

Issues for Consideration

The Motor Vehicles (Amendment) Bill, 2019

Context

In the last few years, with growing urbanisation and rising incomes, the number of motor vehicles in India has been increasing steadily.¹ The number of registered motor vehicles in India grew by 123% between 2005 and 2013.² Between 2005 and 2015, the number of road accidents increased by 14%, and road accident fatalities increased by 54%.³ During the same period, the road network grew by 44%.⁴

An increase in the number of vehicles on roads, along with the absence of a coordinated policy to control the problem has been attributed to an increase in the number of road accidents.¹ With the number of road accidents increasing, the Ministry of Road Transport and Highways appointed the Committee on Road Safety in 2007 (Chair: Mr. S. Sundar) to examine the magnitude of road traffic injuries and fatalities. The Committee recommended setting up road safety authorities (at both national and state levels).⁵ In April 2016, the central government constituted a group of state transport ministers (Chair: Mr. Yoonus Khan, Minister for Transport, Rajasthan) to recommend reforms for the road transport sector. The group recommended that the Motor Vehicles Act, 1988 be amended to address urgent issues related to road safety.

The Motor Vehicles (Amendment) Bill, 2019 was introduced in Lok Sabha on July 15, 2019 by the Minister of Road Transport and Highways, Mr. Nitin Gadkari. The Bill seeks to amend the Motor Vehicles Act, 1988. The Motor Vehicles Act, 1988 is the primary central legislation that regulates the licensing and registration of motor vehicles, and drivers. The Bill seeks to address various issues such as road safety, third party insurance, regulation of taxi aggregators, recall of unsafe vehicles, and compensation for victims in case of road accidents. Note that a similar Bill had been introduced in the 16th Lok Sabha, which lapsed on the dissolution of that Lok Sabha. The Bill was passed by Lok Sabha and had been examined by the Standing Committee on Transport, Tourism and Culture, and a Rajya Sabha Select Committee.

Key Features of the Bill

- **Compensation for road accident victims:** The central government will develop a scheme for cashless treatment of road accident victims during golden hour. The Bill defines golden hour as the time period of up to one hour following a traumatic injury, during which the likelihood of preventing death through prompt medical care is the highest. The central government may also make a scheme for providing interim relief to claimants seeking compensation under third party insurance. The Bill increases the minimum compensation for hit and run cases as follows: (i) in case of death, from Rs 25,000 to two lakh rupees, and (ii) in case of grievous injury, from Rs 12,500 to Rs 50,000.
- **Compulsory insurance:** The Bill requires the central government to constitute a Motor Vehicle Accident Fund, to provide compulsory insurance cover to all road users in India. It will be utilised for: (i) treatment of persons injured in road accidents as per the golden hour scheme, (ii) compensation to representatives of a person who died in a hit and run accident, (iii) compensation to a person grievously hurt in a hit and run accident, and (iv) compensation to any other persons as prescribed by the central government. This Fund will be credited through: (i) payment of a nature notified by the central government, (ii) a grant or loan made by the central government, (iii) balance of the Solatium Fund (existing fund under the Act to provide compensation for hit and run accidents), or (iv) any other source as prescribed the central government.
- **Good samaritans:** The Bill defines a good samaritan as a person who renders emergency medical or non-medical assistance to a victim at the scene of an accident. The assistance must have been (i) in good faith, (ii) voluntary, and (iii) without the expectation of any reward. Such a person will not be liable for any civil or criminal action for any injury to or death of an accident victim, caused due to their negligence in providing assistance to the victim.
- **Recall of vehicles:** The Bill allows the central government to order for recall of motor vehicles if a defect in the vehicle may cause damage to the environment, or the driver, or other road users. The manufacturer of the recalled vehicle will be required to: (i) reimburse the buyers for the full cost of the vehicle, or (ii) replace the defective vehicle with another vehicle with similar or better specifications.
- **National Transportation Policy:** The central government may develop a National Transportation Policy, in consultation with state governments. The Policy will: (i) establish a planning framework for road transport, (ii) develop a framework for grant of permits, and (iii) specify priorities for the transport system, among other things.

- **Road Safety Board:** The Bill provides for a National Road Safety Board, to be created by the central government through a notification. The Board will advise the central and state governments on all aspects of road safety and traffic management including: (i) standards of motor vehicles, (ii) registration and licensing of vehicles, (iii) standards for road safety, and (iv) promotion of new vehicle technology.
- **Offences and penalties:** The Bill increases penalties for several offences under the Act. For example, the maximum penalty for driving under the influence of alcohol or drugs has been increased from Rs 2,000 to Rs 10,000. If a vehicle manufacturer fails to comply with motor vehicle standards, the penalty will be a fine of up to Rs 100 crore, or imprisonment of up to one year, or both. If a contractor fails to comply with road design standards, the penalty will be a fine of up to one lakh rupees. The central government may increase fines mentioned under the Act every year by up to 10%.
- **Taxi aggregators:** The Bill defines aggregators as digital intermediaries or market places which can be used by passengers to connect with a driver for transportation purposes (taxi services). These aggregators will be issued licenses by state governments. Further, they must comply with the Information Technology Act, 2000.

Issues to consider

Electronic Monitoring of Road Safety

The Bill mandates state governments to ensure electronic monitoring and enforcement of road safety on National Highways, State Highways, and urban roads as per guidelines framed by the central government. It is unclear who will bear the cost of implementing such safety measures.

Issue: Ensuring electronic monitoring across roads in a state could incur a significant amount of infrastructure investment on part of the states (such as CCTV cameras, speed detectors, training programmes, etc.). The Bill does not specify whether such costs will be borne through a central scheme or through additional grants to the states from the centre. The financial memorandum of the Bill also does not provide for any financial support to states to implement such infrastructure. The Standing Committee examining the 2016 Bill had recommended that the central government should help states with the technical expertise, and logistics to make roads safer.⁶

Agency responsible for road safety

The Bill provides for a National Road Safety Board, to be created by the central government through a notification. The Board will comprise of a Chairman, representatives of the state governments, and other members as specified by the central government. The Board will provide advice to the central and state governments on all aspects of road safety and traffic management including: (i) standards of design, weight, manufacturing process, operation and maintenance of motor vehicles, (ii) registration and licensing of vehicles, (iii) formulating standards for road safety, road infrastructure and control of traffic, (iv) promotion of new vehicle technology, and (v) safety of vulnerable road users. The central government may make rules regarding the terms and conditions of appointment if the Board, and other functions of the Board.

Issue: While the amendments provide for setting up a National Road Safety Board, it would still be advisory in nature. As per the amendments, the Board will provide advice to the central and state governments on the setting of road standards.

The Sundar Committee had recommended that the National Road Safety Board should have the freedom to set safety standards with regard to the design, construction and maintenance of roads and motor vehicles.⁵ It should also have the power to monitor compliance, issue directions regarding compliance and levy penalties, where necessary.

Currently, the National Road Safety Council, headed by the Minister of Road Transport and Highways, is the apex advisory body on road safety. The Transport Division within the Ministry of Road Transport and Highways looks at the safe movement of vehicles on roads and safety awareness.

The Sundar Committee had observed that the existing institutions in India do not have the required capacity to look into road safety.⁵ The responsibility for road safety is diffused across various bodies, and there is no effective coordination mechanism between these bodies. The existing National Road Safety Council does not have the adequate statutory backing, resources, or the mandate to affect road safety. In comparison, other countries such as the US, Australia, and Sweden have national government agencies responsible for traffic safety and management.⁵

Road design and engineering

The Bill provides that any contractor or consultant responsible for the design, construction, or maintenance of the safety standards of roads must follow design, construction and maintenance standards specified by the central government. Failure to comply with such standards will be punishable with a fine of up to one lakh rupees, and such amount will be credited to the Motor Vehicle Accident Fund.

The Bill also specifies certain road design characteristics that the Courts should consider when looking at such cases. These include: (i) characteristics of the road and the type of traffic which was expected on it, (ii) standard maintenance norms for roads, and (iii) the state of repair in which road users would have expected to find the road.

Setting of design standards

Issue: The Bill provides that the central government will set the design, construction and maintenance standards. The Sundar Committee on Road Safety had recommended that the powers to set standards and follow up on their compliance cannot be vested in the same department or Ministry which is also responsible for the construction and maintenance of roads.⁵ In this case, the central government is primarily responsible for the development and maintenance of National Highways, and it carries out these functions through the National Highway Authority of India (NHAI).

Penalty for non-compliance with safety standards

Issue: The penalty for non-compliance with the safety standards will be a fine of up to one lakh rupees. It may be noted that in 2017-18, the NHAI awarded 24 highway construction projects of worth Rs 20,000 crore covering the length of 1,280 km (Rs 15.6 crore per km on average).⁷ The question is whether a fine of one lakh rupees would be a sufficient deterrent for contractors when the cost of such projects is above Rs 15 crore per km on average.

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2. Table No 20.1: Number of motor vehicles registered in India, Statistical Yearbook of India 2016, Ministry of Statistics and Programme Implementation.
3. Road Accidents in India 2015, Ministry of Road Transport and Highways, May 2015, <http://morth.nic.in/showfile.asp?lid=2143>.
4. Basic Road Statistics 2014-15, Ministry of Road Transport and Highways <http://morth.nic.in/showfile.asp?lid=2445>.
5. Report of the Committee on Road Safety and Management, February 2007, <http://morth-roadsafety.nic.in/admnis/admin/showimg.aspx?ID=29>.
6. 243rd Report: The Motor Vehicles (Amendment) Bill, 2016, Standing Committee on Transport, Tourism and Culture, February 8, 2017, <http://www.prsindia.org/uploads/media/Motor%20Vehicles.%202016/SCR-%20Motor%20Vehicles%20Bill.%202016.pdf>.
7. "19th Report: National Highways Authority of India", Standing Committee on Public Undertakings, August 2, 2017.

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