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Summary of the Draft Liquor Amendment Bill, 2016[1]

The **Draft Liquor Amendment Bill, 2016**, was published as a Government Notice by the Department of Trade and Industry. The purpose of its publication is to invite **public comments** on the proposed amendments. Interested persons were given thirty (30) days from the publication date of September 30, 2016, to submit written comments.

The Bill proposes several key amendments to the Liquor Act, 2003, with a general explanatory note indicating that words in bold type in square brackets signify omissions from existing enactments, and words underlined with a solid line indicate insertions.

Here are the main provisions and changes outlined in the Draft Liquor Amendment Bill:

- **Amendments to Definitions**: The Bill seeks to amend certain definitions within the principal Act, including the insertion of a definition for 'place of worship'.
- **Restriction of Liquor Advertising**: The Bill proposes to restrict the advertising of liquor or methylated spirits. Advertisements must not be false or misleading, misrepresent the age of participants, or be intended to target or attract persons under 21. Advertisement content should also not appeal to persons under 21. Public platform advertising is prohibited in certain forms, including billboards less than 100 meters from junctions, street corners, or traffic circles, distribution of pamphlets with liquor advertisements, and radio/television airing beyond prescribed time slots. All liquor advertisements must also reflect the harmful effects of liquor abuse. The Minister may prescribe further restrictions.
- **Prohibition of Supply to Persons Under 21**: A significant amendment is the **prohibition of selling or supplying liquor or methylated spirits to persons under the age of twenty-one (21)**. This raises the age from "minor" to 21. Exceptions include a parent, adult guardian, or person administering a religious sacrament supplying a moderate quantity to a person under 21 in their presence and under supervision. Measures must be taken to accurately determine age, and false age claims by or for persons under 21 are prohibited.
- **Trading Days and Hours**: The Bill aims to provide for trading days and hours for the distribution and manufacturing of liquor or methylated spirits.
- **Proximity Location and Trading Restrictions**: It introduces provisions for auxiliary conditions for granting liquor licenses and prohibits trading in liquor within certain radii. Specifically, no application for a license should be granted for areas not

[1] Source: Google NotebookLM

classified for liquor trading, premises attached to petrol service stations, or premises near public transport facilities. The manufacturing, distribution, or retail sale of liquor is prohibited on any location less than **five hundred (500) meters** away from schools, places of worship, recreational facilities, rehabilitation or treatment centres, residential areas, and public institutions. Existing registered applications in high-population density areas must comply with norms and standards approved by the National Liquor Policy Council and any conditions imposed by the National Liquor Regulator. Contravention of these conditions constitutes an offense punishable by penalty, suspension/revocation of registration, or both.

- **Repositioning of the National Liquor Authority as the Regulator**: A central theme of the amendments is the repositioning of the "Minister" (referring to the Minister of Trade and Industry) to the **National Liquor Regulator** for various functions related to liquor registration, application review, condition variation, cancellations, and maintaining registers.
    - **Establishment and Governance**: The **National Liquor Regulator** is established as an independent juristic person within the administration of the Department, having jurisdiction throughout the Republic and operating impartially and transparently. A Chief Executive Officer (CEO) is to be appointed by the Minister for a term not exceeding five years, with potential for re-appointment. The CEO is responsible for the Regulator's functions, income, expenditure, revenue, assets, liabilities, and implementation of the Act. Deputy CEOs may also be appointed.
    - **Functions of the National Liquor Regulator**: Its functions include promoting a fair, transparent, competitive, sustainable, responsible, and efficient liquor trade; monitoring the liquor trade; deciding on liquor license applications for manufacturing and distribution; ensuring registrant compliance with **Broad-Based Black Economic Empowerment (B-BBEE)** levels; suspending or cancelling registrations; establishing registries; managing a fund for victims of liquor abuse; formulating standardized procedures; consulting provincial boards for inter-provincial licenses; ensuring compliance with the Act; conducting education/awareness programs; and performing research.
- **Internal Review Mechanism**: The Minister may establish an **internal review process** within the National Liquor Regulator to handle administrative issues and objections against decisions made by the Minister, inspectors, or designated

inspectors. This process will be managed by a committee of no more than three members with relevant legal or dispute resolution experience. Persons whose rights are adversely affected can apply for review to this committee within thirty days. If unsatisfied with the internal review decision, a person may approach a court of competent jurisdiction.

- **New Offences and Liabilities**: The Bill introduces new offenses, including manufacturing, distributing, selling, supplying, or possessing counterfeit goods, liquor, or methylated spirits; distributing liquor to unlicensed persons; and engaging in "fronting practice" as defined by B-BBEE Act. Manufacturers or distributors who supply liquor to unlicensed retailers can be held **jointly and severally liable for any harm or unlawful conduct** caused, including death, injury, or property damage, regardless of negligence. The unlicensed retailer is also jointly and severally liable for harm. Both manufacturer/distributor and the unlicensed retailer can be guilty of an offence if the liquor is linked to them. Penalties for certain offenses include fines up to R1,000,000 and imprisonment for managers/supervisors.
- **Inspector Recognition and Functions**: The Bill provides for the recognition and functions of persons designated as inspectors, including members of the South African Police Service, Customs and Excise officers, traffic officers, and designated inspectors from various government departments.
- **Harmonisation of Liquor Laws**: The Bill proposes that national and provincial liquor laws be amended, consolidated, or repealed consistently with the Liquor Act as amended, after consultation with the National Liquor Policy Council.
- **Commencement:** The Act is called the Liquor Amendment Act, 2016, and will come into operation on a date fixed by the President by proclamation in the Gazette.