



**REPUBLIC OF KENYA**

**THE SENATE**

**ELEVENTH PARLIAMENT – THIRD SESSION**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, APRIL 29, 2015 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **COMMUNICATION FROM THE CHAIR ON THE APPROVAL BY THE NATIONAL ASSEMBLY OF THE SENATE AMENDMENTS TO THE PUBLIC SERVICE (VALUES AND PRINCIPLES) BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014) AND THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2013)**

The Temporary Speaker (Sen. (Dr.) Machage) made the following Communication from the Chair-

"Honourable Senators,

As you may be aware, the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) and the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 31 of 2013) were published in the Kenya Gazette Supplements No.112 of 25<sup>th</sup> July, 2014 and 139 of 18<sup>th</sup> October, 2013, respectively, as Bills originating from the National Assembly. The Bills were passed, with amendments, by the National Assembly on 26<sup>th</sup> November, 2014 and 23<sup>rd</sup> April, 2014, respectively and subsequently referred to the Senate. The Bills were read a First time in the Senate on 11<sup>th</sup> February, 2015 and 4<sup>th</sup> June, 2014, respectively and later passed with amendments on Wednesday, 1<sup>st</sup> April, 2015 and 25<sup>th</sup> November, 2014, respectively.

Honourable Senators,

After the passage of the Bills by the Senate and pursuant to Article 110 (4) of the Constitution and the provisions of Standing Orders 40 (2) and 149 of the Senate Standing Orders, I forwarded, to the National Assembly, certified copies of the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) and the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 31 of 2013) as amended by the Senate together with a message requesting the concurrence of the National Assembly.

Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3), the Clerk has delivered to me correspondence from the National Assembly regarding the approval, by the National Assembly, of **all amendments** by the Senate to the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) and the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 31 of 2013).

The Bills with the Senate amendments incorporated will be finalized and forwarded to H.E the President for assent.

I thank you".

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE REJECTION BY THE ASSEMBLY OF SOME OF THE SENATE AMENDMENTS TO THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.31 OF 2014)**

Pursuant to Standing Order 40 (3) and (4), the Temporary Speaker (Sen. (Dr.) Machage) conveyed the following Message from the National Assembly:-

***“PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-***

***WHEREAS the Environmental Management Co-ordination Bill (National Assembly Bill No. 31 of 2014), a Bill concerning County Governments, was published vide the Kenya Gazette Supplement No. 114 of 25<sup>th</sup> July, 2014 and thereafter considered and passed by the National Assembly on 4<sup>th</sup> December, 2014;***

***WHEREAS, the Senate’s amendments to the said Bill were received on 15<sup>th</sup> April, 2015 for consideration by the National Assembly;***

***AND WHEREAS, by a resolution, the National Assembly, on Thursday 23<sup>rd</sup> April, 2015 rejected Senate's amendments to clauses 10, 20, 23, and 25 of the said Bill;***

***NOW THEREFORE, in accordance with the provisions of Article 112(1) (a) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly, the consequence of which the Bill stands referred to a Mediation Committee.”***

The Temporary Speaker (Sen.(Dr.) Machage) further informed the House as follows-

"Honourable Senators,

Article 112(1) (b) of the Constitution provides that *if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.* Further, Article 112(2) (b) of the Constitution provides that *if after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.*

For the benefit of Senators, Article 113 provides as follows-

- (1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.*
- (2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.*
- (3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.*
- (4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.*

Honourable Senators,

In the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Articles 112(2) (b) and 113 of the Constitution.

In this regard, Hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass-

- 1) The Hon. Amina Abdalla, MP;
- 2) The Hon. Ronald Tonui, MP; and,
- 3) The Hon. Mwamkale William Kamoti, MP.

Similarly, I am consulting with the Senate Majority and Minority Leaders with a view to appointing three Senators to represent the Senate in the Mediation Committee.

I thank you".

5. **PAPERS LAID**

The following Papers were laid on the Table of the Senate-

- i) Draft Kenya Information and Communications (Registration of SIM-Cards) Regulations, 2015; and
- ii) The Basic Education Regulations, 2015.

*(Chairperson, Sessional Committee on Delegated Legislation)*

6. **STATEMENT PURSUANT TO STANDING ORDER 45 (2) (b)**

The Senator for Bomet County (Sen. (Prof.) Wilfred Lesan) sought a statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the recent seizure by Thai Customs of 511 pieces of elephant ivory in a consignment disguised as tea leaves from Kenya on 28th April, 2015.

7. **MOTION – REPORT OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET ON BUDGET CEILINGS ON RECURRENT EXPENDITURE FOR COUNTY GOVERNMENTS**

Motion made and Question proposed;

**THAT**, this House adopts the Report of the Standing Committee on Finance, Commerce and Budget on the Matter of Budget Ceilings on Recurrent Expenditure for County Governments for the FY 2014/15, laid on the Table of the Senate on Thursday, 19<sup>th</sup> March, 2015.

*(Chairperson, Standing Committee on Finance, Commerce and Budget -  
01.04.2015 - Afternoon sitting)*

Debate interrupted on Thursday, 2<sup>nd</sup> April, 2015 – (Morning sitting) - resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in using their cards;

The Temporary Speaker (Sen. (Dr.) Machage) put the Question and directed Senators to cast their votes by pressing either the **“Yes”, “No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Machage) allowed five Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as **“Yes”**-

1. Sen. Bule Ali Abdi
2. Sen. Kisasa Mshenga Mvita
3. Sen. Lesan Wilfred Rotich
4. Sen. Leshore Sammy Prisa
5. Sen. Musila David

Upon a Division, Question agreed to.

The results of the Division were as follows-

AYES – 24

NOES - 0

ABSTENTIONS - 0

**AYES**

1. Sen. Billow Adan Kerrow
2. Sen. Boy Juma Boy
3. Sen. Bule Ali Abdi - voted verbally
4. Sen. Chelule Liza - on behalf of Nakuru County delegation
5. Sen. Haji Mohammed Yusuf
6. Sen. Hassan Abdirahman Ali
7. Sen. Hassan Omar Hassan
8. Sen. Khaniri George
9. Sen. Kisasa Mshenga Mvita -voted verbally on behalf of Kilifi delegation
10. Sen. Kittony Zipporah
11. Sen. Kuti Mohamed Abdi
12. Sen. Lesan Wilfred Rotich - voted verbally
13. Sen. Leshore Sammy Prisa - voted verbally
14. Sen. Lonyangapuo John Krop
15. Sen. Machage Wilfred Gisuka
16. Sen. Mositet Peter Korinko
17. Sen. Muriuki Karue Muriuki
18. Sen. Musila David - voted verbally
19. Sen. Ndiema Henry Tiole
20. Sen. Nyong'o Peter Anyang'
21. Sen. Obure Christopher Mogere
22. Sen. Okong'o Kennedy Mong'are
23. Sen. Sang Stephen Kipyego
24. Sen. Sijeny Judith Achieng-on behalf of Nairobi City County delegation

**RESOLVED ACCORDINGLY**

**THAT**, this House adopts the Report of the Standing Committee on Finance, Commerce and Budget on the Matter of Budget Ceilings on Recurrent Expenditure for County Governments for the FY 2014/15, laid on the Table of the Senate on Thursday, 19<sup>th</sup> March, 2015.

**8. COMMITTEE OF THE WHOLE**

Order for Committee read;

**IN THE COMMITTEE**

(The Acting Chairperson of Committees (Sen. (Dr.) Machage– in the Chair)

**The Alcoholic Drinks Control (Amendment) Bill (Senate Bill No. 5 of 2014)****Clause 4**

Motion made and question proposed;

**THAT**, Clause 4 be part of the Bill.

Putting of question deferred.

**Clause 5**            -            Amendment proposed

Motion made and question proposed;

**THAT** Clause 5 be amended in paragraph (e) by-

(a) deleting the words 'licence importers of alcoholic drinks and' appearing in the proposed new paragraph (eb); and

(b) inserting the following new paragraph immediately after the proposed new paragraph (ef) -

(eg) publish annually in at least one newspaper of national circulation and on the authority's website an up to date list of all approved alcoholic drinks and the active ingredients used in the manufacture of such drinks.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clauses 6-7**

Motion made and question proposed;

**THAT**, Clauses 6-7 be part of the Bill.

Putting of question deferred.

**Clause 8** - Amendment proposed

Motion made and question proposed;

**THAT** Clause 8 be amended by –

- (a) deleting sub-section 4(b) of the proposed new section 6A and inserting therefor the following new sub-section-
  - (b) research and promotion of the use of local raw materials for the manufacture of alcohol.

- (b) deleting sub-section 4(c) of the proposed new section 6A.  
(*Sen. (Prof.) Peter Anyang' Nyong'o*)

Debate arising;

Putting of question deferred.

**Clauses 9-15**

Motion made and question proposed;

**THAT**, Clauses 9-15 be part of the Bill.

Putting of question deferred.

**Clause 16** - Amendment proposed

Motion made and question proposed;

**THAT** clause 16 of the Bill be amended –

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph-
- (b) in subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph –
  - (c) that where the premises in respect of which the application is made are located at least three hundred metres from any nursery, primary, secondary or other learning institution for persons under the age of eighteen years the persons in those premises do not-
    - (i) interfere with learning in the institution; or
    - (ii) encourage, expose or promote the consumption of alcohol to persons enrolled in the institution.
- (b) by inserting the following new paragraph immediately after paragraph (b)-

(c) by inserting the following new subsection immediately after subsection (2) –

(3) The County Committee shall not grant a licence for the sale of an alcoholic drink to be consumed on the premises unless the applicant has taken measures to sound-proof the premises.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clauses 17-19**

Motion made and question proposed;

**THAT**, Clauses 17-19 be part of the Bill.

Putting of question deferred.

**Clause 20** - Amendment proposed

Motion made and question proposed;

**THAT** clause 20 of the Bill be deleted and substituted with the following new clause -

20. Section 17 of the principal Act is amended –

(a) in subsection (3) by deleting the words “the District Committee” appearing at the beginning of the subsection and substituting therefore the words “the County Committee”;

(b) by inserting the following new subsections immediately after subsection (3)-

(3A) A licence for the sale of an alcoholic drink to be consumed in the premises in which it is sold shall specify the maximum number of people to be admitted into the premises at any given time.

(3B) A person licensed to sell an alcoholic drink to be consumed in the premises in which it is sold shall not at any time admit more persons than those prescribed in the licence.

(3C) A person who contravenes subsection (3B) commits an offence.

(c) by deleting subsection (4).

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.



**Clauses 21-23**

Motion made and question proposed;

**THAT**, Clauses 21-23 be part of the Bill.

Putting of question deferred.

**Clause 24** - Amendment proposed

Motion made and question proposed;

**THAT** clause 24 of the Bill be deleted and substituted with the following new clause-

24. Section 24 of the principal Act is deleted.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clauses 25-27**

Motion made and question proposed;

**THAT**, Clauses 25-27 be part of the Bill.

Putting of question deferred.

**Clause 28** - Amendment proposed

Motion made and question proposed;

**THAT** clause 28 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) by deleting paragraph (b) of subsection (2) and inserting therefor the following new paragraph-

(b) the alcoholic drink previously known as chang'aa, or a fortified wine or any other distilled alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a).

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 29** - Amendment proposed

Motion made and question proposed;

**THAT** clause 29 of the Bill be amended –

(a) by deleting paragraph (b) and substituting therefore the following new paragraph-

(b) by inserting the following new subsections immediately after subsection 3-

(3A) Despite subsection (3), where an alcoholic drink is packed in a can, the statement and health warning referred to in subsection (2) shall comprise not less than 30% of the total surface area of the package.

(3B) The statement and health warning referred to in subsection (2) shall consist of not less than the character and font size stipulated under paragraph (2) of the Second Schedule which shall appear on the area of the principle display panel.

(c) by inserting the following new paragraph immediately after paragraph (b)-

(ba) in subsection (4) by deleting the words “on every successive fifty packages of each brand of the alcoholic drink” appearing immediately after the words “as is possible”.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 30** - Amendment proposed

Motion made and question proposed;

**THAT** clause 30 of the Bill be deleted.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 31** - Amendment proposed

Motion made and question proposed;

**THAT** clause 31 of the Bill be amended in the proposed new subsection (2) by deleting paragraphs (a) and (b).

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 32** - Amendment proposed

Motion made and question proposed;

**THAT** clause 32 of the Bill be amended in subparagraph (ii) of paragraph (a) by deleting the words “in the Fourth Schedule or” appearing immediately after the words “therefor the words”.

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 33** - Amendment proposed

Motion made and question proposed;

**THAT** clause 33 of the Bill be amended in the proposed new subsection (1A) –

(a) by deleting paragraph (a);

(b) in paragraph (b) by deleting the words “ the hours of 6:00 a.m. and 10:00 p.m.” appearing immediately after the words “any electronic media” and substituting therefor the words “the hours of 6:00 a.m. and 8:30 p.m.”

*(Vice- Chairperson of the Standing Committee on National Security and Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 34**

Motion made and question proposed;

**THAT**, Clause 34 be part of the Bill.

Putting of question deferred.

**Clause 35** - Amendment proposed

Motion made and question proposed;

**THAT** clause 35 of the Bill be deleted.

*(Vice- Chairperson of the Standing Committee on National Security and  
Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clause 36** - Amendment proposed

Motion made and question proposed;

**THAT** clause 36 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)-

(c) inserting the following new subsections immediately after subsection (2)-

(3)The Cabinet Secretary shall not appoint a person as an authorized officer under this Act if the person -

(a) has, within the last five years, been convicted of an offence under this Act or any other law dealing with alcohol or drug abuse regulation and has been sentenced to a term of imprisonment exceeding six months; or

(b) is a shareholder or assignee of an outlet that sells or manufactures alcoholic drinks.

(4) A person proposed for appointment as an authorized officer under subsection (1) shall, before accepting the appointment, make a full disclosure to the Cabinet Secretary of any information under subsection (3).

*(Vice- Chairperson of the Standing Committee on National Security and  
Foreign Relations)*

Debate arising;

Putting of question deferred.

**Clauses 37- 43**

Motion made and question proposed;

**THAT**, Clauses 37- 43 be part of the Bill.

Putting of question deferred.

The Acting Chairperson of Committees (Sen.(Dr.) Machage) directed that a division be undertaken and that the Division Bell be rung for two minutes.

Raising a Point of Order, the Nominated Senator (Sen. Fatuma Dullo) moved that the Committee of the Whole reports progress on its consideration of the Alcoholic Drinks Control (Amendment) Bill (Senate Bill No. 5 of 2014) and seek leave to sit again tomorrow.

And the Acting Chairperson of Committees acceding to the request;

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson of Committees ruled that the question did not affect counties;

Question put and **agreed to**.

9. **HOUSE RESUMED** – Temporary Speaker – (Sen. Mositet)- in the Chair)

Progress Reported.

Motion made and Question proposed-

**THAT** the House do agree with the Committee in the said report.

*(Sen. Fatuma Dulo)*

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the question did not affect counties;

Question put and **agreed to**.

10. **THE NATIONAL GOVERNMENT COORDINATION (AMENDMENT) BILL  
(SENATE BILL NO. 30 OF 2014)**

Order for Second Reading Read;

Motion made and Question proposed-

**THAT**, the National Government Coordination (Amendment) Bill (Senate Bill No. 30 of 2014) be now read a Second Time.

*(Sen. (Prof.) John Lonyangapuo – 28-4-2015)*

Debate interrupted on Tuesday 28<sup>th</sup> April, 2015 resumed;

And there being no other Senator willing to contribute and in the absence of the Mover;

Raising a point of order the Senator for Bomet County (Sen. (Prof.) Wilfred Lesan) claimed to move that pursuant to Standing Order 54 (3), the putting of the Question be deferred to a later date;

And the Temporary Speaker (Sen. Peter Mositet) acceding to the request, deferred putting of question to a later date.

11. **THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILL NO. 32 OF 2014)**

(Chairperson, Standing Committee on Education)

*(Second Reading)*

Order Deferred.

12. **MOTION-ADOPTION OF THE INTERIM REPORT OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS**

(The Chairperson, Sessional Committee on County Public Accounts and Investments)

**THAT**, the Senate adopts the Interim report of the Senate Sessional Committee on County Public Accounts and Investments on the inquiry into County Government Accounts for the Financial Year 2012/2013- (1<sup>st</sup> January to 30<sup>th</sup> June, 2013).

Order Deferred.

13. **MOTION-ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET ON OPERATIONS OF MAKUENI COUNTY ASSEMBLY**

(The Chairperson, Standing Committee on Finance, Commerce and Budget)

**THAT**, the Senate adopts the Report of the Standing Committee on Finance, Commerce and Budget on Operations of Makueni County Assembly laid on the Table of the House on Wednesday, 1<sup>st</sup> April, 2015.

Order Deferred.

14. **MOTION-ADOPTION OF THE REPORT OF THE COMMISSION ON REVENUE ALLOCATION ON THE RECOMMENDED COUNTY GOVERNMENTS BUDGET CEILINGS ON RECURRENT EXPENDITURES FOR NEW STRUCTURES**

(The Chairperson, Standing Committee on Finance, Commerce and Budget)

**THAT**, the Senate adopts the Report of the Commission on Revenue Allocation on the recommended County Governments Budget ceilings on recurrent expenditures for new structures for the Financial Year 2015/16 pursuant to section 107 (2A) of the Public Finance Management Act laid on the Table of the House on Wednesday, 1<sup>st</sup> April, 2015.

Order Deferred

15. **MOTION-ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES ON THE HIGH LEVEL FOOD SECURITY WORKSHOP**

(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

**THAT**, this House adopts the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the high level food security workshop held on 5<sup>th</sup> to 8<sup>th</sup> June, 2014.

Order Deferred.

16. **MOTION- ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ENERGY ON THE FACT FINDING VISIT TO MUI BASIN, KITUI COUNTY**

(The Chairperson, Standing Committee on Energy)

**THAT**, this House adopts the Report of the Standing Committee on Energy on the Fact Finding Visit to Mui Basin, Kitui County on 3<sup>rd</sup> September, 2014 laid on the Table of the House on Wednesday, 1<sup>st</sup> April, 2015.

Order Deferred.

There being no other business, the Temporary Speaker (Sen. Peter Mositet) adjourned the Senate at fifteen minutes past five O'clock, without Question put and pursuant to the Standing Orders.

17. **SENATE ROSE** - at fifteen minutes past five O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Thursday, April 30, 2015 at 2.30 p.m.*

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