

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO
LIQUOR BILL**

[B 131—98]

*(As agreed to by the Select Committee on Economic and Foreign Affairs
(National Council of Provinces))*

[B 131A—98]

REPUBLIEK VAN SUID-AFRIKA

**GEKOSE KOMITEE-AMENDEMENTE
OP
DRANKWETSONTWERP**

[W 131—98]

*(Soos goedgekeur deur die Gekose Komitee oor Ekonomiese en Buitelandse Sake
(Nasionale Raad van Provinsies))*

[W 131A—98]

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AMENDMENTS AGREED TO

LIQUOR BILL
[B 131—98]

LONG TITLE

1. On page 2, in the fourth line, to omit “prevent” and to substitute “reduce”.

ARRANGEMENT OF SECTIONS

1. On page 4, item 29, to omit “and” and to substitute “or”.
2. On page 4, item 36, to omit “Renewal of registration” and to substitute “Annual registration fee”.
3. On page 6, item 57, to omit “Other”.

CLAUSE 1

1. On page 8, in line 9, to omit “19(1)” and to substitute “17(1)”.
2. On page 8, from line 14, to omit paragraph (c) and to substitute:
 - (c) any substance or other fermented drink—
 - (i) manufactured as or sold under the name of beer, ale, cider or stout; or
 - (ii) declared to be beer under subsection (2)(a), if it contains more than one percent by volume of alcohol, but does not include sorghum beer; (vii)
3. On page 8, in line 21, to omit “21; (xxxxi)” and to substitute “19; (xl)”.
4. On page 10, from line 5, to omit the definition of “general dealer”.
5. On page 10, in line 16, to omit “(xxxxiii)” and to substitute “(xlii)”.
6. On page 10, from line 20, to omit “for any person referred to in paragraphs (a) and (b)”.
7. On page 10, in line 23, to omit “(xxxx)” and to substitute “(xxxix)”.
8. On page 10, in line 28, to omit “(2)(a)” and to substitute “(2)(d)”.
9. On page 10, in line 43, to omit “by” and to substitute “under”.
10. On page 10, in line 45, after “conveyance,” to insert “as prescribed,”.
11. On page 10, in line 47, to omit “(xxxxii)” and to substitute “(xli)”.
12. On page 10, in line 48, to omit “by” and to substitute “under”.
13. On page 10, in line 61, to omit “27(c), (d), (e) or (f)” and to substitute “27(c) or (d)”.
14. On page 12, in line 3, to omit “(xxxx)” and to substitute “(xxxix)”.
15. On page 12, in line 6, to omit the second “or”.

16. On page 12, in line 7, after “vegetable” to insert “or fruit”.
17. On page 12, in line 9, after “beer;” to insert “or”.
18. On page 12, in line 12, to omit “(xxxxi)” and to substitute “(xl)”.
19. On page 12, in line 14, to omit “(xxxxii)” and to substitute “(xli)”.
20. On page 12, in line 16, to omit “(xxxxiii)” and to substitute “(xlii)”.
21. On page 12, in line 20, to omit “(c)(ii)” and to substitute “(c)(i)”.
22. On page 12, in line 20, to omit “subregulation” and to substitute “subsection”.
23. On page 12, in line 27, after “Act;” to insert “and”.

CLAUSE 5

1. On page 14, in line 35, after “sector;” to insert “and”.
2. On page 14, in line 37, to omit paragraph (b) and to substitute:
 - (b) seven persons representing society in general: Provided that such representation shall have regard to the demographic composition of the population, gender equity and a fair geographic spread;

CLAUSE 7

1. On page 16, in line 29, to omit “an annual” and to substitute “a”.

CLAUSE 8

1. On page 16, in line 44, to omit “ensure” and to substitute “monitor”.

CLAUSE 14

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Establishment of provincial authorities

14. The provincial legislature of each province of the Republic shall, subject to this Act, pass legislation for its province with regard to—

- (a) the establishment of a provincial liquor authority;
- (b) the composition and administration of that authority; and
- (c) subject to the laws governing the public service, the appointment or designation of personnel to assist that authority in the exercise of its powers and the performance of its duties.

CLAUSE 16

1. On page 20, in line 13, to omit “, (d), (e) and (f)” and to insert “and (d)”.
2. On page 20, in line 17, to omit “, (d), (e) and (f)” and to insert “and (d)”.

CLAUSE 17

1. On page 20, from line 23, to omit subsection (1) and to substitute the following:
 - (1) There is hereby established the National Liquor Appeal Tribunal, consisting of three fit and proper persons, of which at least one shall have a suitable degree of skill and experience in the application of civil and criminal law matters, appointed by the Minister, which shall consider appeals against decisions made by the national authority.
 - (2) The provincial legislature of each province of the Republic shall, subject to this Act, pass legislation for its province with regard to—
 - (a) the establishment of a panel of appeal which shall consider appeals against decisions made by the relevant provincial authority;
 - (b) the composition and administration of that panel; and
 - (c) subject to the laws governing the public service, the appointment or designation of personnel to assist the panel in the exercise of its powers and the performance of its duties.
2. On page 20, in line 36, after “(1)” to insert “or (2)”.
3. On page 20, in line 45, after “(1)” to insert “or (2)”.
4. On page 20, in line 52, after “11” to insert “shall,”.
5. On page 20, from line 53, to omit “or a panel of appeal”.

CLAUSE 18

1. On page 22, in line 37, to omit “17(2)” and to substitute “17(3)”.

CLAUSE 23

1. On page 26, after line 3, to add:
 - (2) In the application of this section, “spouse” includes—
 - (a) a legally married husband or wife;
 - (b) a partner in a legal customary union;
 - (c) a partner in a union recognised by any religion as a legal marriage; and
 - (d) a person with whom a member lives as if they were married or with whom the member habitually cohabits.

CLAUSE 24

1. On page 26, in line 6, to omit “concerned” and to substitute “involved”.

CLAUSE 27

1. On page 26, in line 40, to omit “exceed” and to substitute “exceeds”.
2. On page 26, from line 43, to omit paragraphs (c), (d) and (e) and to substitute:
 - (c) the retail sale of liquor for consumption—
 - (i) off the premises where the liquor is sold;
 - (ii) on the premises where the liquor is sold; or
 - (iii) on and off the premises where the liquor is sold; or

CLAUSE 28

1. On page 28, in line 5, to omit “has been” and to substitute “is”.

CLAUSE 29

1. On page 28, in line 50, to omit “or”.
2. On page 28, in line 54, after “28;” to insert “or”;
3. On page 28, in line 60, after “manufacture,” to insert “store,”.
4. On page 30, in line 4, after “(b)” to insert “any”.
5. On page 32, in line 2, after “register;” to insert “or”.
6. On page 32, in line 9, after “it” to insert “is”.

CLAUSE 30

1. On page 32, from line 30, to omit “, (d), (e) or (f)” and to substitute “or (d)”.
2. On page 32, in line 32, after “authority;” to insert “and”.
3. On page 32, in line 53, to omit “or”.
4. On page 32, in line 57, after “28;” to insert “or”.
5. On page 34, in line 5, after “(b)” to insert “any”.
6. On page 34, in line 15, to omit “or” and to substitute “of”.
7. On page 34, in line 17, to omit “(2)(e)” and to substitute “(2)(d)”.
8. On page 34, in line 31, after “days” to insert:

in the case of a category of registration contemplated in section 27(c),
or three days in the case of a category of registration contemplated in
section 27(d),
10. On page 34, in line 32, to omit “(3)” and to substitute “(2)”.
11. On page 34, in line 36, to omit “subsection” and to substitute “subsections (2), (3) and”.
12. On page 34, after line 54, to insert:

(11) A provincial authority shall not register a person if the approval
of the registration would result in that person having a controlling
interest in a different category of registration.
13. On page 34, in line 59, to omit “in terms of section 27(f)” and to substitute “contemplated in section 27(d)”.

CLAUSE 31

1. On page 36, in line 3, to omit “27(f)” and to insert “27(d)”.

CLAUSE 33

1. On page 36, from line 51, to omit paragraph (a).
2. On page 36, in line 58, after “granted;” to insert “and”.
3. On page 38, in line 1, to omit “and”.
4. On page 38, in line 2, to omit subparagraph (v).
5. On page 38, in line 7, to omit paragraph (a).
6. On page 38, from line 11, to omit subsections (3) and (4).

CLAUSE 34

1. On page 38, in line 20, after “issue;” to insert “or”.

CLAUSE 36

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Annual registration fees

36. A registered person shall pay a prescribed annual registration fee in respect of each registration of which he, she or it is the registered person, on or before the prescribed date.

CLAUSE 37

1. On page 38, in line 49, after “registration;” to insert “or”.

CLAUSE 39

1. On page 40, in line 27, to omit “notices in writing” and to substitute “written notices”.
2. On page 40, in line 33, after “accordingly;” to insert “and”.

CLAUSE 40

1. On page 40, in line 44, to omit “solution” and to substitute “dissolution”.

CLAUSE 41

1. On page 42, in line 5, to omit “27(f)” and to substitute “27(d)”.

CLAUSE 46

1. On page 44, in line 29, after “to” to insert “subsection (2) and”.
2. On page 44, from line 31, to omit “person registered for the sale of liquor;” and to substitute “registered person; and”.
3. On page 44, in line 41, to omit paragraph (c).
4. On page 44, after line 41, to insert:

(2) Despite section 89, a manufacturer registered for a category of registration contemplated in section 27(a)(i) may sell the liquor produced by him, her or it, directly to the public for consumption on

and off the registered premises, subject to the terms and conditions that the relevant authority may determine.

CLAUSE 47

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Transfer of registration

47. (1) A registered person may apply to the relevant authority for the transfer of that person's registration to another person who is not disqualified or otherwise incompetent in terms of this Act to be a registered person.

(2) Section 29 or 30, as the case may be, shall apply, with the necessary changes, to an application contemplated in subsection (1).

CLAUSE 48

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Alterations to and extension of registered premises

48. A registered person shall not—
(a) effect any structural alteration, addition or reconstruction of or to the registered premises; or
(b) extend the registered premises,
except with the consent of the chairperson of the relevant authority, granted on application by the registered person and on any condition that the chairperson may deem fit.

CLAUSE 49

1. On page 46, in line 7, to omit “he, she” and to substitute “him, her”.
2. On page 46, from line 8, to omit paragraphs (a) and (b) and to substitute:
(a) to any registered person; and
(b) directly to the public for consumption on and off the registered premises, as prescribed.

CLAUSE 50

1. On page 46, from line 22, to omit paragraphs (a) and (b) and to substitute:
 - (a) to any registered person; and
 - (b) directly to the public for consumption on and off the registered premises, as prescribed.
2. On page 46, in line 31, to omit “Section 53” and to insert “Sections 52 and 53”.

CLAUSE 51

1. On page 46, in line 35, to omit paragraph (b) and to substitute:
 - (b) to a person under the influence of alcohol or a drug having a narcotic effect.

CLAUSE 52

1. On page 46, in line 43, after “premises;” to insert “and”.

CLAUSE 53

1. On page 46, from line 48, to omit the words preceding paragraph (a) and to substitute:
 - (1) Subject to sections 49(3) and 50(3), a registered manufacturer or wholesaler may only deliver liquor pursuant to a sale—

CLAUSE 54

1. On page 48, after line 44, to insert:
 - (7) In the application of this section, the chairperson shall act in consultation with the members of the relevant authority.

CLAUSE 57

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Business on registered premises

57. Despite any other law, the Minister may prescribe the business that a registered person may conduct on the registered premises.

CLAUSE 62

1. On page 52, in line 48, to omit the first “or” and to substitute “and”.

CLAUSE 63

1. On page 54, in line 18, to omit the third “or” and to substitute “and”.

CLAUSE 68

1. On page 56, from line 22, to omit subsection (3) and to substitute:

(3) A compliance notice contemplated in subsection (1) shall remain in force until an inspector issues a compliance certificate contemplated in subsection (4) in respect of that notice.
2. On page 56, in line 25, to omit “prescribed”.

CLAUSE 69

1. On page 56, in line 44, after “authority;” to insert “or”.

CLAUSE 71

1. On page 58, in line 25, after “sold;” to insert “and”.

CLAUSE 72

1. On page 60, in line 2, after “premises;” to insert “or”.

CLAUSE 73

1. On page 60, from line 32, to omit subsection (6).

CLAUSE 74

1. On page 60, in line 53, after “in” to insert “or on”.
2. On page 62, in line 8, to omit “represents” and to substitute “represent”.

CLAUSE 76

1. On page 62, in line 36, to omit “70 or 74” and to substitute “70, 74(a) or 75”.
2. On page 62, in line 49, to omit the second “offence” and to substitute “imprisonment”.

CLAUSE 77

1. On page 64, in line 12, to omit the first “when” and to substitute “where”.

CLAUSE 81

1. On page 64, in line 38, to omit “*de bonis propriis*” and to substitute “on an attorney and own client scale”.

CLAUSE 83

1. On page 66, in line 16, after “is” to insert “in”.
2. On page 66, in line 37, to omit “which” and to substitute “with”.

CLAUSE 85

1. On page 68, in line 12, after “may” to insert:
 , after consultation with the Member of the Executive Council of each province,
2. On page 68, in line 13, to omit “facilitating” and to substitute “facilitation”.
3. On page 68, in line 24, to omit “27(f)” and to substitute “27(d)”.
4. On page 68, in line 26, to omit “areas” and to substitute “prescribed premises”.
5. On page 68, in line 30, to omit paragraph (k).
6. On page 68, after line 32, to insert:
 (l) any matter required or permitted to be prescribed in terms of this Act; and

CLAUSE 89

1. On page 70, in line 31, to omit “manufacture and”.
2. On page 70, from line 33, to omit subsection (5) and to substitute:
 (5) Any determination made in terms of section 51 of the Liquor Act, 1989, shall lapse three years after the commencement of this Act.
3. On page 70, from line 46, to omit “subject to application to and approval of the relevant authority for separate premises as prescribed” and to substitute:
 whereafter the licence shall lapse: Provided that such holder may at any time after the commencement of this Act apply to the relevant authority for a registration contemplated in section 27(c)(i) for prescribed separate premises.

4. On page 70, after line 47, to insert:

(9) The conversion of a wholesaler (manufacturer) set out in Schedule 2 shall be subject to the scrutiny and confirmation of the relevant authority.

SCHEDULE 2

Schedule rejected.

NEW SCHEDULE

1. That the following be a new Schedule to follow on Schedule 1:

SCHEDULE 2

Conversion of exemptions, licences and approvals

(Section 89(1))

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	Category of registration deemed to be in force from the date of commencement of this Act
An exemption in terms of section 3(1)(e), (f), (g), (h), (j) or (k), or (2) of the Liquor Act, 1989, or any other law	A registration for the retail sale of liquor contemplated in section 27(c)(i), (ii) or (iii) or (d) of this Act, as the case may be, for a period of three years, whereafter such registration shall lapse
An exemption referred to in section 4(1) of the Liquor Act, 1989	A registration for the retail sale of liquor contemplated in section 27(c)(i), (ii) or (iii) or (d) of this Act, as the case may be for a period of three years, whereafter such registration shall lapse
A hotel liquor licence referred to in section 20(a)(i) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A restaurant liquor licence referred to in section 20(a)(ii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A wine-house licence referred to in section 20(a)(iii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A theatre liquor licence referred to in section 20(a)(iv) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A club liquor licence referred to in section 20(a)(v) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A sorghum beer licence referred to in section 20(a)(vi) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A special liquor licence referred to in section 20(a)(vii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in 27(c)(ii) of this Act
A temporary liquor licence referred to in section 20(a)(viii) of the Liquor Act, 1989	A registration for the retail sale of liquor at a special event contemplated in section 27(d) of this Act
An occasional licence referred to in section 20(a)(ix) of the Liquor Act, 1989	A registration for the retail sale of liquor at a special event contemplated in section 27(d) of this Act

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	Category of registration deemed to be in force from the date of commencement of this Act
A wholesale liquor licence referred to in section 20(b)(i) of the Liquor Act, 1989	A registration for the distribution of liquor by a wholesaler contemplated in section 27(b) of this Act: Provided that the conversion may be subject to section 29(3)(c) of this Act
A wholesaler (manufacturer) that was granted a licence referred to in section 20(b)(i) of the Liquor Act, 1989	A registration for the manufacture of liquor contemplated in section 27(a)(i) or (ii) of this Act, as the case may be: Provided that the conversion shall be subject to sections 29(3)(c) and 89(9) of this Act
A brewer's licence referred to in section 20(b)(ii) of the Liquor Act, 1989	A registration for the manufacture of liquor above or below the prescribed volume contemplated in section 27(a)(i) or (ii) of this Act, as the case may be: Provided that the conversion may be subject to section 29(3)(c) of this Act
A liquor store licence referred to in section 20(b)(iii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption off the premises on which liquor is being sold, contemplated in section 27(c)(i) of this Act
A grocer's wine licence referred to in section 20(b)(iv) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption off the premises on which liquor is being sold, contemplated in section 27(c)(i) of this Act, subject to section 89(8) of this Act
A wine farmer's licence referred to in section 20(b)(v) of the Liquor Act, 1989	A registration for the manufacture of liquor above or below the prescribed volume contemplated in section 27(a)(i) or (ii) of this Act, as the case may be: Provided that the conversion may be subject to section 29(3)(c) of this Act
A sorghum beer brewer's licence referred to in section 20(b)(vi) of the Liquor Act, 1989	A registration for the manufacture of liquor above or below the prescribed volume contemplated in section 27(a)(i) or (ii) of this Act, as the case may be: Provided that the conversion may be subject to section 29(3)(c) of this Act
A sorghum beer licence referred to in section 20(b)(vii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption off the premises on which liquor is being sold, contemplated in section 27(c)(i) of this Act
A special licence referred to in section 20(b)(viii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption off the premises on which liquor is being sold, contemplated in section 27(c)(i) of this Act
A producer's licence referred to in section 20(b)(ix) of the Liquor Act, 1989	A registration for the manufacture of liquor above or below the prescribed volume contemplated in section 27(a)(i) or (ii) of this Act, as the case may be: Provided that the conversion may be subject to section 29(3)(c) of this Act
An approval granted in terms of section 60 of the Liquor Act, 1989, to a holder of a wine-house licence	A registration for the retail sale of liquor for consumption off the premises on which liquor is being sold, contemplated in section 27(c)(i) of this Act

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	Category of registration deemed to be in force from the date of commencement of this Act
A sports ground liquor licence referred to in section 189 of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on the premises on which liquor is being sold, contemplated in section 27(c)(ii) of this Act
A special licence (Tavern) referred to in section 20(a)(vii) of the Liquor Act, 1989	A registration for the retail sale of liquor for consumption on and off the premises on which liquor is being sold, contemplated in section 27(c)(iii) of this Act