

Danie Cronje

ATTORNEYS



Date: 8 August 2017
Email: danie@daniecronje.com

Dear Sir/Madam,

REPRESENTATIONS ON LIQUOR PRODUCTS AMENDMENT BILL

Introduction:

I was the Director Liquor Law Services at Cluver Markotter Inc. a law firm in Stellenbosch from 2004.

The firm had been involved in obtaining liquor licences for and advising clients on liquor related matters for more than 40 years.

On 4 April 2016 the firm's Liquor Law Department was transferred to the specialist liquor law firm, Danie Cronje Attorneys.

We attend to liquor licence applications for and manage the liquor licence portfolios of major producing wholesalers and 2 well-known retail chains.

Our clients include a large number of leading wine estates and restaurant groups.

I have published articles on liquor law on wine.co.za, legalbrief.co.za, **Wineland** magazine and **Mail and Guardian**.

We currently advise **Vinpro (representing 3500 wine producers)** and the **SA Wine Routes Forum (representing 336 wine estates)** on liquor legislation.

We assist companies with applications required by liquor legislation as well as advice in respect thereof. We lodge applications under the **provincial liquor acts** of all provinces. We also attend to all applications required in terms of the **Liquor Act, 59 of 2003** relating to the manufacture and distribution of liquor.

We also monitor the implementation of **provincial liquor acts** as well as **municipal bylaws** on liquor trading hours.

I am currently the Chairman of the Cape Law Society's Specialist Committee on Liquor Law.

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Alcohol content of liquor products:

We submit that the proposed amendment to lower the alcohol content referred to in the definition of liquor products from 1% to 0.5% should be reconsidered.

Currently, a number of low alcohol beers, beer shandies and similar products with an alcohol content of between 0.5% and 0.9% are being sold in retail stores throughout South Africa.

As the Committee will be aware, these retail stores hold off-consumption liquor licenses issued by the various provincial liquor authorities which permit them to sell wine only.

Since the Liquor Products Act in its current form only defines products with an alcohol content of more than 1% as liquor products, the retail stores have been selling the abovementioned low alcohol products despite the fact that these are not wine.

The proposed amendment will mean that, since these products will now be considered liquor and the licence condition which only permits the sale of wine will prohibit the sale thereof, the products would have to be withdrawn from retail stores.

To the best of our knowledge, there is no data available which indicates that the sale of these low alcohol products contributes to the harms associated with the abuse of alcohol.

It is unlikely that, if representations are submitted that all the relevant provincial departments, they will amend their respective provincial Liquor Acts to accommodate the continued sale of these products.

If the proposed amendment is approved, the withdrawal of these products from retail stores will obviously impact on consumers who have become accustomed to purchasing these products in the convenience of retail stores.

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It will obviously also have an economic effect on these retail stores. One of the upmarket retail store chains sells products to the value of R4,8 million per year. The loss of this revenue obviously creates a risk of reduced employment in these stores.

In view of the above, the Committee is requested to reconsider the proposed amendment and retain the current definition.

Compulsory registrations of producers, blenders or fillers:

We wish to point out that neither the current Act, nor the Amendment Bill contains a definition of a "producer, blender or filler".

At this stage, it is unclear why such a registration is required for producers and blenders.

If one accepts that a producer is in fact a manufacturer or micro-manufacturer as defined in national and provincial legislation, no additional registration should be required.

We also submit that the persons involved in the blending of liquor products will also be the manufacturers or micro-manufacturers thereof as blending is part of the manufacturing process.

We assume that registration of a third party which provides a bottling or filling service to manufacturers or micro-manufacturers is proposed to hold said party responsible for possible contamination of products during the bottling/filling process.

We submit that, if a third party is involved (while the liquor product remains the property of the manufacturer and micro-manufacturer) it could be difficult to apportion responsibility for any consequences of problems arising during the bottling/filling process.

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At this stage, it is unclear what responsibility or duties will be placed on a filler who is not the owner of the product but merely rendering a service for which it is remunerated.

It is also unclear how legislation will deal with third-party service providers who merely provide equipment, for example, mobile bottling units which are commonly used in the wine industry. For example, if such a unit is brought to a wine estate for bottling of its product on the farm and the third party is remunerated for providing the equipment, who will be considered the filler of the particular liquor products?

It is submitted that without the proposed regulations relating to the proposed registration being available, role players are not adequately informed to comment on the authority being granted to the minister.

Regards,



DANIE CRONJE

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