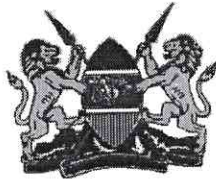


BOMET COUNTY



**REPUBLIC OF KENYA
THE COUNTY ASSEMBLY**

**REPORT
OF THE COUNTY ASSEMBLY COMMITTEE ON
ADMINISTRATION, PEACE, JUSTICE AND LEGAL
AFFAIRS ON THE BOMET ALCOHOLIC BEVERAGE
CONTROL AND MANAGEMENT BILL, 2014**



13TH MARCH 2014

EXECUTIVE SUMMARY

The county assembly committee on Administration, Peace, Justice and Legal affairs resolved that the Bomet Alcoholic Beverage Control and Management Bill, 2014 be debated on and further amendments which will be seen by the house as befitting be adopted. Honorable members this report has taken the committee their valuable time and they have wholeheartedly contributed to their level best.

This report gives comprehensive information in as far as the Bomet Alcoholic Beverage Control and Management Bill, 2014 is concerned. The main issues that this report seeks to address are the views and recommendations of the members of the public following a public participation carried out by the members of this committee. The objects of the Bill is to provide for licensing of alcoholic beverage so as to regulate the production, sale, distribution, promotion and consumption of alcoholic beverage and the promotion of research, treatment and rehabilitation for persons dependent on alcoholic beverage. In doing so, it is necessary to consider the salient provisions of the constitution and juxtapose them against the various sections of the Bill, in order to determine the constitutionality or otherwise of the Bill. In order to determine constitutionality of the Bill or a statute, one must consider the purpose of the intended piece of legislation and if the purpose is not to infringe a right guaranteed by the constitution, then the law is constitutional.

Madam Speaker and the house at large, it is imperative to note that alcohol abuse have had a negative impact in the community and the society at large. It noteworthy that abuse of alcohol and other related substances has led to lack of social and economic growth, poor living standards, poor health and immorality and other vices.

It is very crucial that this Bill be debated and any necessary amendments made by the house be fully adopted so as to curb the vice of alcohol abuse. The Bill aims to protect the health of individuals in the light of the dangers of excessive consumption of alcoholic beverage, persons underage, consumers of alcoholic beverage from misleading or deceptive inducements and inform them of the risks of excessive consumption of alcoholic beverage, protecting the health of persons under the age of 21 years by preventing their access to alcoholic beverage, inform and educate the residents in the county on health, economic and social consequences of the consumption of alcoholic beverage, adopt and implement effective measures to eliminate illicit trade in alcohol including smuggling, hawking, illicit manufacturing and counterfeiting, ensure

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fair and ethical business practices related to the production, distribution, promotion and sale of alcoholic beverage and reduce and mitigate the negative health, social and economic impact on communities resulting from production, sale and consumption of alcoholic.

However, this should not be inferred to mean that the committee adopted it in its entirety but rather as attached herewith, several recommendations were made. I further appeal to the house to see it prudent to further suggest any concern that might have been skipped.

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COMMITTEE MEMBERSHIP

Members

Signature

1. Hon. Robert Bett
2. Hon. Nancy Chepkirui
3. Hon. Sammy Chelule
4. Hon. Josphine Rotich
5. Hon. Bency Too
6. Hon. Reuben Langat
7. Hon. John Molel
8. Hon. Stephen Changmorik
9. Hon. Benard Ngeno

BACKGROUND

Committee on Administration, Peace, Justice and Legal affairs is a committee mandated on several tasks which includes:-

- a. Dealing with administration, constitutional affairs, peace and administration of law and justice,
- b. Ensuring and coordination participations of communities in governance, assist communities and locations develop administrative capacity for effective functions and powers,
- c. Assisting communities and locations develop administrative capacity for effective functions and powers,
- d. To investigate, inquire and report on all matters of administration, management, activities, operations and estimates of their sector
- e. To study and review all county legislation touching their sector
- f. Make reports and recommendations to County Assembly as often as possible including recommendations of proposed legislation.

The committee has deliberated over time discussed in detail several issues on the Bill. The guiding principles of the discussions and the healthy and robust debates were the constitution of Kenya, the county government acts and the mandate of the committee and other related Acts of parliament which regulate the alcohol industry. Public participation was carried out as provided for under the constitution under Article 196 as read together with article 185 the County Government Act

The promoters of the Bill noted that unhealthy consumption of alcoholic drinks and drugs has emerged as a major hindrance to the health, social and economic development of the county and the country at large. It was also observed that alcohol and drug abuse has remained a problem that is affecting people of all ages and social classes hence a need to have a legal framework to regulate the same and come up with solutions to mitigate effects of alcohol and drug abuse within Bomet County.

It is from this guidance of the mandates of the committee that my committee has deliberated much on this and has come up with these recommendations

EVIDENCE ADDUCED DURING PUBLIC PARTICIPATION

The committee had the privilege of visiting five centers within the sub –counties .The committee held a total of five sittings and received both oral and written submissions and made the following observation and findings;

- I. Alcohol has different components including wines spirits, beer, traditional liquor hence the different and several effects of alcohol.
- II. The most abused alcoholic drinks are the wines and spirits .Scrupulous businessmen out to make quick money have diluted and altered the chemical content of these alcoholic drinks.
- III. There exists no legal framework to regulate alcoholic consumption in the county leading to some level of carelessness in its consumption and trading.
- IV. The youth are the most affected group as evidenced by several cases of deaths, family disintegration and failure to give birth.
- V. Specific legislation for managing alcoholic drinks will be necessary so as to provide the legal framework to regulate trading and consumption for easy monitoring and audit.
- VI. There is massive bribery and consumption in the alcohol industry.

SUMMARY OF FINDINGS

1. That the production, sales and consumption have been run in unstructured manner.
2. That the alcoholic business is a huge industry both within and outside the county.
3. That there has been a lot of laxity in the enforcement of alcoholic beverages regulations and laws.
4. That the heavy reckless consumption of alcoholic drinks has brought wanton destruction, loss of lives and disintegration of families.
5. That there are several adulterated illegal brands of alcoholic beverages in the local market.
6. That the government has no comprehensive and shared information on the sale and consumption of alcoholic products.

7. That there is a general consensus amongst residents for the immediate regulation of all alcoholic drinks including traditional liquors.
8. That the law should be implemented strictly in order to save lives.

THE PROPOSED AMENDMENTS ON THE BOMET ALCOHOLIC BEVERAGE CONTROL AND MANAGEMENT BILL, 2014

Madam Speaker,

This committee as per its mandate and by extension the significant responsibilities that have been vested to it by the Kenya constitution, has deliberated so much.

Madam Speaker, the committee on Administration, Peace, Justice and Legal affairs as currently constituted comprises of the following honorable members;

10. Hon. Robert Bett
11. Hon. Nancy Chepkirui
12. Hon. Stephen Changmorik
13. Hon. John Molel
14. Hon. Sammy Chelule
15. Hon. Josphine Rotich
16. Hon. Reuben Langat
17. Hon. Bernard Ngeno
18. Hon Bency Too

It is now my pleasant duty and a great privilege, as the chair and on behalf of the committee on Administration, Peace, Justice and Legal affairs to table this report and recommend it to the house for its adoption.

That section 10(2) be amended to read “A person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding **one hundred thousand shillings or imprisonment for a term of three years or both**

The committee recommends **that section 38(2)** of the Bill to be amended to read as follows “A person arrested for being drunk and incapable or drunk and disorderly in or near a place referred to in subsection (1) shall, on conviction be liable **to a fine on five thousand shillings or imprisonment for a term of six months or both.**”

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That the words “**and beverage**” under section 42(1) be deleted

Section 42(2) If a licensee whose licence does not cover the sale of alcoholic drink to be consumed on his premises himself takes or carries, or employs or suffers any other person to take or carry, any alcoholic drinks out of or from his premises for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any place (whether enclosed or not, and whether or not a public thoroughfare) other than the licensed premises, with intent to evade the conditions of the licence, the licensee commits an offence, and, if the place is occupied by him, the licensee shall be deemed, unless the contrary is proved, to have intended to evade **the conditions of the licence**.

That under the first schedule (s.16) drinking hours be extended from 5.00pm – 11.00pm. This covers the general retail alcoholic beverage licensees and wine and spirit retailers

CONCLUSION

The public participation was a successful process but inevitably with a lot of challenges, but then the challenges are always appreciated in any working environment, for they offer learning lessons and every time we overcome any challenge, we do not remain there but rather grow and mature. Several hiccups were witnessed and the greatest of them all is to work within the given time frame.

RECOMMENDATIONS

The Committee has made the following recommendations:-

- a.) The Bill be adopted with necessary amendments
- b.) The timeline of the implementation period of the Bill be strictly adhered to
- c.) Administrative structure on implementation of the Bill be put in place
- d.) The County enforcement structure be put in place

REFERENCE**1. The Constitution**

Article 43 provides that an individual has the right to the highest attainable standards of healthy

Article 185 gives [powers to County Assemblies to make any laws necessary for effective performance of County Government

Article 196 mandates the Assembly to facilitate public participation and involvement in the legislative business

2. The Alcoholic Drinks Control Act, no. 4 of 2010**3. The County Government Act, 2012****4. The Penal Code****5. Public Health Act****6. Weight and Measures Act****7. National Police Service Unit****8. Anti-Counterfeit Act****9. Community Service Orders Act**

