

DECLARED REGULATORY IMPACTS (DRI)

Draft Act

Draft information

a) Draft title:

on amendments to the Act on Upbringing in Sobriety and Counteracting Alcoholism and the Act on Radio and Television Broadcasting

b) The applicant's representative:

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I. Introductory part

[1] Concise description of the identified problem and proposed solutions.

The Act of 26 October 1982 on upbringing in sobriety and combating alcoholism (Journal of Laws, 2023 item 2151) is currently ineffective from the point of view of the objectives it is intended to pursue. The increase in alcohol consumption, especially among young people, the development of various forms of alcohol advertising and promotion that go beyond the scope of the Act, as well as its failure to adapt to changing conditions of the alcoholic beverage trade, demand significant changes in the following areas:

- an absolute prohibition of public advertising of alcohol;
- extension of the right for municipalities to introduce an hourly ban on alcohol sales;
- increase in the fees for obtaining a retail licence for the sale of alcoholic beverages;
- prohibition of the sale of alcoholic beverages in which the nominal quantity of the alcoholic beverage does not exceed 300 ml, in packaging other than glass or metal;
- introduction of an obligation to display on packaging graphical indications indicating the effect of alcohol;
- prohibition on the marketing, sale and administration of food products whose

name, trade mark, graphic shape or packaging exploits similarities or is identical to the designation of an alcoholic beverage;

- introduction of a ban on price promotions for alcoholic beverages, the so-called '12+12'.

A lack of suggested changes will:

- exacerbate social problems related to alcohol consumption,
- have a negative impact on the efficiency of workers in the economy,
- further lower the threshold for alcohol initiation among young people,
- lead to a deterioration in the health of the entire population and perpetuate difficulties in accessing health services for people who do not have problems with alcohol abuse,
- prevent an effective state policy against alcoholism.

[2] Have any alternatives been considered?

➤ No

Alternatives have not been considered due to the fact that the objective of the draft can only be achieved through a change in statutory provisions. The restrictions to be introduced have an impact on constitutionally protected values. Non-regulatory activities (social campaigns, increasing the intensity of activities of public administration bodies responsible for the implementation of the Act) will not be certainly sufficiently effective.

II. Requirements specified in Article 34(2)(3–5) of the Rules of Procedure of the Sejm

[3] What are anticipated legal consequences of the proposed solutions?

- Introduction of a total ban on the advertising and promotion of alcoholic and non-alcoholic beverages. Currently, the ban on advertising and promoting alcoholic beverages does not apply to beer, which may be advertised and promoted under certain conditions. It is proposed to introduce an absolute ban on public advertising of alcohol. As a result of the introduction of the ban on alcohol advertising and, therefore, the abolition of the possibility of providing advertising services, for which a fee of 10 % of the taxable amount for the tax on goods and services resulting from that service is claimed, the source of financing of the Student Sports Acquisition Fund must be changed. The draft stipulates that the fund's revenue will come from a 6% levy on the sale of alcoholic beverages in individual containers with a nominal volume not exceeding 300 ml.

- Increase the fee for obtaining an authorisation for the retail sale of alcoholic beverages by 100% for the first fee and by 0.5% for the surplus of the annual sales thresholds for each type of alcohol covered by the Act.
- Extension of powers for municipalities to introduce hourly bans on alcohol sales – municipalities will be able to pass resolutions banning alcohol sales from 10 p.m. to 9 a.m., rather than until 6 a.m. as has been the case to date.
- Introduction of a ban on the sale of alcoholic beverages in which the nominal quantity of alcoholic beverage does not exceed 300 ml in packaging other than glass or metal, and specification of detailed requirements concerning the appearance and labelling of all packaging.
 - The introduction of a broader obligation to place graphic warnings on packaging informing about the harmful effects of alcohol on pregnant women, the prohibition of driving after consuming alcohol, and the prohibition of alcohol consumption by minors.
- Prohibition of the marketing, sale, and administration of food products whose name, trade mark, graphic shape or packaging exploits similarities or is identical to the designation of an alcoholic beverage.
- Introduction of a ban on price promotions for alcohol, the so-called '12+12'.

- The draft provides for the inclusion in the Act of new criminal provisions sanctioning the prohibitions introduced by the amendment. As a general rule, a fine will be imposed for infringement of the prohibitions or orders imposed. However, rulings in these cases will be made on the basis of the provisions on criminal proceedings.
- Due to the extension of the ban on advertising non-alcoholic beverages in the Act of 29 December 1992 on radio and television broadcasting (in Article 16b(1) (2)), the ban on broadcasting commercial communications will be extended accordingly.

Transitional and final provisions.

In view of requirements for the protection of interests in progress and the protection of acquired rights, it is proposed that;

- alcoholic beverages in packages which do not meet the requirements set out in the added paragraphs 1a to 1c of Article 13 and which were produced prior to the entry into force of the amendment could still be sold within 12 months,
- the amount of fees for authorisations for the retail trade in alcohol, in respect of which proceedings were initiated and not concluded before the entry into force of the amendment, were set at the current level

In connection with the introduction of a ban on the sale of alcohol at petrol stations, sales may be carried out on the basis of licences for the sale of alcohol issued before the date of entry into force of the Act until the expiry of the period for which

they were issued, but for no longer than 2 years, except that those sales may not be carried out between 10 p.m. and 6 a.m.

At the same time, due to the nature of the amendments, appropriate *vacatio legis* is proposed for the Act. The draft assumes that it will enter into force 6 months after its announcement. The extended period of *vacatio legis* is also associated with the need to terminate contracts for the provision of services related to advertising and sponsorship.

The draft also contains transitional provisions related to the change of the source of income of the Sports Activities Fund for the Students.

[4] What are the expected social impacts of the proposed measures?

The draft will have a positive social impact. The entry into force of the Act will result in a reduction in the average consumption of alcohol in the long term. Changes in this area will have a positive impact on the health of the entire population. The reduction in alcohol abuse will reduce the National Health Fund expenditure on the treatment of alcohol-related diseases, which will give the possibility of a larger allocation to other medical conditions. The Act will have the effect of reducing the problems linked to the social consequences of alcohol abuse, which affect children and families.

[5] What are the anticipated legal consequences of the proposed solutions?

The draft focuses on entrepreneurs involved in the trade in alcoholic beverages, companies involved in the advertising and promotion of alcohol on an existing basis, logistics companies. And in particular:

- Approximately 910 entities providing services involving the advertising of alcoholic beverages in the following groups: television stations, supermarkets, shops, advertising agencies, multimedia, publishing houses, radio stations, restaurants, bars and pubs, among others. The information comes from data provided by the Ministry of Sport and Tourism.
- Undertakings holding an authorisation for wholesale trading in alcoholic beverages – approximately 1824 undertakings. Data from the register of authorised entities.

- According to data from the State Agency for the Prevention of Alcohol-Related Problems (PARPA), at the end of 2021, there were 123,345 alcoholic beverage outlets in Poland, of which 82,384 were shops. This means that on average there were 299 inhabitants per point of sale.
- Entities advertising alcoholic beverages will no longer be able to do so. As a consequence, they will also not bear the cost of the fees related to the performance of these activities. The ban on lottery and '12+12' promotions will also have the effect of reducing the consumption of alcohol and, consequently, their revenues. In addition, the ban on alcohol advertising will have the effect of reducing demand for such products, in particular among minors and young people.
- The effect of the entry into force of the amendment will be an increase in fees for licences for the retail sale of alcohol, as well as the introduction of new prohibitions and obligations in the production and trade of alcohol.

[6] What are the expected financial implications of the proposed measures, in particular the impact on the public finance sector, including the state budget and the budgets of local authorities?

The draft will have a financial impact on the state budget.

As a result of the entry into force of the draft, the state budget will lose revenue from taxes on activities associated with the provision of beer advertising services permitted by current legislation.

The draft will result in increased revenue for the budgets of local government units related to the increase of fees for alcohol sales permits.

The draft will reduce the budget revenue of all municipalities by approximately PLN 20 million as a result of reducing their share in the revenue from the charge for the sale of pre-packaged alcoholic beverages with a nominal volume of beverages not exceeding 300 ml from 50 % to 44 % calculated on the basis of data for the first half of 2024 (the revenue from this charge due to municipalities amounted to approximately PLN 340 million for the first half of 2024). This amounts to an average of approximately PLN 8,000 per municipality.

[7] List of sources of financing if the draft act entails a burden on the state budget or the budgets of local government units.

It is not necessary to raise additional funds to finance the financial implications of the draft. The draft does not introduce new tasks that require expenditure from the state budget or the budgets of local government units.

[8] Is the draft act subject to the notification procedure?

Yes

The draft act contains technical regulations within the meaning of the Regulation of the Council of Ministers of 23 December 2002 on the functioning of the national system for notification of standards and legal acts (Journal of Laws, item 2039; 2004, item 597), in so far as it concerns additional obligations for entities producing and selling alcohol, and is therefore subject to the notification procedure.

III. Requirements specified in Article 34(2a) and (2b) of the Rules of Procedure of the Sejm

[9] Does the draft act contain provisions specifying the rules for undertaking, conducting or terminating economic activity (Article 34(2a) of the Rules of Procedure of the Sejm)?

➤ Yes

The amendment will remove the possibility of commercial activity in the field of beer advertising.

The changes being introduced are necessary for a proper implementation of the act, and it is not possible to introduce non-regulatory solutions. The amendments concern all entrepreneurs and are proportionate and adequate to the intended purpose of the act.

[10] Will the implementation of the draft provisions create any administrative burdens for micro, small and medium-sized enterprises (Article 34(2a) of the Rules of Procedure of the Sejm)?

➤ No

[11] Does the draft act contain regulatory provisions or lay down requirements for the provision of cross-border services within the meaning of the Act of 22 December 2015 on the rules governing the recognition of professional qualifications acquired in the Member States of the European Union (Article 34(2b) of the Rules of Procedure of the Sejm)?

➤ No