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# NEWS

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### **Truck ban could be breach of constitution – legal expert**

Labour and legal experts believe a constitutional argument can be made if government insists on implementing a truck ban during peak hours on the roads.

The proposed ban, gazetted in May and currently out for public comment, is aimed at addressing road carnage according to the Department of Transport and stops all trucks with a gross vehicle mass of nine tons and more from operating weekdays between 06:00 and 09:00 and 17:00 and 20:00.

According to Professor Hugo Pienaar, a director in the employment practice, Cliffe Dekker Hofmeyr, the possibility of taking the matter to the constitutional court and winning is possible.

“I firmly believe a constitutional argument can be made. This proposal will see a workday start at 09:00 and end at 17:00. Include the mandatory tea and lunch breaks into this and one ends up with a 35-hour work week without loss of pay to workers. That is just not economically sustainable in the long run,” he said. “You then have a very real argument that can be made in that this ban stops the right to economic activity which is a constitutional right.”

At the same time it will see more people within a company qualify for night allowances as more operations will have to take place after hours as the official working hours will be decreased.

According to the Road Freight Association (RFA) labour expert Magretia Brown-Engelbrecht, it is not expected that labour will oppose the proposal.

She said the ban would in all probability be seen in a favourable light by unions and workers alike.

“It will result in a shorter work week without reduced pay,” said Brown-Engelbrecht, agreeing with Hofmeyr’s assessment of the situation.

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