

CREATING SAFE DRINKING ENVIRONMENTS IN SOUTH AFRICA

LIQUOR LAWS: SCOPE,
EFFECTIVENESS AND
POTENTIAL FOR
REFORM

LITERATURE REVIEW FOR SOUL
CITY: LEGAL RESOURCES CENTRE

INTRODUCTION

- Methodology
- Focus
- Soul City's aims
- Overall theme
- Structure

WHAT CONSTITUTES A SAFE DRINKING ENVIRONMENT?

- No universal standard
- 'Environment': broad or narrow?
- Culture
- Law or policy?

MEASURES TO ENSURE THE SAFETY OF DRINKERS

- Restrictions on sale (e.g. licences, hours)
- Restrictions on purchase (e.g. age, intoxication, price, alternatives to alcohol, container size, information)
- Venue security (e.g. personnel, no glass)
- Design of premises (e.g. lighting, ventilation)
- Product quality

MEASURES TO ENSURE THE SAFETY OF DRINKERS AND THE GENERAL PUBLIC

- Better policing
- Communication and co-ordination
- Public transport and 'designated driver' schemes
- Staggered closing times
- Alcohol-free zones
- Restrictions on advertising
- Educational and information campaigns

LIQUOR LEGISLATION

- National level: macro-manufacturing and distribution (Liquor Act, 2003)
- Provincial level: micro-manufacturing, retail sale and consumption (Liquor Act, 1989 and provincial liquor acts)
- Product quality: Liquor Products Act, 1989
- Provincial legislation: only Gauteng and the Eastern Cape



**HOW CAN SAFE DRINKING
ENVIRONMENTS BE CREATED IN
SOUTH AFRICA?**



LIQUOR LICENCES

- Problem: unlicensed premises
 - Why? Lack of enforcement; lack of information; expense; complexity
- Problem: inadequate community participation
- Problem: unlicensed manufacturers
- Recommendations
 - Intensify enforcement
 - Simplify licence application process
 - Strengthen community participation

RESTRICTED HOURS

- Problems: inconsistency and lack of clarity
- International examples
- Debate: local or provincial level?
- Staggered closing times
- Recommendations:
 - Standardise hours?
 - Publicity
 - Mandatory / voluntary staggered closing times

AGE LIMITS

- Liquor Act, 2003
- International examples
- Problem: employment of minors
- Recommendations
 - Bring provincial acts into force

REFUSAL TO SERVE INTOXICATED PATRONS

- Recommendations
 - Include provisions in provincial legislation (e.g. Mpumalanga)

MINIMUM PRICES

- Effectiveness
- Excise taxes
 - South Africa: 23% (wine), 33% (beer), 43% (spirits)
 - International averages (2004): 22%, 23.6%, 41.2%
- Promotions ('happy hour')
- Recommendations
 - Raise excise taxes
 - Ban time-limited promotional offers

LIMITS ON CONTAINER SIZE

- Confusion
- Value (actual or perceived)
- Complexity: international examples
- Precedent: 'papsakke'
- Alternative: unit labelling
- Recommendations
 - Compulsory unit labels
 - Public information campaign

AVAILABILITY OF FOOD AND NON-ALCOHOLIC ALTERNATIVES

- Non-alcoholic drinks: impact of legislation?
- Impracticality
- Gauteng example: licence categories
- Recommendations
 - Licence conditions
 - Consideration in licence decisions

ALCOHOL-FREE ZONES

- International examples
 - Blanket ban or targeted prohibitions?
- Recommendations
 - Municipalities should have authority to designate
 - No unsealed liquor containers in private motor vehicles

PUBLIC TRANSPORT, DESIGNATED DRIVER SCHEMES AND R.B.T.

- Problem: drink-driving
- Drink-driving laws
- Recommendations
 - Public transport
 - Zero tolerance
 - Random breath testing (R.B.T.)
 - Designated driver schemes
 - Civil liability of servers

ADVERTISING OF ALCOHOL

- Focus: young people
- Statutory provisions
- ARA (Association for Responsible Alcohol use) voluntary code: self-regulation
- Debate: which approach is best?
 - Complete ban
 - Tighter statutory control
 - Statutory oversight
 - Amendment of voluntary code
- Recommendation: compromise between extremes?

MEASURES STILL TO BE CONSIDERED

- Better policing
- Security measures at licensed premises
- Layout and design of licensed premises
- Enforcement / policy, not law?

EDUCATION AND PUBLIC HEALTH INFORMATION

- Critical part of any harm reduction strategy
- Specific campaigns to increase impact of legislation (e.g. units)
- Notification of changes to law (e.g. B.A.C.)

COMMUNITY PARTICIPATION IN CREATING SAFE DRINKING ENVIRONMENTS

- Licence application process
 - Languages problem
 - Written submissions
 - Innovations: public hearings, community inspectors
- Legislative process
 - Constitutional obligations
- Outside the law
 - Educational campaigns and training
 - Awareness of rights and responsibilities
 - Alternatives for young people

SOUTH AFRICAN CASE LAW

- Courts' power limited to issues litigated
- Lessons
 - There is a need for regulation (*S v Lawrence*)...
 - ...but not too much regulation (*Phillips v DPP*)
- Role in licence applications

CONCLUSION

- In line with international standards...
- ...yet RSA suffers more acutely.
- Scope for reform of the law...
- ...but many problems are problems of policy.
- Legislative reform, coupled with community education, can have a positive impact.