

SPECIAL ISSUE

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**THE ALCOHOLIC DRINKS CONTROL
(AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the Alcoholic Drinks Control Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Alcoholic Drinks Control (Amendment) Act, 2019. Short title.

2. Section 45 of the Alcoholic Drinks Control Act, 2016 is amended— Amendment of section 45 of No.4 of 2010.

(a) in subsection (1) by inserting the following new paragraph immediately after paragraph (d)—

(da) the consumption of that drink promotes national values;

(b) by inserting the following new subsection immediately after subsection (1) —

(1A). The Cabinet Secretary shall prescribe the hours within which electronic advertisement of alcoholic drinks shall be done.

3. Section 68 of the Alcoholic Drinks Control Act, 2016 is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (d)— Amendment of section 68 of No.4 of 2010.

(da) prescribe the hours within which electronic advertisement of alcoholic drinks shall be done;

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Alcoholic Drinks Control Act, No. 4 of 2010 to empower the Cabinet Secretary to prescribe the hours within which electronic advertisement of alcoholic drinks shall be done. This is in order to reduce the exposure to children and other vulnerable persons in the community such as recovering alcoholics of unsuitable content on alcohol consumption.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates legislative powers to the Cabinet Secretary and does not contain provisions limiting fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

This is not a Bill concerning county governments in terms of Article 110 (1) (a) of the Constitution as it does not affect the functions and powers of county governments as set out in the Fourth Schedule to the Constitution.

Statement on the financial implications of the Bill

The enactment of this Bill shall not occasion additional expenditure of public funds to be provided for in the estimates.

SILVANUS OSORO ONYIEGO,
Member of Parliament.

Section 45 of No. 4 of 2010 which it is proposed to amend-

45. Promotion by advertisement

(1) Subject to this Part, no person shall promote an alcoholic drink so as to create a false impression that—

- (a) a link exists between consumption of that drink and social or sexual success;
- (b) consumption of that drink is acceptable before or while engaging in driving, operating machinery, sports or other activities that require concentration in order to be carried out safely;
- (c) that the alcoholic drink has a therapeutic value or that it has the ability to prevent, treat or cure any human disease;
- (d) it is wrong or foolish to refuse that drink.

(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

Section 68 of No. 4 of 2010 which it is proposed to amend-

68. Regulations

(1) The Minister may, on recommendation of the relevant agency, make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;
- (b) prescribe the recommended levels of alcohol in alcoholic drinks which levels shall not exceed the levels set by the World Health Organisation;
- (c) prescribe substances as harmful constituents of an alcoholic drink;
- (d) prescribe the hours within which the sale of alcoholic drinks shall be permitted;
- (e) prohibit the addition or use of any harmful constituent or ingredient in the production of alcoholic drinks;
- (f) prescribe the methods to be used in testing alcoholic drinks;

- (g) prescribe the information that manufacturers shall provide to the relevant agency including information on alcoholic drinks, sales and advertising data, and information on product composition, ingredients, hazardous properties and brand elements;
- (h) subject to this Act, control the labelling, packaging, sale or distribution of alcoholic drinks, so as to—
 - (i) ensure that the purchaser or consumer of an alcoholic drink is not misled as to its quality, quantity, character, value, composition, effect, merit or safety;
 - (ii) prevent injury or harm to the health of the consumer;
- (i) prescribe the forms of applications, notices, licences and other documents for use under this Act;
- (j) prescribe the fees payable under this Act.