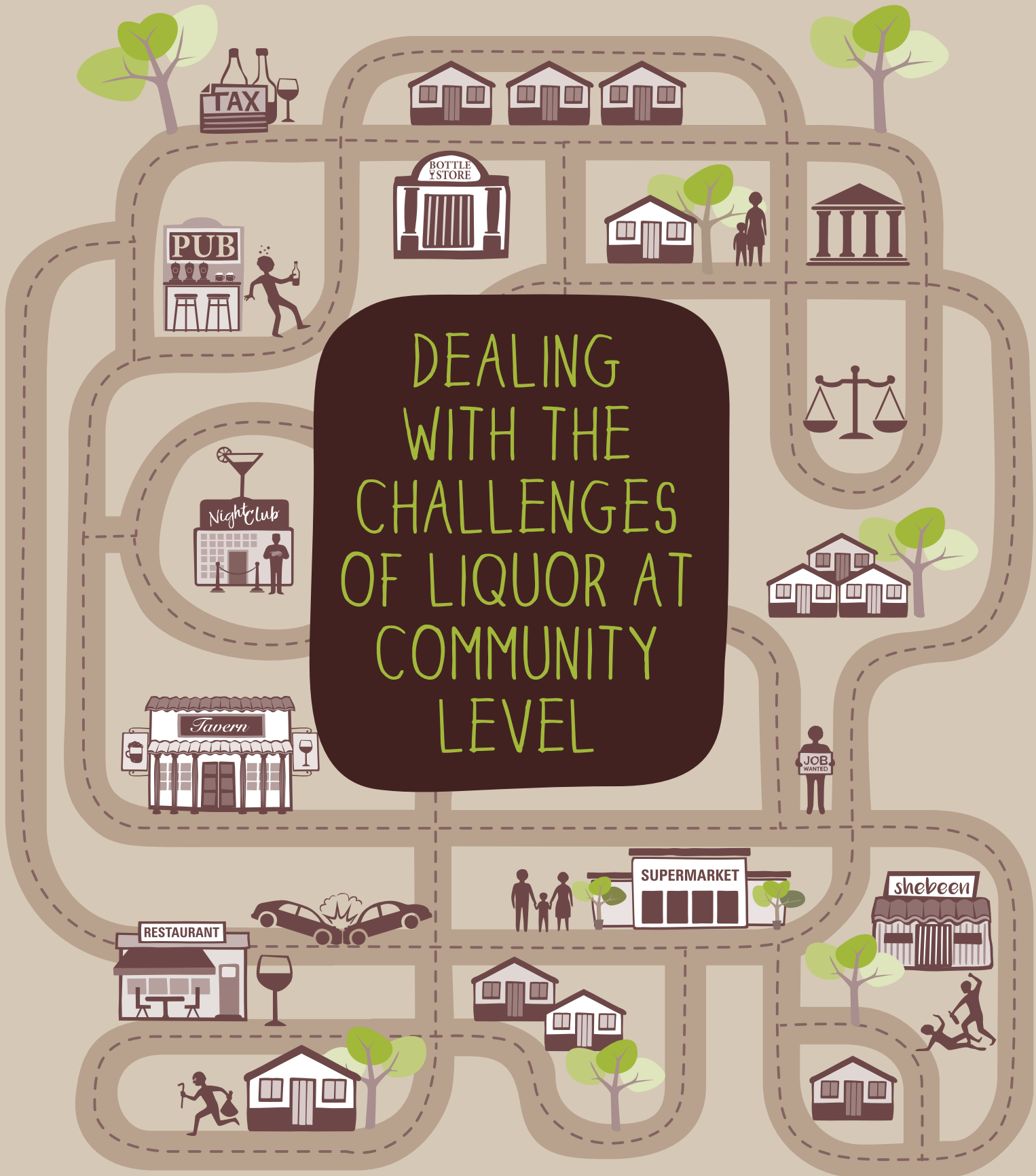


# DEALING WITH THE CHALLENGES OF LIQUOR AT COMMUNITY LEVEL



**SONKE  
GENDER  
JUSTICE**

HIV/AIDS • GENDER EQUALITY • HUMAN RIGHTS

## Version: 6 November 2019

Written by: Zia Wasserman.

Plain language edit by: Maurice Smithers

Input and contributions by: Marlise Richter, Dean Peacock, Patrick Godana, Maurice Smithers, Kayan Leung, Eastern Cape Liquor Board, Western Cape Liquor Authority and Gauteng Liquor Board.

Reviewed by: Neo Morojele, South African Medical Research Council (SAMRC); Savera Kalideen (MRC Gender and Health Unit); and Maurice Smithers (SAAPA).

Suggested citation: Zia Wasserman (2019) 'DEALING WITH THE CHALLENGES OF LIQUOR AT COMMUNITY LEVEL'. Sonke Gender Justice, South Africa.

Layout, design and illustration by: Jaywalk Design

# CONTENTS

|  |           |
|--|-----------|
| <b>ACRONYMS AND DEFINITIONS</b> .....  | <b>4</b>  |
| <b>WHY LIQUOR CAN BE A PROBLEM</b> .....   | <b>5</b>  |
| <b>WHAT CAN COMMUNITIES DO ABOUT THE HARMFUL USE OF LIQUOR?</b> .....                  | <b>8</b>  |
| 1. EMPOWER YOURSELF WITH KNOWLEDGE.....  | 8         |
| 2. FORM A COMMUNITY LIQUOR COMMITTEE.....  | 8         |
| <b>RELEVANT LAWS AND POLICIES</b> .....  | <b>10</b> |
| 1. NATIONAL LAWS AND POLICIES.....   | 10        |
| 2. PROVINCIAL LAWS AND POLICIES.....   | 10        |
| 3. MUNICIPALITIES AND THE CONTROL OF LIQUOR SALES TO THE PUBLIC .....                  | 12        |
| <b>WHAT DO THE LAWS SAY?</b> .....   | <b>13</b> |
| 1. LIQUOR LICENCE APPLICATIONS AND REGISTRATION (LISTING) .....                        | 13        |
| 2. RUNNING A LIQUOR OUTLET PROPERLY WITHIN THE LAW .....                               | 14        |
| 3. POWERS OF LIQUOR AUTHORITIES, BOARDS AND INSPECTORS.....                            | 15        |
| 4. OFFENCES AND PENALTIES FOR BREAKING THE LAW .....                                   | 16        |
| <b>THE ROLE OF THE COMMUNITY IN MONITORING AND REPORTING ILLEGAL ACTIVITY</b> .....    | <b>17</b> |
| 1. HELPING TO MAKE LIQUOR POLICIES, LAWS AND RULES.....                                | 18        |
| 2. COMPLAINING ABOUT LIQUOR LICENCE APPLICATIONS .....                                 | 20        |
| 3. REPORTING ILLEGAL ACTIVITY.....   | 20        |
| 4. REPORTING UNLICENSED OUTLETS.....   | 20        |
| 5. HELPING TO MAKE DEVELOPMENT PLANS FOR YOUR COMMUNITY .....                          | 20        |
| <b>MANAGING SAFETY CONCERNS AND FEAR OF REPRISALS</b> .....                            | <b>21</b> |
| <b>NEXT STEPS</b> .....  | <b>22</b> |
| MONITORING AND REPORTING.....  | 22        |
| <b>CONCLUSION</b> .....  | <b>24</b> |
| <b>ANNEXURE 1: CHECKLIST FOR MONITORING THE SALE OF LIQUOR</b> .....                   | <b>25</b> |
| <b>ANNEXURE 2: EXAMPLE OF A LIQUOR BOARD COMPLAINT FORM (WESTERN CAPE).</b> .....      | <b>27</b> |
| <b>ANNEXURE 3: CONTACT DETAILS FOR NATIONAL AND PROVINCIAL LIQUOR STRUCTURES</b> ..... | <b>31</b> |
| <b>ANNEXURE 4: SUMMARY OF WHAT SOME PROVINCIAL LIQUOR BOARDS DO</b> .....              | <b>32</b> |
| <b>ANNEXURE 5: TRADING HOURS</b> .....   | <b>35</b> |
| <b>ANNEXURE 6: CASE STUDY</b> .....  | <b>38</b> |

# ACROYNMS AND DEFINITIONS

## ACRONYMS

|             |                                    |
|-------------|------------------------------------|
| <b>AIDS</b> | Acquired Immunodeficiency Syndrome |
| <b>CPF</b>  | Community Police Forum             |
| <b>DTI</b>  | Department of Trade and Industry   |
| <b>ECLB</b> | Eastern Cape Liquor Board          |
| <b>GBV</b>  | Gender-Based Violence              |
| <b>HIV</b>  | Human Immunodeficiency Virus       |
| <b>IPV</b>  | Intimate Partner Violence          |
| <b>NLA</b>  | National Liquor Authority          |
| <b>SAPS</b> | South African Police Service       |
| <b>STI</b>  | Sexually Transmitted Infection     |
| <b>WHO</b>  | World Health Organisation          |

## DEFINITIONS

|                               |  |
|-------------------------------|--|
| <b>Distributors:</b>          | Liquor traders who supply liquor only to other liquor licence holders and not to the public directly.  |
| <b>Liquor/liquor product:</b> | Includes wine; a grape-based alcoholic beverage; a fruit-based alcoholic beverage; a spirit; a spirit-based alcoholic drink; beer or traditional African beer; a specially approved liquor; products containing liquor such as 'wine lollies'.   |
| <b>Liquor outlet:</b>         | Any place, licensed or unlicensed, that sells liquor to the public for off-consumption or on-consumption purposes, including places whose main business is the selling of liquor (e.g. bottle stores, bars, taverns and shebeens), and places where the selling of liquor is additional to their main business (e.g. a supermarket, restaurant or club).   |
| <b>Liquor board:</b>          | A government department making rules about the making and selling of liquor. There is one national liquor board. Each province must also have a provincial liquor board. Some provinces call their department a provincial liquor authority. In this booklet, we use the term provincial liquor board to mean liquor board or liquor authority, except where we use the actual name of a liquor authority. |
| <b>Macro-manufacturers:</b>   | A liquor manufacturer who produces or bottles volumes of liquor that <i>exceeds</i> the legal limit (beer: 100 million litres; sorghum beer (traditional African beer): 50 million litres; wine: 4 million litres; spirits: 2 million litres).   |
| <b>Micro-manufacturers:</b>   | A liquor manufacturer who produces liquor <i>at or below</i> the prescribed threshold volume.  |
| <b>Minor:</b>                 | A person below the age of 18 years.  |
| <b>Off-consumption:</b>       | Sale of liquor for consumption (drinking) away from the place where the liquor is sold. The licensee can only sell liquor to the public and not to any persons for business purposes. Examples of off-consumption outlets: liquor stores, retail shops, supermarkets etc.  |
| <b>On-consumption:</b>        | Sale of liquor for consumption (drinking) at the place where the liquor is sold; the licensee cannot sell liquor to take away or take home or to drink outside the building. Examples of on-consumption outlets: restaurants, night clubs, bars, hotels, taverns etc.  |
| <b>Outlet:</b>                | A location or premises where liquor is sold, either for drinking at that place (bar, tavern, night club, restaurant and/or hotel) or away from that place (liquor store, bottle store, retail shop and/or supermarket).  |

# WHY LIQUOR CAN BE A PROBLEM



The World Health Organisation (WHO) 2018 Global Report on Alcohol and Health<sup>1</sup> says that, in South Africa, 38.3% of men above 15 years old have never drunk liquor. It also says that 18.5% used to drink, but have now stopped. This means that, in South Africa, 56.8% of men above 15 years old don't drink.

The report also says that 68% of women above the age of 15 have never drunk liquor, while 12.7% did drink, but stopped. So, altogether, 80.6% of women in South Africa above the age of 15 don't drink.

So, if we count men and women together, we find that 69% of men and women above the age of 15 don't drink liquor at all. Therefore only 31% of people in South Africa above the age of 15 drink liquor. This means that less than a third of all people above the age of 15 in South Africa are drinkers.



<sup>1</sup> WHO (2018). *Global Status Report on Alcohol and Health 2018*. World Health Organisation, Geneva.

The problem is that those who *do* drink, often drink too much. It is this abuse of liquor that causes harm, not only to drinkers but also to the people around them – their families, their friends, their neighbours and the people they work with. It also causes problems for the community and society as a whole.

The harmful use of liquor is a serious public health and human rights issue. It affects the daily lives of communities all over South Africa and it wastes money that could be used to improve the health and education sectors, to support better and faster service delivery, and to address inequality, poverty and unemployment.

**The third highest cause of death and disability in South Africa is harmful alcohol use.** The first two are: unsafe sex and sexually-transmitted diseases (STIs); and violence between people. Alcohol plays a part in these deaths as well. People are more likely to have unsafe sex or be violent (which includes all forms of gender-based violence) if they are drunk<sup>2</sup>.

A report by National Treasury in 2014<sup>3</sup> says that, in 2009, **the harmful use of liquor cost the country R17.2 billion.** Three of the main reasons for this cost are linked to health, the workplace and crime.<sup>4</sup>

Costs in health were for: the treatment, research and reduction of alcohol addiction; the health care costs of treating illnesses and injuries caused by alcohol; the costs of traffic accidents (there are also non-health costs involved in car accidents, e.g. damage to vehicles and property); the cost of social welfare related to alcohol (grants related to disability, HIV and children) and the cost to individuals such as high medical aid fees and chronic medication, resulting from harmful use of alcohol.

Costs in the workplace arising from harmful use of alcohol were linked to problems of productivity (how well people work), absenteeism, unemployment, early retirement and early death.

Alcohol has been identified as one of the causes of crime. The harmful use of alcohol can lead to unemployment. It can also result in poor education, which itself leads to unemployment and unemployment is one of the reasons that people turn to crime.

There are financial costs linked to crime. But there are also the physical and mental fitness costs to people who are victims of crime. There is also a large amount of money spent on security to stop crime and to protect people against crime. There are also the increasing costs of insurance which people must pay so that they can be paid out if they are victims of crime.

Many of these costs would not be necessary if there was a reduction in the harmful use of liquor. The money that would be saved could be used for improving the country and providing better services.

The liquor industry says that it creates jobs and also that it pays a lot of tax to government, which helps to pay for public services. In 2009, says National Treasury, the liquor industry paid R16.3 billion in taxes.<sup>5</sup> This is an important contribution to the country.

But, as we saw above, the cost to the country of the harmful use of liquor is R17.2 billion. This means that the tax paid by the liquor companies is R891 million less than the cost to the country of the harmful use of that liquor. That is a loss to the country.

But the loss is not only R891 million. It is R17.2 billion because that is the price the country pays for the problems caused by the harmful use of liquor. The important thing is that **these costs would not be there if the harmful use of liquor was reduced.**

<sup>2</sup> Matzopoulos, R et al (2014). The cost of harmful alcohol use in South Africa. *South African Medical Journal*, 104(2), 127-132.

<sup>3</sup> 'A Review of the Taxation of Alcoholic Beverages in South Africa' (2014) National Treasury, South Africa.

<sup>4</sup> Matzopoulos, R., supra note 2.

<sup>5</sup> National Treasury, supra note 3.



It makes sense, therefore, to make sure that selling and drinking of liquor is well managed because it will help to reduce the social problems linked with the harmful use of liquor, gender-based violence (GBV), the spread of HIV, unemployment, disabilities and early deaths. It is also important for everyone to play their part in reducing the problems related to the harmful use of liquor because everyone is affected by it in some way.

Following the law when selling and drinking liquor is very important. There are various laws and rules in place nationally, provincially and locally to reduce illegal and harmful ways of selling and drinking liquor. These include laws and rules that say that all liquor sellers and the places they sell it must be licensed. These laws also say liquor traders must not sell liquor to people under 18 or people who are drunk. They set limits on how far liquor outlets (bars, taverns, restaurants and clubs) should be from schools and places of worship like churches and mosques. They lay down opening and closing times for liquor outlets and they outlaw noise and trouble created by liquor traders and their customers.

People living in communities across the country can help government to make sure the laws and rules are followed. Ordinary people living in cities, towns, villages and rural areas can help create a healthier, safer, more prosperous living environment for themselves, their families and their communities.

**This booklet will help you to understand the laws and rules about selling and drinking liquor and will give you ideas about how you can make sure those laws and rules are followed.**

# WHAT CAN COMMUNITIES DO ABOUT THE HARMFUL USE OF LIQUOR?



## 1. EMPOWER YOURSELF WITH KNOWLEDGE

It is clear that the control and successful monitoring of the legal selling and drinking of liquor is necessary, if we want to limit the damage done to society and to the lives of our people by liquor abuse. This is why it is important for everyone to know and understand the laws and rules, as well as to have information on how to use the law to change liquor policy. This also allows people to have a real say in the liquor licensing process and to monitor liquor outlets and report cases where the law or rules are broken.

## 2. FORM A COMMUNITY LIQUOR COMMITTEE

It is a good idea to form a group or committee to discuss and deal with ongoing issues linked to the selling and drinking of liquor in your community. This will enable community members to monitor all liquor-linked activities in your community. Working together also provides safety in numbers for the members. If one person complains about a liquor outlet, the owner could target that person for causing trouble for him or her. But if a committee of community members visit a liquor outlet to discuss issues of concern, the owner or manager is more likely to listen and act in response.

New applications for liquor licences are made regularly across the country in all communities. There are also ongoing challenges with unlicensed outlets (bars, taverns, restaurants, clubs and shebeens) and with licensed outlets that act in an anti-social manner or break the law.

It would also be useful for a community liquor committee to partner with the local Community Policing Forum (CPF) who, together with the South African Police Service (SAPS), can make it easier for the committee to get access to liquor outlets for monitoring purposes. In turn, it will help the CPF and the SAPS to be more aware of liquor-related issues within the community and for all groups to share information with each other.

The committee could make quarterly checks (i.e. once every three months) on all the liquor outlets in their community. This would mean that the liquor outlets – as well as the relevant provincial liquor board – are regularly and publicly checked on.



# 1 EMPOWER YOURSELF WITH KNOWLEDGE



understand the laws and rules, as well as to have information on how to use the law to change liquor policy.

# 2 FORM A COMMUNITY LIQUOR COMMITTEE



committee discusses ongoing issues linked to the selling and drinking of liquor



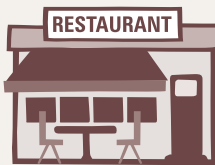
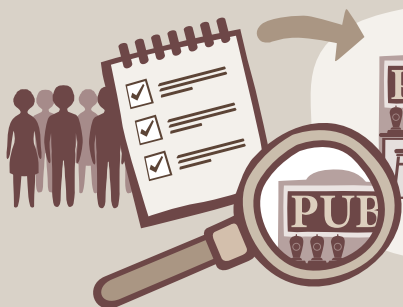
working together provides safety in numbers for the members



owner or manager is more likely to listen and act in response



COMMUNITY LIQUOR COMMITTEE TO PARTNER WITH THE LOCAL COMMUNITY POLICING FORUM (CPF) WHO, TOGETHER WITH THE SOUTH AFRICAN POLICE SERVICE (SAPS), CAN MAKE IT EASIER FOR THE COMMITTEE TO GET ACCESS TO LIQUOR OUTLETS FOR MONITORING PURPOSES.



# RELEVANT LAWS AND POLICIES



South Africa has national laws that cover large-scale liquor production and delivery (manufacture and distribution). The laws also cover the following: liquor licensing rules and offences; how to prove drinkers' ages (age verification processes) and certain rules about toilets, health and safety, as well as trading hours.

## 1. NATIONAL LAWS AND POLICIES

National government controlled all liquor policies, laws and rules under apartheid. The last liquor Act of the apartheid era was the Liquor Act 27 of 1989. This Act was only replaced in 2003, although it was changed a number of times before that.

One of the most important changes was made in 1995 – it did away with the National Liquor Board and allowed for the setting up of provincial liquor boards who are in charge of licensing outlets (bars, taverns, restaurants and clubs) that sell liquor to the public.

From then on, national government only controlled broad national policy on liquor and the rules around large-scale manufacturers who produce millions of litres of liquor every year. National government also oversees wholesale distributors who supply liquor to businesses that sell to the public.

### THESE ARE SOME OF THE CURRENT NATIONAL LIQUOR POLICIES AND RULES:

- Liquor Act 59 of 2003<sup>6</sup>
- Regulations for the Registration of Liquor Manufacturers and Distributors, 2004
- National Liquor Norms and Standards, 2014
- National Liquor Policy, 2016



## 2. PROVINCIAL LAWS AND POLICIES

As noted above, licensing of outlets that sell liquor to the public used to be done at a national level.<sup>7</sup> However, the Liquor Amendment Act 57 of 1995 changed that, giving the management of licensing to the governments of the nine new provinces set up in terms of the Interim Constitution of 1993.<sup>8</sup> This was made final in the post-apartheid Constitution of 1996,<sup>9</sup> which gives each province the power to pass laws in a number of areas, including trade, trading regulations and liquor licensing (s104(1)(b)).

<sup>6</sup> Hereinafter referred to as the "Liquor Act".

<sup>7</sup> Liquor Act 27 of 1989 and prior legislation.

<sup>8</sup> Constitution of the Republic of South Africa Act 200 of 1993.

<sup>9</sup> Schedule 5A, Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the "Constitution").

Many provinces have their own liquor licensing policies and laws, which oversee the small-scale making, selling and drinking of liquor within the province (i.e. when a person runs a liquor outlet selling to the public, the Act from the province where the liquor retail outlet is located must be followed.) These include: liquor licensing; rules around the sale of liquor (e.g. the location of liquor outlets, who liquor may be sold to, trading hours, food at liquor outlets, toilet and other facilities, entertainment at liquor outlets and sale of liquor at special events); legal guidelines that must be followed; and the setting up of province-specific liquor boards.

Although all provinces must follow the national Liquor Act, National Liquor Regulations and National Liquor Norms and Standards, their liquor laws do not all have to be exactly the same. So it is important for people to get a copy of the liquor laws and rules for their own province (if they have them) and to understand how liquor licensing works in their own province. All provinces give communities the power to have a say about liquor licensing (e.g. when someone applies for a liquor licence, community members can object to the application). However, it is easier for the community to have a say in some provinces than in others.

#### THESE ARE THE **PROVINCIAL LIQUOR POLICIES, LAWS AND RULES** CURRENTLY BEING USED:

- Eastern Cape Liquor Act 10 of 2003
- Eastern Cape Liquor Regulations 2004
  
- Free State Gambling and Liquor Act 6 of 2010
- Free State Liquor Regulations 2010
  
- Gauteng Liquor Act 2 of 2003
- Gauteng Liquor Regulations 2004
  
- KwaZulu-Natal Liquor Licensing Act 6 of 2010
- KwaZulu-Natal Amendment Act 3 of 2013
- KwaZulu-Natal Liquor Licensing Regulations 2013
  
- Mpumalanga Liquor Licencing Act 5 of 2006
- Mpumalanga Liquor Licencing Regulations 2007 and 2015
- Northern Cape Liquor Act 2 of 2008
- Northern Cape Liquor Regulations 2010
  
- Western Cape Liquor Act 4 of 2008
- Western Cape Liquor Amendment Act 3 of 2015
- Western Cape Liquor Regulations 2011: Amendment 2017



The North West and Limpopo governments are both in the process of drawing up and putting into operation their own provincial liquor laws. For now, they continue to use the national Liquor Act 27 of 1989 for liquor licensing in their provinces.

### 3. MUNICIPALITIES AND THE CONTROL OF LIQUOR SALES TO THE PUBLIC

Many people think that provinces have to control what happens in liquor outlets because provinces issue liquor licences. Provincial liquor bodies do have Liquor Inspectors who can be called out to deal with liquor outlets that are causing problems within a community. But most provinces don't have enough Liquor Inspectors to deal with the large number of licensed and unlicensed outlets in their areas.

In fact, the Constitution gives control to local government for the Control of Undertakings that Sell Liquor to the Public.<sup>10</sup> However, only a few municipalities have by-laws (local laws) which set out how they will do this. Many of these are in the Western Cape (their by-laws are usually called the Control of Undertakings that Sell Liquor to the Public By-law, though there are also municipalities that have other by-laws on liquor trading with different titles).

These by-laws cover rules around the sale of liquor (e.g. hours and days of sale), the role and responsibilities of ward committees, and local ways to control liquor use.

#### SOME EXAMPLES OF BY-LAWS:

- Mquma Local Municipality By-Law for Selling/Sales Hours of Liquor, July 2008
- Mbombela Local Municipality By-law on Liquor Trading
- City of Cape Town: Control of Undertakings That Sell Liquor to The Public, 2013



Where there is no liquor by-law, a municipality can still control what happens at liquor outlets using other by-laws such as those on public and environmental health, noise, violence, parking and traffic control.

SAPS and Metro Police Departments can also help, especially if liquor is being sold without a licence, if outlets stay open too late, if there is too much noise, if roads are blocked by liquor outlet customers, or if there is violence taking place in or around an outlet.

So, when a member of the community or a community organisation wants to monitor and report the on-going activities of liquor outlets (such as bars, taverns, restaurants, clubs or shebeens) in their area, they should make sure they know and understand the provincial legislation and municipal by-laws that apply there. They should also know the right people to talk to in order to deal with each type of problem – if the wrong people are called, they might say that it is not their job to deal with the issue or that they do not have the power to do anything about it.



Figure 1: Some of the laws and rules about the management of liquor

<sup>10</sup> Schedule 5B, Constitution.

# WHAT DO THE LAWS SAY?



## 1. LIQUOR LICENCE APPLICATIONS AND REGISTRATION (LISTING)

All persons who make, supply and/or sell liquor must apply for the right liquor licence and be officially listed. Large-scale makers and suppliers must be listed with the National Liquor Authority (NLA), while small-scale makers and sellers of liquor to the public (such as bottle stores, supermarkets, taverns, pubs, restaurants, nightclubs, etc.) must be listed with the right provincial liquor body.



Shebeens<sup>11</sup> currently fall outside the law. There is no shebeen licence in any of the liquor laws. In addition, many shebeens are operating without the approval of the land-use management units in municipalities. This is because most shebeens are in private houses which are not zoned for business. Provincial governments are looking at ways to list shebeens so that they work within the law.

**Generally, the process of applying for a liquor licence is as follows:**

- The applicant (person applying) applies to the provincial liquor board for one of the licences included in the province's liquor laws.
- Usually applicants must first get the approval of the municipality in terms of zoning rules, business rights approval and other by-laws (local laws). The applicant also has to make sure that the location is suitable, for example, by offering separate toilets for men and women in the building.
- An application for a liquor licence must be advertised so that the public knows about it and can comment on the application or make an objection. The national and provincial liquor acts each explain how that advertising must be done.
- If anyone (a municipality, a community organisation or community member) objects to an application, there must be an enquiry. The enquiry is attended by the provincial liquor authority, by the applicant and possibly his or her lawyer or liquor consultant, and the people and organisations that have objected. After everyone has had a chance to speak, the liquor authority will have to decide whether to grant the licence or not.
- If the license is given, the liquor authority must issue a licence or a certificate of registration to the applicant and enter the registration in the register (list) – the registration and registration certificate are valid until the period of registration has ended or the registration is cancelled. Most liquor Acts require the holder of a licence to apply again every year.



**NOTE: IN TERMS OF LIQUOR LEGISLATION, THE FOLLOWING PERSONS MAY NOT APPLY FOR A LICENCE**

- ✗ Persons under the age of 18
- ✗ Persons who have legally been declared insolvent (bankrupt)
- ✗ Persons of unsound mind/who are mentally ill
- ✗ Persons convicted of an offence under the Liquor Act in the past three years
- ✗ Persons convicted of an offence which makes them not suitable to own or run a liquor outlet

<sup>11</sup> Shebeen is an Irish word for an illegal liquor outlet. From 1896 onwards, black people in South Africa were banned by law from buying 'white' liquor. Shebeens opened everywhere as places that people in black communities could get 'white' liquor, even though it was illegal. Running shebeens also became a way for black South Africans to make a living.

## 2. RUNNING A LIQUOR OUTLET PROPERLY WITHIN THE LAW

Once a person has been given a licence to sell liquor, s/he must make sure the outlet is run in line with the licence. The owner, staff and customers must not break the law in any way. **The rules listed below must be followed:**



### Outlets and customers

- ✓ The owner of a listed outlet must display the original licence or licence certificate visibly at his/her licensed outlet.
- ✓ Advertising of liquor must be honest and must not persuade under-age people to drink.
- ✓ A person must not sell or supply liquor to a minor (someone who is under 18 years old) and must take steps to check the age of any person who seems to be under the age of 18.
- ✓ A person must not employ a minor (someone under the age of 18).
- ✓ A person must not sell or supply liquor to any person who already seems to be drunk.
- ✓ No weapons or sharp objects are allowed inside on-consumption liquor outlets such as bars, taverns, restaurants or clubs.
- ✓ The owner and/or staff must make sure that the noise level from the liquor outlets is not troublesome to neighbours.
- ✓ The liquor outlet should not be close to places of worship like churches or mosques or educational institutions such as schools. Some liquor laws say outlets should not be closer than 500m to such places.



### Services

- ✓ There must be easy access to drinking water for all customers at all on-consumption liquor outlets.
- ✓ All on-consumption outlets must have separate toilets for men and women and must also make the outlet accessible for people with disabilities – this must be done at no additional cost to the customers.
- ✓ On-consumption outlets must provide easy access to free-issue condoms at all times.
- ✓ The liquor outlet must be in line with basic safety and evacuation measures, in line with all national, provincial and municipal laws.



### Trading hours

Provincial liquor boards and municipalities usually set their own trading hours. The national Norms and Standards sets minimum trading hours, which apply to municipal areas which do not have their own liquor by-laws. If they do have their own by-laws, then these must be followed. (See ANNEXURE 5 for trading hours).

### 3. POWERS OF LIQUOR AUTHORITIES, BOARDS AND INSPECTORS

#### a) National Liquor Authority (NLA)

The NLA exists in terms of the national Liquor Act of 2003 which covers the whole of South Africa. The NLA is part of the Consumer and Corporate Regulation Division (CCRD) of the Department of Trade and Industry (DTI).

##### ***What the NLA does:***

- Oversees large-scale production and supply in the liquor industry by listing large-scale producers and suppliers of liquor.
- Teaches people working in the liquor business about the Act.
- Empowers people with information on how to apply to be listed (registered) at the NLA, by helping to train liquor industry trade associations and creating awareness about liquor abuse.
- Inspects large-scale producers and suppliers and checks they are working in line with the Act.
- Investigates complaints against large-scale producers and suppliers.
- Monitors and ensures makers and suppliers are working in line with the Act.
- Inspects any paperwork that a person must have in terms of the Act.
- Seizes any liquor that appears to have been produced against the law as per the Act.

#### b) Provincial liquor bodies

Each provincial liquor Act sets up a provincial liquor body to monitor liquor-related issues. Some are called 'boards', others are 'authorities'. The Free State board also monitors gambling. The current structures are:

- Eastern Cape Liquor Board
- Free State Gambling and Liquor Board
- Gauteng Liquor Board
- KwaZulu-Natal Liquor Authority
- Mpumalanga Liquor Authority
- Northern Cape Liquor Authority
- Western Cape Liquor Authority

Limpopo and North West Province also have liquor boards, but these have been set up in line with the national Liquor Act, 27 of 1989.

##### ***What provincial liquor bodies do:***

- a. Monitoring the listing of sales to the public and small-scale production of liquor in the province, which includes –
  - i) Deciding on rules (or conditions) for liquor licensing
  - ii) Approving liquor licence applications (or not); and
  - iii) Cancelling, stopping (for a time) or changing any approved licences
- b. Keeping a list of all persons who are licensed
- c. Receiving complaints about liquor outlets
- d. Managing or doing inspections of liquor outlets
- e. Referring illegal activities around liquor to the SAPS
- f. Advising and providing reports and advice to the Member of the Executive Council of the Province who oversees the liquor industry.

## c) Liquor Inspectors

Liquor Inspectors are employed at national level by the Minister of Trade and Industry and at provincial level by provincial liquor boards.

The key responsibilities of provincial Liquor Inspectors are to:

- a) Inspect outlets and the communities around them that have applied for a liquor licence and send in a report to the provincial liquor board that is overseeing the application; and
- b) Investigate complaints against licensed liquor outlets that people claim are breaking the rules of their licences and/or in some way breaking the law or causing trouble in their community.

### *In doing so, a provincial Liquor Inspector may –*

- a) Enter outlets to conduct an inspection of an outlet (in some cases, a police warrant to enter the outlet may be needed);
- b) Question any person who the inspector believes may have information about an inspection;
- c) Question any person present at any outlet being inspected;
- d) Inspect any document that may be linked to a liquor-related inspection; and
- e) Copy documents, take samples of liquor and seize liquor linked to possible offences.

Inspectors may make inspections with a member or members of the South African Police Service (SAPS), a member or members of a Metro Police Department and any other person reasonably needed to help with the inspection.



## 4. OFFENCES AND PENALTIES FOR BREAKING THE LAW

Liquor can only be sold from licensed outlets (including outlets that have been granted an occasional or temporary licence) in line with the law and in line with any rules linked to the licence. The penalty for breaking those laws and rules is either a fine or imprisonment, or both.

If a provincial Liquor Inspector believes that any part of a provincial liquor Act or rule linked to a licence has not been followed, s/he may issue a '**compliance notice**' (to either the person listed on the licence, the owner of the listed outlet or a person managing the listed outlet). Examples of such 'non-compliance' (breaking the laws or rules) include: selling liquor to people under 18, selling liquor to drunk people, selling outside set trading hours and causing trouble. The compliance notice will remain in force until a Liquor Inspector issues a '**compliance certificate**' saying that the situation has been corrected to his or her satisfaction. Failure to follow the requirements of a compliance notice may lead to the temporary or total removal of the liquor licence.

Those who carry on trading with illegal licences, or those outlets that have no licence, will be breaking the law and the authority must refer the person to SAPS for a criminal investigation. For example, during the 2016/17 reporting year, the Eastern Cape Liquor Board took 423 people running illegal liquor trading outlets to the police for prosecution.<sup>12</sup>

<sup>12</sup> Eastern Cape Liquor Board Annual Report for the financial year 2016 -2017. Available at: <http://www.eclb.co.za/cms/wp-content/uploads/Annual-Report-2016-2017.pdf>



# THE ROLE OF THE COMMUNITY IN MONITORING AND REPORTING ILLEGAL ACTIVITY



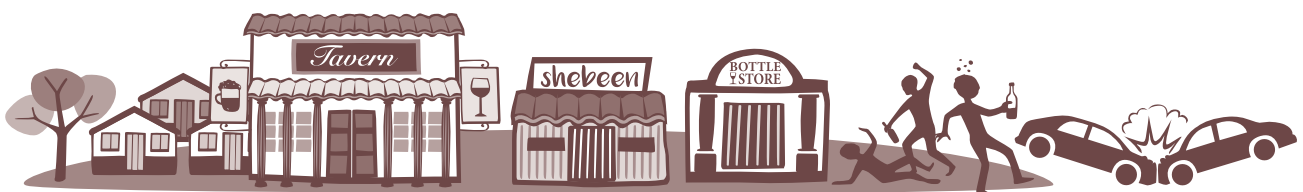
## BACKGROUND

### According to the 2016 National Liquor Policy,

*“Research indicates that both the **national and provincial regulators are under-resourced** to perform monitoring and enforcement roles. The existing liquor inspectorate are essentially constituted to monitor registrants and not to monitor the trade, use and consumption of liquor products in totality. This has left the unlicensed sector and illicit liquor trade to thrive. This comes at the expense of the fiscus, creating unfair competition for licensed traders and contributing to the socio-economic costs of liquor abuse in the country and many other health concerns.”*

Sections 59(1)(a), 72(1)(a), 118(1)(a) and 152(1)(e) of the Constitution of South Africa call on Parliament, the National Council of Provinces, provincial legislatures and local government to make it possible for the public to be actively involved in policy and governance processes in the country. In addition, the law allows for the election of Ward Committees and Community Police Forums, through which members of the public can play a role in governance and policing issues at local level.

Furthermore, people living in the communities near to liquor outlets are most troubled by the problems caused by some of those outlets. They therefore have very good reason to be part of the licensing and/or management of those outlets. On top of this, liquor boards and other government structures do not have enough funding or people to manage the liquor industry properly. This means communities can and should take on a major role in monitoring, managing and reporting on liquor-linked matters in their communities.



## Community members have several opportunities to become involved in the process of liquor licensing and the management of liquor outlets in their communities:

1. Take part in the drafting of liquor policies, laws and rules.
2. Complain about applications for liquor licences.
3. Complain about licensed liquor outlets that break the rules of their licences and/or create trouble for the community around them. Some Liquor Boards have a toll-free complaints line, which people can call to make a complaint.
4. Report unlicensed liquor outlets to SAPS.
5. Work with Urban Development Frameworks or Precinct Plans, including proposed liquor licensing policies and rules for their community.

Remember that, when make a complaint about a licence application, it is better to have a number of people and organisations supporting the complaint. It is also important to give good reasons for the complaint so that the provincial liquor board will take the complaint seriously.

In addition, if there are complaints about unlicensed or licensed outlets, it is important to prepare a detailed report on why you are complaining. The report should be based on real facts with dates, times and examples of incidents. It is therefore very important to record what you see!



### 1. HELPING TO MAKE LIQUOR POLICIES, LAWS AND RULES

- The Constitution urges members of the public to be part of all levels of government. So when a department wants to create a policy or pass a new law, the public are invited to join in by **writing to government and/or coming to public hearings** and sharing what they think with politicians and government officials.
- Such hearings are normally announced in newspapers, on radio and on TV. Ward Councillors and Ward Committees are sometimes told about such hearings and they are supposed to tell the public in the areas where they work.
- It is important for the public to attend such hearings and to make their voices heard.

## 2. COMPLAINING ABOUT LIQUOR LICENCE APPLICATIONS

- Provincial liquor laws (and the Liquor Act of 1989 in the case of North West and Limpopo) have sections which say that all applications for liquor licences must be announced in some way so that the public is made aware of the application. There are different rules for this in each province. The most common ways of letting the public know about liquor licence applications are:
  - An announcement in a Government Gazette (there are special Government Gazettes that only have liquor licence applications in them);
  - An announcement in one or more local newspapers in the area where the applicant wants to open the liquor outlet;
  - An announcement put up on the building where the liquor outlet will be; and
  - An announcement to the local SAPS Liquor Officer, Ward Councillor, Ward Committee and/or Community Police Forum. They must then advise the community of the application and ask the community whether they support the application or not.
- These announcements will include details of the applicant, the name of the planned outlet, the address of the outlet, the kind of licence being applied for and the names of places of worship (churches and mosques) and educational institutions such as schools that are close by. They will also say that members of the public have 21 days from the date of the announcement to submit a complaint the licence application.
- **Complaints must say clearly why the liquor licence should not be awarded.** A strong, well-argued complaint will be taken more seriously by a provincial liquor board. A complaint that is supported by a number of people and/or organisations will also be stronger.
- It is important that the complaint is made against the specific liquor licence application that has been announced, but a complaint can also include information about the general problems of liquor in that community and why another licence might add to those problems.
- The complainants must show what trouble would be caused in the immediate area, if the licence is allowed. For instance, if the liquor licence will have a negative effect on (a) the people who live in the area; (b) people living in an old age home; (c) the learners of an educational institution (e.g. school) who are under the age of 18 years; (d) the patients of a place treating people for drug or liquor-linked addiction; or (e) the members of a religious institution located close to the proposed licensed outlet. The complainants should show the link between the specific application, the problems that might arise and how the granting of the licence will add to these problems.
- A late complaint will not be accepted.
- The provincial liquor board will give copies of all complaints to the applicant who will then have a chance to respond at a meeting organised by the provincial liquor board. Provincial liquor board meetings are attended by the provincial liquor board, the applicant and his/her lawyer or liquor consultant, and complainants. Other people attending the meeting can include municipal officials, city councillors and members of the SAPS.
- Once the provincial liquor board has heard everyone's views, it will make a decision about whether to give a licence to an applicant or not.

### 3. REPORTING ILLEGAL ACTIVITY

- There is no law that stops members of the public and community-based organisations from monitoring and reporting on liquor outlets in their communities. In fact, it would be **very useful for community members and organisations on the ground to let the provincial liquor boards and local government know about possible cases of law-breaking by liquor outlets in their communities**. We have noted before that Liquor Inspectors are supposed to do this work, but there are not enough Liquor Inspectors to monitor the large number of liquor outlets in each province. So community members and organisations can play an important role in supporting the work of Liquor Inspectors and other officials.
- Most liquor outlets are open to the general public, so community members do not have to ask to enter. However, if community members or community organisations want to ask questions or look around the outlet, the owner or manager does have the right to refuse. It is best, therefore, to respect the rights of the people running the outlet and not fight with them. It is also important not to put yourselves at risk when looking around liquor outlets. If an owner or manager is not helpful, it is best to go away and ask the SAPS or other government officials to look around the outlet – they have the power to do so.
- If a liquor outlet is running with a licence that is out of date, this amounts to a criminal offence and the community member can report this directly to the SAPS. It can also be reported to a Liquor Inspector.
- The Community Policing Forum (CPF) in a community can also help and be a key role-player finding liquor outlets that cause trouble, especially those that are breaking the law. According to the Western Cape Alcohol Harms Reduction Whitepaper, “CPFs are to play a role in informing the police and law enforcement structures of problematic liquor outlets, and CPF comments should be mandatory in the licensing application process.”

### 4. REPORTING UNLICENSED OUTLETS

- All liquor outlets must have a licence. **If an outlet does not have a licence, they are breaking the law** and the SAPS should be informed. A complaint can also be made to a Liquor Inspector.
- If you do report an unlicensed liquor outlet to the SAPS, you can do so without using your name (anonymously) if you do not want the owner of the unlicensed outlet to find out that it was you who reported it.

### 5. HELPING TO MAKE DEVELOPMENT PLANS FOR YOUR COMMUNITY

- The Constitution says that the public should be part of local government matters. **It is important for community organisations and members to take part in development planning processes and decisions for their communities**. By doing so, they can change local government policy about liquor outlets.
- If there is no planning process specifically for your community, then you should speak to your Ward Committee, your Ward Councillor or someone in your municipality about doing one.
- All local governments have an Integrated Development Plan (IDP) process that the public can take part in. The IDP decides the overall plan for a whole town or city. You can also talk about liquor-linked planning issues in the IDP process.

# MANAGING SAFETY CONCERNS AND FEAR OF REPRISALS



In some areas where there are liquor outlets, communities may worry about the safety of its members when monitoring liquor-linked processes. This is a very realistic concern and the safety of community members is very important. Each situation will need to be decided on independently when it comes to security concerns.

## Suggestions to reduce the fear of attack can include:

- a) Working in a community group so that no one person is singled out;
- b) Not being aggressive when monitoring the outlet: you can simply note any wrongdoing and report any matters later to an authority, without using your name;
- c) Laying a complaint through a CEM team member from Sonke who has worked in the community but is not from the community and who feels comfortable with making the complaint in their name: this can stop any specific person from being targeted; and
- d) Ask not to use your name (remain anonymous) when making a complaint: you can certainly choose to do this when making complaints at the Provincial Liquor Boards.



# NEXT STEPS



Now that we have a better understanding of the laws surrounding liquor outlets, and who the official law management bodies are, we can focus on **how to report complaints and law-breaking**.

## MONITORING AND REPORTING

1. Organise to **visit a liquor outlet** in your community that is seen as a possible problem.
2. Look around the liquor outlet, then fill out the **Monitoring Tool** (Annexure 1), which will help you know what to look for and what questions to ask.
3. If it is clear that the (licensed) liquor outlet is not meeting the minimum standards/ requirements:
  - a. Fill in a **complaint form** – first check to see if the provincial liquor board has a standard complaint form (see Annexure 2 for an example of a complaint form); and
  - b. Write a letter explaining who you are, why you are complaining and give details of the claimed law-breaking.
4. Send the completed Monitoring Tool, the Complaint Form and the letter to the **relevant provincial liquor board** by email, fax or in person (contact details of all provincial liquor boards are given in Annexure 3).
5. If it is clear that the liquor outlet is open without a licence or with an invalid licence:
  - a. Send a detailed complaint to the provincial liquor board; and
  - b. **Report** the illegal outlet to the closest police station.
6. **Follow-up** with the right authority (i.e. the provincial liquor board and/or SAPS) and ask to be informed of the progress of the complaint.

## SOME EXAMPLES OF POSSIBLE PROBLEMS AND SUGGESTIONS OF HOW TO DEAL WITH THEM

|  |  |
|--|--|
| <p><b>A bar does not have a licence on display.</b></p>                                    | <p>Ask the bartender/manager/owner to show you the licence (you may need the help of a police officer to do so).</p> <ul style="list-style-type: none"> <li>• If the licence is legal, ask the bartender to visibly display the licence – if they refuse to do so, send a complaint to the provincial liquor board.</li> <li>• If the licence is illegal (i.e. expired) or there is no licence, inform the SAPS and/or the provincial liquor board by sending in a complaint.</li> </ul> |
| <p><b>The bartender sells liquor to a 14-year-old.</b></p>                                 | <p>First approach the bartender and inform him/her that he/she just sold liquor to a minor (person under 18), in case he/she did not realise the person was under age. If the bartender then does nothing to correct the issue, record the time and place, as well as the name of the bartender, and send in a complaint to the provincial liquor board.</p>   |
| <p><b>The bartender sells liquor to a person who is clearly drunk.</b></p>                 | <p>Record the time and place, as well as the name of the bartender, and send in a complaint to the provincial liquor board.</p>  |
| <p><b>There are no toilets at the bar.</b></p>   | <p>Send in a complaint to the provincial liquor board.</p>   |
| <p><b>There is no toilet at the liquor store where I buy wine: is this an offence?</b></p> | <p>No, it is not an offence. A liquor store is an 'off-consumption' liquor outlet, which means that persons are not allowed to drink liquor there. Therefore, there is no need to have a toilet for customers.</p>   |
| <p><b>The bar stays open until 4am and continues to play loud music.</b></p>               | <p>Ask the SAPS or the Metro Police or the Ward Councillor to go there and deal with the problem. Record the time and place and send in a complaint to the provincial liquor board.</p>  |



# CONCLUSION

The abuse of liquor is harmful to people, their families and friends, as well as the broader community in which they live and work. Some of the key harms linked to the abuse of liquor include physical and mental health problems; violence (notably gender-based violence); risky sexual behaviour, leading to unwanted pregnancies and the spread of HIV; and a number of socio-economic problems, including unemployment, poverty, family breakdowns and conflict in communities.

In South Africa, liquor abuse is a serious problem, especially binge-drinking, which is people consuming large amounts of liquor in a very short time. The country also has a very high number of people with HIV and other liquor-related health problems. Liquor plays a role in most cases of gender-based violence and other contact crimes (including assault, attempted murder and murder).

**The control of liquor by monitoring and reporting on its illegal use plays an important role in reducing violence.** It stops liquor outlets from selling liquor to young people (i.e. under the age of 18 years), it limits the number of liquor outlets in a community and it helps control the amount of liquor people drink.

The problem is that government (national, provincial and local) does not have enough money or people to make sure the law is followed everywhere all the time. That is why it is **so important that community members help by working together to monitor and report on liquor outlets** that are unlicensed or are creating problems for the people around them.

We hope that this booklet gives guidance to community members on how they can make liquor outlets in their communities act responsibly. We ask all communities to monitor and report problematic liquor outlets in their communities. At the same time, we urge people to use the information in this booklet responsibly and to follow the proper channels as they do their monitoring and reporting work. Above all, we would like to see this booklet help people to build **safe and healthy communities**.



# ANNEXURE 1: CHECKLIST FOR MONITORING THE SALE OF LIQUOR

This tool has been created to help people to monitor and report on problematic liquor outlets in their communities and thereby improve the health and safety of their community.

How to use this tool:

- Take this checklist with you to the liquor outlet that you want to monitor.
- Look around the outlet and fill in the checklist.
- **If you have circled any of the shaded answers, this means that the outlet may be breaking the law.**
- In the case of possible law-breaking, send in this checklist with a letter to the provincial liquor board.
- If the outlet is operating without a licence or with licence that is out of date, send in this checklist with a letter to the provincial liquor board, or take this checklist to the closest police station and make a complaint.

|                    |                            |
|--------------------|----------------------------|
| Name of monitor:   | Date of monitoring visit:  |
| Outlets monitored: | Time of monitoring visit:  |
| Address:           | Municipality and Province: |

## 1. LOCATION (circle the answer)

|   |     |    |
|---|-----|----|
| 1.1. Is the outlet close to a place of worship (church or mosque)?          | Yes | No |
| 1.2. Is the outlet close to a school?                                       | Yes | No |
| 1.3. Is the outlet close to a residential area (a place where people live)? | Yes | No |

## 2. CUSTOMERS (circle the answer)

|  |     |    |
|--|-----|----|
| 2.1. Does the outlet sell liquor to persons who look like they are under the age of 18?                  | Yes | No |
| 2.2. Does the person selling liquor check the age of persons who look like they are under the age of 18? | Yes | No |
| 2.3. Does the outlet employ persons who look like they are under the age of 18?                          | Yes | No |
| 2.4. Does the outlet sell liquor to persons who already seem to be drunk?                                | Yes | No |

## 3. FACILITIES (circle the answer)

|  |     |    |
|--|-----|----|
| 3.1. Is free drinking water available to all patrons?  | Yes | No |
| 3.2. Are there ablution facilities (i.e. toilets and sinks for handwashing), which cater for both gender and disability, at no additional cost to the patrons? | Yes | No |
| 3.3. Are free-issue condoms easily available?  | Yes | No |
| 3.4. Does the outlet have safety and evacuation measures, so people can exit the outlet quickly in an emergency?   | Yes | No |
| 3.5. Do any customers in the outlet have weapons or sharp objects on their person?   | Yes | No |

#### 4. TRADING HOURS (circle the answer)

|   |     |    |
|---|-----|----|
| 4.1. Does the outlet open and close at the right times and on the right days? | Yes | No |
|---|-----|----|

#### 5. LIQUOR LICENCE (fill in the answer)

5.1. Is the outlet's liquor licence visible? \_\_\_\_\_

5.2. If not, is the owner/manager willing to show you the licence upon request? \_\_\_\_\_

5.3. What is the liquor licence number? \_\_\_\_\_

5.4. Is the liquor licence valid (i.e. it has not exceeded its licensing period)? \_\_\_\_\_

5.5. What are the rules for the liquor licence?

---

---

---

---

---

---

---

---

5.6. Is the outlet following these rules? Explain in detail.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

5.7. Is the outlet listed on the official national list (register)?<sup>13</sup> \_\_\_\_\_

#### 6. OTHER

6.1. Any other comments about the liquor outlet?

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

<sup>13</sup> It is important to check whether the outlet is officially listed in the nation register, in order to guarantee that the displayed licence is not forged. The national register is available at: [https://www.thedti.gov.za/business\\_regulation/docs/nla/other\\_pdfs/National\\_Liquor\\_Register.pdf](https://www.thedti.gov.za/business_regulation/docs/nla/other_pdfs/National_Liquor_Register.pdf). However, you should be aware that the register is not complete, so the outlet may not be listed. This means you will have to find out from the provincial liquor board whether the outlet has a licence or not.

# ANNEXURE 2: EXAMPLE OF A LIQUOR BOARD COMPLAINT FORM (WESTERN CAPE)



**WESTERN CAPE**  
LIQUOR AUTHORITY

**Physical:** 3rd Floor | Sunbel Building | 3 Old Paarl Road | Bellville | 7530  
**Postal:** Private Bag X6 | Sanlamhof | Bellville | 7532  
**Email:** [Liquor.Enquiries@wcla.gov.za](mailto:Liquor.Enquiries@wcla.gov.za)  
**Tel:** +27 (0) 21 204 9700 | [www.wcla.gov.za](http://www.wcla.gov.za)

---

## WESTERN CAPE LIQUOR AUTHORITY – COMPLAINT FORM

---

### INSTRUCTIONS FOR COMPLETING THIS FORM:

- Please write clearly. If your complaint is not legible it will not be processed;
- We do not have authority to investigate and/or take compliance action against unlicensed premises. Should you have a complaint against such a premises please lodge your complaint with the Designated Liquor Officer at your local police station;
- Complaints against licensed premises pertaining to noise disturbance and trading days and hours where there is a municipal by-law must be lodged with your local municipality or your local police station.
- Please sign and return the form with all relevant documents to:

**Hand delivered to Western Cape Liquor Authority, 3<sup>rd</sup> Floor, Sunbel Building, 3 Old Paarl Road, Bellville; or posted to Private Bag X6, Sanlamhof, Bellville, 7532**

**Email to [nompilo.cele@wcla.gov.za](mailto:nompilo.cele@wcla.gov.za)  
Enquiries: Nompilo Cele: 021-2049753**

### DETAILS OF THE COMPLAINANT:

|                          |  |
|--------------------------|--|
| <b>NAME:</b>             |  |
| <b>ADDRESS:</b>          |  |
| <b>TELEPHONE NUMBER:</b> |  |
| <b>EMAIL ADDRESS:</b>    |  |

**DETAILS OF THE LICENSED PREMISES COMPLAINED AGAINST:**

|                                 |  |
|---------------------------------|--|
| <b>NAME OF PREMISES:</b>        |  |
| <b>LICENCE NUMBER IF KNOWN:</b> |  |
| <b>ADDRESS OF PREMISES:</b>     |  |

**COMPLAINT CATEGORY:**

Please indicate which complaint category your complaint relates to:

- Selling liquor to minors/allowing minors on the licensed premises
- Selling liquor for off consumption with an on consumption licence
- Selling liquor to drunk patrons
- Selling liquor to unlicensed premises ("shebeens")
- Unauthorized removal/transfer/renting of a licence
- Unauthorized structural alterations/changing the nature of the business
- Drugs/prostitution on the premises
- Selling liquor on credit/holds SASSA/bank card as security for liquor debt

**DETAILS OF YOUR COMPLAINT:** Please provide as much information as possible (date, time and frequency), including full details of what the complaint is about and please attach copies of all relevant documentation you have to corroborate your complaint.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

*(Please continue on separate page if necessary).*

Please sign the completed complaint form before returning it to us, to give us permission to investigate your complaint in accordance with our procedures. The licence holder has the right to be informed of the complaint against him/her and must be afforded the opportunity to make representations before any decision is taken that may adversely affect his/her rights. We may therefore need to send this complaint form to the licence holder and we cannot do this without your permission.

**Should you wish your personal details not to be disclosed to the licence holder your complaint is against then we will arrange for your personal details to be blanked out.**

I wish my personal details to remain confidential **Yes**  **No**

I confirm that the above stated information is true and correct to the best of my knowledge and belief.

Signed ..... Date .....  
DD / MM / YYYY

## COMPLAINTS PROCEDURE

---

- 1) All complaints against licensed outlets must be submitted on the prescribed complaint form and signed.
- 2) We do not have authority to investigate and/or take compliance action against unlicensed premises ("shebeen"). Should you have a complaint against such a premises please lodge your complaint with the Designated Liquor Officer at your local police station.
- 3) Complaints against licensed premises pertaining to trading days and hours where there is a municipal by-law must be lodged with your local municipality. Furthermore, complaints against a licensed premises pertaining to nuisances emanating from the premises (loud noise, parking, urinating outside the premises, etc.) should also be lodged with your local municipality or the local police station.
- 4) All complaints lodged on the prescribed complaint form will be registered in the complaint register and allocated to an Inspector for investigation.
- 5) The Inspector will review the complaint to see if it falls within the jurisdiction of the WCLA.
- 6) Should your complaint not fall within our jurisdiction, then you will be informed of this and we will direct you to the relevant authorities you need to lodge your complaint with.
- 7) The inspector will investigate the alleged contravention. This may involve contacting you and/or other parties for further information, an inspection of the licensed premises or an integrated operation with other law enforcement agencies.
- 8) Feedback on the status and outcome of the complaint will be provided but limited to the complainant or his/her representative. In the event that the complaint is lodged by an organisation the feedback or update will only be provided to the Chairperson or any other person duly mandated to represent the organisation.
- 9) There are three possible outcomes to the investigation:
  - a) No evidence of the alleged contravention is found. In this instance your complaint will be closed and you will be informed thereof;
  - b) Evidence of the contravention is found but it is not material or serious enough to refer to the Liquor Licensing Tribunal. In this instance a fine or a compliance notice may be issued; and
  - c) Evidence of the contravention is found and it is material and serious. In this instance an application may be made to the Liquor Licensing Tribunal to suspend or revoke the licence or to impose a fine.

You will be notified of the outcome of the investigation and any decision to close your complaint, as well as the reasons for such decision.

**NOTE:** Remember that this is an *example* of a complaint form. It is used in the Western Cape. Each province will have its own way to report complaints, so people in other provinces will have to find out what form is used there.

## ANNEXURE 3: CONTACT DETAILS FOR NATIONAL AND PROVINCIAL LIQUOR STRUCTURES

| <b>National Liquor Authority</b>   |   |   |
|--|---|---|
| 77 Meintjies Street<br>Sunnyside<br>Pretoria   | Private Bag X 84<br>Pretoria<br>0001              | Tel: +27 (86) 1843 384<br>Email: Nationalliquorauthority@thedti.gov.za  |
| <b>Eastern Cape Liquor Board</b>   |   |   |
| 69 Devereux Avenue<br>Vincent<br>East London   | 69 Devereux Avenue<br>Vincent<br>East London      | Tel: + 27 (43) 700 0900<br>Hotline: 0800 000 420<br>Email: zola.tyikwe@eclb.co.za   |
| <b>Free State Gambling and Liquor Board</b>  |   |   |
| 36 First avenue<br>Westdene<br>Bloemfontein  | PO Box 9229<br>Bloemfontein<br>9300               | Tel: +27 (51) 404 0300<br>Fax: +27 (51) 404 0322<br>E-mail: fsgrb@fsgrb.co.za   |
| <b>Gauteng Liquor Board</b>  |   |   |
| 124 Main Street<br>Corner Main and Kruis Streets<br>(opp Carlton Centre)<br>Johannesburg | Private Bag X 091<br>Marshalltown<br>2107         | Tel: +27 (11) 085 2245<br>Email: Sibongile.Gambu@gauteng.gov.za   |
| <b>KwaZulu-Natal Liquor Authority</b>  |   |   |
| 1st Floor<br>The Marine Building<br>22 Dorothy Nyembe Street<br>Durban                   | PO Box 2853<br>Durban<br>4000                     | Call centre number: +27 (87) 232 2333<br>Tel: +27 (31) 302 0600<br>E-mail: info@kznlqa.co.za                                |
| <b>Limpopo Department of Economic Development, Environment &amp; Tourism</b>             |   |   |
| Evridiki Towers<br>20 Hans van Rensburg Street<br>Polokwane                              | Private Bag X 9484<br>Polokwane<br>0700           | Tel: +27 (15) 293 8300  |
| <b>Mpumalanga Department of Economic Affairs &amp; Tourism</b>                           |   |   |
| 66 Anderson Street<br>Nelspruit  | Private Bag X 11215<br>1200 Nelspruit             | Tel: +27 (13) 752 3729<br>Email: elijahm@mpla.org.za  |
| <b>North West Department of Economic Development &amp; Tourism</b>                       |   |   |
| Cnr University Drive and<br>Provident Street<br>Mmabatho                                 | Private Bag X 79<br>Mmabatho<br>2735              | Tel: +27 (18) 387 7700<br>Fax: +27 (18) 387 7920  |
| <b>Northern Cape Liquor Authority</b>  |   |   |
| No. 6 De Beers Road<br>Kimberley   | Private Bag X 6108<br>Kimberley<br>8301           | Tel: +27 (87) 310 5318<br>Fax: +27 (53) 839 4073<br>E-mail: nclbcfo@vodamail.co.za  |
| <b>Western Cape Liquor Authority</b>   |   |   |
| No. 3 Old Paarl Road<br>3rd Floor, Sunbel Building<br>Bellville<br>Cape Town             | Private Bag X 6<br>Sanlamhof<br>Bellville<br>7532 | Tel: +27 (21) 204 9805<br>Fax: +27 (21) 204 9700/9701<br>E-mail: Liquor.Enquiries@wcla.gov.za;<br>Nigel.Fortune@wcla.gov.za |

## **ANNEXURE 4: SUMMARY OF WHAT SOME PROVINCIAL LIQUOR BOARDS DO**

### **1) Eastern Cape Liquor Board**

The Eastern Cape Liquor Board (ECLB) is established in terms of the Eastern Cape Liquor Act.

*Functions of the ECLB:*

- Regulate the registration of retail sales and micro-manufacturing of liquor in the province (including approving and refusing applications; cancelling, suspending or varying any approved registration; and determining conditions for registration)
- Invite any person who is or may be affected by or is concerned in the consideration of a particular matter to be present at a board's meeting
- Appoint inspectors
- Advise the Member of the Executive Council of the Province for Economic Development and Environmental Affairs with regard to liquor industry matters
- Publish in the Provincial Gazette applications received for registration, transfer or removal
- Keep a register of all persons who are registered whose registrations were cancelled, and who deregistered voluntarily – which must publish in the Gazette annually
- Encourage and support the liquor industry
- Manage and reduce the socio-economic effects of excessive liquor consumption
- Developing new entrants in the liquor industry.

### **2) Gauteng Liquor Board**

The Gauteng Liquor Board (GLB) is established in terms of the Gauteng Liquor Act.

*Functions of the GLB:*

- Receive liquor licence applications (from the local committees) and after considering such applications refuse or grant the application concerned
- Suspend a licence which is the subject of a report, complaint or objection, or any right or privilege which is attached thereto, as well as the power to end such suspension
- Declare a licence to be subject to such conditions or further conditions
- Advise the Member of the Executive Council or furnish a report or recommendation to the Member of the Executive Council on any matter referred to the Board by the Member of the Executive Council for consideration and arising from the application of this Act or relating to the control over or distribution of liquor
- Establish a fund to be administered by it in addressing negative social effects of liquor consumption in the Province – the funds may be dispensed by the Board on application by the affected parties or communities or as prescribed
- Call an inquiry for investigations conducted by the Inspectorate.

The Gauteng Liquor Act also establishes local committees of the Board in each of the areas of the municipalities in the Province, known as Metropolitan Councils and District Councils. Their powers and functions include:

- a. Considering all applications for licences, transfer of licences, amendment of conditions and any other application in terms of this Act
- b. Making recommendations in respect of all applications and submitting them to the Board immediately after consideration of the applications
- c. Advising the Board or furnishing a report or recommendation to the Board on any matter referred to it by the Board for consideration and arising from the application of this Act or relating to the control over or the distribution of liquor.

The Gauteng Liquor Act also establishes the Liquor Trade Association in the Province, to be known as the Gauteng Liquor Traders Association. All licensees and applicants for licences must either belong to this Association or to one of its affiliates.



### 3) **Western Cape Liquor Authority**

The Western Cape Liquor Authority (WCLA) is established in terms of the Western Cape Liquor Act.

*Functions of the WCLA:*

- Administer liquor regulation in the Province
- Receive applications for liquor licences or exemptions in terms of this Act and to transmit the applications to the Liquor Licensing Tribunal
- Issue licences in those cases where the Liquor Licensing Tribunal has granted licences
- Acquire, hold, hire, let and alienate intellectual, movable and immovable property
- Open and maintain bank accounts
- Appoint and dismiss staff and do all things incidental thereto
- Conclude and perform contracts
- Make and enforce rules for the conduct of its meetings
- Receive, expend and generally administer funds
- Collect and administer in accordance with the provisions of this Act, fees and penalties imposed in terms of this Act
- Enter into agreements with or obtain the assistance of any department or organ of state, including the South African Police Service, to conduct or assist it in conducting its investigations
- Obtain information from licensees and other persons and agencies
- Conduct an ongoing study of and investigation into— (i) the retail liquor trade and micro-manufacturing of liquor throughout the Province and elsewhere in order to ascertain whether there are any deficiencies in this Act and to discover any abuses or violations of the procedures contained in this Act; and (ii) reduce the socio-economic and other costs associated with the abuse of liquor
- Determine minimum internal control systems for the Board and for licensees, including accounting and reporting procedures and any other procedures or systems, whether computerised or not
- Determine fees and charges in respect of hearings, investigations, enquiries and any other function performed by the Authority
- Establish field or branch offices
- Establish and administer funds for the proper administration of this Act
- Consult with any person or employ consultants regarding any matter relevant to the performance of its functions on such terms and conditions as the Board may determine
- Delegate any of its powers in accordance with section 10
- Appoint committees consisting of members of the Board
- Exercise generally the powers and perform the functions and duties specified in this Act or assigned to it by any other law
- Advise the Minister on any matter which the Minister has referred to it.

The Western Cape Liquor Act also establishes a Liquor Licensing Tribunal, which has the following powers and functions:

- a) Consider any of the following matters: any application for a licence; any application for the transfer of a licence; representations for or against the granting of applications; any report submitted to it by a designated liquor officer, an inspector or a municipal official; any complaint lodged with it regarding the conduct of a licensed business; representations by a licensee or other interested person regarding the ending of the suspension of a licence or the removal or amendment of any condition imposed upon a licence
- b) Refuse or grant licence applications
- c) Impose conditions upon a licence
- d) Revoke or suspend a licence

#### 4) **Mpumalanga Liquor Authority**

The Mpumalanga Liquor Authority (MLA) is established in terms of the Mpumalanga Liquor Licensing Act.

*Functions of the MLA:*

- License applicants
- Facilitate the entry of new participants into the liquor industry
- Ensure that all participants in the liquor industry fully comply with all applicable legal prescripts pertaining to the liquor industry
- Establish and maintain a Provincial Liquor Register of all persons and entities licensed in terms of this Act
- Advise the Member of the Executive Council or furnish reports or recommendations to the Member of the Executive Council on any matter referred to the Authority by the Member for consideration
- Implement incentive schemes
- Advise the Member of the Executive Council on the social impact of liquor abuse
- Liaise and consult with all relevant stakeholders (e.g. individuals and communities, traditional leaders, organs of state, statutory bodies, and organised business) as well as the DTI
- Raise funds in order to further its objects.

## ANNEXURE 5: TRADING HOURS

### 1) National minimum trading hours<sup>14</sup>

| TYPE  | DAYS                                      | HOURS                             |
|---|---|-----------------------------------|
| <b>1. Manufacturers:</b>                                    |   |                                   |
| All Manufacturers   | 7 days a week                             | 24 hours for both macro and micro |
| Tasting   | Monday - Sunday including Public Holidays | 10:00 – 18:00                     |
| <b>2. Distribution:</b>                                     |   |                                   |
| Distribution  | Monday - Saturday                         | 06:00 – 18:00                     |
|   | Sundays including Public Holidays         | 09:00 – 17:00                     |
| <b>3. Off Consumption (Business and Residential zoned):</b> |   |                                   |
| Off-consumption licenses                                    | Monday - Saturday                         | 09:00 – 20:00                     |
|   | Sundays including Public Holidays         | 09:00 – 17:00                     |
| <b>4. On Consumption (Business Zone):</b>                   |   |                                   |
| Other on-consumption licenses                               | Monday - Sunday                           | 10:00 – 00:00                     |
| Night Club  | Monday - Sunday                           | 10:00 – 06:00                     |
| <b>5. On Consumption (those in residential areas):</b>      |   |                                   |
| Other on-consumption licenses                               | Monday - Saturday                         | 10:00 – 21:00                     |
|   | Sunday                                    | 10:00 – 17:00                     |
| Night Club  | Monday - Saturday                         | 18:00 – 06:00                     |
|   | Sunday                                    | 18:00 – 00:00                     |
| Accommodation   | Monday - Sunday                           | 10:00 – 00:00                     |
| <b>6. Special events:</b>                                   |   |                                   |
| Business zone   | On the day of the event                   | 10:00 – 00:00                     |
| Residential area  | On the day of the event                   | 10:00 – 22:00                     |

### 2) Mquma (Eastern Cape) by-laws

| Area  | Days                         | Selling hours                    |
|---|------------------------------|----------------------------------|
| Any licensed Hotel/Motel premises within the CBD of Butterworth, Centane and Nqamake  | Monday to Saturday<br>Sunday | 08H00 to 22H00<br>09H00 to 15H00 |
| Any Liquor premises outside the CBD area of Butterworth, Centane and Nqamak   | Monday to Saturday<br>Sunday | 10H00 to 20H00<br>10H00 to 14H00 |
| Any bottle store or other licensed liquor premises within the CBD of Butterworth, Centane and Nqamake excluding Hotel/Motel | Monday to Saturday<br>Sunday | 08H00 to 21H00<br>10H00 to 14H00 |

<sup>14</sup> National Liquor Norms and Standards, 2014.

### 3) Mbashe (Eastern Cape) by-laws

| Type   | Days   | Hours   |
|--|--|---|
| Sale to the public of liquor for drinking away from the outlet (off the premises) where the liquor is being sold (off-consumption)                                       | Monday to Saturday<br>Sunday   | 08:30 – 18:00<br>09:00 – 13:00                  |
| Sale to the public of liquor for drinking at the outlet (on the premises) where the liquor is being sold (on-consumption)  | Sunday to Thursday<br>Friday to Saturday   | 10:00 – 24:00<br>10:00 – 02:00                  |
| Sale to the public of liquor both at or away from the outlet (on and off the premises) where the liquor is being sold (e.g. taverns, shebeens) (off- and on-consumption) | <u>Off-consumption</u><br>Monday to Saturday<br>Sunday<br><u>On-consumption:</u><br>Sunday to Saturday | 08:30 – 20:00<br>09:00 – 13:00<br>08:30 – 20:00 |

### 4) Mbombela (Mpumalanga) by-laws

| TYPE  | DAYS                                      | HOURS                             |
|---|---|-----------------------------------|
| <b>1. Manufacturers:</b>                                  |   |                                   |
| All Manufacturers   | 7 days a week                             | 24 hours for both macro and micro |
| Tasting   | Monday - Sunday including Public Holidays | 10:00 – 18:00                     |
| <b>2. Distribution:</b>                                   |   |                                   |
| Distribution  | Monday - Saturday                         | 06:00 – 18:00                     |
|   | Sundays including Public Holidays         | 09:00 – 17:00                     |
| <b>3. Off Consumption licences:</b>                       |   |                                   |
| Off-consumption licenses                                  | Monday - Saturday                         | 09:00 – 20:00                     |
|   | Sundays including Public Holidays         | 09:00 – 17:00                     |
| <b>4. On Consumption (Business and Industrial areas):</b> |   |                                   |
| Other on-consumption licenses                             | Monday - Sunday                           | 10:00 – 00:00                     |
| Places of Amusement                                       | Monday - Sunday                           | 10:00 – 06:00                     |
| <b>5. On Consumption (those in residential areas):</b>    |   |                                   |
| Other on-consumption licenses                             | Monday - Saturday                         | 10:00 – 21:00                     |
|   | Sunday                                    | 10:00 – 17:00                     |
| Places of Amusement                                       | Monday - Saturday                         | 18:00 – 00:00                     |
|   | Sunday                                    | 18:00 – 00:00                     |
| Accommodation Establishments                              | Monday - Sunday                           | 10:00 – 00:00                     |
| <b>6. Special events:</b>                                 |   |                                   |
| Business and Industrial areas                             | On the day of the event                   | 10:00 – 00:00                     |
| Residential area  | On the day of the event                   | 10:00 – 22:00                     |

## 5) Cape Town (Western Cape) by-laws

| LOCATION CATEGORY & LICENSED PREMISES TYPE  | MAXIMUM PERMITTED TRADING HOURS |
|---|---------------------------------|
| <b>1. Residential area</b>  |                                 |
| Guest accommodation establishment   | 11:00 – 23:00                   |
| Business premises   |                                 |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   |                                 |
| Hotel   | 11:00 – 2:00 following day      |
| Casino  |                                 |
| <b>2. Local business or neighbourhood business area including mixed use areas</b> |                                 |
| Guest accommodation establishment   | 11:00 – 23:00                   |
| Business premises   |                                 |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   | 11:00 – 24:00                   |
| Hotel   | 11:00 – 2:00 following day      |
| Casino  |                                 |
| <b>3. General business area</b>   |                                 |
| Guest accommodation establishment   | 11:00 – 2:00 following day      |
| Business premises   |                                 |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   |                                 |
| Hotel   |                                 |
| Casino  |                                 |
| <b>4. Industrial area</b>   |                                 |
| Business premises   | 11:00 – 2:00 following day      |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   |                                 |
| <b>5. Agricultural area</b>   |                                 |
| Guest accommodation establishment   | 11:00 – 2:00 following day      |
| Business premises   |                                 |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   |                                 |
| Winery  |                                 |
| Hotel   |                                 |
| <b>6. Small holding or rural area</b>   |                                 |
| Guest accommodation establishment   | 11:00 – 24:00                   |
| Business premises   |                                 |
| Place of entertainment  |                                 |
| Sports and community club excluding special events requiring temporary licences   |                                 |
| Winery  |                                 |

## ANNEXURE 6: CASE STUDY

### Making a complaint at the Eastern Cape Liquor Board

This is a case study of a complaint made about the illegal actions of a liquor store in Gwadana, Eastern Cape. As shown above, each Province has its own Liquor Board and each may work differently to the other. In this case study, we examine how you can make a complaint to the Eastern Cape Liquor Board (ECLB).

Complaints can be made to the ECLB by email, by telephone on a toll-free line or by WhatsApp, either using a name or not (anonymously). If you choose to make a complaint without using your name, you can use the reference number given to follow up on the complaint. Contact details for each Liquor Board are provided above in Annexure 3.

In this case, Sonke chose to make a complaint via email using a CEM member's name, to stop threats or bullying against the CAT member who first made complaints linked to the sale of liquor in Gwadana. Included in the complaint was the name of the complainant, the name of the store/liquor licence holder, the address or location of the liquor store (area and village where the liquor store is located may also help) and details of why the complaint was being made. The complaint was sent to the Compliance and Enforcement Division, which makes sure liquor licence holders do not break the law. As each province has various officials who oversee liquor laws, the area representative approached will often refer the case to the correct person. Sonke was copied in on each step of the communication with the ECLB.

Sonke was also telephoned to arrange a meeting in person within a month of the first complaint to the ECLB. This meeting took us through the process to date, including how far the investigation had progressed.

The process went as follows:

1. The Liquor Board checked on their system if there was a liquor store listed in their database under the name we gave them. It is therefore important to give all the names by which a liquor store may be known, because the store name is not always the same as the listed store name on the Liquor Board system. This was the case with this particular case study.
2. Once a liquor store has been found on the Liquor Board system, the Liquor Board official will look to see if the paperwork is correct and up to date. Then the process is to check that every step has been correctly followed to get a liquor licence. In this case, we were shown the documents that were completed to get the liquor licence. However, because we had raised concerns from community members of Gwadana, the ECLB official said they would talk to people to find out if there had been any illegal activity. It is helpful to have the contact details of the people the ECLB or other Liquor Board can interview and Sonke can help with this. In this case, it was agreed that the ECLB would talk to the community complainants themselves, with the help of Sonke, as it is often hard to find people who are willing to talk. This is why good relationships in communities are important. Details of the community members talked to must not be made public to protect the community members from danger.
3. Complainants (Sonke in this case) can get copies of the application documents, if they write to the ECLB and ask for them.

The overall experience of the Gwadana complaint has been positive and we are continuing to work with the ECLB during their investigation at the time of printing this liquor guide.

Remember, most liquor boards have very limited resources and staff, so if you can help them with the process (but allow the investigation to stay independent), the liquor boards will likely be thankful.



## CONTACT DETAILS:

Sonke Gender Justice  
Cape Town Office  
Westminster House, 2nd floor  
122 Longmarket Street  
CBD, 8001,  
Cape Town, South Africa  
tel: +27 (0) 21 423 7088  
fax: +27 (0) 21 424 5645  
info@genderjustice.org.za

Sonke Gender Justice  
Johannesburg Office  
Stevensons Building, 3rd floor,  
62 Juta Street, Cnr De Beer Street,  
Braamfontein, 2017,  
Johannesburg, South Africa  
tel: +27 (0) 11 339 3589  
fax: +27 (0) 11 339 6503  
info@genderjustice.org.za