

FIRST ASSEMBLY
(078)

SECOND SESSION
(213)



COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

FIRST ASSEMBLY - (SECOND SESSION)

VOTES AND PROCEEDINGS

TUESDAY, 9TH SEPTEMBER, 2014 AT 2.30 PM

1. The Assembly convened at thirty minutes past Two o'clock.
2. The proceedings were opened with prayer.
3. **PRESIDING** – the Deputy Speaker
4. **MOTION ON APPROVAL OF COMMITTEE REPORT ON CONSIDERATION OF THE KITUI COUNTY ALCOHOLIC DRINKS CONTROL BILL, 2014 (ASSEMBLY BILL**

NO. 4, 2014)

(Chairperson Committee on Administration and Coordination of County Affairs)

Motion made and question proposed;

THAT, Pursuant to the Provisions of the Interim Standing Order No. 130 (2) this house approves the report of the committee on Administration and Coordination of County Affairs on consideration of The Kitui County Alcoholic Drinks Control Bill, 2014 (Assembly Bill No. 4, 2014)

(Hon. Mwove kinyala)

Debate arising;

Question on the motion put and **agreed to**.

RESOLVED ACORDINGLY

THAT, Pursuant to the Provisions of the Interim Standing Order No. 130 (2) this house approves the report of the committee on Administration and Coordination of County Affairs

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on consideration of The Kitui County Alcoholic Drinks Control Bill, 2014 (Assembly Bill No. 4, 2014)

5. COMMITTEE OF THE WHOLE COUNTY ASSEMBLY

Order for committee read;

IN THE COMMITTEE

Acting Chairperson of the committee in the chair

THE KITUI COUNTY ALCOHOLIC DRINKS CONTROL BILL, 2014 (ASSEMBLY BILL NO. 4, 2014)

(Chairperson Committee on Administration and Coordination of County Affairs)

Clauses without amendments

CLAUSE 3- **agreed to**

CLAUSE 7 - **agreed to**

CLAUSE 9 - **agreed to**

CLAUSE 17 - **agreed to**

CLAUSE 22 - **agreed to**

CLAUSE 23 - **agreed to**

CLAUSE 24 - **agreed to**

CLAUSE 25 - **agreed to**

CLAUSE 26 - **agreed to**

CLAUSE 27 - **agreed to**

CLAUSE 28 - **agreed to**

CLAUSE 30 - **agreed to**

CLAUSE 32 - **agreed to**

CLAUSE 34 - **agreed to**

CLAUSE 35 - **agreed to**

CLAUSE 36 - **agreed to**

CLAUSE 37 - **agreed to**

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CLAUSE 39 - agreed to
CLAUSE 40 - agreed to
CLAUSE 41 - agreed to
CLAUSE 42 - agreed to
CLAUSE 43 - agreed to
CLAUSE 44 - agreed to
CLAUSE 45 - agreed to
CLAUSE 46 - agreed to
CLAUSE 47 - agreed to
CLAUSE 58 - agreed to
CLAUSE 60 - agreed to
CLAUSE 61 - agreed to
CLAUSE 62 - agreed to
CLAUSE 63 - agreed to
CLAUSE 64 - agreed to
CLAUSE 65 - agreed to
CLAUSE 66 - agreed to
CLAUSE 67 - agreed to

Clauses with Amendments

PART II – ADMINISTRATION

CLAUSE 4

THAT, amend Sub Clause 1 by substituting the phrase “**in every Sub County**” which is in between the words “established” and “alcoholic” thereof with the phrase “**in the County**”

Motion made, question proposed, put and agreed to.

CLAUSE 4– as amended agreed to

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CLAUSE 5

THAT, the word “**County**” be inserted between the words “the” and “Committee” in the first sentence of this Clause.

Motion made, question proposed, put and agreed to.

CLAUSE 5– as amended agreed to

CLAUSE 6

THAT,

- (i) Sub Clause 3(a) be amended by inserting the words “**of this Act**” immediately after the words “section 4”.
- (ii) paragraph (c) of Sub Clause 3 be deleted, hence renumber paragraph (d) as paragraph (c)

Motion made, question proposed, put and agreed to.

CLAUSE 6– as amended agreed to

PART III – LICENSING

CLAUSE 8

THAT,

- (i) Sub Clause (4d) be amended to read: **four residents of the Sub-County appointed by the executive member through a competitive process. One of whom shall be youth, one person living with disability and at least one woman.**
- (ii) Amend paragraph (4e) by replacing the words “9 (4d)” in the third sentence of the Sub Clause and replace thereof with the words **8 (4d)**.

Motion made, question proposed, put and agreed to.

CLAUSE 8– as amended agreed to

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CLAUSE 10

THAT,

- (i) The word “sub-paragraph” in Sub-Clause (c) between “Notwithstanding” and “(a)” be replaced thereof with the word “**Sub-Clause**”.
- (ii) The words “sub paragraph (5)” in the first sentence of Sub Clause (i) be replaced thereof with the words “**Sub-Clause (e)**”.

Motion made, question proposed, put and agreed to.

CLAUSE 10– as amended agreed to

CLAUSE 11

THAT, amend clause 11 as follows:

- (i) Insert the word **Ad-hoc** immediately before the sub heading “*sub-committees*”
- (ii) Sub clause (a) by inserting the words “**established under Clause 8 of this Act**” immediately after the words “sub county committee” in the first sentence of the Sub Clause.
- (iii) Sub clause (b) by inserting the word **Ad-hoc** immediately before the words “*sub-committees*” and further by replacing the words “sub-paragraph (1)” thereof with **sub clause (a)**.
- (iv) Sub clause (c) by inserting the word **Ad-hoc** immediately before the words “*sub-committees*”
- (v) Sub clause (d) by inserting the word **Ad-hoc** immediately before the words “*sub-committees*” and further by replacing the words “sub-paragraph (1)” thereof with **sub clause (a)**.

Motion made, question proposed, put and agreed to.

CLAUSE 11– as amended agreed to

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CLAUSE 12

THAT, amend clause 12 as follows:

- (i) Sub clause 1 by substituting the words “in the sub county” appearing between the words “committee and where”, in the fifth sentence of the Sub Clause thereof with the words “**established under clause 8 of this Act**”.
- (ii) Sub Clause 3(e) by deleting the words “**for necessary action**” immediately after the word “Division”.
- (iii) “sub clause 9” repeated, be renumbered as “**sub-clause 10**” and sequentially renumber;
Sub-clause 10 to 11,
Sub-clause 11 to 12,
Sub-clause 12 to 13,
Sub-clause 13 to 14,
Sub-clause 14 to 15,
Sub-clause 15 to 16, and
Sub-clause 16 to 17.
- (iv) renumbered sub clause 14 by substituting the word “local authority” appearing in the fourth sentence thereof with the word “**County**”

Motion made, question proposed, put and agreed to.

CLAUSE 12– as amended agreed to

CLAUSE 13

THAT, amend:

- (i) Sub-Clause 1 by substituting the words “Clause 10” thereof with the words “**Clause 12**”.

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- (ii) Sub-Clause 2 by substituting the words “Clause 10” thereof with the words “**Clause 12**”.
- (iii) Sub Clause 7 by inserting the words “**or the Kenya Gazette**” immediately after the last word “Gazette”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 13– as amended **agreed to**

CLAUSE 14

THAT, amend:

- (i) Sub-Clause 1 by substituting the words “section 10 and 11” thereof with the words “**clauses 12 and 13**” in lines 1,10 and 11 and further insert the words **Sub-County** immediately before the word “committee” in lines 5 and 7 of the sub clause.
- (ii) Sub-Clause 3 by substituting the words “section 10 and 11” thereof with the words “**clauses 12 and 13**”
- (iii) Sub Clause 6 by substituting the words section 15 thereof with the “**clause 15 (1a)**”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 14 – as amended **agreed to**

CLAUSE 15

THAT, amend:

- (i) Sub-clause 3 by substituting the words “sub-section 1” in the first sentence thereof with “**sub-clause 1 (c) above**”.
- (ii) paragraph 3(d), by substituting the words “twenty one” in between “of” and “to” in the last sentence thereof with the word “**Eighteen**”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 15– as amended **agreed to**

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CLAUSE 16

THAT, amend:

- (i) sub clause (1b) to read: **“has not stayed for at least 12 months after being convicted of an offence under this Act or of any offence of which the sentence is imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or”**
- (ii) Sub clause 1 (c) by replacing the word “Kenya” in be thereof with **“Kitui”**.
- (iii) Sub clause (2c) to read: **“the licensee has not stayed for at least 12 months after being convicted of an offence under this Act or of any offence of which the sentence is imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or”**

Motion made, question proposed, put and agreed to.

CLAUSE 16– as amended agreed to

CLAUSE 18

THAT, the words **“executive member”** in the last sentence of sub clause 1 be substituted thereof with the words **“review Committee”**

Motion made, question proposed, put and agreed to.

CLAUSE 18– as amended agreed to

CLAUSE 19

THAT, amend the clause by replacing the words “section 16” thereof with **clause 18**.

Motion made, question proposed, put and agreed to.

CLAUSE 19– as amended agreed to

CLAUSE 20

THAT, amend sub clauses 1 and 2 by replacing the words “section 16” thereof with **clause 18**.

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Motion made, question proposed, put and **agreed to**.

CLAUSE 20– as amended **agreed to**

CLAUSE 29

THAT, amend the margin note to read: “**Access by persons under the age of eighteen years**”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 29– as amended **agreed to**

CLAUSE 31

THAT, amend:

- (i) Sub-clause 1 by replacing the words “section 28” thereof with **clause 30**.
- (ii) Sub clause 7 by replacing the words “section 5” in the second sentence thereof with **Sub Clause 6**.

Motion made, question proposed, put and **agreed to**.

CLAUSE 31– as amended **agreed to**

PART IV – GENERAL REQUIREMENTS.

CLAUSE 33

THAT, amend:

- (i) The margin note to read: “**Supply to persons under the age of 18 years.**”
- (ii) sub clause 3 by substituting the words “young person” thereof with “**persons under the age of eighteen years**”

Motion made, question proposed, put and **agreed to**.

CLAUSE 33– as amended **agreed to**

PART V – SALE AND CONSUMPTION

CLAUSE 38

THAT, amend sub clause 5 by deleting it entirely from the bill.

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Motion made, question proposed, put and agreed to

CLAUSE 38 – as amended agreed to

PART VI- ADVERTISEMENT AND PROMOTION

CLAUSE 48

THAT, amend by inserting a new sub clause 3 to read: Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of-

- (a) protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks; and
- (b) Protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

Motion made, question proposed, put and agreed to.

CLAUSE 40 – as amended agreed to

CLAUSE 49

THAT, amend by inserting a new sub clause 3 to read: “Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks”

Motion made, question proposed, put and agreed to.

CLAUSE 49 – as amended agreed to

CLAUSE 50

THAT, insert a new sub clause 3 to read: “Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of

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alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks and also for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks”

Motion made, question proposed, put and **agreed to**.

CLAUSE 40 – as amended **agreed to**

PART VII – ENFORCEMENT.

CLAUSE 51

THAT, amend by inserting a new paragraph (c) in sub clause 3 to read: “And officers appointed under the weights and measures Act and the Anti-counterfeit Act.

Motion made, question proposed, put and **agreed to**.

CLAUSE 51 – as amended **agreed to**

CLAUSE 52

THAT, amend by substituting the words “Sub County” in the first sentence of this clause thereof with “County”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 52 – as amended **agreed to**

CLAUSE 53

THAT, amend:

- (i) Sub Clause 1 (a) to read: “co-ordinate the enforcement of this Act”.**

- (ii) By inserting a new sub clause 2 to read: **“Pursuant to Article 24(2) of the Constitution, the right to privacy set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business**

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practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act”

Motion made, question proposed, put and **agreed to.**

CLAUSE 53 – as amended **agreed to**

CLAUSE 54

THAT, amend sub clause 2 by replacing the words “section 50(2)” in the second sentence thereof with **clause 51(2)**.

Motion made, question proposed, put and **agreed to.**

CLAUSE 54 – as amended **agreed to**

CLAUSE 55

THAT, amend:

- (i) Sub clause 1 by replacing the words “section 52” in the second sentence thereof with **clause 54**.

(ii) By inserting a new sub clause 2 to read: **“Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of enforcement of this Act and for protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.**

Motion made, question proposed, put and **agreed to.**

CLAUSE 55 – as amended **agreed to**

CLAUSE 56

THAT, amend by inserting a new sub clause 2 to read: “**Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business**

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practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act”.

Motion made, question proposed, put and **agreed to**.

CLAUSE 55 – as amended **agreed to**

CLAUSE 57

THAT, amend by replacing the words “section 56” thereof with **clause 58** in the last line of the clause.

Motion made, question proposed, put and **agreed to**.

CLAUSE 57 – as amended **agreed to**

CLAUSE 59

THAT, amend by replacing the words “section 56” thereof with **clause 58** in the second line of the clause.

Motion made, question proposed, put and **agreed to**.

CLAUSE 59 – as amended **agreed to**

PART VIII – MISCELLANEOUS.

CLAUSE 68

THAT, amend sub clause 1 by substituting the words “**Sub county committee**” in the second sentence thereof with the words “**County Committee on alcoholic drinks control**”

Motion made, question proposed, put and **agreed to**.

Clause 70

THAT, renumber clause 70 to clause 69.

Motion made, question proposed, put and **agreed to.**

CLAUSE 70 – as amended **agreed to**

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SCHEDULES:

FIRST SCHEDULE - **agreed to.**

SECOND SCHEDULE - **agreed to.**

THIRD SCHEDULE - **agreed to.**

FORTH SCHEDULE - **agreed to.**

FIFTH SCHEDULE - **agreed to.**

SIX SCHEDULE 6- **agreed to.**

CLAUSE 2-INTERPRETATIONS:

THAT, amend in the interpretation clause;

- (i) **“Authorized Officer”**-insert the words **“of this Act”** immediately after the words “Section 50”.
- (ii) **“Enforcement Committee”**-amend to read: “means the County Alcoholic Drinks Control Committee”.
- (iii) **“Executive Member”**-delete all the words in brackets.
- (iv) **“Locality”**-remove the brackets.
- (v) **“Sub County Committee”**- be amended to read: means the sub county alcoholic drinks regulations committee appointed under clause 8 of this Act.

Motion made, question proposed, put and **agreed to.**

CLAUSE 2– as amended **agreed to**

LONG TITLE - agreed to.

CLAUSE 1 - agreed to

6. MOTION- (CHAIRPERSON COMMITTEE ON ADMINISTRATION AND COORDINATION OF COUNTY AFFAIRS)

THAT, the committee do report it's consideration of the Kitui County Alcoholic Drinks Control Bill, 2014 (Assembly Bill No. 4, 2014) and its approval thereof **with** amendments.

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Motion made, question proposed, put and agreed to.

Bill to be reported with amendments

ASSEMBLY RESUMES

REPORT OF THE COMMITTEES TO THE PLENARY

Hon. Deputy Speaker on the chair

(Chairperson the committee of whole County Assembly)

THAT, the committee of the whole county assembly has considered the Kitui County Alcoholic Drinks Control Bill, 2014 (Assembly Bill No. 4, 2014) and approved the same **with** amendments.

7. MOTION - (Chairperson Committee on Administration and Coordination of County Affairs)

THAT, the house do agree with the committee in the said report.

Motion made, question proposed, put and agreed to.

8. MOTION ON THE KITUI COUNTY ALCOHOLIC DRINKS CONTROL BILL, 2014 (ASSEMBLY BILL NO. 4, 2014) THIRD READING

(Chairperson Committee on Administration and Coordination of County Affairs)

THAT, The Kitui County Alcoholic Drinks Control Bill, 2014 (Assembly Bill No. 4, 2014), be **now** read a third Time

Motion made, question proposed, put and agreed to.

Bill read a third Time and **PASSED**

And the time being five O'clock, the Hon. Speaker adjourned the

9. **ASSEMBLY ROSE-** at Five o'clock

MEMORANDUM

*The Honourable Speaker will take the chair on
the Wednesday, 10th September, 2014 at 9.00 am*