



**economic
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GAUTENG PROVINCE

DRAFT GAUTENG LIQUOR POLICY

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1. INTRODUCTION

The promulgation of the Gauteng Liquor Act in 2003 and subsequent Regulations have gone some way to assist the Gauteng Provincial Government to address the historical consequences and social and economic challenges of liquor trade and consumption prior to democracy and to regulate the liquor industry. However, the Province still faces some challenges in regulating liquor.

The Gauteng Provincial Government (GPG) recognises that the production, distribution and sale of liquor contribute to the economy of the Province by amongst other things creating employment and generating revenue. However, the harm caused by liquor consumption has significant economic and social costs.

1.1 PROBLEM STATEMENT

• Historical Context

The history of liquor in South Africa is an integral part of the history of segregation and apartheid. Liquor was alternately made available and prohibited as a means of economic and social control.

Given the historical context of the regulation of liquor and its use and abuse, regulation must make a decisive break with the past oppressive liquor regulations while also seeking to balance the competing interests of those who produce, distribute, sell and consume liquor with the overall impact liquor has on social well-being, including the detrimental consequences for communities and families.

• Shebeens

The liquor licensing regime provided by the Gauteng Liquor Act is substantially similar to the licensing regime applied in the Liquor Act 27 of 1989. In an attempt to recognise and include shebeens in the current legislative framework the Gauteng Liquor Act introduced shebeen permits.

Having regard to the nature of shebeens, shebeen permit applications were not required to comply with

the application procedures stipulated in the Gauteng Liquor Act and shebeen permit holders are subject to minimal, if any, conditions. As a result, monitoring shebeen operations and enforcing compliance in so far as shebeens fail to comply with the Gauteng Liquor Act has raised significant challenges. Many liquor retailers, particularly in townships, sell liquor from residential premises that are not zoned for business use with the result that numerous municipal by-laws are violated.

There are no appropriate municipal by-laws that allow for premises, particularly in townships, to be zoned for purposes of liquor retailing which would allow traders options of locating their businesses in appropriately zoned premises. This unregulated manner of conducting liquor retail operations makes it difficult for such retailers to be effectively monitored and regulated.

• Enforcement

The liquor inspectorate does not have sufficient resources to effectively perform its functions in terms of the Gauteng Liquor Act. Furthermore, there appears to be an overlap of roles and responsibilities of the SAPS and the liquor inspectorate in enforcing contraventions of liquor laws. This hampers the ability of the inspectorate to effectively enforce contraventions of the law.

• Gauteng Liquor Board

There is a backlog of applications for licences before the Gauteng Liquor Board. There are also numerous review applications that have been instituted against decisions of the Board.

• Proximity of Licensed Premises to Public Facilities

There are many licensed premises which are located within a 500 metre radius of places of worship, educational institutions, similar licensed premises or public facilities. Many of these premises are generally located in residential areas. The result of the location of premises near schools and places of worship is that:

- under-age persons have easy access to liquor;
- intoxicated patrons victimise learners and educators and members of the community; and
- the activities within these premises and the noise and entertainment interferes with the activities at educational institutions and can be a nuisance to residents living in their vicinity.

• Information Gathering

There has been no consistent information source or database maintained on the operations of the provincial liquor industry which poses challenges for the regulatory authority identifying areas that require intervention and the nature of that intervention.

• Public Health and Social Problems

Alcohol abuse contributes to a wide range of social and health problems. The social and health effects of alcohol abuse are well documented.

The WHO resolution on public health problems caused by the harmful use of alcohol recognises that harmful drinking is amongst the foremost underlying causes of disease, injury and violence (especially domestic violence against women and children), disability, social problems and premature death, is associated with mental ill-health and has a serious impact on human welfare affecting individuals, families, communities and society as a whole.

Alcohol consumption is linked to many harmful consequences for the individual drinker, the drinker's immediate environment and society as a whole. Some examples of the harmful social consequences of alcohol consumption include:

- traffic accidents which affect the drinker as well as passengers involved in traffic casualties;
- workplace-related problems and a failure to fulfil social role obligations;
- family and domestic problems; and
- interpersonal violence.

The harm caused by liquor consumption has significant economic and social costs, including:

- the public health measures required to reduce the harm;
- the emotional and psychological harm caused to families and communities, including violence against women and children, resulting in lost potential and ability to take up opportunities created by the new democratic dispensation;
- the impact of male-on-male interpersonal violence, including loss of potential via high rates of male mortality and injury;
- the medical and pharmaceutical costs to deal with traffic, trauma and violence related to alcohol;
- the policing and monitoring of alcohol related crimes;
- monitoring and punishing drunk and reckless driving;
- legal costs such as magistrates, prosecutors and courts; and
- the reduction of productivity levels in the workplace due to absenteeism as a result of the consumption of alcohol.

1.2 PURPOSE OF THE GAUTENG LIQUOR POLICY

In order to balance the range of different interests in the liquor industry, the community and society at large, the GPG proposes this liquor policy to:

- facilitate responsible attitudes towards the production, distribution, promotion, marketing, advertising, sale and consumption of liquor;
- ensure that appropriate measures are in place to reduce the harm caused by the consumption of alcohol including reducing the per capita consumption of alcohol; and
- facilitate the entry and empowerment of new entrants in the liquor industry.

2. THE MANDATE TO REGULATE LIQUOR

Part A of Schedule 5 of the Constitution defines liquor licences as a functional area of exclusive provincial competence. While Schedule 5 incontrovertibly empowers provinces to regulate liquor licences, the inclusion of liquor licences as an area of exclusive provincial competence raised complex constitutional questions in the Liquor Bill case¹ which had to determine the constitutionality of the National Liquor Bill and whether there was justification under the Constitution's "override" provisions for Parliament to intervene in an area of exclusive provincial competence by passing national legislation in the form of the Liquor Bill².

The Liquor Bill case provided guidance on the relationship between the national and provincial spheres of government and their respective legislative and executive powers in respect of liquor matters and on the intervention by Parliament passing national legislation in an area of exclusive provincial competence.

The Constitutional Court decided that the functional area of liquor licences reserved as an exclusive provincial competence was not intended to encompass manufacturing and distribution of liquor but rather to regulate intra-provincial activities³. It was determined that as the retail sale of liquor will in the majority of cases occur solely within a province the primary and most obvious significance of the exclusive provincial competence is the licensing of the retail sale of liquor⁴.

The Court was satisfied that, while all liquor licences remain an area of exclusive provincial competence, national government could intervene in terms of section 44(2) of the Constitution to create a national system of registration for manufacturers and wholesale distributors of liquor and in prohibiting

¹ *Ex parte President of the RSA in re Constitutionality of the Liquor Bill 2000 (1) SA 732 (CC)*

² *Constitutionality of the Liquor Bill at 746 I*

³ *Constitutionality of the Liquor Bill at 767 I to 768 A*

⁴ *Constitutionality of the Liquor Bill at 767 C-D*

cross-holdings between the three tiers in the liquor trade but not in regard to the retail sale of liquor⁵.

As a result of the decision of the Constitutional Court in the Liquor Bill case, the registration of the manufacturing and distribution of liquor is regulated at a national level, while micro manufacturing and distribution, and the retailing of liquor (including methylated spirits) is regulated at provincial level.

3. THE STATE OF THE LIQUOR INDUSTRY

The South African liquor market is dominated by a small number of large firms and stakeholders.

The South African Liquor Industry. Final Report, June 2005 Commissioned by: Consumer and Corporate Regulation Division (CCRD), Department of Trade and Industry, South Africa

The beer market is controlled by a single company, the spirits industry by a mere handful, while the wine industry contains much lower concentration ratios with a small number of large producers together with a large number of smaller players. Current industry dynamics have been shaped both by internal and external influences. Internally, market concentration and tacit (if not active) collusion were tolerated by the government of the day especially in the late 1970s and early 1980s.

The country's international isolation and domestic political dispensation meant that the local business climate was unique. Out of this grew a small number of industry players that today dominate the sector. Subsequent growth following the country's re-integration into the world economy saw local company SAB consolidate its local market position and grow to become the second largest brewer in the world. With economic ownership and control within the sector still resting largely in "white" hands, one of the key challenges today is how to sustainably effect transformation in this sector without negatively impacting on its development and growth prospects. Already, a number of empowerment transactions have taken place in the wine and spirits sector.

⁵ *Constitutionality of the Liquor Bill at 771 F-G*

However, even merely in relation to these segments within the broader liquor industry, these transactions represent relatively minor transformation.

In the beer industry, *transformation* has thus far taken place predominantly within the incumbent's sourcing and distribution strategies. Another pertinent issue relates to alcohol use. Finally, the negative impacts of alcohol abuse have been formally recognised by the sector's new framework legislation and will hopefully make a real difference towards more responsible alcohol promotion and use.

The South African liquor industry can be broadly segmented into beer, spirits and wine sectors.

Despite the inter-relatedness of these segments, for instance their dependence on disposable income and the substitutability of some of the products, the dynamics within each sector are nevertheless fairly unique.

Beer captures by far the largest share of the market, and consists of clear and more traditional varieties. The clear beer market is approximately twice the size of the sorghum beer market, although the data does not capture traditional home-brewing. The industry is dominated by SABMiller, the formerly South African company which has grown into an international leader in the beer sector.

The spirits industry, broadly classified, accounts for approximately 15% of the liquor industry market share, and can be further segmented into white spirits (for example gin, vodka), brown spirits (for example brandy and rum), whisky and spirit-based drinks (or FABs). Brandy captures by far the largest share of the market (46% of spirits sector), with South Africa being one of the leading producers of Brandy worldwide. The sector is dominated by a small number of multi-brand companies, who are often subsidiaries of global brand-name manufacturers or at least have long-term distribution agreements.

The wine industry, which as indicated earlier has the lowest levels of industry concentration within the liquor industry, covers still wine, fortified wine and sparkling wine categories. Together, these account for approximately 15% of the liquor market. Wine production is split approximately 68% to 32% in favour of white varieties, with only Stellenbosch, Paarl and Malmesbury wine regions crushing more red than white varieties. An increasing focus on the noble cultivars is evident, notably Sauvignon Blanc, Chardonnay, Cabernet Sauvignon, Pinotage, Merlot and Shiraz, as measured by these cultivars' percentage of total plantings. For example, the area distribution of Cabernet Sauvignon has more than doubled since 1996, for Shiraz has grown from 1.1% to 7.7%, Merlot from 1.6% to 6%, and Pinotage from 3.3% to 6.1%.

According to the National Small Business Act of 1996, small, medium and micro enterprises (SMMEs) can be classified as such according to a number of criteria.

These include number of employees, annual turnover and gross asset value (excluding fixed property).

Type, number of employees, annual turnover and gross asset value:

- Micro < 5 < R 0,15 million < R 0,1 million;
- Small < 50 < R 5 million < R 2 million; and
- Medium < 200 < R 10 million < R 5 million.

Due to the widely varying segments within the broader liquor industry, a generalisation with respect to the sector's SMME potential is not possible. The beer sector in particular is highly capital intensive, and entry barriers or insufficient returns as a result of SABMillers dominance of the local market have seen many smaller breweries fail. This notwithstanding, a number of microbreweries (usually targeting a confined geographic area) operate in various parts of South Africa. The large and mostly unrecorded number of small-scale operations brewing traditional

(or sorghum) beer are mostly small private ventures, and usually serve domestic purposes (own consumption) or very localised areas. These typically fall outside the effective reach of South Africa's regulatory regime.

The wine industry consists of a number of co-operatives and large wine estates on the one hand, and on the other hand a fairly sizeable number of smaller producers competing for market share in across all market segments. Almost half (219) of all private wine estates crushed less than 100 tons of grapes in 2003. Nevertheless, the wine industry is mostly capital intensive and would thus not easily be classified as typical SMME-type firms. This assertion however applies mainly to wine *estates*.

A recent trend has been the emergence of a number of small-scale wine producers, who either grow and harvest their own grapes off very small tracts of land, or buy in grapes from various producers and undertake only the making of wine. "*Garagiste*" wine makers refers to small-scale producers, often using rented facilities, who make small batches of wine either privately or for small-scale marketing and distribution. The award-winning status of a number of these wines bears testimony of the potential for success of these small-scale producers, and in effect the potential for SMME-sized enterprises within this sector. Internationally, this trend has existed for a number of years already.

In the spirits segment, a small number of large firms own most of the market share. This notwithstanding, a number of small-scale producers exists alongside it, competing for market share especially at the bottom end of the market. This is particularly the case in Kwazulu-Natal, due to the presence of South Africa's sugar industry (a by-product of which is the distillation of "extra neutral potable ethanol" for the alcoholic beverages industry – essentially vodka, gin, cane spirit). With the alcohol "material" across different vodka or gin brands being largely a homogenous product, the role of various brand

manufacturers is essentially one of product differentiation through marketing.

What this means in the context of potential for SMME operators is that entry barriers from a technical perspective are far less of a deterrent as are the barriers from a branding and marketing perspective. Herein lays the greatest challenge for potential SMME stakeholders.

3.1 REGULATION OF THE LIQUOR INDUSTRY

The core legislation pertaining to the South African liquor industry is the Liquor Act, 2003, Act No 59 of 2003, which was promulgated by Government Gazette in April 2004. Related legislation are the National Liquor Regulations, 2004, which relate to the procedures for registration of liquor entities and other related matters as required under the Liquor Act of 2003. The National Department of Agriculture's Draft Liquor Products Amendment Bill, which deals with issues such as geographical indications, inspection of premises etc., has not yet been promulgated. Unlike the 1989 Liquor Act, which dealt with all liquor-related aspects including manufacture, distribution and retail sales of liquor in South Africa, the 2003 National Liquor Act covers predominantly manufacturing and distribution aspects.

Owing to powers vested in the provinces by South Africa's constitution, the responsibility for regulating the liquor industry rests jointly with national and provincial governments. Retail licensing, for example, was found by the Constitutional Court (before which initial versions of the proposed liquor legislation were brought) to be of exclusive provincial jurisdiction. The Constitutional Court ruling found that the country's national government enjoys the "power to regulate liquor trade in all respects other than liquor licensing", thus rejecting its attempts to "prescribe detailed mechanisms to provincial

legislatures for the establishment of retail licensing mechanisms”.

The two key objectives of the national legislation are to restructure the liquor industry and to address the social-economic costs of alcohol abuse.

To restructure the industry, government is seeking greater control over the sector at all levels, while also to deal with potentially anti-competitive conduct by dominant industry players, and to facilitate greater participation in the sector especially by historically disadvantaged groups. Earlier draft versions of the national liquor legislation envisaged a three-tier system consisting of manufacturing, distribution and retail.

This would have sought to achieve a certain amount of de-coupling of certain aspects of the high degree of vertical integration found in the liquor industry, for example where spirits manufacturers also own major liquor retail outlets (as was until mid-2002 the case with Distell and Western Province Cellars), or where manufacturers have substantial control over their distribution network (for example SABMiller with respect to beer). It was argued that control over manufacture *and* distribution would in many instances foreclose new market entrants, thus also hampering greater participation by businesses owned by historically disadvantaged groups.

The new legislation requires manufacturers and distributors to become registered in terms of the Act. These registrations had to be completed by no later than November 2004, although they were in most respects a mere conversion from the old licensing system to the new. Officially, conditions for registration include commitments made by the applicant in terms of BBBEE. In practice, however, these conditions currently apply only to new market entrants, until such time that the necessary registration criteria have been formally drawn up by the relevant authorities. According to the National Liquor Authority, it was envisaged that this system would have been in place by late 2005, to tie in with

the expected completion of BBBEE charters for the greater liquor industry. From then on, registration conditions would also place a far greater emphasis on the applicant’s commitment to combating alcohol abuse, for example whether the applicant subscribes to any industry code of conduct approved by the Minister. Reference: *Case No CCT 12/99, with respect to the Liquor Bill 2000*.

Further, applications are to be adjudicated based on whether the proposed registration will materially restrict or promote –

- new entrants to the liquor industry;
- job creation within the industry;
- diversity of ownership;
- efficiency of operation within the industry;
- exports; and
- competition.

A less restrictive dispensation relates to so-called micro-manufacturers, which are classified as those not exceeding the following threshold volumes – for manufacturers of beer, 100 million litres per year; for manufacturers of traditional African beer (sorghum beer), 50 million litres per year; for manufacturers of wine, 4 million litres per year; for manufacturers of spirits, 2 million litres per year. Smaller producers and distributors, i.e. those falling below each of the above thresholds, are not required to be formally registered *at a national level* in terms of the new legislation, but must still comply with any registration and licensing requirements set out by the relevant provincial authorities.

Regulation of micro-manufacture, retail sale and liquor consumption as well as of methylated spirits, are the responsibility of provincial liquor authorities. Provincial roll-out of liquor legislation is currently underway in South Africa, having so far been completed in the Eastern Cape and Gauteng. Until such time as when the new legislation has been fully implemented, the relevant provisions of the previous Liquor Act of 1989 continue to prevail.

The Gauteng Liquor Office, commonly known as Gauteng Liquor Board is critical to the Gauteng Department of Economic Development's strategic objective of ensuring effective regulation, of which the responsibility for the Liquor Licensing Office is liquor regulation.

With reference to Gauteng, the liquor industry is regulated in terms of the provisions of the Gauteng Liquor Act, 2003, Act No 2 of 2003, as amended.

The Gauteng Liquor Act was promulgated in two phases. Sections 2 - 15, which deal mainly with the establishment of the Liquor Licensing and Regulation Office and its powers, and section 142, which provides for the continuation of pending matters in terms of the National Liquor Act, No 27 of 1989 (and came into operation on the 1st of April 2004). On the 2nd of November 2004, the remainder of the Gauteng Liquor Act was promulgated by the Premier.

In summary, the following legislation governs the Gauteng Liquor Board:

- The National Liquor Act, Act No 27 of 1989;
- The Public Service Act, Act No 103 of 1994;
- The Gauteng Liquor Act, Act No 02 of 2003;
- The Regulations in terms of Section 141 of the Gauteng Liquor Act, Act No 02 of 2003; and
- The Public Finance Management Act, Act No 01 of 1999.

3.2 KEY CHALLENGES FACING THE INDUSTRY AND PROSPECTS FOR GROWTH

The South African liquor industry is facing many significant challenges going forward. Many of these challenges are directly related to the country's unique socio-economic landscape.

Some of the many challenges facing the South African liquor industry therefore include the following

(underlined challenges relevant within the Gauteng context).

- Overall ownership in the beer and spirits sector is highly concentrated, in a large part due to historical reasons where this was condoned if not even promoted;
- Entry barriers are extremely high in these segments, and with regard to spirits lie less with technical barriers rather than the substantial resources required to successfully build new brands through marketing and advertising;
- Despite South Africa's competition authorities' ruling that major liquor and wine company Distell dispose of certain of its brands (following the SFW-Distillers merger) to avoid excessively high concentration ratios in certain product segments, the industry remains highly concentrated at the product segment level;
- The dominance of SAB (SABMiller) in the beer industry poses difficulties with regard to broader ownership, as the incumbent operator is apparently not conducting its operations anti-competitively with regard to pricing, and thus does not necessarily warrant intervention to achieve consumer benefit;
- Detaching the currently close relationship between beer manufacture and distribution may be one of the few avenues for broadening broader ownership in this sector, although already more than half of SABMiller's non-owned local distribution is owned by historically disadvantaged groups (it should however be remembered that the company's close relationship with these distributors, often through complex finance arrangements, prevent them from being independent operators);
- Nevertheless, cross-ownership between production and distribution continues to maintain high entry barriers for new players into the liquor industry;
- The wine industry consists of a large number of primary and secondary producers, although

- entry barriers to new operators remain high considering the substantial capital requirements;
- Alcohol abuse and related medical and social consequences remain a significant problem in South Africa, something that the current national legislation is hoping to reduce through stricter controls and penalties. However, this abuse is both a cause and consequence of the country's socio-economic environment, which needs a multi-faceted and multi-pronged strategic response including policy change, restriction of alcohol advertising and marketing, community monitoring of the liquor licensing process, reduction in the accessibility and availability of alcohol, introduction of warning labels, community education regarding the harm that is caused by alcohol, among many other key strategic interventions that are necessary and essential;
 - A number of BEE initiatives are underway in the wine industry, both at the primary production and processing / distribution stages. The key challenge here is for the process currently underway to lead to sustainable transformation of the industry, based on economic realities, in order to achieve long-term success;
 - Another exogenous challenge facing the industry is the exchange rate, although this affects the wine industry the most. Spirits are mostly produced locally (in many cases under license for the South African market), meaning that exports are less of a factor. Beer is generally produced within the market that it serves (for example SABMiller's neighbouring breweries produce for the local market there), and exchange rate fluctuations do not directly affect Namibian Breweries local market presence due to the linked exchange rate. The wine industry however relies on exports to a far greater extent, with the exchange rate at current levels deeming many of South Africa's exports uncompetitive in key international markets;
 - The liquor industry is forced to compete for consumers' disposable income with an increasing number of competing sectors, which in South Africa include the communications sector (especially cellular), the lottery and so forth. Remarkably, research from the datafirm Datamonitor (2010) forecasts that in 2014 the South African alcoholic drinks market will increase by 13.2% since 2009. It has however been found that the poorest South Africans spend more on alcohol than education, health and entertainment combined (Banerjee and Duflo, 2006); and
 - A number of regulatory challenges remain with regard to the new national liquor legislation, for example in the establishment of clear benchmarks and conditions for registration of existing and new market participants and explicit legislation relating to safer drinking spaces.

The promulgation of liquor legislation in 2003 and subsequent regulations have gone some way to assist the GPG to address the historical consequences and social and economic challenges of liquor trade and consumption prior to democracy and to regulate the liquor industry. However, the GPG still faces some challenges in regulating liquor in the province.

3.3 GAUTENG SPECIFIC CHALLENGES

The Gauteng Liquor Traders Association (GLTA) is an industry body established in the Gauteng Liquor Act 2 of 2003 (the Gauteng Liquor Act) as a means of promoting the organised liquor trade in the province. There have been institutional and operational challenges with the manner in which the GLTA has operated with the result that it has not effectively fulfilled its mandate in terms of the Gauteng Liquor Act.

Proximity of licensed premises to public facilities

There are many licensed premises which are located within a 500 metre radius of places of worship, educational institutions, similar licensed premises or public transport facilities in contravention of existing legislation. Many of these premises are generally located in residential areas or are premises licensed in terms of the Liquor Act, 1989. The result of the location of premises near schools and places of worship is that:

- under-age persons have easy access to liquor;
- intoxicated patrons victimise learners and educators and members of the community;
- the activities within these premises and the noise and entertainment interferes with the activities at educational institutions and can be a nuisance to residents living in their vicinity;
- These premises and their patrons operate for at least 16 hours a day, creating continuous noise and pollution for surrounding residents; and
- These premises often have patrons who are involved in fights with each other after alcohol consumption or fights with other people as they leave the drinking premises.

Gauteng Liquor Board

- There is a backlog of applications for licences before the Gauteng Liquor Board. There are also numerous review applications that have been instituted against decisions of the Board.

Enforcement

- The liquor inspectorate does not have sufficient resources to effectively perform its functions in terms of the Gauteng Liquor Act; and
- Furthermore, there appears to be an overlap of roles and responsibilities of the SAPS and the liquor inspectorate in enforcing

contraventions of liquor laws. This hampers the ability of the inspectorate to effectively enforce contraventions of the law.

Information gathering

- There has been no consistent information source or database maintained on the operations of the provincial liquor industry which poses challenges for the regulatory authority identifying areas that require intervention and the nature of that intervention.

Shebeens

- Use of alcohol in Africa, particularly in South Africa, has a long history and is a way of life for many people, regardless of their socio-economic background. Alcohol abuse has many negative economic, social and health consequences. The objective of this review is to present in brief the history of alcohol use and the social and economic causes and consequences of alcohol abuse in South Africa. Research has shown that the socio-economic effects associated with alcohol abuse include unemployment, violence, crime, sexual risk behaviour and disruptions to family life and work performance;
- The history of liquor in South Africa is an integral part of the history of segregation and apartheid. The Liquor Policy Paper published by the Department of Trade and Industry on 11 July 1997 (the national liquor policy) recognises that liquor was alternately made available and prohibited as a means of economic and social control as:
 - liquor was used to attract and retain workers on the farms, mines and in urban industry;
 - legislation was promulgated to prohibit Africans from producing and obtaining liquor;
 - employers provided wine rations to farm workers at various times of the working

day as a repressive and debilitating method of labour control. The mines used alcohol as a magnet to attract workers and to confine them to the closed compound and tokens which were redeemable at compound stores and beer halls were used as a form of payment. Urban employers used sorghum beer as a form of payment;

- abuse of alcohol was often cited in legislation governing the prohibition of drunkenness and disorder, which had differential applications across racial lines; and
 - liquor was used to entrench segregation and apartheid in the urban areas.
- Apartheid liquor legislation excluded black people from participating in the formal liquor industry. For black South Africans trading in alcohol became a form of defiance against apartheid rule. As a consequence, unlicensed outlets are located mainly in traditionally black areas. This has resulted in the untenable situation in which a significant proportion of liquor traders in the province, in particular shebeens, are either unlicensed or not regulated by formal liquor laws, making it difficult to implement a meaningful liquor policy and to enforce liquor laws; and
 - The liquor licensing regime provided by the Gauteng Liquor Act is substantially similar to the licensing regime applied in the National Liquor Act of 1989. In an attempt to recognise and include shebeens in the current legislative framework the Gauteng Liquor Act introduced shebeen permits. Having regard to the nature of shebeens, shebeen permit applications were not required to comply with the application procedures stipulated in the Gauteng Liquor Act and shebeen permit holders are subject to minimal, if any, conditions. As a result, monitoring shebeen operations and enforcing compliance in so far

as shebeens fail to comply with the Gauteng Liquor Act has raised significant challenges.

The negative impact of past liquor regulations on communities, with specific reference to shebeens and the oversupply of liquor outlets in certain geographical areas is illustrated in a comparison between Region D and Region B in the City of Johannesburg.



Figure 1: City of Johannesburg Metropolitan Municipality –Regions

The established areas of **Region D** are largely composed of the old *matchbox* houses built to provide cheap accommodation for Joburg's workers during the apartheid era. Street after street of these are found, but in some areas, such as Diepkloof Extension, prosperous Sowetans have built houses that can be compared to those in some of Joburg's most upmarket suburbs (www.joburg.org.za).

However, there are also large areas of informal settlements, the most extensive being in Doornkop/Thulani, Protea South, Chris Hani, Slovo Park and Freedom Square. Region D's population is 1 058 978 (Census 2001, Stats SA) many of whom live in informal settlements; for example, 58 000 people living in Doornkop/Thulani alone. Poverty is a major problem, with high unemployment and low educational levels.

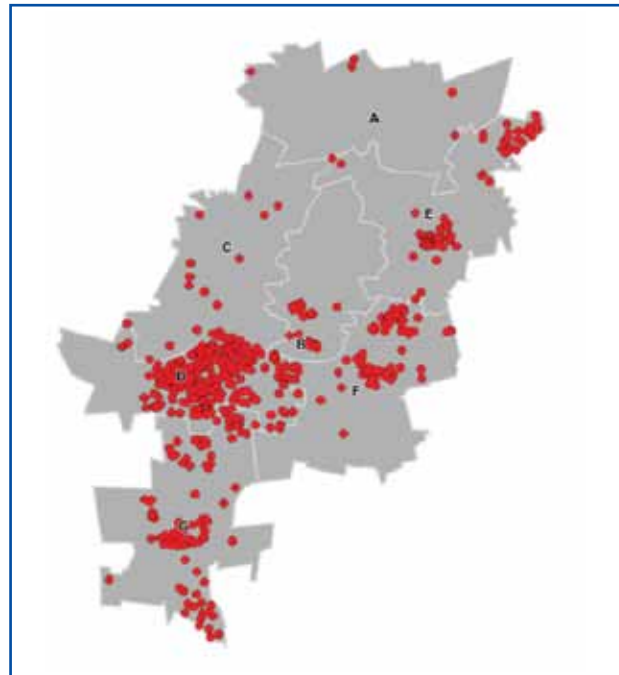
In contrast, **Region B** is well noted for its diversity, ranging from upmarket houses in both historic and newer suburbs, to central Randburg and trendy Rosebank. The numbers of townhouse developments in the northern areas of the region are increasing, with residential and commercial interests competing for prime land in suburbs like Hyde Park. Upmarket residential areas in the centre and to the north of the region include Bryanston extension, Hurlingham, Sandhurst and Dunkeld. Densification around Rosebank is expected as a direct consequence of the Gautrain station being built next to the retail precinct in that suburb. The population is estimated at just over 198 000, accounting for about 6 percent of the population of Johannesburg. Much of the area the population is stable and economically active, with high levels of education and disposable income. A comparison between the two Regions in terms of population per liquor outlet (shebeen permits and licensed outlets) and recreational facilities reveal the following variances:

	Region D	Region B
Population	1 058 978	198 000
Number of shebeens	2 438	16
Number of licensed outlets	123	302
Population per liquor outlet	414	623
Population per recreational facility	31 146	9 900
Population per library	66 186	14 143

www.joburg.org.za and DED, 2011

The geographic spread of shebeens in the City of Johannesburg Metropolitan Municipality (Figure 2) clearly illustrates the historical context of the regulation of liquor. In the context of the nature of development in Regions B and D as described above, the high concentration of shebeens in Region D as opposed to the small number located in Region B is indicative of the historical and current distortions in the regulation of liquor outlets.

Figure 2: Geographic Spread of Shebeens in the City of Johannesburg Metropolitan Municipality



Given the historical context of the regulation of liquor and its use and abuse, ***regulation must therefore make a decisive break with the past oppressive liquor regulations*** while also seeking to balance the competing interests of those who produce, distribute, sell and consume liquor with the overall impact liquor has on social well-being, including the detrimental consequences for communities and families.

Many liquor retailers, particularly in townships, sell liquor from residential premises that are not zoned for business use with the result that numerous municipal by-laws are violated. There are no appropriate municipal by-laws that allow for premises, particularly in townships, to be zoned for purposes of liquor retailing which would allow traders options of locating their businesses in appropriately zoned premises. This unregulated manner of conducting liquor retail operations makes it difficult for such retailers to be effectively monitored and regulated.

Most townships established in terms of the Black Communities Development Act, 1984 (Act No 4 of 1984) or the Less Formal Townships Establishment Act, 1991 (Act No 113 of 1991) are zoned in terms of Annexure F. This zoning is less complex than that of a town planning scheme and provides for only one residential zone in addition to other use zones such as business and industrial zones. Residential zoning in terms of Annexure F allows part of a dwelling house to be used for the business occupation or trade by the owner without the need for a rezoning or consent. This, for example, makes it possible to establish a so-called “spaza shop” in a dwelling house subject to certain limitations. No application to the municipality is required for such a business use.

In terms of the Gauteng Liquor Act a license is required for the sale of alcoholic beverages. This Act however provides for different liquor licenses depending on the type of liquor trading purposes. A distinction is made in the definitions in the Liquor Act between purposes such as a pub, a shebeen and a tavern. These different purposes relate to whether liquor may be sold to take away, for consumption on the premises or for sale together with food including activities such as entertainment. Importantly, the issue of a license requires that the property or premises must comply with all the relevant zoning conditions, by-laws and other requirements of the municipality.

Although the Annexure F zoning permits limited trading or business on a residential property, this does not always include the purposes allowed by one or other liquor license. In some cases it is necessary to rezone the property or to obtain a consent in terms of Annexure F before a liquor license can be issued.

The difficulty is that the definitions of and the uses allowed in terms of Annexure F zoning are not clearly stated and do not correspond with the activities in terms of the Liquor Act. Often, the interpretations of Annexure F or the Act are arbitrary. Many

applications for liquor licenses cannot be granted when the municipality refuses to issue confirmation that a pub, liquor store or tavern is permitted in terms of the zoning. An example is a tavern license which includes a place of entertainment with the sale of liquor. A place of entertainment is not considered as a business which is allowed in the Annexure F zoning.

The current difficulties of conflict between the requirements of Annexure F and the Liquor Act are a result of two factors:

- The interpretation of the legislation by municipal officials which is sometimes arbitrary and inconsistent; and
- Land use zoning and the control of the sale of liquor have two quite different purposes.

Restrictions on the sale of liquor have the purpose of, inter alia, preventing the illegal trade in and the abuse of liquor. Zoning restrictions are concerned with amenity, harmonious land use patterns and the avoidance of nuisance. Depending on interpretation, in some municipalities, consent in terms of Annexure F is required before any form of liquor license can be granted. Such consent is not easily granted as premises for the sale of liquor are generally regarded as undesirable in a residential area.

The draft Gauteng Planning and Development Bill itself does not propose any change to the current land use regulations regarding zoning for the purposes of liquor trade. These will be contained in the new Land Use Schemes which are to be prepared in terms of the provisions of the new Bill.

At present, the draft Regulations to the proposed Bill envisages reducing the purposes for which consent is possible in any use zone. In the case of residential zoning it is proposed in principle that purposes such as liquor trade in a residential area would require rezoning.

4. SOCIO-ECONOMIC CONSTRAINTS AND OPPORTUNITIES

The WHO resolution on public health problems caused by the harmful use of alcohol recognises that harmful drinking is amongst the foremost underlying causes of disease, injury and violence (especially domestic violence against women and children), disability, social problems and premature death, is associated with mental ill-health and has a serious impact on human welfare affecting individuals, families, communities and society as a whole (WHO, 2005).

Research by the Alcohol and Drug Abuse Research Group of the Medical Research Council⁶ indicates the following trends in the social consequences of alcohol abuse in South Africa:

- in 2002, levels of alcohol were particularly high for transport- and violence-related injuries with 73% of patients with violence-related injuries in Port Elizabeth and 46% of patients with transport-related injuries in Cape Town having levels above the legal limit for driving;
- research conducted in 2002 found that between one-third to a half of arrestees in Cape Town, Durban, and Johannesburg charged with offences categorised as *family violence* reported being under the influence of alcohol at the time of the alleged offence;
- research in Atteridgeville in 2003 among persons aged 25-44 years found a significant positive association between various measures of alcohol use and having multiple sexual partners or sexual relations that are regretted in the past 3 months;
- research conducted in 1997 found that among grade 8 and 11 learners in Cape Town, a significant association was found between past month use of alcohol and the number

of days absent from school and repeating a grade;

- during 2004, it was estimated that in Gauteng a driver of a vehicle under the influence of alcohol was killed every 25 hours. In 2005 this estimated figure changed to a driver killed every 22 hours and in 2006 further reduced to an intoxicated driver fatality every 18 hours. On a national basis an intoxicated driver fatality occurred every 4 hours during 2006⁷;
- on a national basis the number of fatal road accidents in which drivers are suspected to be under the influence of alcohol increased from 197 in 2004 to 273 in 2005 and to 312 in 2006;
- the number of fatal road accidents in which pedestrians are suspected to be under the influence of alcohol, increased from 80 in 2004 to 151 in 2005 and to 180 in 2006;
- a study of six Johannesburg neighbourhoods conducted by UNISA in 1998 reported that violence in these communities could be attributed to various factors including unemployment, poor housing, environmental conditions and excessive alcohol consumption. A Foundation for Alcohol Related Research survey carried out in the Soweto township of Johannesburg revealed that 25 in every 1,000 seven-year-olds tested had a severe form of foetal alcohol syndrome; and ⁸
- In a study in 2007 by CJCP of 6000 primary school children 30% thought it would be easy for them to get alcohol in their neighbourhoods (National Schools Violence Study, 2007. Centre for Justice and Crime Prevention).

The social and economic costs of alcohol abuse for South Africa has been estimated at \$1.7billion and 2% of GDP (WHO, 2004), roughly three times the amount of revenue received by the government in the form of excise taxes. (Budlender, 2010).

6 <http://www.sahealthinfo.org/admodule/alcohol.htm>

7 <http://www.arrivealive.co.za/pages.aspx?i=2046>

8 <http://www.scienceinafrica.co.za/2006/march/fas.htm>

4.1 ALCOHOL CONSUMPTION

“It has been estimated that the annual per capita consumption of alcohol in South Africa is between 10.3 and 12.4 litres, with the higher level reflecting the amount including homebrewed alcohol (Rehm et al., 2004). According to the World Health Organization (2002), 45% of men and 70% of women in Afro Region E (which includes countries like Ethiopia and South Africa) abstain from drinking alcohol. Therefore, while consumption per adult is only 7.1 litres of pure alcohol per year in this region, consumption per drinker is 16.7 litres per year (Rehm et al., 2003). It has been estimated that per capita consumption amongst drinkers in South Africa is likely to be even higher than the regional average (Parry, 2005). This gives South Africa one of the highest levels of alcohol consumption per drinker anywhere in the world (Rehm et al., 2004).”

In terms of the World Health Organization Patterns of Drinking score South Africa scores 4. The Patterns of Drinking Score (PDS) reflects how people drink instead of how much they drink. Strongly associated with the alcohol-attributable burden of disease of a country, PDS is measured on a scale from 1 (least risky pattern of drinking) to 5 (most risky pattern of drinking). The higher the score, the greater the alcohol-attributable burden of disease. Notably,

different drinking patterns give rise to very different health outcomes in population groups with the same level of consumption. PDS is based on an array of drinking attributes, which are weighted differentially in order to provide the PDS on a scale from 1 to 5:

- the usual quantity of alcohol consumed per occasion;
- festive drinking;
- proportion of drinking events, when drinkers get drunk;
- proportion of drinkers, who drink daily or nearly daily;
- drinking with meals; and
- drinking in public places.

According to the WHO the most risky patterns of drinking on an international scale, prevail in Kazakhstan, Mexico, the Russian Federation, **South Africa** and Ukraine.

Table 1 is an extraction from data showing percentages of *past year* abstainers, the total recorded alcohol per capita consumption by people fifteen years of age or older in litres of pure alcohol and estimated drinking pattern scores for selected countries in Africa (Obot, 2006):

Table 1 - Percentages of past year abstainers, per capita consumption of recorded and unrecorded beverages in the adult population (15+ years), and estimated drinking pattern scores

Countries	Percentage of past year abstainers			Recorded consumption (litres of ethanol per capita)	Unrecorded consumption (litres of ethanol per capita)	Drinking pattern score
	Total	Male	Female			
Angola	-	-	-	2.91	-	-
Benin	-	16.8	14.3	1.22	-	-
Botswana	53.5	37.0	70.0	5.38	3.0	3
Burkina Faso	-	-	-	4.38	3.3	3
Burundi	-	-	-	9.33	4.7	3
CAR	-	-	-	1.66	-	3
Cameroon	-	-	-	3.66	2.0	3
Congo	-	-	-	2.36	-	-
Cote d'Ivoire	-	-	-	1.71	-	-
DRC	-	-	-	2.01	-	-
Ethiopia	-	-	-	0.91	1.0	3
Gabon	-	-	-	7.97	-	3
Gambia	-	-	-	2.27	-	-
Ghana	-	-	-	1.54	-	3
Kenya	55.0	45.0	65	1.74	5.0	3
Lesotho	74.0	47.0	81	1.83	-	3
Liberia	-	-	-	3.12	-	3
Malawi	-	-	-	1.44	-	-
Mali	-	-	-	0.49	-	-
Mauritius	-	-	-	3.16	11.0	3
Mozambique	-	-	-	1.67	-	-
Namibia	-	39.0	53.0	2.39	-	3
Nigeria	75.6	51.3	89.6	10.04	3.5	2
Rwanda	-	-	-	6.80	4.3	3
Senegal	-	-	-	0.48	0.8	3
Seychelles	27.5	10.0	45.0	3.61	5.2	3
Sierra Leone	-	-	-	6.64	-	3
South Africa	69.0	55.0	83.0	7.81	2.2	3
Swaziland	-	-	-	9.51	4.1	3
Tanzania	-	-	-	5.29	-	-
Togo	-	-	-	0.95	-	-
Uganda	54.3	48.2	60.3	19.47	10.7	3
Zambia	-	-	-	3.02	-	4
Zimbabwe	-	-	-	5.08	9.0	4

4.2 ALCOHOL ABUSE AND HEALTH CARE

Alcohol consumption has been associated with a range of diseases that may cause death and adverse effects that reduce quality of life.

Briefly, these can be summarised as follows according to the Australia National Health and Medical Research Council (NHMRC) guidelines to reduce health risks from Drinking Alcohol, 2009:

- Cardiovascular disease;
- Cancers related to the oral cavity, pharynx, larynx, oesophagus, liver, colorectum and female breast;
- Diabetes;
- Nutrition-related conditions;
- Overweight and obesity;
- Risks to unborn babies – Fetal Alcohol Spectrum Disorder;
- Liver diseases;
- Mental health conditions;
- Tolerance;
- Dependence;
- Long-term cognitive impairment; and
- Self-harm.

That public health problems result from the harmful use of alcohol cannot be refuted and is well documented. It is estimated that of the estimated 2 billion people worldwide who consume alcoholic beverages, there are 76.3 million with diagnosable alcohol-use disorders. An overall causal relationship has been identified between about sixty types of disease and injury and the consumption of alcohol (WHO, 2004).

It is estimated that alcohol causes a net harm of 3.7% or 7.8 million deaths globally and accounts for 4.4% of the global burden of disease or a loss of 58.3 million disability-adjusted life years (DALYs). Unintentional injuries alone account for about one third of the 1.8 million deaths, while neuropsychiatric conditions account for close to 40% of the 58.3 million DALYs (WHO, 2004).

Research conducted by the South African Community Epidemiology Network on Drug Use (SACENDU) has found that alcohol is still the most common primary substance of abuse among patients seen at specialist treatment centres across most regions in South Africa. The average age of patients ranged from 35 years to 39 years and patients were more likely to be male. The proportion of female patients with alcohol as the primary substance of abuse ranged from 14% to 29% (Plüdderman et al, 2009).

In Gauteng (including the metropolitan areas of Johannesburg and Pretoria) 2822 admissions to 17 treatment centres were recorded in the first half of 2009. For 45% of patients the primary substance of abuse was alcohol (Plüddemann et al, 2009).

Research (A Plüddemann, C Parry, H Donson *et al.* — unpublished data) concluded that efforts to combat the abuse of alcohol are paramount in reducing the burden imposed by injuries on the health care services.

Trauma has been identified as the principle cause for admission to hospitals in all South African provinces and the leading cause of childhood deaths. A South African multicentre study demonstrated that over half of all patients presenting to trauma units were victims of violent injuries. Across sites and for each respective year of the survey, between 35.8% and 78.9% of patients tested positive for alcohol.

Statistics for patients that presented in Steve Biko Academic Hospital for the period July 2010 to May 2011 is as follows:

- Stab wounds: 177
- Assault: 194
- Motor Vehicle Accidents: 521
- Pedestrian / vehicle accidents: 251
- Gunshot wounds: 165

It is estimated that more than 75 % of these incidences are either directly or indirectly related to substance abuse or intoxication.

Table 2 below records statistics collated across various cities in South Africa on the percentage of all non-natural deaths (2002) where the blood alcohol concentrations was above the legal limit, statistics of trauma patients (2001) with breath alcohol concentrations greater than the legal limit and the prevalence of foetal alcohol syndrome among Grade 1 learners from 1999 to 2003.

Table 2 - Statistics that highlight the particular burden experienced by South Africa from alcohol abuse

Percentage of all non-natural deaths with blood alcohol concentrations greater than or equal to 0.05g/100ml based from mortuary statistics (2002)	
Cape Town	53%
Durban	37%
Gauteng	40%
Port Elizabeth	61%
National	46%
Trauma unit statistics (2001) of trauma patients with breath alcohol concentrations greater than or equal to 0.05g/100ml	
Durban	22%
Cape Town	36%
Port Elizabeth	57%
Foetal alcohol syndrome - prevalence among Grade 1 learners 1999-2003	
Western Cape (Wellington)	75 per 1000 in 1999
Gauteng	19 per 1000 in 2001
De Aar	103 per 1000 in 2001
Upington	75 per 1000 in 2003 (estimated)

Source: <http://www.sahealthinfo.org/admodule/alcohol.htm>

Foetal Alcohol Spectrum Disorder (FASD) may be defined (Marais & Eigelaar-Meets 2009) as: “the result of mothers consuming drugs, including heroin, cocaine and marijuana, with alcohol producing the most serious neurobehavioral effects on a foetus.

Research by the Foundation for Alcohol Related Research reported a prevalence of 22 FASD cases per 1000 of school entry children aged seven within Gauteng. (Viljoen 2003a: 660). “Foetal alcohol spectrum disorder is the most common birth defect in South Africa, by far more common than Down syndrome and neural-tube defects combined, according to Viljoen. Even though the Western Cape Province and Northern Cape Province currently have a higher FASD incident rate, the Gauteng figures are still cause for serious concern. There are no reliable global prevalence figures, but a 2005 study estimated a global incidence of 0.97 per 1000 live births based on research in the United States of America (USA).

Marais (2006) points out that alcohol use during pregnancy multifaceted, which are influenced by factors such as a woman’s -

- mental health;
- socioeconomic status;
- power relations between her and her partner; and
- the attitudes of her family and community towards drinking.

Research indicates that although there is general awareness of FASD, the levels of alcohol use during pregnancy remains high (Marais & Eigelaar-Meets 2009). Consequently, interventions have to go beyond awareness campaigns. The best interventions to prevent FAS identified by Marais

(2006) include life skills training designed to teach personal and social skills to help young people build resilience against the use of substances. The argument that early identification of FASD is needed at the Early Childhood Development (ECD) centre level is substantiated by the high prevalence of Foetal Alcohol Spectrum Disorders (FASD) in South Africa. Community support workers and ECD practitioners could assist in early identification but they need to be properly trained and recognised (Marais 2006, Ward 2007).

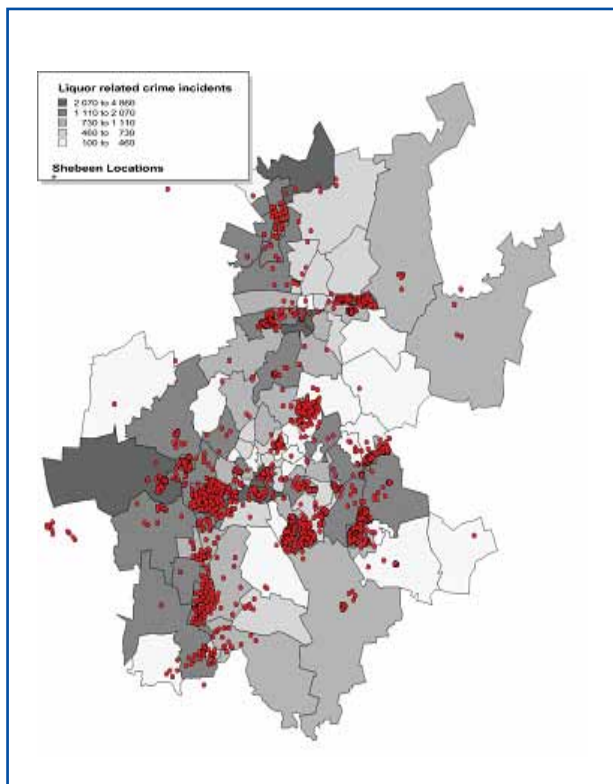
4.3 ALCOHOL RELATED CRIME

Internationally a strong link between alcohol use, crime and violence has been established by meta-analysis, with between a quarter and half of homicides or purposeful injuries having been shown to be attributable directly to alcohol use. Various categories of criminal behaviour have been identified as having alcohol links such as drinking and driving, homicide, domestic violence, other assaults, sexual violence, and child abuse. (English et al., 1995; Schultz & Rice, 1991; Single et al., 1998).

Similarly in South Africa various research efforts substantiate a very strong association between alcohol, crime, violence, and injury. According to the third annual report of the National Injury Mortality Surveillance System (2002), all homicides, 52.9% were alcohol-related and the blood alcohol level was above 0.05 g/100 ml in 89.1% of these. Of all firearm-related deaths 42.8% were alcohol-related. Recently the strong correlation between intimate partner abuse and alcohol abuse by the male partner has also been reported. Alcohol is also an important co-factor for high-risk sexual behaviour and HIV transmission, a wide range of social problems within the welfare system, and violent crimes affecting all departments in the Justice and Protection cluster.

The correlation between liquor related crime incidents and the geographic spread of shebeens are illustrated in Figure 3.

Figure 3: Liquor Related Crime Incidents In Relation To The Geographic Spread Of Shebeens (HSRC 2007)



4.4 VULNERABLE AND AT RISK

From 1978 to 1994 there was a 150% increase in the per capita consumption of alcoholic beverages in SA. During this period the population growth rate was 50%. Certain groups in SA are particularly at risk from alcohol-related problems (Health Systems Trust, 1999).

These are:

- Males of all races;
- People in townships or informal settlements;
- Workers in certain occupation e.g. mining; and
- Young people of all races.

What puts people more at risk of alcohol related problems?

- Poverty (one of the most important factors);
- Urbanisation;
- Boredom; and
- Community perceptions and peer pressure.

In the report on the 1st Biennial Substance Abuse Summit **“Forging effective partnerships and striving for a drug free society”** (Summit hosted by the Department of Social Development and the Central Drugs Authority, 11th - 14th of February 2007) Professor van As from the Red Cross War Memorial Children’s Hospital confirms that Alcohol (substance) abuse has a number of effects on children:

- direct (children as users);
- assault by parents; and
- neglect by parents.

Professor van As also stated that often children are not the intended victim, they get stuck in the middle and caught in the crossfire (shielding). Children under the age of three are the biggest abused group.

4.5 ALCOHOL, DRIVING AND TRAFFIC

The harmful social consequences of alcohol consumption impact on society as a whole as it affects economic productivity or requires the attention and resources of the criminal justice or health care system and other social institutions.

With reference to alcohol, driving and traffic, the following statistics were confirmed at the Summit referred to above:

- 37% of drivers in crashes have alcohol in their blood;
- 82% of drivers in road fatalities were over the legal limit;

- Of the injured people, 78% are admitted on Fridays and Saturdays (alcohol related accidents);
- Pedestrians and cyclists constitute 40% of road fatalities;
- Excessive speed is the cause of 70% of road crashes; and
- Alcohol related accidents cost R10billion per year in South Africa.

The appropriate impact of alcohol campaigns has to be questioned, as people still drive when under the influence of alcohol. Current challenges include:

- a non-compliant society;
- no respect for the law;
- widespread use of alcohol;
- inadequate law enforcement;
- a fine collection rate of 17%;
- urban speed limits are too high for pedestrians;
- behaviour change is difficult to achieve (no punitive measures in some cases);
- fraud and corruption are rife in driver and vehicle licensing;
- not enough coordination through the three spheres of Government; and
- taxi and bus restructuring to ensure safety standards on all public transport.

According to the third annual report of the National Injury Mortality Surveillance System, 51.9% of patients who died in a transport-related accident had an elevated blood alcohol level. In the majority

of these cases (91.0%) the level was above 0.05 g/100 ml. Pedestrians and drivers had the highest proportions with positive blood alcohol levels (Matzopoulos R, Bowman B, Donson H, et al. A Profile of Fatal Injuries in South Africa: Third Annual Report of the National Injury Mortality Surveillance System. Parow: MRC, 2002).

5. KEY CHALLENGES AND OPPORTUNITIES IN SUMMARY

5.1 LIQUOR INDUSTRY AND ECONOMIC CONSTRAINTS AND OPPORTUNITIES

- Facilitate responsible attitudes towards the production, distribution, promotion, marketing, advertising, sale and consumption of liquor;
- Ownership and the level of vertical or horizontal integration of the industry;
- Employment creation – manufacturing and distribution;
- Revenue generation – manufacturing and distribution;
- The need for fixed investment and infrastructure development;
- Black economic empowerment in the industry – manufacturing and distribution;
- Facilitate the entry and empowerment of new entrants in the liquor industry; and
- The dominance of a single supplier in the beer industry poses difficulties with regard to broader ownership.

5.2 SOCIO-ECONOMIC CONSTRAINTS AND OPPORTUNITIES

- Public health problems related to alcohol abuse;
- Policing and monitoring of alcohol related crimes;
- Social cohesion negatively impacted on by alcohol abuse;
- Reduced of productivity levels in the workplace due to absenteeism as a result of the consumption of alcohol;
- Lack of sufficient funding for health promotion organisations to address harm cause by alcohol;
- Limited community involvement in the monitoring of alcohol trade; and
- High prevalence of drinking and driving.

5.3 LAND USE MANAGEMENT

- Non compliance of liquor traders with municipal town planning schemes;
- Sound town planning principles to be identified as guidance for the consideration of liquor applications, specifically in residential areas;
- Linkage between various liquor licences and land use provisions not defined;

- Lack of Liquor Policies at municipal level that are integrated with other planning instruments; and
- Pro-active spatial planning to identify appropriate sites for liquor sales.

5.4 INSTITUTIONAL AND GOVERNANCE ISSUES, CONSTRAINTS AND OPPORTUNITIES

- Capacity of Gauteng Liquor Board to give effect to the legislative mandate;
- Enforcement of the provisions of the Gauteng Liquor Act;
- SAPS and Gauteng Liquor Board inspecting mandates not clearly defined;
- Procedural matters;
- Evidence based and principle-led decision making;
- Insufficient information gathering; and
- Institutional and operational challenges with the manner in which the Gauteng Liquor Traders Association (GLTA) GLTA has operated with the result that it has not effectively fulfilled its mandate in terms of the Gauteng Liquor Act.

6. BENCHMARKING AN APPROACH TOWARDS A NEW GAUTENG LIQUOR POLICY AGAINST INTERNATIONAL BEST PRACTISE

In determining the liquor policy interventions that the Province will adopt, the ten highly rated strategies proposed by the WHO to address the burden imposed by alcohol on individuals and society have to be accounted for. The Global Strategy to reduce the harmful use of alcohol, endorsed by WHO's Member States in May 2010, promotes a range of proven effective measures for reducing alcohol-related harm. These include taxation on alcohol to reduce harmful drinking; reducing availability through allowing fewer outlets to sell alcohol, raising age limits for those buying and using effective drink-driving measures. The Global Strategy also promotes the screening and brief interventions in healthcare settings to change hazardous patterns of drinking, and treatment of alcohol use disorders; regulating or banning marketing of alcoholic beverages; and conducting information and educational campaigns in support of effective policy measures.

6.1 STRATEGIES TO ADDRESS THE RESPONSIBLE REGULATION OF ALCOHOL

Fundamentals of these strategies can be summarised as follows:

- Raising awareness and political commitment;
- Confirmation that the public health problems

caused by the harmful use of alcohol are multidimensional and complex;

- Pro-active health-sector response;
- The need for community action to reduce the harmful use of alcohol;
- Implementation of drink-driving policies and countermeasures;
- Addressing the availability of alcohol;
- Addressing marketing of alcoholic beverages;
- Pricing policies;
- Harm reduction;
- Reducing the public health impact of illegally and informally produced alcohol; and
- Regulating the parameters for safer drinking spaces.

South African Literature on alcohol policy and prevention strategies emphasises the association between increased consumption of alcohol and increased incidence of alcohol-related problems in populations. Hence the broad objectives of strategy focus on reducing consumption and limiting the availability of alcohol through various means.

(Hawks, Scott et al. 2002; and Babor, Caetano et al. 2003).

6.2 SOUTH AFRICAN LITERATURE ON ALCOHOL POLICY AND PREVENTION STRATEGIES

6.2.1 Regulation of alcohol promotion through the media

It is clear that advertising and commercial marketing of alcohol plays a substantial role in the promotion and consumption of alcoholic beverages (Babor 2010). Alcohol products are promoted through an

integrated mix of strategies (Babor, Caetano et al. 2003:173), notably: television, print and radio media, the internet and point of sale promotions. Alcohol brands are associated with particular consumer identities, lifestyles and sport, and repeated exposure to advertising messages has been shown to cultivate a user culture. Not only do individuals respond cognitively to advertising messages, but their perceptions about the level of consumption by others may also be influenced (Babor, Caetano et al. 2003). Hawks et al (2002:27) refer to several studies, which show that, the advertising of alcohol products, particularly beer, and especially if associated with sporting prowess has been found to influence the perceptions and future drinking intentions of underage viewers, particularly males.

Self-regulation in the alcohol industry has been documented as poor, because it is not self-serving. There is a particular concern for developing contexts, where alcohol and tobacco continue to be widely marketed, and consumption levels are increasing (Hawks, Scott et al. 2002). Both the alcohol and tobacco industries deliberately target developing countries because there is a large body of consumers who do not consume these products and therefore represent an untapped market for these industries. According to the MRC, only 49% of South Africans drink alcohol.

Two major strategies are used in policy interventions to restrict alcohol promotion through the media. First, restrictions may be placed on advertising, and second, mass media campaigns in the form of warning labels and counter advertising may be implemented.

6.2.2 Evidence on the efficacy of advertising regulations

Advertising regulations are hotly contested. They constitute a mix of industry-led self-regulation and legislative regulation, which impedes the establishment of more restrictive legislation, and evidence thereon (Babor, Caetano et al, 2003). Despite these unsuccessful efforts, it has been shown that placing broadcasting bans on alcohol advertising is associated with decreased per capita consumption (Saffer in Hawks et al, 2002).

All alcohol companies are searching for new consumers, and new cohorts of young people are continuously becoming available as they mature. Researchers have highlighted that advertising and branding are often designed to mirror and express dominant representations of youth culture and lifestyle (Anderson & Baumberg 2006). Moreover, modern marketing drives consumption, and in a globalized, fragmented world, young people, in particular, create meaning through consumption (McCreanor 2005b). The alcohol industry itself acknowledges that “as an image category, alcohol consumption is heavily influenced by brand perception, with what you drink being an outward expression of personality (SA Food Review. (2002). 29(11)).

6.2.3 Evidence on the efficacy of media campaigns

Media campaigns commonly take the form of public-service announcements and warning labels, but it is debatable as to whether media campaigns are truly cost-effective. It is difficult to ascertain pre-campaign

measures, and hence the effective outcomes: Few control groups have *not* been exposed to the mass media. Media campaigns are shown to be more effective when used in conjunction with community action. Media campaigns have been shown to be effective in raising levels of awareness in terms of substance use, “and lending support to policy initiatives in this area” (Hawks, Scott et al, 2002:27). Their role in behavioural change is less certain. Hawks et al (2002:27) suggest that, changes in individual behaviour would seem to require *both* the provision of accurate information *and* the reduction of misinformation. It would seem, for example, that the continued advertising of alcohol and tobacco seems to nullify the efforts of media campaigns to prevent the use or abuse of such substances. Media campaigns are best when used in broader systemic environments that advocate health-promotion principles (Hawks et al, 2002).

Evidence on the efficacy of health warnings on billboards and packaging is not easily measurable, since it is not possible to separate their effect from other environmental initiatives (Hawks, Scott et al. 2002). Evidence suggests that, although exposure to warning labels does not produce change in consumption behaviour per se, they have been shown to have an effect on other variables, such as a willingness to intervene in hazardous drinking situations (Babor et al, 2003). Restrictions or bans on advertising have been shown to be effective in decreasing the consumption of alcohol at a population level. Mass media campaigns have not shown to be effective in the absence of other interventions.

6.2.4 Community-based programmes

Interventions concerning community response typically concern the involvement of police, health

and justice systems, as well as community leaders and Community-Based Organisations (CBOs), known as a “systematic” approach. Authors note that the success of such programmes is contingent on ownership, choice of community, and sustainable linkages between key players. Evidence is problematic to appraise due to the multiplicative nature of the interventions. Furthermore, interventions that are popular in the community may not be feasible within their remit, such as changing liquor licensing laws. (Hawks et al, 2002).

The *Communities that Care (CTC)* programme has been implemented in several hundred communities in the USA, Netherlands, Scotland, Wales and Australia. In the CTC programme, communities use local data on risk and protective factors to develop interventions that reduce community violence and aggression. Before-and-after studies have demonstrated improvements in youth cognitive abilities, parental skills, community relations, and decreases in behavioural problems, assault charges, drug offences and burglaries (Jané-Lopis, 2005). Similar interventions have been successfully implemented in India and China where community interventions reduced alcohol consumption, drug abuse and domestic violence (Patel et al 2005).

6.2.5 Education and school-based programmes

Evidence on early intervention approaches, based on the provision of information and education on substance abuse, has shown that these factors may impact on knowledge of substances, but fail to impact on drug and alcohol use (Botvin, 2000; Room, Babor et al, 2005; Babor, Caetano et al, 2003). Introducing long-term programmes at primary school level may increase the effectiveness of such programmes, if the following are included as approaches (Parry, 2005):

- increasing parental and community support;
- incorporating peer-led and life skills training;
- Incorporating resistance training within a culturally relevant context; and
- Providing alternate recreational activities.

6.2.6 Decreased (economic or physical) availability of alcohol

Increasing the availability of alcohol — through adjusting legal age limits, price, and hours of sale, to name a few examples — has been shown to increase the prevalence of problem drinking, chronic disease, motor vehicle accidents, and violence (Hawks, Scott et al. 2002). Illicit drugs are obviously less amenable to these types of government interventions and, in this instance, enforcing existing legislation would be appropriate.

6.2.7 Changing the legal purchasing age

Babor et al (in Parry, 2005) note evidence which suggests that this intervention does not eliminate youth drinking as such, but only serves to reduce among youth drunk driving, night-time single-vehicle accidents, and fatal motor accidents (Babor et al, in Parry, 2005). The efficacy of such interventions is further linked to the degree of enforcement. In order rather to prevent these outcomes, Parry (2005) recommends raising the legal purchasing age to 21 years of age. Given the low enforcement of the current legal purchasing age, this intervention seems premature and efforts would be better spent on enforcing existing legislation.

6.2.8 Instituting restrictive trading hours, and days of sale

Although reducing the hours and days of sale has been shown to reduce “alcohol consumption and problem levels”, this strategy would not work effectively in South Africa without the regulation of all currently un-regulated alcohol outlets (Parry, 2005:22).

6.2.9 Instituting restrictions on outlet density

Increasing the opportunity costs associated with obtaining alcohol, by restricting outlet density has been shown to affect consumption levels and alcohol-related problems. In the South African setting, Parry (2005) suggests the licensing of all currently unlicensed outlets, and the offering of incentives to liquor outlets to move, in order to change outlet density (Parry, 2005).

6.2.10 Adoption of responsible selling practices

Responsible selling practices would include, for example: legal prohibitions on selling alcohol to intoxicated people, serving food with alcohol, and introducing server liability. According to Parry (2005), however, this would only likely work in the formal market in the medium to long term, without community involvement in monitoring and regulation.

6.2.11 Taxation increases on alcohol

Motivating factors for increasing taxes on alcohol include the balancing of the external costs of consumption, as well as to provide resources for the development of programmes which address the burden of alcohol abuse. Younger drinkers are responsive to price increases, while there is evidence to suggest that heavy drinkers may also be affected by increased prices. Increased alcohol taxation has been shown to be associated further with a decreased incidence in motor-vehicle accident fatalities, crime, and cirrhosis mortality, occupational injury, and school drop-out rate. Yet taxation strategies can lead to illegal alcohol production and the growth of smuggling syndicates. Although alcohol taxation strategies are present South Africa, their extent is below international averages (Parry 2005). Appropriate consideration should be given to the possibility to tax the alcohol industry with an additional 1% on turnover, for the express purpose of using these funds to set up a health promotion

foundation to address the harm caused by alcohol use and misuse.

The National Liquor Policy acknowledges that the abuse of liquor has a detrimental effect upon employment and productivity, the provision of sound public health and security within the home and society at large.

Some of the recommendations proposed by national government to address the detrimental effects of liquor include:

- policy and legislation aimed at reducing the availability of alcohol, increasing the price of alcohol and thereby decreasing the per capita consumption of alcohol and encouraging responsible alcohol consumption in order to counteract the negative health, social and economic effects of alcohol;
- an integrated approach which cuts across government departments and sectors as well as different tiers of government and community organisations working together to ensure that the way in which liquor is distributed and sold limits the negative externalities and addresses the negative effects which have already occurred; education at a range of levels about the potentially harmful effects of alcohol by means of the media, schools, public health facilities, community organisations and other vehicles as well as comprehensive education programmes for people within the liquor industry, in particular those who serve alcohol to the public;
- rehabilitating victims of alcohol abuse and providing extensive welfare programmes to meet the needs of both alcohol abusers and the victims of alcohol related to domestic violence, rape, assault and other crimes;
- addressing the alcohol related effects on youth through interventions like job creation initiatives and the provision of recreational facilities in communities across the country;

- an integrated approach to alcohol related accidents on public roads and an approach to ensure that advertising highlights the potentially harmful effects of alcohol;
- ensuring the availability of adequate funding to address these issues either through budget allocations or levies on the sale of alcohol; and
- reducing the marketing and advertising of alcohol and increasing the warning and health messages on all alcohol products and adverts.

7. DEVELOPING A LIQUOR POLICY IN THE CONTEXT OF THE GEGDS

The Provincial Outcomes (referred to as 5+2+1) reflected in the Gauteng Medium Term Strategic Framework (MTSF) (2009 -2014) are as follows:

Outcome 1:

- Quality Basic Education

Outcome 2:

- A long and Healthy Life for all South Africans

Outcome 3:

- All People in South Africa are and Feel Safe

Outcome 4:

- Decent Employment through Inclusive Economic Growth

Outcome 5:

- Vibrant, equitable & sustainable rural communities contributing towards food security for all

Outcome 6:

- Sustainable human settlements & improved quality of household life

Outcome 7:

- Responsive, accountable, efficient & effective local government

Outcome 12A&B:

- An efficient, effective and development oriented Public Service and Empowered, fair and inclusive citizenship. Whilst recognising its critical role as a lead department against outcome 4 above: *Decent Employment through Inclusive Economic Growth*, the Department of Economic Development (DED) equally considers its role in support of the other provincial outcomes. It is clear that the Gauteng Medium Term Strategic Framework places an emphasis on the large-scale creation of decent work opportunities at the centre of its socio-economic agenda, so as to deal with the triple challenge of unemployment, inequality and poverty.

The Gauteng Employment Growth and Development Strategy (GEGDS) is the key strategy developed and being implemented by DED and its strategic partners to create an *inclusive and sustainable Gauteng City-Region that promotes a developmental state and an equitable society*. The five strategic pillars to ensure effective implementation of the GEGDS have been designed to ensure convergence between the economic and social strategies of government and promote a developmental state. The pillars combine a series of economic, social and environmental factors to ensure cohesion between sustainable economic development, poverty alleviation and social protection, thereby ensuring synergy

and promoting a developmental state through cooperative governance. The drivers or government interventions play a critical role in steering the GEGDS in the desired direction.

The core functions of the provincial state with respect to economic development are:

- To ensure appropriate education, health and housing, which are primary competencies for the province;
- To identify key provincial infrastructure needs and mobilize local government, national departments and State-Owned Enterprises to meet them;
- To ensure efficient and effective regulation where it falls within the provincial scope, mostly around licensing certain activities (gambling, liquor, and others) and managing environmental impact assessments, in addition to supporting cost-effective regulation by both local and national agencies within the province;
- To identify opportunities for new economic activities that will support more inclusive growth and especially employment creation, while mobilising both public and private stakeholders to take advantage of them; and
- Develop sectoral strategies through a series of financial and regulatory tools to assist in supporting initiatives that have a macro or micro impact on the economy.

In order to develop a provincial policy response to the challenges faced by the liquor industry in Gauteng, international and local policy directions must be gauged in the context of the GEGDS to arrive at credible and defensible policy interventions. For this purpose the following Strategic Pillars and Drivers need to be accounted for:

GEGDS Pillars and Drivers

Pillars	Drivers	Liquor industry relevance
1 Transforming the Provincial Economy through Improved Efficiency	Industrial and Sector Development Ease and Cost of Doing Business Transport and Logistics Information, Communication and Technology	Increasing number of competing sectors Regulatory challenges Backlog of applications for licences No consistent information source or database
2 Sustainable Employment Creation	Preventing Job Losses in Distressed Sectors Direct Employment Creation: Youth Employability Initiative Labour Absorbing Sector Employment	Oppressive liquor regulations Employment creation – manufacturing and distribution
3 Economic Ownership and Equity	Community-led local economic development Support to SMMEs and Formal Businesses Support to Cooperatives and Informal Businesses Strategic Procurement Broad Based Black Economic Empowerment	Entry barriers Broader ownership Sustainable transformation of the industry
4 Investing in People	Skills development and Capacity Building Access to Healthcare Quality Basic Education	Alcohol abuse and related medical and social consequences
5 Sustainable community and social cohesion	Spatial Planning Safe Communities	Non compliance of liquor traders with municipal town planning schemes Proximity of licensed premises to public facilities Pro-active spatial planning to identify appropriate sites for liquor sales Enforcement of the provisions of the Gauteng Liquor Act Harmful social consequences of alcohol consumption

GEGDS Strategies relevant to the development of the liquor industry

Addressing the various challenges posed by regulating the liquor industry within the Gauteng Province should be contextualised in relation to the following strategies identified by the GEGDS that relates to the five pillars. These include:

- **Gauteng Spatial Development Framework (GSDF)**

The GSDF is a City-Region wide framework that attempts to create a manageable and sustainable Gauteng conurbation across a very long time horizon. This is done by ensuring that urbanization takes place in an appropriate manner, taking into account the various constraints faced by communities and administrative regions, as well as the peculiar advantages and disadvantages of each area. Productive investments by the public sector must be concentrated in the cities as the latter are the drivers for growth and job creation. Because the GSDF should be considered in all areas of policy and strategy development across the province, it is critical to be viewed as a cross-cutting measure.

- **Local Economic Development Strategy**

The LED strategy aims to increase the number of local economies that benefit significantly from sound LED. It proposes six broad programmes: promoting sound LED strategies, strengthening information supply, strengthening the capacity of LED stakeholders, strengthening multi-stakeholder LED systems, monitoring and evaluation, and providing change management support. These programmes are also to be related to the liquor industry with specific reference to ease access to opportunities.

- **Gauteng Industrial Policy**

The Gauteng Industrial Policy sets out strategic goals aimed at forging a new industrial growth path that will deepen and diversify Gauteng's industrial base, in order to increase value added activities and employment. It is a policy that is focused on structural transformation of the Gauteng economy.

It proposes that an optimal growth path for the province will be to focus on medium-technology, high labour-absorbing industries. This will address many of the structural challenges faced by Gauteng, while strengthening and institutionalizing various longer-term strategic industries. There is therefore a balance between short- and medium-term industrial requirements, and longer term acknowledgement of the move towards a knowledge-based economy.

- **Social Development Strategy**

The Social Development Strategy supports sustainable development that aims to uplift our common humanity, reduce poverty and contribute to a more secure, equitable and prosperous province the people of Gauteng. Promoting social development and social cohesion is a constitutional imperative of the South African government. This strategy provides a framework for sustainable social development that places children, youth, women, people with disabilities and the elderly at the centre of its development efforts, through promoting a caring society, offering social protection and investing in human and social development.

- **SMME Intervention Strategy**

The aim of the SMME strategy is to promote the development and transformation of the provincial economy by promoting the SMME sector, ensuring SMMEs located in the province are better able to contribute to and benefit from sustained economic growth by becoming more competitive, profitable, and able to create more and better employment opportunities.

This is done through five types of interventions – firstly, a mechanism for national, provincial, district and local actors from the public, private and community sectors to work in a collaborative and coordinated manner. Secondly, the provision of SMME development services that respond to the demands of the SMME sector and are offered in a sustainable, business-like and equitable manner. Thirdly, a provincial business environment, which is open, competitive and conducive to SMME development. Fourthly, processes that lead to

innovation and the transfer of technology within the provincial SMME sector. Lastly, a mechanism for monitoring the dynamics of the provincial SMME sector.

- **BBBEE Strategy**

The BBBEE Strategy was designed to be the one of the province's mechanism to achieve sustainable and inclusive economy development, social stability and labour absorbing economic growth. The strategy is based upon seven core elements: equity ownership, management control, employment equity, skills development, preferential procurement, enterprise development and socio-economic development.

- **Co-operatives Strategy**

The Gauteng Provincial Government recognizes co-operatives as a driver for inclusive economic growth, a means to combat the high levels of unemployment in the province and more importantly an instrument to eliminate the culture of dependency by communities on the government. Co-operative development is consequently a key aspect of the provincial strategy to mobilise and empower the marginalized and impoverished members of local communities. The draft Gauteng Integrated Cooperatives Strategy is expected to accelerate and support these functions.

- **GDE Strategic Plan**

The core of the strategic priorities of the department is to deliver quality education in the classroom, everyday. This is based on four strategic thrusts. Firstly, ensuring that Gauteng has effective schools and learning institutions. Secondly, ensuring that GDE head office and district offices provide relevant, coordinated and effective support. Thirdly, enabling young people to make the transition from school to further education and/or work that provides further training opportunities. Lastly, the strengthen GDE's partnerships with all stakeholders, resulting in education become a societal priority.

- **Creative Economy Strategy**

The Creative Economy Strategy aims at achieving three broad outcomes. Firstly, to develop creative industries to maximize their contribution to the economy, community development and urban regeneration. Secondly, to provide a co-ordinating framework for investment and implementation in the province. Thirdly, to explicitly align creative industry activities with the GEGDS.

- **Preferential Procurement Policy Framework Agreement**

The Preferential Procurement Policy Framework – agreed to by government, yet the strategy has not been finalised.

- **Social Crime Prevention Conceptual Framework**

The purpose of the Social Crime Prevention Conceptual Framework is to firstly to provide an integrated framework for the implementation and delivery of social crime prevention by Provincial and Local Government in Gauteng. Secondly, it provides strategic direction for social crime prevention based on research, practice and principle. Lastly, it provides guidelines on the processes and structures for social crime prevention delivery by service providers.

8. GAUTENG LIQUOR POLICY INTERVENTIONS

Taking cognisance of the economic and social impact of apartheid policies on the liquor industry, ineffective regulation as well as the social and economic harm caused by the consumption of alcohol, the GPG has decided to review its current policy objectives on liquor.

The Gauteng Provincial Government (GPG) intends to focus its interventions on reducing the harmful

effects of alcohol consumption and align its liquor regulatory framework with the MTSF and GEGDS.

In this regard, the GPG seeks to meet the following **policy objectives**:

- to facilitate responsible attitudes towards the production, distribution, promotion, marketing, advertising, sale and consumption of liquor;
- to ensure that appropriate measures are in place to reduce harm caused by alcohol consumption; and
- to address the legacy of apartheid by facilitating entry and empowerment of new entrants into the liquor industry, particularly persons from previously disadvantaged backgrounds.

In order to give effect to these policy objectives the GPG will:

- ensure effective regulation of the production, distribution, promotion, selling and consumption of liquor by:
 - providing for a licensing system that is effective and fair;
 - providing adequate deterrents to discourage the sale and consumption of liquor outside the ambit of the law;
 - improving the monitoring and enforcement of liquor laws;
 - implementing measures that will reduce the economic and social costs of alcohol consumption in the Province;
 - promote socially responsible attitudes towards the production, distribution, sale and consumption of liquor by:
 - garnering support from stakeholders to influence and adopt positive and responsible attitudes to liquor; and
 - implementing education and advocacy programmes targeting vulnerable groups in order to reduce the harm caused by alcohol consumption.

GAUTENG SPECIFIC POLICY INTERVENTIONS

8.1 POLITICAL LEADERSHIP

Political leadership has been demonstrated to effectively regulate the liquor trade in an integrated manner. The actions needed to lessen the impact of alcohol abuse require continued and strong-minded efforts by all appropriate partners. Alcohol policies or strategies should facilitate the dissection of responsibilities of the different stakeholders to be involved at different levels.

In order to ensure that there is an effective regulation of the industry including measures to reduce the impact of harm caused by the consumption of liquor, the Gauteng Provincial Government intends to adopt an **integrated approach** by establishing an appropriate forum or forums of various departments, including health, social development, transport, community safety, housing, education, development planning and local government. These measures would include initiatives to curb drinking and driving, implementing pro-active and preventative public health measures, regulating promotion and marketing, promotion of community participation, proficient enforcement of legislation and stressing the role of local government in the application for licensing and compliance with municipal by-laws.

8.2 PUBLIC AWARENESS

The appropriate emphasis on public awareness and support will help to secure the indispensable continuity and sustainability of liquor policies

- In order to ensure appropriate communication between the various stakeholders within the liquor industry and liquor regulating context,

the development of an appropriate Marketing and Communication Strategy for the Gauteng Liquor Authority (GLA) will be required. Such a strategy will contextualise the environment in which the GLA will be operating, identifying stakeholders and their role when interacting with the GLA, choosing appropriate media to convey the message, fine-tuning the GPG message and assigning responsibilities to drive all of these activities.

- Determine feasibility of point of sale awareness and helpline;
- Public Awareness Education on responsible alcohol use; and
- Long-term programmes will be introduced at primary, secondary and tertiary institutions level which endeavours to facilitate:
 - increasing parental and community support;
 - incorporating peer-led and life skills training;
 - Incorporating resistance training within a culturally relevant context; and
 - Citizen rights and participation in the monitoring and regulation of alcohol trade.

8.3 REGULATORY PARADIGM

8.3.1 Principle-led consideration of liquor licences

In order to facilitate an integrated approach a new regulatory paradigm will have to initiate principle-led responses to liquor related decision making.

Decision-making will have to consider broad spatial planning principles that endeavour to:

- transform the socio-economic pattern of our townships which reflect the racial separation of the past;

- dismantle apartheid era layouts;
- reorganize spatial patterns;
- enable social and economic opportunities; and
- enable community stability.

Within the broad context of the above-mentioned spatial planning principles the need and desirability of a proposed liquor license should be considered in relation to:

- limiting of land uses in residential areas that negatively impacts on the amenity and character of an area;
- the agglomeration of potentially disturbing land uses;
- the development of buffers around residential areas to minimise the effect of potentially disturbing land uses; and
- the advancement of public participation.

Specific consideration should be given to potential influence of:

- Noise generation;
- Impact on the privacy of surrounding owners;
- Provision of parking and traffic impact pertaining to deliveries;
- Safety issues as per the National Building Regulations; and
- Health Regulations.

8.3.2 Simplified procedures

The ease of doing business in Gauteng must be optimised by simplified procedures relating to the regulation of the liquor trade.

The GPG intends to:

- ensure that the procedures comply with the principles of just administrative action;
- simplify the application process for each of the

applications required in the Gauteng Liquor Act; and

- ensure that application forms and procedures are user-friendly and in the language spoken by the user.

In order to address procedural issues specific attention will be awarded to:

- how long a liquor licence application takes in the province, and what can be done to speed up the process;
- what the exact requirements are for each licence type;
- what the process is for each licence;
- what information one must have ready before submitting the application; and
- what requirements one must fulfil to secure the licence.

In relation to decision-making procedures the following is proposed to speed up decision-making and address backlogs:

- unopposed applications be streamlined and made the responsibility of the Local Committees;
- reduce the members required for a board sitting in order to facilitate more board sittings and improve turn-around times of applications;
- prescribe that the Board shall additional to other expertise currently prescribe in the act also include town planning expertise represented by the relevant local municipality; and
- ensure community participation by use of appropriate language, advertising of applications and opportunity for communities to participate.

8.4 NEW LICENSING PARADIGM

The GPG has, in line with national liquor policy and law, adopted a comprehensive licensing system. The licensing system includes applications for licences, licence fees, monitoring and compliance with licensing laws and sanctions for non-compliance.

The current Gauteng Liquor Act determines the kinds of licences that may be granted. These fall into two broad categories, namely licences for consumption on the licensed premises and for consumption off the licensed premises. The law also provided for permits to be granted including, occasional, catering and shebeen permits.

Unlike with liquor licences, a shebeen permit applications need not comply with the application procedures stipulated in the Gauteng Liquor Act and shebeen permit holders are subject to minimal, if any, conditions.

- As such – the requirements for licence applications in section 23 of the Gauteng Liquor Act were not applied to applications for shebeen permits;
- shebeen permits were issued without pre-inspections;
- applicants were not required to submit proof of proper zoning;
- as a result of the proliferation of shebeen permits issued, the current inspectorate does not have sufficient capacity to regulate shebeens in so far as shebeens fail to comply with the Gauteng Liquor Act; and
- shebeen permits were not restricted by section 30(3) of the Gauteng Liquor Act with the result that some shebeens are situated within a

radius of five hundred (500) metres from places of worship, educational institutions, similar licensed premises or public transport facilities - in many cases shebeen permits are attached to family dwellings.

The GPG now intends to streamline the licensing framework to include:

- licences for the micro manufacturing of liquor including traditional African beer (both industry brew and home brew);
- on-consumption licences;
- off-consumption licences;
- special event permits; and
- Regulate parameters for safer places.

The GPG also intends to formally integrate shebeens into the formal liquor licensing regime to ensure that they comply with the provincial liquor legislation and facilitate their effective participation in the formal economy.

8.5 COMMUNITY PARTICIPATION

The community needs to be capacitated in order to participate in liquor related processes, specifically where it impacts on community life.

Ordinary citizens do not understand their rights in relation monitoring and do not have information about the mechanisms available for complaints and regulation. The Gauteng Liquor Act provides a process for applying for licences, which includes public notification and objection in the licence application process. However, there are concerns that the current application process is cumbersome and that application forms are not user-friendly.

Furthermore, although an applicant for a liquor licence is required to publish a notice in the provincial gazette, there are concerns that the public may still be excluded from the process because

they would not have access to the notices – often finding out only once the licence has been granted. Notices must be in the language of the community, be advertised in the electronic media and be large enough for communities to notice.

The lack of an appeal tribunal further limits the opportunity for community participation after a decision by the Board without having to pursue the matter in court.

In an attempt to normalise the liquor trade in relation to land use management and the optimisation of public participation it is proposed liquor licences only be granted on appropriately zoned property (existing business zoned sites and within formal nodes as per the adopted municipal spatial development framework). In this context a rezoning will be necessary to obtain the required land use rights if does not exist. A rezoning application requires more comprehensive public participation and affords both the applicant and objectors the opportunity to appeal in terms of an appeal procedure. Accordingly, a wider audience will be able to participate in the change of land use rights specifically for liquor trade that may impact on the character and amenity of an area. The involvement of Ward Committees and community organisations in this regard is encouraged.

Furthermore, the drafting of a stakeholder management plan for the liquor industry to be reviewed annually to ensure community involvement and the involvement of other stakeholders in the liquor industry on liquor licensing activities and compliance with liquor laws.

8.6 COMPLIANCE WITH LAND USE MANAGEMENT REQUIREMENTS

Sites where liquor licenses are issued must comply with relevant zoning in terms of the Municipal Town Planning Scheme.

The majority of municipal town planning schemes do not make provision for the liquor trade as a primary activity and most schemes allow this activity as a consent use. In order to apply a uniform approach, it is recommended that municipalities make provision for liquor shops, taverns, bottle stores and bars/pubs to operate as a primary use in areas zoned for business purposes.

Shebeens are to formalise their businesses in the short term to either establish the appropriate land use rights in cases where such operations are suitably located (formal node in relation to the adopted Municipal Spatial Development Framework) or to relocate such a business to an existing Business zoned site or formal node in relation to the adopted Municipal Spatial Development Framework.

The Municipal Spatial Development Frameworks to address the need for such relocations by way of identification of appropriate sites. If a municipality has developed a municipal liquor policy that guides land use applications pertaining to the liquor trade, such documents should be aligned with the Municipal Spatial Development Framework for the area.

8.6.1 Nodal structure / license types according to spatial hierarchy

The issue of outlet density is critical in terms of minimising alcohol-related harm in the community.

The current Gauteng Liquor Act provides that the Board may not grant a licence where the premises to be licensed are situated within a radius of 500 metres of a place of worship, educational institution, similar licensed premises, public transport facility or such further distance as the Board may determine or as may be prescribed from time to time.

There are many licensed premises which are located within a 500 metre radius of places of worship,

education institutions, similar licensed premises or public transport facilities, in contravention of the Gauteng Liquor Act. Many of these licensed premises include shebeens which are generally located in residential areas and premises licensed in terms of the Liquor Act, 1989.

The main concern of having licensed premises within the vicinity of religious and educational institutions is that activities undertaken at these premises such as noise and entertainment interfere with the activities of these institutions. The proximity of licensed premises to educational institutions allows easy access to persons under the age of 18 years to liquor. Furthermore, patrons at these premises with criminal dispositions victimise learners and educators once intoxicated.

While the intention of the 500 metres radius is justified, the implementation of such a restriction is far from practical, particularly in mixed development areas. The proposed radius intends to limit the negative impact of liquor trade in relation to core community amenities. All residential areas do however require the same protection from the negative impacts of liquor trade in principle, not only selected areas around community facilities. While in the interim it is proposed that the 500m protective radii around community facilities be applied even more rigorously, the fact that entire residential areas need to be buffered from the negative impact of liquor trade should be emphasized.

In order to address liquor outlet density the GPG intends to relate the dispersion of liquor licences to the nodal development hierarchy of the relevant local municipality.

Nodes range from a regional node or metropolitan node (Joburg CBD) down to a neighbourhood node (local neighbourhood shops). Nodes are naturally spread in a hierarchical structure according to area of impact and intensity and complexity of goods and services provided. By locating liquor outlets in nodes as the preferred location, it will:

- Lower outlet densities;
- Facilitate the natural agglomeration of specific goods and services within preferred sites with appropriate land use rights;
- Disperse liquor outlets evenly as per the municipal nodal structure; and
- Limit the negative impact of liquor trade on residential areas.

8.6.2 Shebeens and non-compliance with town-planning schemes

The Department intends to phase out the shebeen permit system in Gauteng and to integrate shebeens into the formal licensing regime.

The primary objective of the Department is to integrate the shebeen industry in Gauteng into the liquor licensing regulatory framework. In exploring the manner and processes to best achieve this, it has become evident that in order to bring shebeens into the mainstream regulatory environment the Department will need to implement transitional measures in the short-term.

It has also become apparent that the regulation of shebeens will require the co-operation of provincial liquor licensing authorities, other relevant provincial departments as well as local town planning and land use authorities.

It is proposed that a strategy is put in place to deal with the land use issues, allowing conditional licence holders, with the approval of the municipality and the Liquor Board, the opportunity to apply for the correct land use dispensation, with the possibility of extensions if they can demonstrate sufficient progress. It must be noted that no conditional liquor licence will be issued to premises not located within the formal nodes of the relevant Municipal Spatial

Development Framework unless the premises already meet the correct land use provisions as confirmed by the relevant municipality.

A moratorium has already been imposed by the Gauteng Department of Economic Development on the issuing of any further shebeen permits by the Gauteng Liquor Board pending the finalisation of the policy and the amendment to the Gauteng Liquor Act.

8.6.3 Introducing criteria for renewal of licenses

The GPG considers the renewal of licences to be an important tool to monitor compliance with the Gauteng Liquor Act and it should not occur automatically upon a payment of the prescribed renewal fee.

The Gauteng Liquor Act does not give the Board discretion regarding the renewal of licences. The Gauteng Liquor Act provides that a licence will be renewed simply upon payment of the prescribed renewal fee.

As a result, the GPG intends to review application procedures:

- to ensure that the procedures comply with the principles of just administrative action;
- to simplify the application process for each of the applications required in the Gauteng Liquor Act; and to ensure that application forms are user-friendly; and
- Licenses to be renewed at an appropriate interval with the community being awarded an opportunity to participate.

The GPG intends to provide the Board with discretionary powers to grant or refuse the renewal of a licence. Furthermore, the inspectorate may make submissions on applications for the renewal of a licence. The GPG recognises that the renewal process must still remain efficient and easy.

8.7 STRUCTURES RESPONSIBLE FOR REGULATION

In performing its functions in terms of the province's liquor laws, the Board will strive to ensure that the issuing of liquor licenses and the monitoring and enforcement of liquor laws promotes responsible liquor trade and consumption. The GPG will assist the Board to achieve this objective by ensuring that it is properly resourced and capacitated.

A Gauteng Liquor Authority (GLA) (or Gauteng Liquor Board in its current form) performing a provincial regulatory function must:

- Ensure good governance of the liquor industry through effective implementation of the regulations;
- Ensure improved compliance through enhanced enforcement of regulations;
- Ensure self-sufficiency through increased revenue collection and prudent financial management;
- Ensure a customer relationship management that results in empowered communities and satisfied customers;
- Ensure effective internal processes to enhance business efficacy; and
- Promote black business entities to enhance economic growth.

8.7.1 Defining the core business of a Gauteng Liquor Authority

Regulation of liquor industry

- Produce and review regulations;
- Implement regulations as per licensing prescript;
- Revoking and or temporary closure of licenses;
- Ensure transformation of the industry;

- Regulations on liquor consumption; and
- Issuing of licenses (including the lodgement, verification and approval thereof).

Enforcement of regulations

- Oversee and ensure enforcement of regulations;
- Management of complaints and queries; and
- Monitoring and impact assessment regarding enforcement.

Sustenance of regulatory authority

- Management of revenue collection; and
- Overseeing good governance.

Customer relationship management

- Establishment and management of call centre to enhance customer management;
- Education and creating public awareness; and
- Secretariat support and advisory services.

8.7.2 Design principles

The following design principles should be considered in the development of the macro organisational structure in support of the GLA:

- The organisation design must take cognisance of the strategic intent/agenda of GLA and must enable GLA to execute its mandate;
- The organisation design should give priority consideration to core business and the core business should determine the structure and role of support services;
- The organisation design should give priority consideration to core business and the core business should determine the structure and role of support services;
- The design must be realistic and affordable;
- The organisation design should ensure no duplication or overlap of functions or responsibility;

- The structure should be based on the most efficient and effective use of available resources;
- Existing arrangements should not determine design options of the future organisation structure;
- The organisation design should free up resources for delivering a service;
- The management structure should be determined by the corporate management needs; and
- The design should reflect the shifts in culture and practice.

The GLA or statutory board established in terms of relevant legislation must be enabled to:

- consider licence applications, after receiving recommendations from the local committees of the Board;
- grant or refuse such application;
- after granting a licence, suspend or rescind suspension of a licence or any right or privilege attached to such licence;
- declare a licence to be subject to certain conditions;
- establish a fund to address negative social effects of liquor consumption in the Province; and
- charge licence fees.

The GPG intends to review the current fee structure in order to ensure that fees charged are appropriate to enable the GLA to operate as a sustainable and efficient liquor regulating structure in the province.

8.8 EMPOWERMENT OF SMME'S AND REGULARIZATION OF MONOPOLISTIC CONDITIONS IN MARKET

The GPG intends to facilitate entry and empowerment in the liquor industry in order to:

- Ensure the sustainability of the liquor industry in the Province; and
- Promote and support broad-based black economic empowerment in the liquor industry in the province. In this regard the GPG intends to introduce compliance with B-BBEE as a measure when determining whether or not to grant a licence. Such measures could include but are not limited to whether an application will materially restrict or promote:
 - new entrants to the liquor industry;
 - job creation within the industry;
 - diversity of ownership;
 - efficiency of operation within the industry;
 - exports; and
 - competition.

8.9 CORPORATE RESPONSIBILITY

8.9.1 Addressing marketing of alcoholic beverages

Young people who have chosen to drink alcoholic beverages and who drink regularly are an important market segment for alcohol producers. It is very difficult to target young adult consumers without exposing cohorts of adolescents under the legal

age to the same marketing practices. Controls or partial bans on volume, placement and content of alcohol advertising are important parts of a strategy, and research results underline the need for such controls or bans, in particular to protect adolescents and young people from pressure to start drinking. Marketing practices that appeal to children and adolescents should be seen as particular policy concerns.

The following potential policy options and interventions relating to marketing restrictions should be considered:

- Regulating the content and volume of marketing;
- Regulating direct and indirect marketing in certain or all media;
- Regulating sponsorship;
- Restricting or banning promotions in connection with activities that target young people; and
- Regulating new forms of alcohol marketing techniques (e.g., social media) (WHO 2010).

8.9.2 Providing obligatory training of licence holders and their employees

While the Gauteng Liquor Act prohibits the selling of liquor to intoxicated persons, the GPG intends also require licensees to display notices on the licensed premises specifying inter alia that:

- the consumption of alcohol causes harm to pregnant woman and the unborn foetus;
- liquor may not be sold to persons under the age of 18;
- liquor may not be sold to intoxicated persons;
- to require licensees to verify the age of persons who appear to be younger than 21 years to ensure that it does not sell liquor to persons under the age of 18 years; and
- to ensure that under 18's do not enter the premises.

8.10 INSTITUTING RESTRICTIVE TRADING HOURS AND DAYS OF SALE

In addition to the integration of shebeens into the formal licensing regime, GPG will also review the opening of liquor outlets on Sundays and the operating hours of liquor outlets across the Province. Initiatives relating to the limiting of trading hours will require increased community involvement in monitoring, licensing and regulation of liquor outlets. To protect residential areas from negative impacts, it is proposed that the hours of sale of liquor in residential areas be restricted from 14:00 to 22:00.

8.11 LEGISLATIVE FRAMEWORK

The current liquor laws will be assessed whether they are in line with the policy interventions. To the extent that these laws are not aligned to these policy objectives, the Province will provide for the amendment or repeal of these laws and introduce new laws that give effect to these policy objectives.

8.12 MONITORING OF POLICY IMPLEMENTATION

8.12.1 Enforcement

The GPG will improve the monitoring of operations of licensees to ensure that licensed premises are not erected within the prohibited radius after licences have been granted and to impose severe penalties where licensees act in contravention of such restrictions, including the withdrawal of licences impose severe penalties where licensees act in contravention of such restrictions, including the withdrawal of licences and the imposition of a fine that is deemed to be of real cost to the licensee. The Gauteng Liquor Act provides for monitoring of compliance with the liquor laws, enforcement and sanctions for contraventions thereof and judicial proceedings by the Board. The Gauteng Liquor

Act creates a liquor inspectorate with inspectors appointed by the MEC to perform that monitoring and enforcement role.

It has become apparent since the inception of the Gauteng Liquor Act that the liquor inspectorate does not have sufficient resources to effectively perform its functions.

- An increase in the number of inspectors for the province is urgently needed. It is also recommended that community liquor monitors positions be created so that they can extend the reach of the inspectors;
- It is also recommended that the role of the designated liquor office, the inspector and the additional still-to-be created community liquor monitor be clearly described and separated from each other such that they support each other; and
- Ordinary citizens do not understand their rights in relation monitoring and do not have information about the mechanisms available for complaints and regulation.

The effective functioning of the inspectorate is further hampered by the lack of clarity on the demarcation of roles between structures responsible for enforcing administrative contraventions of the Gauteng Liquor Act and contraventions of a criminal nature.

The GPG will:

- endeavour to provide the inspectorate with sufficient resources to enable it to effectively perform its monitoring functions;
- clarify roles of enforcement structures including the South African Police Services and to foster co-operation between the SAPS and the inspectorate;

- The Board must deal effectively with complaints from the public against licensees; and
- Enable the public to engage in relation to monitoring, the submission of complaints and relevant regulation.

8.12.2 Collation of all information

There has been no consistent information source or database maintained on the operations of the provincial liquor industry which poses challenges for the regulatory authority identifying areas that require intervention and the nature of that intervention.

It is recommended that a database or information system be created and centralised so that this information is available to the different role players responsible for oversight.

The GPG intends to ensure that the Board maintains a database of all persons who have been registered under this Act or applicable provincial legislation. The register must also include all persons whose registration has been transferred, altered or cancelled. The database must include licensed premises and other information that enables the Board to effectively regulate the industry.

9. WAY FORWARD

- Comprehensively engage with various stakeholders to secure input and support for the Draft Gauteng Liquor Policy; and
- Determine to what extent the policy will impact on the revision of existing legislation and determine whether an amendment or repeal of existing legislation will be required.

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