

**ADDRESS BY THE MEC FOR ECONOMIC DEVELOPMENT AND TOURISM: MR MICHAEL MABUYAKHULU**

**COMMENCEMENT OF THE NEW LIQUOR ACT, ACT 06 OF 2010 AS AMENDED**

**26 February 2014**

Adv. Linda Makatini: Chairperson of the Board: KZNLA

Mrs Stella Khumalo: CEO KZNLA

Stakeholders in the liquor industry

Members of the media

Other distinguished guests

Today is indeed an historic day for all of us in the province of Kwa-Zulu Natal as we announce the commencement date of the new Kwa-Zulu Natal Liquor Licensing Act. We are gathered today to announce to you members of the media that from the tomorrow, 28 February 2014, the new law regulating the sale of alcohol in the province will come into effect.

We have no doubt that all of you will agree with me that the control and regulation of liquor in our province and indeed in our country is in the national interest. We are all aware that the abuse of liquor continues to be a contributory factor to many unnecessary deaths and acts of violence in our country. All of us should be really worried and concerned about the devastating effect that alcohol abuse has on the individual, the family, the community and the nation state.

Therefore as responsible government we took a hard look of how liquor was regulated and controlled in the past, what were the shortcomings and weaknesses and what steps we needed to take to better regulate this product. Unlike any other commodity, alcohol is a potentially dangerous and harmful substance when it is abused and, therefore, our starting point was to review the 1989 Liquor Act that we inherited from the apartheid past. This review process which took us quite a while involved a wide consultative process with interested and affected parties culminating in the adoption by National Cabinet of the National Liquor Policy Document of 1997.

The 1997 National Liquor Policy document set the basis to introduce new liquor legislation in our country. I want to remind you that developing the new national liquor law which was promulgated in April 2003 was an interesting process led by the Department of Trade and Industry. The regulation of macro manufacturing and distribution of liquor is an exclusive national competence while the regulation of micro-manufacturing and retailing of liquor is an exclusive competence of the provinces. In simple terms, the regulation of liquor is a concurrent competence between the national and provincial government in keeping with the constitution of the country.

The National Liquor Act is an overarching piece of legislation which sets the national norms and standards for the regulation of liquor in our country.

At this juncture, we wish to emphasize that while we have differing competencies as government we remain committed to creating a co-operative and integrated regulatory framework that contributes to a transformed and sustainable environment within the liquor industry. Therefore, to give real meaning to co-operative governance as government we established in 2005 a National Liquor Regulatory Forum (NLRF) which sought to establish harmonized regulation of liquor throughout the country. In addition the Forum seeks to encourage transformation, fair competition, ensure compliance and more importantly promote social responsibility and economic development. The NLRF is therefore poised to play an even greater role to give effect to the principle of co-operative governance as enshrined in the Constitution.

Ladies and gentlemen, it is important to note that the previous legislation had failed to address the economic imperatives associated with the liquor industry and also failed to regulate and control the social economic impact of the act on communities. Liquor licensing was also not perceived to be an economic activity but merely became a compliance issue. This new Act, the KZN Liquor Licensing Act 06 of 2010 as amended, addresses the shortcomings of the previous legislation by installing measures that addresses proper regulation and control of the liquor industry in terms of its economic contribution, whilst balancing the social economic impact and its effect on communities.

The KwaZulu-Natal Liquor Authority is registered as a schedule 3C Public Entity in terms of the Public Finance Management Act. The KZN Liquor Authority was established in terms of the KwaZulu-Natal Liquor Licensing Act, 2010 (Act. No. 06 of 2010). The Act sets out the objectives that the Province wishes to achieve with regard to retail liquor licensing and micro manufacturing. It also extends beyond the process of licensing and includes objectives of balancing the congruent objectives of providing a stable social environment against promoting the growth of the liquor industry.

As government we want to clarify our position - we are not opposed to liquor. Consumption of alcohol per se is not problematic. While a great number of South Africans may abuse alcohol, the majority of our people consume alcohol responsibly. They cause no harm nor generate any costs for which society can claim compensation. What we are fundamentally opposed to is the abuse of liquor – both by consumers and traders or retailers. We recognize that the liquor industry contributes significantly to the country's economic activities. However, this needs to be balanced against the impact that this product has on society if not properly regulated.

The new act becomes effective and fully operational on the 28<sup>th</sup> of February 2014. The commencement of the new Liquor Act has a number of implications for liquor license holders in the Province. The Authority has a conversion plan to allow for a smooth transition from the 1989 Act to the 2010 Act. All existing liquor license holders can immediately convert their licenses as from the 28<sup>th</sup> of February 2014. Further, for convenience, the KZNLA will assist in converting licenses by visiting the districts of Ethekwini, Ugu and Sisonke; Ilembe and Umgungundlovu from 10 to 20

March 2014. For more details license holders are requested to make enquiries at the Liquor Authority's offices.

The act promotes the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates:

- The entry of new participants in the industry;
- The diversity of ownership in the industry; and
- An ethos of social responsibility in the industry.

Unlike the old Act, the new Act calls for direct community participation in the liquor licensing process. Communities will have an opportunity to comment on an application as it is compulsory for an applicant to advertise the application in two locally circulating newspapers. In addition, an applicant is required to give notice to neighbours within a 100 meter radius of the proposed premises. This is a fundamental departure from the old Act where the applicant was required to advertise in the government gazette which is largely inaccessible to would-be objectors.

The good news for applicants is that they are now no longer required to lodge an application in a magistrate's court on the first Friday of the month. An application can now be lodged on any Friday with the Liquor Authority. Likewise, the gazetting of applications is done away with in terms of this new act.

Whilst one of the objects of the new Act is to facilitate new entrants into the industry there are stringent requirements that need to be met by applicants. These new entrants must, among others:

- Display a notice in a prominent place at the proposed premises
- Provide a social responsibility program
- Proof of a business license from the local municipality
- A police clearance certificate
- A detailed security plan
- Provide a tax clearance certificate

Another departure from the old Act is the fact that licenses will not be automatically renewed each year. The licensee is required to make an application to the Liquor Authority six months prior to the expiry of the license. If the Liquor Authority is satisfied that the conditions of the liquor license have not been violated, then the license will be renewed. The new Act, therefore, requires licensees to comply with license conditions failing which licenses will not be renewed automatically.

Also, Ladies and Gentlemen of the media, all liquor license applications will be considered by local committees which are established in terms of the Act and these committees are appointed by myself as the MEC for Economic Development and Tourism. There are 11 local committees, one for each district municipality and one for the Durban Metro. The local committee is a structure made up of eight people who have different expertise, including legal expertise, to consider applications for new licenses. The local committee is the first tier in the licensing process. These

committees are mandated in terms of the Act to make recommendations to the Adjudication Committee who will be the final arbiter in the liquor licensing process. However the Act makes provision for an appeal process and this is dealt with in terms of S61 in the Act.

Programme Director, the new Act provides for the granting of temporary amnesty applications for those licenses which were granted in terms of the old act and are currently situated:

- Within 500 metre circumference from learning and religious institutions
- Convenience stores franchised to a service station selling petrol, diesel or other petroleum products to the public. This amnesty may last up to a maximum of three years, after which the establishment must relocate.

Before, we conclude we want to touch on the fact that the legislation allows for the sale of alcohol on Sundays. We want to stress that, in our view, the measures that are contained in the act are sufficient for the proper regulation of the sale of alcohol in the province. The reality is that the 1989 legislation banned the sale of alcohol on Sundays not for the greater good of the community but in furtherance of narrow sectarian and religious interest. As all of us know, we now have a secular state and a constitution that recognises all religious formations. As such, government would be acting in the manner that undermines the spirit of the constitution if we were, without any shred of evidence, ban the sale of alcohol on Sundays.

Critically, we wish to state that this legislation went through all the necessary legal processes including public hearings. When it went before the provincial legislature as a bill, the majority of political parties voted in its favour.

In conclusion, we wish to state that we will work with all the stakeholders in the industry to ensure that this legislation is implemented to regulate the sale of alcohol in the province. We believe that this legislation strikes a fair balance between the economic imperative of the sale of alcohol in the province and ensuring that this does not have an adverse impact on the communities.

I thank you

