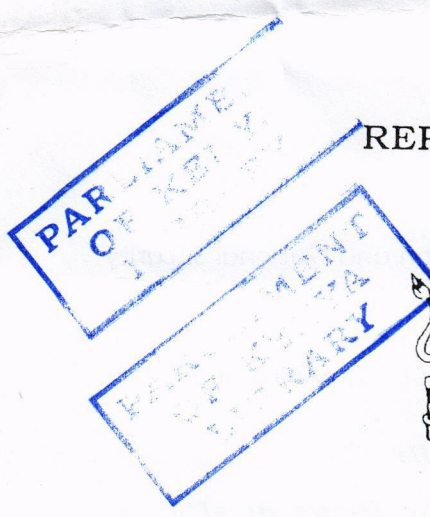
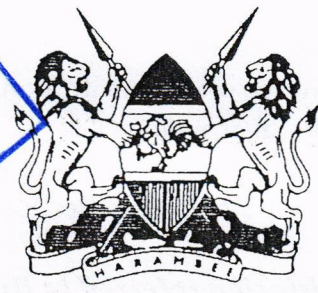


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KENYA NATIONAL ASSEMBLY

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TENTH PARLIAMENT - THIRD SESSION - 2009

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**REPORT OF THE COMMITTEE ON  
ADMINISTRATION AND NATIONAL  
SECURITY ON THE ALCOHOLIC DRINKS  
CONTROL BILL, 2009**

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CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
**NAIROBI**

NOVEMBER, 2009

## **PREFACE**

**Mr. Speaker, Sir,**

The Parliamentary Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 198 (1) and (2) of the New Standing Orders of the National Assembly and has executed its mandate in accordance with the provisions of the said Standing Order 198 (3), which, inter-alia, mandates the Committee to;

***(i) study and review all legislation referred to it;***

***(ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.***

**Mr. Speaker,**

According to Standing Order 111 (1), a bill having been read a First Time shall automatically stand committed to the relevant Departmental Committee. In this regard, the Alcoholic Drinks Control Bill 2009 was committed to the Committee on Tuesday November 17<sup>th</sup> 2009.

**Mr. Speaker, Sir,**

The Committee deals with the following subjects:

- i) Public Administration
- ii) National security
- iii) Internal Security
- iv) Immigration
- v) National Youth Service, and;
- vi) Natural disasters

The Committee examines the policy framework and the performance of the following Ministries:

- (i) Office of the President
- (ii) Ministry of Provincial Administration & Internal Security
- (iii) Office of the Prime Minister
- (iv) Ministry of State for Public Service
- (v) Ministry of State for Immigration & Registration of Persons

**Mr. Speaker,**

The following are the Members of the Committee:

The Hon. Fred Kapondi Chesebe, MP **(Chairman)**

The Hon. Peter Kiilu, MP **(Vice Chairman)**

The Hon. John Ngata Kariuki, MP

The Hon. Pollyins Ochieng', MP

.....  
(i)

The Hon. Danson Mungatana, MP  
The Hon. Maison Leshoomo, MP  
The Hon. Cyprian Omollo, MP  
The Hon. Raphael Letimalo, MP  
The Hon. Mohammed Hussein Ali, MP  
The Hon. Lankas Ole Nkoidila, MP

**Mr. Speaker, Sir,**

The Alcoholic Drinks Control Bill entails to introduce checks and balances for production, sale and consumption of alcoholic drinks. The Bill is aimed at protecting the consumers from the health hazards associated with the excessive consumption of alcohol, whether legal or illicit. The Bill therefore seeks to educate the masses on the dangers inherent in unhealthy drinking and the negative effects of excessive consumption and abuse of alcoholic drinks. The carnage in our roads arising from drunk driving, the falling levels of reproductive health in some regions in our country due to excessive partaking of alcohol and declining standards of education are reasons enough why this House should support and pass this bill into law.

**Mr. Speaker,**

It is important to note that the Bill seeks to repeal the Chang'aa Prohibition Act. It is a well known fact that there has been an increased brewing and consumption of the Chang'aa drink despite the stringent rules and fines imposed on the illegal drink. It is now envisaged in the proposed law that legalizing the drink will enhance its quality.

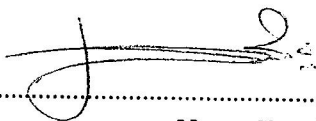
**Mr. Speaker, Sir,**

The Committee strongly supports this Bill since it addresses salient issues as highlighted and urges the House to adopt it. This way, the interests of all the generations especially the youth shall be guarded.

**Mr. Speaker,**

On behalf of the Committee, and pursuant to Standing Order 111 (2), it is my pleasant duty to lay on the table of the House the Report of the Committee on Administration and National Security on the Alcoholic Drinks Control Bill, 2009.

Signed.....



Date.....

9/12/09

**Hon. Fred Kapondi Chesebe, MP**

**Chairman, Departmental Committee on Administration and National Security**

**PRESENTATION BY THE CEO, NACADAA**

**Paper presented: *Proposed amendments to the Alcoholic Drinks Control Bill, 2009***

The CEO made submissions on the key issues that NACADAA wished to amend towards the Bill. At the end of her presentation, she petitioned the Committee to consider the proposed amendments and adopt them as part of the bill.

**SUBMISSION BY THE HON. JOHN MUTUTHO, MP, AUTHOR OF THE BILL**

The Hon. John Mututho, in his submission, said one of the cardinal reasons why the bill was conceptualized was the inherent health concerns that had been associated with alcohol consumption. The number of road accidents witnessed due to drunk-driving and the declining reproductive health among the youth were some of pertinent issues the bill was addressing.

**Clauses agreed to:**

- Clause 1 - Agreed to
- Clause 3 to Clause 5 - Agreed to
- Clause 7 - Agreed to
- Clause 9 to Clause 11 - Agreed to
- Clause 13 to Clause 24 - Agreed to
- Clause 26 to Clause 30 - Agreed to
- Clause 33 to Clause 44 - Agreed to
- Clause 46 to Clause 65 - Agreed to
- Clause 67 to Clause 68 - Agreed to

**Proposed Amendments:**

- Clause 2 - Proposed Amendment
- Clause 6 - Proposed Amendment
- Clause 8 - Proposed Amendment
- Clause 12 - Proposed Amendment
- Clause 25 - Proposed Amendment
- Clause 31 - Proposed Amendment
- Clause 32 - Proposed Amendment
- Clause 45 - Proposed Amendment
- Clause 66 - Proposed Amendment
- Schedule - Proposed Amendment

## **COMMITTEE'S DELIBERATION ON THE BILL**

The Committee considered the Alcoholic Drinks Control Bill 2009 and made amendments as follows;

### **CLAUSE 2**

**THAT** clause 2 of the Bill be amended in the definition of "**Accounting Officer**" by deleting the words "**ministry for the time being responsible for matters relating to provincial administration**" and substituting therefor the words "**the relevant agency**".

### **CLAUSE 12**

**THAT** clause 12 of the Bill is amended by inserting the words "**or any residential area as have been demarcated by or under the relevant written law;**" immediately after the word "**schools;**" appearing in the proviso to paragraph (a) of subsection (1).

### **CLAUSE 8**

**THAT** clause 8 of the Bill is amended in sub clause (2) by inserting the words "**at least two of whom shall be women**" immediately after the word "**Minister**" appearing in paragraph (e).

### **CLAUSE 25**

**THAT** clause 25 of the Bill be amended by deleting the word "**Assistant**" appearing in sub clauses (3) and (4).

### **CLAUSE 31**

**THAT** clause 31 be amended-

- (a) by inserting the words "**manufacture, pack, distribute or**" immediately after the word "**sell**" appearing in subsection (1);

(b) by deleting subsection (2) and substituting therefor the following new subsection-

**(2) Notwithstanding the provisions of subsection (1),-**

**(a) no person shall manufacture, pack, distribute or sell an alcoholic drink in a container of less than 250 millilitre;**

**(b) the alcoholic drink previously known as changaa shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a).**

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**CLAUSE 32**

**THAT** clause 32 of the Bill be amended-

(a) by inserting the following new sub clause immediately after sub clause (3)-

**(3A) All the warning labels specified in the Second Schedule shall be randomly displayed in each twelve-month period on a rotational basis and in as equal a number of times as is possible, on every successive fifty packages of each brand of the alcoholic drink and shall be randomly distributed in all areas within the Republic of Kenya in which the alcoholic drink is marketed.**

**(3B) The Minister may, by notice in the Gazette, prescribe that the warning, required under this section, be in the form of pictures or pictograms;**

**Provided that such notice shall come into operation upon expiration of six months from the date of its publication.**

(b) by inserting the following new sub clause immediately after sub clause (6)

**(7) This subsection shall come into operation upon expiration of six months from the date commencement of this Act.**

#### **NEW CLAUSE 45A**

**THAT** the Bill is be amended by inserting a new clause immediately after clause 45 as follows-

Promotion at  
underage  
events.

**45A.(1) No person shall promote an alcoholic drink-**

**(a) at any event or activity associated with persons under the age of eighteen years;**

**(b) using such things or materials that are associated with persons under the age of eighteen years.**

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

#### **NEW CLAUSE 45B**

**THAT** the Bill be amended by inserting the following new section immediately after the proposed section 45B-

Encouraging  
consumption.

**49. (1) No person shall promote any 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 commit an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.**

#### **CLAUSE 66**

**THAT** clause 66 of the Bill be amended by inserting a new subsection (3) as follows-

**(3) No Regulations shall be made under this section unless a draft of the proposed Regulations has been laid before the National Assembly and has been approved by a resolution thereof.**

---

#### **SECOND SCHEDULE**

**THAT** the Second Schedule of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph (d) appearing in item 1 –

**(a) alcohol consumption harms your unborn baby.**

(b) deleting the words “**on such**” appearing in item 2 and substituting therefor the words “**or on such other**”;

(c) by inserting a new paragraph (4) as follows-

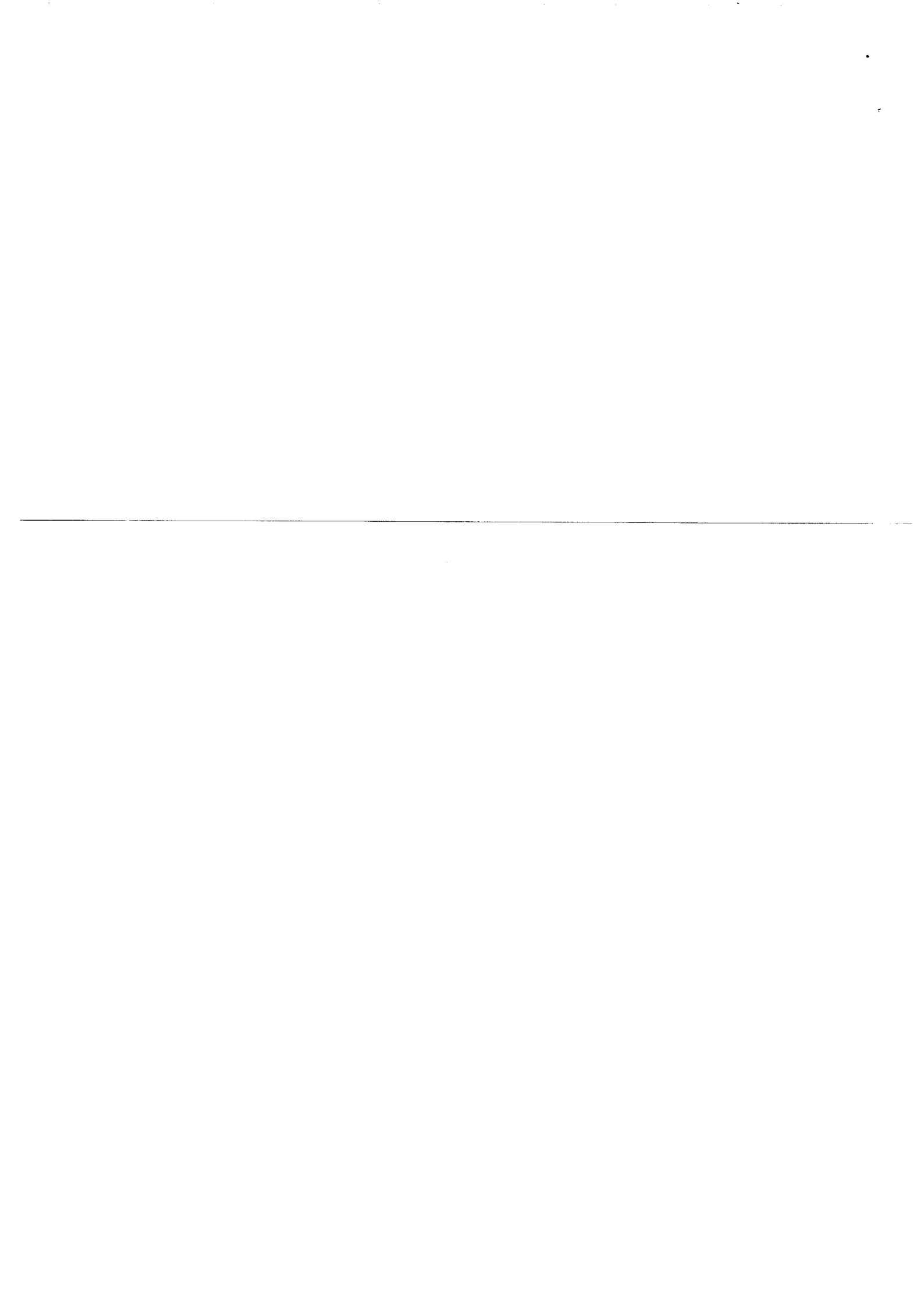
**4. The Minister may upon the recommendation of the relevant agency , adjust the format type, size, text and type of any of the health messages, pictures or pictograms required to be displayed under the provisions this Schedule if is such change would promote greater understanding of the risks associated with the consumption of any alcoholic drink.**



## **OBSERVATIONS OF THE COMMITTEE ON THE BILL**

Members felt the Bill was good for the country and should be passed. It was stated that the bill should take into account the small scale businesses as much as it addressed issues of the big manufacturers, so that their interests were also safeguarded. It was felt that local enterprises should be protected from unhealthy competition from foreign manufactures and also issues on taxation should be fair enough to be able to give impetus to the growth of the indigenous industry. It was noted that reproductive health especially among the youth in central had been adversely affected to the extent that fertility rate had considerably gone down due to excessive alcohol consumption. Education had taken a downward trend as schools closed due to low enrolment occasioned by lack of pupils. The liquor licensing committee should reflect gender parity.

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**MINUTES OF THE 17<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY WITH NACADAA HELD ON WEDNESDAY 25<sup>TH</sup> NOVEMBER, 2009 AT 10.00 AM IN THE COMMITTEE ROOM, 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS**

**PRESENT**

The following Members of the Committee were present:

The Hon. Fred Kapondi Chesebe, MP (**Chairman**)  
The Hon. Peter Kiilu, MP (**Vice Chairman**)  
The Hon. John Ngata Kariuki, MP  
The Hon. Danson Mungatana, MP  
The Hon. Cyprian Omollo, MP  
The Hon. Raphael Letimalo, MP  
The Hon. Mohammed Hussein Ali, MP  
The Hon. Pollyins Ochieng', MP

**ABSENT**

The Hon. Nkoidila Ole Lankas, MP  
The Hon. Maison Leshoomo, MP

**IN ATTENDANCE**

The Hon. John Mututho, MP - Author of the Bill

**IN ATTENDANCE**

Mr. Daniel Mutunga - Clerk Assistant  
Mr. Jeremiah Ndombi - Senior Legal Counsel  
Ms. Edelquinn Achieng' - Parliamentary Intern

**KENYA NATIONAL ASSEMBLY**

**IN ATTENDANCE**

Mrs. Jenniffer Kimani - National Coordinator/CEO  
Mr. Kiragu Wachira - Policy and Legal Advisor

**NACADAA**

**PRELIMINARY**

The meeting started with a word of prayer and thereafter the Chairman welcomed the NACADAA National Coordinator/CEO to make her presentation towards the Alcoholic Drinks Control Bill, 2009.

**MIN. NO. 53/2009: PRESENTATION BY THE CEO, NACADAA**

**Paper presented: *Proposed amendments to the Alcoholic Drinks Control Bill, 2009***

The CEO made submissions on the key issues that NACADAA wished to amend towards the Bill. At the end of her presentation, she petitioned the Committee to consider the proposed amendments and adopt them as part of the bill.

**MIN. NO. 54/2009: COMMITTEE'S DELIBERATION ON THE BILL**

The Chairman invited the Hon. John Mututho, who took the Members through the salient issues as contained in the Memorandum and objects that the bill was addressing. He said that one of the cardinal reasons why the bill was conceptualized was the ~~inherent health concerns that had been associated with alcohol consumption~~. The number of road accidents witnessed due to drunk-driving was also pertinent and was also addressed in the bill.

**Clauses agreed to:**

Clause 1	-	Agreed to
Clause 3 to Clause 5	-	Agreed to
Clause 7	-	Agreed to
Clause 9 to Clause 11	-	Agreed to
Clause 13 to Clause 24	-	Agreed to
Clause 26 to Clause 30	-	Agreed to
Clause 33 to Clause 44	-	Agreed to
Clause 46 to Clause 65	-	Agreed to
Clause 67 to Clause 68	-	Agreed to

**Proposed Amendments:**

Clause 2	-	Proposed Amendment
Clause 6	-	Proposed Amendment
Clause 8	-	Proposed Amendment
Clause 12	-	Proposed Amendment
Clause 25	-	Proposed Amendment
Clause 31	-	Proposed Amendment
Clause 32	-	Proposed Amendment
Clause 45	-	Proposed Amendment
Clause 66	-	Proposed Amendment
Schedule	-	Proposed Amendment

## **COMMITTEE'S DELIBERATION ON THE BILL**

The Committee considered the Alcoholic Drinks Control Bill 2009 and made amendments as follows;

### **CLAUSE 2**

**THAT** clause 2 of the Bill be amended in the definition of "**Accounting Officer**" by deleting the words "**ministry for the time being responsible for matters relating to provincial administration**" and substituting therefor the words "**the relevant agency**".

### **CLAUSE 12**

**THAT** clause 12 of the Bill is amended by inserting the words "**or any residential area as have been demarcated by or under the relevant written laws**," immediately after the word "**schools**," appearing in the proviso to paragraph (a) of subsection (1).

### **CLAUSE 8**

**THAT** clause 8 of the Bill is amended in sub clause (2) by inserting the words "**at least two of whom shall be women**" immediately after the word "**Minister**" appearing in paragraph (e).

### **CLAUSE 25**

**THAT** clause 25 of the Bill be amended by deleting the word "**Assistant**" appearing in sub clauses (3) and (4).

### **CLAUSE 31**

**THAT** clause 31 be amended-

- (a) by inserting the words "**manufacture, pack, distribute or**" immediately after the word "**sell**" appearing in subsection (1);
- (b) by deleting subsection (2) and substituting therefor the following new subsection-

**(2) Notwithstanding the provisions of subsection (1),-**

- (a) no person shall manufacture, pack, distribute or sell an alcoholic drink in a container of less than 250 millilitre;**
- (b) the alcoholic drink previously known as changaa shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a).**

### **CLAUSE 32**

**THAT** clause 32 of the Bill be amended-

- ~~(a) by inserting the following new sub clause immediately after sub clause (3)-~~

**(3A) All the warning labels specified in the Second Schedule shall be randomly displayed in each twelve-month period on a rotational basis and in as equal a number of times as is possible, on every successive fifty packages of each brand of the alcoholic drink and shall be randomly distributed in all areas within the Republic of Kenya in which the alcoholic drink is marketed.**

**(3B) The Minister may, by notice in the Gazette, prescribe that the warning, required under this section, be in the form of pictures or pictograms;**

**Provided that such notice shall come into operation upon expiration of six months from the date of its publication.**

- ~~(b) by inserting the following new sub clause immediately after sub clause (6)~~

**(7) This subsection shall come into operation upon expiration of six months from the date commencement of this Act.**

### **NEW CLAUSE 45A**

**THAT** the Bill is be amended by inserting a new clause immediately after clause 45 as follows-

Promotion at underage events. **45A.(1) No person shall promote an alcoholic drink-**

**(a) at any event or activity associated with persons under the age of eighteen years;**

**(b) using such things or materials that are associated with persons under the age of eighteen years.**

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

#### **NEW CLAUSE 45B**

**THAT** the Bill be amended by inserting the following new section immediately after the proposed section 45B-

Encouraging consumption. **49. (1) No person shall promote any 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 to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.**

#### **CLAUSE 66**

**THAT** clause 66 of the Bill be amended by inserting a new subsection (3) as follows-

**(3) No Regulations shall be made under this section unless a draft of the proposed Regulations has been laid before the National Assembly and has been approved by a resolution of thereof.**

## **SECOND SCHEDULE**

**THAT** the Second Schedule of the Bill be amended-

- (a) by inserting the following new paragraph immediately after paragraph (d) appearing in item 1 –

**(a) alcohol consumption harms your unborn baby.**

- (b) deleting the words **“on such”** appearing in item 2 and substituting therefor the words **“or on such other”**;

- (c) by inserting a new paragraph (4) as follows-

**4. The Minister may upon the recommendation of the relevant agency , adjust the format type, size, text and type of any of the health messages, pictures or pictograms required to be displayed under the provisions this Schedule if is such change would promote greater understanding of the risks associated with the consumption of any alcoholic drink.**

### **MIN. NO. 54/2009: OBSERVATIONS OF THE COMMITTEE ON THE BILL**

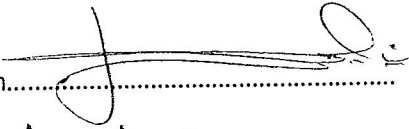
Members felt the Bill was good for the country and should be passed. It was stated that the bill should take into account the small scale businesses as much as it addressed issues of the big manufacturers, so that their interests were also safeguarded. It was felt that local enterprises should be protected from unhealthy competition from foreign manufactures and also issues on taxation should be fair enough to be able to give impetus to the growth of the indigenous industry. It was noted that reproductive health especially among the youth in central had been adversely affected to the extent that fertility rate had considerably gone down due to excessive alcohol consumption. Education had taken a downward trend as schools closed due to low enrolment occasioned by lack of pupils. The liquor licensing committee should reflect gender parity.



**MIN NO. 55/2009: ADJOURNMENT**

The Chairman thanked the Members for their commitment and punctuality in attending Committee Meetings. There being no other business the meeting was adjourned at thirty five Minutes past twelve o'clock.

Signed:

Chairman.....

Date.....01/12/09.....

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**MINUTES OF THE 18<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY 1<sup>ST</sup>  
DECEMBER, 2009 AT 11.00 AM IN THE COMMITTEE ROOM, 4<sup>TH</sup> FLOOR,  
CONTINENTAL HOUSE, PARLIAMENT BUILDINGS**

**PRESENT**

The Hon. Fred Kapondi Chesebe, M.P. – (Chairman)  
The Hon. Peter Kiilu, M.P. – (Vice Chairman)  
The Hon. John Ngata Kariuki, MP  
The Hon. Mohammed Hussein Ali, MP  
The Hon. Polliyns Ochieng', MP  
The Hon. Cyprian Omollo, MP

**ABSENT WITH APOLOGIES**

The Hon. Maison Leshoomo, MP  
The Hon. Danson Mungatana, MP  
The Hon. Raphael Letimalo, M.P

**ABSENT**

The Hon. Nkoidila Ole Lankas, MP

**IN ATTENDANCE - KENYA NATIONAL ASSEMBLY**

Mr. Julius K. Ariwamoi	-Committee assistant
Mr. Jeremiah Ndombi	-Senior Legal Counsel
Ms. Edelquinn Achieng'	-Parliamentary Intern

**PRELIMINARY**

The meeting started with a word of prayer thereafter the chairman briefed the members on the agenda of the meeting.

**MIN.NO 56 /2009: ADOPTION OF THE REPORT ON ALCOHOLIC DRINKS CONTROL BILL, 2009**

Members deliberated on the draft report and unanimously adopted it as presented. It was agreed that the chairman would table it in the house on 2<sup>nd</sup> December, 2009. Members further agreed that in the absence of the Chairman, the Vice chairman would table the report.

**MIN.NO. 57/2009: - MEETING WITH THE NATIONAL ALCOHOL BEVERAGES ASSOCIATION OF KENYA (NABAK)**

The Committee considered the request by the members of NABAK to present their views on the Alcoholic Drinks Control Bill, 2009. It was agreed that the meeting be scheduled for Tuesday 8<sup>th</sup> December, 2009, at 9.30 am.

**MIN. NO.58/2009:- NOMINATION OF MEMBER\$ TO ATTEND SEMINAR ON LONG TERM PEACE IN THE EXTENDED GREAT LAKES REGION**

The chairman informed members about the above mentioned seminar to be held between 7<sup>th</sup> and 9<sup>th</sup> December, 2009 at KICC and resolved to nominate the following to attend: Hon. Fred Kapondi Chesebe,MP Hon. Peter Kiilu,MP, Hon. Cyprian Omollo,MP, and Hon. Raphael Letimalo, MP.

**MIN. NO 59/2009: ADJOURNMENT**

There being no other business the meeting was adjourned at thirty five minutes past twelve o'clock.

**Signed:**

**Chairman**.....

**Date** ..... 07/12/09 .....