

SPECIAL ISSUE

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EMBU COUNTY GAZETTE SUPPLEMENT

BILLS, 2016

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**THE EMBU COUNTY ALCOHOLIC DRINKS
CONTROL BILL, 2016**

A Bill for

**AN ACT of the County Assembly of Embu to repeal the
Embu County Alcoholic Drinks Control Act 2014
and enact the Embu County Alcoholic Drinks
Control Act, 2016, and for connected purposes**

ENACTED by the County Assembly of Embu, as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Embu County Short title.
Alcoholic Drinks Control Act, 2016.

2. In this Act, unless the context otherwise requires— Interpretation.

“alcohol” means the product known as ethyl alcohol or any product obtained by fermentation or distillation of any fermented alcoholic product, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with the prescribed formulas ;

“alcoholic drink” includes alcohol, spirit, wine, beer, liquor, traditional alcoholic drink, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic drinks, modified industrial alcohol blended for human consumption and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being;

“authorised officer” means an authorised officer within the meaning of section 55;

“Authority” means the National Authority for the Campaign Against Alcohol and Drug Abuse” established under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012

“cinema” has the meaning assigned to it in the Films Cap.222
and Stage Plays Act;

“Board” means the Alcoholic Drinks Control Board established under section 4;

“entity” includes a company, corporation, firm, partnership, association, society, trust or other organisation, whether incorporated or not;

“Enforcement Committee” means the County Alcoholic Drinks Control Enforcement Coordinating Committee established under section 56;

“County Executive Member” means the county executive member responsible for alcoholic drinks control;

“bar area” in relation to a hotel premises means any part of the hotel in which alcoholic drink is ordinarily sold or supplied for consumption in the hotel and does not include a dining area of the hotel;

“dining area” in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption of meals at tables;

“Director” means the Director responsible for trade matters within the County;

“Fund” means the Alcoholic Drinks Control Fund established under section 9;

“Governor” means the Governor of Embu County;

“health institution” means a hospital, nursing home, convalescent home, maternity home, health centre, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;

“hotel” means any premises or commercial establishment classified as such under any written law or any licensed premises whose sole purpose is to sell bed occupancy as primary and core business;

“illicit trade” means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase of alcohol or its products, including any practice or conduct intended to facilitate such activity;

“licensee” means a person who holds a licence granted under this Act;

“locality” unless where context otherwise provides to the contrary, means a city, municipality, town, urban area, sub-county or ward as the case may be;

“manager” in relation to—

- (a) a cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre;
- (b) a health institution, includes the owner or a person in charge or in control of the health institution;
- (c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified building;

“manufacture” means the brewing, distilling, tapping or any processing or intermediate processing of an alcoholic drink and includes the packaging, labeling, distribution or importation of an alcoholic drink for sale in the county or anywhere in Kenya;

“manufacturer”, in respect of an alcoholic drink, includes any entity that is involved in its manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

“package” means the container, receptacle or wrapper in which an alcoholic drink is sold or distributed and includes the carton in which multiple packages are stored;

“retailer” means a person who is engaged in a business that includes the sale of any alcoholic drink to consumers;

“restaurant” means a place, premises or commercial establishment (however described) where meals are prepared, served and sold to customers;

“sell” includes—

- (a) barter or exchange without use of money;
- (b) offer or expose for sale, barter or exchange;
- (c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or indirect pecuniary benefit;
- (d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;

“Sub-county committee” means the Sub-county Alcoholic Drinks Regulation Committee appointed under section 13.

3. The purpose of this Act is to provide for licensing of alcoholic drinks by the County government pursuant to Part II of the Fourth Schedule to the Constitution so as to control the production, sale, distribution, promotion and use of alcoholic drinks and the promotion of research, treatment and rehabilitation for persons dependent on alcoholic drinks in order to –

Purpose of Act.

- Amended*
- (a) reduce and mitigate the negative health, social and economic impact and other costs on individuals and communities resulting from or associated with production, sale, supply and consumption of alcoholic drinks
 - (b) protect the health of the individual in the light of the dangers of consumption of alcoholic drinks;
 - (c) protect persons under the age of eighteen years from negative impact on health and social development as a result of exposure to advertisements of alcoholic drinks;
 - (d) protect consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of consumption of alcoholic drinks;
 - (e) provide for coordination and collaboration with other government agencies and to support implementation of national policies on alcoholic drinks control in the county;
 - (f) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;
 - (g) inform and educate the residents in the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks;
 - (h) facilitate and enhance community participation in alcoholic drinks control;

- (i) adopt and implement effective measures to eliminate illicit trade in alcohol including smuggling, illicit manufacturing and counterfeiting; and
- (j) ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks.

PART II—ADMINISTRATION

4. (1) There is established in the county department responsible for alcohol control, the Alcoholic Drinks Control Board. Establishment of Board.

(2) The Board shall consist of—

- (i) A Non-Executive Chairperson appointed by the Governor and approved by the Assembly,
- (ii) The chief officer responsible for trade;
- (iii) The director responsible for trade who shall be an ex-officio member, and secretary to the Board; and;
- (iv) Five other members from whom four shall be the representative of sub counties representing the youth, men and women, and one member shall be the representative of the liquor dealers appointed by the CEC member.

(3) Members appointed under subsection (iv) above apart from the liquor stakeholders representative shall possess such qualifications as may be prescribed in the Regulations.

(4) the term of office of the officers appointed in subsection (2) (i) and (iv) shall be three years only renewable once for a further term;

(5) A member of the board shall cease to be a member if—

- (a) He or she resigns upon giving one month's notice in writing to the appointing authority;
- (b) Is removed from office by the appointing authority upon recommendation of the Board to terminate the appointment of the member on any of the following grounds—

- (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
- (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (iii) is convicted of an offence involving dishonesty or fraud;
- (iv) violation of the constitution or any other law
- (v) Gross misconduct, whether in the performance of the member's functions or otherwise
- (vi) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
- (vii) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board; or
- (viii) Fails to comply with the provisions of this Act relating to disclosure.
- (ix) Goes against or is deemed to have violated contractual agreement of his/her engagement as a board member
- (x) Violates the requirements of the conduct of a public officer as per the laid down rules and regulations

Whenever the office of a member becomes vacant before the expiry of the term provided in subsection 2 (iv) the appointing authority may within Twenty one days appoint another person to be a member and that other person shall hold office only for the unexpired term of office of the person who vacated such office

- (6) The functions of the Board shall be to—
- (a) Receiving reviewing approving and granting licences in accordance with applications recommended by the sub-county committees;

- (b) support and facilitate the Committees established under this Act in carrying out their functions;
- (c) Receiving and hearing appeals from decisions made by the sub-county committees;
- (d) carry out public education on alcoholic drinks control in the county directly and in collaboration with other public or private bodies and institutions;
- (e) facilitate citizen participation in matters related to alcoholic drinks control in accordance to framework for citizen participation established under the County Governments Act, the Embu county public participation Act, the Urban Areas and Cities Act or any other relevant written law; No 17 of 2012.
No. 13 of 2011.
No.13 Of 2014
- (f) in collaboration with Kenya Bureau of Standards and Anti-Counterfeit Agency, to promote and facilitate elimination of substandard and counterfeit alcoholic drinks products in the county;
- (g) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to alcoholic drinks control
- (h) develop in collaboration with other county national government departments strategies and plans for implementing this Act and control of alcohol abuse and any other relevant national legislation and coordinate and support their implementation;
- (i) advise the Executive Member generally on the exercise of his powers and performance of his functions under this Act, and in particular on county policy and laws to be adopted in regard to the production, manufacture, sale and consumption of alcoholic drinks;
- (j) in collaboration with other relevant county departments, prepare and submit an alcoholic drinks quarterly reports and an annual status report to the Executive Member which shall be transmitted to the County Executive Committee,

county assembly and the Authority for consideration;

- (k) recommend to the Executive Member and participate in the formulation of policies, laws and regulations related to alcoholic drinks control;
- (l) receiving, review, approving and granting licences in accordance with applications recommended by the sub-county committees;
- (m) monitoring and evaluating the implementation of this Act including the operations of the Sub-county Committees and advising the executive member on the necessary measures to be adopted; and
- (n) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the county executive member.

(7) For avoidance of doubt, the Board shall—

- (a) be established as a distinct and separate unit in the department;
- (b) not be merged with any other Board or unit within the department; and
- (c) not be assigned any other county functions except where appropriate the prevention and control of drug and substance abuse.

(8) The Board shall be headed by a Chairperson who shall be appointed in accordance with procedures laid down under the Embu County Public Appointments (County Assembly approval) Act.

(9) A person shall not be appointed as a Chairperson unless the person—

- (a) holds a masters degree in health science, social science, administration, law or any related field from a recognized university;
- (b) has at least five years' experience in management in public or private sector; and

- (c) has no pecuniary interest or is associated in the alcohol industry.

(10) The Chairperson may be removed from holding the position in accordance with the guidelines established under the County Governments Act, 2012.

(11) The county executive member and the County Public Service Board shall ensure that the Board has adequate human, financial and any other appropriate resource to enable it carry out the functions assigned under this Act.

- (12) The annual report referred to in sub section (2) (h) shall contain among others—

- (a) data on status of alcoholic drinks use and impact disaggregated in terms of age, gender, geographical location such as ward, sub-county and county;
- (b) the social and economic impact of use of alcoholic drinks in the county;
- (c) measures adopted to control and reduce the use and negative impact of alcoholic drinks in the county;
- (d) level of public participation in implementing the Act and feedback from residents of the county in relation to appropriate processes for mitigating impact of alcoholic drinks use;
- (e) data on use of treatment and rehabilitation services in each ward;
- (f) challenges faced in implementation of the Act;
- (g) level of collaboration with other county and national government agencies; and
- (h) any matter relevant to the implementation of the Act.

(13) The county executive member shall publish and publicize the annual report prepared under subsection (2) (h) through the established county communication methods which shall include the county website and community forums.

Amended

5. (1) The county executive committee shall in accordance with the requirements of the County Governments Act, establish the following units within the Department—

Establishment of
units within the
Department

- (a) product safety and compliance unit which shall be responsible for ensuring the safety of alcoholic drinks products and carrying out liaison with the Kenya Bureau of Standards and the Anti-counterfeit Agency for the purposes of facilitating effective and efficient enforcement of alcoholic drinks product standards and quality;
- (b) enforcement unit which shall be responsible for enforcing and coordinating with relevant agencies the enforcement of this Act; and
- (c) prevention, public education and community empowerment unit which shall be responsible for carrying out and coordinating community public education and empowerment in order to mitigate the negative social and economic impact associated with use of alcoholic drinks.

(2) The county public Service Board shall ensure each unit established under subsection (1) is resourced with persons qualified in the fields related to the respective functions.

6. The county department responsible for liquor control shall—

Establishment of
rehabilitation
facilities and
programs.

- (a) in collaboration with the other relevant county and national government departments establish treatment and rehabilitation services, facilities and programs for persons dependent on alcoholic drinks in each county health facility;
- (b) ensure that the treatment and rehabilitation services, facilities have the necessary human resources for effective operation and service delivery system;
- (c) ensure that the treatment and rehabilitation services, facilities and programmes—
 - (i) are designed in a manner that is accessible and affordable to persons dependent on alcoholic

drinks; and

- (ii) where applicable, are integrated with other health and social services and programmes.

7. (1) There is established the county interdepartmental alcoholic drinks control committee. Interdepartmental Committee.

(2) The interdepartmental committee shall consist of—

- (a) the chief officer responsible for alcoholic drinks control who shall be the chairperson;
- (b) the chief officers responsible for the following departments—
 - (i) health;
 - (ii) social services
 - (iii) economic planning;
 - (iv) trade; and
 - (v) youth affairs
- (c) the person in charge of legal services in the county;
- (d) the director who shall be an ex officio member and the secretary; and
- (e) any other chief officer as the county executive committee may designate.

(3) The interdepartmental committee shall be responsible for—

- (a) advising the county executive committee on such multi-disciplinary and inter-sectoral policy and legislative measures to be adopted for the control of alcoholic drinks;
- (b) coordinating, monitoring and evaluating the implementation of this Act and any other policy decision from a multi-disciplinary approach as may be directed by the county executive committee;
- (c) facilitating interdepartmental collaboration and consultation in the implementation of this Act; and
- (d) carrying out any other function as may be assigned to it by the county executive committee

(4) The interdepartmental committee shall prepare and submit quarterly reports to the county executive member for consideration by the County Executive Committee.

(5) The interdepartmental committee shall regulate its own procedure

8. (1) There shall be in each ward the ward alcoholic drinks control committee. Ward committee.

(2) A ward committee shall consist of—

(a) the ward administrator who shall be the chairperson;

(b) the officer of national government responsible for coordinating national government functions in the ward who shall be an member;

(c) the county officer responsible for social services in the ward who shall be an ex officio member and the secretary;

(d) two elders one of whom shall be of either gender;

(e) two youth one of whom shall be of either gender;

(f) one person nominated by faith based organizations in the ward; and

(g) one person representing non-governmental organizations or community based organizations in the ward.

(3) All the members of the ward committee who are not government officers shall be appointed by the county executive member having regard to regional balance and gender equality.

(4) The ward committee shall be responsible for—

(a) facilitating the implementation of this Act in the ward;

(b) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the ward;

(c) advising the Board on the appropriate alcoholic drinks control strategies and measures to be adopted in the ward;

Deleted

- (d) designing and coordinating implementation of ward based community outreach programmes for alcoholic drinks control in the ward;
- (e) receiving and collating public views on the implementation of the Act as well as matters related to alcoholic drinks production consumption, sale and impact in the ward; and
- (f) carrying out any other function as may be assigned under this Act.

(4) A ward plan and strategies prepared under subsection (3) shall form part of the departmental plans for the purposes of effective implementation of this Act.

(5) The conduct of business and affairs of the committee shall be as prescribed by the Executive Committee Member.

9. (1) There is established a fund to be known as the **Alcoholic Drinks Control Fund**. Establishment of the Fund.

(2) The Fund shall consist of—

- (a) such licence and other fees as may be payable under this Act;
- (b) such sums as may be realized from property forfeited to the county government under this Act;
- (c) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any person;
- (d) moneys earned or arising from any investment of the Fund;
- (e) all other sums which may in any manner become payable to, or vested in, the Fund.

(3) Where, in terms of subsection (2) (b), any immovable property is assigned to the Fund, the Board shall deal with the property in such manner as it deems fit and may sell the property and use the proceeds of sale for the purposes for which the Fund is established.

(4) The Fund shall be used for meeting the capital and recurrent expenditure relating to—

- (a) carrying out the functions of the Board stipulated

under section 4 and the strategies, plans and programmes developed by the ward committees established under section 8;

- (b) assisting in the operations of the Committees;
- (c) to develop and provide rehabilitation services, facilities and programs and to mitigate social and economic impact alcohol use in the County as provided under section 6; and
- (d) any other matter related to the implementation of this Act.

(5) An amount of—

- (a) not less than thirty percent of the budget of the Fund shall be allocated for treatment and rehabilitation services and programmes and shall be allocated to the county department responsible for health services for that purpose; and
- (b) not more than three percent of the budget of the Fund shall be allocated for administration costs

(6) The receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall be retained in the Fund for the purposes of the Fund.

10. (1) The Fund shall be administered by the Chief officer for the time being responsible for alcoholic drinks control who shall be the accounting officer. Administration of the Fund.

(2) The accounting officer may, with the approval of the Executive Member for the time being responsible for finance, invest or place on a deposit account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

(3) The accounting officer shall in consultation with county executive member—

- (a) supervise and control the administration of the Fund;
- (b) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning use of expenditure;

- (c) prepare quarterly reports of the operations of the fund and submit to the county assembly;
- (d) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;
- (e) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003 and in such details as the county treasury may from time to time direct;
- (f) furnish such additional information as may be required for examination and audit by the Auditor-General or under any law; and
- (g) designate such staff as may be necessary to assist in the management of the Fund provided that such staff shall work in the Department.

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No 12 of 2003.

11. (1) The county executive member shall, within three months after the enactment of this Act cause to be prepared a five year strategic plan for implementing this Act which shall be approved by the County Executive Committee and the County Assembly.

Strategic
Planning.

(2) The plan prepared under subsection (1) shall form part of the sectoral plans prepared under the County Integrated Development Plan.

(3) No expenditure related to the Fund shall be incurred unless the activity related to the expenditure is provided for under the plan prepared under this section.

PART III—LICENSING

12. (1) No person shall—

Control of
Alcoholic Drinks.

- (a) manufacture or otherwise produce;
- (b) sell, distribute or dispose of, or deal with;

any alcoholic drink in the county except under and in accordance with a licence issued under this Act.

(2) Any person who contravenes the provisions of subsection (1) commits an offence.

(3) Subsection (1) shall not apply to—

- (a) the importation of alcoholic drinks into the country if the alcoholic drink has been imported to the country pursuant to an import license issued under the Alcoholic Drinks Control Act, 2010;
- (b) the bona fide administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon registered under the Veterinary Surgeons Act or a pharmacist registered under the Pharmacy and Poisons Act, of a medicine containing alcoholic drink; Cap. 366.
Cap.244.
- (c) the sale of spirituous or distilled perfume, or perfumery;
- (d) the sale of industrial alcohol;
- (e) the sale by auction by an auctioneer, licensed under the Auctioneers Act, 1996, of an alcoholic drink in quantities not less than those authorized to be sold under a wholesale alcoholic drink licence belonging to a wholesale dealer, on the licensed premises of the dealer; No.5 of 1996.
- (f) the sale by a deceased person's legal personal representative of an alcoholic drink forming part of the estate of the deceased person;
- (g) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;
- (h) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets;
- (i) the sale of alcoholic drink at the county assembly buildings, if sold with the permission of the Speaker of the county assembly; and
- (j) the sale of alcoholic drink to the members only of any canteen, club, institute, mess or similar institution of the disciplined forces for reasons other than for personal profit:

Establishment of
the Sub-county
committee.

13. (1) There shall be, for every Sub-county, a committee to be known as the Sub-county Alcoholic Drinks Regulation Committee which shall-

- (a) receive, review and recommend or reject for approval, applications for licence in accordance with this Act;
- (b) perform such other functions as may, from time to time be assigned to it by the Executive Member.

(2) The Sub-county Committee may, in the discharge of its functions under this Act, make inspection or other visits to premises at such times as it may deem appropriate. Provided that not more than six months shall pass before conducting an inspection on licensed premises

(3) The sub-county committee shall issue an inspection report in the prescribed form for each inspection carried out.

(5) The sub-county committee shall consist of—

- (a) A chairperson appointed by the Executive Committee Member with the approval of the County Assembly
- (b) the sub-county administrator appointed under the County Governments Act who shall be the secretary
- (c) the sub-county public health officer;
- (d) one officer designated by the Board who shall be a representative of the stakeholders;
- (e) the officer responsible for coordination of national government functions in the sub-county who shall be an ex-officio member;
- (f) the officer for the time being responsible for physical planning in the sub-county;
- (g) one person nominated by religious organizations in the sub-county in accordance with the prescribed procedure;
- (h) two residents of the sub-county appointed by the Executive Member through a competitive process and with the approval of the County Assembly in accordance with the prescribed rules, one of whom

No. 17 of 2012.

Amended.

shall be a youth provided that not more than two persons shall be of the same gender.

- (i) the officer in charge of the Kenya police service in the sub-county who shall be an *ex-officio* member; and
- (j) the officer in charge of the administrative police in the sub-county who shall be an *ex-officio* member.

(2) A person shall not be appointed as a Chairperson unless the person—

- (a) holds a master's degree in health science, social science, administration, law or any related field from a recognized university;
- (b) has at least five years' experience in management in public or private sector; and
- (c) has no pecuniary interest or is associated in the alcohol industry.

14. (1) In carrying out its functions, the Board, sub-county and ward committees shall—

Public participation and interagency collaboration.

- (a) ensure that there is effective public participation in accordance with the framework for citizen participation established under the County Governments Act, the Urban Areas and Cities Act, The Public Participation Act or any other relevant written law;
- (b) collaborate with ward administrators and village administrators and councils appointed under the County Governments Act, 2012 and the officers in charge of coordination of national government functions in the wards and villages;
- (c) collaborate with similar committees in other counties for effective implementation of the Act.

No 17 of 2012.

No. 13 of 2011

No. 17 of 2012.

(2) The authorized officers specified under section 55 or any person designated by the Authority shall attend the meetings of the Ward or Sub-county Committee in an *ex-officio* capacity.

(3) An officer who is a member of the Ward or Sub-county committee under sub-section (1) may be represented to the committee meetings by another officer who shall not

Amend.

be below the rank of the deputy to the officer being represented.

(4) A person shall not be a member of a Committee established under this Act if such person is—

- (a) the holder of or a licence in the county under this Act;
- (b) a partner in a firm or director or shareholder of a company or other body which is the holder of a licence in that county under this Act;
- (c) directly or indirectly employed as an agent of a person, firm or company which is the holder of a licence in the county under this Act unless he or she represents liquor dealers;
- (d) undischarged bankrupt;
- (e) a person who has been convicted of an offence under this Act or of a felony.

(7) The conduct of business and affairs of the sub-county committee shall be in such manner as may be prescribed.

(8) The Board shall provide secretariat services for the, sub-county and ward committees.

✓ **15.** (1) The county executive member shall cause to be prepared a code of ethics for the committees established under this Act. Code of Ethics.

(2) A person shall not transact any business of the respective committee unless the person has signed the code of ethics.

(3) The county executive member shall, within three months after coming into force of this Act, prepare the code of ethics described under subsection (1) which the members shall sign.

(4) A person who breaches the code of ethics prepared under this section shall cease being a member of the respective committee.

16. (1) A person intending to produce, manufacture, distribute any alcoholic drink in the county or to operate an establishment for the sale of an alcoholic drink shall make an application in a prescribed form to the sub-county Committee in the sub-county where the premise is to be situated and shall pay a prescribed fee. Application for
licence.

(2) The application under subsection (1) shall contain-

- (a) a comprehensive information on the nature, orientation and other justification for the establishment of the manufacturing plant or establishment for sale;
- (b) an indication as to whether the manufacture or sale of the alcoholic drink is licensed in another county and if so the evidence of such licensing;
- (c) an indication that the manufacturer has a depot within the county;
- (d) for a manufacturer's licence, certification from Kenya Bureau of Standards; and
- (e) such other matters as may be prescribed.

Amend
(3) The sub-county committee shall, within twenty-one days after the submission of application for a licence, prepare a notice setting forth the names of all applicants, the types of licences applied for, the premises in respect of which the licences are applied for and the time, date and place of the meeting, and shall forthwith cause a copy of the notice to be—

- (a) published at the office of the Sub-county administrator for a period of not less than twenty-one consecutive days;
- (b) posted in some conspicuous place at or near the applicant's premises;
- (c) sent to the Inspector-General of Police, or to such police officer as the Inspector-General may have notified the Governor that he has appointed to receive it on his behalf;
- (d) sent to the sub-county public health officer in the sub-county in which the premises in respect of which the licences are applied for are situated; and
- (e) sent to the sub-county physical planning officer

(4) The sub-county public health officer; and the sub-county physical planning officer shall, before the hearing of any application under this section, report as fully as possible to the sub-county committee on all matters which may be relevant to the consideration of the application.

(5) The Inspector-General of Police or, as the case may be, of the police officer appointed by him for that purpose shall submit a report to the sub-county committee on any matter relevant to the application if in his opinion the applicant does not qualify to be granted a license.

(6) Any person may lodge objection to an application.

(7) Every objection to an application shall be made in writing to the Secretary to the sub-county committee, and the sub-county committee shall serve notice of the grounds of the objection on the applicant, personally or by post, at least seven days before the hearing of the application and the onus of proof of such service shall be on the objector.

(8) A sub-county committee may of its own motion take notice of any matter or thing which, in the opinion of the committee, constitutes an objection to an application, whether or not any objection has been otherwise lodged.

(9) Where in respect of an application a sub-county committee acts in pursuance of subsection (7), the committee shall inform the applicant of the nature of the objection, and shall, if the applicant so requests, adjourn the hearing for such period, not being less than seven days, as the sub-county committee considers necessary to enable the applicant to reply thereto.

(10) Every person making an application shall, save as otherwise provided, appear in person or by an advocate before the Sub-county Committee, and shall satisfy the Sub-county committee that there is need for the grant of a licence of the type applied for in the particular locality in respect of which the application is made.

(11) A sub-county committee may require the personal appearance before it of the applicant, or of the manager of the premises to which the application relates, or of both of them and of any other person whose attendance is considered by the committee to be necessary.

(12) Any objector may appear personally or by an advocate at the hearing of the application.

(13) A sub-county may authorize, in writing, any person to appear before any sub-county committee having jurisdiction in any part of the area within the Sub-county for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

(14) Where a sub-county committee considers necessary to take evidence respecting any question to be determined by the court, such evidence shall be given on oath, and the chairman shall be empowered to administer oaths.

(15) For the purposes of Chapter XI of the Penal Code (which concerns offences relating to the administration of justice), all proceedings before a sub-county committee shall be deemed to be judicial proceedings. Cap.63

(16) Every sub-county committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon:

Provided that no decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned.

(17) The sub-county committee shall, within twenty-one days of receipt of the application under subsection (1), record the application and assess the same on the basis of the objections received if any and the interests of the sub-county, and shall ensure that-

- (a) the available premises are suitable with regard to the nature of the licence being sought;
- (b) the premises conform to the prescribed requirements of the occupational health and safety regulations;
- (c) the applicant possesses the infrastructure and equipment necessary to carry out the business applied for;
- (d) the applicant for a licence to brew, distill, bottle or manufacture an alcoholic drink possesses necessary qualifications and relevant requirements stipulated under Standards Act or any other relevant written law; and Cap 496.
- (e) the premises has sufficient number of competent staff in line with such norms as may be prescribed.

17. (1) The sub-county committee shall, after considering the application under section 16, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the sub-county committee has no objection to the application under section 16, it shall submit the application to the Board for review, approval and grant of licence.

Amend (3) The Board shall review the application and if it has no objection to the application, it shall grant a licence to the applicant upon payment of the prescribed fee.

(4) The licence issued shall be in such form as may be prescribed and subject to such conditions as the Board may consider fit.

(5) Where the Board is not satisfied with the application under subsection (1), it may-

- (a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within fourteen days.

(6) The applicant to whom the application is returned under subsection (5) (b) may re-submit a revised application within thirty days of the date of notification to the sub-county committee.

(7) On receipt of any revised application under subsection (6), the Sub-county committee shall, within thirty days review the application in accordance with this Act and upon such review, if satisfied, it shall submit the application to the county committee for consideration.

(8) Where the sub-county committee grants a licence under this section it shall, publish the grant in the ward administrator's office in the respective Ward.

18. (1) Despite the provisions of sections 16 and 17, the Board may on recommendation of the sub-county committee, issue a provisional license for the manufacture or sale of an alcoholic drink for such period not exceeding six months as may be appropriate where the county committee is satisfied that the applicant for the license has

Provisional
Licence.

demonstrated to the satisfaction of the county committee that the manufacture or sale of the alcoholic drink is licensed in another county but the issuance of the provisional license shall be subject to the applicant complying with the provisions of sections 16 and 17 within the period of the provisional licence.

(2) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used for the sale of alcoholic drinks for consumption on such premises, any person having an interest in the premises may apply in the prescribed form to the county committee for an assurance that, on the completion of the construction or reconstruction, a licence of the type to be specified in the application will be granted in respect of such premises.

(3) The provisions of section 16 and 17 shall apply to such applications, which shall be accompanied by a signed copy of the plans of such premises.

(4) The county committee may, subject to such reasonable conditions as it may therein include, give to the applicant an assurance in the prescribed form that, on the completion of the premises, a licence of the type specified therein will be granted or it may refuse to give such an assurance.

(5) Where such an assurance has been given under subsection (4), the county committee may, on any date, on being satisfied that the premises have been completed in accordance with the signed plans submitted under subsection (3) and that any conditions which may have been imposed in the assurance have been complied with, issue to the applicant a licence of the type specified in the assurance in respect of the premises.

(6) Any assurance given under subsection (4) shall become ineffective and the county committee shall not issue a licence if, between the date of the giving thereof and the date of completion of the premises, the applicant becomes a person to whom in accordance with section 21, a licence may not be granted.

19. (1) The county committee shall not grant a new licence for the sale of an alcoholic drink to be consumed on the premises or sale of an alcoholic drink in an off licence retail outlet commonly referred to as wines and spirits unless the county committee is satisfied that—

Licence of
Premises for Sale
of Alcoholic
Drinks.

- (a) it would be in the public interest for provision to be made for the sale of alcoholic drink for consumption on the premises or in the off licence retail outlet in the particular locality in respect of which the application is made, and that the number of such premises in respect of which such licences have already been granted is insufficient for the requirement of the locality as provided under the First Schedule:

Provided that no licence shall be granted to sell alcoholic drinks in any institution of basic education including primary and secondary schools or any residential area as have been demarcated by or under the relevant written laws;

- (b) the premises in respect of which the application is made are in good repair and are in a clean and wholesome condition, and are provided with adequate and proper sanitary arrangements; and
 - (c) the Board may issue a license to a premise located within three hundred , hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years: Provided that where a premise is located within three hundred metres from the school, the premises displays on its outside any of the prescribed health messages shall be displayed in a clear and visible number;
 - (d) the premises in respect of which the application is made is located within the areas prescribed under the First Schedule
 - (e) The premises do not share a wall with the institution and are sealed off by a physical and non-transparent barrier that ensures zero visibility of the premise from the locality of the institution.
- (2) The county committee shall not grant a licence for the sale of an alcoholic drink in—
- (a) a supermarket or such other related retail chain store unless it is satisfied that the applicant has taken measures to ensure that the area in which the sale is to take place is not accessible to persons under the age of eighteen years;

- (b) a restaurant; and
- (c) an outlet or premises located within a fuel station or within a distance of one hundred metres from a bus park as designated by the county government.
- (3) For avoidance of doubt—
 - (a) no licence shall be granted for sale of alcoholic drinks in the premises or for sale of an alcoholic drink in an off licence retail outlet commonly referred to as wines and spirits in any area except the urban areas stipulated under the First Schedule; and
 - (b) the maximum number of premises licenced under paragraph (1) shall not exceed the number provided under the First ~~schedule~~ ^{regulations} in respect of each urban area.
- (4) The county committee shall not grant licence for sale of alcohol in a general retail (off licence) outlet whose floor area measures less than twenty square metres.
- (5) The county executive member shall, subject to the approval by the county assembly classify and zone specific areas or streets within the urban areas to be alcohol sale free zones.
- (6) Where an area has been classified as an alcohol sale free zone, no alcoholic drink licence shall be issued for sale of alcoholic drinks within that area
- (7) The county executive member shall, while classifying the areas under subsection (5) take into consideration the public order, social order, public health, public safety and public security interests and factors in relation to the specific urban area.

20. (1) The county committee shall not grant a new licence or transfer a licence to any person who—

Persons not eligible for a licence.

- (a) has failed to satisfy the county committee, if called upon to do so, of his good character and standing in relation to the expectations in this Act; or
- (b) has been convicted of an offence under this Act or of any offence of which the sentence is imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or

Amended

- (c) in the case of a retail licence, is not resident in Kenya; or
- (d) is under eighteen years of age; or
- (e) is an undischarged bankrupt.

(2) The Sub-county committee may refuse to renew an existing licence only when the county committee is satisfied that-

- (a) the licensee is not a fit and proper person to hold the licence; or
- (b) the licensee has been convicted of an offence under this Act or any Act at any time in force regulating the manufacture, distillation, distribution sale of an alcoholic drink for more than three times within one year; or
- (c) has been convicted of a offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) the business to which the licence relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by the county Committee ; or
- (e) the conditions of the licence have not been satisfactorily fulfilled; or
- (f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the county public health officer and the owner of the premises or the licensee refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by the county committee.

21. (1) Except as otherwise provided in this Act, the Board may, subject to this Part, grant, renew, or remove a licence, and may embody therein such conditions as it may deem appropriate, or it may refuse to grant, renew, transfer, withdraw or cancel a licence.

Validity and
Renewal of
Licences.

(2) Every licence and every renewal, withdrawal or cancellation thereof shall be sufficiently authenticated by the county committee.

(3) Every grant of a licence or its every renewal shall—

- (a) be subject to the payment of such fee or fees as may be prescribed;
- (b) expire on the last day of the calendar year for which it is granted;
- (c) specify in the licence the hours stipulated under the Second Schedule within which the sale of alcohol is permitted and any other relevant condition.

(4) Where an application for the renewal of a licence has been made and the county committee has not by the date of expiration of the licence reached a decision thereon, such licence shall continue in force until the decision of the county committee is made known.

(5) Where an application for a licence has been refused, or a licence has been cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the county committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the county committee.

22. (1) An applicant whose application for a new licence, to renew or transfer a licence has been refused may within fourteen days of such refusal, request in writing the review of such refusal to the county review committee. Review.

(2) A person aggrieved by the decision of the sub-county committee to approve grant of a new licence or to renew a licence may request in writing, the appeal of such decision by the county review committee.

(3) Upon receipt of a request under this section, the review committee shall notify the sub-county committee of the pending appeal.

(4) The review committee shall within twenty-one days consider and make a final determination on the request for appeal.

Amend.

(5) The review committee may—

- (a) dismiss the request for appeal if in its opinion, the request is frivolous or vexatious;
- (b) uphold the decision of the sub-county committee;
- (c) annul the decision of the sub-county committee
- (d) give directions to the sub-county committee with respect to any action to be taken; or
- (e) make any other declaration as it may deem fit.

Amen 23. Subject to section 23, an applicant whose Appeals to Court. application for a new licence, to renew or transfer a licence has been refused or a person aggrieved by decision of the county committee may appeal against such refusal or decision to the High Court.

24. (1) A licence issued to a body corporate shall be Licences to body corporate. issued in the name of the body corporate:

Provided that the county committee shall require prior disclosure of the directorship of the body corporate or refuse to grant a licence to the body corporate if any of the directors does not qualify to be granted the licence individually.

25. (1) The several licences which may be granted Types and conditions of licences. under this Act shall be those specified in the Third Schedule, and the provisions of that Schedule and of any rules made under this Act shall have effect in relation to the respective licences therein specified.

Amen (2) The county committee shall, when a licence is granted, renewed, withdrawn or cancelled, include in the licence a sufficient description of the licensed premises.

(3) A licence shall not be granted to apply to more than one premises.

(4) A person intending to sell alcoholic drink in premises classified as lodging shall apply for general retail alcoholic drink licence.

(5) A holder of a hotel alcoholic drink licence shall-

- (a) not sell alcoholic drink to a person other than a lodger unless in area situate in premises within the hotel where the holder possesses a general alcoholic

drink retail licence where sale of alcoholic drink occurs under conditions for a general alcoholic drink licence;

(b) designate an area as a bar area where sale and consumption of alcoholic drink shall only take place and which shall be a restricted area for access to persons under the age of eighteen years; and

(c) not sell an alcoholic drink in the area designated as dining area.

(6) A holder of a general retail licence (off licence) shall not sell alcoholic drink for consumption in the premises.

(7) The county executive member shall issue a list of all premises in the county that are classified as hotel in accordance with the relevant written law.

(8) A person who contravenes subsection (5) and (6) commits an offence and shall, upon conviction be liable to a fine not exceeding one hundred thousand Kenya shillings or to imprisonment for a term not exceeding six months.

26. If the renewal of a licence is refused, the licensee shall, on payment of the proportionate part of the fee for the appropriate licence, be entitled to a licence of such description and for such period, not exceeding three months, as the county Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such period to commence on the day after the last sitting of the county Committee at which the renewal of his licence has been refused, or on the day after the termination of his existing licence, whichever day is the later.

Removal of
Licence.

27. (1) Every licence shall be prominently and conspicuously displayed on the premises to which it relates, and any licensee who fails or neglects so to display his licence commits an offence.

Display of
Licence.

(2) Where a wholesale alcoholic drink licence is granted so as to be applicable to more premises than one, it shall be displayed in the premises first named therein and copies thereof displayed in the other outlets.

(3) Any person causing or permitting to be on his premises or on premises under his control any words, letters

or sign falsely importing that he is a licensee commits an offence.

28. (1) Notwithstanding the provisions of any other written law, no licensee shall employ a person under the age of eighteen years, to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks on licensed premises.

Employment for
sale of alcoholic
drinks.

(2) Where a licensee permits another person to manage, superintend or conduct the day-to-day business of the premises in respect of which he is licensed, the licensee shall not be relieved of his duties and obligations under this Act.

(3) Any person who contravenes the provisions of this section commits an offence.

29. (1) A licensee or an agent or employee of a licensee may refuse to admit to, and shall expel from, the premises to which his licence relates any person who is drunk and disorderly, violent, or quarrelsome, or whose presence would subject the licensee to a fine or penalty under this Act.

Drunken
behaviour.

(2) Any person referred to in subsection (1) who, on being requested by the licensee or his agent or employee, or by a police officer, to quit the licensed premises, refuses to do so, commits an offence.

(3) On the demand of a licensee or his agent or employee, a police officer shall expel or assist in expelling from the licensed premises the person referred to in subsection (1).

(4) A licensee who permits any drunkenness leading to violent, quarrelsome or riotous conduct to take place on the premises to which the licence relates commits an offence.

30. No suit shall be maintainable to recover any debt alleged to be due in respect of the sale of any alcoholic drink which was delivered for consumption on the premises where it was sold unless it was sold for consumption with a meal supplied at the time of sale or unless the person to whom it was sold or supplied was at the time of the sale a lodger on such premises.

Debt from sale of
alcoholic drinks.

31. (1) No person holding a licence to manufacture, store or sell alcoholic drinks under this Act shall allow a

Access by persons
under age of
eighteen.

person under the age of eighteen years to enter or gain access to the area in which the alcoholic drink is manufactured, stored, sold or consumed.

(2) A person shall not enter or gain access to an area referred to under subsection (1) if such a person is in custody or accompanied by a person under the age of eighteen years.

(3) Any person who contravenes the provisions of subsection (1) and (2) commits an offence.

32. (1) A Sub-county public health officer within whose jurisdiction the premises fall shall report to the Sub-county Committee any licensed premises which are deficient in their state of sanitary or drainage conditions, or which are in bad repair.

Reports by public health officers and police officers.

(2) A Sub-county public health officer or any person authorized by him in writing in that behalf may enter and inspect any licensed premises for the purpose of ascertaining whether a report under subsection (1) is required.

(3) A police officer not below the rank of Inspector shall report in writing to the chairperson of the appropriate Sub-county Committee every case in which a licensee is of drunken habit or keeps a disorderly house, or commits any breach of any of the provisions of this Act or of his licence.

(4) A police officer not below the rank of Inspector may without written authority enter and inspect any licensed premises for the purpose of ascertaining whether a report under subsection (1) is required.

33. (1) Upon receipt of a report made under section 32 the Sub-county Committee shall—

Cancellation of licence.

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing him that at a meeting of the Sub-county Committee to be held on a date to be specified, but not less than thirty days there from, the report will be considered by the Sub-county Committee;
- (b) send a copy of the report to every member of the Sub-county committee and to the Officer Commanding Police Services in the Sub-county; and

- (c) inform the Sub-county public health officer or the police officer, as the case may be, of the date upon which the Sub-county committee will consider the report, and require him to attend on the date specified.

(2) Any licensee concerning whom a report is to be considered may appear in person or by advocate before the Sub-county Committee.

(3) The Sub-county Committee, having duly considered the report and having heard the licensee, if he appears, may, if it thinks fit, cancel the licence of the licensee reported upon, or it may make such recommendations to the county committee in respect of such licence or the licensed premises specified therein as, in the opinion of the Sub-county Committee, is necessary.

(4) The county committee upon receiving and reviewing the recommendations under subsection (3), may make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the county committee, is necessary

(5) Any person aggrieved by the decision of the county committee upon any such report may within twenty-one days appeal against the decision to Court.

(6) The Court, on an appeal under this section, may confirm or reverse the decision of the county committee.

(7) If a licence is cancelled or if on appeal under subsection (6), the appeal is dismissed by the Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the Sub-county committee may deem necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such licence to run from the date of the decision of the county Committee or of the Court as the case may be.

34. (1) A licensee under this Act shall—

- (a) maintain a list of all alcoholic drinks manufactured, distributed or sold in the prescribed form;
- (b) maintain a list of persons who supply to the licensed persons inputs for manufacturing alcoholic drinks in the case of a manufacturer and

List of suppliers to
be maintained

the persons who supply alcoholic drinks to a licensed person in the prescribed form; and

- (c) submit in the list described under paragraphs (a) and (b) in each month to the county executive member.

(2) The county executive member shall facilitate the establishment of an online system for submitting the lists described under subsection (1).

(3) A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty thousand or to imprisonment for a term not exceeding one month.

PART IV—GENERAL REQUIREMENTS

35. (1) No person shall manufacture, or distribute or sell an alcoholic drink in the county that does not conform to the requirements of this Act or any other written law regulating alcoholic drinks. Conformity with requirements.

(2) A person who contravenes the provisions of this section in relation to manufacture, distribution of an alcoholic drink commits an offence and shall be liable to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding five years, or to both.

(3) A person who contravenes the provisions of this section in relation to sale of an alcoholic drink commits an offence and shall be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

36. (1) No person shall sell, supply or provide an alcoholic drink to a person under the age of eighteen years. Supply to young persons.

(2) Subject to subsection (3), a person who contravenes the provisions of subsection (1) commits an offence and shall be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

(3) Notwithstanding the provisions of subsection (1), it shall be a defence to an offence under this section if it is established that the accused person attempted to verify that the young person was at least eighteen years of age by asking for and being shown any of the documents specified

in subsection (4) for the purpose of verifying the age of the young person and believed, on reasonable grounds, that the documentation was authentic.

(4) For the purposes of this section, the following documentation may be used to verify a person's age —

- (a) a national identity card issued by the Republic of Kenya;
- (b) a passport issued by the Republic of Kenya or any other country; or
- (c) any other documentation as the Executive Member may prescribe.

37. (1) Every retailer shall post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of an alcoholic drink to a person under the age of eighteen years is prohibited by law. Display of signs.

(2) Every sign required to be posted under subsection (1) shall—

- (a) be displayed on a surface measuring not less than 12 inches by 8 inches in size;
- (b) bear the word “WARNING” in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement;
- (c) be in English or in Kiswahili.

(3) A retailer who contravenes any of the provisions of this section commits an offence and shall be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

(4) The county executive member shall, in collaboration with the relevant county department install within the distance of three hundred metres from all nursery, primary and secondary schools, signs bearing the words “WARNING: THIS IS AN ALCOHOL FREE AREA”.

38. (1) No person shall sell or permit an alcoholic drink to be sold by way of an automatic vending machine.

Vending
machines.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

39. (1) No person shall sell, manufacture, pack or distribute an alcoholic drink in sachets or such other form as may be prescribed under this Act or any other relevant written law.

Packaging.

(2) Notwithstanding the provisions of subsection (1),

(a) no person shall manufacture, pack, distribute or sell in the county an alcoholic drink in a container of less than 250 mililitre;

(b) any other distilled or fortified alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a); and

(c) Labelling on containers should have the health warnings as prescribed under national standards and legislation.

(3) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

PART V—SALE AND CONSUMPTION

40. Any licensee who sells an alcoholic drink to a person already in a state of intoxication or by any means encourages or incites him to consume an alcoholic drink commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings.

Sale to intoxicated
person

41. (1) Any person found by a police officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place may be arrested without warrant and brought without unreasonable delay before a Magistrate

Disorderly
conduct

(2) Any person convicted of being drunk and incapable or drunk and disorderly in or near a place referred to in

subsection (1) shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

(3) Upon conviction under sub-section (2), the convicting Magistrate may issue an order for community service to any person convicted of the offence under this section for more than one time in accordance with provisions of the Community Service Orders Act, 1998. ^{Cap 10.}

(4) Despite sub-section (3), any person convicted under subsection (2) on more than three occasions in any period of twelve months shall —

- (a) be ordered by the convicting Magistrate to undergo at his own cost, such rehabilitation programme as may be appropriate in a public health institution;
- (b) be forthwith reported by the convicting Magistrate to the Sub-county Committee, which shall inform such licensees as he deems desirable of such convictions, and thereupon, and until a period of twelve months has passed without any further such conviction in respect of that person, any licensee so informed who knowingly sells or supplies alcoholic drinks to or for delivery to that person commits an offence, and it shall furthermore be an offence for that person to be in possession of any alcoholic drink

42. (1) A person shall not knowingly sell, offer for sale or supply an alcoholic drink to a person who being in charge of driving a vehicle or being likely to be driving a vehicle immediately after the consumption of the alcoholic drink. ^{Sale to a driver of a vehicle.}

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding twenty thousand or to imprisonment for a term not exceeding one month.

43. (1) Any person who sells an alcoholic drink or offers or exposes it for sale or who bottles an alcoholic drink except under and in accordance with, and on such premises as may be specified in a licence issued in that behalf under this Act commits an offence and is liable— ^{Breach of licence.}

- (a) for a first offence, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding nine months, or to both;
- (b) for a second or subsequent offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both,

and in addition to any penalty imposed under paragraph (a) or (b), the court may order, the forfeiture of all alcoholic drinks found in the possession, custody or control of the person convicted, together with the vessels containing the alcoholic drink.

(2) Except as may be provided for in this Act, no person shall—

- (a) sell, supply or offer for sale an alcoholic drink in any workplace, office, factory, public park or any public recreational facility, public transport vehicle, public beach, sports stadium or public street; or
- (b) sell, purchase or consume an alcoholic drink in an alcoholic drink selling outlet after the expiry of the hours for which the outlet is licensed to sell the alcoholic drink.

(3) Any person who contravenes the provisions of subsection (2) commits an offence and shall be liable to the penalties specified under subsection (1)

44. Any person who knowingly sells, supplies or offers an alcoholic drink to an authorized officer or to a police officer in uniform or who harbours or suffers to remain on licensed premises any such police officer except for the purpose of keeping or restoring order or otherwise in the execution of his duty, commits an offence and is liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

Sale to authorized officer.

45. Any person who is required by any provision of this Act to disclose any conviction and fails to do so when making any application commits an offence.

Non disclosure of conviction.

46. (1) If any person purchases any alcoholic drink from a licensee whose licence does not cover the sale of

Sale without licence.

that alcoholic drink for consumption on the premises, and drinks the alcoholic drink on the premises where it is sold, or in any premises adjoining or near to those premises, if belonging to the seller of the alcoholic drink or under his control or used by his permission, or on any highway adjoining or near any such premises, and it is proved to the court that the drinking of the alcoholic drink was with the privity or consent of the licensee who sold the alcoholic drink, the licensee commits an offence.

(2) If a licensee whose licence does not cover the sale of alcoholic drink to be consumed on his premises himself takes or carries, or employs or suffers any other person to take or carry, any alcoholic drinks out of or from his premises for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any place (whether enclosed or not, and whether or not a public thoroughfare) other than the licensed premises, with intent to evade the conditions of the licence, the licensee commits an offence, and, if the place is any house, tent, shed or other building belonging to the licensee or hired, used or occupied by him, the licensee shall be deemed, unless the contrary is proved, to have intended to evade the conditions of the licence.

47. (1) No person shall manufacture, distribute, keep for sale, offer for sale or sell—

Manufacture and
sale of adulterated
drinks.

- (a) any alcoholic drink which has been in any way adulterated, or diluted by any person; and
- (b) any non-alcoholic drink which has been in any way adulterated with alcohol, or which contains any of the substances prohibited under any written law.

No. 4 of 2010.

(2) A person who, while manufacturing an alcoholic drink adulterates the alcoholic drinks by way of adding impurities, prohibited substances or additives to the alcoholic drink commits an offence and shall, upon conviction be liable to a fine not exceeding ten million Kenya shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) A person who knowingly distributes an alcoholic drink that is adulterated commits an offence and shall, upon conviction be liable to a fine not exceeding two million Kenya shillings or to imprisonment for a term not exceeding two years, or to both.

(4) A person who knowingly sells an alcoholic drink that is adulterated commits an offence and shall, upon conviction be liable to a fine not exceeding five hundred Kenya shillings or to imprisonment for a term not exceeding two years, or to both.

(5) On the conviction of a licensee of an offence under subsection (2), (3) and (4) the court may, in addition to any other penalty it may lawfully impose, if it finds that the drink in respect of which the offence was committed was adulterated by a substance or substances which rendered the drink unfit for human consumption, and unless the licensee proves to the satisfaction of the court that he took all reasonable precautions against such adulteration and that such adulteration took place without his knowledge or consent, order that his licence be forfeited, and no licence shall thereafter be granted or transferred to him.

48. (1) In any proceedings under this Act relating to the sale or consumption of an alcoholic drink, such sale or consumption shall be deemed to be proved if the court is satisfied that a transaction in the nature of a sale took place, whether or not any money has been shown to have passed, or as the case may be, if the court is satisfied that any consumption was about to take place. Proof of sale.

(2) Evidence of consumption or intended consumption of an alcoholic drink, on licensed premises by some person other than the licensee or a member of his family or his employee or agent shall be prima facie evidence that the alcoholic drink was sold by or on behalf of the licensee to the person consuming or about to consume the alcoholic drink.

49. (1) The onus of proving that a person is licensed under this Act shall lie on that person. Burden of proof.

(2) The fact that a person not licensed under this Act to sell alcoholic drinks has a signboard or notice upon or near his premises fitted with a bar or other place containing bottles, casks or vessels so displayed as to induce a reasonable belief that alcoholic drink is sold or served therein, or having alcoholic drink concealed, or more alcoholic drink than is reasonably required for the person residing therein, shall be deemed to be prima facie evidence of the unlawful sale of alcoholic drink by that person.

(3) In any proceedings under this Act, where a person is charged with selling alcoholic drink without a licence or without an appropriate licence, such alcoholic drink being in a bottle and appearing to be unopened and labelled by its bottler, the contents of such bottle shall be deemed, unless the contrary is proved, to be alcoholic drink of the description specified on the label thereof.

50. Every licensee who is convicted of an offence under this Act shall produce his licence to the court convicting him, and the court shall endorse every such conviction on the licence and the relevant administrative officer of the court shall inform the relevant county committee.

Endorsement of
conviction on
licence.

51. If in any proceedings before a court it appears that a licensee—

Forfeiture of
licence upon
conviction.

- (a) whether he was present in the licensed premises or not, has permitted an unlicensed person to be the owner or part owner of the business of the licensed premises or to have a substantial interest in that business, except with the consent of the county committee; or
- (b) is convicted of an offence under this Act and a previous conviction within the preceding twelve months of the same or any other offence under this Act or three such previous convictions within the preceding five years is or are proved; or
- (c) is twice convicted within twelve months of selling, offering or keeping for sale any adulterated alcoholic drink,

then the court may, in addition to any other penalty which it may lawfully impose, order that his licence be forfeited, and that no licence shall be issued or transferred to him for a period of two years.

PART VI—ADVERTISEMENT AND PROMOTION

52. (1) No person shall promote an alcoholic drink by way of outdoor advertisement—

Prohibited
advertisement and
promotion.

- (a) in a manner that is false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the alcoholic drink;

- (b) through painting or decorating any building or premises, except the interior part of licensed premises, with the name of the alcoholic drink or manufacturer, colour and brand images or logos associated with a manufacturer or an alcoholic drink or any other related form; and
- (c) in places demarcated under any written law as residential areas or within a distance of three hundred metres from nursery, primary, secondary school, or other institution of learning for persons under the age of eighteen years or a place of worship, health facility or a public playground, public road reserve or any other public land or property or in public service vehicle.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

(3) Pursuant to Article 24 (2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of—

- (a) protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks; and
- (b) protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

53. (1) No person shall promote an alcoholic drink—

Promotion at
underage events.

- (a) at any event or activity associated with persons under the age of eighteen years; or
- (b) using such things or materials that are associated with persons under the age of eighteen years.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five hundred thousand shilling or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) Pursuant to Article 24(2) of the Constitution the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks

54. (1) A licensee shall not —

Encouraging
consumption.

- (a) award, grant or give to a person an alcoholic drink for consumption in or outside the licensed premises without any consideration equivalent to the market price of the alcoholic drink; or
- (b) promote any alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.

(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

(3) Pursuant to Article 24 (2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks and also for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks

PART VII—ENFORCEMENT

55. (1) The county executive member shall, appoint for each Sub-county, any person or class of persons to be authorised officers for purposes of this Act.

Authorised
officers.

(2) The county executive member shall issue a certificate of appointment to every person appointed under this section.

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act ; and

Cap. 242.

Amend.

- (b) officers appointed as enforcement officers under the National Police Service Act, Standards Act, Weights and Measures Act and Anti-counterfeit Act; or

No. 111 of 2011

Cap 496.

Cap 513.

- (c) any other person upon whom any written law vests functions of the maintenance of law and order.

56. (1) There is established the County Alcoholic Drinks Control Enforcement Coordinating Committee for the purposes of enforcing this Act.

Enforcement
Committee.

(2) The Enforcement Committee shall consist of -

- (a) the chief officer responsible for alcoholic drinks control who shall be the chairperson of the Committee;
- (b) two authorized officer appointed under section 56;
- (c) the officer responsible for coordination of national government functions in the county;
- (d) the County Public Health Officer;
- (e) the officer in charge of police services in the county;
- (f) one officer appointed by Kenya Bureau of Standards;
- (g) one officer appointed by Anti-Counterfeit Agency; and
- (h) one officer appointed by Department of Weights and Measures.

(3) The Board shall provide secretariat services to the Enforcement Committee.

(4) The county executive member may establish an enforcement committee at sub county level similar to the county committee established under this Act with necessary modifications.

57. The functions of the Enforcement Committee shall be to—

Functions of
Enforcement
Committee.

- (a) co-ordinate enforcement of the Act;
- (b) monitor and evaluate the enforcement process and system under the Act;

Amend.

- (c) advise the county executive member on the necessary measures to be adopted in ensuring effective enforcement and compliance with the Act; and
- (d) carry out any other function as may from time to time be assigned by the county executive member.

58. (1) For the purposes of ensuring compliance with this Act, an authorised officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

Places authorized
officers may enter.

(2) An authorised officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 65 (2).

(3) Pursuant to Article 24(2) of the Constitution, the right to privacy set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

59. In carrying out an inspection in any place pursuant to section 58, an authorised officer may —

Powers of officers.

- (a) examine an alcoholic drink or anything referred to in that section;
- (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the alcoholic drink or thing;
- (c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains the alcoholic drink or thing;
- (d) conduct any test or analysis or take any measurements; or
- (e) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

(2) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of enforcement of this Act and for protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

60. In carrying out an inspection in a place, an authorised officer may — Use of records.

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and
- (d) scrutinize any other record system in use in that place.

(3) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

61. An authorised officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under section 62. Entry of dwelling place.

62. Upon an ex-parte application, a magistrate or judge of the High Court, may issue a warrant authorising the authorised officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that — Court to issue warrant.

- (a) the dwelling place is a place referred to in section 64;
- (b) entry to the dwelling place is necessary for the administration or enforcement of this Act; and
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

63. An authorised officer executing the warrant issued under section 62 shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorised in the warrant. Use of force.

64. An authorised officer who has analyzed or examined an alcoholic drink or thing under this Act, or a sample of it, shall issue a certificate or report setting out the results of the analysis or examination. Certificate of analysis.

65. (1) The owner of a place inspected by an authorised officer under this Act or the person in charge of the place shall — Assistance of officers.

- (a) provide all reasonable assistance to enable the authorised officer to carry out his duties under this Act; and
- (b) furnish the authorised officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

(2) The inspecting agent in subsection (1) shall issue the respective inspection completion and certification certificate once satisfied with the inspection.

66. No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorised officer who is carrying out duties under this Act. Obstruction.

67. (1) During an inspection under this Act, an authorised officer may seize any alcoholic drink or thing by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened Seizure.

and a full inventory thereof shall be made at the time of such seizure by the officer.

(2) The authorised officer may direct that any alcoholic drink or thing seized be kept or stored in the place where it was seized or that it be removed to another place.

(3) Unless authorised by an officer, no person shall remove, alter or interfere in any manner with any alcohol, alcoholic drink or other thing seized.

(4) Any person from whom an alcoholic drink or thing was seized may, within thirty days after the date of seizure, apply to the High Court for an order of restoration, and shall send notice containing the prescribed information to the Executive Member within the prescribed time and in the prescribed manner.

(5) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

(6) The court may, upon production of the alcoholic drink seized as evidence for the purposes of proceedings before the court in relation of contravention of this Act, order for public destruction of the alcoholic drinks save for what is necessary as sample for use as the necessary evidence during the proceedings.

68. (1) The High Court may order that the alcoholic drink or thing be restored immediately to the applicant if, on hearing the application, the court is satisfied that-

Order for
restoration.

- (a) the applicant is entitled to possession of the alcoholic drink or thing seized; and
- (b) the alcoholic drink or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under subsection (1) the court is satisfied that the applicant is entitled to possession of the alcoholic drink or thing seized but is not satisfied with respect to the matters mentioned in

paragraph (b) of subsection (1), the court may order that the alcoholic drink or thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

69. Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

General penalty.

70. (1) Offences under this Act, other than the offences specified under Part VI, shall be cognizable offences.

Nature of offences.

(2) Where a corporation, registered society or other similar legal entity commits an offence under this Act, any director or officer of the corporation, society or legal entity who acquiesced in the offence commits an offence and shall, on conviction, be liable to the penalty provided for by this Act in respect of the offence committed by the corporation, society or legal entity, whether or not such corporation, society or legal entity has been prosecuted.

(3) In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused.

(4) Any act done or omitted to be done by an employee in contravention of any of the provisions of this Act shall be deemed also to be the act or omission of the employer, and any proceedings for an offence arising out of such act or omission may be taken against both the employer and the employee.

71. (1) In any prosecution for an offence under this Act, a copy of any written or electronic information obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents.

Nature of evidence in proceedings.

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in

any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

(3) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced notice of not less than seven days of that intention together with a copy of the certificate or report.

(4) The party against whom the certificate or report provided for under subsection (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination.

(5) In a prosecution for a contravention of this Act-

- (a) information on a package indicating that it contains an alcoholic drink is, in the absence of evidence to the contrary, proof that the package contains an alcoholic drink; and
- (b) a name or address on a package purporting to be the name or address of the person by whom the alcoholic drink was manufactured is, in the absence of evidence to the contrary, proof that it was manufactured by that person.

PART VIII—GENERAL PROVISIONS

72. Offences under this Act shall be cognizable to the police. Offences to be cognizable

73. (1) The county executive member may, make Regulations generally for the better carrying out of the objects of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;
- (b) prescribe the forms of applications, notices, licences and other documents for use under this Act; and
- (c) prescribe the fees payable under this Act.

(3) Pursuant to Article 94(6) of the Constitution, the legislative authority delegated to the Executive Member in this section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory instrument Act, 2013.

74. (1) Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act was in accordance with Embu County Alcoholic Drinks Control Act, 2014, a manufacturer, distributor or retailer of any alcoholic drink in the under that Act shall be deemed to be a manufacturer, distributor or retailer of any alcoholic drink under this Act.

Transitional.

No. 4 of 2010.

(2) The manufacturer, distributor or retailer of any alcoholic drink in the contemplated referred to in subsection (1), shall, within four months of upon commencement of this Act, comply with the requirements of this Act.

75. The Embu County Alcoholic Drinks Control Act, 2014 is hereby repealed.

Repeals.

FIRST SCHEDULE (s. 20)

Permitted Areas of Sale and Number of Outlets

	<i>Urban Area</i>	<i>Maximum number of permitted on licence retail alcoholic drinks premises (Bars)</i>	<i>Maximum number of permitted off licence retail alcoholic drinks premises (Wines and Spirits)</i>
	Area A		
1	Embu Town CBD	Unlimited	unlimited
	Area B (Sub-urban Estates)		
2	Majimbo	Not more than	Not more than 5
3	Blue Valley	Not more than 10	Not more than 5
4	Kangaru	Not more than 10	Not more than 5
5	Kanjuru	Not more than 10	Not more than 5
6	Majimbo	Not more than 10	Not more than 5
7	Dallas	Not more than 10	Not more than 5
8	Majengo	Not more than 10	Not more than 5
	Area C	Not more than 10	Not more than 5
9	Kianjokoma	Not more than 25	Not more than 10
10	Ishiara	Not more than 25	Not more than 10
11	Karurumo	Not more than 25	Not more than 10
12	Runyenjes	Not more than 25	Not more than 10
13	Siakago	Not more than 25	Not more than 10
14	Makutano	Not more than 25	Not more than 10
	Kiritiri	Not more than 25	Not more than 10
	Kanyuambora	Not more than 25	Not more than 10
	Manyatta	Not more than 25	Not more than 10
	Kibugu	Not more than 25	Not more than 10
	Area D	Not more than 25	Not more than 10
	Kiriari	Not more than 20	Not more than
	Kirigi	Not more than 20	Not more than five
	Kairuri	Not more than 20	Not more than five
	Mutunduri	Not more than 20	Not more than five
	Kiriari	Not more than 20	Not more than five
	Karingari	Not more than 20	Not more than five
	Kivwe	Not more than 20	Not more than five
	Kathageri	Not more than 20	Not more than five
	Mbuvori	Not more than 20	Not more than five
	Kimangaru	Not more than 20	Not more than five
	Kambo	Not more than 20	Not more than five
	Kithimu	Not more than 20	Not more than five
	Rukira	Not more than 20	Not more than five
	Ndatu	Not more than 20	Not more than five
	Kathangari	Not more than 20	Not more than five
	Karurina	Not more than 20	Not more than five

	Mugwi	Not more than 20	Not more than five
	Kanja	Not more than 20	Not more than five
	Mbui Njeru	Not more than 20	Not more than five
	Kathanjuri	Not more than 20	Not more than five
	Kigumo	Not more than 20	Not more than five
	Kevote	Not more than 20	Not more than five
	Makengi	Not more than 20	Not more than five
	Kavutiri	Not more than 20	Not more than five
	Muchagori	Not more than 20	Not more than five
	Kamugere	Not more than 20	Not more than five
	Kamumu	Not more than 20	Not more than five
	Karerema	Not more than 20	Not more than five
	Kabugua ka Nyama	Not more than 20	Not more than five
	Soko Mjinga	Not more than 20	Not more than five
	Gachoka	Not more than 20	Not more than five
	Muraru	Not more than 20	Not more than five
	Gachuriri	Not more than 20	Not more than five
	Nganduri	Not more than 20	Not more than five
	Rwika	Not more than 20	Not more than five
	Meka	Not more than 20	Not more than five
	Rukuriri	Not more than 20	Not more than five
	Kithegi	Not more than 20	Not more than five
	Muvu	Not more than 20	Not more than five
	Gikuuri	Not more than 20	Not more than five
	Gichiche	Not more than 20	Not more than five
	Kigaa	Not more than 20	Not more than five
	Gitare	Not more than 20	Not more than five
	Muchonoke	Not more than 20	Not more than five
	Riandu	Not more than 20	Not more than five
	Kanyariri	Not more than 20	Not more than five
	Ena	Not more than 20	Not more than five
	Ugweri	Not more than 20	Not more than five
	Kathanje	Not more than 20	Not more than five
	Kirii	Not more than 20	Not more than five
	Ngiiri	Not more than 20	Not more than five
	Gikiiro	Not more than 20	Not more than five
	Kwa Murindi	Not more than 20	Not more than five
	Karii	Not more than 20	Not more than five
	Machan'ga	Not more than 20	Not more than five
	Munathiiri/Umau	Not more than 20	Not more than five
	Makima	Not more than 20	Not more than five
	Mbondoni	Not more than 20	Not more than five
	Karaba	Not more than 20	Not more than five
	Gategi	Not more than 20	Not more than five
	Iria Itune	Not more than 20	Not more than five
	Wango	Not more than 20	Not more than five

	Mutuobare	Not more than 20	Not more than five
	Newsite	Not more than 20	Not more than five

SECOND SCHEDULE (s.22)

LICENCE HOURS

Licenses

Licence Hours, Conditions and Exceptions

1. General Retail Alcoholic Drink Licence (on licence) for retail outlets commonly known as Bar

Authorized to sell alcoholic drink:

(a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m.; and 2:00 p.m.

(b) During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.

2. General retail outlet (off licence) Alcoholic Drinks Licence for outlets or liquor shops commonly referred to as wines and spirits

Authorised to sell alcoholic drinks on any day of the week during the hours of 5:00 pm to 9:00 pm.

3. Supermarket or Franchised Retail Chain Stores Alcoholic Drink Licence (Off-Licence)

Authorised to sell alcoholic drink on any day of the week during the hours of 5.00 p.m. to 9:00 p.m.

4. Hotel Alcoholic Drink Licence	Authorized to sell alcoholic drink on any day of the week to a lodger - for his own consumption and his guest's consumption on the premises, at any hour.
5. Members Club Alcoholic Drink Licence A members club licence shall only be held to a	Authorized to sell alcoholic drink to members on any day of the week at any hour.

members club that is a non-profit association incorporated under the Society's Act and existing solely for the benefit of members and where no profits are drawn by any member of the club or any person managing or associated with the operations and governance of the club.	
6. Night Club Alcoholic Drinks Licence	Authorized to sell alcoholic drink any day of the week during the hours of 5.00 p.m. to 5.00 a.m.

7. Temporary or Occasional Alcoholic Drinks license.

Authorised to sell alcoholic drink on the day and during the hours stipulated in the license by the County Committee for the purposes of specific occasions, ceremonies or events as indicated in the application provided that the licence shall not be granted for a period exceeding six hours.

Handwritten signature

Restaurant!

THIRD SCHEDULE (s.26)
TYPES OF LICENCES

The following licences may be granted under this Act .

1. Manufacturer's Licence

Subject to the conditions specified in the licence, a Manufacturer's licence authorizes the holder to-

- (a) manufacture and store the manufactured alcoholic drink in his depot;
- (b) sell the product of his manufacturing plant by wholesale in accordance with the conditions that are for the time being, applicable to a holder of a wholesale licence or by delivery from depot throughout Kenya in accordance with the Alcoholic Drinks Control Act, 2010:

Provided that the manufacturer shall be required to possess a licence to distribute the product of his manufacturing plant within the county; and

and

- (c) bottle the alcoholic drink subject to such conditions as may be prescribed.

For the purposes of this paragraph, "depot" means premises of whatever description which are occupied by a Manufacturer for of his trade.

2. Wholesale Licence.

A wholesale licence authorizes the licensee to sell an alcoholic drink at the premises at wholesale specified in the licence, subject to such conditions as may be:

Provided that a licensee shall not sell any alcoholic drink for consumption in the premises.

3. Retail Licence

A retail licence authorizes the licensee to sell

an alcoholic drink on the premises, at the hours and subject to such other conditions as are specified in the licence.

4. Distributor's Licence

A distributor's licence authorizes the licensee to distribute or supply an alcoholic drink within the county subject to such other conditions as are specified in the licence:

Provided that a distributor of an alcoholic product in the county shall establish a depot in the county and possess a licence for the depot and for distributing the product.

MEMORANDUM AND OBJECTS OF REASON

Firstly, this Bill aims at providing a framework implementing Part 2 of the Fourth Schedule to the Constitution on matters related to alcoholic drinks control. The specific county functions related to alcohol control include promotion of primary healthcare, control of outdoor advertisement, liquor licensing and control of drugs.

Secondly, the Bill provides for mitigation measures for negative impact emanating from abuse of alcoholic drinks. The Bill is in line with the Alcoholic Drinks Control Act, 2010. It seeks to control the production and manufacture, distribution, sale, promotion and use of alcoholic drinks.

PART I of the Bill provides for preliminary provisions. The Part outlines the purpose of the Bill, which includes protection of health of individuals from excessive consumption of alcohol, protection of persons under the age of eighteen years, promotion of treatment and rehabilitation and research and protection of persons under the age of eighteen years from excessive consumption of alcoholic drinks.

PART II of the Bill provides for the Administration matters. It establishes the Department, which is an office in the county public service. the Department is charged with the responsibility of supporting committees established under the Act, promoting public education, citizen participation, facilitating establishment of treatment and rehabilitation facilities and programs and research. The Part establishes the Alcoholic Drinks Control Fund, which consists of monies payable under the Act or monies as may be appropriated by the county assembly. It also provides for the administration of the Fund.

PART III of the Bill provides for the licensing framework for alcoholic drinks. It provides for the establishment of Sub-county alcoholic drinks Regulation Committee for receiving and reviewing licences, It provides for licensing procedures and the conditions that must be met in order for one to qualify for grant of a licence.

PART IV of the Bill provides for general requirements, which are the conditions that a licensee under the Act must comply with. The matters include prohibition of sale, provision or supply of alcoholic drinks to children, prohibition for access to places where alcohol is stored, sold or manufactured and prohibition of sale in sachets.

PART V of the Bill deals with sale and consumption matters. it provides for control of matters such as drunkenness and disorderliness, prohibition of sale to already intoxicated persons, prohibition of sale of adulterated drinks among others.

PART VI of the Bill provides for advertisement and promotion matters. It provides for control of outdoor advertisements especially in the display of brand elements through paintings and placement of outdoor advertisements within schools and public properties.

PART VII of the Bill provides for the enforcement mechanisms. It provides for the establishment of the County Alcoholic Drinks Enforcement Coordinating Committee, which is responsible for coordinating enforcement of the Act. It also provides for the enforcement processes.

The Bill also provides for license hours under the Second Schedule.

This Bill will not occasion additional expenditure to the county exchequer.

JOHN MWANGI,
Chairperson, Committee Trade Tourism Investment and Industrialization.