

BACHUS CONSULTANTS

CK97/11719/23

Liquor Licensing Consultants

*Specialising in liquor licensing -
new licences, transfers, management appointments, conversions, structural alterations.*

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INFORMATION GAUTENG LIQUOR ACT, 2 OF 2003

The Gauteng Liquor Act, 2 of 2003, was fully implemented on 1 November 2004 and the Regulations, Forms and Schedules were also promulgated by the MEC.

1. HOURS OF TRADE

1.1 Liquor Stores, Micro-Manufacturers and Grocers' Wines

- (a) Mondays to and including Saturdays: 08:00am to 20:00pm
- (b) Sundays 09:00am to 15:30pm
- (c) No reference is made to Public Holidays and accordingly a Public Holiday including Christmas and Good Friday, will be a normal day unless it is a Sunday

1.2 On-Consumption businesses

- (a) All on-consumption businesses except a hotel and a night club, can trade every day of the week from 10:00am in the morning until 02:00pm the next morning. No provision is made for extended trading hours.
- (b) Hotels may trade from 10:00am until 04:00pm the next morning. A hotel is defined as "premises wherein or whereon the business of supplying lodging and meals, for a reward is or is intended to be conducted, and includes a motel, inn, bed and breakfast, caravan and camping park, farmhouse, guesthouse, a lodge, boatel, boat and a house boat".

- (c) Nights club may only do business from 18:00pm until 02:00am the next morning and a night club is defined as “a license that, subject to this Act and the conditions of the license, authorizes the licensee to sell liquor for consumption on the licensed premises and to provide for dancing and musical entertainment.”

2. LIQUOR TRADE ASSOCIATION:

“Section 38 Liquor Trade Association”

- (1) There is established a Liquor Trade Association in the Province to be known as the Gauteng Traders Association;
- (2)(a) All other Associations active in the liquor trade must affiliate to the Liquor Trade Association;
 - (b) All licensees and applicants for licenses who are not members of Associations referred to in paragraph (a) must be members of the Gauteng Liquor Traders Association;
- (c) The member of the Executive Council may prescribe a Minimum Standard constitution for the Liquor Trade Association;
- (4) An Association referred to in subsection (1) may have branches in metropolitan councils or district councils
- (5) the Association shall promote an Organized trade in liquor within the Province through-
 - (i) diligence amongst its members and affiliates;
 - (ii) compliance with all laws and policies relating to the regulation of liquor;
 - (iii) responsible consumption of liquor, and
 - (iv) any other matter ancillary thereto;
- (v) The Association shall be funded out of the funds of the Board at a percentage determined by the Member of the Executive Council
 - (vi) The Association shall, as soon as practicable after the close of the financial year but not later than three months, submit to the member of the Executive Council an annual report on its activities during the preceding financial year”

This means that you will have to affiliate with the Association or an Affiliated Association. In this regard contact SALTA at (011) 494 1222.

3. APPOINTMENT OF MANAGERS

“Management

40(1) A person other than a natural person shall not conduct any business under a license unless a natural person who permanently resides in the Republic and who is not disqualified in terms of this Act to hold a license is appointed by him or her in the prescribed manner to manage and be responsible for its business.

(2) A natural person who is a licensee may in the prescribed manner appoint another natural person who permanently resides in the Republic and who is not disqualified in terms of this Act to hold a license, to manage and be responsible for the business to which the first mentioned license relates.

(3)(a) A person managing and responsible for the business to which a license relates, shall be subject to the same obligations and liabilities as the licensee concerned.

(b) Where an offence under this Act or the Regulations is committed by a juristic person, a person managing and responsible for a business to which a license related, shall be guilty of the same offence as the juristic person and be jointly and severally liable to the penalty prescribed for the offence.

Nothing in this subsection relieves the juristic person or the person who commits the offence from liability therefore nor releases the licensee from any obligation or liability to which he or she is subject in law”

If a licensee is not managing the licensed premises and/or is present at the licensed premises at all times and has a manager performing such duties, then an application in terms of Section 40 should be lodged with the Local Authority in order to appoint such a natural person to manage and be responsible for the licensed premises. The licensee as well as the persons appointed in this capacity should be advised and be acquainted of the conditions applicable on a liquor license as per the Liquor Act supra.

This means that we need to attend to the appointment of your managers to ensure that you are able to continue trading legally should the licensee not be at the premises during trading hours.

4. SECTION 42(1)(B) READS:

“42(1) Notwithstanding any law to the contrary ... (b) the holder of a liquor store license referred to in Section 28 may also sell or supply mineral waters, other drinks, tobacco cigars, cigarettes, matches, cooler bags and such other articles as the Board may authorize”.

5. **SECTION 44 PROVIDES:**

“44(1) A licensee shall not sell liquor at any place other than the licensed premises”

6. **SECTION 45**

This is also very important in that it provides that you may not employ a person younger than 18 years of age in, or in connection with the sale or supply of liquor.

All your employees in your liquor store accordingly must be **older than 18 years** of age.

In the case of restaurants, a person younger than 21 years of age may not be allowed or be able to sell liquor or work in a bar area.

This does not apply to a person 18 years of age and older who is undergoing training in a catering services and who is employed on the premises of the licensee to whom he or she is duly apprenticed. It also does not apply to a member of the family of the licensee or of the manager of the business, who is above the age of 18 years.

You may also not sell liquor to persons under the age of 18 years and they are not allowed in the bar area.

7. **INVOICES**

Invoices must be retained for a period of three years and it had to comply with the requirements of the *Regulation 22*, which reads as follows:

- “(22)(1) All records contemplated in the Act shall be kept in writing and notwithstanding any other law be retained for a period of three years from the last date of entry in the record.
- (2) Alterations in the records or invoices referred to in sub-regulation (1) shall be effected in such a manner that the original entry remains legible”

8. **DISPLAY OF LICENCE**

Regulation 16

“16(1) A licensee shall at all times display at a conspicuous place on the premises a license, permit or certificate.

- (2) *A licensee shall ensure that the name of the business, type of license issued, times of business and license number are visible and legibly written in characters of larger than 5 centimeters in height on the window of the licensed premises”.*

All **original** liquor licenses and the certificate for annual renewal fees paid in respect of every year after the date of issue of the original license should be retained at licensed premises at all times. Subsequent transfers approved should equally be retained at the licenses premises at all times (if applicable).

In order to be able to display the license in a safe and visible place you will have to ensure that the license is kept in a safe and a colour photostatic copy thereof in a frame and in a safe place and that the sign writing is done as soon as practicable. Should it become necessary to produce these documents to the Liquor board and / or the Designated Police Officers, it can be explained that it is too dangerous to keep original documents that can easily be removed and / or destroyed in fire and therefore the abovementioned is recommended.

9. TRADING HOURS

Regulation 19

“19 A licensee in terms of the Act shall conduct business at the relevant times of business set out in Schedule 3.”

In view of the abovementioned *Regulation 19* it seems as if this Regulation puts an obligation on the licensee to conduct the business in the prescribed times.

10. STRUCTURAL ALTERATIONS

No licensee may effect any structural alterations and / or additions to the licensed premises once the initial plan has been approved by the Liquor Board, without prior consent from the Liquor Board.

11. TRANSFER OF A LIQUOR LICENCE

A liquor license is attached to a specific premises (in accordance with the plan approved by the Liquor Board upon first granting of same) and a specific person (natural or legal persona). Should a licensed restaurant be sold from one person to another, an application in terms of Section 104 for the transfer of a liquor license must be prepared and lodged with the Local Committee of the Liquor Board as soon as the agreement of sale has been concluded by the parties and in addition the present licensee should also appoint the prospective licensee in a similar fashion as point 2 above in terms of Section 40. This is to appoint the prospective licensee to manage and be responsible for the licensed premises until the transfer has been approved by the Liquor Board.

Our offices should be contacted as soon as possible in order for the necessary documents to be prepared.

A licensee may not trade with a liquor license in any other premises than the premises licensed by the Liquor Board as appears on the liquor license certificate.

12. ANNUAL RENEWAL FEES PAYABLE

In terms of Section 98 of the Act supra every license shall be **renewed annually** within **twelve (12) months from date of issue** of by payment of an annual prescribed fee – see Schedule annexed.

We must once again stress that it will be in the licensee's own interest to ensure that the annual renewal fees are paid immediately upon receipt of the relevant Notice and also that the licensee is, in fact, in receipt of such a Notice.

Should renewal notices not be received by yourself, the onus rests on you as licensee to ensure that you collect such a renewal notice timeously and/or make arrangements with The Liquor Buzniz Consultants to collect such a renewal notice on your behalf. Timeous arrangements should be made and an administration fee will be payable to ourselves.

13. VALIDITY OF LICENCES AND PERMITS

Commencement of licenses and permits

"97. A license or permit which has been issued, shall be valid from the date of payment of the prescribed fee

Lapse of licenses and permits

99.(1) A license shall lapse –

- (a) on a date on which the licensee abandons it in writing, or*
- (b) within two (2) months after the lapse of the renewal period in respect of which the applicable prescribed fees under Section 98 are not paid, or*
- (c) on a date otherwise determined by the Board.*

(2) A permit shall lapse on a date set by the Board on granting of permit.

Restoration of lapsed licenses

100. *The validity of a license which has lapsed, and the rights, privileges, obligations and liabilities which were attached thereto immediately before the date on which it lapsed, shall be restored from the date of payment of, where the license has lapsed under the circumstances contemplated in Section 96, the prescribed fee-*
- (a) plus a surcharge of 50% if paid within one (1) month after the lapse of the renewal period; or*
 - (b) plus a surcharge of 100% if paid within two (2) months after the lapse of the renewal period, of the preceding year in respect of which those fees should have been paid.”*

18. NATURE OF BUSINESS

42.(1) Notwithstanding any law to the contrary –

- (a) the holder of an on-consumption license may also sell or supply newspapers, light refreshments and smokers' requisites on the licensed premises, or conduct such other business thereon as the Board, on application, when granting the license concerned may, on application, at any time thereafter, approve subject to such conditions as the Board may think fit, and the holder of a liquor store license referred to in Section 28 may also sell or supply mineral waters, other drinks, tobacco, cigars, cigarettes, matches, cooler bags and such other articles as the Board may authorize.
- (b) the holder of a liquor store license referred to in Section 28 of the Act supra may also sell or supply mineral waters, other drinks, tobacco, cigars and cigarettes, matches, cooler bags and such other articles as the Board may authorize.

15. FEES FOR RENEWAL OF A LICENCE IN TERMS OF SECTION 98

Hotel Liquor license	R3 500.00
Restaurant liquor license	R3 000.00
Theater liquor license	R3 000.00
Club liquor license	R3 000.00
Night club liquor license	R3 000.00
Gaming premises liquor license	R5 000.00
Sports ground liquor license	R2 500.00
Pub liquor license	R3 000.00
Dance hall liquor license	R5 000.00
Tavern liquor license	R2 500.00
Pool club liquor license	R3 000.00
Liquor store license	R3 000.00
Grocers' wine license	R1 500.00
Micro-manufacturer's license	R5 000.00
Sorghum beer license (on or off consumption)	R2 000.00