

IN EXERCISE of the powers conferred by section 119 (1)(na) of the Traffic Act, the Cabinet Secretary in the Ministry of Roads and Transport makes the following Rules:—

THE TRAFFIC (DRUNK DRIVING) RULES, 2023

Citation.

1. These Rules may be cited as the Traffic (Drunk Driving) Rules, 2023.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“alcohol test” means a test for the purpose of obtaining an indication of the proportion of alcohol in a person blood either by means of a breath test, urine test or blood test;

“blood alcohol concentration” means the concentration of alcohol in a person’s blood measured in terms of mass per volume as may be expressed in different units and notations from time to time for the purposes of measurement of intoxication;

“breathalyser” means a device of a type approved by the Cabinet Secretary on the advice of the Kenya Bureau of Standards for measuring the proportion of alcohol in a person’s blood from a specimen of breath provided by the person;

“breath test” means a test for the purpose of obtaining an indication of the proportion of alcohol in a person’s breath carried out by a breathalyzer;

“drunk driving” means driving under the influence and refers to the act of driving or the act of operating or taking control of a motor vehicle after having consumed alcohol to a degree beyond the prescribed limit;

“prescribed limit” means the maximum permissible legal limit of blood alcohol concentration for:-

(i). drivers of public service vehicles, commercial service vehicles or school transport service vehicles , as the case may require—

(a) 00 microgrammes of alcohol in 100 millilitres of breath,

(b) 00 milligrammes of alcohol in 100 millilitres of blood, or

(c) 00 milligrammes of alcohol in 100 millilitres of urine,

(ii). drivers other than drivers of public service vehicles, commercial service vehicles or school transport service vehicles, as the case may require—

(a) 35 microgrammes of alcohol in 100 millilitres of breath,

(b) 80 milligrammes of alcohol in 100 millilitres of blood, or

(c) 107 milligrammes of alcohol in 100 millilitres of urine,

“specimen” means a portion or quantity of either a sample of breath , urine or blood for use in alcohol testing.

Alcohol prohibition.

3. (1) No person shall drive, attempt to drive or be in charge of a motor vehicle on a road or other public place if the person has consumed alcohol in such quantity that the blood alcohol concentration in his body is beyond the prescribed limit.

(2). A person who contravenes the above rule commits an offence under section 44 (1) and 45 of the Act.

(3). In addition to the penalties prescribed under section 44(1) and 45 of the Act:-

(i) any driver of a public service vehicle, commercial service vehicle or school transport service vehicle found to be driving while having consumed any alcohol shall have their driving license suspended for six months.

(ii) any driver of a vehicle other than a public service vehicle, commercial service vehicle or school transport service vehicle driver, who is convicted more than once in an year for an offence under section 44(1) of the Act shall have their driving license suspended for six months.

Alcohol Tests

4(1). Where a police officer in uniform suspects that a person driving or attempting to drive a motor vehicle on a road or other public place—

(a) has committed a traffic offence whilst the vehicle was in motion; or

(b) is suspected of having consumed alcohol, or is likely to have alcohol in his body, the police officer may require the person to provide a specimen for an alcohol test.

(2). If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a police officer may require the person whom he has reasonable cause to believe was driving or attempting to drive or was in charge of the vehicle at the time of the accident to provide a specimen for an alcohol test.

(3). Alcohol tests results that indicate a driver of a vehicle other than a has exceeded the prescribed limits shall be evidence for the purposes of sections 44(1) that the person is incapable of having proper control of a mechanically propelled vehicle

Breathalyzer device for breath specimen.

5(1). The Cabinet Secretary in consultation with the Kenya Bureau of Standard shall approve a device for measuring the proportion of alcohol in a person’s blood from a specimen of breath provided by the person.

(2). A police officer shall always ensure that the use of the breathalyzer device is hygienic by ensuring the single use of a breathalyzer straw for each individual driver being tested.

(3). The police shall ensure that the breathalyzer device is at all times properly calibrated according to the manufacturer's directions.

Refusal to provide specimen.

(7). Refusal to provide a specimen when required to do so by a police officer in uniform shall be an offence and a person shall be deemed to be over the prescribed limit and subject to the penalty contained in section 44(1).

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