

SPECIAL ISSUE

Kenya Gazette Supplement No. 6 (Kiambu County Bills No. 6)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KIAMBU COUNTY BILLS, 2018

NAIROBI, 21st February, 2018

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**THE KIAMBU COUNTY ALCOHOLIC DRINKS
CONTROL BILL, 2018**

A Bill for

AN ACT of the County Assembly of Kiambu to establish a framework for the licensing and regulation of the production, sale, distribution, consumption and outdoor advertising of alcoholic drinks; and for connected purposes.

PART I – PRELIMINARY

Short title	1.	This Act may be cited as the Kiambu County Alcoholic Drinks Control Act, 2018 and shall come into operation on the date of publication.
Interpretation	2.	<p>In this Act, unless the context otherwise requires-</p> <p>‘alcohol’ means the product known as ethyl alcohol or any product obtained by fermentation or distillation of any fermented alcoholic product, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with the prescribed formulas;</p> <p>‘alcoholic drink’ includes alcohol, spirit, wine, beer, liquor, traditional alcoholic drink, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic drinks, modified industrial alcohol blended for human consumption and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being;</p> <p>‘Authority’ means the National Authority for the Campaign Against Alcohol and Drug Abuse’ established under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012;</p> <p>‘Authorized officer’ includes-</p> <p style="padding-left: 40px;">a) any officer designated as an authorized officer under this Act;</p>

<p>Cap 222</p>	<ul style="list-style-type: none"> b) a public health officer appointed under the Public Health Act; c) officers appointed as enforcement officers under the National Police Services Act, Standards Act, Weights and Measures Act, Kenya Revenue Authority Act, and Anti- Counterfeit Act; d) any other officer designated as an authorized officer under any other written law; or e) any other person upon whom any written law vests functions of the maintenance of law and order. <p>‘bar area’ in relation to a hotel premises means any part of the hotel in which alcoholic drink is ordinarily sold or supplied for consumption in the hotel and does not include a dining area of the hotel;</p> <p>‘Chief Officer’ means the Chief Officer of the Department for the time being responsible for alcohol drinks control;</p> <p>‘County Appeals Committee’ means the County Alcoholic Drinks Appeals Committee appointed under section 67.</p> <p>‘Directorate’ means the Directorate of Alcoholic Drinks Control established under section 5;</p> <p>‘dining area’ in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption of meals at tables;</p> <p>“cinema” has the meaning assigned to it in the Films and Stage Plays Act;</p> <p>‘Enforcement Committee’ means the County Alcoholics Drinks Control Enforcement Co-ordinating Committee established under section 55;</p> <p>‘Executive Member’ means the County Executive Committee Member responsible for alcohol</p>
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		<p>drinks control;</p> <p>‘Fund’ means the Alcoholic Drinks Control Fund established under section 12;</p> <p>‘health institution’ means a hospital, nursing home, convalescent home, maternity home, health center, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;</p> <p>‘illicit brew’ means an alcoholic drink that-</p> <p>(a) is manufactured contrary to the provisions of the relevant laws;</p> <p>(b) is manufactured by unlicensed person or in unlicensed premises;</p> <p>(c) is not certified under the standards Act;</p> <p>(d) is a counterfeit; and</p> <p>(e) does not bear a valid Kenya Revenue Authority excise stamp.</p> <p>‘institution of basic education’ has the same meaning assigned to it under the Basic Education Act</p> <p>‘licensee’ means a holder of a license granted under this Act;</p> <p>“licensing officer” means a sub-county alcoholic drinks licensing officer designated in accordance with section 11.</p> <p>‘locality’ means a city, municipality, town, urban area, sub-county or ward as the case may be;</p> <p>‘manager’ in relation to –</p> <p>(a) a cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre;</p>
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		<p>(b) a health institution, includes the owner or a person in charge or in control of the health institution;</p> <p>(c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified building</p> <p>‘manufacture’ means the brewing, distilling, tapping or any processing or intermediate processing of an alcoholic drink and includes the packaging, labeling, distribution or importation of an alcoholic drink for sale in the county or anywhere in Kenya;</p> <p>‘manufacturer’, in respect of an alcoholic drink, includes any entity that is involved in its manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;</p> <p>“on-license” means a licence granted to a person who intends to sell an alcoholic drink for consumption at the point of sale;</p> <p>‘off license’ means the licence granted to a person who intends to sell an alcoholic drink for consumption off the point of sale;</p> <p>‘package’ means the container, receptacle or wrapper in which an alcoholic drink is sold or distributed and includes the carton in which multiple packages are stored;</p> <p>‘retailer’ means a person who is engaged in a business that includes the sale of any alcoholic drink to consumers;</p> <p>‘sell’ includes-</p> <p>(a) barter or exchange without use of money;</p> <p>(b) offer or expose for sale, barter or exchange without use of money;</p> <p>(c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or</p>
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		<p>indirect pecuniary benefit;</p> <p>(d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;</p> <p>‘Sub-County Committee’ means the Sub-County Alcoholic Drinks Regulatory Committee established under section 16.</p>
Purpose of the Act	3.	<p>The purpose of this Act is to provide a framework for the control of production, sale, distribution, promotion and use of alcoholic drinks and the promotion of research, treatment and rehabilitation for person’s dependent on alcoholic drinks in order to–</p> <p>(a) reduce and mitigate the negative health, social and economic impact and other costs on individuals and communities resulting from or associated with production, sale, supply, advertising and consumption of alcoholic drinks;</p> <p>(b) protect the health of the individual in light of the dangers of consumption of alcoholic drinks;</p> <p>(c) protect persons under the age of eighteen years from negative impact on social development as a result of exposure to advertisements of alcoholic drinks;</p> <p>(d) provide for coordination and collaboration with other government agencies and to support implementation of national policies on alcoholic drinks control in the equity;</p> <p>(e) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;</p> <p>(f) provide a framework for provision of civic education;</p> <p>(g) facilitate and enhance community participation in alcoholic drinks control;</p>

		<p>(h) ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks; and</p> <p>(i) eliminate illicit brews, counterfeit and sub-standard alcoholic drink products in the County.</p>
PART II – ADMINISTRATION		
The role of the Executive Committee Member	4.	<p>(1) The Executive Committee Member shall be responsible for the implementation of the provisions of this Act and in particular, shall-</p> <p>(a) advice the County Government on all matters relating to alcoholic drinks control;</p> <p>(b) ensure that there is effective public participation in accordance with the framework for citizen participation established under county and national laws;</p> <p>(c) foster collaborations, linkages and partnerships within the County and recommend to the County Executive Committee external collaborations, linkages and partnerships, including the national bodies established to control alcoholic drinks;</p> <p>(e) ensure the establishment and operationalization of treatment and rehabilitation centers within the County; and</p> <p>(f) prepare or cause to be prepared a bi-annual report on the status of alcoholic control within the County and submit to the Executive Committee and the relevant County Assembly Committee.</p>

Establishment of Directorate	5.	(1)	There is established in the County the Directorate of Alcoholic Drinks Control.
		(2)	<p>The functions of the Directorate shall include-</p> <ul style="list-style-type: none"> (a) regulating alcohol production, distribution, advertisement, sale and consumption of alcohol in the County to ensure the realization of the objects of this Act; (b) licensing and enforcing the conditions of a licence granted under this Act; (c) coordinate the operations of the committees established under this Act; (d) coordinate the establishment, implementation and operations of alcohol treatment and rehabilitation facilities and programmes; (e) undertake research on alcohol related matters and disseminate findings; (f) undertake public education, training, sensitization or in any other manner, disseminate information on matters relating to alcohol to the public in order to influence positive social development and responsible drinking culture; (g) recommend to the Executive Committee Member the formulation of policies, rules and regulations for better implementation of this Act; (h) advice the Executive Committee Member on matters

			<p>relating to alcohol;</p> <p>(i) propose to the Executive Committee Member collaboration and linkages programmes for better implementation of this Act;</p> <p>(j) monitor and evaluate the impact of this Act on the community development and advice the Executive Committee Member;</p> <p>(k) prepare and submit to the Executive Committee Member a bi-annual status report on licensing, impact of licensing, adherence to the licensing conditions and public awareness of alcoholic drinks control for before the Executive Committee Member; and</p> <p>(l) carry out any other functions as may be assigned by the Executive Committee Member for better implementation of this Act.</p>
Appointment of the Director	6.	(1)	The Directorate shall be headed by a Director who shall be appointed by the County Public Service Board through a competitive process.
		(2)	<p>A person shall only be appointed as a Director under this Act if that person-</p> <p>(a) is a Kenyan Citizen;</p> <p>(b) possesses an academic degree from a university recognized in Kenya;</p> <p>(c) has at least five years post-graduation work experience at management level;</p>

			<p>(d) has no pecuniary interest or is associated in the alcohol industry; and</p> <p>(e) meets the requirements of the Constitution;</p>
		(3)	The Director shall be responsible for the day to day operations of the Directorate, and in particular, shall ensure that the functions of the Directorate are undertaken.
Removal of office	7.		<p>The County Secretary may, on the recommendation of the Executive Committee Member, remove a Director from office -</p> <p>(a) for gross misconduct;</p> <p>(b) where adjudged bankrupt;</p> <p>(c) for abuse of office;</p> <p>(d) due to incompetence or neglect of duty;</p> <p>(e) due to inability to perform his or her duties arising out of physical or mental incapacity;</p> <p>(f) due to a breach of the code of ethics; or</p> <p>(g) due to a conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months;</p>
Annual report	8.	(1)	The Director shall, within thirty days after the lapse of a financial year, submit to the Executive Committee Member a report on the operations of the Directorate.

		(2)	<p>The report referred to under sub section (1) shall, in addition to any other information, contain details of ;</p> <ul style="list-style-type: none"> (a) the social and economic impact of the use of alcoholic drinks in the County; (b) measures adopted to control and reduce the use and negative impact of alcoholic drinks in the County; (c) the public participation undertaken relating to the implementation of the Act and feedback given to the public; (d) implementation of the treatment and rehabilitation programme; (e) challenges faced in the implementation of the Act; and (f) any information as may be required by the Executive Committee Member.
		(3)	<p>The Executive Committee Member shall publish and publicize the annual report through the established County communication channels which shall include the County website and communication forums.</p>
Establishment of rehabilitation facilities and programs	9.		<p>The Directorate in collaboration with the relevant government agencies shall-</p> <ul style="list-style-type: none"> (a) establish treatment and rehabilitation services, facilities and programs for person's dependent on alcoholic drinks in each county health facility; (b) ensure that the rehabilitation

			<p>centers are adequately staffed;</p> <p>(c) ensure that the treatment and rehabilitation services, facilities and programs –</p> <p>i) are designed in a manner that is accessible and affordable to person's dependent on alcoholic drinks; and</p> <p>ii) where applicable, are integrated with other social services and programs.</p>
Appointment of other members of staff	10.		The County Public Service Board may, on recommendation of the Chief Officer appoint other members of staff for better implementation of this Act.
Designation of the sub-county alcoholic drinks licensing officers	11.		(1) The Executive Committee Member shall designate from among the staff of the County Government an alcoholic drinks licensing officer for every sub-county who shall be responsible to the Director.
			(2) The Chief Officer may from time to time re-deploy alicensing officer as shall be deemed necessary for better implementation of this Act.
			<p>(3) The licensing officer shall-</p> <p>(a) receive applications for an</p>

			<p>alcoholic drinks licence for tabling before the sub-county committee;</p> <p>(b) on recommendations of the sub-county committee, issue or refuse to issue an alcoholic drink licence;</p> <p>(c) on a regular basis inspect and monitor the licensed premises to ensure compliance with the conditions of a licence,</p> <p>(d) prepare and submit status reports to the Director at least on a quarterly basis;</p> <p>(e) recommend the withdrawal of licence to the Director on the basis of non-compliance with the conditions of licence; and</p> <p>(f) exercise any other function incidental thereto or as may be assigned from time to time by the Director.</p>
PART III - ALCOHOLIC DRINKS CONTROL FUND			
Establishment of the Fund	12.	(1)	There is established the Alcoholic Drinks Control Fund.
		(2)	<p>The fund shall consist of-</p> <p>(a) monies as may be appropriated by the County Assembly;</p>

			<ul style="list-style-type: none"> (b) license fees and other fees as may be payable under this Act; (c) sums received including contributions, gifts or grants from or by way of testamentary bequest by any person; (d) monies earned or arising from any investment of the Fund; (e) such sums as may be realized from property forfeited to the county; and (f) all other sums which may in any manner become payable to, or vested in the Fund.
		(3))	<p>The Fund shall be used for meeting the capital and recurrent expenditure relating to—</p> <ul style="list-style-type: none"> (a) carrying out any of the functions of the Directorate; (b) operations of the Committees; (c) developing and providing rehabilitation services, facilities and programs; and (d) any other matter related to the implementation of this Act.

		(4))	<p>Notwithstanding the provisions of subsection (3), an amount of –</p> <p>(a) not more than thirty percent of the budget of the Fund shall be allocated for purposes of enforcement;</p> <p>(b) not less than thirty percent of the budget of the Fund shall be allocated for treatment and rehabilitation services programs; and</p> <p>(c) not more than three percent of the budget of the Fund shall be allocated for administration costs.</p> <p>(d)</p>
		(5))	<p>The receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall not be paid into the county revenue account but shall be retained for the purposes of the Fund.</p>
Administration of the Fund	13.	(1))	<p>The County Executive Committee Member responsible for Finance shall designate an officer to administer the Fund.</p>
		(2))	<p>The officer administering the Fund may, with the approval of the County Executive Committee Member responsible for Finance, invest or place in a deposit account any of the monies of the Fund and any interest earned on monies so invested or deposited.</p>
		(3))	<p>The officer administering the Fund shall-</p> <p>(a) ensure compliance with the provisions of the Public Finance</p>

			<p>Management Act, 2012;</p> <p>(b) supervise and control the administration of the Fund;</p> <p>(c) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning the use of expenditure;</p> <p>(d) prepare quarterly reports of the operations of the fund and submit to the County Executive Committee Member responsible for Finance;</p> <p>(e) cause to be kept proper books of account and records in relation to the operations of the Fund;</p> <p>(f) prepare, sign and submit to the Auditor General in respect of each financial year a statement of accounts relating to the Fund within three months after the end thereof; and</p> <p>(g) furnish such additional information as may be required for examination and audit by the Auditor-General.</p>
		(4)	The County Executive Committee Member responsible for Finance may designate to the Directorate such staff as

			may be necessary to assist in the management of the Fund.
PART IV – LICENSING			
Control of alcoholic drinks	14.	(1)	A person shall not manufacture or otherwise produce, sell, distribute or dispose of or deal with any alcoholic drink in the County except in accordance with a license issued under this Act.
		(2)	A person who contravenes the provisions of sub section (1) commits an offence and, in addition to any other remedy under this Act, is liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding two years or both.
<i>Cap. 366</i> <i>Cap. 244</i>		(3)	<p>Sub section (1) shall not apply to–</p> <p>(a) the bona fide administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon registered under the Veterinary Surgeons Act or a pharmacist registered under the Pharmacy and Poisons Act, of a medicine containing alcoholic drink;</p> <p>(b) the sale of spirituous or distilled perfume, or perfumery;</p> <p>(c) the sale of industrial alcohol;</p>

			<p>(d) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;</p> <p>(e) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets;</p> <p>(f) the sale of alcoholic drink at the county assembly buildings, if sold with the permission of the Speaker of the county assembly; and</p> <p>(g) the sale of alcoholic drink to the members only of any canteen, club, institute, mess or similar institution of the disciplined forces for reasons other than for personal profit.</p>
Prohibition from manufacturing, distribution or sale of illicit brew	15	(1)	A person shall not manufacture, distribute, store, sell or in any other manner dispose of or handle an illicit brew.
		(2)	A person who contravenes the provisions of sub-section (1) commits an offence and on conviction, shall be liable to a fine of a sum not exceeding one million shillings or to imprisonment for a term not exceeding twelve months.
		(3)	Any illicit brew seized by an authorized officer shall be stored or destroyed in accordance with the regulations or directions prescribed by the Executive Committee Member or by the order to the

			Governor.
Sub-County Alcoholic Drinks Regulatory Committee	16	(1)	<p>There is established for every sub-county a Sub-County Alcoholic Drinks Regulatory Committee comprising of-</p> <ul style="list-style-type: none"> (a) the sub-county administrator for the respective Sub County who shall be the chairperson; (b) the sub-county public health officer; (c) licensing officer, who shall be the secretary; (d) the sub-county officer responsible for environmental matters; (e) the sub-county planning officer; (f) a representative of the Governor; and (g) not more than six persons who are residents within the sub-county representing the male, female, youth and persons with disabilities appointed by the Governor from at least ten names of person nominated in a public baraza convened by the Governor or his or her nominee.
		(2)	<p>In making the appointment in sub-section (1) (f), the Governor shall ensure:</p> <ul style="list-style-type: none"> (a) gender parity; and

			<p>(b) that at least each ward is represented by at least one appointee subject to the following provisions;-</p> <p>(i) where a sub-county comprises of more than six wards, the appointment shall be made from any six wards of the sub-county; and</p> <p>(ii) where a sub-county has less than six wards, the number of persons to be appointed shall not exceed the number of the wards.</p>
		(3)	<p>A Sub-County Committee shall-</p> <p>(a) consider applications for issuance of a licence;</p> <p>(b) recommend to the licensing officer the issuance of an alcoholic drinks license;</p> <p>(c) monitor the general compliance with the provisions of this Act and make recommendations to the Director, including recommending the suspension or cancelation of a license;</p> <p>(d) hear the view or objections from the public and make recommendations to the Director; and</p> <p>(e) perform such other functions as may be assigned by the Executive Committee Member.</p>
		(4)	<p>A member of a Sub-County Committee except the ex-officio member shall hold</p>

			office for a term of three years' renewable once.
		(5)	<p>The Executive Committee Member may, with the approval of the County Executive Committee, remove a member of the Sub-County Committee from office for-</p> <ul style="list-style-type: none"> (a) gross misconduct or misbehavior; (b) incompetence or neglect of duty; (c) inability to perform his duties arising out of physical or mental incapacity; (d) adjudication of bankruptcy; (e) violation of the code of ethics; or (f) conviction of a criminal offence under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months.
		(6)	The conduct of business and affairs of the Sub-County Committee shall be in the manner prescribed under the regulations.
Establishment of alcoholic drinks regulatory committees in decentralized units	17	(1)	Where a decentralized unit of the County Government is established in accordance with any other written law, an alcoholic drink regulatory committee responsible for the decentralized unit shall be established under this Act.

		(2)	In determining the composition and functions of an alcoholic drinks regulatory committee established under this section, the provisions of section 15 and other applicable provisions of this Act shall apply with the necessary modifications.
Restriction on membership of the Committees	18		<p>A person shall not be a member of any committee established under this Act if such person—</p> <ul style="list-style-type: none"> (a) holds a license under this Act; (b) is a partner in a firm or director or shareholder of a company or other body which is the holder of a license under this Act; (c) is directly or indirectly employed as an agent of a person, firm or company which is the holder of a license under this Act; (d) is an un-discharged bankrupt; (e) has been convicted of a criminal offence or an offence under this Act except a traffic offence whose penalty is less than six months' imprisonment.
Public participation and inter agency collaboration.	19		In carrying out its functions, the sub-county committee shall ensure that there is effective public participation in accordance with the framework for citizen participation established under the relevant written laws
Application	20	(1)	A person who intends to produce,

for aof a license			manufacture sell or distribute any alcoholic drink in the County or to operate an establishment for the sale of an alcoholic drinks shall apply to the licensing officer for a licence under this Act in the format prescribed in First Schedule.
		(2)	<p>An application under subsection (1) shall be accompanied by-</p> <ul style="list-style-type: none"> (a) information on the nature, orientation and other justification for the establishment of the manufacturing plant or the establishment for sale of an alcoholic drink; (b) plot number of the location of the premises to house the proposed establishment; (c) details of the sizes and related infrastructure to support the proposed business; (d) evidence of compliance with the laws relating to physical planning and building code, public health and environmental laws; (e) signed declaration in the prescribed form committing not to manufacturer, sell, store, distribute or in any other way handle any illicit brew and listing the alcoholic drinks that the person intends to manufacture, store, distribute, sell, or in any other way handle;

			<p>(f) the fees as prescribed in the Third Schedule; and</p> <p>(d) such other requirement as may be prescribed by regulations under this Act.</p>
		(3)	An applicant for a manufacturer's licence under this Act shall, in addition to the requirements under sub-section (2) provide certification Kenya Bureau of Standards, standardization mark from Kenya Bureau of Standards, Excise licence from Kenya Revenue Authority, evidence of compliance with the National Authority for the Campaign Against Alcoholic and Drug Abuse Act, 2012 and any other written laws.
		(4)	In addition to any other requirements under this Act, an applicant for a wholesale, depot or distributor's alcoholic drinks licence shall provide written authority to sell from a licenced manufacturer.
		(5)	Where an application for a licence has been refused, no subsequent application in respect of that business shall be considered by the Sub-county Committee until the expiry of sixty days and subject to the applicant attending to the reasons given for the refusal.
Application for renewal of licence	2 1	(1)	A person licensed under this Act who intends to continue with the business for which the licence was granted shall, during the last quarter of the year, apply for a renewal of licence under this Act.

		(2)	An application in sub-section (2) shall be in the format prescribed in the Second Schedule subject to payment of the prescribed fees and signing of the declaration required in section 20 (2) (e).
		(3)	A person who submits their application for renewal of licence after the period prescribed under sub-section (1) shall, in addition to any other remedy under this Act, be charged a penalty equivalent to one percent of the licence fee for every month of delay.
		(4)	Where an application for renewal of a licence has been made in accordance with this Act and by the date of expiration of the licence no decision has been made thereon, such licence shall continue in force until the decision is made.
		(5)	Where a renewal has been refused or a licence has been cancelled, no subsequent application in respect of that business shall be considered by the Sub-county Committee until the expiry of ninety days and subject to the applicant attending to the reasons given for the refusal or cancellation.
Application for transfer of business	2 2		A person who holds a licence under this Act who intends to transfer his or her business to another premises shall apply for inspection of the proposed new business premises in format prescribed in the Second Schedule and pay the fee prescribed under this Act.
Authority to hold a licence on probate	2 3		Where a licensee dies, the deceased estate's administrators may apply to the Director for authority to hold the licence for the period of its validity of the licence in the format prescribed in the Second

			Schedule and shall during such validity comply with the conditions of this Act.
Procedure for consideration of an application	24.	(1)	Applications made under this Part Act shall be considered on a quarterly basis unless otherwise prescribed by the Executive Committee Member by a public notice.
		(2)	<p>The licensing officer shall, within seven days from the last day of every quarter, publish and publicize a public notice setting forth:</p> <p>(a) the names of the all the applications received for consideration in the quarter;</p> <p>(b) the type of licence applied for;</p> <p>(c) the premises in respect of which the licence is applied for;</p> <p>(d) the date, time and place when the sub-county committee shall sit to hear any public views or objections; and</p> <p>(e) the period within which the public may submit written objections for the sub-county committee's consideration.</p>
		(3)	<p>A notice under subsection (1) -</p> <p>(a) shall be placed at the office of the Sub-County Administrator;</p> <p>(b) shall be posted in a conspicuous place at or near the applicant's premises; and</p> <p>(c) may, in addition to requirements under (a) and (b) be published in any other place as the Executive Committee Member may deem necessary.</p>

		(4)	Within twenty one days from the date of the notice issued in accordance with Sub-section (3), the licensing officer, the sub-county public health officer, the sub-county physical planning officer and the enforcement officer in charge of a sub-county shall prepare and submit a report of their findings to the sub-county committee on all matters within their jurisdiction relevant to the application before the Sub-County Committee without any cost to the applicant.
		(5)	<p>The licensing officer shall table before the sub-county committee the following for consideration:</p> <p>(a) a list of all applications received for consideration during the quarter;</p> <p>(b) the reports prepared in accordance with sub-section (4); and</p> <p>(c) any written report or objection received from the public relating to any application under consideration.</p>
		(6)	<p>A sub-county committee shall consider all the applications received in accordance with sub-section 5, and shall only recommend an application for grant of licence if the -</p> <p>(a) applicant has met the requirements for the licence applied for as prescribed in the First Schedule to this Act, the occupational health standards, environmental law and regulations, safety regulations and other relevant standards under any other written laws;</p> <p>(b) premises in respect of which the application is made is in good repair and is in a clean and wholesome condition, provided</p>

			<p>with adequate and proper sanitary arrangements;</p> <p>(c) premises in respect of which the application is made is located at least three hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years,;</p> <p>(d) applicant, in respect of an off-licence, is licensed and operates a supermarket and has taken measures to ensure that the area in which the sale of an alcoholic drink is to take place is not accessible to persons under the age of eighteen years;</p> <p>(e) proposed premises is not located within two hundred metres from a residential area;</p> <p>(f) applicant, in respect to a manufacture's licence to brew, distill, bottle or manufacture an alcoholic drink, possesses the necessary qualifications and has complied with all requirements stipulated under any relevant written law;</p>
		(7)	<p>Notwithstanding the provisions of this Act, the Sub-county Committee shall not recommend the grant or renew a license to any person who—</p> <p>(a) has failed to satisfy the requirements of this Act;</p>

			<p>(b) has been convicted of an offence under this Act or an offence of which the penalty is an imprisonment term of more than six months without the option of a fine in Kenya or elsewhere;</p> <p>(c) in the case of an-off license, is not resident in Kenya;</p> <p>(d) is under eighteen years of age; or</p> <p>(e) is an un-discharged bankrupt.</p>
		(8)	<p>Notwithstanding the provisions of this Act, the Sub-county Committee may refuse to recommend the grant of a licence-</p> <p>(a) if in the opinion of the Sub-county Committee and on recommendation by the public, the number of such premises in respect of which such licenses have been granted is sufficient for the requirement of the locality; or</p> <p>(b) in the public interests.</p>
Inspection of premises	25	(1)	<p>The Sub-county committee may inspect the premises, the subject of an application, for purposes of determine the application, preparation of relevant reports or determine an objection from the public.</p>
		(2)	<p>The Sub-county Committee may require the require the personal appearance before it of the applicant or of the manager of the premises to which the application related, or both of them, or any other person whose attendance is considered by the Sub-county Committee to be necessary during</p>

			such inspections.
Public hearing	26	(1)	The Sub-county committee may, as shall be deemed necessary and by notice in the public issued in accordance with the relevant written laws, hold public hearing to receive the public views or objections.
		(2)	An objector and the applicant may either appear in person or by representation of an advocate during the public hearings of an objection.
		(3)	A licensing officer may in writing authorize any person to appear before the Sub-county Committee for purposes of representing the inhabitants of that part in respect of which any objection has been lodged to an application.
		(4)	Every Sub-county Committee shall maintain records of all its proceedings, and in particular, the records of the purpose for which an application was made, the evidence given, any arguments adduced, the decision and recommendations made thereon.
Objections	27	(1)	Any person may lodge objection to an application for a licence.
		(2)	Every objection to an application shall be in writing to the licensing officer, and the objector shall serve notice to of the grounds of objection on the applicant personally or by post at least seven days before the date notified for public hearing, and the onus of proof of such service shall be on the objector.
		(3)	The Sub-county Committee may of its own motion take notice of any matter or thing which, in the opinion of the Committee, constitutes an objection to an

			application
Grant of a licence	28	(1)	<p>On recommendation of the sub-county committee, the licensing officer may either-</p> <p>(a) issue a licence in the format prescribed in the Second Schedule; or</p> <p>(b) refuse to issue a licence and within fourteen days notify the applicant of the decision for the refusal in writing, give reasons for the refusal to the applicant and the Director.</p>
		(2)	<p>A licence granted under sub-section (1) shall be issued upon payment of the fee prescribed in the Third Schedule to this Act.</p>
		(3)	<p>The licensing officer shall cause to be published a list of the licensed premises at the sub-county and ward administrator's office and in any other manner as the Executive Member may determine.</p>
Validity and conditions of a license	29 .	(1)	<p>A license issued under this Act shall-</p> <p>(a) be subject to the payment of the prescribed fee;</p> <p>(b) expire on the thirty first day of December of each year;</p> <p>(c) not apply to more than one premises;</p> <p>(d) specify in the License the hours stipulated under the First Schedule within which the sale of alcohol is permitted and any other relevant condition; and</p> <p>(e) not be transferable to another person.</p>

		(2)	The licensing officer shall specify in each license the conditions of the license including the hours allowed for sale of alcoholic drinks.
Display of a licence and alcoholic drinks list	30	(1)	A person issued with a licence under this Act shall display the licence in a conspicuous place easily accessible for inspection by any person.
		(2)	A license shall be displayed on the premises to which it relates.
		(3)	Where a license is granted so as to be applicable to more than one premises, it shall be displayed in the premises first names therein and the copies thereof displayed in the other outlets.
		(4)	In addition to the requirements under this Act, a person licensed under this Act shall display in a conspicuous place a list of the alcoholic drinks manufactured, distributed, stored, offered for sale or in any other way handled by the licensee.
Maintenance of records	31	(1)	A person licensed under this Act shall only manufacture, distribute, store or offer for sale an alcoholic drink licensed or authorized by the Authority in accordance with the relevant written laws.
		(2)	A person who holds a manufacturer's licence under this Act shall maintain a list of all alcoholic drinks manufactured, distributed, or sold by that person in the prescribed form.
		(3)	A person who holds depot, distributors, wholesale or supermarket alcoholic drinks licence under this Act, shall maintain records of their supplier of any alcoholic drinks held in their premises, including the authority to sell the alcoholic drink from

			the manufacturer, distributor or wholesaler as may be applicable, which records may be inspected by any officer authorized under this Act.
		(4)	A person who holds a general retail or a temporary alcoholic drinks licence under this Act shall maintain records of the supplier of any alcoholic drink held or sold within the persons premises.
		(5)	A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand Kenya shillings or to an imprisonment term not exceeding one month or to both.
		(6)	In addition to any other remedy under this Act or any other written law, an alcoholic drink held by any person without the requisite documents prescribed under this section shall be considered to be illicit brew within the definition of this Act.
Suspension or cancellation of a license	32	(1)	<p>The Director may on recommendation of the Sub-County Committee or the Sub-County alcoholic drinks licensing officer suspend or cancel a license where satisfied that-</p> <ul style="list-style-type: none"> (a) the licensee has contravened the provisions of this Act or other relevant written laws; (b) the licensee has contravened the conditions of the declaration made in accordance with section 20 (2) (e); (c) the business to which the license

			<p>relates is conducted in a manner that is contrary to the provisions of his Act;</p> <p>(d) the license has failed to comply with the conditions of a license granted under this Act; or</p> <p>(e) any requirement for the grant of a license under this Act has been violated.</p>
		(2)	<p>Notwithstanding Sub-section (1), the Director shall not suspend or cancel a licence unless the licensee-</p> <p>(a) has been served with a notice of at not less than seven days giving notice of the intention to suspend or cancel the licence and the reasons for such intention; and</p> <p>(b) has, within fourteen days from the date of such service, been given the opportunity to be heard and notified of the decision of the Director.</p>
Temporary closure of a premises	33	(1)	<p>Notwithstanding the provisions of this Act, the Director may on his or her motion or on recommendation of the Sub-county Committee or any other authorized officer for purposes of protection of the public interest, suspend the licence or order the closure of a premises manufacturing, distributing, storing, selling or in any other manner handling an alcoholic drink without first according the licensee or the owner or occupier of the premises a hearing.</p>
		(2)	<p>Where an order is issued in accordance with the provisions of sub-section (1), the Director shall within seven days direct the Sub-county Committee to inspect the premises and investigate and file a report, giving details of the breach of public</p>

			interest and any other findings.
		(3)	The Sub-county Committee shall within fourteen days submit a report of its findings and its recommendation to the Director, who on consideration of the report may- (a) revoke the order to temporary closure; (b) suspend the licence for a further period until the licensee complies with the directions given; or (c) cancel the licence.
Types and conditions of licenses	3 4 .	(1)	Licenses which may be granted under this Act shall be those specified in the First Schedule, and the provisions of that Schedule and of any rules made under this Act shall have effect in relation to the respective licenses therein specified.
		(2)	A license shall not be granted to apply to more than one premises
General drinking hours	3 5	(1)	For purposes of general retail of alcoholic drinks within the County, the drinking hours shall be between- (a) five pm and eleven pm on all week days; and (b) two pm and eleven pm on all weekends.
		(2)	The provisions of sub-section (1) shall apply to a person holding a general alcoholic drinks retail licence, a temporary alcoholic drinks licence or a supermarket alcoholic drinks licence.
		(3)	A person found drinking in a public place outside the drinking hours commits an offence and shall be liable upon conviction to a fine not exceeding one thousand or to imprisonment for a term not exceeding one month or to both

		(4)	A person, other than a holder of a manufacturers, depot or distributor or wholesale alcoholic drinks licence, who sells or in any other way disposes an alcoholic drink outside the drinking hours prescribed under this section commits an offence and on conviction, is liable to a fine of a sum not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.
			.
Zones	3 6 .	(1)	The Executive Member may, following public participation and the approval of the County Assembly, by an order published in the County Gazette classify and zone specific areas or streets within the County to be alcohol sale free zones.
		(2)	Where an area has been classified as an alcohol sale free zone, no alcoholic drink license shall be issued for sale of alcoholic drinks within that area.
PART V – GENERAL REQUIREMENTS			
Employment for sale of alcoholic drinks.	3 7 .	(1)	A licensee shall not employ a person under the age of eighteen, to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks on licensed premises.
		(2)	Where a licensee permits another person to manage, superintend or conduct the day-to-day business of a licensed premises, the licensee shall not be relieved of the obligations under this Act.
		(3)	In addition to any other requirements under any other written laws, a person shall only be employed to handle alcoholic drinks if that person- (a) is a registered contributor of the

			<p>National Social Security Fund and the National Hospital Insurance Fund, Kenya Revenue Authority and has committed on writing, to either directly or through the employer, to limit monthly statutory deductions;</p> <p>(b) has met the requirements under the public health laws and regulations; and</p> <p>(c) is a Kenyan or has obtained the necessary permit to work in Kenya.</p>
		(4)	A licensee shall, in respect to every employee, comply with all statutory requirements, including remitting any deductions and maintaining a valid insurance under the occupational health and safety laws, public health and any other applicable laws and regulations.
		(5)	A person who contravenes the provisions of sub section (1) commits an offence and shall upon conviction be liable to a fine of a sum not exceeding one million shillings or an imprisonment term not exceeding three years or to both.
Drunken behavior.	38	(1)	A licensee, an agent or an employee of a licensee may refuse to admit to, and may expel from, the licensed premises any person who is drunk and disorderly, violent, or quarrelsome.
		(2)	Any person referred to in subsection (1) who, on being requested by the licensee, the licensee agent or employee, or by an enforcement officer, to quit the licensed premises, refuses to do so, commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or an imprisonment term not exceeding one year or to both.

		(3)	A licensee who permits any drunkenness leading to violent, quarrelsome or riotous conduct to take place on the premises to which the license relates commits an offence and on conviction is liable to a fine of a sum not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.
Debt from sale of an alcoholic drink	39	(1)	No person shall hold a lien over any person's property for a debt incurred from consumption of an alcoholic drink unless that person possess the authority of a valid court order.
Access by persons under age of eighteen	40 .	(1)	A licensee under this Act shall not allow a person under the age of eighteen years to enter or gain access to the area in which the alcoholic drink is manufactured, stored, sold or consumed.
		(2)	A person shall not enter or gain access to an area referred to under subsection (1) if such a person is in custody or accompanied by a person under the age of twenty one years.
		(3)	A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or an imprisonment term not exceeding one year or to both.
Reports by public health officers and County Enforcement Officers	41 .	(1)	A Sub-county public health officer or any person authorized by him or her in writing in that behalf may enter and inspect any licensed premises for the purpose of ascertaining compliance with any public health requirements.
		(2)	An enforcement officers of the County not below the rank of Inspector may without written authority enter and inspect any licensed premises to confirm compliance with the provisions of this Act.

Conformity with requirements	42.	(1)	A person shall not manufacture, distribute or sell an alcoholic drink in the County that does not conform to the requirements of this Act or any other written law regulating alcoholic drinks.
		(2)	A person who contravenes the provisions of this section in relation to manufacture and distribution of an alcoholic drink commits an offence and shall be liable to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding five years, or to both.
Supply to minor	43.	(1)	A person shall not sell, supply or provide an alcoholic drink to a person under the age of eighteen years.
		(2)	A person who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.
		(3)	For the purposes of this section, the following documentation may be used to verify a person's age- (a) a national identity card issued by the Republic of Kenya; or (b) a passport issued by the Republic of Kenya or any other country;
Hawking of alcoholic drinks	44	(1)	A person shall not hawk or sell an alcoholic drink in any other place other than the place licensed in accordance with this Act.
		(2)	A person who contravenes the provisions of this Act commits an offence and on conviction is liable to a fine of a sum not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.
Display of		(1)	Any person manufacturing, distributing,

signs	45.		storing, selling or in any other manner disposing of an alcoholic drink shall display in a conspicuous place signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of an alcoholic drink to a person under the age of eighteen years is prohibited by law.
		(2)	A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.
Vending machines.	46.	(1)	A person shall not sell or permit an alcoholic drink to be sold by way of a vending machine.
		(2)	A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding twelve months, or to both
Packaging	47.	(1)	A person shall not sell, manufacture, pack or distribute an alcoholic drink in sachets or such other form as may be prescribed under this Act or any other relevant written law.
		(2)	Notwithstanding the provisions of subsection (1)- (a) a person shall not manufacture, pack, distribute or sell in the County an Alcoholic drink in a container less than 250 milliliters; (b) any other distilled or fortified alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles, cans, keg or jar of the kind specified authorized by the Authority; and

			(c) labeling on containers should have the health warnings as prescribed under national standards and legislation.
		(3)	A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both
Disorderly conduct	48.	(1)	A person found by an enforcement officer of the County or the police officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place shall be arrested without warrant and brought without unreasonable delay before a Magistrate
		(2)	A person convicted of being drunk and incapable or drunk and disorderly in or near a place referred to in subsection (1) shall be liable upon conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month or to both.
<i>Cap 10</i>		(3)	Upon conviction under sub-section (2), the convicting Magistrate may issue an order for community service to a person convicted of the offence under this section for more than one time in accordance with provisions of the Community Service Orders Act, 1998.
		(4)	Notwithstanding the provisions of sub section (3), a person convicted under subsection (2) on more than three occasions in any period of twelve months shall undergo at his own cost, such rehabilitation program as may be appropriate in a public health institution.
Sale to authorized	49.		A person who knowingly sells, supplies or offers an alcoholic drink to an enforcement officer or to

officer		a police officer in uniform or who harbors or suffers to remain on licensed premises any such police officer except for the purpose of keeping or restoring order or otherwise in the execution of his duty, commits an offence and is liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.
Non-disclosure of conviction	50.	A person who is required by any provision of this Act to disclose any conviction and fails to do so when making any application commits an offence.
Manufacture and sale of Adulterated drinks <i>No. 4 of 2010</i>	51.	<p>(1) A person shall not manufacture, distribute, keep for sale, offer for sale or sell-</p> <ul style="list-style-type: none"> (a) any alcoholic drink which has been in any way adulterated, or diluted by any person; and (b) any non-alcoholic drink which has been in any way adulterated with alcohol, or which contains any of the substances prohibited under any written law.
		(2) A person who, while manufacturing an alcoholic drink adulterates the alcoholic drinks by way of adding impurities, prohibited substances or additives to the alcoholic drink commits an offence and shall, upon conviction be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.
		(3) A person who knowingly distributes an alcoholic drink that is adulterated commits an offence and shall, upon conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both.

		(4) A person who knowingly sells an alcoholic drink that is adulterated commits an offence and shall, upon conviction be liable to a fine not exceeding five hundred thousand Kenya shillings or to imprisonment for a term not exceeding two years, or to both.
PART VI – ADVERTISEMENT AND PROMOTION		
Prohibited advertisement and promotion	52.	<p>(1) A person shall not promote an alcoholic drink by way of outdoor advertisement-</p> <p>(a) in a manner that is false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of an alcoholic drink or encourage person below the age of eighteen years to drink alcoholic drink; or</p> <p>(b) in places demarcated under any written law as residential areas or within a distance of three hundred meters from nursery, primary, secondary school, or other institution of learning for persons under the age of eighteen years or a place of worship, health facility or a public playground, public road reserve or any other public land or property or in public service vehicle.</p>
		<p>(2) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.</p>
Promotion at underage	53.	<p>(1) A person shall not promote an alcoholic</p>

events.			<p>drink –</p> <p>(a) at any event or activity associated with persons under the of eighteen years; or</p> <p>(b) using such things or materials that are associated with persons under the age of eighteen years.</p>
		(2)	A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shilling or imprisonment for a term not exceeding three years or to both such fine and imprisonment.
Encouraging consumption	54.	(1)	A person shall not promote an alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.
		(2)	A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.
PART VII – ENFORCEMENT			
County Alcoholic Drinks Control Enforcement Coordinating Committee.	55.	(1)	There is established the County Alcoholic Drinks Control Enforcement Coordinating Committee.
		(2)	<p>The Enforcement Committee shall consist of –</p> <p>(a) the Chief Officer who shall be the</p>

			<p>chairperson of the Committee;</p> <p>(b) one authorized officer nominated by the Executive Committee Member;</p> <p>(c) the County Director of Enforcement</p> <p>(d) the County Public Health Officer;</p> <p>(e) one officer appointed by Kenya Bureau of Standards;</p> <p>(f) one officer appointed by the Authority; and</p> <p>(g) any other officer as the Governor may designate.</p>
		(3)	The Directorate shall provide secretariat services to the Enforcement Committee.
		(4)	The Executive Committee Member may establish an enforcement committee at sub county level similar to the county committee established under this Act with necessary modifications
		(5)	<p>The functions of the Enforcement Committee shall be to-</p> <p>(a) coordinate enforcement under this Act;</p> <p>(b) monitor and evaluate the enforcement process and system under the Act;</p> <p>(c) advise the county executive member on the necessary measures to be adopted in ensuring effective enforcement and compliance under this Act; and</p> <p>(d) carry out any other function as may from time to time be assigned by the Executive Member.</p>

Authorized officers	56	(1)	The licensing officers shall be deemed to be authorized officers for purposes of this Act.
		(2)	The Executive Committee Member, may he or she deems appropriate, designate such other officer of the County Government to authorized officer for better implementation of this Act.
		(3)	An authorized officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.
		(4)	An authorized officer entering any premises under this section shall, if so required, produce his or her identification for inspection by the person who is or appears to be in charge of the premises.
Places authorized officers may enter	57.	(1)	For the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act
		(2)	An authorized officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises his identification.
Powers of officers	58.		<p>In carrying out an inspection in any place pursuant to section 57, an authorized officer may—</p> <ul style="list-style-type: none"> (a) examine an alcoholic drink or anything referred to in that section; (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the alcoholic drink or

			<p>thing;</p> <p>(c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains the alcoholic drink or thing;</p> <p>(d) conduct any test or analysis or take any measurements; or</p> <p>(e) require a person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.</p>
Use of records.	59.	<p>In carrying out an inspection, an authorized officer may-</p> <p>(a) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;</p> <p>(b) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and</p> <p>(c) scrutinize any other record system in use in that place.</p>	
Entry of dwelling place	60.	<p>(1) An authorized officer shall not enter a dwelling place except with the consent of the occupant or under the authority of a warrant.</p> <p>(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.</p>	
Certificate of analysis.	61.	<p>An authorized officer who has analyzed or examined an alcoholic drink or thing under this Act, or a sample of it, shall issue a certificate or</p>	

		report setting out the results of the analysis or examination.
Assistance of officers	62.	<p>(1) The owner of a place inspected by an authorized officer under this Act or the person in charge of the place and every person found in the place shall —</p> <p>(a) provide all reasonable assistance to enable the authorized officer to carry out his duties under this Act; and</p> <p>(b) furnish the authorized officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.</p> <p>(2) Upon inspection, an authorized officer shall issue the respective certification certificate once satisfied with the inspection.</p>
Obstruction	63.	A person, who obstructs, hinders or knowingly makes a false or misleading statement to an authorized officer under this Act commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand or an imprisonment term of three months or to both.
Seizure	64.	<p>(1) An authorized officer may seize any alcoholic drink or thing in relation to which the officer believes that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.</p>
		<p>(2) The authorized officer may direct that any alcoholic drink or thing seized be kept or stored in the place where it was seized or that it be removed to another place.</p>

		(3)	Unless authorized by an officer, no person shall remove, alter or interfere in any manner with any alcohol, alcoholic drink or other thing seized.
General penalty	65.		A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.
PART VIII –GENERAL PROVISIONS			
Regulations	66.		<p>(1) The Executive Committee Member with the approval of the County Executive Committee may make regulations generally for the better carrying out of the provisions of this Act.</p> <p>(2) Without prejudice to subsection (1), regulations may be made for the following purposes—</p> <ul style="list-style-type: none"> (a) forms of notices; (b) fees payable; (c) licenses; (d) regulation of the business of the committees under this Act; (e) storing and destruction of illicit brews; and (f) any other requirement for better implementation of this Act.
County Appeals Committee	67	(1)	<p>There is established the County Alcoholic Drinks Appeals Committee comprising</p> <ul style="list-style-type: none"> (a) the Executive Committee Member who shall be the chairperson; (b) an officer of the County not attached to the department responsible for Alcoholic

			<p>drinks control, who shall be the secretary;</p> <p>(c) the County Director of public health;</p> <p>(d) an advocate of the high Court of Kenya from the County public service;</p> <p>(e) the County Director for physical planning;</p> <p>(f) not more than six residents of the County appointed by the Governor form a list of ten names of persons nominated by the public during a public baraza convened by the Governor or his or her representative, one of whom shall be a youth and provided that not more than two persons shall be from the same ward.</p>
		(2)	<p>The County Appeals Committee shall be responsible for–</p> <p>(a) receiving and hearing appeals from the decisions made by any person or committee under this Act; and</p> <p>(b) carrying out any other function as may be assigned by the Governor.</p>
		(3)	<p>A member of the County Appeals Committee appointed under subsections 3(f) shall hold office for a term of three years' renewable once.</p>
		(4)	<p>A member of the County Appeals Committee under sub section (1) may be removed from office for-</p> <p>(a) gross misconduct or misbehavior;</p>

			<ul style="list-style-type: none"> (b) incompetence or neglect of duty; (c) inability to perform the duties under this Act arising out of physical or mental incapacity; (d) adjudication of bankruptcy; (e) breach of the code of ethics; or (f) conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months;
Conduct of Appeals	68	(1)	A person who is aggrieved by a decision made under this Act may appeal to the County Appeals Committee within thirty days of such decision.
		(2)	An appeal under this Section shall be in writing addressed to the Executive Committee Member setting out the grounds of the appeal
		(3)	The County Appeals Committee shall within thirty days consider and make a final determination on the appeal.
		(4)	The appellant may appear in person or by representation of the advocate for the hearing and determination of the appeal.
		(5)	The County Appeals Committee may in writing require any person to appear before it for purposes of giving evidence or providing expert opinion in respect of any matter under consideration, provided that any person adversely mentioned in an appeal shall be given an opportunity to be heard by the County Appeals Committee.
		(6)	Where the County Appeals Committee considers it necessary to take evidence in respect of any matter before it, such

			evidence shall be given on oath and the Chairman shall be empowered to administer the oath.
		(7)	For purposes of Chapter XI of the Penal Code, all proceedings before a County Appeals committee shall be deemed to be judicial proceedings.
		(8)	The County Appeals Committee shall maintain records of all its proceedings and in particular, records of the purposes for which an appeal was made, the evidence given, the arguments adduced and its determination.
		(9)	In making its determination, the County Appeals Committee may- (a) uphold the decision appealed against; (b) reverse the decision appealed; or (c) give direction on the action to be taken.
Code of ethics	69	(1)	Every member of a Committee under this Act shall abide by the code of ethics prescribed.
		(2)	A member of a committee under this Act shall not transact any business unless the person has signed the code of ethics.
		(3)	A member of a committee who violates the code of ethics shall cease being a member of the respective committee.
Transitional clause	70	(1)	Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act held an alcoholic drinks license which would have otherwise been valid under the Kiambu County Alcoholic Drinks Control Act, 2013, shall be required to immediately and not later than thirty days from the date of commencement of this Act to apply for a

			license under this Act.
		(2)	An application under sub-section (1) shall act as a stay against any proceedings or enforcement actions that would have otherwise been undertaken under this law.
		(3)	An application under this section shall be made in accordance with the procedure set out under Part IV of this Act.

FIRST SCHEDULE

TYPES OF LICENCES AND ELIGIBILITY CRITERIA

Eligibility	1	(1) A person may apply for any licence under this Act and may only be granted such a licence if that person has met the requirements prescribed for that licence under this Act.
		(2) A person licenced to operate under a particular licence shall comply with the conditions of the licence and shall not use the licence beyond the limits of operations prescribed for each of the licence.
		(3) A person who contravenes the provisions of subsection (2) commits an offence and on conviction, in addition to any other penalty provided under this Act, is liable to a fine of a sum not

		<p>exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.</p>
General retail alcoholic drinks on –licence	3	<p>(1) A person who sells or intends to sell an alcoholic drink for consuming of that alcoholic drink at the point of sale shall apply for a general retail alcoholic drinks on-licence.</p>
		<p>(2) In addition to any other requirements prescribed by regulations under this Act, a person shall not be granted the an alcoholic drink on-licence unless that person has provided the following within the premises-</p> <p>(a) at least two toilets dedicated for each gender with a urinal for the male, for exclusive use of the alcoholic drinks premises, separated and clearly marked, provided that the County public health officer may prescribe such additional toilet facilities as shall be necessary to comply with ;</p> <p>(b) sitting space which promotes hygiene and good health of not less than a floor area of 30 square meters and ceiling height of not less</p>

		<p>than 3.5 meters;</p> <p>(c) a well ventilated and well lit premises;</p> <p>(d) provision of water supply;</p> <p>(e) a clear separation and designation of a dinning area from the drinking area where the person intends to offer food together with alcoholic drinks and to put measure to ensure that persons below the age of eighteen years do not access the bar area;</p> <p>(f) a permanent or semi-permanent serving counter; and</p> <p>(g) complies with the proximity areas as prescribed under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012.</p>
		<p>(2) Notwithstanding the generality of the foregoing, the following shall not be eligible to apply under the general retail alcoholic drinks on-licence category -</p> <p>(a) Supermarket;</p> <p>(b) Wholesalers;</p> <p>(c) Depots and distributors; and</p> <p>(d) manufacturers.</p>

Wholesale alcoholic drink licence	5	(1) A person who sells or intends to sell alcoholic drinks as a wholesaler shall apply for a wholesale alcoholic drink licence.
		(2) A person shall not qualify to apply under this category unless the person has written authority to sell an alcoholic drink from a licenced manufacturer or a licenced distributor.
		<p>(3) In addition to any other requirements prescribed for this licence under this Act, a person shall only be granted a licence under this section if -</p> <p>(a) the person gives a written undertaking to only sell an alcoholic drink within the licensed premises;</p> <p>(b) the proposed premises is not located within 300 meters from a learning institution or a residential area; and</p> <p>(c) the proposed premises meets the minimum area of 20 square feet provided that no alcoholic drink shall be stored outside the licensed</p>

		premises.
Depot or distributors' alcoholic drinks licence	6	(1) A person who stores and distributes alcoholic drinks or who intends to store or distribute an alcoholic drink shall apply for a Depot and Distributor's alcoholic drinks licence.
		(2) A person shall not qualify to apply under this category unless the person is a licenced manufacturer or has written authority to store and distribute from a licenced manufacturer.
		(3) In addition to other requirements prescribed for this category under this Act, a person who intends to distribute an alcoholic drink within the County shall be required to operate a depot within the County.
		(4) A holder of a licence under this category shall only sell an alcoholic drink on wholesale.
Supermarket alcoholic drinks licence	7	(1) A person who sells or intends to sell an alcoholic drink within the set up of a supermarket shall apply for supermarket alcoholic drinks licence.

		<p>(2) A person shall not qualify to apply under this category unless the person is a licenced manufacturer or has written authority to sell within the supermarket premises from a licenced manufacturer or distributor.</p>
		<p>(3) In addition to any other requirements under any written laws, a person shall not qualify for a licence under this section unless-</p> <p>(a) They have partitioned and clearly separated the area for the sale of liquor from the sale of other items within the supermarket and ensure that the partitioning is opaque; and</p> <p>(b) They put measure to ensure that the area for the sale of liquor is not accessed by person below the age of eighteen years; and</p> <p>(c) Have put the prescribed warning sign in a conspicuous place restricting access to persons below the age of eighteen years.</p>
Alcoholic drinks manufacturers'	11	<p>(1) A person who is or intends to establish an alcoholic drinks manufacturing plant within the</p>

licence		<p>County shall, upon being granted a licensing in accordance with the national laws, apply for a alcoholic drinks manufacturers' licence under this Act.</p> <p>(2) Notwithstanding the provisions of a national law, the sub-county alcoholic drinks licensing officer may decline to issue a licence under this section if-</p> <p>(a) the proposed location of the manufacturing plant is within an area declared an alcohol free area or within a residential area or near a learning institution;</p> <p>(b) the establishment of the plant would be against the County Government policy; or</p> <p>(c) in the public interest.</p>
		<p>(3) A person licensed under this section must be a member and maintain the membership of a national umbrella body of manufacturers recognized by the Authority.</p>
Temporary alcoholic drinks licence	13	<p>(1) A person who intends to sell an alcoholic drink for the purposes of a specific occasion, ceremony or event which shall not exceed a period of six hours shall apply for a temporary alcoholic drinks licence for that</p>

		particular day. For the avoidance of doubt, a licence under this section shall only be valid for a period of six hours.
		(2) A person who holds a licence under this section shall only sell an alcoholic drink during the prescribed drinking hours.

SECOND SCHEDULE

FORMS



FORM A

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

APPLICATION FOR TEMPORARY ALCOHOLIC DRINK LICENCE

1. Name of
Applicant.....

2.Applicant Postal
Address.....

3.Physical Address to which temporary licence should be made
applicable..... (include road, plot number)

4..Period for which temporary licence is required from the day
of 20..... to day of 2018.

Date.....

Signature.....

FORMS



FORM B

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

DECLARATION OF COMMITMENT NOT TO SELL ILLICIT OR UNLICENSED ALCOHOLIC DRINK

1. Name of
Applicant.....

2. Applicant Postal
Address.....

5. Location or proposed location of the licensed place
..... (include plot number, road and ward
)

I/We..... holders of identity card
number/incorporation number..... do hereby
undertake to only manufacture, sell, store, distribute or in any other
manner handle alcoholic drinks authorized by the Authority and licensed
under this Act and further, I undertake that during the validity of this
licence, I shall sell the following types and brands of alcoholic drinks.

.....
.....
.....
.....

I agree and authorize the Director to cancel my licence without further notice to me in the event that I do not comply with the provisions of this undertaking.

Date.....

Signature.....

Witnessed by
Commissioner for oaths



FORM C

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

**APPLICATION FOR TRANSFER/REMOVAL OF
ALCOHOLIC DRINK/ TRANSFER OF BUSINESS PREMISES/
AUTHORITY TO HOLD ON PROBATE**

LICENCE

1. Name of
Applicant.....

2. Applicant Postal
Address.....

3. Type and Number of license held.....

4. Address of Premises specified therein.....

5. Name of transferee/address of premises to which it is desired to remove
license / Transfer business (include plot number)

.....

Date.....

Signature of Applicant



FORM D

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT)

**APPLICATION FOR THE GRANT OR RENEWAL OF AN
ALCOHOLIC DRINK LICENCE**

(To be completed in Triplicate)

1. Name of
Applicant.....
.....

2. Applicant Postal
Address.....

3. Address and Plot Number of
Premises.....
(Give sufficient details to adequately identify the premises)

Street, Phone
Number.....

4. Name by which premises
known.....

5. If for renewal, give expiring Licence
Number.....

6. Licence to run
from.....to.....

7. Type of Licence applied for.....

Date.....

Signature of Applicant.....



FORM E

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

**APPLICATION FOR THE GRANT OR RENEWAL OF A
LICENCE - MANUFACTURER AN ALCOHOLIC
DRINK**

1.Name of
Applicant.....
.....

2.Type of
Business.....

..... (a)Sole proprietorship (the business is owned by one
person).....

Personal

Identification

Number.....

(b)Partnership.....

..... Names, Postal Address and Phone Contacts of the
Partners.....

.....
.....

(c)Limited Liability Company

Name, Postal Address and Phone Contacts of the Directors

.....
.....
.....
.....

Contact

person.....
.....

3. Postal
Address.....
.....

4. Physical Address (exact place of
manufacture).....

5. Tel.....
.....

7. Email.....
.....

8. Town, Sub-county, Ward,
Village.....

9. Business Registration No* or Certificate of Incorporation
No*.....

10. Is this a New/Renewal application?.....If renewal, provide details of No.....

11. Do you have manufacturer's certificate? Yes*.....
No.....

12. List type of brands of alcoholic drinks to be manufactured

*Alcoholic Drink
Number*

Standards Certification

.....

.....

.....

.....

.....

.....

.....

.....

.....

13. Brief description of alcoholic drink(s).....

(a) Unit Capacity in Milliliters and cost in shillings of the alcoholic drink(s).

.....

.....

(b) Alcoholic content.....

....

(c) Mode of Transport and storage conditions.....

(d) Describe the purpose for which the alcoholic drink(s) will be used
e.g. retail, wholesale or
Export etc.)

14. Declaration by Applicant:

I hereby
declare and certify that the information given in this application
including attachments thereto is true and correct to the best of my
knowledge and belief.

Date.....

Signature.....

Official Stamp.....

* Delete where applicable



FORM F

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

**APPLICATION FOR THE GRANT OR RENEWAL OF AN
ALCOHOLIC DRINK LICENCE- WHOLESALERS
OR DISTRIBUTORS**

(To be completed in Triplicate)

1. Name of
Applicant.....
.....

2. Applicant Postal
Address.....

3. Address and Plot Number of Premises (depot in case of
distributor).....

(Give sufficient details to adequately identify the premises)

Street, Phone
Number.....

4. Name by which premises
known.....

5. If for renewal, give expiring license
Number.....

6. License to run
from.....to.....

7. Type of license applied
for.....

Date.....

Signature of Applicant.....



FORM G

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

**ALCOHOLIC DRINK LICENCE – ON
LICENCE**

TYPE OF LICENCE.....

LICENCE No.

This alcoholic drink licence is granted under the provisions of the Kiambu
County

Alcoholic Drinks Control Act, 2013 to of i
respect of premises situate at n
[Full details of premises
to be

inserted by issuing officer]

This licence is granted subject to the provisions of the Kiambu County
Alcoholic Drinks

Control Act, 2013 and to the following conditions

.....
.....
.....

This licence shall expire on

Fees paid: Sh.

Date of issue

Sub-county Committee alcoholic drinks licensing officer

.....



FORM H

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

ALCOHOLIC DRINK ASSURANCE LICENCE

LICENCE No.

This alcoholic drink license is granted under the provisions of the Kiambu County Alcoholic Drinks Control Act, 2013 to of having satisfied that he/she has an interest in premises to be built/being built* at.....for the purpose of being used for sale of alcoholic drink for consumption therein, and having supplied a signed copy of the plans, and subject to the provisions of the Kiambu County Alcoholic Drinks Control Act, 2013 he/she will be granted aalcoholic drink license.

Fees paid: Sh.

Date of issue

Chairman,

Sub-county Committee.....



FORM I

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

SEIZURE FORM

To.....
.....
.....
.....
.....
.....

Whereas I have reason to believe that the stock of goods detailed below
which is/are at the premises of
..... do
not meet the requirements of Kiambu County Alcoholic Drinks Control,
2013.

DETAILS OF THE GOODS

Name of the manufacturer/distributor/retailer/wholesaler

.....

Address.....
.....

Physical
location.....
.....

Goods are marked/branded as
follows.....

Physical
seal.....
.....

Description of
goods.....

Quantity.....
.....

Now therefore

I.....

an authorized officer under section 50 of the Kiambu County Alcoholic
Drinks Control Act, 2013 hereby seize and detain the said goods under
section 62 of Kiambu County Alcoholic Drinks Control Act, 2013.

Name of authorized
officer.....

Designation.....

Signature.....

Date.....

Manufacturer/distributor/retailer/wholesaler

Name.....
.....

Designation.....
.....

Signature.....

Date.....

WITNESS OFFICIAL RUBBER STAMP

Name.....

Designation.....

Signature.....

(To be filled in duplicate)



FORM J

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL
ACT

SEIZURE FORM

(To be used incase of seizure of alcoholic drink of thing where they
are to be kept or stored in the premises where they seized)

To (Name and address of the vendor/manufacturer)

.....
.....
.....
.....
.....
.....

Whereas I have reason to believe that the stock of goods detailed below
which is/are at the premises of

.....
.....

..... do not meet the provisions of the
Kiambu County Alcoholic Drinks Control Act, 2013

DETAILS OF THE GOODS

Name of the
manufacturer/distributor/retailer/wholesaler.....
...

Address.....
.....

Physical
location.....
.....

Goods are marked/branded as
follows.....

Physical
seal.....

.....

Description of
goods.....

Quantity.....
.....

Now therefore I.....
an authorized officer under section 50 of the Kiambu County Alcoholic
Drinks Control Act, 2013 hereby seize and detain the said goods under
section 62 of the Kiambu County Alcoholic Drinks Control Act, 2013 And
direct you to keep the sealed stock in safe custody subject to such orders
as may be issued subsequently in relation thereto.

Be it known to you that removal or alteration or interference in any
way with the said article(s) without any authority is an offence under
section 62 (3) of the said Act.

Name of authorized
officer.....

Designation.....

Signature.....

Date.....

Manufacturer/distributor/retailer/wholesaler

Name.....
.....

Designation.....

Signature.....

Date.....

WITNESS OFFICIAL RUBBER STAMP

Name.....

Designation.....

Signature.....

To be filled in duplicate



FORM K

THE KIAMBU COUNTY ALCOHOLIC DRINKS

CONTROL ACT

**CERTIFICATE BY THE COUNTY PUBLIC HEALTH
OFFICE**

This certificate has been issued
to.....

(State full names in Block Letters).

by the..... County Public Health Office
in.....Sub-

county certifying that the above named premises has met the laid out
public health and

sanitation standards on.....day of
.....20.....

**Authorized
Signature**.....

THIRD SCHEDULE
LICENCE FEES

<i>Type of Licence</i>	<i>Fees</i>		
	for 7 months and above	for 6 months and below	
1. General retail alcoholic drink -on Licence			
(a) in respect of premises situate within a town	50,000	30,000	
(b) in respect of premises situate within urban areas other than a town	30,000	18,000	
(c) in respect of premises situate elsewhere than in town or urban areas	15,000	9,000	
2. Manufacturer's alcoholic drink license for each alcoholic drink or product manufactured			
	for 7 months and above	for 6 months and below	
(a) one million litres and above per annum	1,000,000		
(b) Between 500,000 – 999,999 litres per annum	500,000		
(c) Between 12,000 – 499,999 litres per annum	250,000		
(d) 12,000 and below	50,000		
3 . Wholesale alcoholic drink license for each premises	50,000	30,000	
4. (1) Distributor alcoholic drink license	50,000	30,000	
(2) Depot license, in addition to (1) per depot	20,000	15,000	
5. Supermarket alcoholic drink license			
	Annual licensing fee		
(a) In respect of supermarkets or retail chain stores for each premises situate in town	80,000		
(b) In respect of supermarkets or retail chain stores for each premises situate within urban areas other than	50,000		

towns			
(c) In respect of supermarkets or retail chain stores for each premises situate elsewhere other than in a town and urban area	30,000		
	Charges per application		
6. Temporary alcoholic drink license per day.	1,000		
7. Authority to hold licence on probate	1,000		
8. Removing an alcoholic drink license	1,000		
9. Transfer of business premises	10,000		
10. Issue of an assurance under the Act	1,000		
11. Issue of a duplicate license	500		
12. Application fee	1,000		

MEMORANDUM OF OBJECTS AND REASONS

The Bill is intended to establish a framework for the licensing, regulatory and control of the production, sale, distribution, consumption and outdoor advertising of alcoholic drinks.

In Part I of the Bill, preliminary issues are addressed, including the interpretation of terms and defining the purpose of the Act.

In Part II, the Act establishes the administrative structures. The Act recognizes that the implementation of the Act rests with the office of the Executive Committee Member for the time being responsible for Alcoholic drinks control. This part establishes the Alcoholic Drinks Control Directorate headed by a Director and assisted by sub-county alcoholic drinks licensing officers among others. The part also allows for the establishment of the rehabilitation facilities and programmes.

Part III sets out the Alcoholic Drinks Control Fund. The Fund is intended to meet the operations costs of the Directorate and the Committees established under the Act. The bigger portion of the fund is earmarked to establishment of the rehabilitation centers.

Part IV sets out the licensing procedure. It established the Alcoholic Drinks Regulatory Committee for each sub-county which is responsible for processing all the applications and recommending licensing to the sub-county alcoholic drinks licensing officer. The Part also sets out a public participation avenue and in particular, introduces an opportunity for the public to file objections or public views. The Part also established the need to maintain records of manufacture, distribution and sale of alcoholic drinks and lists of alcoholic drinks on sale. The Part also defines the general drinking hours which persons drinking in public places must abide to. This is between 5-11pm on weekdays and 2-11 pm on weekends.

Part V sets out the general requirements. Under this Part, several prohibitions are spelt out. These includes exposing person under the age of eighteen years to an alcoholic drink, prohibiting hawking or sale of alcoholic drink through vending machines among others.

Part VI prohibits the advertisement of an alcoholic drink in a manner to encourage irresponsible drinking, especially to persons under the age of eighteen years.

Part VII addresses enforcement. It establishes an enforcement committee at the County Level. The section also describes the powers and

responsibilities of enforcement committee and officers in ensuring the compliance with the provisions of this Act.

Part VIII is the general provisions sections. It provides for the enactment of rules and regulations for better implementation of this Act. It also establishes the appeal committee and spells out the process of conduct of appeals under this Act.

The Bill also introduces three Schedules. The First Schedule address the types of licenses which can be granted under this Act. The Second Schedule contains the formats to be used in application for a licence among others. The Third Schedule prescribes that fees payable for any services rendered under this Act.

Dated the 21st February, 2018.

GATHURU GEORGE MBURU,
Chairperson, Sectoral Committee on Youth, Sports and Social Services