

# Cup liquor bill's validity doubted

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THE GOVERNMENT faces being hauled before the courts if it adopts draconian legislation aimed at controlling the sale and distribution of liquor during the World Cup.

Establishments showing matches will have to fork out R50 000 for a special liquor licence and hand over 2 percent of their turnover to the national and provincial liquor boards "to run programmes on the effects of alcohol abuse".

In a Government Gazette published on January 18, Minister of Trade and Industry Rob Davies called on the public to comment on the "2010 Soccer World Cup Liquor Policy". The deadline for comments lapsed yesterday, but it is unclear how many people were aware of the scope of the bill.

Lawyer Marius Blom, an expert on liquor legislation, said the proposed bill was contrary to the provisions of the constitution and that the Department of Trade and Industry had gone beyond the boundaries of its powers.

In a letter sent to the Gauteng Liquor Board this week, Blom stated that he believed that what was envisaged in the liquor policy was simply not possible.

The proposal regards any screening of the World Cup outside a private dwelling as a public viewing area, and thus compels any such outlet to apply for the special liquor licence.

Under general provisions, an applicant is expected to submit, among other items, the BEE status in line with the BBEEE Act and details of the diversity of ownership. They are also expected to provide a motivation for their application.

The government has the power to legislate and regulate the manufactur-



CALLLED FOR PUBLIC COMMENT: Trade and Industry Minister Rob Davies

ing and distribution of liquor.

"The government, through the DTI, simply does not have the competency to regulate the retail sale and the consumption of liquor during the World Cup," Blom said.

He explained it was only the various provinces that had the authority to legislate about the consumption of liquor during the World Cup in their own areas.

"Nowhere in any of the instruments of legislation applicable in each of the provinces is there any provision for special licences with a licence fee of R50 000. There is also no provision for a type of licence which will be valid only for the World Cup period."

Blom said existing licensees had the right to trade in liquor on their licensed premises, irrespective of whether it was within or without a specifically identified zone. "They may trade during the hours allowed by their existing licences and to sell

the type of liquor they may under such licences," he said.

Blom said he expected many restaurants to approach him to fight this legislation. "When they do, I will be in court, and I believe that our application to have it declared unconstitutional will be successful," he said.

Karabo Motsamai, the owner of Janicky's Sports Pub in Atteridgeville, near Pretoria, said that if the law was enacted he would have to close his establishment for the duration of tournament.

"We don't make that amount (R50 000) in a month. It is a lot of money. It is too much and we are in the township, so not many tourists come here," he added.

Pretoria's Hatfield Square manager Les David said he supported Blom's view that the legislation was unconstitutional. "There are no sound reasons for this law."

He said the centre management still needed to have a meeting with the tenants. "We will not accept that they take our turnover, it is unconstitutional," he said.

Eastwoods Tavern owner Kobus Oosthuizen said the first he had heard of the proposed legislation was when The Star questioned him on it.

Oosthuizen was concerned about the provision that establishments would be required to hand over 2 percent of their turnover.

"From the beginning I have always said I will not put up my prices for the tournament. But with this law, the government will force me to charge extra for the product," he said.

A tavern operator, who declined to be named, said it was hypocritical of the government to criticise airlines and accommodation providers for exploiting people by raising charges during the World Cup period when it was doing exactly the same thing.