

CHAPTER 9:10

HARMFUL LIQUIDS ACT

Acts 27/1949, 25/1956 (s. 17), 19/1963 (s. 12), 18/1965 (s. 32), 8/1971, 12/1973 (s. 270), 27/1983, 8/1988, 22/2001 (s. 4); R.G.N.s 153/1963, 150/1965, 217/1970, 313/1970, 124/1974.

AN ACT to prohibit the use, sale, supply, possession, custody and drinking of certain harmful liquids; and to provide for matters incidental to the foregoing.

[Date of commencement: 5th August, 1949.]

1 Short title

This Act may be cited as the Harmful Liquids Act [*Chapter 9:10*].

2 Interpretation

In this Act—

“assembly” means a gathering of three or more persons;

“harmful liquid” means—

(a) any liquid named in the Schedule; or

(b) any liquid which, even though called by another name, is substantially similar to a liquid named in the Schedule:

Provided that no liquid the consumption of which is authorized by or in terms of any other enactment shall be a harmful liquid by virtue of this paragraph;

“local authority” means a municipal council, town council, rural district council or local board;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act.

3 Prohibited acts in relation to harmful liquids

(1) No person shall, without lawful excuse, manufacture, supply, possess, store, drink or use any harmful liquid.

(2) No occupier of any premises shall, without lawful excuse, permit those premises to be used for the manufacture, supply, possession, storage, drinking or use of any harmful liquid.

(3) No person shall, without lawful excuse, incite or in any way influence any other person to manufacture, supply, possess, store, drink or use any harmful liquid.

(4) No person shall, without lawful excuse, be present at any assembly at which he knows or has reason to believe there is any harmful liquid:

Provided that it shall be a defence to a charge under this subsection if the accused person establishes that his presence at the assembly was authorized by—

(a) a police officer; or

(b) an officer in the Ministry for which the Minister is responsible; or

(c) an officer employed by any local authority established for the area in which the assembly was gathered; and that he was present at the assembly for the purpose of investigating or detecting a contravention of this section or investigating social evils resulting from the use of any harmful liquid.

(5) No person shall, without lawful excuse, have in his possession or custody any still, container or apparatus used for the making of any harmful liquid.

(6) Any person who contravenes any provision of this section shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

4 Evidence

(1) At the trial of any person charged with an offence in terms of subsection (1), (2), (3) or (4) of section *three*, a sample of the liquid that forms the basis of the charge shall be produced in evidence:

Provided that such a sample need not be produced in evidence in any case where—

(a) the accused person, by his plea or any admission, whether extra-curial or otherwise, has admitted that the liquid which forms the basis of the charge is the harmful liquid alleged in the charge; or

(b) the court is satisfied that the prosecution, for any good and sufficient reason, is unable to produce such a sample.

(2) At the trial of any person charged with an offence in terms of section *three*, the nature of the liquid which forms the basis of the charge may be proved by any reliable evidence, including the evidence of a reliable witness to the effect that he is familiar with the harmful liquid alleged in the charge and that—

- (a) he has satisfied himself, by tasting the sample produced in terms of subsection (1), that it is a sample of the harmful liquid alleged in the charge; or
- (b) where no sample has been produced in terms of subsection (1), he has satisfied himself, by tasting the liquid that forms the basis of the charge on the occasion when the alleged offence was committed, that it was the harmful liquid alleged in the charge.

(3) Where at the trial of any person charged with an offence in terms of section *three* there is produced a sample of the liquid forming the basis of the charge, the court shall, at the accused's request, cause a portion of the sample to be delivered to an analyst named by the accused for the purpose of analysis at the accused's expense.

5 Right of police to enter premises and land

Any police officer of or above the rank of assistant inspector, and any police officer below that rank having a special written authority from a magistrate, a justice of the peace or a police officer of or above the rank of assistant inspector, may at all times enter and inspect any land or premises or room or other portion thereof or vehicle in which there is reasonable ground to suppose that any contravention of a provision of this Act is taking place.

6 Police may demand names and addresses of persons on premises and land

(1) Any police officer may demand the name and address of any person whom he finds on any land, premises or vehicle in which he seizes or from which he removes anything in respect of which he has reason to believe an offence has been committed under this Act.

(2) If a person referred to in subsection (1) fails on demand in terms of that subsection to furnish his full name and address, any police officer may forthwith arrest him, and if any such person on such demand furnishes to such police officer a name or address which such police officer upon reasonable grounds suspects to be false, such person may be arrested and detained for a period not exceeding twelve hours until the name and address so furnished have been verified.

(3) Any person who fails or refuses to furnish his full name and address on the demand of any police officer in terms of subsection (1) or who furnishes a false name or address on any such demand shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

7 Penalties

(1)

[subsection repealed by section 4 of Act 22 of 2001]

(2) The court convicting any person of an offence under this Act may order that anything seized in connection with the prosecution of that person by a police officer in terms of this Act or the Criminal Procedure and Evidence Act [*Chapter 9:07*] and the vessel in which that thing was contained shall be forfeited to the State.

8 Amendment of Schedule

(1) The Minister may, by statutory instrument, amend the Schedule—

- (a) subject to subsection (2), by inserting therein the name of any liquid produced by the fermentation or distillation of any substance; or
- (b) by deleting therefrom the name of any liquid.

(2) The Minister shall not insert the name of any liquid in the Schedule in terms of subsection (1)—

- (a) unless he is satisfied that consumption of the liquid would be prejudicial to the health and well-being of the people of Zimbabwe; or
- (b) if consumption of the liquid is authorized by or in terms of any enactment.

SCHEDULE (Sections 2 and 8)

HARMFUL LIQUIDS

1. Skokiaan.
2. Barberton.
3. Qilika.
4. Isityimiyana.
5. Hopana.
6. Qediviki.
7. Uhali.
8. Kachasu.
9. Nipa.