



COUNTY ASSEMBLY OF MOMBASA

OFFICIAL REPORT

Wednesday, 28th November, 2018

The House met at 9:24a.m.

(The Deputy Speaker (Hon. Fadhili Mwalimu) in the Chair)

PRAYERS

The Deputy Speaker (Hon. Mwalimu): Hon. Members you may be seated. Yes Clerk?

MOTION

ADOPTION OF TUK TUK OPERATORS RULES

Hon. Hatimy Mohamed.

Hon. Mohamed Hatimy: Thank you Mr. Speaker. Mr. Speaker I wish to give the following Motion on Adoption of Tuk Tuk operation rules:

WHEREAS Tuk Tuks are authorized to operate under the Traffic Act of the laws of Kenya;

WHEREAS the County government is mandated under Schedule Four of the Constitution to regulate road transport under its area of jurisdiction;

WHEREAS there have been increased incidences of acts of insecurity and malpractices by operators of Tuk Tuk cabs and if left unregulated the public will continue to be exposed to security and safety hazards;

WHEREAS there is need for legislation to effectively and efficiently regulate this sub - sector for greater safety and security;

WHEREAS it is the intent that these rules shall be applicable to all Tuk Tuk owners, drivers and agents (hereinafter called the operator(s) until otherwise rescinded or amended by the County Assembly;

NOW, therefore be it **RESOLVED** that the County Assembly of Mombasa adopts the following Tuk Tuk operators rules 2018:

1. Every Tuk Tuk operator shall be a registered member of an Association recognized by the County government for the sub - sector. The Association shall among other things be responsible for the training of its members on matters of safety and security of passengers.

2. Every Tuk Tuk cab shall:

a. Be painted on the right hand side with the full and true name of the owner, his/her business address and the total number of passengers allowed to be carried thereof;

b. Have a sticker paid for and issued monthly or such other time as is authorized by the County government;

c. Have the photo of the driver displayed inside the Tuk Tuk;

3. For purpose of identification, every Tuk Tuk cab shall be in one of the following zones:

a. Island Zone

b. Likoni Zone

c. Changamwe Zone

d. Jomvu Zone

e. Nyali Zone

f. Kisauni Zone

4. Every Tuk Tuk operating in a particular zone shall be painted with a particular colour. Colours painted for Tuk Tuks operating in each zone shall be:

a. Island Zone – Green

b. Likoni Zone – Yellow

c. Changamwe Zone – Red

d. Jomvu Zone – Orange

5. The colour scheme shall not prevent operators from criss - crossing or passing through another zone.

6. The County government shall adopt different number schemes peculiar to each zone.

7. Every Tuk Tuk driver shall while carrying passengers:
 - a. At all times wear clean official uniform prescribed by the County Government.
 - b. Be clean and well groomed;
 - c. Refrain from smoking or spitting while carrying passengers;
 - d. Carry his National ID and valid Driver's License;
 - e. Drive within the prescribed traffic rules as per the law and observe required speed limit;
 - f. Ensure the safety and security of passengers, their luggage, other motorists and pedestrians;
 - g. Avoid foul and vulgar language against passengers or other motorists;
 - h. Avoid using violence or threats against passengers;
 - i. Ensure passengers do not leave any personal property before alighting and where such has been left to take reasonable steps to return the same to their owners or surrender at police station nearby;
 - j. Avoid obstructing other vehicles on the road;
8. Tuk Tuk operators and the general public are sensitized on these rules and those who contravene are prosecuted accordingly;
9. The County government shall have powers to enforce these rules and shall include prohibition of any Tuk Tuk cab from operating or prosecution in a court of law for violating the same;
10. Photographic and video evidence of violations of these rules by Tuk Tuk operators shall be admissible in court.
11. These rules shall come into force six months after adoption.

I beg to move Mr. Speaker. Thank you.

The Deputy Speaker (Hon. Mwalimu): Who is your seconder?

Hon. Mohamed Hatimy: I request Hon. Hamisi Musa Mwidani, Leader of Majority to second.

Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker. I arise to second the Motion.

The Deputy Speaker (Hon. Mwalimu): I now propose that the Motion on, Adoption of Tuk tuk Operators rules be debated in this House. Yes Hon. Hatimy?

Hon. Mohamed Hatimy: Ahsante Mheshimiwa Spika. Leo hii kwenye Nyumba hii tumejaribu kuleta sheria za Tuk tuk kwani mambo ya Tuk tuk yamekuwa kila siku kuna mikasa ambayo inatokea Mheshimiwa Spika na ni lazima au ni majukumu ya Nyumba hii kuleta sheria ambazo zitakuwa sheria muafaka ambazo zitaweza kufuatwa na kusema ni mambo ya ukosefu wa usalama ndani ya Kaunti yetu ya Mombasa yamezidi. Kwa hivyo sisi kuweza kusaidia watu wetu muhimu ni kusema kuwa hizi Tuk tuk zijulikane ziwe zatoka upande gani; Changamwe rangi ipakwe rangi yake, Likoni na hali kadhalika katika Sub-County zote hizi sita zote za Mombasa. Kwa hivyo naomba Nyumba hii Mheshimiwa Spika hizi sheria tuziweke ili tufunge mwaka maana sisi twaenda mapumziko hivi sasa tuwe tumewapatia hizi sheria na sheria ziwe zitafuatwa.

Sheria hizi tumesema twawapatia muda wa miezi sita kuzitekeleza. Kwa hivyo naomba Nyumba hii tukubaliane kupitisha hizi sheria ili tuweze kuwa na utaratibu na heshima ndani ya Kaunti yetu ya Mombasa. Ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Hamida?

Hon. (Ms.) Noor: Thank you Mr. Speaker for giving me this opportunity. I support the Motion that has been brought by my fellow Member about the Tuk Tuks; if we adapt this operation about the Tuk tuk I think we should have sanity in our roads because there is a lot that is happening. In the morning when you leave your house the speedy Tuk Tuks on the road are hitting even small children and I feel personally that there is a lot of Tuk tuks on the road. So if we have a bit of sanity on the side of Tuk tuks especially in the morning hours when children are going to schools I think we will have a bit of sanity on the roads. With those few remarks I do support the Motion. Thank you.

The Deputy Speaker (Hon. Mwalimu): Yes, Hon. Kizito Opeya.

Hon. Opeya: Thank you Mr. Speaker. Also I rise to support the Motion which has been brought by the Hon. Member; I think there has been a big problem as far as the transport sector in Mombasa and now that the national government has started the crackdown on the Matatus. It is fair we also do it on the Tuk tuks and also the time limit of six months is very fair to them; they cannot complain that we ambushed them like what Hon. Matiang' did the other day. So at least we have given them time to put the seat belts, the colours and if they have any issues they can come and raise with us. So I think the time limit is very fair and also the rules, these are not punitive rules, these are just rules which are to bring control and order to the sector. Thank you very much.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Mwaka Bakari.

Hon. (Ms.) Mwaka Bakari: Ahsante sana Mheshimiwa Spika. Mimi nauunga mkono hii hoja kwa sababu mimi mwenyewe ni Memba wa Kamati ya Usafiri na napenda kutia mkazo kwa kuungwa mkono jambo hili hususan upande huu wa rangi; ni jambo zuri sana kwa sababu Tuk tuk huwa zinapita kila mahali zinaenda za Likoni huenda mpaka Changamwe, huenda mpaka Kisauni kubeba abiria lakini jambo hili pengine patokeapo pengine ajali ama tukio lolote lile inaweza kujulikana Tuk tuk hii ni ya upande gani. Pia vile vile, upande huu Bwana Mwenyekiti amezungumzia mambo na usafi, kwa kusema kweli utapata Tuk tuk nyengine ni chafu sana hata wao wenyewe madereva ni wachafu kwa hilo mimi nalitilia mkazo sana tuweze kupitisha hoja hii. Na upande mwengine pia ilikuwa ni kumuongezea Bwana Mwenyekiti kuongezea upande pengine wa mavazi kama vile watu wa Matatu ambavyo wanavaa sare zao za buluu pia ningependa Bwana Mwenyekiti kama ungeweza kuongeza upande wa sare za hao madereva. Kwa hayo machache nasema ahsante na ninauunga mkono Mswada huu.

The Deputy Speaker (Hon. Mwalimu): Yes Mheshimiwa Mwalimu Mgwisho.

Hon. Mwalimu Mgwisho: Ahsante sana Mheshimiwa Spika kwa kuweza kunipatia nafasi hii ili niweze kuchangia Mswada huu. Kwanza nasimama kwa dhati kuunga mkono Mswada huu kwa sababu madereva wengi wa tuk tuk hawafuati sheria, nishafikwa na dereva wa tuk tuk kugonga gari yangu na yule dereva alikuwa hana hata kitambulisho wala leseni ya kuendesha.

Kwa hivyo naunga mkono Mswada huu; hii sheria iweze kufuatiliwa na hii sheria hawataweza kulalamika kwa sababu wamepewa mda wa kutosha miezi sita ili waweze kujirekebisha. Hivyo basi Mswada huu una umuhimu sana na naomba Jumba hili tuweze kuunga mkono Mswada huu ili tuweze kusafiri kwa salama katika usafiri huu wakutumia tuk tuk, kama unavyoona usafiri mwingi sana hapa kwetu Mombasa ni tuk tuk, kwa hivyo ni wajibu wenye tuk tuk, madereva wa tuk tuk waweze kutambulikana na waweze kufuata sheria, ahsante sana Mheshimiwa Spika.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Prischillah, Chair on transport.

Hon. (Mrs.) Mumba: Ahsante sana Mheshimiwa Spika, mimi nimesimama pia kuunga mkono maana nilipata nafasi muafaka kutokea jana niliweza kuipitia kwa kirefu ile nakala yangu ambayo nilichukua jana wakati wa ilipoekelewa kwa mara ya kwanza, na nikaona hizi sheria zote ambazo ziko ni sheria muafaka za kuweza kusisitiza madereva waweze kuzizingatia kama vile ilivyo wekwa sheria kwa matatu na magari mengine. Kwa hivyo mimi nimeona ni sawa kabisa ili tuweze kuboresha usafiri wa Tuk tuk na tuweze kuweka vibali maalum kwa sababu hata pia visa tumesikia kadhaa wa kadhaa ya watu wakilalamika kuwa wamebebwa na tuk tuk wengine wameibiwa, wengine hawajui wafuutilizie wapi kwa sababu ya kuwa kuna wenye tuk tuk ambao hata kutambulikana hawatambulikani.

Kwa hivyo kwa vibali kwa rangi, kupitia kwa *zone* ya kujua kuwa kama ni Likoni tunajua kibali chake ni rangi hii ili tuweze kujua kwa haraka wakati kutakuwa na matatizo yanatakikana kutekelezwa kwa dharura, ikiwa ni eneo fulani tuk tuk hiyo imefanya maovu, hivyo basi nimesimama kuunga mkono kikamilifu. Hata naona tulikuwa tumechelewa kuleta Mswada kama huu ili uweze kurekebisha mambo mengi, kwa hivyo ninashukuru hata kwa aliyeleta Mswada huu na mimi kama Mwenyekiti wa Kamati ya Uchukuzi nimeunga mkono kikamilifu na nikijua kuwa sio tupitishwa hapa tu na ikose kutekelezwa, nitahakikisha pia nimefuutilizia kuhakikisha kuwa haya yote yaliyopitishwa hapa leo yameweza kutekelezwa kwa wakati muafaka.

Hii ni kwa sababu tumepewa mda wa miezi sita itakuwa ni jukumu la Mwenyekiti wa Uchukuzi ambaye ndie mimi niweze kufuutilizia mpaka nihakikishe haya majukumu ambayo yamewekwa katika sehemu tofauti tofauti ya viongozi wa ma tuk tuk na wale mashirika waweze kuhakikisha mambo yametekelezwa. Kwa hivyo nimeshukuru na ninasema pongezi kwa aliyeleta Mswada huu ili hata kesho tukiwa tunaangalia marekebisho tutaweza kufuatizwa kwa vizuri na tukiwa tumeweza kujikinga kikamilifu. Ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Chair. Yes Hon. Mary Osongo.

Hon. (Ms.) Osongo: Thank you Mr. Speaker for the opportunity surrendered to me. I support the Motion in that we get that kidnapping that is being done in Mombasa, those who do the kidnapping mostly they use tuk tuks so when the colours are being placed like when the Island zone green, when somebody is kidnapped the child atleast you will know where to go to or to follow when the people are doing the follow up for the child or the person who is kidnapped. Secondly the tuk tuk drivers are very careless with their driving and when they are given the rules I think they will be observing them and will get a lot of safety and they will drive carefully and many accidents will not occur, so I stand to support.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Thoya Renson.

Hon. Thoya: Bwana Spika pia mimi itakuwa vyema nitie pumzi mjadala huu; naunga mkono hususan tukiangazia nidhamu ambazo ziko na hawa waungwana, nafikiri serikali kuu imeangazia sana matatu na magari mengineo makubwa makubwa lakini hii sekta wakati unatembea kwa barabara unaona kama ambae hawako katika sheria unaweza kuwa unaenda mara unaona *boda boda* kanapita huku huku. Kwa hivyo ni Mswada ambao hususan utajenga ajenda kubwa ya nidhamu na bila nidhamu japokuwa tunahitaji usafiri wa *boda boda* ama tuk tuk ikiwa hawatakuwa na nidhamu ya kutosha, sio vyema wawe barabarani. Kwa hivyo mbali na hapo hususan wale maaskari wetu waweze kutilia nguvu kuhakikisha kwamba wameweza kuangazia sheria za nidhamu ambazo ziko hapa na hata sheria za nidhamu ambazo zimeweza kutoka kule kwa serikali kuu nikizungumzia swala zima la rangi. Rangi ni kitu kikubwa ambacho swala hilo la nidhamu na usalama wa tuk tuk barabarani halitakuwa linaachiliwa maaskari peke yake itakuwa ni rahisi hata raia ambae yuko Likoni kujua kwamba hii Tuk tuk imetoka Jomvu na imefanya uhalifu nafikiri serikali kuu imejaribu lakini mpaka usimamishe mtu uangalie TLB yake yasema wapi lakini kwa macho hata raia ambae hakwenda shule atakuwa anajua hii gari imetoka Jomvu tuk tuk imetoka Jomvu ama hii imetoka Likoni. Kwa hivyo naunga mkono na mswada huu endapo utapita ambapo mimi nasema moja kwa moja ushapita uende kwa wale wanahusika, tunataka hizi sheria ikiwezekana zianze kazi hata kama ni wiki ijayo, ahsante.

The Deputy Speaker (Hon. Mwalimu): Naam Mheshimiwa Leila.

Hon. (Ms.) Nyache: Ahsante sana Mheshimiwa Spika hata mimi nimesimama kidete kuunga mkono Mswada huu; kwanza nampongeza Mheshimiwa Hatimy kwa kutuletea Mswada wa maana sana. Haya masuala ya tuk tuk ni masuala nyeti sana ya kuangaziwa; mimi nasema hivyo kwa sababu Mheshimiwa Spika sehemu ya kwangu pale ninakoishi mimi kuna wakati mmoja tulivamiwa pale usiku na tuk tuk ndio ilikuwa inatumika wahalifu walikuja na wakaingia sehemu ya kuegesha wakatoa vioo vya magari yote na walikuwa wamebeba silaha na wakabeba na hiyo tuk tuk wakaenda nayo wakaenda nazo hivyo vioo vya magari. Kwa hivyo mimi pia naunga mkono sheria ifuatwe na sheria ikifuatwa namna hii na hizi rangi zilizowekwa pia wataweza kuogopa kufanya uhalifu ama kutumia hizo tuk tuk zao vibaya na pia watakuwa na nidhamu. Kwa hivyo pia mimi naunga mkono Mswada huu, ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Mwalimu): I can see the House has fully exhausted on this Motion I now call upon the mover to respond, yes Hon. Hatimy.

Hon. Mohamed Hatimy: Mr. Speaker I rise under Standing order 51 as a mover.

The Deputy Speaker (Hon. Mwalimu): Yes proceed.

Hon. Mohamed Hatimy: I wish to amend paragraph 3 and 4 to consolidate Changamwe, Jomvu, c and d to read Changamwe Jomvu and e and f to read Kisauni Nyali. So I think Mr. Speaker this Motion will benefit our County and I think this is a good Motion and I take this opportunity to congratulate my fellow Members for supporting this Motion Mr. Speaker, thank you.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Hatimy. Hon. Members I now stand to put a question on adoption of the tuk tuk operator rules.

(Question put and agreed to)

ADJOURNMENT

There being no other business the House stands adjourned until Wednesday the 28th at 2:30p.m.

The House rose at 9:51a.m.