183 of the Act in order to enhance the penalties for driving at excessive speed and to provide for different penalties for different classes of motor vehicles.

231. The Committee feels that the proposed enhancement of penalties in respective categories is appropriate.

232. Clause 65 says in section 184 of the principal Act,—

(i) after the words "dangerous to the public", the words " or which causes a sense of alarm or distress to the occupants of the vehicle, other road users, and persons near roads," shall be inserted;

(ii) for the words "which may extend to six months or with fine which may extend to one thousand rupees", the words "which may extend to one year but shall not be less than six months or with fine which shall not be less than one thousand rupees but may extend to five thousand rupees, or with both" shall be substituted;

(iii) for the words "which may extend to two thousand rupees", the words " of ten thousand rupees" shall be substituted;

(iv) the following *Explanation* shall be inserted, namely:—

"Explanation.— For the purpose of this section,—

(a) jumping a red light;

- (b) violating a stop sign;
- (c) use of handheld communications devices while driving;
- (d) passing or overtaking other vehicles in a manner contrary to law;
- (e) driving against the authorised flow of traffic; or
- (f) driving in any manner that falls far below what would be expected of a competent and careful driver and where it would be obvious to a competent and careful driver that driving in that manner would be dangerous."

shall amount to driving in such manner which is dangerous to public.

Clause 65 seeks to amend section 184 of the Act in order to enhance penalties for driving dangerously. It also seeks to insert an explanation giving examples of acts that are considered driving in a manner dangerous to the public, such as jumping a red light, violating a stop sign, use of handheld communication devices while driving, passing or overtaking any motor vehicle in violation of law, etc.

233. Amendment in Clause 65 has given some explanation under sub section (iv). It was submitted before the Committee that these explanations may be misinterpreted and misread by the law enforcement agencies such as police. Jumping a red light means a vehicle has crossed the stop line when the light was not green but sometimes duration of amber light is too short and a vehicle cannot pass from one side to another side and the driver just reaches other side when the light is already red and he comes under the ambit of red light jumping. Under 184 (iv) (d) explanation is passing or overtaking other vehicles in a manner contrary to law. One of the stakeholders submitted that many times heavy vehicle is moving slowly in right lane and a car wants to overtake but overtaking is not allowed from left and if he does he will commit the offence of wrong side overtaking.

234. This Clause seeks to amend Section 184 in order to enhance penalties for driving dangerously indulging in such activities during driving which may endanger others' lives. The Committee feels that sometimes a person who has not committed mistake as such but was caught on wrong foot because of others' fault, then he should not be penalized heavily. The Committee recommends that before applying law, technical things like signals, signages, stop-signs, divider etc. may be placed correctly. Proper training to police officials is also essential.

235. At present the police agencies are implementing the provisions as per their whims and fancies. There is no standardization of technical aspect which can be followed by the public.

236. The Committee recommends that the Government should come out with appropriate rules and regulations to decide and define what constitute lane driving, red light jumping, violation of signals etc.

237. The Committee also recommends that signage should be uniform based on certain technical parameters and standards and the signage should be exclusively erected only by authorized authorities such as NHAI on National highways and State PWD Departments for State highways.

238. The Committee was informed that draft Road Traffic Regulations are pending with the Government. The Committee recommends that the proposed Road Traffic Regulation by virtue of powers conferred by the Section 118 of the Motor Vehicle Act 1988 should be notified along with the present Amendment Bill.

239. The Committee further recommends that parts A & B of the first schedule of the Act needs revision as the same is not updated and should also comply with the UN Convention of road signs and signals of 1969 to which India is a signatory. Road marking, signals and miscellaneous devices should also be included in the schedule.

240. Clause 66 says in section 185 of the principal Act,—

- (i) in clause (a), after the words "breath analyser," the words "or in any another test including a laboratory test," shall be inserted;
- (ii) for the words "which may extend to two thousand rupees", the words " of ten thousand rupees" shall be substituted;
- (iii) the words " if committed within three years of the commission of the previous similar offence," shall be omitted;
- (iv) for the words "which may extend to three thousand rupees", the words "of fifteen thousand rupees" shall be substituted;
- (v) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"Explanation.— For the purposes of this section, the expression "drug" means any intoxicant other than alcohol, natural or synthetic, or any natural material or any salt, or preparation of such substance or material as may be notified by the Central Government under this Act and includes a narcotic drug and psychotropic substance as defined in clause (xiv) and clause (xxiii) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985."

Clause 66 seeks to amend section 185 of the Act in order to enhance the penalties for driving under the influence of alcohol or drugs.

241. A stakeholder submitted before the Committee that one who has in his blood more than 30 MG per 100 ML of blood portion of alcohol to be tested by a "breath alcohol analyzer", comes under the category of person who is drunk. There are two tests when a person takes a breath, the breath alcohol tester converts it by a formula into blood alcohol ratio. Now, the Government of India has not decided the formula if it is 1:2100; 1:2300. There are three conversion ratio equally used in the entire world based upon the type of a body we have and

the type of food we eat. So, when we talk about drunken driving with breath alcohol analyzer, we still don't have a formula (breath to blood alcohol ratio to change), but when we talk about going to the laboratory or a breath alcohol analyzer, we have to write the conversion between breath and blood. Otherwise, we will again run into a huge problem. Secondly, there is the issue of apparatus. Regarding breath alcohol analyzers, there is no stipulation of type approval standards what should be a breath alcohol analyzer.

242. The Committee heard the views of States, private stakeholders and the Ministry also on the menace of drunken driving and also driving after taking drugs. The Committee after hearing the views came to the conclusion that to find out the alcohol in the blood of driver is easier but the modalities to trace the drugs is not available at present. It is a fact that the drunk driving is a big menace on the road and many accidents take place due to the fact that the driver of the vehicle was under the influence of alcohol or drugs while driving.

243. The Committee recommends that the Ministry should impose stringent penalty on such driver who was caught driving after drinking. Such driver endangers the lives of his own , other occupants of the vehicle and other persons on the road.

244. After hearing the witnesses, the Committee notes that method of testing the alcohol in the blood of offender is not foolproof and the standard of "breath analyzer" is also not good enough which could give the authentic report. The Committee recommends that the Ministry should go for testing machines of international standard that should prescribe standards for breath analyzer machines and various parameters to decide drunkenness.

245. The Committee notes that drunken driving is a major cause of road accidents. This malady needs to be dealt with a firm hand. The Committee got suggestions to the effect that if a drunken driver commit an accident which results in the death of persons the former should be dealt under the provisions of culpable homicide not amounting to murder under the relevant Sections of IPC. The Committee, therefore, recommends that the Government may amend the necessary legislations to include the deaths due to drunken driving as culpable homicide not amounting to murder.

246. The Committee also recommends that if the drunken driver commits an accident, his action should not be construed as mere 'negligence' rather it should be treated as a premeditated commitment of a crime and the drunken driver should be made punishable under relevant provisions of IPC depending on the consequences of the accident.

247. Clause 67 says in section 186 of the principal Act, for the words "two hundred rupees" and "five hundred rupees", the words "one thousand rupees" and "two thousand rupees" shall respectively be substituted.

Clause 67 seeks to amend section 186 of the Act in order to enhance the penalties for driving when mentally or physically unfit to drive.

248. The Committee notes the increase in the penalty to be increased for driving when mentally or physically unfit to drive. The Committee finds the increased penalty is appropriate.

249. Clause 68 says in section 187 of the principal Act,—

- (i) for the brackets and letter "(c)" the brackets and letter "(a)" shall be substituted;
- (ii) for the words "three months", the words "six months" shall be substituted;
- (iii) for the words "which may extend to five hundred rupees", the words " of five thousand rupees" shall be substituted;
- (iv) for the words "six months", the words "one year" shall be substituted;
and
- (v) for the words "which may extend to one thousand rupees", the words " of ten thousand rupees" shall be substituted.

Clause 68 seeks to amend section 187 of the Act in order to enhance the penalties for offences relating to accident.

250. The Committee notes the change in penalty to be incorporated in Section 187 of the principal Act, which is for the offences committed relating to an accident.

Clause 69 in section 189 of the principal Act,—

- (vi) for the words "one month", the words "three months" shall be substituted;
- (vii) for the words "which may extend to five hundred rupees", the words "of five thousand rupees" shall be substituted;
- (viii) after the words "with both", the words ", and for a subsequent offence shall be punishable with imprisonment for a term which may extend to one year, or with fine of ten thousand rupees; or with both." shall be inserted.

Clause 69 seeks to amend section 189 of the Act in order to enhance the penalties for racing and trials of speed.

251. The Committee notes and finds it appropriate to increase the penalties for the offence of racing and trials of speed. The Committee feels that the fast driving vehicle is a big nuisance on road and it endangers lives of pedestrians as well as commuters. It is further added here that on most of the roads in a place like Delhi, speed limit is same what was written some 20-30 years back. The Committee recommends that speed limit on different roads may be reconsidered in view of increasing number of vehicles.

252. The Committee notes that speed limit in Indian roads are up to 80 Km in most of the National Highways. In certain cases the roads were designed for a speed up 120 km, but the maximum speed limit permitted is 100 km. The

Committee notes that most of the accidents happen due to over speeding of vehicles. The Committee also notes that most of the vehicles manufactured in India are with a capability of driving more than 180-Km/hr. In some cases the vehicles are manufactured for more than 240 Km/hr. capability. These vehicles act like a missile or rocket if involved in an accident. During the deliberations of the Committee, one stakeholder was asked to respond on the futility of high speed vehicles when the speed limits are upto a maximum of 100 km/hr. They informed the Committee that for acceleration purposes high end speed engines are required. They could not give any other explanation. The Committee feels that these manufactures are following standards of European and American countries and the same standards and technologies are being implemented in India.

253. The Committee recommends that the Government should formulate the necessary legislation to limit the acceleration capability of vehicles manufactured for use in India to speed limit as per the infrastructure availability of the country.

254. The Committee also notes that slow moving vehicles are a hazard in National Highways. The Committee, therefore, recommends that minimum speed limit should be prescribed for National Highways according to place and amount of traffic.

255. Clause 70 says in section 190 of the principal Act,—

(i) in sub-section (1),—

(a) for the words "which may extend to two hundred and fifty rupees" the words " of one thousand five hundred rupees" shall be substituted;

(b) for the words "which may extend to one thousand rupees" the words "of five thousand rupees" shall be substituted; and

(c) after the words "with both", the words, and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property" shall be inserted.

(ii) in sub-section (2),—

(d) for the words "a fine of one thousand rupees", the words "imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months" shall be substituted; and

(e) for the words "a fine of two thousand rupees", the words "imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both" shall be substituted; and

(iii) in sub-section (3),—

(f) for the words "which may extend to three thousand rupees", the words "of ten thousand rupees and he shall be disqualified for holding licence for a period of three months" shall be substituted; and

(g) for the words "which may extend to five thousand rupees", the words "of twenty thousand rupees" shall be substituted;

Clause 70 seeks to amend section 190 of the Act in order to enhance the penalties for using vehicle in unsafe condition.

256. Section 190 of the Principal Act speaks about using a vehicle by a person in an unsafe condition. Such vehicle may endanger other's lives in a public place; can cause bodily injury or damage to property. Clause (3) speaks about such carriage which are dangerous or hazardous nature to human life. The Committee finds that the consequences of a vehicle which is not fit to run on the road and may cause harms to people, environment or damages to other's property fall under serious category hence increase in penalty is appropriate.

257. Clause 71 says Section 191 of the principal Act shall be omitted.

Clause 71 seeks to omit section 191 of the Act, which deals with sale of vehicle in or alteration of vehicle to condition contravening the Act.

258. The Ministry has proposed to omit the Section 191 of the Principal Act which deals with the sale of vehicle in or alteration of vehicle to condition contravening the Act. The Committee is unable to understand why this Section has to be omitted. The Committee recommends that the Ministry should prescribe provisions to the effect that importer or seller of motor vehicle will not sell any vehicle which contravenes this Act.

259. Clause 72 says in section 192 of the principal Act, the following *Explanation* shall be inserted, namely:

"Explanation.— Use of a motor vehicle in contravention of the provisions of

section 56 shall be deemed to be a contravention of the provisions of section 39 and shall be punishable in the same manner as provided in sub-section (1)."

Clause 72 seeks to amend section 192 of the Act in order to provide that use of a motor vehicle in contravention of provisions regarding certificate of fitness shall be deemed as use of a motor vehicle not registered under the Act and shall be punishable in the same manner.

260. The Committee notes the proposed amendment.

Clause 73 in section 192A of the principal Act, in sub-section (1),—

(i) after the words "for the first offence with", the words "imprisonment for a term which may extend to one year and" shall be inserted;

(ii) for the words "which may extend to five thousand rupees but shall not be less than two thousand rupees", the words " of ten thousand rupees" shall be substituted;

(iii) for the words "one year", the words "two years" shall be

substituted;

(iv) for the words "three months", the words "six months" shall be substituted;

(v) for the words "which may extend to ten thousand rupees but shall not be less than five thousand rupees", the words "of twenty thousand rupees" shall be substituted.

Clause 73 seeks to amend section 192A of the Act in order to enhance the penalties for using a transport vehicle in contravention of section 66.

261. The Committee feels that the penalty prescribed for different offences under this Clause is little bit on higher side. The Committee recommends that in Section 192 A (1) (i) imprisonment for a term may be kept as 6 months instead of one year. In 192 A 1 (iii) maximum one year should remain there and in 192 A 1(v) ten thousand rupees is sufficient.

262. Clause 74 says after section 192A in the principal Act, the following section shall be inserted, namely:—

"192B. (1) Whoever, being the owner of a motor vehicle, fails to make an

application for registration of such motor vehicle under sub-section (1) of section 41 shall be punishable with fine of five times the annual road tax or one-third of the lifetime tax of the motor vehicle whichever is higher.

(2) Whoever, being a dealer, fails to make an application for the registration of a new motor vehicle under the second proviso to sub-section (1) of section 41 shall be punishable with fine of fifteen times the annual road tax or the lifetime tax of the motor vehicle whichever is higher.

(3) Whoever, being the owner of a motor vehicle, obtains a certificate of registration for such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration shall be punishable with fine of ten times the annual road tax or two-third of the lifetime tax of the motor vehicle whichever is higher.

(4) Whoever, being a dealer, obtains a certificate of registration for such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of

registration shall be punishable with fine of thirty times the annual road tax or twice the lifetime tax of the motor vehicle whichever is higher.

Clause 74 seeks to insert a new section 192B in the Act to provide for imposition of penalty on an owner or dealer, as the case may be, for failure to make an application for registration and for false representation of facts or documents.

263. The Committee finds that the insertion of new section 192 B is a welcome step towards allowing only authorized/registered vehicle to run on the road and penalty for violation of the rules proposed in 192 B (1) and (2) are justified but the Committee feels that in obtaining a certificate based on false representation of facts by a person or dealer is a serious offence and may be given harsher punishment than that proposed. In 192 B (3) & (4) the Committee recommends that such offender may be given imprisonment for a term which may extend to minimum 6 months and maximum upto one year. This may be added in the Bill.

264. Clause 75 In the principal Act,—

(A) in section 193, in the marginal heading, for the words "agents and canvassers", the words "agents, canvassers and aggregators" shall be substituted;

(B) section 193 shall be numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so numbered,—

(a) for the words "which may extend to one thousand rupees", the words "of one thousand rupees" shall be substituted;

(b) for the words "which may extend to two thousand rupees", the words "of two thousand rupees" shall be substituted;

(ii) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

"(2) Whoever engages himself as an aggregator in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable with fine up to one lakh rupees but shall not be less than twenty-five thousand rupees.

(3) Whoever, while operating as an aggregator contravenes a condition of the licence granted under sub-section (4) of section 93, not designated by the State Government as a material condition, shall be punishable with fine of five thousand rupees."

Clause 75 seeks to amend section 193 of the Act in order to enhance the penalties for agents and canvassers and provide for penalties for

aggregators for contravening the provisions of this Act and the conditions of licence.

265. All India Federation of Motor Vehicle Department Technical Executive Officers Association has submitted before the Committee that there are no penalties on aggregators and consequently, it does not extend adequate protection to operators. Moreover, the entry of aggregators would adversely affect the local taxi operators. Hence it is not in public interest.

266. States of Tamilnadu , Karnataka, Odhisha have echoed the same concern. The Ministry has replied that section 193, as amended in this Bill, clearly lays down penalties for aggregators for actions in contravention of the provisions of this Act.

267. Ministry is of the opinion that all modes of public transport should be promoted so as to reduce dependence on personalized transport which will reduce congestion and pollution.

268. The Committee is satisfied with the provision proposed in the Section 193 of the Principal Act. The Committee feels that in metros number of aggregators are increasing day by day and in the competitive situation aggregator and other like group/agent may resort to malpractices to get more profit hence to rein them the penalty in sub-section (2) is appropriate.

269. Clause 76 says in section 194 of the principal Act,—

(i) in sub-section (1),—

(a) the word "minimum" shall be omitted;

(b) for the words "of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load", the words "of twenty thousand

rupees and an additional amount of two thousand rupees per tonne of excess load" shall be substituted;

(c) the following proviso shall be inserted, namely:—

"Provided that such motor vehicle shall not be allowed to move before such excess load is removed or is caused or allowed to be removed

by the person in control of such motor vehicle."

(ii) after sub-section (1), the following sub-section shall be inserted, namely:— "(1A) Whoever drives a motor vehicle or causes or allows a motor vehicle

to be driven when such motor vehicle is loaded in such a manner that the load or

any part thereof or anything extends laterally beyond the side of the body or to

the front or to the rear or in height beyond the permissible limit shall be punishable with a fine of twenty thousand rupees, together with the liability to pay charges for off-loading of such load:

Provided that such motor vehicle shall not be allowed to move before such load is arranged in a manner such that there is no extension of the load

laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit:

Provided further that nothing in this sub-section shall apply when such motor vehicle has been given an exemption by the competent authority authorized

in this behalf, by the State Government or the Central Government, allowing the

carriage of a particular load."

(iii) in sub-section (2), for the words, "which may extend to three thousand rupees" the words "of forty thousand rupees" shall be substituted.

Clause 76 seeks to amend section 194 of the Act in order to enhance the penalties for driving vehicle exceeding permissible weight. It also provides that a motor vehicle will not be allowed to move before excess load is removed.

270. The stakeholders submitted before the Committee that for overloading of vehicles all people involved in the allowing of overloaded vehicles in their jurisdiction should be penalized including truckers, transporter, consignor, consignee, law enforcement toll concessionaires, PDs, PIUs.

271. The Ministry has replied that section 194 proposes penalty on the person who drives or causes or allows to be driven an overloaded motor vehicles. This is very wide language which covers trucker who drives an overloaded motor vehicle or transporter, consignor, consignee or others who cause such overloaded motor vehicle to be driven.

272. The Committee observes that the penalty Clause given in Section 194 of the Principal Act is appropriate but at the same time the Committee is of the view that today Motor transport is the main source of transporting the goods from one place to another and to earn extra profit transporter carry extra loads on their vehicle.

273. The Committee feels that extra load on a vehicle not only damages the road but it also makes driving the overloaded vehicle risky. Overloaded vehicles are extremely dangerous for the travelling public. They are the cause of large number of accidents. The Committee further adds that the proviso to be inserted under sub-section 1 'C' is a right measure towards curbing this problem. The Committee recommends that the vehicle in no condition should be allowed to move ahead unless and until the excess load has been removed from the vehicle

besides imposing fines for each tone of load. Harsh penalty may deter transporter to indulge in wrong practice of overloading. At the same time, the Committee suggests that at checking points, man power and machinery may be made available so that this rule can be implemented successfully.

274. The Committee notes that a twenty tonne capacity vehicle often carry 30 to 35 tonnes. The Committee feels that the vehicle manufacturers have to redefine their technology to ensure that if a vehicle which is overloaded beyond its axle power is immobilized.

275. The Committee notes that the linear dimensions of the vehicles which can ply on the roads may be prescribed by the Government. Many a times, vehicles which are carrying bulky oversized and protruding items like bagasse of sugarcane, sugarcanes, husk, cotton, hay chaff of paddy, wheat and cotton etc. are hindrances resulting in road accidents and also hindrance to smooth flow of traffic. The Committee, therefore, recommends that the vehicles which are oversized in linear dimensions should not be allowed to ply on roads.

276. Clause 77 says after section 194 in the principal Act, the following sections shall be inserted, namely:—

"194A. Whoever drives a transport vehicle or causes or allows a transport vehicle to be driven while carrying more passengers than is authorized in the registration certificate of such transport vehicle or the permit conditions applicable to such transport vehicle shall be punishable with a fine of one thousand rupees per excess passenger:

Provided that such transport vehicle shall not be allowed to move before the excess passengers are off-loaded and an alternative transport is arranged for such passengers.

194B. (1) Whoever drives a motor vehicle without wearing a safety belt or carries passengers not wearing seat belts shall be punishable with a fine of one thousand rupees:

Provided that the State Government, may by notification in the Official Gazette,

exclude the application of this sub-section to transport vehicles allowed carrying standing passengers or other specified classes of transport vehicles.

(2) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a child who, not having attained the age of fourteen years, is not secured by a safety belt or a child restraint system shall be punishable with a fine of one thousand rupees.

194C. Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 128 or the rules or

regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.

194D. Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 129 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.

194E. Whoever while driving a motor vehicle fails to draw to the side of the road,

on the approach of a fire service vehicle or of an ambulance or other emergency vehicle as may be specified by the State Government, shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees or with both.

194F. Whoever —

(a) while driving a motor vehicle —

(i) sounds the horn needlessly or continuously or more than necessary to ensure safety, or

(ii) sounds the horn in an area with a traffic sign prohibiting the use of a horn, or

(b) drives a motor vehicle which makes use of a cut-out by which exhaust gases are released other than through the silencer, shall be punishable with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.

Clause 77 seeks to insert new provisions, viz., section 194A, 194B, 194C, 194D, 194E and 194F in the Act. Section 194A imposes a penalty for carriage of more passengers than authorised in the registration certificate. Section 194B imposes a penalty on persons for not wearing seat belts and for not seating children in a safe manner. Section 194C imposes a penalty for carriage of more than two persons, including the driver, on a motor cycle. Section 194D imposes a penalty on persons for not wearing protective headgear while driving or riding a motor cycles. Section 194E imposes a penalty for failing to draw to the side of the road to provide passage for an emergency vehicle. Section 194F imposes a penalty for sounding the horn unnecessarily while driving a motor vehicle.

277. Representative from Institute of Public Health submitted before the Committee that law passed should have stringent penalties because one of the main reasons behind high road crashes in India is the lighter penalties for violations. All India Motor Transport Congress has submitted that penalties are exorbitant and will lead to harassment, corruption and extortion. Penalties should be reasonable. There should be

scientific or photographic recording of fault and only on that basis, penalty should be levied. Higher penalties would also lead to higher insurance charges.

278. The Ministry in reply to the above suggestions informed the Committee that the Motor Vehicles (Amendment) Bill hikes penalties for violations significantly. The Ministry further added that the proposed penalties were suggested after deliberations by the Group of Transport Ministers (GoM) constituted by the Ministry of Road Transport and Highways vide notification dated March 2, 2016.

279. The penalties have not been changed since 1989, therefore, have not retained their deterrent effect.

280. New Section 136A also mandates the State Governments to ensure electronic monitoring and enforcement and that the Central Government shall make rule for the electronic monitoring and enforcement including speed cameras, CCTV, speed guns, body wearable cameras etc. Hence in the future, electronic evidence of violations may also be used in levying penalties.

281. Clause 77 of the proposed bill gives a new height to penalty to be charged by the authority from vehicle owners/drivers etc.

282. The Committee feels that under Section 194A penalty of Rs.1,000 per excess person is on higher side and Committee recommends that it should be brought down to Rs.200 per person. Here, it would be pertinent to mention that India is a developing country and in many parts of the country especially in rural areas, transportation is a problem. People travel even on roof top of the bus. At many places there is no government transport and people rely on private buses/carriages. To impose penalty is not the solution to the problem.

283. Clause 78 says section 195 of the principal Act shall be omitted.

Clause 78 seeks to omit section 195 of the Act in order to eliminate discretion on the imposition of fine on offender.

284. The Committee notes the proposed omission of the Section 195 from the Act.

285. Clause 79 says in section 196 of the principal Act,—

(i) after the word "shall be punishable", the words "for the first offence" shall be inserted;

(ii) for the words "which may extend to one thousand rupees", the words "of two thousand rupees," shall be substituted; and

(iii) after the words "with both", the words ", and for a subsequent offence shall be punishable with imprisonment for a term which may extend to three months, or with fine of four thousand rupees, or with both." **shall** be inserted.

Clause 79 seeks to amend section 196 of the Act in order to enhance the penalties for driving an uninsured motor vehicle.

286. A stakeholder submitted before the Committee that doubling of fine under Section 196 for driving without mandatory third party insurance is half hearted punishment to habitual offenders. The penalty does not work because of limited enforcement and leniency of courts in not prescribing imprisonment. Therefore there is need to ensure that uninsured motor vehicle is impounded and driving licence is suspended and for repeat offences permits and driving licenses should be revoked.

287. In response the Ministry has submitted that the penalties provided in the Motor Vehicles Act, 1988 have not been revised since 1989. Therefore, there is a need for upward revision for all the penalties provided under the Act.

288. The implementation of provisions of the MV Act 1988 is the responsibility of States. Impounding of the vehicles is not practical solution for all types of violations.

289. The Committee was informed that more than half of the vehicles on road are without a third party insurance. The Committee notes that the registration tax is one time affair, likewise the third party insurance should also be made a one time affair. The Committee recommends that every new vehicle purchased should be made to pay at the time of registration the third party insurance for life time of the vehicles.

290. Clause 80 says in section 197 of the principal Act,—

(i) in sub-section (1), for the words "which may extend to five hundred rupees",
the words "of five thousand rupees" shall be substituted;

(ii) in sub-section (2), for the words "which may extend to five hundred rupees" the words "of five thousand rupees" shall be substituted.

Clause 80 seeks to amend section 197 of the Act in order to enhance the penalties for taking a motor vehicle without authority.

291. The Committee notes the proposed amendment to Section 197.

292. Clause 81 says in section 198 of the principal Act, for the words "with fine which may extend to one hundred rupees", the words "with fine of one thousand rupees" shall be substituted.

Clause 81 seeks to amend section 198 of the Act in order to enhance the penalties for unauthorized interference with a motor vehicle.

293. The Committee notes the proposed amendment to section 198.

Clause 82 says after section 199 of the principal Act, the following section shall be inserted, namely:—

"199A. (1) Where an offence under this Act has been committed by a juvenile, the guardian of such juvenile or the owner of the motor vehicle shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render such guardian or owner liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation. — For the purposes of this section, the Court shall presume that the use of the motor vehicle by the juvenile was with the consent of the guardian of such juvenile or the owner of the motor vehicle, as the case may be.

(2) In addition to the penalty under sub-section (1), such guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees.

(3) The provisions of sub-section (1) and sub-section (2) shall not apply to such guardian or owner if the juvenile committing the offence had been granted a learner's licence under section 8 or a driving licence and was operating a motor vehicle which such juvenile was licensed to operate.

(4) Where an offence under this Act has been committed by a juvenile, the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months.

(5) Where an offence under this Act has been committed by a juvenile, then notwithstanding section 4 or section 7, such juvenile shall not be eligible to be granted a driving licence under section 9 or a learner's licence under section 8 until such juvenile has attained the age of twenty-five years.

(6) Where an offence under this Act has been committed by a juvenile, then such juvenile shall be eligible to be punished by fines as provided in the Act while any custodial sentence may be modified as per the provisions of the Juvenile Justice Act, 2000."

Clause 82 seeks to insert a new section 199A in the Act to provide for liability of guardian or owner of vehicle, as the case might be, for any offence under this Act committed by a juvenile.

294. If a juvenile commits a crime after taking the control of the vehicle with or without the consent of his guardian then the guardian may be held responsible for Commission of the criminal Act. Then the punishment under section 199A(2) may be evoked. The Committee agrees with the proposed amendments in Section 199 A (3), (4), (5) and (6).

295. Clause 83 says in section 200 of the principal Act,—

(iii) in sub-section (1),—

(a) for the words, brackets and figures "punishable under section 177,

section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (2) of section 183, section 184, section 186, section 189, sub-section

(2) of section 190, section 191, section 192, section 194, section 196, or section 198," the words, brackets, figures and letters "punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 only to the extent of use of handheld communication devices, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198, shall be inserted;

(b) the following proviso shall be inserted, namely:

Provided that the State Government may, in addition to such amount, require the offender to undertake a period of community service.

(iv) after sub-section (2) the following provisos shall be inserted, namely:—

"Provided that, notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed:

Provided further that compounding of an offence will not discharge the offender from proceedings under sub-section (4) of section 206 or the obligation

to complete a driver refresher training course, or the obligation to complete community service, if applicable."

Clause 83 seeks to amend section 200 of the Act to provide for the composition of certain offences under the Act including provision of community service as a condition for composition of an offence.

296. A stakeholder while giving his presentation before the Committee submitted that offenders should be made to spend time in Emergence Surgical OPDs to see the results of dangerous driving so as to learn the devastating consequences of their actions. This will have impact on reducing dangerous driving practices. This measure may be provided for offences such as dangerous driving, using mobile phones while driving, speeding, DUI, jumping red lights, not wearing protective headgear.

297. Another stakeholder submitted that community service is time consuming and may create feelings of stress and frustration. It may be replaced with driver refresher training in order to develop road safety.

298. The Ministry has replied that under Section 200 the State Government have been empowered to impose on the offender a requirement to undertake a period of community service. State may specify the particulars of community service. Community service is a global best practice which is designed to make an offender understand the impact of his action on society by giving up his time and labour for the benefit of the society at large.

299. Driver refresher training course has also been provided for offences related directly to driving in an unsafe or illegal manner.

300. The Committee agrees with the amendment proposed in this Clause for community service as a condition for commission of an offence. But it is not known to the Committee what type of community service is supposed to be performed by the offender. The Committee recommends that while giving community service the State should take care that the service to be performed by the offender may not be degrading in any way. The Committee notes that compelling the violators to spend time in emergency surgical OPDs of road accident victims is a good way of making them understand the consequences.

301. Clause 84 in section 201 of the principal Act,—

(i) in sub-section (1),—

(h) the word "disabled" shall be omitted;

(b) for the words "fifty rupees per hour", the words "five hundred rupees", shall be substituted;

(ii) in proviso to sub-section (1), for the words "Government Agency, towing charges", the words "an agency authorised by the Central Government or State Government, removal charges" shall be substituted.

(iii) after sub-section (2), the following sub-section shall be inserted, namely:— "(3) Sub-section (1) shall not apply where the motor vehicle has suffered

an unforeseen breakdown and is in the process of being removed.

(iv) after sub-section (3) the following *Explanation* shall be inserted, namely:— "*Explanation.*— For the purposes of this section, "removal charges"

includes any costs involved in the removal of the motor vehicle from one location

to another, including by way of towing and also includes any costs related to storage of such motor vehicle."

Clause 84 seeks to amend section 201 of the Act to enhance the penalties for causing obstruction to free flow of traffic.

302. The Committee notes the amendment and finds that the penalty under Section 201 proposed to be imposed is appropriate.

303. Clause 85 says In section 206 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely:—

"(4) A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him."

Clause 85 seeks to amend section 206 of the Act to empower police officers to impound the driving licence of a person accused of certain offences such as driving dangerously (section 184), etc. and forwarding the same for disqualification proceedings under section 19 of the Act.

304. One stakeholder submitted before the Committee that under the provisions of Section 206, the provisions related to the enforcement action to be carried and the team of Enforcement Officers by which it is carried, provisions relating to the order of release and impounding of vehicles, all such provisions should be inserted in the Rules read along with Act.

305. The Ministry has replied that the same may be prescribed through Rules made under this Act.

306. The Committee observes that the proposed amendment under Section 206, sub-section (4) speaks about a police officer/authorized person of State may seize the driving license held by such driver who violates Section 183-driving at excessive speed and Section 184-driving dangerously. Section 185 Drunken driving, 189-Racing and trials of speed; 190-suing of vehicle in unsafe condition; 194C-driving overloaded vehicle, 194-D not wearing protective headgear and 194 E- failure to allow free passage to emergency vehicles. The Committee notes that the fines are revised after a period of almost 30 years. The Committee was informed that sanction of Parliament is required for increasing the fines. That is why fine was stagnant in these years which resulted in its non-deterrence on traffic offenders. The Committee, therefore, recommends that a Clause should be added in this Bill to give effect to increase of fine @10% every year through executive orders.

307. Clause 86 says After section 210 of the principal Act, the following sections shall inserted, namely:—

"210A. Subject to conditions made by the Central Government, a State Government, shall, by notification in the Official Gazette, specify a

multiplier, not less than one and not greater than ten, to be applied to each fine under this Act and such modified fine, shall be in force in such State and different multipliers may be applied to different classes of motor vehicles as may be classified by the State Government for the purpose of this section.

210B. Any authority that is empowered to enforce the provisions of this Act shall, if such authority commits an offence under this Act, shall be liable for twice the penalty corresponding to that offence under this Act."

Clause 86 seeks to insert new provision, viz., sections 210A and 210B in the Act. Section 210A empowers the State Governments to apply different multipliers to different fines and such multiplies may be different for different classes of motor vehicles.

Section 210B provides for the imposition of twice the fine otherwise provided in the Act whenever an offence is committed by any person entrusted with the enforcement of the Act.

308. A stakeholder also suggested points on rationalization of penalties for life threatening offences. Other countries use a graduated penalty system with fines increased for repeat offences. Need to uphold stringent penalties proposed in the Bill. Fines should also be made part of guidelines and not the Act so as to provide flexibility of further amendment in due course of time and allow State Governments to increase penalties if required.

309. The Ministry has replied that substantial increase in penalties has been proposed. The Bill increase penalties for repeat offences also.

304. New Section 210A allows State Governments to increase penalties by specifying, by notification, a multiplier to be applied to each fine under this Act. Hence State Governments have been provided flexibility with respect to fines and increase penalties in due course of time.

310. The Committee agrees with the proposed amendment under Section 210 A and B.

311. Clause 87 says after section 211 of the principal Act, the following section shall be inserted, namely:—

"211A. (1) Where any provision of this Act or the rules and regulations made thereunder provides for—

(a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the Central Government or the State Government in a particular manner;

(b) the issue or grant of any licence, permit, sanction, approval or endorsement, by whatever name called in a particular manner;

(c) the receipt or payment of money in a particular manner,
then notwithstanding anything contained in such provision, such requirement shall
be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the
case may be, is effected by means of such electronic form as may be prescribed
by the Central Government or the State Government, as the case may be.

(2) The Central Government or the State Government shall, for the
purpose of sub-section (1), prescribe —

(a) the manner and format in which such electronic forms and documents
shall be filed, created or issued; and

(b) the manner or method of payment of any fee or charges for
filing, creation or issue of any electronic document under clause (a).".

Clause 87 seeks to insert a new section 211A in the Act to provide that all
documents, forms and applications under this Act may be filed in an
electronic format to be prescribed by the Central or State Governments, as
may be applicable.

312. The stakeholders feel that insertion of Section 211 A which deals with
electronic documents, etc. would lead to a situation where the power to deal with
applications or any other form of transaction would be taken away from officials of the
State Government. Such an insertion is unwarranted.

313. The Ministry in its reply said that Section 211 A is merely the extension of the
law codified in Section 41(6) of the IT Act 2000, according to which any document
which can be filed in a physical form may also be filed in an electronic form subject to
any rules that may be made by the appropriate Government in that behalf. It does not
change the division of powers as envisaged in MV Act, in any form or manner.

**314. The Committee recommends that the digitalization and making the things
electronically available should be done on priority but it should not be forced and
it may be done in a phased manner because some states and some centres within
the State may not be in a position to switch over to electronically equipped office
in a short period due to financial shortage and lack of manpower.**

(C) In section 212 of the principal Act,—

(i) in sub-section (4),—

(a) after the words, brackets and figures "the proviso to
sub-section (1) of section 112", the words and figures
"section 118" shall be inserted;

(b) for the words, brackets, figures and letter "sub-

section (4) of section 163A", the word, figures and letter "section 164, section 177A" shall be inserted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Every notification issued by the State Government under section 210A shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period

of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees or both Houses agree, as the case may be, in making any modification in the notification or the House agrees or both Houses agree, as the case may be, that the notification should not be issued, the notification shall thereafter have effect only in such

modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification."

Clause 88 seeks to amend section 212 of the Act to provide for the placing in the State Legislature of notifications made under section 210A for legislative approval.

315. Clause 88: The Committee notes the proposed amendment to be incorporate as sub-section (4) of Section 212.

316. Clause 89 says after section 215 of the principal Act, the following sections shall be inserted, namely:—

215A. (1) Notwithstanding anything else contained in this Act the Central Government shall have the power to delegate any power or functions that have been conferred upon it by the Act to any person or groups of persons and authorise such person or group of persons to discharge any of its powers, functions and duties under this Act.

(2) Notwithstanding anything else contained in this Act the State Government shall have the power to delegate any power or functions that have been conferred upon it by the Act to any person or groups of persons and authorise such person or group of persons to discharge any of its powers, functions and duties under this Act.

215B. (1) The Central Government may make rules for the purposes of carrying into effect, the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A; and

(b) the minimum qualifications which the Motor Vehicles Department officers or any class thereof shall be required to possess for appointment as such, as referred to in sub-section (4) of section 213.

215C. (1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter other than the matters specified in section 215F.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A;

(b) the duties and functions of the officers of the Motor Vehicle Department and the discharge thereof, the powers to be exercised by such officers (including the powers exercisable by police officers under this Act) and the conditions governing the exercise of such powers, the uniform to be worn by them, the authorities to which they shall be subordinate as referred to in sub-section (3) of section 213; and

(c) such other powers as may be exercised by officers of the Motor Vehicles Department as referred to in clause (f) of sub-section (5) of section 213.

Clause 89 seeks to insert new provisions, viz., sections 215A, 215B and 215C in the Act. Section 215A enables the Central and State Governments to delegate any power or function to any person or group and authorise such person or group to discharge any of the powers, functions, or duties conferred under the Act. Section 215B enumerates the rule making powers granted to the Central Government under this Chapter. Section 215C enumerates the rule making powers granted to the State Government under this Chapter.

317. A number of States has opposed the idea of inserting new section 215 A and said that this is a proposal to delegate power of enforcement to private agency. It will create a menace and panic for vehicle operators. Anti-social elements and criminals

will loot operators openly. Enforcement of Act and Rules and checking of vehicles should be entrusted with transport and traffic department only.

318. The matter was taken up with the Ministry of Road Transport and Highways. The Ministry has informed the Committee that there is no intention to delegate these powers to private agency. Ministry has assured the Committee that necessary changes would be made to permit such delegation only to a **public servant or a public authority**.

319. Insertion of Section 215B grants rule making powers to the Central Government. And insertion of section 215C grants rule making powers to State Governments.

320. Section 215-A speaks about the delegation of any power to any person or group of persons to discharge any of its powers, functions and duties under this Act by the Central and State Governments. The Committee notes that Section 215 A provides for delegation of powers, functions and duties conferred under the Act to any person or group of persons. The Committee observes that this is quite ambiguous and there are chances of misuse of powers. The Government has already assured the Committee that any delegation of powers, functions and duties under the Act will be made only to a public servant or a public authority. The Committee notes that the scope of public authority and public service is having wider connotations and it is a matter of interpretation. The Committee, therefore, recommends that powers, duties and functions under the Section 215A may be delegated only to a Government servant or Government authority.

GENERAL RECOMMENDATIONS

No guns be allowed in personal vehicles

321. The Committee notes that road rage is one of the daily phenomena happening in metropolitan cities and urban areas. Many a time, in road rage, licensed guns are used to kill persons. This is happening mainly because licensed guns are carried by persons in the vehicles without any restriction. The Committee, therefore, recommends that licenses to fire arms may be restricted in such a way that it should not be carried while traveling in personal Motor Vehicles in Metropolitan cities and urban areas where traffic jam is the order of the day.

Inclusion of Traffic and road safety education in school curricula

322. The committee notes that there is a need to educate the students about the traffic laws, rules and regulations. In many cases the drivers and vehicle owners are not aware of the extant rules and regulations related to lane driving, overtaking, speed limit, wearing of helmets, seat belts, sounding of horn, free passages to ambulances and police vehicles, parking of vehicles, alighting of passengers, driving under influence of liquor and drugs, overloading, obeying signals and signage etc. The Committee, therefore, recommends that traffic and road safety education must be made a compulsory part of the school education upto the 12th Standard throughout India. The Curriculum may contain general awareness of traffic rules, existing motor vehicle laws, rules, regulations, messages

of Govt authorities on road safety etc. Causes of accidents, impact of accidents on families and society, economic and social cost of accidents etc should also be made part of the curriculum.

323. The road safety education should impart knowledge, skills and understanding of road safety and road safety behavior. The curriculum should also enable the students to better understand the risks associated with road use and to also develop an appreciation for the reasons for many of the laws and regulations in place to protect the drivers, passengers and commuters. Student should learn and understand and practice road safety and safe road uses. Education needs to take centre-stage as technology and the challenges of driving evolve. The students should be evolved as better driver when they get a driving license as future citizens. We should evolve them as personally and socially responsible road users. If we are educating the children we may be educating a generation of people.

Restriction of Heavy vehicles during early morning

324. The Committee is of the view that the commercial vehicles play a pivotal role in the field of commerce and trade and also is an integral part of the country's economy. The Committee feels that the drivers who are the backbone of running the transport system in the country is not a secured lot from any angle whether it is their salary, job condition, working hours, life insurance etc. They are directed to drive the vehicles for many days or weeks single handedly. The Committee notes that driving the heavy vehicles for longer duration during the night causes fatigue to drivers and due to work pressure and lack of driver's concentration many a times causes accidents. Moreover, heavy vehicles and trucks are causing major accidents during wee hours. The Committee, therefore, recommends that the government should strictly implement the duty hours for the drivers of commercial vehicles and also prohibit the driving of commercial vehicles from 3.00 AM to 5.00 AM in the morning. The Committee also recommends that movement of heavy commercial vehicles may be regulated in the early morning in such a way that the commercial vehicles carrying/supplying movement of vegetables, milk and perishable food products are not affected. The Committee further recommends that the Government should make it mandatory for the transporters to depute two drivers on a Heavy commercial vehicle having more than two axles to drive the vehicle alternately if the vehicle has to cover a distance of more than 500 kms. The Government may take suitable action to amend the appropriate Law/Rules to implement the recommendations.

Lane Segregation

325. Another aspect noticed by the Committee is that there is no separate lane or segregation of vehicles on roads. Every kind of traffic from bicycle to two wheelers, three wheelers to LMVs, Tempos and Trucks to mega sized vehicles are using the same lanes of the roads at their whims and fancies and no one is following any lane driving or following any segregated way of traffic movement.

The Committee, therefore, recommends that the Government should lay down clear cut policies for segregation of different type of vehicles on specific lanes on the roads. This is possible in majority of our National Highways as these are multilane roads. Enforcement of lane driving should be given priority by the enforcement agencies.

Insurance manual and a concise traffic rule book

326. The vehicle manufacturers always supply a service manual with every new vehicle sold. The Committee recommends that an insurance manual which give details about available insurance products to enable the customers to compare different insurance products and choose the best, may be supplied along with the service manual. A concise traffic rules manual may also be supplied alongwith the Service manual so that a driver can learn about the traffic rules and the fines and punishment associated with its violation.

National Road Safety Board

327. The broad aim of the Motor Vehicle Amendment Bill is to enhance road safety. Road safety is a complex resultant of road construction technology, motor vehicle technology and the upgradation of skills of road users both vehicle drivers and pedestrians. Mere enhancement of penalties will not solve the problem. There is a need to constitute a high powered road safety board and to ensure the availability of adequate funds for technologically upgrading and updating the standards. National road safety fund can be constituted with an additional cess on first time sales of new motor vehicles which could fund all these activities. The National Road Safety Board may contain representatives of both Central & State Governments. It should have adequate authority to guide the Government.

328. The Committee would like the Ministry to furnish a note for its consideration giving reason for not accepting/agreeing with any of its recommendations/observations.

RECOMMENDATIONS/ OBSERVATIONS-AT A GLANCE

The Committee observes that the insertion of Clause 2B to include new technologies, inventions and innovations in the Motor Vehicle Sector to develop and update itself with the modern technologies is a welcome step. Modern vehicular engineering will help in checking harmful emissions from the vehicles and save the ecosystem.

(Para 11)

The Ministry has informed that this issue of learners' license online is to enable the citizens of the country to get license in an easier way and also to avoid rush at the RTOs.

(Para 14)

The Committee was informed by many States' representatives that filling up of online application and uploading of document need to be followed up by the appropriate written test prescribed by the individual concerned at the identified office premises. But the Committee feels that this amendment is a welcome step which will enable speedy submission of application form and documents. Learners license is not an address proof, the driving license is issued only after proper verification. The Committee is afraid that online procedure of obtaining learning license will be misused and people may get learner's driving license filling up the wrong information online. The Committee recommends that this section may be modified further to get rid off such possibilities if any, of misusing this facility by the miscreants.

(Para 15)

The Committee notes that the Govt. want to do away with minimum educational qualifications prescribed for issuing a driving license.

(Para 22)

The Committee feels that the person should be literate enough to read, write and understand the road signage. The Committee is of the view that Central Govt. should prescribe a mandatory test of competence for a new license holder under Section 9 of the Motor Vehicle Act. The competency test prescribed should be uniform throughout India and the State Governments should not be allowed to further dilute the prescribed competency test criteria.

(Para 23)

The Committee agrees with the provision of this Clause to replace the words 'invalid carriage' with adapted vehicle". Because people who are suffering from physical disabilities may like to have their vehicle modified which may suit to their requirements.

(Para 25)

The Committee notes that India is a fast moving country towards digitization and information technology revolutions. Internet has removed all sorts of geographical boundaries and enables the citizens to operate the network from anywhere in the country. The Government should adopt their own mechanism to

check the identity proof and veracity of other documents physically before issuing the driving license.

(Para 28)

The Committee agrees with the substitution of words "the licensing authority having jurisdiction in area" with the words "any licensing authority in the State". Every person has a residence/identity proof where he stays and he may get the driving license from any licensing authority in the State at this age of Internet. The Committee strongly feels that giving a license to a person after ascertaining his identity from anywhere in the State will not only save his time and money but also remove the existing bottleneck. The Committee, therefore, recommends that the existing words "the licensing authority having jurisdiction in the area" must be substituted with the word "any licensing authority in the State".

(Para 29)

The Committee observes that if a person has already undergone a specialized training prescribed by the Central Government then he may be given exemption from meeting other requirements viz. condition of driving of light motor vehicle for one year before granting a license to drive transport vehicle.

(Para 37)

The Committee notes the assurance given by the Central Government that the Clause does not dilute the authority of the State Governments to issue license and regulate driving schools. The Committee also notes that India is a big country with varying geographical conditions necessitating rules and regulations required to suit the local conditions which can be better addressed by the concerned State Governments. Therefore, Committee recommends that every step should be made to strengthen the State Governments in regulating driving schools.

(Para 38)

The Committee is happy to note that the Bill seeks to amend section 14(2) of the Motor Vehicle Act, 1988 which will increase the period from 3 years to 5 years and it has further categorized for the renewal of the driving license in the age group of 30s, 40s and 50s. The Committee feels it's a welcome step.

(Para 42)

The Committee appreciates the move taken by the Ministry to increase the time period of renewal of driving license before and after its expiry date. The Committee feels that this change will help those people who go abroad and return after a gap of substantial period. The Committee further recommends that provision for renewal of license for those people who go abroad for longer period may get some extra relief *i.e.* time-period of one year before and after the expiry of the license for getting their license renewed.

(Para 46)

The Committee is of the view that wrong driving of motor vehicles is dangerous not only for the occupants of the vehicle but it may also affect adversely the safety of other persons or vehicles on the road and brings others' lives under peril. The Committee feels that strong penal deterrence is necessary to ward off wrong doers from creating havoc on the road.

(Para 49)

The Committee is not aware of the factual provision so far about the National Register of Driving Licenses. The Committee feels that before implementing the proposed changes at national level, every State has to be electronically equipped with the software of required information. The Committee, while discussing with various States on the matter, found that many States are asking for more time *i.e.*, 2-3 years for making their offices electronically equipped. The Committee appreciates the steps taken by the Ministry to incorporate the instant section. But, at the same time recommends that the Ministry should extend help *viz.* financial, logistics and trained manpower to various States (when States ask for) to implement this section effectively.

(Para 55)

The Committee hope that the modalities to be prescribed by the Central Government to update the National Register would be worked out by the Central Government in consultation with the States.

(Para 56)

The Committee hopes that the curriculum of training modules, regulation of schools and establishments to be set up in the States and the training modules itself should be formulated in consultation with the State Governments. The Committee recommends that appropriate guidelines may be formulated to transport the goods of hazardous and dangerous nature and also for specialized training programme for those drivers who are involved in driving of heavy oversized vehicles.

(Para 59)

The Committee recommends that there should be a proper training by the Government for those drivers who are involved in driving heavy vehicles (Mega Vehicles) and also carrying goods of hazardous and dangerous nature.

(Para 60)

The Committee appreciates the initiative taken by the Ministry and hope that in a digitized world the geographical limits should not be imposed on citizens.

(Para 62)

The Committee notes that a number of State Governments are unhappy with the functioning of vehicle dealers as they are under-invoicing, overcharging customers on logistics/handling charges, taking extra insurance premiums and indulging in other malpractices. The Committee also notes that the vehicle dealer is an agent of the manufacturer and shall not be made an instrumentality of the Government to perform statutory functions and quasi judicial powers of registering authority. At the same time the Committee notes that RTOs throughout the country are overburdened and understaffed. Moreover, they are a den of corruption. The Committee, therefore, appreciates that the delegation of powers to dealers for registration of vehicles may alleviate a lot many problems of the vehicle owners. However, the Committee recommends that strict guidelines may be prescribed for the functioning of the vehicle dealers. The Committee also

recommends that the registration of vehicle by dealers may be made optional to the States depending on the State's specific requirements.

(Para 65)

The Committee notes the comments of the Government. The Committee also recommends that the State governments should be permitted to issue temporary registration certificate which can be applicable within the State. The Committee is of the view that there should be a time limit of just one month for validity of a temporary registration certificate and it should be uniform throughout India.

(Para 69)

The Committee notes that Delhi which is having the largest vehicular population is implementing the same scheme effectively. However, the Committee was informed that Delhi has implemented the scheme because it has inadequate officers to manage the vehicle registration whereas in many other States they have required infrastructure to deal with the vehicle registration. The Committee, therefore, recommends that this proposal in Clause 18 shall be made optional for the States to decide on the basis of the infrastructure and manpower available and the Committee further recommends that it should not be made as mandatory to be followed by all the States. The Committee also recommends that it may be implemented in such a way that the regional and local needs are effectively addressed and the dealers may not be able to manipulate the system or vehicle configurations to suit their needs.

(Para 75)

The Committee observes that the change in address of vehicle owners is very common and it is the responsibility of the owner to intimate the authority in time. But, in the new amendment States are not involved in substitution of the existing addresses. The Committee recommends that the State Government may also be made part of the decision making body while making the final form of proof of authentication. The Committee recommends that the Authority which originally registered the vehicle should be involved while making the correction also.

(Para 79)

The Committee feels that under Clause 20, to make alteration or retrofit in a vehicle should commensurate not only with the need of the owner but the attention may also be drawn to the effect of such changes on environment as well as traffic. A vehicle owner can change the fittings of his vehicle to suit his commercial need but at the same time changes carried out by the Vehicle owner should not play havoc on the road. The Committee recommends that the Ministry may give due care while formulating the rules for change or retrofit in the vehicle. The Committee welcomes if the Ministry allows the person to get his vehicle converted into adapted vehicle as per his requirement on medical ground.

(Para 82)

The Committee observes that the proposed amendment is a step in right direction. It discourages the owner to hand over their vehicle to an unauthorized

person who is not supposed to drive the vehicle. Such person may cause accident harming others' life and property besides committing an offence which is punishable under S.199-A.

(Para 84)

The Committee after hearing various States and other stake holders on the subject came to the conclusion that cut off date for implementing the testing for vehicles from authorized testing stations w.e.f. 1st October, 2018 is not acceptable to many States. The States have requested the Committee to pursue their request to the Ministry to extend the date for a further period. Many of the States have submitted to the Committee that they may not be ready with the testing stations by October, 2018. The representative of the State of Uttar Pradesh submitted to the Committee that entire State has just one automated testing station. The Committee understands that every State has its own problems to deal with and it will certainly take time to switch over to automated testing stations. The Committee recommends that Ministry may take States into confidence to implement this procedure when they get automated stations installed in sufficient number in each of the RTOs in their respective States in a fixed time-frame. The Committee notes that the idea is good but its implementation should be deferred till such time all the States are ready with adequate numbers of testing stations. The Central Govt. may, therefore, notify a suitable date (which may even be different for different States) by Executive Orders by which a State may enforce these provisions.

(Para 90)

The Committee is surprised to see Clause 7 of the proposed amendment in Section 56 as it is saying that provision of this Section may be extended to non-transport vehicles also. Use of non-transport vehicles is quite different from the use of transport vehicles. The same Rule may not be applied to non-transport vehicle also. The Committee thinks that it will create problems for public. The Committee accordingly recommends the deletion of Sub Clause 7.

(Para 91)

The Committee feels that recycling of outdated and obsolete vehicle material by scientific method is the need of the hour. The Committee recommends that the Central Government may formulate a comprehensive policy for recycling of outdated Motor Vehicles keeping in mind the protection of environment and public safety.

(Para 93)

The Committee hopes that the Government will consider the concern of the States and protect their identity while formulating new scheme of number for vehicles.

(Para 96)

The Committee welcomes the step of maintaining a National Register of Motor Vehicles.

(Para 97)

The Committee notes the proposed amendment.

(Para 99)

The Committee has noted the insertions to be made under this Clause.

(Para 101)

The Committee notes the provision of this Clause. The Committee hopes that the Commercial vehicles may be exempted from taking permit if it is involved in promotion and development of last mile connectivity, rural transport, reducing traffic congestion, improving economy etc. The Committee recommends that it should be specified in the Act itself that the vehicle involved in carrying out a special job may be exempted from taking permits. The representatives of the State of Haryana informed the Committee that the present definition of the vehicles which can be utilized for last mile connectively is not including a large variety of vehicles used in Haryana. The Committee, therefore recommends that the definition may be widened to include the concerns of the State Governments.

(Para 105)

The Committee appreciates the proposed addition of section 66A & 66B of National Transportation Policy. The Committee feels that it will ease the transport, both the public and commercial, between the States. The Committee recommends that whatever policy Centre propose to formulate, all the States may be taken into confidence and the Government sector *i.e.*, public transport and public carriage may take priority over private contenders.

(Para 107)

Clause 29 of the Bill is supposed to empower the State Governments to protect the convenience of passengers, promoting road safety etc. The Committee feels that this provision will go a long way in helping the public to travel by public transport.

(Para 111)

The Committee is of the view that waiving the provision of permit for a stage carriage in a rural area may prove beneficial for the people belonging to rural areas of India. The Committee hopes that RTA will perform their duty of waiving the permit condition for stage carriage to be operated in a rural area with due diligence and care and road safety may be accorded top priority.

(Para 116)

The Committee feels that the instant proviso may help the people in overcoming the trauma of last mile connectivity if it is implemented efficiently. The Committee also hopes that as the Ministry has expressed their intention that this amendment will help in empowerment of marginalized and vulnerable groups through preference in issuance of permits, the States need not have to be worried about it.

(Para 119)

The Committee agrees that the insertion of new Section 88 A would empower the Central Government to make schemes for national, multimodal and inter-state transport of passengers and goods but the Committee suggests that the views of State Governments may be solicited before making any type of improvements in this direction.

(Para 124)

The Committee thinks that the words to be substituted carry wider meaning and suggests that while applying the provisions it should be interpreted in letter and spirit.

(Para 128)

Clause 34 of the Bill proposes certain amendments in Section 93 of the Principal Act which inter alia prescribes the issuance of licenses to aggregators. The Committee notes that it has been prescribed that while issuing the license to aggregators, the State Government shall follow such guidelines as may be issued by the Central Government. The proviso makes it amply clear that the State Governments should follow the guidelines issued by the Central Government for issuance of licenses to aggregators. The Committee feels that the control of transport vehicles are the exclusive domain of the State Governments. Through this amendment, the balance of power between the Centre and the State has been tilted and the Central Government will get a preponderance of power to control the aggregators throughout India. The Committee believes that there is no need to take away the rights of the State Governments with regard to control of transport vehicles. The Committee, therefore, recommends that every State Government should have its own powers and guidelines to control the operations of aggregators within the State. The Committee further recommends that in Clause 34, Section 93, sub-section (iii) (b) proviso, in place of the "State Government shall follow" with words "State Government may follow" be substituted. The Committee recommends that while encouraging aggregators certain effective protective mechanism should be evolved for small operators and local taxi drivers to ensure that their livelihood is not jeopardized.

(Para 133)

The Committee notes the amendment.

(Para 137)

The Committee feels that incorporation of Clause 36 will help in promoting effective competition among the transport providers while keeping in mind the safety and security of passengers besides other conveniences. The Committee recommends that the States may accord top priority in ensuring conveniences to commuters.

(Para 143)

The Committee notes the provision to be incorporated.

(Para 145)

The Committee finds that the Clause 38 is one of the most important amendments as it speaks about recalling the vehicles which may cause harm to environment and may be risky for its occupants including driver and other road users. The Committee thinks that the owner of vehicles may also be compensated suitably and the manufacturer may reimburse the total cost of vehicle to its owner, if the vehicle is found to be faulty. The Committee hopes that inclusion of this section will go a long way in curbing the malpractices by the manufacturers. The Committee recommends that this Section may be implemented/invoked whenever

it is required without favouring anyone and provision of penalty on manufacturers may be imposed if running of defective vehicles have caused harm to the environment.

(Para 147)

The Committee notes the reply and feels that the measures to be taken under section 114 are the responsibility vested with the States and they have to implement and ensure the honesty of the agency to be employed for the job. The work is linked not only with the road safety but also with the revenue generation for the States.

(Para 152)

The Committee feels that it is the duty of the organization which constructs it to maintain the same in all respects. NHAI plays the biggest role in constructing a highway and it is their responsibility to maintain it and guide the road user in a proper way. The Committee appreciates the move of Ministry to enable NHAI to do the needful for smooth running of traffic. As far as expertise of NHAI regarding erection of traffic signs is concerned, it is the responsibility of NHAI to get suggestions and expertise of those who are having practical knowledge of the subject.

(Para 156)

The Committee notes that many of the major accidents are caused and many lives are lost due to the wrong parking of vehicles in Highways. Parking spaces should be an integral part of all the road construction projects. A clear and effective policy in this regard is essential to curb the menace. The Committee feels that parking space is a very important aspect of the road safety and there is requirement of space for parking the vehicles by the road users to allow smooth traffic flow. The Committee recommends that NHAI may create parking for the public's vehicle along the highways at regular intervals. At the same time States should also construct and maintain parking spaces along State Highways.

(Para 158)

The Committee observes that two wheeler riders carry more risk during driving compared to four-wheelers and it is an essential requirement that riders could wear protective headgears during driving. Riders who are above 4 years certainly need protective headgears for their safety. The Committee thinks that amendment in Section 129 will strengthen the authority to enforce the safety measures in the public interest. The Committee also recommends that the Government should make an appropriate rule on allowing children below four years in two wheelers. While formulating the rule, safety aspect of the below 4 year old child should be given the uppermost consideration regardless of any socio-economic situation prevailing in our country.

(Para 161)

The Committee finds that the insertion of new Section i.e. 134 A which encourages in motivating the general public to come forward and help the accident victims at the time of need is a welcome step. It has been observed that many a times people instead of helping the accident victims, wait for police to

arrive on the accident sites, so that the police could help the victims in reaching the nearby hospitals. Sometimes, in this process a substantial period of time is lost and victims succumb to injury. The Committee feels that people don't come forward to help the accident victims as they have doubt in their minds that the police will harass them. The Committee recommends that it is the responsibility of the local administration and police to make the people trust them that they will not be harassed in any manner if they extend their voluntary help to victims. At the same time, the Committee recommends that the police at the lower level who comes to the accident sites first, may be sensitized on this issue as they have to deal with the public directly and elicit people's support.

(Para 163)

The Committee notes that the doctors and nurses who are attending the accident victims are often harassed by the police authorities. The Committee observes that to give effect to the concept of 'Good Samaritan' the doctors and nurses who are treating the accident victims should also get adequate legal protection. The Committee, therefore recommends that the doctors and nurses who are treating the accident victims should be included in the definition of "Good Samaritans".

(Para 164)

The Committee is alarmed at the large number of road accidents occurring in the country. After hearing the stakeholders from various fields, the Committee came to the conclusion that there are many factors which cause accidents on road. Road designing/engineering, potholes, wrong signage, high speed and inferior driving skills are some of the reasons to quote. To reduce the accidents there is a need to take many measures by the State Governments. Secondly, causes of accidents are not the same at every place but it varies. The Committee recommends that some strategy may be formulated at the State level to address the causes of accident at a particular accident prone stretch and also to find its remedy to correct the problems.

(Para 170)

In India, we lack a robust, scientific and standardized accident investigation and data collection system. The Committee notes that reasons for the large number of accidents are never studied or investigated to incorporate remedial measures. Simply by providing a framework to conduct road safety audit is not a sufficient mechanism for scientific investigation to understand the causes of road accidents. The Committee, therefore, recommends that a new Section 213 A may be inserted to authorise Central Government to prescribe the form and manner of scientific investigation on the causes of road accidents. It should also give powers to the State Governments to carry out road safety audits.

(Para 171)

The Committee also notes that the present Bill failed to address the issue of accidents caused by faulty road designs and non-maintenance of roads and the accountability of the same. The Committee, therefore, recommends that a penalty provision (Section 198A) may be inserted in the Bill to hold road contractors and

concessionaires accountable for faulty design, construction and maintenance of roads.

(Para 172)

As per available data, during the year 2015, approximately 1.5 lakh people died in the road accidents all over the country and around 5 lakh people got injured or disabled. The Committee notes that it is an alarming situation and a huge loss to the nation. The Stakeholders such as the Governments of the Centre and the State, road users, various governmental agencies etc. have to play their role in a positive way to minimize the road accidents.

(Para 173)

The Committee recommends that Ministry of Road Transport and Highways and respective States to provide in their respective field, certain amenities *viz.* washrooms, medical stores, restaurants, petrol pumps etc. since people travel for hours together on the road and such type of amenities are needed and it should be made available to the public by the authorities.

(Para 174)

The Committee further recommends that every road construction project/contract should invariably include the provisions such as washrooms, medical facilities, trauma centres, petrol pumps, parking spaces etc. In this direction the committee also recommends that availability of ambulance on the highways on every 30 km may be ensured by the operator of the Highways so that in case of any accident the injured may get the necessary medical treatment.

(Para 175)

The Committee appreciates the insertion of Clause 136A for enforcement of safety on roads. It is a known fact that today road traffic is very high and to control them manually is an uphill task for any agency. It is high time for the State to go for electronic monitoring to enforce the road Rules and the Committee recommends that the Ministry should help all the States in acquiring expertise and other logistic supports to make roads more safe.

(Para 179)

The Committee agrees with the proposed amendment to be brought under S.137 regarding protective headgear and measures for the safety of children below the age of four years riding under section 129. The Committee is of the view that every individual's life is valuable and it must be protected at any cost. It has been seen that many people buy helmets/headgear of inferior quality which is from the safety point of view is a costly compromise. The Committee recommends that the Government should ensure quality and standard of children's headgear by the manufacturer and this section may be implemented forcefully. The Committee further recommends that the Centre should allocate resources to the States to implement various new schemes and programmes envisaged in this Amendment Bill.

(Para 181)

The Committee observes that the insertion of new sub-section 1(A) under Section 138 is very important step towards streamlining the uncontrolled non-

motorized vehicles and pedestrians. It is a fact that pedestrians are the most vulnerable section among the road users and more often the victims do not have any insurance cover for him/her. The Committee also stresses that the non-motorized vehicles do not follow road rules and create a lot of nuisance. They are traffic hazard for others also. The Committee recommends that for smooth traffic, there is a need of streamlining non-motorized vehicles by introducing minor penalty/punishment. Here the punishment may be prescribed as corrective measures like giving training on traffic rules and not as penalty in monetary term. The Committee recommends that the non-motorized vehicles should not be allowed on National Highways and main roads of metro cities.

(Para 183)

The Committee notes the omission of Chapter X of the Act.

(Para 186)

The Committee was informed that under section 147(2) of the Bill it is proposes to cap the liability of general insurance companies to Rs.5 lakh to 10 lakh in compensating the third party claims in case of road accident. It was submitted to the Committee that the proposal would expose millions of Third Party Vehicle insurance policy holders to unlimited risk. If a Tribunal or court awards compensation above 5 lakhs in case of injury and Rs.10 lakhs in case of death, the owner of the vehicle has to bear the burden of paying over and above to the third party. The Committee is of the view that the basic aim of insurance is to defray individual risk collectively over a vast group of premium contributors especially when the risk apprehended is likely to be beyond all the means of the individual. If this main purpose to save the individual is defeated there seems to be no necessity for insurance policy to mitigate the risk which an individual could not meet by himself. There is no *mens rea* in accidents and very purpose of insurance is to underwrite the cost of unforeseen contingencies. FDI was liberalized in insurance to strengthen the concept of insurance in a country in which life essentially is exposed to all sorts of unforeseen contingencies and calamities. Insurance Companies cannot run away from their basic responsibilities after collecting hefty amount of no claim insurance premium.

(Para 190)

The Committee, therefore, recommends that the capping of liability of the insurance companies under third party insurance policy is patently incorrect and against the interest of the millions of road users. The Committee, therefore, recommends that proviso to section 147 (2) as included in Clause 49 may be omitted.

(Para 191)

The Committee was informed by various stakeholders that under Section 147 of the Motor Vehicles Act 1988 a statutory cover has been given to safeguard the interest of the driver, cleaner and employees engaged in the working of the Motor Vehicles. However, in the proposed amendment the statutory coverage of the driver, cleaner and employee engaged in the vehicle are omitted from the liability of the Insurance Company.

(Para 192)

The matter was taken up with the Ministry of Road Transport and Highways and they have informed the Committee that the amendment provides coverage to any person who dies or gets injured by a motor vehicle in a public place and therefore, shall include driver, cleaner and employee engaged in running the vehicle.

(Para 193)

In fact, the amendment increases the ambit to cover employees who are otherwise not covered under the Workmen's Compensation Act.

(Para 194)

The Committee notes the assurance of the Ministry of Road Transport and Highways and recommends that the Government should ensure that the driver, cleaner and employees engaged in a vehicle are fully protected under the insurance coverage. The Committee therefore recommends that the "Driver, cleaner and employees engaged in the working of the Motor Vehicles" be specifically mentioned in the clause.

(Para 195)

The Committee is concerned over the apprehension expressed by the States about getting all State Government's vehicles insured. The States have submitted they are already in resource crunch and if the State will have to spend a big amount for making premium payment, it would adversely affect their exchequer. The Committee further recommends that the State Governments may be exempted from paying premium for the Government vehicles for two reasons, first these vehicles are in public service and second, the amount saved from premium payment may be spent on giving compensation to road accident victims.

(Para 196)

Committee notes the changes.

(Para 198)

The Committee feels that the proposed sub-section (5) is a favourable step towards the family of the injured who succumbed to injuries and it will help the family financially.

(Para 199)

The Committee notes the changes.

(Para 200)

The Committee feels that giving the power of civil court to the tribunal will not only expedite the disposal of cases but also help to the family of the victim of road accident to overcome the mental trauma and also for settlement of the financial claims. The Committee appreciates this move.

(Para 201)

The Committee notes the changes.

(Para 203)

The Committee feels that the proposal to increase the amount from ten thousand to one lakh required for an appeal from the decision of the claims tribunal to be heard by the High Court is on correct lines.

(Para 207)

The Committee notes that above suggestions are full of merits and need to be codified in the legislation. The Committee, therefore, recommends that all claimants of road accidents should first approach the insurance companies for settlement of the claims and if they are dissatisfied they can approach the MACT and judicial fora.

(Para 212)

The Committee further recommends that every claim of settlement should be filed before the MACT or with the insurer within a period of six months so that it acts as a catalyst for quick settlement and, at the same time, acts as a deterrent against deliberate delay in filing of claims as well as fraudulent/fictitious claims being preferred. The Committee also recommends that necessary legislative backing may be provided so as to ensure detailed accident report by police as prescribed by the Supreme Court and which is followed in Delhi.

(Para 213)

The Committee finds the increase in penalty as appropriate.

(Para 215)

The Committee appreciates the proposal.

(Para 217)

The Committee finds the increase in penalty from Rs. two hundred to five hundred as appropriate.

(Para 218)

The Committee finds that the penalty for disobedience of order, obstruction and refusal of information to be given by a person to public servant while discharging his duties under this Act to be increased from five hundred to two thousand rupees under Section 179 (1) & (2) as appropriate.

(Para 220)

Section 180 deals with the owner of a motor vehicle who gives his vehicle to such a person who is not authorized to drive a vehicle under this Act is liable to pay fine of one thousand rupees. The Committee finds that the fine of five thousand rupees would be appropriate as a deterrent because a person who is not authorized to drive is a safety hazard.

(Para 222)

Clause 61 Under Section 181 the punishment/penalty (imprisonment 3 months/Rs.five hundred rupees) has been prescribed for driving vehicles in contravention of section 3 or section 4. The Committee thinks that to increase the penalty to five thousand rupees is appropriate.

(Para 224)

Section 182 deals with the offence of a person who has been disqualified from having a driving license drives a vehicle in a public place or any place or applies for a license without disclosing the endorsement to his earlier license. The Committee notes that the fine to be imposed on such an offender is appropriate.

(Para 226)

Clause 63 speaks about the punishment prescribed for offences related to construction, manufacture, sale and alteration of motor vehicles and its components. The Committee finds that proposed substitution is good for checking unscrupulous elements in the Motor Vehicle industry both the dealer as well as the manufacturer and of course buyer upto some extent.

(Para 228)

As it is a fact that any alteration or retrofitting which is not permissible under this Act is detrimental to the environment as well as for pedestrians and commuters. The Committee thinks that fine of Rupees hundred crore prescribed in Section 182 A (2) to be awarded to such manufacturer who fails to comply with the provisions of chapter VII of the Act will act as a deterrent.

(Para 229)

The Committee feels that the proposed enhancement of penalties in respective categories is appropriate.

(Para 231)

Amendment in Clause 65 has given some explanation under sub section (iv). It was submitted before the Committee that these explanations may be misinterpreted and misread by the law enforcement agencies such as police. Jumping a red light means a vehicle has crossed the stop line when the light was not green but sometimes duration of amber light is too short and a vehicle cannot pass from one side to another side and the driver just reaches other side when the light is already red and he comes under the ambit of red light jumping. Under 184 (iv) (d) explanation is passing or overtaking other vehicles in a manner contrary to law. One of the stakeholders submitted that many times heavy vehicle is moving slowly in right lane and a car wants to overtake but overtaking is not allowed from left and if he does he will commit the offence of wrong side overtaking.

(Para 233)

This Clause seeks to amend Section 184 in order to enhance penalties for driving dangerously indulging in such activities during driving which may endanger others' lives. The Committee feels that sometimes a person who has not committed mistake as such but was caught on wrong foot because of others' fault, then he should not be penalized heavily. The Committee recommends that before applying law, technical things like signals, signages, stop-signs, divider etc. may be placed correctly. Proper training to police officials is also essential.

(Para 234)

At present the police agencies are implementing the provisions as per their whims and fancies. There is no standardization of technical aspect which can be followed by the public.

(Para 235)

The Committee recommends that the Government should come out with appropriate rules and regulations to decide and define what constitute lane driving, red light jumping, violation of signals etc.

(Para 236)

The Committee also recommends that signage should be uniform based on certain technical parameters and standards and the signage should be exclusively erected only by authorized authorities such as NHAI on National highways and State PWD Departments for State highways.

(Para 237)

The Committee was informed that draft Road Traffic Regulations are pending with the Government. The Committee recommends that the proposed Road Traffic Regulation by virtue of powers conferred by the Section 118 of the Motor Vehicle Act 1988 should be notified along with the present Amendment Bill.

(Para 238)

The Committee further recommends that parts A & B of the first schedule of the Act needs revision as the same is not updated and should also comply with the UN Convention of road signs and signals of 1969 to which India is a signatory. Road marking, signals and miscellaneous devices should also be included in the schedule.

(Para 239)

A stakeholder submitted before the Committee that one who has in his blood more than 30 MG per 100 ML of blood portion of alcohol to be tested by a "breath alcohol analyzer", comes under the category of person who is drunk. There are two tests when a person takes a breath, the breath alcohol tester converts it by a formula into blood alcohol ratio. Now, the Government of India has not decided the formula if it is 1:2100; 1:2300. There are three conversion ratio equally used in the entire world based upon the type of a body we have and the type of food we eat. So, when we talk about drunken driving with breath alcohol analyzer, we still don't have a formula (breath to blood alcohol ratio to change), but when we talk about going to the laboratory or a breath alcohol analyzer, we have to write the conversion between breath and blood. Otherwise, we will again run into a huge problem. Secondly, there is the issue of apparatus. Regarding breath alcohol analyzers, there is no stipulation of type approval standards what should be a breath alcohol analyzer.

(Para 241)

The Committee heard the views of States, private stakeholders and the Ministry also on the menace of drunken driving and also driving after taking drugs. The Committee after hearing the views came to the conclusion that to find out the alcohol in the blood of driver is easier but the modalities to trace the drugs is not available at present. It is a fact that the drunk driving is a big menace on the road and many accidents take place due to the fact that the driver of the vehicle was under the influence of alcohol or drugs while driving.

(Para 242)

The Committee recommends that the Ministry should impose stringent penalty on such driver who was caught driving after drinking. Such driver endangers the lives of his own , other occupants of the vehicle and other persons on the road.

(Para 243)

After hearing the witnesses, the Committee notes that method of testing the alcohol in the blood of offender is not foolproof and the standard of "breath analyzer" is also not good enough which could give the authentic report. The Committee recommends that the Ministry should go for testing machines of international standard that should prescribe standards for breath analyzer machines and various parameters to decide drunkenness.

(Para 244)

The Committee notes that drunken driving is a major cause of road accidents. This malady needs to be dealt with a firm hand. The Committee got suggestions to the effect that if a drunken driver commit an accident which results in the death of persons the former should be dealt under the provisions of culpable homicide not amounting to murder under the relevant Sections of IPC. The Committee, therefore, recommends that the Government may amend the necessary legislations to include the deaths due to drunken driving as culpable homicide not amounting to murder.

(Para 245)

The Committee also recommends that if the drunken driver commits an accident, his action should not be construed as mere 'negligence' rather it should be treated as a premeditated commitment of a crime and the drunken driver should be made punishable under relevant provisions of IPC depending on the consequences of the accident.

(Para 246)

The Committee notes the increase in the penalty to be increased for driving when mentally or physically unfit to drive. The Committee finds the increased penalty is appropriate.

(Para 11)

The Committee notes the change in penalty to be incorporated in Section 187 of the principal Act, which is for the offences committed relating to an accident.

(Para 250)

The Committee notes and finds it appropriate to increase the penalties for the offence of racing and trials of speed. The Committee feels that the fast driving vehicle is a big nuisance on road and it endangers lives of pedestrians as well as commuters. It is further added here that on most of the roads in a place like Delhi, speed limit is same what was written some 20-30 years back. The Committee recommends that speed limit on different roads may be reconsidered in view of increasing number of vehicles.

(Para 251)

The Committee notes that speed limit in Indian roads are up to 80 Km in most of the National Highways. In certain cases the roads were designed for a speed up 120 km, but the maximum speed limit permitted is 100 km. The Committee notes that most of the accidents happen due to over speeding of vehicles. The Committee also notes that most of the vehicles manufactured in

India are with a capability of driving more than 180-Km/hr. In some cases the vehicles are manufactured for more than 240 Km/hr. capability. These vehicles act like a missile or rocket if involved in an accident. During the deliberations of the Committee, one stakeholder was asked to respond on the futility of high speed vehicles when the speed limits are upto a maximum of 100 km/hr. They informed the Committee that for acceleration purposes high end speed engines are required. They could not give any other explanation. The Committee feels that these manufactures are following standards of European and American countries and the same standards and technologies are being implemented in India.

(Para 252)

The Committee recommends that the Government should formulate the necessary legislation to limit the acceleration capability of vehicles manufactured for use in India to speed limit as per the infrastructure availability of the country.

(Para 253)

The Committee also notes that slow moving vehicles are a hazard in National Highways. The Committee, therefore, recommends that minimum speed limit should be prescribed for National Highways according to place and amount of traffic.

(Para 254)

Section 190 of the Principal Act speaks about using a vehicle by a person in an unsafe condition. Such vehicle may endanger other's lives in a public place; can cause bodily injury or damage to property. Clause (3) speaks about such carriage which are dangerous or hazardous nature to human life. The Committee finds that the consequences of a vehicle which is not fit to run on the road and may cause harms to people, environment or damages to other's property fall under serious category hence increase in penalty is appropriate.

(Para 256)

The Ministry has proposed to omit the Section 191 of the Principal Act which deals with the sale of vehicle in or alteration of vehicle to condition contravening the Act. The Committee is unable to understand why this Section has to be omitted. The Committee recommends that the Ministry should prescribe provisions to the effect that importer or seller of motor vehicle will not sell any vehicle which contravenes this Act.

(Para 258)

The Committee notes the proposed amendment.

(Para 260)

The Committee feels that the penalty prescribed for different offences under this Clause is little bit on higher side. The Committee recommends that in Section 192 A (1) (i) imprisonment for a term may be kept as 6 months instead of one year. In 192 A 1 (iii) maximum one year should remain there and in 192 A 1(v) ten thousand rupees is sufficient.

(Para 261)

The Committee finds that the insertion of new section 192 B is a welcome step towards allowing only authorized/registered vehicle to run on the road and

penalty for violation of the rules proposed in 192 B (1) and (2) are justified but the Committee feels that in obtaining a certificate based on false representation of facts by a person or dealer is a serious offence and may be given harsher punishment than that proposed. In 192 B (3) & (4) the Committee recommends that such offender may be given imprisonment for a term which may extend to minimum 6 months and maximum upto one year. This may be added in the Bill.

(Para 263)

The Committee is satisfied with the provision proposed in the Section 193 of the Principal Act. The Committee feels that in metros number of aggregators are increasing day by day and in the competitive situation aggregator and other like group/agent may resort to malpractices to get more profit hence to rein them the penalty in sub-section (2) is appropriate.

(Para 268)

The Committee observes that the penalty Clause given in Section 194 of the Principal Act is appropriate but at the same time the Committee is of the view that today Motor transport is the main source of transporting the goods from one place to another and to earn extra profit transporter carry extra loads on their vehicle.

(Para 272)

The Committee feels that extra load on a vehicle not only damages the road but it also makes driving the overloaded vehicle risky. Overloaded vehicles are extremely dangerous for the travelling public. They are the cause of large number of accidents. The Committee further adds that the proviso to be inserted under sub-section 1 'C' is a right measure towards curbing this problem. The Committee recommends that the vehicle in no condition should be allowed to move ahead unless and until the excess load has been removed from the vehicle besides imposing fines for each tone of load. Harsh penalty may deter transporter to indulge in wrong practice of overloading. At the same time, the Committee suggests that at checking points, man power and machinery may be made available so that this rule can be implemented successfully.

(Para 273)

The Committee notes that a twenty tonne capacity vehicle often carry 30 to 35 tonnes. The Committee feels that the vehicle manufacturers have to redefine their technology to ensure that if a vehicle which is overloaded beyond its axle power is immobilized.

(Para 274)

The Committee notes that the linear dimensions of the vehicles which can ply on the roads may be prescribed by the Government. Many a times, vehicles which are carrying bulky oversized and protruding items like bagasse of sugarcane, sugarcanes, husk, cotton, hay chaff of paddy, wheat and cotton etc. are hindrances resulting in road accidents and also hindrance to smooth flow of traffic. The Committee, therefore, recommends that the vehicles which are oversized in linear dimensions should not be allowed to ply on roads.

(Para 275)

Clause 77 of the proposed bill gives a new height to penalty to be charged by the authority from vehicle owners/drivers etc.

(Para 281)

The Committee feels that under Section 194A penalty of Rs.1,000 per excess person is on higher side and Committee recommends that it should be brought down to Rs.200 per person. Here, it would be pertinent to mention that India is a developing country and in many parts of the country especially in rural areas, transportation is a problem. People travel even on roof top of the bus. At many places there is no government transport and people rely on private buses/carriages. To impose penalty is not the solution to the problem.

(Para 282)

The Committee notes the proposed omission of the Section 195 from the Act.

(Para 284)

The Committee was informed that more than half of the vehicles on road are without a third party insurance. The Committee notes that the registration tax is one time affair, likewise the third party insurance should also be made a one time affair. The Committee recommends that every new vehicle purchased should be made to pay at the time of registration the third party insurance for life time of the vehicles.

(Para 289)

The Committee notes the proposed amendment to Section 197.

(Para 291)

The Committee notes the proposed amendment to section 198.

(Para 293)

If a juvenile commits a crime after taking the control of the vehicle with or without the consent of his guardian then the guardian may be held responsible for Commission of the criminal Act. Then the punishment under section 199A(2) may be evoked. The Committee agrees with the proposed amendments in Section 199 A (3), (4), (5) and (6).

(Para 294)

The Committee agrees with the amendment proposed in this Clause for community service as a condition for composition of an offence. But it is not known to the Committee what type of community service is supposed to be performed by the offender. The Committee recommends that while giving community service the State should take care that the service to be performed by the offender may not be degrading in any way. The Committee notes that compelling the violators to spend time in emergency surgical OPDs of road accident victims is a good way of making them understand the consequences.

(Para 300)

The Committee notes the amendment and finds that the penalty under Section 201 proposed to be imposed is appropriate.

(Para 302)

The Committee observes that the proposed amendment under Section 206, sub-section (4) speaks about a police officer/authorized person of State may seize the driving license held by such driver who violates Section 183-driving at excessive speed and Section 184-driving dangerously. Section 185 Drunken driving, 189-Racing and trials of speed; 190-suing of vehicle in unsafe condition; 194C-driving overloaded vehicle, 194-D not wearing protective headgear and 194 E- failure to allow free passage to emergency vehicles. The Committee notes that the fines are revised after a period of almost 30 years. The Committee was informed that sanction of Parliament is required for increasing the fines. That is why fine was stagnant in these years which resulted in its non-deterrence on traffic offenders. The Committee, therefore, recommends that a Clause should be added in this Bill to give effect to increase of fine @10% every year through executive orders.

(Para 306)

The Committee agrees with the proposed amendment under Section 210 A and B.

(Para 310)

The Committee recommends that the digitalization and making the things electronically available should be done on priority but it should not be forced and it may be done in a phased manner because some states and some centres within the State may not be in a position to switch over to electronically equipped office in a short period due to financial shortage and lack of manpower.

(Para 314)

Clause 88: The Committee notes the proposed amendment to be incorporate as sub-section (4) of Section 212.

(Para 315)

Section 215-A speaks about the delegation of any power to any person or group of persons to discharge any of its powers, functions and duties under this Act by the Central and State Governments. The Committee notes that Section 215 A provides for delegation of powers, functions and duties conferred under the Act to any person or group of persons. The Committee observes that this is quite ambiguous and there are chances of misuse of powers. The Government has already assured the Committee that any delegation of powers, functions and duties under the Act will be made only to a public servant or a public authority. The Committee notes that the scope of public authority and public service is having wider connotations and it is a matter of interpretation. The Committee, therefore, recommends that powers, duties and functions under the Section 215A may be delegated only to a Government servant or Government authority.

(Para 320)

GENERAL RECOMMENDATIONS

No guns be allowed in personal vehicles

The Committee notes that road rage is one of the daily phenomena happening in metropolitan cities and urban areas. Many a time, in road rage,

licensed guns are used to kill persons. This is happening mainly because licensed guns are carried by persons in the vehicles without any restriction. The Committee, therefore, recommends that licenses to fire arms may be restricted in such a way that it should not be carried while traveling in personal Motor Vehicles in Metropolitan cities and urban areas where traffic jam is the order of the day.

(Para 321)

Inclusion of Traffic and road safety education in school curricula

The committee notes that there is a need to educate the students about the traffic laws, rules and regulations. In many cases the drivers and vehicle owners are not aware of the extant rules and regulations related to lane driving, overtaking, speed limit, wearing of helmets, seat belts, sounding of horn, free passages to ambulances and police vehicles, parking of vehicles, alighting of passengers, driving under influence of liquor and drugs, overloading, obeying signals and signage etc. The Committee, therefore, recommends that traffic and road safety education must be made a compulsory part of the school education upto the 12th Standard throughout India. The Curriculum may contain general awareness of traffic rules, existing motor vehicle laws, rules, regulations, messages of Govt authorities on road safety etc. Causes of accidents, impact of accidents on families and society, economic and social cost of accidents etc should also be made part of the curriculum.

(Para 322)

The road safety education should impart knowledge, skills and understanding of road safety and road safety behavior. The curriculum should also enable the students to better understand the risks associated with road use and to also develop an appreciation for the reasons for many of the laws and regulations in place to protect the drivers, passengers and commuters. Student should learn and understand and practice road safety and safe road uses. Education needs to take centre-stage as technology and the challenges of driving evolve. The students should be evolved as better driver when they get a driving license as future citizens. We should evolve them as personally and socially responsible road users. If we are educating the children we may be educating a generation of people.

(Para 323)

Restriction of Heavy vehicles during early morning

The Committee is of the view that the commercial vehicles play a pivotal role in the field of commerce and trade and also is an integral part of the country's economy. The Committee feels that the drivers who are the backbone of running the transport system in the country is not a secured lot from any angle whether it is their salary, job condition, working hours, life insurance etc. They are directed to drive the vehicles for many days or weeks single handedly. The Committee notes that driving the heavy vehicles for longer duration during the night causes fatigue to drivers and due to work pressure and lack of driver's concentration many a times causes accidents. Moreover, heavy vehicles and trucks are causing major accidents during wee hours. The Committee, therefore, recommends that

the government should strictly implement the duty hours for the drivers of commercial vehicles and also prohibit the driving of commercial vehicles from 3.00 AM to 5.00 AM in the morning. The Committee also recommends that movement of heavy commercial vehicles may be regulated in the early morning in such a way that the commercial vehicles carrying/supplying movement of vegetables, milk and perishable food products are not affected. The Committee further recommends that the Government should make it mandatory for the transporters to depute two drivers on a Heavy commercial vehicle having more than two axles to drive the vehicle alternately if the vehicle has to cover a distance of more than 500 kms. The Government may take suitable action to amend the appropriate Law/Rules to implement the recommendations.

(Para 324)

Lane Segregation

Another aspect noticed by the Committee is that there is no separate lane or segregation of vehicles on roads. Every kind of traffic from bicycle to two wheelers, three wheelers to LMVs, Tempos and Trucks to mega sized vehicles are using the same lanes of the roads at their whims and fancies and no one is following any lane driving or following any segregated way of traffic movement. The Committee, therefore, recommends that the Government should lay down clear cut policies for segregation of different type of vehicles on specific lanes on the roads. This is possible in majority of our National Highways as these are multilane roads. Enforcement of lane driving should be given priority by the enforcement agencies.

(Para 325)

Insurance manual and a concise traffic rule book

The vehicle manufacturers always supply a service manual with every new vehicle sold. The Committee recommends that an insurance manual which give details about available insurance products to enable the customers to compare different insurance products and choose the best, may be supplied along with the service manual. A concise traffic rules manual may also be supplied alongwith the Service manual so that a driver can learn about the traffic rules and the fines and punishment associated with its violation.

(Para 326)

National Road Safety Board

The broad aim of the Motor Vehicle Amendment Bill is to enhance road safety. Road safety is a complex resultant of road construction technology, motor vehicle technology and the upgradation of skills of road users both vehicle drivers and pedestrians. Mere enhancement of penalties will not solve the problem. There is a need to constitute a high powered road safety board and to ensure the availability of adequate funds for technologically upgrading and updating the standards. National road safety fund can be constituted with an additional cess on first time sales of new motor vehicles which could fund all these activities. The

National Road Safety Board may contain representatives of both Central & State Governments. It should have adequate authority to guide the Government.

(Para 327)
