

New Western Cape liquor laws

What is all the fuss all about?

Alcohol takes a heavy toll economically and socially in our country. **Charles Parry** and **Nadine Burnhams** explore new laws in the Western Cape to limit liquor consumption, and argue that the benefits will be greater than the jobs lost in the process of implementing this legislation.

“It is so difficult and expensive to get a liquor license in the townships that we are forced to sell illegally.”

“Zoning restrictions in urban areas make it impossible to get a liquor license and even if we could, why should we pay taxes – we are better off being unlicensed.”

“We will go out-business if the government reduces the hours during which we can sell alcohol. Jobs will be lost!”

These are some of the comments made in response to the Western Cape’s new liquor laws and plans by the City of Cape Town to draft even more restrictive by-laws.

It is true that tens of thousands of people make a living directly and indirectly from the liquor trade. However, to what extent should decisions around the selling of alcohol be influenced by the fact that it is a major employment sector in South Africa? Or are there other important factors that we need to take into account?

It is well known that alcohol has played a controversial role in South Africa’s history from the arrival of the first European settlers who traded with the Khoikhoi, exchanging alcohol for labour. Then for centuries labourers on many farms in the Western Cape were

partly paid for their labour in alcohol in what is known as the dop-system.

Municipal beerhalls in the early and mid-20th century also played an important role in the oppression of black labour and even helped to fund apartheid’s ‘Bantu Administration Boards’ in townships. It is not surprising that these beerhalls became targets of destruction in the 1976 youth uprisings in Soweto and elsewhere.

IMPACT OF ALCOHOL IN SA

But what is the situation with regard to alcohol in South Africa? How do we compare to other countries? Just how harmful is this product and what is the best way of addressing the negative consequences of its misuse?

It appears that while just under half the adult population drink, when we consider only drinkers we have one of the highest annual levels of alcohol consumption in the world, just below the UK and Ukraine.

Around a fifth to a quarter of drinkers drink at risky levels over weekends. Drinking to intoxication is common. Alcohol ranks third in terms of impacting on death and disability in the country. It contributes to homicide and

violence, mental disorders, road traffic injuries, foetal alcohol syndrome, drowning and liver cirrhosis.

This does not include alcohol’s impact on HIV/AIDS and TB which is becoming increasingly recognised. Research has found that problem drinkers are twice as likely to be HIV positive as non-drinkers.

Alcohol abuse is also a major cause of loss of revenue. It impacts on the South African economy as a whole. Substance abuse by employees on- or off-site inevitably impacts on the work performance of each employee resulting in decreased productivity, work errors, wasted materials, lateness and absenteeism, all of which translates into massive productivity losses each year.

Based on international experience, the economic costs associated with alcohol misuse are around 1.5% of South Africa’s Gross Domestic Product. This is around R25-billion – twice that gained from excise taxes and VAT.

International thinking laid out in the book *Alcohol no ordinary commodity: Research and public policy* ranks developing a coherent liquor outlet policy as among the top ten strategies for reducing the ill effects of alcohol on society.

Outlet policies include restricting days/hours of sale of alcohol and reducing the number of outlets. There is evidence of outlet policies being very effective from different countries.

NEW WESTERN CAPE LIQUOR LAWS

In 1997 the National Department of Trade & Industry released an influential policy document on liquor. It dealt with two competing interests facing the government. The first was that government had to restructure the liquor industry to facilitate the entry and empowerment of people from previously disadvantaged backgrounds. And secondly government needed to address the socio-economic consequences of alcohol abuse. This was seen as a major shift in policy on both fronts.

As a result of this policy the 2003 Liquor Act now requires that companies applying to be registered as manufacturers or distributors of alcohol need to include in their application how they are contributing to combating alcohol abuse.

Following a Constitutional Court ruling in 1999 the authority to make decisions around issues related to the sale of alcohol now rests with provincial legislatures. And the Western Cape is one of three provinces that has passed legislation.

The context for the Western Cape legislation is that this province has too many liquor outlets. In some communities every fourth or fifth house is an outlet. Many are a means of survival and provide their owners with a small living.

The majority (70-80%) of outlets in the province are unlicensed and most will find it difficult to get a license as they are not zoned for business purposes. Typically liquor outlets do not keep to normal



The Western Cape liquor bill takes a strong stand against distributors of alcohol who deliver to illegal outlets.

operating hours, children are exposed to drinking and drunkenness, they do not have separate toilets for male and female patrons, and many do not sell food.

There is also evidence that some shebeens have become places where violence, risky sex, and drug trafficking flourish. On the other hand these outlets provide a source of income for their owners and are an important place of recreation.

Government sees the liquor industry as an important sector for promoting Small and Medium Micro Enterprises (SMMEs) and stimulating Black Economic Empowerment. Recent national liquor legislation has stimulated the emergence of a number of black independent distributors.

Unfortunately many better paid jobs for workers were lost when the major alcohol manufacturers outsourced their distribution. Despite the best intentions of government, empowerment of black people in the liquor industry has been slow and only a few have benefited. These few are mainly beer distributors and workers on a few wine farms who have been

given a share in the farms' profits.

In order to guide its policy formulation the Western Cape established a liquor policy development panel. It was made up of experts from various sectors including liquor traders, public health, community safety, and law. This resulted in a provincial liquor policy, released in 2003, that sought to bring about a balanced approach to liquor policy, one that would bring unregistered outlets into the regulated market and also address public health concerns.

The new provincial liquor bill from the end of 2008 retains many positive aspects of the original policy document. However it differs in one major respect, namely in not having a moratorium against the prosecution of illegal liquor outlets for a period in which they can apply to be registered. In fact it takes a strong stand against distributors of alcohol who knowingly deliver alcohol to illegal outlets or who deliver to licensed outlets who then sell on to unlicensed outlets.

The new Western Cape legislation also includes a number of public

health provisions. These include more extensive requirements to inform the public about new applications for liquor licenses. Such requirements can include that further training must be part of the licensing conditions, that there are clear regulations regarding the sale of alcohol to people under 18, and setting reduced maximum hours for the sales of alcohol. The limit would be 11 am to 2 am, and 9 am to 6 pm.

The provinces' laws also ban the granting of new licenses to places where petrol is also sold to prevent the use of petrol in alcohol preparation. It outlaws any opened alcohol container in a motor vehicle, and it requires that public health notices are put up at points of sale.

The Western Cape also allows for one member of the provincial Liquor Board to be experienced in dealing with the negative problems around alcohol misuse. The Board also has to report annually to the provincial legislature on various alcohol matters including steps to address the social consequences of alcohol abuse. Finally, it provides that a portion of annual license fees is used by provincial government to set up a social and education fund.

The City of Cape Town has also drafted more restrictive by-laws regarding the sale of alcohol. For example laws restrict alcohol sales for on-consumption (drinking on the premises such as in a restaurant or shebeen) in residential areas to 11 am to 9 pm, to 11 am to 11 pm in local/neighbourhood business areas, and to 11 am to 2 am the next day in central business areas (CBDs).

By-laws permit off-consumption such as bottle store sales to between 9 am and 6 pm. It also prohibits the sale of alcohol from bottle stores on Sundays and public holidays. The City has put these by-laws out for public comment and

they have drawn criticism from various quarters.

So what is the fuss all about? At the extremes it is about the rights of people to sell alcohol whenever they want to create jobs and make money, versus the rights of others to live in neighbourhoods which are not subjected to noise from drinkers leaving at all hours of the night and day. Also the right to be free of parking problems, urinating on the streets, and the threat of violence and other public health problems that occur if people have too easy access to alcohol.

CONCLUSION

The Western Cape MEC for Economic Affairs has already claimed that the legislation has resulted in a drop in alcohol-related violence as outlets have closed down. But it is difficult to tease out what has caused the drop as it may also be due to the increased roadblocks over Christmas and a decrease in spending following the economic downturn.

Feelings are high on all sides. Shebeens want to be free from police harassment, but they don't want the costs of regularising their businesses and paying taxes.

Zoning restrictions also complicate matters. The major players in the liquor industry want shebeens to be licensed so they can avoid the threat of legal action against distributors who sell directly or indirectly to unlicensed outlets. But the alcohol public health lobby is gaining a stronger voice on the back of successes in cigarette control and a growing voice from the World Health Organisation on the need to reduce the effects of alcohol worldwide. An understanding of the link between alcohol and HIV/AIDS, TB, and gender-based violence and other crimes is also growing.

Labour issues are important, but

that doesn't mean that the liquor sector is the magic answer to unemployment in the country. The over-availability of alcohol is causing serious social and health consequences.

There is now a recognition within certain circles in government that jobs may have to go in both the formal and informal liquor sectors to bring down liquor consumption. And that it needs to stimulate other forms of business development for alcohol sellers who will be affected. This job creation could be funded from various sources, including an annual levy imposed by the Department of Trade and Industry as part of the registration fee of the major manufactures of alcohol in South Africa to the tune of say 1% of their profits.

Alcohol is 'no ordinary commodity' and it is high time that the alcohol industry provides the funds to reduce their negative contribution to the country's economy. If the social and economic costs of alcohol to South Africa were reduced we would eventually see benefits in various sectors of society, including the labour sector. We would see more productive workers, less absenteeism and more money for wage increases. LB

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