

Advocacy and Legal Action to Limit Problematic Alcohol Sales

Cape Town

Dec 2017

Overview

- Need for legislation
 - Harm caused by alcohol
 - Effectiveness of policy
- Prevention & Treatment of Substance Abuse Act – 2008
- Final Liquor Policy Paper – 2016
- Western Cape alcohol-related harms reduction policy - White Paper – 2017
- Liquor Act – 2003
- Action

Solantis Liquorland

- **Themba lethu (20 000 people) has 36 taverns, 4 off-sales, many shebeens**
 - **i.e. one legal alcohol outlet for every 500 people**
- **Mr Africa runs Loxion Lounge a shisa inyama next to Tyholora Primary School**
- **The municipality turned down his request for a liquor licence for that premises**
- **He then opened an off-sales on opposite side of street and obtained licence**
- **Patrons buy liquor at Solantis and consume it in/ on pavement of Loxion Lounge**
- **The principal of the school complains that educators and learners who enter the school face verbal abuse when they negotiate their way through partying patrons**
- **SGB discussed and decided to build gate on back side of school**
- **Problem was raised with provincial representatives of the National Professional Teachers Organisation of South Africa (NAPTOSA)**
- **It was reported to Community Policing Forum and Pastors Forum**
- **No one followed channels available to address the problem**

Statistics Confirming our Experiences

- 35% of Western Cape learners in Grades 8 - 11 binge drink
- 0% of people with alcohol problems were identified by nurses in a study at SA clinics – thus none treated
- 70% of people with injuries in our hospitals have high alcohol levels
- 67% of domestic violence is alcohol related
- 70% of crimes in our communities are linked to substance use
- 20% of Grade 1 learners in Western Cape have Foetal Alcohol Spectrum Disorder.

Facts about Alcohol

- Alcohol is the most commonly used drug in SA.
- It is the 3rd leading risk factor for death and disability in SA, following unsafe sex and obesity.
- R 200 billion about 10% of our GDP is lost to SA economy due to alcohol every year.

Police Statistics for Thembalethu 2015

- **27 murders committed in Thembalethu** out of 55 in the whole of George.
- Attempted murder – 18
- Assault – 587
- Sexual offences – 104
- Robbery – 199
- Burglaries - 473
- Drug-related cases – 403
- Drunk driving – 0
- Statistics might reflect poor policing

Effective Policy Options

- Policy does reduce :
 - alcohol consumption and
 - related health
 - social problems

- (Room et al., 2005; Anderson et al., 2009a; Babor et al., 2010).
- Regulating alcohol's availability
 - reducing outlet density
 - decreasing days and hours of sales
- Reducing alcohol's affordability (taxation)
- Restrictions on alcohol advertising
- Drink-driving countermeasures

Ref: Carina Ferreira-Borges

Alcohol Control Policies in 46 African Countries: Opportunities for Improvement
Alcohol and Alcoholism, 2015,

South African Policy Approach

- **Demand Reduction**
 - increase cost, legal age, prevention campaigns
- **Supply Reduction**
 - density of outlets, restrict times of sales
- **Harm reduction**
 - treatment

Prevention of and Treatment for Substance Abuse Act, 2008

Purpose of the Act

- provide a comprehensive national response
- mechanisms for demand and harm reduction
 - through prevention, early intervention, treatment and reintegration programs
- Establish & registration of treatment centres
- Committal to treatment centres
- Establishment of Central Drug Authority (CDA)

Ch 10. Central Drug Authority (CDA)

- Chapter 10: CDA and supporting structures
- Section 53: Establishing of a CDA
- Various representatives of departments and up to 13 persons with experience and knowledge
- Meet at least twice a year
- Produce annual report

Provincial Substance Abuse Forums (PSAF)

- Section 57: Establish Provincial Substance Abuse Forums
 - MEC must establish PSAF
 - Reps from departments, community action groups, law enforcement, research, treatment institutions, NGO's, business and others
- Section 58: Functions of PSAF
 - Strengthen member organizations to carry out functions
 - Networking and flow of info between members
 - Assist LDAC
 - Compile Mini Drug Master Plan for province
 - Submit annual report before last day of June to CDA
 - Assist CDA to carry out functions an provincial level

Local Drug Action Committees (LDAC)

- Section 60: Establishment of Local Drug Action Committees
 - Municipalities must establish LDAC
 - Interested persons and stakeholders involved in local organizations
 - Include government departments, SAPS, correctional official, education, prevention, treatment, aftercare services, local health authority, local business, legal professional
 - Represent Provincial Forum at local level
- Section 61: Functions of LDAC
 - Ensure effect is given to NDMP
 - Action plan in local municipality in line with mini DMP
 - Annual report to Forum

Slow Progress of Policy Pipeline

- Progress with implementation of Substance Act
- Green Paper – public comment
- White Paper
- Passed in Parliament: 24/6/08
- Assented to by President: 21/4/2009
- Presented 29/5/12 to members of Select Committee
- Proclamation of Act: 1/10/12
 - Minister of Social Development to make regulations
- Regulations gazetted 9/3/12
- Final regulations gazetted April 2013

Final Liquor Policy Paper (Aug 16)

Empower new entrants in liquor industry at same time address social and economic costs.

- Advertising restriction: TV 22h00-6h00, no sport star or model.
- Strengthen registration conditions. If harm caused by unlicensed establishment then supplier also liable.
- No liquor served to already intoxicated person. Liability for damage will shift to trader.
- Municipalities restrict trading hours – not stipulated.

Liquor Policy

- Age to purchase and consume alcohol change from 18 years to 21 years.
- Regulate density of establishments.
- Education and awareness.
- Increase taxes on alcohol.
- Enforce sober driving.
- Legal issues and enforcement issues.

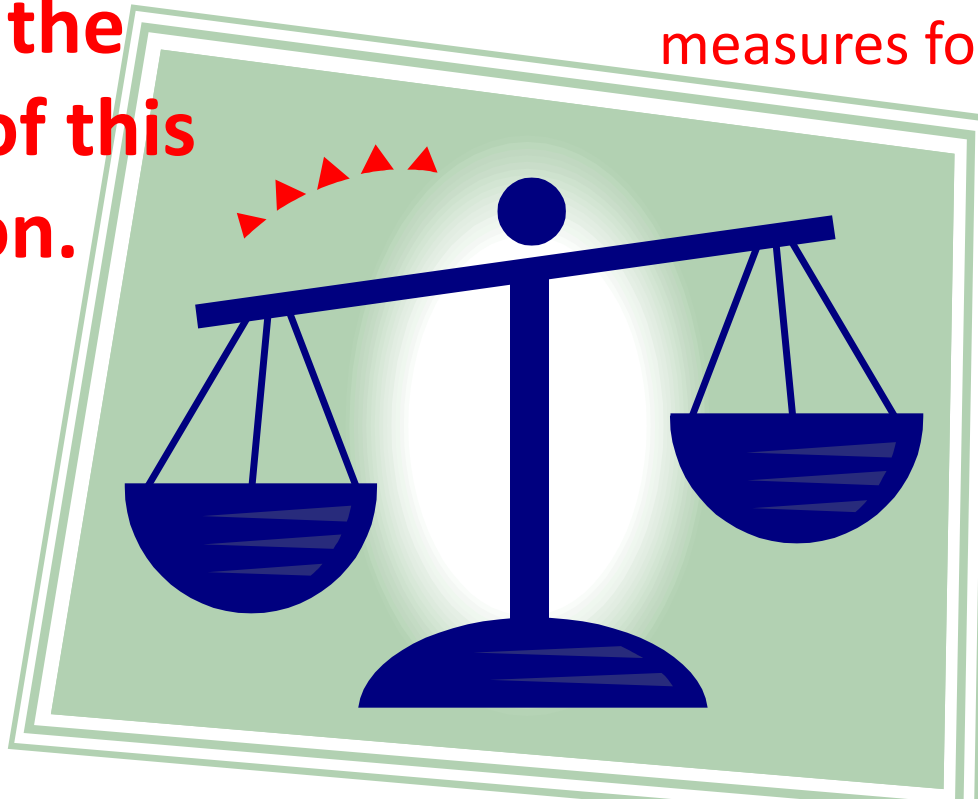
Liquor Policy

- Liquor premises to be more than 500m from schools, places of worship, residential areas & public institutions.
- Already licenced premises have to comply to Norms and Standards (trading hours, noise, nuisance and pollution) else face hefty penalties or revocation. One year of leniency.
- Strong relationships between alcohol outlet density and:
 - alcohol-related hospital admissions
 - motor vehicle accidents, pedestrian injuries, drunk driving
 - child abuse and neglect
 - intimate partner violence
 - murder

From Opinion to Action

Alcohol industry, SABC and others are blocking the passing of this legislation.

In a survey of 1 700 adults in Khayelitsha, Gugulethu and Nyanga, 75 - 80% agreed on restricted availability, increased pricing and better enforcement measures for alcohol.



Draft of the National Liquor Amendment Bill - 2017

Western Cape White Paper – Sep 2017

- Pricing and economy
- Unlicensed liquor outlets
- Enforcement
- Alcohol and road environment
- Health and social services
- Community-based action
- Education and awareness
- Information, data collection, monitoring
- Institutional arrangements

**Prevention of Alcohol and other
Drug Use Policy
City of Cape Town
Draft - March 2013**

Control of Undertakings that Sell Liquor

Public By-law – 2013

Approved by Council on 4

**December 2013 – not
promulgated**

Need for Advocacy Parallel to Legal Process

IN HIGH COURT OF SOUTH AFRICA [PRETORIA]

In the matter between:

MOSIMA MPHUMO Applicant

and

THE LIMPOPO PROVINCIAL LIQUOR BOARD First Respondent

DATE OF HEARING: 04 March 2014

DATE OF JUDGMENT: 14 March 2014

JUDGEMENT by CILLIERS AJ

Mphumo application for liquor license was not approved by Limpopo Liquor Board stating that it was less than 500m to churches and school.

Court ruled that if the business is conducted in a manner that would not disturb the proceedings in that place of worship or school a licence should be issued.

Liquor Act - 2003

Conditions for applying for liquor license

- application with the Western Cape Liquor Authority via Designated Liquor Officer at local SAPS
 - Application advertised in the Government Gazette and community newspaper
 - A notice displayed on the premises
 - Publication to facilitate public participation
- Allow public to object to a licence application
 - **window period of 28 days**

Liquor Act - 2003

- Objections lodged with the Liquor Authority or with SAPS or councillor
- SAPS required to allow the public access to the application
- SAPS has to give notice to neighbouring residents and the community policing forum
- The Municipality is obliged to submit comments on the application. This includes rezoning and comments from the Ward Councillor.
- All objections serve before the Liquor Licensing Tribunal when considering the application.

Liquor Act - 2003

Problems with already licensed premises

- The public can lodge a complaint with:
 - the Liquor Authority
 - the SAPS
 - the ward councillor
- The complaint is investigated and if transgression:
 - can be fined, up to the amount of R100 000
 - the licence can be suspended or revoked or
 - licence holder issued with stricter conditions

Action Against Solantis Liquorland

- Complaint lodged with Western Cape Liquor Authority
 - Johan Dreyer, the Secretary of the Liquor Licencing Tribunal of the Western Cape Liquor Authority
 - Michael Jones, Chairman Western Cape Liquor Authority
 - Luzuko M. Mdunyelwa, CEO Western Cape Liquor Authority
- To lodge complaint with Ward Councillor as representative of the Municipality
- To lodge complaint with SAPS Designated Liquor Officer, deals with applications and enforcement

Action Against Solantis Liquorland

- Lobby
 - School governing body
 - Community policing forum
 - Pastors forum
 - Department of Health and Social Services
- Document everything in writing
 - To assist in case of court case

Khayelitsha identified as Priority Area

- What action does this imply?