

***COMMENTS ON THE NATIONAL LIQUOR POLICY AS PUBLISHED IN GENERAL NOTICE
446 OF 2015, GOVERNMENT GAZETTE, 20 MAY 2015, NO 38808***

The issues to be addressed are all listed in paragraph 4 of the said notice, as well as the grounds for the soliciting of comments, and also suggested steps to resolve the issues identified.

It has also come to our attention that a number of attorneys specializing in liquor matters have submitted on behalf of their clients' lengthy and comprehensive comments that we believe does address all of the issues raised in the National Liquor Policy as published. We therefore in this document only deal with some of these issues.

1. THE SOCIO-ECONOMIC IMPACT OF LIQUOR AND OTHER COSTS OF ALCOHOL ABUSE:

This problem is recognized and should be addressed in conjunction with inputs given by the relevant departments and organizations responsible. It is believed that this problem will be best resolved by way of education rather than regulation. It is believed that the majority of consumers of alcohol does so responsibly resulting from proper education. Alcohol abuse in all its forms is a real problem in South Africa and should be addressed by all applicable role players and all must assist government to find a proper solution. It is believed only to amend the Liquor Laws will not address this issue in South Africa and therefore lengthy consultations at all levels of government and all role players should seek a proper solution.

2. DRINKING AGE:

It is suggested that the minimum drinking age should be increased from 18 years to 21 years of age. It will then be possible in South Africa to be married legally, amongst others, with all its responsibilities which include having children without being able to consume alcohol legally. It will most certainly increase the illegal sale of liquor and youngsters will simply find other venues where they will be able to consume liquor illegally instead of consuming liquor in a controlled environment. It is further believed that increasing the drinking age will only shift the experimental period from 18 years to

21 years with most probably less prenatal and community control. To allow certain kinds of liquor to be consumed legally from 18 years to 21 years and thereafter all kinds of liquor will also create huge practical problems and it is believed that this will be very difficult to control and to police.

3. THE ENVISAGED BILL ON ADVERTISING OF ALCOHOL:

This proposed legislation is still in the process of discussion and not yet legislation. The important role players will be the Department of Health and the DTI. If the normal transparent processes are followed it is believed that proper legislation will be put in place to the benefit of all concerned.

4. THE REQUIREMENT THAT ALL LIQUOR PREMISES MUST BE LOCATED AT LEAST 500M AWAY FROM SCHOOLS, PLACES OF WORSHIP, RECREATION FACILITIES, ETC.:

The practical implication hereof will be that most of or all the existing liquor outlets in small towns around South Africa will have to relocate. In a typical small town you will find the church, school and other public amenities within the main street being also the centre of the town, where you will also find that most/or all of these sites are business sites from which liquor outlets are operated from. If no liquor outlets are allowed within a radius of 500m from churches and schools and other amenities it will mean that existing outlets will have to close their doors as there will be no suitable business premises available. The 500m radius in a rural town is much less sensitive than 500m in an urban area. The distance between liquor outlets and churches, schools, etc. is irrelevant. What is of utmost relevance is the fact whether the liquor outlet will materially prejudice the proceedings in any church or school or any other amenity referred to. The liquor licensing authorities must have the necessary discretion in each case to take a decision based on applicable facts whether a liquor license outlet should be established in close proximity to any school, church or other public amenities. The proper application of Liquor Laws will result therein that liquor outlets will not materially prejudice the proceedings of churches, schools and other public amenities.

5. THE ZONING REQUIREMENT:

Any business for that matter may not be conducted from any property that is not properly zoned and/or in respect of which the necessary consent have not been obtained from the relevant authority in this case being the municipality's. Zoning is therefore not the competency of the DTI but the competency of the municipality's or local government.

6. DAYS AND HOURS OF TRADING:

It makes sense to impose trading times for on-consumption outlets, not in an endeavor to limit alcohol abuse, but rather in an endeavor to limit the impact on alcohol consumption on the surrounding area. Uniform trading hours throughout South Africa will be welcomed as different trading hours within different municipal areas and/or provinces only causes' confusion. The limiting of trading hours for distribution of liquor does not make any sense as distribution does not have an impact on the public and the public interest, but is only between traders which can certainly not increase the alcohol consumption on the part of the public nor have any impact on the public by way of noise and the like. Distribution of liquor usually takes place before and after retail trading hours.

7. BLACK ECONOMIC EMPOWERMENT:

B-BBEE should not be applied toward limiting the freedom to make a living. It is understandable if it promotes business for the previously disadvantaged, but in preferential contracting by the state with the previously disadvantaged it should, however, not be applied as a form of expropriation or limiting the rights of certain citizen on the basis of skin colour whilst the constitution provides that every citizen is equal. It is believed, that after 21 (twenty one) years of the new democracy; market and economic forces will automatically structure the economy within the use of black economic empowerment as a tool and that applying it to deprive a section of the citizens of what they have spent their lives building; will destroy the economy.

8. ILLEGAL LIQUOR:

It is fully agreed that all illegal liquor should be eradicated through strict enforcement. If the provisions of the National Liquor Act and those of the provinces are policed properly it will be impossible for any unlicensed person to buy and sell liquor legally. If they were to be enforced properly it will solve the problem of the illegal sale of liquor.

9. ERADICATING EXORBITANT COSTS, TEDIOUS AND LENGTHLY COURT PROCESSES:

A closer investigation of the nature and extent of exorbitant legal costs will indicate that the biggest portion of legal costs referred to relates to costs in respect of court applications brought against authorities to compel them to attend to the finalization of applications. A proper investigation will most probably also show that a much smaller amount of legal costs are paid in respect of review applications brought against the authorities to set aside poor decisions; mostly due to a proper knowledge of Liquor Laws.

If internal review mechanisms and/or internal appeals are introduced the members of the appeal and/or review panel should not in any way be involved with or have an interest in the Department of Trade and Industry and, certainly not the section of the department under which the NLA falls, as this will make the prosecutor the judge and jury as well.