

Government proposal to Parliament for an Act amending the Alcohol Act

MAIN CONTENT OF THE PROPOSAL

The Proposal proposes amendments to the Alcohol Act.

Alcohol Act would be amended to allow the State Alcohol Monopoly Alko Oy and operators with an alcohol retail licence to trade online and realise other retail distribution and collection concepts, such as the home delivery of alcoholic beverages. According to the Proposal, the amendments would be implemented in a way that ensures age limit control.

Provisions on the cross-border distance sales of alcoholic beverages would also be added to the Act. The proposal would make any current unclear interpretation unambiguous as regards its meaning, so that Finns would have the right to buy alcohol in a distance selling process from foreign operators. In addition, in accordance with the Government Programme, the Proposal also proposes to remove restrictions on the marketing of alcoholic beverages by Finnish operators to and for the public of another European Economic Area State within the limits of EU law. The aim is to improve the competitiveness and export opportunities of operators in the alcohol industry established in Finland in the internal market of the European Union by enabling online marketing of spirits.

The Proposal is related to the draft government budget for 2026 and is intended to be discussed in connection with the draft budget.

The Act is intended to enter into force on 1 January 2026.

CONTENTS

MAIN CONTENT OF THE PROPOSAL.....	1
EXPLANATORY NOTE.....	4
1 BACKGROUND AND PREPARATORY WORK.....	4
1.1 Background.....	4
1.2 Preparatory work.....	5
2 CURRENT SITUATION AND ITS ASSESSMENT.....	7
2.1 Current situation.....	7
2.1.1 Legislation.....	7
2.1.2 Developments in the alcohol market.....	19
2.1.3 General development of alcohol consumption and harms.....	22
2.1.4 Relationship of the distance selling ban to EU law.....	25
3 OBJECTIVES.....	33
4 PROPOSALS AND THEIR IMPACTS.....	34
4.1 Main proposals.....	34
4.2 Principal impacts.....	36
4.2.1 General.....	36
4.2.2 Economic impact.....	39
4.3 Other effects on people and society.....	50
5 OTHER OPTIONS FOR IMPLEMENTATION.....	61
5.1 Alternatives and their impacts.....	61
5.2 Legislation and other means in place in other countries.....	68
6 FEEDBACK.....	77
7 PROVISION-SPECIFIC RATIONALE.....	78
8 REGULATION AT THE LEVEL OF SECONDARY LEGISLATION.....	107
9 ENTRY INTO FORCE.....	108
10 IMPLEMENTATION AND MONITORING.....	108
11 RELATIONSHIP TO OTHER BILLS.....	108
12 RELATIONSHIP TO THE CONSTITUTION AND LEGISLATIVE PROCESS.....	108
12.1 General.....	108
12.2 Protection of private life and personal data.....	109
12.3 Right to work and freedom to conduct a business.....	112
12.4 Equality.....	115
12.5 The principle of legality in criminal law.....	115
12.6 Right to social security.....	118
12.7 The role of children and young people.....	120
12.8 The duty of the public authorities to safeguard the enjoyment of fundamental and human rights;.....	122
12.9 Freedom of speech.....	123
12.10 Test purchases by the supervisory authority.....	124
12.11 Supervisory fee.....	126
12.12 Penalty fee.....	126
12.13 Power to issue decrees.....	127
THE DRAFT ACT.....	129
amending the Alcohol Act.....	129
ANNEX.....	143
SUPERVISION FEES REFERRED TO IN SECTIONS 74 AND 75 OF THE ALCOHOL ACT.....	143
ANNEX.....	145

PARALLEL TEXT.....145
amending the Alcohol Act.....145

DRAFT

EXPLANATORY NOTE

1 Background and preparatory work

1.1 Background

The purpose of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related business activities in order to prevent harm caused by alcohol to its users, to other people and to society as a whole. The last comprehensive reform of the Alcohol Act took place in 2017. In its current form, the Act entered into force in 2018.

The prepared Proposal is part of the implementation of the Government Programme of Prime Minister Petteri Orpo's Government. In accordance with the Government Programme, the Government will reform alcohol policy responsibly in a European direction and continue the overall reform of the Alcohol Act carried out in 2018. The Government's objective is to promote fair and open competition. A number of legislative amendments related to opening up the market and increasing competition in alcohol trade were agreed in the Government Programme.

The proposal would implement the Government Programme entry of Prime Minister Petteri Orpo's Government, according to which the delivery of alcoholic beverages from domestic retail sales and from the State Alcohol Monopoly to a customer or other recipient would be made possible. Additionally, the proposal would implement a Government Programme entry clarifying the current ambiguous interpretation into a clear one, establishing that Finnish residents have the right to purchase alcohol through distance selling from companies operating in other EU countries. The Proposal proposes that the supply of alcoholic beverages would be possible from domestic retail sales, from the State Alcohol Monopoly and from distance selling of alcoholic beverages across borders. The delivery of alcoholic beverages from both domestic sources and cross-border distance sales would be implemented by introducing a new delivery licence alongside retail and serving licences. The Act would define distance selling of alcoholic beverages across borders and clarify the legal situation regarding distance selling. The provisions on the distance selling of alcoholic beverages across borders would also be extended to sales from third countries and other countries of the European Economic Area (EEA).

In addition, the proposal would implement the Government Programme entry of Prime Minister Petteri Orpo's Government, according to which the restrictions on marketing abroad by Finnish operators would be removed within the limits of EU law. The proposal states that the marketing of spirits should be permitted in the information data network in the future. Therefore, the proposal would also allow domestic operators to conduct online marketing of spirits to another EEA State. The provisions on marketing would also apply to domestic marketing. At the same time, it proposes a number of new restrictions in marketing rules.

The proposal would implement the statement adopted in connection with the new Alcohol Act approved by Parliament in 2017, in which Parliament required the Government to examine the provisions on distance selling, taking into account the requirements of EU law as well as the forthcoming decision of the Supreme Court in the Visnapuu case. According to the statement, in the preparation under the responsibility of the Ministry of Social Affairs and Health, in addition to the framework conditions laid down in EU law, it must be taken into account that decisions concerning distance selling must not jeopardise the continued exclusive right to the retail sale of alcoholic beverages with an alcohol content exceeding the limit laid down in the

Act or the equality of the Finnish business community with foreign competitors. According to the statement, the requirements relating to the ease of collection of excise duties shall also be taken into account during the preparation.

The unclear legal position concerning the distance selling of alcoholic beverages has been addressed by, e.g., the supreme guardians of the law. In decision EOAK/911/2023 of June 2024, the Deputy Parliamentary Ombudsman found that the ambiguity of the regulation of distance selling of alcohol endangers the provision of legal certainty in a way which, according to the Deputy Ombudsman, cannot be regarded as acceptable. According to the Deputy Ombudsman, the ambiguity of the regulation on the distance sale of alcohol makes it difficult for the authority applying the law to act in the manner required by good administration, and the lack of clarity of the legal position concerning the distance sale of alcohol cannot be corrected by an interpretation of the authority applying the law, but only by the measures of the legislator. In his decision, the Deputy Ombudsman referred to Prime Minister Petteri Orpo's Government Programme entry on the distance selling of alcohol and its implementation.

1.2 Preparatory work

The proposal has been prepared by the Ministry of Social Affairs and Health. The Proposal is largely based on the Government proposal to Parliament for an Act amending the Alcohol Act (HE 173/2024 vp), which was submitted to Parliament on 10 October 2024. The proposal aimed to enable the supply of alcoholic beverages from domestic retail sales points and from alcohol companies, but the proposal would not have clarified the law on the distance selling of alcoholic beverages across borders. The proposal was notified to the European Commission on 18 September 2024 in accordance with Directive 2015/1535. On 17 December 2024, the European Commission submitted a detailed opinion on the Government Proposal. According to the Commission, this government proposal would appear to discriminate against foreign operators and thus be contrary to EU internal market rules by failing to clarify the provisions on the cross-border distance sales of alcoholic beverages, while at the same time allowing domestic operators to supply alcoholic beverages. The standstill period under the Technical Regulations Directive during which the proposal must not be adopted extended following a detailed opinion from the Commission until 19 March 2025. The Finnish authorities replied to the detailed opinion of the Commission on x/x/2025.

On the basis of the Commission's detailed opinion of 17 December 2024, the Government decided to withdraw the Government proposal in spring 2025. In the parliamentary proceedings of the proposal, the Committee on Social Affairs and Health, which acted as the reporting committee, could not issue its report, but the Economic Committee and the Constitutional Law Committee, which acted as the opinion-giving committees, had given their opinions on the proposal¹ in November 2024. In its opinion, the Finance Committee emphasized that, from the perspective of the EU law assessment of the Alcohol Act, what is essential is the overall framework formed by the proposed domestic delivery sales in the proposal and the regulation concerning distance sales of alcohol, which was left outside the scope of the proposal. The Committee on Economic Affairs stressed the urgency of the proposed regulation on the distance selling of alcohol.

The preparation of the Government Proposal was resumed in early 2025, so that, in addition to domestic delivery, provisions on both cross-border distance selling and marketing were included. The provisions on the delivery of alcohol have remained largely the same, but some

¹ TaVL 28/2024 vp and PeVL 58/2024 vp.

changes have been made compared to the original Government proposal. Unlike with the previous proposal, fermented alcoholic beverages of up to 8% alcohol content and alcoholic beverages of up to 5.5% alcohol content manufactured in other ways could be supplied from domestic retail sales points. Stronger drinks could only be supplied via Alko. In addition, opinions issued by the Economic Committee and the Constitutional Law Committee on an earlier Government proposal have been taken into account in the Proposal. Based on the opinions of the committees, the new Government Proposal removed the requirement for strong electronic identification and the proposal to increase the upper limit of the financial penalty to EUR 20,000. In addition, the Proposal relinquished the proposal to reduce the conditions for revoking an authorisation under the Alcohol Act, and to clarify regulation allowing licence conditions to be set for delivery authorisation. In addition to the above-mentioned amendments, a number of minor amendments have been made to the new proposal. In the new Government Proposal, section 26 has been modified. In the original Government Proposal, it was proposed that a retail licence under section 17 could relate to the delivery of alcoholic beverages to pick-up points at the retail outlet as defined in the licence. In the new Government Proposal, the regulation of pick-up points would also be extended to the activities of the State Alcohol Monopoly. As a result, pick-up points would also be explicitly allowed for Alko. The provisions on the return of an alcoholic beverage were amended so that the delivery licence holder would be obliged to directly return the alcoholic beverage to the seller only if the alcoholic beverage could not be handed over to the recipient due to this age. In other cases, an attempt could be made to surrender the alcoholic beverage again at a later date. In addition, with regard to retail outlets and pick-up points, section 17 would refer to construction works under the Construction Act (751/2023) and not to buildings. The requirement in section 64, subsection 2 of the current Act to publish personal data only as individual searches would be deleted.

In order to support the preparation of the provisions on distance selling, in autumn 2024 the Ministry of Social Affairs and Health requested expert opinions under EU law from Professor Petri Kuoppamäki and Professor Juha Raitio, and from Dr Kukko Kuusela of Legislation on distance selling of alcohol.

The proposal was out for consultation between 13 June and 31 July 2025. The invitation for opinions was published on the consultation service lausuntopalvelu.fi, and opinions were requested from ministries, authorities, industry organisations, business representatives and public health organisations which are relevant to the proposal. The period for opinions is shorter than usual, as the proposal is largely based on the Government Proposal HE 173/2024 vp, which is currently being discussed in Parliament. The proposed changes to the provisions on domestic delivery have been largely pronounced in the draft of this Government proposal (request for opinion VN/33074/2023).

The documents concerning the Government Proposal are available at <https://stm.fi/hanke?tunnus=STM004:00/2024>. The following projects have been combined with the Government Proposal: <https://stm.fi/hanke?tunnus=STM101:00/2023> and <https://stm.fi/hanke?tunnus=STM100:00/2024>.

declaration

The proposal was notified to the European Commission on xx/xx/2025.....

2 Current situation and its assessment

2.1 Current situation

2.1.1 Legislation

Alcohol Act

According to section 1 of the Act, the objective of the Act is to reduce the consumption of alcoholic substances by limiting and controlling the related business activities in order to prevent harm caused by alcohol to its users, to other people and to society as a whole.

According to § 3(1)(1), an alcoholic substance means a substance and product containing more than 1.2 per cent ethyl alcohol by volume. Alcoholic beverage is defined in paragraph 2 as an alcoholic substance intended for drinking, which contains a maximum of 80 per cent ethyl alcohol by volume. According to paragraph 5, spirits refer to ethyl alcohol and an aqueous solution of ethyl alcohol containing more than 80 per cent by volume of ethyl alcohol.

The Alcohol Act provides for a number of licences required for activities under the Alcohol Act. Under section 5 of the Act, alcoholic beverages may not be produced or sold without a licence. Spirits may not be produced, imported, sold, used or possessed without a licence. However, section 6 of the Act provides for certain exemptions from the permit requirement. For example, the manufacture and sale of alcoholic beverages containing up to 2.8 % by volume of ethyl alcohol is allowed notwithstanding the provisions of Article 5.

When a consumer buys alcohol in Finland, they can buy alcoholic beverages either through retail sale or from a party with a serving licence. According to section 3, subsection 1, paragraph 11 of the Act, 'retail sale of an alcoholic beverage' means the sale of an alcoholic beverage for consumption in a place other than premises controlled by the seller or under the supervision of the seller. Under subsection 1, paragraph 12 of the same section, the serving of alcoholic beverages means the sale of alcoholic beverages for consumption on premises controlled by the seller or under the supervision of the seller.

Section 18 governs the issue of the serving licence and the conditions under which it is granted. A serving licence applies to the area licenced for servicing alcohol controlled by the party licenced to serve alcohol, and the licence is granted to an applicant carrying out accommodation and catering activities within the meaning of the Act on Accommodation and Food Service Activities (308/2006), provided that the conditions for the licence are met. Section 36 specifies the licensed premises for serving alcoholic beverages. Under said provision, alcoholic beverages may be served only by supplying them to customers for consumption in an area covered by a licence. Only alcoholic beverages sold by the serving licence holder may be consumed in the licensed area. Alcoholic beverages may not be transported or consumed outside the licenced area.

Section 17 of the Alcohol Act governs the retail sale licence and the conditions under which it is granted. According to said section, the retail sale licence for fermented alcoholic beverages containing not more than 8.0 % by volume of ethyl and for alcoholic beverages produced by other methods and containing not more than 5.5 % by volume of ethyl alcohol applies to the retail sale in the interior of a single retail outlet. The place of sale may be either a food shop, a

shop truck or boat, an area licenced for serving alcohol or a shop connected to the place of production.

As a general rule, Alko enjoys exclusive rights for the retail sale of fermented alcoholic beverages containing more than 8.0 % by volume of ethyl alcohol and alcoholic beverages produced by other methods and containing more than 5.5 % by volume of ethyl alcohol. There are exceptions to the general rule in section 17 of the Act as regards retail licences for farm wine and craft beer. The derogations allow for the sale of farm wine containing up to 13 % by volume of ethyl alcohol and craft beer containing up to 12% by volume of ethyl alcohol at their retail outlet. The retail licence for farm wine and craft beer applies to the retail sale inside one retail establishment and is granted to the producers of said alcoholic beverages in a production location where fermentation takes place or in its immediate vicinity, in a building referred to in the Land Use and Building Act. This is a limited exception to Alko's retail monopoly. In addition to the fact that retail sales are tied to the place of production or its immediate vicinity, the production volumes of farm wines and craft beers have been limited. According to the definitions of craft beer and farm wine in section 3 of the Act, a maximum of 100 000 litres of farm wine and 500 000 litres of craft beer may be produced per calendar year.

Provisions on retail outlets for alcoholic beverages are laid down in section 35. Under said provision, the retail sale of alcoholic beverages may be carried out only by supplying them to the customer at an approved retail outlet. A retail trade licence holder may only sell alcoholic beverages referred to in the licence. In the case of retail sales, alcoholic beverages must therefore be sold and supplied in licensed premises. The retail licence holder may also accept orders and payments for alcoholic beverages in its online shop, but the customer must collect the alcoholic beverages at the retail outlet. E-commerce is therefore allowed if the customer collects the online purchases from the retail outlet.

In the case of Alko, section 27 of the Act provides that alcoholic beverages purchased from the company may also be delivered to purchasers in open commercial premises, if Alko has concluded a delivery agreement with the operator of the commercial premises ('collection point'). Only alcoholic beverages that were ordered by the purchaser for delivery on the delivery premises may be delivered there. Delivered alcoholic beverages may only be transferred to a purchaser or their agent, and alcoholic beverages that were not picked up must be returned to the Alko no later than two weeks after their arrival at the delivery premises. Even for the part of Alko the regulation does not allow alcoholic beverages to be delivered from the place of supply to a place designated by the consumer. E-commerce is also possible for Alko only in a manner where Alko receives orders and payments in its online shop, but the customer collects the beverages at retail or delivery location.

The Alcohol Act (1102/2017) does not contain any special provision on the retail sale, online sale or distance selling of alcoholic beverages from abroad. The Act does not define what is meant by the distance selling of alcoholic beverages.

Provisions on import are laid down in section 32 of the Act. According to it, alcoholic beverages can be imported without an importing licence for personal use and for commercial or other business operations. However, for commercial or other business operations involving alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol, the user needs a licence specified in this Act for their operations and the imported alcoholic beverage. Under section 33 of the Act, a person under the age of 20 may not import strong alcoholic beverages. A person under the age of 18 may not import mild alcoholic beverages.

Section 37 of the Act provides for retail trade and serving bans. According to said section, alcoholic beverages may not be sold or otherwise supplied to persons under the age of 18 years or to persons that are clearly intoxicated or behave inappropriately, or to persons in relation to whom there are reasonable grounds for suspecting that the alcoholic beverage will be handed over or brokered in an unauthorised manner. In the case of retail sale, spirit drinks may not, by way of derogation, be sold to persons under the age of 20. In turn, the holding and consumption of alcoholic beverages in the premises licenced for serving alcohol may not be allowed for persons under the age of 18, or persons who are clearly intoxicated or behave inappropriately.

In addition to the abovementioned prohibitions on supply, chapter 5 of the Act lays down a number of restrictions and obligations in relation to the retail sale and delivery of alcoholic beverages. Among other provisions, this chapter contains provisions on the requirements on the personnel at retail sale location and locations serving alcohol, age verification when alcoholic beverages are supplied, and the permitted retail sale and serving times.

Provision on marketing of alcoholic beverages are laid down in section 50 of the Act. According to Section 50(2)(1) of the Act, the marketing of mild alcoholic beverages and combining it with the marketing of other products or services is prohibited if it is aimed at minors or other persons to whom according to Section 37 alcoholic beverages may not be sold, or if such persons are depicted in it. According to paragraph 2 of the provision, the use of alcohol may not be linked to driving a vehicle in marketing. According to paragraph 3, the alcohol content of an alcoholic beverage may not be emphasised as a positive feature in marketing. According to point 4, the marketing should not represent heavy alcohol use in a positive manner or lead to a sobriety or moderate consumption of alcohol in a negative manner, nor, according to point 5, should it give the impression that alcohol use contributes to social or sexual success. Furthermore, under point 6, marketing must not create the impression that alcohol has medical or therapeutic qualities, or that alcohol is refreshing or calming, or a method of solving problems; According to section 7, marketing must not be contrary to moral principles or use inappropriate means for the consumer or give untruthful or misleading information about alcohol, its use, effects or other properties. According to paragraph 8, marketing may not be carried out in television and radio broadcasting as defined in the Act on Electronic Communications Services (917/2014) between 7 a.m. and 10 p.m., or in connection with the public screening in cinemas of an audiovisual programme rated for under 18s according to the Act on Audiovisual Programmes (710/2011). According to paragraph 9, marketing must not be carried out or aimed at the public in a public place referred to in the Public Order Act (612/2003). According to section 10, a consumer's participation in a game, lottery or competition may not be used in marketing. In addition, marketing is prohibited, pursuant to paragraph 11, if its commercial implementer uses in its IT network service verbal or graphic content produced by consumers or uses the service to communicate its own or consumer-produced verbal or graphic content for sharing.

According to the general rule in section 50(1) of the Act, the marketing of strong alcoholic beverages is prohibited. Exceptions to the prohibition on the marketing of strong alcoholic beverages are laid down in section 50(3). According to the provision, strong alcoholic beverages may be marketed, within the limits listed above for mild alcoholic beverages, in (1) places for the production, retail sale and serving of alcoholic beverages, (2) print or online retail trade or serving price lists as well as manufacturers' or wholesalers' product catalogues, provided that the available beverages are presented to consumers in a consistent manner, and (3) other information networks involved in the sale of alcoholic beverages, but not available to consumers.

According to subsection 5 of section 50 concerning marketing, subsections 1 and 2 shall not apply to publication and programming activities of an operator outside of Finland solely intended for an audience other than in Finland or, with the same content, regardless of the target audience country, as referred to in the Act on the Exercise of Freedom of Expression in Mass Media (460/2003). The provisions shall apply to advertising by an operator abroad of alcoholic beverages available on the Finnish market and intended specifically for an audience in Finland.

Under section 7 of the Act, the Regional State Administrative Agency acts as the licensing authority for both retail sale and serving licences. In addition, chapter 9 of the Act provides for supervision and guidance and chapter 10 provides for prohibitions and penalties for infringements. On the basis of section 60 of the Act, the Regional State Administrative Agencies supervise retail trade, serving and marketing of alcoholic beverages in their territory. The National Supervisory Authority for Welfare and Health shall in turn supervise the retail trade, serving and marketing of alcoholic beverages in the whole country as well as on vessels referred to in the Aviation Act (864/2014) and Maritime Act (674/1994) under Finnish nationality. The Supervisory Authority may, inter alia, prohibit a licence holder from continuing their business insofar as it is materially contrary to the accepted principles of morality within the meaning of section 4 of the Act and the activity in question has not been rectified or terminated within the prescribed reasonable period, despite the request of the supervisory authority. The provisions also allow issuing a conditional fine or a fine where the holder of the authorisation has breached his obligations under chapter 5, for example.

Retail and delivery charges are laid down in chapter 11 of the Alcohol Act. According to section 75 of the Alcohol Act, the Regional State Administrative Agency charges an annual supervision fee to cover the costs of controls. In addition, licence fees are laid down separately in the Act on Criteria for Charges Payable to the State.

Excise Duty Act

In the EU, the basic principles of excise taxation have been harmonised in the Excise Duty Directive. On 19 December 2019, the Council of the European Union adopted Directive (EU) 2020/262 laying down the general arrangements for excise duty (recast), hereinafter the *Excise Duty Directive*. It has been applied in the Union since 13 February 2023. The provisions of the Directive have been implemented in Finland in the Excise Duty Act (182/2010).

The Excise Duty Act lays down provisions on the payment of excise duties to the State. The Excise Duty Act lays down the procedure to be followed for excise duty, tax liability, tax exemptions and supervision. The Act applies, among other things, to taxes and fees laid down in the Act on Excise Duty on Alcohol and Alcoholic Beverages (1471/1994).²

Distance sales of products subject to excise duty are regulated by Article 44 of the Excise Duty Directive. Under the Excise Duty Directive, excise duty is levied in the Member State of

² The Excise Duty Act has recently been amended by Act 432/2024. The amendment supplemented the provision on tax liability in the case of distance selling in such a way that the buyer of the products, as allowed by the Excise Duty Directive, is liable not only for the seller, but also for the tax in certain situations of distance selling if the distance seller fails to fulfil his obligations. In addition, the distance seller was obliged to assign to the product transport company the unique identifier of the transport assigned by the Tax Administration, which must be shown to the competent authority upon request during the transport.

destination on products released for consumption in another Member State and purchased by a person, other than an authorised warehouse keeper, registered consignee or guaranteed consignee, established in another Member State and not carrying out an independent economic activity, and sent or transported directly or indirectly by a consignor carrying out an independent economic activity or on his behalf, to the territory of another Member State. The person liable to pay excise duty in the Member State of destination shall be the consignor. Tax liability arises when the goods are handed over in the Member State of destination. The consignor may also appoint a tax representative, established in the Member State of destination, who shall be liable to pay the excise duty on behalf of the consignor.

The consignor of the products and the tax representative, if appointed by him, shall be registered prior to the dispatch of the excise products and provide a guarantee of payment of excise duty under the conditions laid down by the Member State of destination. In order to avoid double taxation, the excise duty levied in the first Member State shall be refunded to the consignor at his request, provided that the consignor or tax representative has registered and lodged a guarantee prior to the dispatch of the goods, paid the tax after the delivery of the goods in the Member State of destination and has kept records of the goods handed over. Member States may simplify these requirements on the basis of bilateral or multilateral agreements. Furthermore, under Article 44(3) of the Directive, Member States may provide that where the consignor or tax representative has not registered and has lodged a guarantee, the person liable to pay excise duty is the consignee of the excise goods. This procedure enabled by the Directive was implemented nationally through amendment 432/2024 to the Excise Duty Act, which entered into force on 1 September 2024.

Distance selling and distance seller are also defined in the Excise Duty Act. According to the definitions in section 6 of the Act, the following definitions apply in the Act:

10) distance selling refers to sales where a person established in Finland, other than an authorised warehouse keeper or registered consignee or a temporarily registered consignee, who does not engage in independent economic activity, has purchased goods subject to excise duty which have been released for consumption in another Member State, and the goods are dispatched or transported to Finland directly or indirectly by the vendor or on behalf of the vendor;

11) distance seller means a seller who sells products to Finland in accordance with point 10.

The Excise Duty Act contains provisions on tax liability in the case of distance selling. Under section 79 of the Act, excise duty is levied on products sold via distance selling to Finland. The distance seller is a taxable person. If the distance seller has a tax representative, he or she shall be liable for tax instead of the distance seller. A distance seller shall be liable for the excise duty payable by the tax representative as opposed to its own tax. If the distance seller fails to comply with the reporting and guarantee obligations laid down in section 80, the private individual who has acquired the products shall be liable for the tax in addition to the distance seller.

Under section 80 of the Act, a distance seller who does not have a tax representative in Finland must notify the Tax Administration of the products before they are dispatched from another Member State to Finland and provide a guarantee for the payment of excise duties. After the distance seller has submitted a declaration and provided a guarantee, the Tax Administration shall issue a unique identifier for the transport of the products to the distance seller. A distance seller shall provide the identifier to the transport company responsible for

the transport of the products. Upon request, the identifier must be presented to the competent authority during transport.

A private individual may also acquire products subject to excise duty taxed in another Member State from Finland in such a way that the seller is not involved in organising the transport in any way. In this case, it is an acquisition of an individual in accordance with section 74 of the Excise Duty Act, which is referred to conventionally in spoken language as a remote purchase. In this case, a private person purchases products subject to excise duty from another Member State for their own use, other than by importing passengers or by distance selling, and organises their transport to Finland independently without the direct or indirect involvement of the seller in the organisation of the transport. The products may be transported to the country either by another private person or by a trader. In the case of distance purchasing, the buyer is a taxable person for the goods it purchases. In addition to the buyer, the private person or professional trader involved in the transport of the products and anyone who holds the products in Finland, such as their storekeeper, are liable for the tax. Before sending goods from another Member State, the buyer shall notify the Tax Administration thereof and provide a guarantee for goods subject to a harmonised tax. The buyer shall submit a tax return for goods acquired remotely to the Tax Administration for the tax period in question for goods arriving in Finland in the tax period in question. A tax return must be submitted and the tax must be paid no later than the 12th day of the calendar month following the tax period.

Value Added Tax Act

Distance selling of products subject to excise duty is also an event subject to value added tax. Under the Value Added Tax Act (1501/1993), distance sales of excise goods are considered to be cases where the goods are purchased by a private person and the seller is directly or indirectly involved in the transport of the goods between EU countries. Article 5a of Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax defines in more detail what is meant by direct or indirect organisation of transport. The liability to tax is determined consistently in the Value Added Tax Act and the Excise Duty Act, so that the distance seller is both the person liable for value added tax and the person liable to pay excise duty in the case of distance sales. In distance selling, the VAT is collected in the Member State where the transport of the goods to the buyer ends. Similarly, when the buyer organises the transport independently, the provisions of the Value Added Tax Act on distance selling do not apply to sales, as is the case with the distance selling provisions of the Excise Duty Act. The place of sale of the goods is then, under value added tax, the Member State from which the goods are dispatched or the transport begins. The seller shall be liable to pay VAT on his sales to the Member State concerned.

EU legislation

Treaty on European Union

Pursuant to Article 168(5) of the Treaty on the Functioning of the European Union (TFEU), Union legislation may set out measures which have as their direct objective the protection of public health by preventing the abuse of alcohol. However, these measures may not involve the harmonisation of the laws and regulations of the Member States.

It is therefore explicitly prohibited to lay down harmonised Union legislation whose direct purpose would be to reduce alcohol-related harm. Member States are primarily responsible for legislation to reduce the harm from alcohol, and the EU only has a complementary role in this regard.

Article 34 of the Treaty on the Functioning of the European Union (TFEU) prohibits quantitative restrictions on imports and all measures having equivalent effect between Member States. However, Article 36 TFEU provides for exceptions to that prohibition. According to the said article, Article 34 does not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

National monopolies are special cases in EU law and products subject to a monopoly are regulated in Article 37 TFEU. Under paragraph 1 of that article, Member States are to adjust their State monopolies of a commercial character so as to ensure that the conditions under which goods are procured and marketed do not discriminate against nationals of the Member States. Under paragraph 2 of the Article, Member States shall not adopt any new measure which is contrary to the principles of paragraph 1 or which restricts the scope of the articles prohibiting customs duties and quantitative restrictions between Member States. EU law thus allows a national monopoly to be maintained, provided that the conditions governing the sale or acquisition of goods do not discriminate against nationals of the Member States. Products subject to a monopoly are therefore assessed on the basis of Article 37 TFEU and derogations from the monopoly are assessed on the basis of Articles 34 and 36 TFEU.

E-commerce Directive

Online trade is governed by Directive 2000/31/EC of the European Parliament and of the Council on the legal aspects of information society services, in particular electronic commerce in the Internal Market (hereinafter the E-Commerce Directive), which has been implemented in Finland by the Act on Electronic Communications Services (917/2014).

In accordance with Article 1 of the E-commerce Directive, the objective of the Directive is to contribute to the proper functioning of the internal market by ensuring the free movement of information society services between Member States. The E-commerce Directive applies to the provision of information society services and the conclusion of contracts in electronic form. Information society services shall mean any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

The main rule of the Directive is contained in Article 3(2). It does not allow Member States, for reasons related to the coordinated field, to restrict the provision of information society services originating in another Member State. 'Coordinated field' means the requirements set out in the legal orders of the Member States applicable to information society service providers or information society services, which a service provider must comply with when initiating the provision of a service (e.g. requirements concerning qualifications, authorisation or declaration) or when continuing to operate as an information society service provider (e.g. requirements concerning the conduct of the service provider or requirements relating to the

quality or content of the service; Article 2(h)). However, the coordinated field does not cover requirements applicable to goods as such, such as labelling obligations, requirements for the supply of goods or requirements for services provided in a manner other than by electronic means (Article 2(h)(ii)). In Decision C-108/09 *Ker-Optika*, the Court of Justice of the European Union confirmed that an online sale of physical goods could be divided into an actual sale which must be assessed on the basis of the E-commerce Directive and a delivery transaction which must be assessed in relation to primary law orders, i.e. Articles 34 to 36 TFEU.

The Directive relies on the so-called country of origin principle. According to Article 3(1) of the Directive, each Member State shall ensure that service providers established on its territory comply with the laws of that Member State in the matters falling within the coordinated field. For service providers, the country of origin principle means that they cannot, in principle, be required to comply with the provisions of a State other than that in which they are established when providing information society services in the Community. In addition, supervision of the activity takes place in the Member State of establishment.

However, there are exceptions to the freedom to provide a service and the country of origin principle. Firstly, the sectors listed in the Annex to the Directive are excluded (Article 3(3)). Secondly, the Directive allows Member States, on certain grounds, in individual cases, to restrict the supply of information society services from another Member State (Article 3(4)-(6)). These criteria are public order and safety, the protection of public health and the protection of consumers, including investor protection. Before taking such measures, the Member State shall request the Member State to take such measures and shall notify the Commission and the Member State of its intention to take such measures. A Member State may, in case of urgency, derogate from the declaration obligation, but even in this case the measures must be notified as soon as possible to the Commission and the Member State. In these cases, the Commission will examine as soon as possible whether the notified measures are compatible with Community law.

According to Article 4(1) of the Directive, Member States must ensure that the start or continuation of the activities of an information society service provider is not subject to prior authorisation or a requirement with equivalent effect. In accordance with paragraph 2 of the Article, paragraph 1 shall be without prejudice to authorisation schemes which do not specifically and exclusively apply to information society services.

With regard to distance selling of alcohol, the European Commission has noted in its written comments to the Court of Justice of the European Union in the case before the Court of Justice C-198/14 *Visnapuu* that, although the offering of the sale of alcoholic beverages by means of distance communication by a seller established in another Member State falls within the scope of the Information Society services, national rules on the conditions for distance selling of alcoholic beverages do not fall within the scope of the Electricity Trading Directive.³ In its detailed opinion on the Government Bill 173/2024 vp, which was notified pursuant to Directive (EU) 2015/1535, the Commission noted, with reference to the case-law of the Court of Justice of the European Union, that national measures concerning an arrangement for the sale of goods via the internet and the delivery of goods to a consumer's home address must be examined only from the point of view of the rules on the free movement of goods, i.e. from the point of view of Articles 34 TFEU and 36 TFEU.⁴ According to the settled case-law of the Court of Justice of the European Union, all national measures in an area which has been the

³ Written comments of the European Commission in Case C-198/14 *Valev Visnapuu*, paragraph 37. Can be found here: https://ec.europa.eu/dgs/legal_service/submissions/c2014-198-obs_fi.pdf

subject of exhaustive harmonisation at Union level must be assessed in relation to the provisions of the harmonisation measure in question, i.e. for example the provisions of a directive, and not to those of primary law, such as the Treaty on the Functioning of the European Union (TFEU).⁵ Since the regulation of distance selling of alcohol across borders has not been exhaustively harmonised at EU level by the Electricity Trading Directive, or by any other harmonisation measure, it is necessary to assess distance selling primarily in relation to the provisions of the TFEU. The Electricity Trading Directive has harmonised the general conditions applicable, inter alia, to online sales of alcohol, but the specific conditions for the distribution of alcohol to the public have not been harmonised in the EU.

The E-commerce Directive must be taken into account as regards the provisions on online alcohol marketing, as marketing is part of the coordinated field of the Directive. According to the Information Security Code Section 175, competent authorities in Finland shall supervise that the service providers established in Finland observe the Finnish law in the co-ordinated field also when provision of services is solely or mainly directed at another Member State within the European Economic Area. In the case of the marketing of alcoholic beverages, according to the country of origin principle, it is not relevant whether online advertising of alcoholic beverages is aimed at persons living in Finland or not. Traders established in Finland must comply with the marketing provisions of the Alcohol Act, even if the marketing is exclusively or mainly directed at another state in the European Economic Area.

Audiovisual Media Services Directive

Under European Union law, alcohol advertising is regulated by the Audiovisual Media Services Directive 2010/13/EU.⁶ According to Article 9(1)(e) of the Directive, Member States must ensure that audiovisual commercial communications provided by media service providers under their jurisdiction are not specifically aimed at minors and, in particular, must not describe minors accessing alcoholic beverages. Article 22 of the Directive lays down the criteria to be observed in television advertising and teleshopping for alcoholic beverages. These include a ban on television advertising and teleshopping for alcoholic beverages, especially for minors, as well as a ban on combining the use of alcohol with increased physical performance or driving a vehicle in television advertising and teleshopping. The Audiovisual Media Services Directive (AVMS Directive) is a 'minimum' directive, meaning that the Directive sets a minimum level to be followed in the EU.

The Audiovisual Media Services Directive also lays down the country of origin principle. According to Article 2 of the Directive, each Member State must ensure that all audiovisual media services transmitted by media service providers under its jurisdiction comply with the rules of the legal order applicable to audiovisual media services intended for the public in that Member State. The provisions of the AV Directive concerning the marketing of alcoholic beverages are implemented in section 50 of the Alcohol Act.

⁴ Commission's detailed opinion on declaration 2024/0521/FI, p. 6. Can be found here: <https://technical-regulation-information-system.ec.europa.eu/fi/notification/26268>

⁵ Judgment of the Court of Justice of the European Union C-198/14 Visnapuu, paragraph 40.

⁶ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative provisions in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

Digital Services Act

In the EU, Regulation (EU) 2022/2065 of the European Parliament and of the Council (Digital Services Act) was adopted in 2022. The Regulation entered into force on 17 February 2024. The purpose of the DSA Regulation is to protect users from illegal content online and to ensure their fundamental rights. The regulation defines the obligations and responsibilities of transmission service providers. The legislation requires online platforms to be more transparent, for example regarding the content referral systems they use, while at the same time increasing the responsibility of service providers in relation to illegal content in their services.

Among other things, the Digital Services Regulation concerns online platforms, such as social media services and online marketplaces, as well as internet search engines. All brokerage services regulated by the Decree are information society services, but not all information society services are subject to the regulation of the Decree. Information society services not covered by the Decree include, for example, websites (online shops) where a trader sells its products to consumers or businesses on its own website and does not allow other traders to store the content on the website.

EU case law

The Court of Justice of the European Union has dealt with the Member States' own alcohol legislation primarily with regard to whether the provisions are contrary to the Treaty or to a directive or regulation adopted on the matter. In many cases, the Court has ruled that restricting economic activity related to alcohol may constitute a measure equivalent to a quantitative restriction on imports which is contrary to Article 34 of the Treaty, but that the measure is justified on grounds of public health protection and public order under Article 36 of the Treaty.

Ahokainen and Leppik case

In case C-434/04 Ahokainen and Leppik, the Court of Justice of the European Union considered the requirement for a licence for the import of spirits laid down in the Finnish Alcohol Act to be justified. According to the Court of Justice, this prior authorisation requirement for the import of goods constituted a restriction on trade between Member States within the meaning of Article 34 TFEU, but that restriction was justified on public health and public order grounds within the meaning of Article 36 TFEU. There were also no indications that the licensing system for the import of spirits in accordance with the Alcohol Act was used in such a way that goods from other Member States would be discriminated against or that certain domestic production would be protected indirectly. Article 36 TFEU requires that prohibitions and restrictions on imports, exports or goods in transit, justified on grounds, inter alia, of the protection of public health and public order, must not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

The CJEU also drew attention to the proportionality of the measure. According to the Court, where there is an exception to the principle of free movement of goods, the national authorities must demonstrate that their legislation complies with the principle of proportionality. The legislation must therefore be necessary to achieve the stated objective, in this case the protection of public health and the protection of public order, and that objective could not be achieved by means of prohibitions or restrictions which are less extensive or which would restrict intra-Community trade. The EU Court of Justice left it to the National

Court to assess whether the Finnish legislation in this case was effective and proportionate. In its ruling KKO:2007:11, the Supreme Court held that the regulatory system laid down in the Alcohol Act for spirits was intended to protect public health and to safeguard public order from the harmful effects of spirits. The aim of the system is to prevent spirits intended for industrial use from entering the market as a beverage intended to be consumed for consumption. The Supreme Court confirmed the requirement for a licence for the import of spirits as a system compliant with the principle of proportionality required by EU law.

In Case C-394/97 *Heinonen*, the Court of Justice of the European Union also upheld the restriction laid down in Finnish alcohol legislation concerning the duration of travel, in relation to the right of travellers arriving from third countries to import alcoholic beverages into the country.

The Franzén case

In Case C-189/95 *Franzén*, the Court of Justice of the European Union held that a monopoly for retail sales of alcohol based on public health grounds in Sweden was not contrary to Community law. The Court of Justice stated that the requirement for the adaptation of commercial monopolies in Member States laid down in Article 37 TFEU does not mean that the monopolies in question are abolished, but that it is ensured that the conditions under which goods are procured and marketed do not discriminate against nationals of Member States. According to the Court of Justice, the purpose of Article 37 TFEU is to reconcile the possibility for Member States to maintain certain commercial monopolies with the requirements of the Community internal market by removing obstacles to the free movement of goods. However, it is not the intention to remove trade-restrictive effects which are intrinsically linked to the existence of such monopolies. The Court stressed that Article 37 TFEU requires that the structure and operation of a monopoly be organised in such a way that discrimination between nationals of Member States in the conditions of acquisition and sale of goods is excluded, so that trade in goods imported from other Member States is not treated in a more favourable legal or factual manner than trade in domestic goods and that competition between the economies of Member States is not distorted.

In the *Franzén* case, referring to its previous case law, the Court of Justice justified the examination of the national legal rules relating to the existence and functioning of commercial monopolies in the Member States on the basis of Article 37 TFEU, which applies as a specific provision to the exercise of the exclusive rights of monopolies. However, national rules of law which do not in themselves regulate the operation of the monopoly, but which have an impact on it, must be examined in the light of Article 34 TFEU. In the *Franzén* case, such national legal rules, which did not in themselves regulate the operation of the alcohol monopoly, but had an impact on it, were a requirement of the Swedish Alcohol Act at that time that the import of wine, strong beer (above 3.5% vol. alcohol) and spirits was only permitted to holders of a manufacturer's or wholesale licence. The Court of Justice held that the requirement in question infringed Article 34 TFEU and that it was not justified by Article 36 TFEU, since the Swedish Government had failed to demonstrate that the requirement in question was proportionate for the protection of public health and that this objective could not be achieved by measures which were less restrictive of intra-Community trade than the requirement in question.

Rosengren case

In case C-170/04 Rosengren, the Supreme Court of Sweden referred a question to the Court of Justice of the European Union for a preliminary ruling on whether the prohibition in the Swedish Alcohol Act applicable to private individuals to import alcoholic beverages complied with EU law at the time. At that time, the Swedish Alcohol Act allowed, for example, passenger imports to private individuals where the passenger himself had to transport the beverages to Sweden, but the act did not allow an individual to order alcoholic beverages from abroad to be delivered to Sweden by a transportation company. Under the then Swedish Alcohol Act, the alcohol monopoly company Systembolaget was required, in principle, to import all alcoholic beverages at the consumer's request and expense. The Court of Justice of the European Union stated that the provision in question, together with the ban on private individuals importing alcoholic beverages, meant that the Alcohol Act instructed consumers to turn to a monopoly. This meant, according to the Court, that such a ban could have an impact on the functioning of the monopoly. It was therefore for the Court to assess, first, whether the prohibition of such imports had to be examined on the basis of Article 37 TFEU as a rule of law relating to the existence or functioning of a monopoly. The Court referred to the reasoning in the Franzén case described above that national rules which, although separable from the functioning of the monopoly, have an impact on it and, moreover, have an impact on intra-EU trade, must be examined in the light of Article 34 TFEU. The Court concluded that the monopoly on the retail sale of alcoholic beverages granted to Systembolaget by the Swedish Alcohol Act did not cover the exclusive right to import alcoholic beverages. Therefore, the prohibition of imports by private individuals did not regulate how the monopoly was performing its specific function and therefore there was no provision on the existence of a monopoly. Furthermore, according to the Court, the operation of the monopoly was not effectively regulated by the ban, since details of the retail sale of alcoholic beverages on Swedish territory were not affected by the ban. The Court concluded that the prohibition could not be regarded as a rule of law as regards the existence or functioning of a monopoly and therefore had to be assessed in the light of Article 34 TFEU.

The Court considered the provision of the Swedish Alcohol Act prohibiting the import of private individuals as a quantitative restriction on imports in accordance with Article 34 TFEU. In its reasoning, the Court considered it relevant, first, that Systembolaget had the right to reject the consumer's request that beverages be delivered to him and, therefore, imported if necessary, beverages that were not part of the range of beverages offered by the monopoly. In addition, the persons suffered certain disadvantages that they would not have suffered if they themselves were to import. For example, the consumer had to visit one of the monopoly stores several times in order to fill in and sign the order form. In addition, the order was only accepted if it concerned a certain minimum quantity of bottles to be imported. In addition, the consumer did not have control over the conditions of transport or the method of packaging beverages, nor was they able to choose the type of bottle that will be ordered. In addition, the consumer had to pay Systembolaget a fee for the costs and a profit margin, which the buyer would not, in principle, have incurred had the products been imported directly.

It therefore became necessary to assess whether such a restriction was justified as an exception under Article 36 TFEU to the free movement of goods on the grounds of the protection of health and life of humans. Referring to its previous case-law, the Court of Justice held that the legislation of a Member State which has as its objective the prevention of the social, social and health-related harm caused by alcohol and seeks to combat the abuse of alcohol complies with the public health and public order reasons recognised in Article 36 TFEU. Furthermore, according to the Court, it had not been established that this was a means

of arbitrary discrimination or a disguised restriction on trade between Member States. However, according to the Court, an exception under Article 36 TFEU cannot be applied if the health and life of humans can be protected equally effectively by measures that restrict less trade between Member States.

The Swedish Government justified the import ban firstly by the fact that it was necessary to limit the consumption of alcohol. The Court found, however, that consumers had the opportunity to obtain alcohol when delivered via Systembolaget, and thus the ban on the import of alcohol by private individuals meant, in the case of imported beverages, directing demand towards Systembolaget. The Swedish Government stated that directing demand to Systembolaget was necessary in order to protect young people from the dangers of alcohol use, as Systembolaget had an obligation to check the age of subscribers. Alcohol could only be ordered via Systembolaget if it was at least 20 years of age. The Court found, however, that the Swedish import ban concerned all persons, regardless of age, and that it could not be regarded as proportionate to the objective pursued, namely to protect young people from the harmful effects of alcohol. The Court referred to its previous case-law, for example: In the cases of *Ahokainen and Leppik* and *Franzén*, the Court stated that it is the responsibility of national authorities to demonstrate that the legislation complies with the principle of proportionality — that is, that it is necessary to achieve the stated objective and that this objective could not be attained by prohibitions or restrictions that are less extensive or less restrictive of intra-Community trade. In its ruling, the Court concluded that the prohibition of importation could not be justified on the grounds mentioned above under Article 36 TFEU.

Commission v Sweden case

A few months after the European Court of Justice ruling on *Rosengren*, the European Court of Justice confirmed Sweden's breach of its member obligations under the EU Treaty in case C-186/05 against the *Commission v Sweden*. Based on an action brought by the Commission against Sweden, and in accordance with the *Rosengren* ruling of the Court of Justice of the European Union, the Court concluded that Sweden had failed to fulfil its obligations under Article 34 TFEU by prohibiting private persons from importing alcoholic beverages between independent intermediaries or professional transport companies chosen by those persons, and that this prohibition could not be considered justified under Article 36 TFEU.

Visnapuu case

In case C-98/14 *Visnapuu*, the Court of Justice of the European Union will assess Finnish legislation in relation to distance selling of alcoholic beverages, i.e. where the distance seller takes care of the transport of the alcoholic beverages or entrusts a third party to it. The CJEU took a position, first, on whether a distance seller may be required to have a retail licence and, second, on whether distance selling of products subject to the State Alcohol Monopoly may be prohibited. The CJEU examined the sale of alcoholic beverages in a different manner, as regards those alcoholic beverages that may only be sold in Finland by the State Alcohol Monopoly, on the one hand, and those that are subject to a national licensing system, on the other. The CJEU considered that as regards products subject to the State Alcohol Monopoly, Article 37 TFEU would be applicable. It is therefore a prerequisite for the legality of the prohibition on distance selling of alcoholic beverages and alcoholic beverages belonging to it that the conditions for the purchase or sale of goods do not discriminate between nationals of Member States. According to the CJEU, as regards products not subject to a monopoly, the matter had to be assessed on the basis of Articles 34 and 36 TFEU. According to the CJEU, the requirement for a retail licence does not violate EU law if a national court ensures that the

legislation meets the three requirements of the principle of proportionality. First of all, it must be possible for the Code to guarantee the attainment of the objective pursued, in this case the protection of public health and public order. Secondly, less restrictive measures cannot achieve this objective with at least the same effectiveness. Third, the Code does not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. The Visnapuu case and the resulting judgment of the Supreme Court are further discussed in Chapter 2.1.2 (Relationship to EU Court of Justice).

2.1.2 Developments in the alcohol market

The largest sales channel for alcoholic beverages in Finland is retail in food outlets, kiosks and transport stations, with a share of approximately 52% of the recorded consumption. In 2024, the State Alcohol Monopoly accounted for around 36% of the recorded consumption of alcohol and about 41 % of retail sales. In the early 2000s, the State Alcohol Monopoly accounted for more than 50% of retail sales.

From the point of view of the system of exclusive rights, the retail sale of alcoholic beverages has been subject to two significant changes over the past decade. In 2018, the percentage limit for retail sales outside the State Alcohol Monopoly was increased from 4.7 % to 5.5 %, and the amendment to the Act that entered into force in the summer of 2024 increased the percentage limit to 8.0 % for fermented alcoholic beverages. In the case of both amendments, the sales of the exempted products have shifted mainly to retail sales outside the State Alcohol Monopoly. In 2024, Alko's sales decreased by around 8.4% (100% in alcohol) compared with the previous year, while the total consumption recorded decreased by around 2.6%. While the sales of the liberalised products have decreased, the change may also have affected the sale of other products in Alko, as the need for doing business in Alko has decreased. Based on a study carried out by the Finnish Competition and Consumer Authority, in summer 2024 the sales of wines and spirits appear to have decreased more than in early or previous years. This could indicate that the 2024 reform has also reduced the sale of non-liberalised products in Alko⁷.

In Europe, there are state-owned alcohol monopolies in Sweden, Norway and Iceland, in addition to Finland.⁸ In early 2025, the World Health Organisation (WHO) published a report on alcohol monopolies in the Nordic region looking at the role and position of alcohol monopolies in each country. On the basis of the comparison presented in the report, Alko has the smallest share of the Nordic alcohol monopolies in the country's total alcohol sales. According to the report, the State Alcohol Monopoly accounts for 39 % of the registered sales of country-specific alcohol. In Norway, the alcohol monopoly company accounts for 50% of registered sales, in Iceland for 68%, and in Sweden for 83%. One explanatory factor for fluctuations in the coverage of alcohol monopolies may be considered to be the strength limit for alcoholic beverages of the exclusive right of monopolies. In Sweden, Systembolaget has the exclusive right to the retail sale of all alcoholic beverages containing more than 3.5 % ethyl alcohol. In Norway, the Vinmonopoly has, with some minor exceptions⁹, the exclusive right to the sale of all alcoholic beverages above 4.7%. In Iceland, on the other hand, all alcoholic beverages above 2.25% are covered by a retail monopoly, with the exception of

⁷ FCCA: When deciding on the liberalisation of wine sales, the future of strong sales, leaflet of 18 March 2025, <https://www.kkv.fi/ajankohtaista/tiedotteet/kkv-viinien-myyntin-vapauttamisesta-paatettaessa-on-ratkaistava-myos-vakevien-myyntin-tulevaisuus/> must also be resolved.

⁸ In addition, the Faeroe Islands, which are part of Denmark, have an alcohol monopoly.

⁹ In Norway, small-scale producers may sell more than 4.7% of cider and fruit wine they produce from their own farm shops at their manufacturing sites, on an annual basis, up to 15 000 litres.

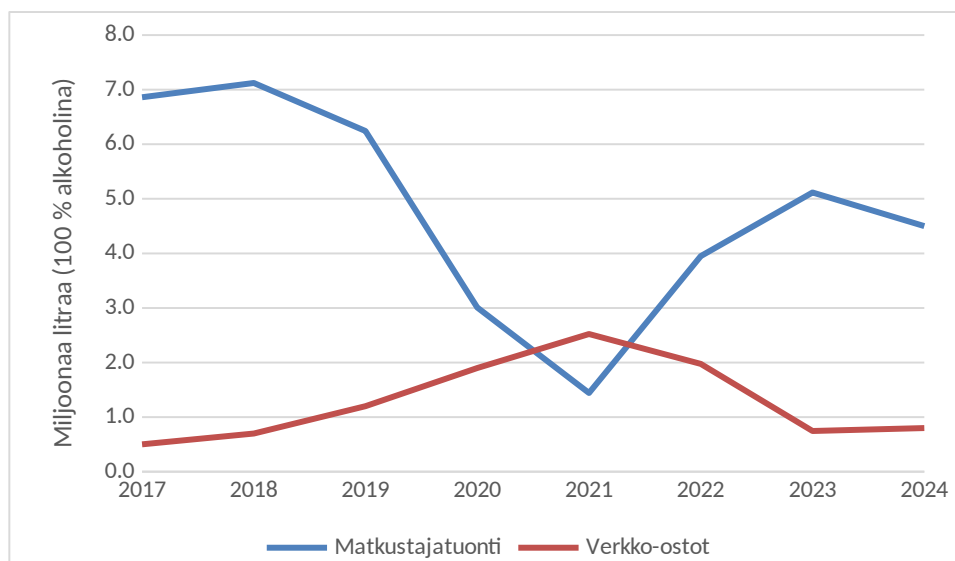
farm sales exemptions¹⁰. In Finland, the exclusive right of the retail trade of the State Alcohol Monopoly includes, with the exception of tilaviini and craft beer¹¹, fermented alcoholic beverages exceeding 8 per cent and alcoholic beverages exceeding 5.5 per cent produced by other methods. In Finland, the area of alcoholic beverages covered by the exclusive right of the alcohol monopoly is clearly the smallest.

Total alcohol consumption consists of unreported and reported consumption. The non-recorded consumption includes passenger imports and the purchase of alcohol from foreign online stores. The share of unrecorded consumption in total alcohol consumption in 2024 was 13% (a total of 5.3 million litres of 100% alcohol). Of this, passenger imports accounted for 85% and online purchases for around 15%¹². The share of online purchases in total alcohol consumption has fluctuated in recent years between around 2% and 6%, with a peak year falling to 2021, when online purchases accounted for around 6% of total consumption. In this case, alcohol purchases from foreign online stores largely exceeded the volume of passenger imports of alcohol due to travel restrictions during the Covid-19 pandemic. In terms of online purchases, the decrease from the peak year 2021 has been approximately 70%, while passenger imports have increased since the Covid-19 pandemic, although in 2024 passenger imports decreased by 12.5% compared to 2023. In 2024, the alcohol purchased from foreign online stores accounted for around 2% of total alcohol consumption. The decrease in online purchases in recent years is also likely to be explained by the intensive monitoring of alcoholic beverages ordered from foreign online stores in Finland by the Tax Administration and the Finnish Customs in 2022–2023. However, in 2024, the purchase of alcohol from foreign online stores increased by 3.4% compared to the previous year.

¹⁰ In Iceland, a manufacturer who produces up to 500 000 litres of alcoholic beverages per year may sell out, with a farm sales permit, alcoholic beverages of up to 12% of the volume manufactured by him from the production site. If a manufacturer's annual production is less than 100 000 l of alcoholic beverages per year, farm sales are also permitted for alcoholic beverages above 12%.

¹¹ In Finland, a winery that produces alcoholic beverages up to 100 000 l per year may sell out fruit and berry wine of up to 13% of its production volume from the place of production. A craft brewery producing up to 500 000 litres of alcoholic beverages may sell out a maximum of 12% craft beer from its production site.

¹² Consumption of alcoholic beverages 2024. Statistical Report 29/2025, THL 13.5.2025. <https://www.julkari.fi/handle/10024/151497> The information on the non-recorded consumption of alcohol is based on a survey commissioned by the National Institute for Health and Welfare, the Ministry of Finance and Customs.



Matkustajatuonti

Passenger imports

Verkko-ostot

Online purchases

Miljoonaa litraa (100% alkoholina)

Million litres (100% alcohol)

Figure 1. Passenger imports and online purchases of alcohol in 2017–2024.

The majority of foreign online purchases of alcohol have been sales where the seller organised the transport of the alcoholic beverages. In 2018, the working group examining the restriction on cross-border distance sales of alcoholic beverages estimated that these purchases would account for up to 99 per cent of online consignments of alcohol arriving in Finland¹³. Cross-border distance sales of alcoholic beverages is an activity subject to excise duties which, as competent authorities under the Excise Duty Act, is subject to supervision by the Finnish Customs and the Finnish Tax Administration for taxation purposes. On the basis of their tax control findings, the Finnish Customs and the Finnish Tax Administration have estimated that only a small fraction of alcoholic beverages sold and purchased in foreign online stores are subject to alcohol tax in Finland as it would be under the Act. Between 2022 and 2023, the Finnish Customs and the Finnish Tax Administration carried out intensive monitoring of alcoholic beverages ordered from foreign online stores in Finland, with the aim of ensuring that the appropriate taxes are paid in this context in Finland. The background to this was an increase in the popularity of online ordering of alcohol during the COVID-19 years, and the findings that alcoholic beverages ordered from foreign online stores will not be subject to excise duties in Finland. Nearly EUR 3 million in funding was granted to Customs and the Tax Administration for power control.

During the intensive surveillance period from November 2022 until the end of 2023, Finnish Customs intercepted a total of 5 200 alcohol orders from foreign online stores for which excise duties had not been paid to Finland. These orders were made from more than 150 different online shops, and involved a total of more than 410 000 litres of alcoholic beverages. The Tax Administration issued a take-over decision under the Excise Duty Act for about 100 000 litres stopped. The Tax Administration ordered sellers of beverages or their buyers to pay over EUR 1 million of the alcohol and beverage packaging tax, including tax increases,

¹³ <https://stm.fi/-/tyoryhmalta-yksimielinen-esitys-alkoholijuomien-rajat-ylittavan-myyntin-saantelysta>

for these orders. By February 2024, distance sellers had only paid the taxes imposed on them in respect of individual orders. In situations where a distance seller established in another Member State does not pay the excise duties imposed by a taxation decision, such taxes may be levied from other Member States by means of international cooperation in the collection of taxes.

During intensive monitoring, the Tax Administration also completed six tax inspections of online sales of foreign alcoholic beverages. Following inspections, distance sellers were ordered to pay excise duties of EUR 9.85 million and EUR 1.37 million of Value Added Tax for the 2020-2022 tax periods, with an increase in taxes.

Orders of alcoholic beverages that were not notified to the Tax Administration were, according to the authorities, significantly reduced by around 60 % during the monitoring period. On the other hand, during the monitoring period, no increase in the number of declarations of e-commerce orders under the Act was observed.

2.1.3 General development of alcohol consumption and harms

The purpose of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related business activities in order to prevent harm caused by alcohol to its users, to other people and to society as a whole. Under the Alcohol Act, the government-owned alcohol company (hereinafter 'Alko') currently enjoys, with a few exceptions, an exclusive right to retail alcoholic beverages. However, with the entry into force of the 2018 Alcohol Act, stronger alcoholic beverages were liberated from Alko's exclusivity to the retail sale of shops, kiosks and service stations. In addition, in 2024, Parliament adopted a law (305/2024), according to which fermented alcoholic beverages containing up to 8.0 % by volume of ethyl alcohol may be sold in retail trade.

In Finland, total alcohol consumption tripled between 1960 and 2005, when total alcohol consumption per resident aged 15 or over was 12.1 litres of 100 % alcohol. Between 2007 and 2017, total alcohol consumption decreased by about a fifth (Figure 2). Several increases to alcohol taxes and the prolonged economic downturn since 2008 contributed strongly to these developments. In 2024, the total alcohol consumption per resident aged 15 or over was 8.3 litres of 100% alcohol.¹⁴ Total consumption decreased by 4.4% compared to 2023.

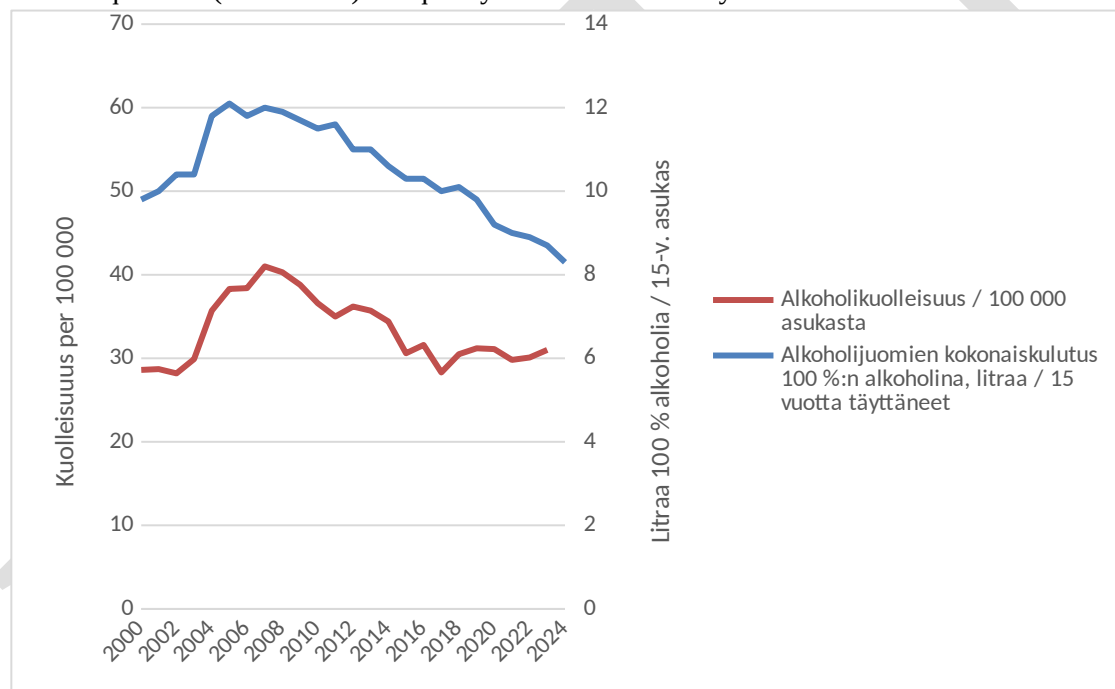
Similarly, for people of working age, both episodic drinking and high-risk alcohol consumption decreased in the last decade. For pensioners, the trend of episodic drinking remained fairly stable, but high-risk drinking increased. Since the turn of the millennium, the consumption of alcohol by young minors in Finland has continued to decline almost continuously.

The evolution of alcohol-related harm has largely followed changes in overall consumption. Between 2007 and 2017, mortality rates from alcohol-related diseases and alcohol poisoning decreased sharply, even more strongly than total consumption (Figure 2). The protracted strong downward trend of alcohol mortality reversed in 2018. Although overall alcohol consumption has continued to decline even after the reform in 2018, the expected decrease in alcohol deaths has not been proportionate. This may indicate that alcohol-intensive consumers, who may have already been affected by alcohol consumption, for example in the

¹⁴ Consumption of alcoholic beverages 2024. Statistical Report 29/2025, THL 13.5.2025. <https://www.julkari.fi/handle/10024/151497>

liver, have increased their consumption of alcoholic beverages more than other consumers since the reform. On the other hand, the increase in alcohol-related harm appears to have focused on different demographic groups than the increase in consumption of exempted products. This could indicate that there has been a reason for the sinking of the alcohol-related harm other than the reform of the Alcohol Act 2018¹⁵. In addition to the 2018 reform of the Alcohol Act, the escalation of alcohol-related problems related to the COVID-19 pandemic may have increased alcohol-related harm, in particular in 2020. In 2021, alcohol mortality decreased by 4 % compared to 2020, indicating a variation in alcohol mortality rates depending on the year. In 2023, 1 727 people died from alcohol-related diseases and alcohol poisoning.

Despite the outcome of a survey that high-income earners increased their purchases of new drinks more than those on low incomes following the 2018 reform of the Alcohol Act, between 2017 and 2019, alcohol mortality increased, in particular for men, in the three lowest income quintiles (+ 18–19 %). Inequality in alcohol mortality has thus increased since 2017.



Alkoholikuolleisuus / 100 000 asukasta

Alkoholijuomien kokonaiskulutus 100 %:n alkoholina, litraa / 15 vuotta täyttäneet

Kuolleisuus per 100 000

Litraa 100% alkoholia / 15-v. asukas

alcohol mortality/100 000 inhabitants

Total alcoholic drink consumption in the form of 100% alcohol, litres/15 years of age

Mortality per 100 000

Litres of 100 % alcohol / residents over 15

Figure 2. Number of deaths from alcohol-related diseases and alcohol poisoning per 100 000 people in the period 2000–2023* and total alcohol consumption in the period 2000–2024 *Alcohol mortality statistics are not yet available for 2024 (situation on 21.5.2025).

¹⁵ Ex-post evaluation of the 2018 Alcohol Act reform. Finnish Competition and Consumer Authority research reports 4/2024, FCCA 2024. <https://www.kkv.fi/tutkimus-ja-vaikuttaminen/julkaisut/tutkimusraportit/vuoden-2018-alkoholilakiuudistuksen-jalkiarviointi-tutkimusraportteja-4-2024/>

Assessment of the current situation

Domestic licensing system

As stated above, the objective of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related economic activities in order to prevent harm caused by alcohol to its users, other people and society as a whole.

The Alcohol Act builds on a licensing system that allows the trade in alcoholic beverages to be controlled from their manufacture through wholesale to retail sale and serving. The current legislation has allowed effective supervision by the authorities and ensured that alcohol is not sold in breach of section 37 of the Alcohol Act. The sale of alcohol at a licenced retail outlet has ensured that alcohol is not sold to minors or highly intoxicated people, for example. In addition, efforts have been made to reduce the consumption of alcoholic substances by regulating the times when alcohol may be sold, for example.

The current legislation does not allow the delivery of alcoholic beverages from a domestic retail outlet or the government-owned alcohol company Alko to a location stated by the buyer, and retail sales are only permitted, in accordance with Section 35 of the Act, when the alcoholic beverages are supplied to the customer at an approved retail outlet.

Although it is easier to control the supply situations of alcoholic beverages when alcoholic beverages are delivered only at retail outlets and not delivered directly to the customer, the license procedure and the regulation of supply situations can reduce the risks of alcoholic beverages being delivered in violation of the prohibitions on supply. In addition, the delivery of alcoholic beverages may be subjected to restrictions and operating conditions similar to those already existing for retail and service. These include provisions on the delivery time for alcoholic beverages and requirements relating to alcoholic beverage delivery drivers.

The current Alcohol Act does not contain separate provisions on distance selling, and the case law has not been uniform as to whether distance selling is permitted or not in Finland. The legal position concerning distance selling has therefore been unclear. National Supervisory Authority for Welfare and Health (Valvira), the licensing authority supervising the Alcohol Act, has interpreted the fact that, on the basis of sections 5, 6, 17, 32 and 35 of the Act, distance selling would require a retail licence for a foreign operator and a retail outlet in Finland. However, according to official guidance, distance purchasing is currently permitted. Case law on distance selling and guidance from the authorities are explained in more detail in the following chapters.

2.1.4 Relationship of the distance selling ban to EU law

2.1.4.1 Visnapuu case

The Court of Justice of the European Union has assessed Finnish law in relation to distance selling in case C-198/14 Visnapuu.¹⁶ In the case, the Estonian entrepreneur ran an internet site

¹⁶ The CJEU uses the concept of distance selling explicitly in point 120 of the judgment: In this context, it should be noted, in particular, that section 14(4) of the Alcohol Act lays down the obligation to engage in retail sale at a point of sale approved by the licensing authority. As confirmed by the Finnish Government at the hearing, such an obligation prevents persons who have been granted a licence pursuant to section 14, subsection 1 or 2 of the Alcohol Act *from carrying out distance sales of alcoholic*

in summer 2009, through which Finnish consumers could purchase alcoholic beverages and receive the products home when transported to Finland. In this case, the entrepreneur himself transported the products to the customers. The alcoholic beverages sold included beer, cider, wine and spirits. The company did not have a retail sales licence for alcoholic beverages referred to in section 14 of the Alcohol Act in force at the time (1143/1994, hereinafter the old Alcohol Act). On 29 September 2012, the Helsinki District Court sentenced the defendant to imprisonment for a spirit offence and serious tax fraud.

The defendant appealed the judgments, and the Helsinki Court of Appeal brought the matter before it. On 16 April 2014, the Helsinki Court of Appeal asked the Court of Justice of the European Union (hereinafter CJEU) for a preliminary ruling on whether Articles 34, 36 and 37 of the Treaty on the Functioning of the European Union prevent Finland from imposing a requirement for a retail sale licence on an importer of alcoholic beverages where the seller transports the alcoholic beverages to the purchaser. The CJEU delivered its judgment on the preliminary ruling on 12 November 2015. In its judgment, the CJEU had itself formulated the questions referred for a preliminary ruling so as to cover situations in which the seller himself transports or entrusts transport to a third party.¹⁷ Thus, in its judgment, the CJEU itself equated the situations in which the seller himself transports the alcoholic beverages or entrusts it to a third party.

Section 13 of the old Alcohol Act provided for the monopoly of the State Alcohol Monopoly and section 14 provided for exemptions from the monopoly of the State Alcohol Monopoly. At that time, there were two exemptions from the State Alcohol Monopoly for retail trade. Firstly, it was possible to obtain a retail sale licence for the retail sale of fermented alcoholic beverages containing up to 4.7 per cent ethyl alcohol by volume. In addition, the producers of alcoholic beverages could obtain a retail sale licence for the retail sale of fermented alcoholic beverages containing no more than 13 per cent ethyl alcohol by volume, under conditions determined by the Ministry of Social Affairs and Health. The latter derogation concerned the current exemption for tilaviini as it is currently in force.

In this judgment, the CJEU considered that the trade in alcoholic beverages covered by the monopoly system in § 13 of the Alcohol Act should be assessed in accordance with Article 37 TFEU, whereas the trade in alcoholic beverages covered by the retail trade system should be assessed in terms of Articles 34–36 TFEU.¹⁸ According to the ruling of the CJEU, Article 37 TFEU requires that the structure and operation of a monopoly be organised in such a way that discrimination between nationals of Member States in the conditions of acquisition and sale of goods is excluded, so that trade in goods imported from other Member States is not subject to less favourable legal or factual treatment than trade in domestic goods and that competition between the economies of Member States is not distorted. Since the file submitted to the CJEU did not contain sufficient information to assess the functioning of the State Alcohol Monopoly, the CJEU left it for the assessment of the referring National Court to determine

beverages by arranging the transport of those beverages or entrusting a third party with the transport of those beverages. (italic here)

¹⁷ C-198/14 Visnapuu judgement, paragraph 77: In its questions 5 to 8, the referring court asked primarily whether Articles 34 TFEU, 36 TFEU and 37 TFEU should be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, under which a seller established in another Member State must hold a retail sale licence in order to import alcoholic beverages for retail sale to consumers residing in the first Member State, where that seller, or someone acting on his behalf, transports those beverages.

¹⁸ C-198/14 Visnapuu, paragraphs 90-93.

whether the operation of the State Alcohol Monopoly met the conditions laid down in Article 37 TFEU.¹⁹

As regards alcoholic beverages not falling within the scope of the State Alcohol Monopoly, the Court of Justice stated that a requirement for a retail trade licence to import alcoholic beverages for retail sale to Finnish consumers may restrict trade between Member States, as it prevents operators established in other Member States from freely importing alcoholic beverages for retail sale to Finland. On the one hand, the CJEU referred to the case-law which has held that national rules restricting or prohibiting certain sales arrangements, which, on the one hand, apply to all operators established in the territory of a Member State and which, on the other hand, have the same legal and factual effect in relation to the marketing of both domestic products and products imported from other Member States, do not restrict trade between Member States. However, the requirement for a retail sale licence referred to in section 14, subsection 1 of the old Alcohol Act did not apply to Alkoo, as it did not have to apply for a retail sale licence separately.²⁰ On the other hand, it was possible to grant a retail sales licence for the labelling of tilaviini referred to in § 14(2) of the old Alcohol Act only to producers of alcoholic beverages established in Finland, but not to producers established in other Member States. As a result, the retail sale licence requirements did not apply to all operators in the territory of the Member State, so it was not necessary to examine whether the requirement had the same legal and factual effect on the marketing of both domestic products and those imported from other Member States. In its assessment, the CJEU concluded that the retail sales licensing system was a measure equivalent to a quantitative restriction on imports within the meaning of Article 34 TFEU.²¹ It was therefore necessary to assess whether the measure was justified under Article 36 TFEU.

The Court of Justice stated that “Articles 34 TFEU and 36 TFEU must be interpreted as not precluding legislation of a Member State, such as that at issue in the main proceedings, under which a seller established in another Member State must hold a retail sale licence in order to import alcoholic beverages with a view to their retail sale to consumers residing in the first Member State, where that seller, or someone acting on his or her behalf, transports those beverages, provided that that legislation is appropriate for securing the attainment of the objective pursued, in the present case the protection of health and public policy, that the objective in question could not be achieved with at least an equivalent level of effectiveness by less restrictive methods and that the legislation does not constitute a means of arbitrary discrimination or a disguised restriction on trade between the Member States, which it is for the referring court to verify.”²²

The CJEU left it for the referring court to determine whether the retail sale licence system of Finland for alcoholic beverages fulfils the conditions described above for a derogation in Article 36 TFEU. According to the decision, it is for the referring court to examine, on the basis of all the relevant legal and factual circumstances, whether the public health and public policy grounds relied on by the Finnish authorities have been diverted from their purpose and used in such a way as to discriminate against goods originating in other Member States or indirectly protect certain domestic production within the meaning of Article 36 TFEU.

¹⁹ C-198/14 Visnapuu, paragraphs 95-96.

²⁰ In this respect, the Alcohol Act in force differs from the Act in force at the time. Under the current Alcohol Act, the State Alcohol Monopoly shall also apply for a retail sale licence per establishment for alcoholic beverages that do not fall within its scope of exclusive rights.

²¹ Visnapuu, paragraphs 102-108 of the judgment.

²² C-198/14 Visnapuu, paragraph 129 of the judgment.

Separately as regards the tilaviini derogation, the CJEU pointed out that the relevant facts and legal points include, inter alia, the fact that the domestic production for which the tilaviini is applied has a limited, traditional and craft nature.²³

The Court of Appeal and subsequently the Supreme Court ruled in a case concerning Visnapia on the basis of the preliminary ruling of the CJEU. The conclusion of the Court of Appeal was partly different from that of the Supreme Court, since the Court of Appeal and the Supreme Court assessed the retail-licence activities of alcoholic beverages containing a maximum of 4.7 per cent ethyl alcohol by volume differently. The Supreme Court concluded that the retail licence system, which required the seller to have a fixed point of sale in Finland, did not violate EU law, but that the licence system in question was justified by Article 36 TFEU. With regard to the products subject to the State Alcohol Monopoly, both instances of the right to equal treatment considered that the retail monopoly granted to the State Alcohol Monopoly met the requirements laid down in Article 37 of the TFEU. In addition, both instances of the Court held that the retail sale authorisation system for tilaviini was not contrary to EU law. In the opinion of the Court of Justice, the Court found that the retail sale licence system was not in violation of EU law.

With regard to products subject to the State Alcohol Monopoly, the Court of Appeal found that there was no claim in the case that the State Alcohol Monopoly would favour domestic operators in its conditions of purchase or sale of goods in such a way that trade in goods from other Member States would be treated legally or in fact less favourably than trade in domestic goods. If the distance selling of products falling within the scope of the retail sale monopoly of the State Alcohol Monopoly to Finnish customers were permitted to operators established in other Member States, it should also be permitted to operators established in Finland. In practice, this would mean abolishing an existing monopoly, which, according to the case law of the Court of Justice, is not required by Article 37 TFEU. Similarly, the Supreme Court considered that there is an obligation imposed on Alko by law to act in a non-discriminatory manner, and that compliance with that obligation is monitored and regularly reported to the Commission. The Supreme Court took the view that an obstacle under Union law would not punish the defendant for its conduct in so far as it concerned alcoholic beverages falling within the scope of the retail monopoly of the State Alcohol Monopoly.²⁴

As far as tilaviini wines are concerned, both the Court of Appeal and the Supreme Court considered that the retail trade monopoly exemption did not serve the purpose of favouring domestic production and was not a means of arbitrary discrimination or a disguised restriction on trade. According to the explanatory memorandum to the Court of Appeal, it was relevant that the right to sell the products was limited to a fixed point of sale by the manufacturer and the wines ordered could not be transported to customers at home, i.e. their sale was prohibited to domestic operators in circumstances similar to those in which alcoholic beverages had been sold by A. The products were produced from berries and fruits. Domestic fruit and fruit wines, as a product group, were not in competition with traditional wine made from grapes. Similarly, in its ruling, the Supreme Court stated that because the production volume of 'tilaviini' wines is small and their sale takes place directly from the production holding, the licensing system for tilaviini wines has not been used to discriminate against alcoholic beverages from other Member States and indirectly favour domestic production. In addition, the Supreme Court ruled on the exception for craft cells, as the Alcohol Act 2017 extended the authorisation system for 'tilaviini' beer to include craft beer. The Supreme Court stated separately that the retail sale of both 'tilaviini' wines and craft beer is regionally limited and

²³ C-198/14 Visnapuu, paragraph 128 of the judgment.

²⁴ KKO 2018:49, §§ 43–44.

relatively small in scale. On that basis, the Supreme Court considered that the extension of the retail exemption also did not merit being a significant change in the context of EU law. Therefore, the Supreme Court found that the licensing system for 'tilaviini wine' and 'craft beer' was not in conflict with Articles 34 and 36 TFEU. Therefore, Union law did not result in an obstacle to sentencing A to punishment for the sale of alcoholic beverages produced by fermentation and containing a maximum of 13 per cent ethyl alcohol by volume without a licence required by law.²⁵

For the retail licensing system for alcoholic beverages containing a maximum of 4.7% by volume of ethyl alcohol, the estimates of the Court of Appeal and the Supreme Court differed. In its ruling, the Court of Appeal considered that the retail licence system controls compliance by holders of retail licences with the provisions of the Alcohol Act, such as the obligation to sell only at certain times and the prohibition on delivering alcoholic beverages to minors or clearly intoxicated. The aim of the retail trade licensing system was, in itself, acceptable to prevent the harm caused by alcoholic substances, i.e. to ensure the protection of public health and public order. Therefore, the retail licence system could, in principle, be considered compatible with Article 36 TFEU.

However, the Court of Appeal noted that the obligation of a fixed point of sale prevented persons with a retail licence from carrying out distance sales by carrying out the transport of the beverages in question or entrusting a third party with such transport. Although the Court of Appeal stated that the requirement for a fixed point of sale effectively contributed to the regulatory control, under the Court of Appeal, sales without a fixed establishment could be brought within the scope of effective regulatory control by modifying the licence system, i.e. in practice it was possible to bring distance sales within the scope of effective regulatory control. For this reason, the Court of Appeal considered that the protection of public health and public order could also be achieved by a licensing system that restricts intra-Union trade at least as effectively as this system. For this reason, the Court of Appeal considered that the requirement for a retail sale licence for alcoholic beverages containing a maximum of 4.7% by volume of ethyl alcohol was not in line with EU law.

The Supreme Court's assessment of the fixed point of sale requirement is different from that of the Court of Appeal. The Supreme Court stated that the supervision of the retail sale of alcoholic beverages involves, among other things, monitoring compliance with regulations aimed at preventing the sale of alcohol to children, young people or intoxicated, as well as the regulations on alcohol times and places where alcohol is sold, which in general aim to restrict the availability of alcohol and maintain public order.²⁶ With regard to the general principles of assessing the authorisation system, the Supreme Court stated, first of all, that since the system essentially concerns a matter relating to the protection of public health, the national legislature has discretion about the level and manner in which protection is implemented.²⁷ The Supreme Court also stated that even if conditions could be imposed at least in part for distance selling similar to those for other retail sales, it does not yet follow that effective supervision of compliance with those conditions would be possible. If a retailer could deliver alcoholic beverages directly to a place chosen by the consumer, the place and time of delivery would not be known to the supervisory authority. It would not be possible to carry out effective controls, of which the control officer is not aware in advance, in such a mode of sale.²⁸

²⁵ KKO 2018:49, §§ 70-72.

²⁶ KKO 2018:49, item 55.

²⁷ KKO 2018:49, item 56.

²⁸ KKO 2018:49, item 59.

The Supreme Court stated that EU law requires that an authorisation requirement does not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. In its judgment in this case, the Court of Justice had ruled that, on the basis of the facts known to it, it cannot consider that the very purpose of the reasons relating to public health and public order relied on by the Finnish authorities is overlooked and used in such a way as to discriminate against goods from other Member States or indirectly to protect certain domestic production (paragraph 124 of the Judgment). According to the Supreme Court, on the basis of the facts known to it, it had no reason to assess the case differently.²⁹ The Supreme Court therefore concluded that the retail sale authorisation system was not incompatible with Articles 34 and 36 TFEU. Thus, it was also not an obstacle to sentencing the defendant to a penalty for the sale of alcoholic beverages produced by fermentation as a result of an alcohol offence and containing a maximum of 4.7 per cent ethyl alcohol by volume without a licence required under the Alcohol Act.³⁰

2.1.4.2 declaration of the distance selling ban to the European Commission

In connection with the preparation of the overall reform of the Alcohol Act 2017, it was initially proposed to include a separate section prohibiting the distance selling of alcoholic beverages across borders in the draft act of the new Alcohol Act. According to section 30 of the draft Act, distance selling of alcoholic beverages across borders and import into Finland related to such selling would be prohibited. The Bill was notified to the Commission pursuant to Directive 2015/1535 on technical regulations in December 2016, and the Commission issued a detailed opinion on the draft Act in March 2017. The Commission considered that the distance selling ban would create obstacles to trade within the EU, as it would prohibit the distance selling of alcoholic beverages from other Member States to Finland, and would therefore be a quantitative restriction on the free movement of goods under Article 34 TFEU. The Commission considered that the restriction was also not justified under Article 36 TFEU.

The Ministry of Social Affairs and Health replied to the Commission that distance selling of alcoholic beverages across borders was already prohibited under sections 8, 13 and 14 of the Alcohol Act in force at the time and that section 30 of the draft Act included the same prohibition on distance selling as sections 8, 13 and 14 of the Alcohol Act in force at the time in the *Visnapuu* case. The Ministry of Social Affairs and Health stated that the starting point of the overall reform of the Alcohol Act is that the current ban on distance selling of alcoholic beverages across borders would remain in Finnish legislation either in its previous form or in the form proposed in the draft act. The Government Proposal HE 100/2017 vp for a new Alcohol Act was submitted to Parliament on 14 September 2017. The proposal did not contain a definition of distance selling of alcoholic beverages across borders (section 3(1)(14) of the draft) and a prohibition on distance selling (section 30 of the draft), but provisions contained in the old Alcohol Act relating to distance selling were taken into account in the proposal and subsequently in the new Alcohol Act adopted on 28 December 2017, which entered into force on 1 March 2018.

Following the decision of the Supreme Court in the *Visnapuu* case KKO:2018:49, the Ministry of Social Affairs and Health notified the Commission in July 2018 of a draft act amending the Alcohol Act, which contained a definition of cross-border distance sales and a ban on such sales and related imports. The distance selling ban would have applied to all alcoholic beverages above 2.8 per cent. The Commission issued a detailed opinion on this matter in October 2018, in which it considered that the prohibition proposed in the notified

²⁹ KKO 2018:49, item 64.

³⁰ KKO 2018:49, item 65.

draft would constitute a quantitative restriction on the free movement of goods under Article 34 TFEU. The Commission did not consider the proposed prohibition to be necessary and proportionate under Article 36 TFEU and thus justified with a view to protecting human health and life. The Commission considered that the objective of the draft Act, namely the protection of the health and life of humans, could be achieved by other, less restrictive measures. In December 2018, the Ministry of Social Affairs and Health reported that no Government Proposal would be submitted on distance selling of alcohol.

2.1.4.3 EU Pilot procedure

Based on complaints made to it regarding possible obstacles to the sale of certain alcoholic beverages in Finland, in 2021, the European Commission initiated a ‘pilot’ procedure in which it requested the Finnish authorities to answer, inter alia, whether retail sale licences in Finland are available to retailers operating in another Member State who would like to engage in the distance selling of alcoholic beverages containing up to 5.5 per cent alcohol by volume. The Finnish authorities replied to the Commission that neither distance selling nor a ban on distance selling has been defined in the Finnish alcohol legislation. According to the Alcohol Act, a retail licence requires a physical point of sale in Finland, which prevents distance selling. The provisions of the Alcohol Act do not prevent online sales, as long as the sale takes place in accordance with the Act. In addition, in its ruling KKO:2018:49, the Supreme Court has stated that the retail sale licence system under the Alcohol Act is not incompatible with EU law.³¹ EU Pilot is a mechanism for informal dialogue between the Commission and a Member State on issues related to possible non-compliance with EU law. The pilot procedure may be used before initiating the formal infringement procedure. The Commission and the Finnish authorities have continued their correspondence and the ‘Pilot’ procedure is still ongoing.

National authority and case-law on distance selling

The Ministry of Social Affairs and Health and the competent licensing and supervisory authority under the Alcohol Act, the National Supervisory Authority for Welfare and Health (Valvira), have interpreted that, under the current alcohol legislation, a distance seller of alcoholic beverages must hold a retail license as defined in the Alcohol Act and have a retail outlet in Finland, and that the requirement for a retail license also applies to sellers of alcoholic beverages established abroad. The interpretation has been based on sections 5, 6, 17, 32 and 35 of the Alcohol Act. Under section 5 of the Act, alcoholic beverages may not be produced or sold without a licence and under section 6, the State Alcohol Monopoly has the exclusive right to the retail sale of alcoholic beverages, subject to the exceptions laid down in the Act. Section 17 of the Act lays down provisions on the retail licence and the conditions for obtaining it. This is an exception to the monopoly of the State Alcohol Monopoly referred to in section 6. According to the section 35 of the Act, the retail sale of alcoholic beverages may only be carried out by handing them over to the customer at an approved retail outlet. According to the section 32 of the Act, for commercial or other business operations involving alcoholic beverages containing more than 2.8% by volume of ethyl alcohol, the user needs a licence specified in this Act for their operations and the imported alcoholic beverage.

Based on the above-mentioned provisions, it has been considered that in distance selling, the distance seller should have a retail licence for its activities in accordance with section 32. For

³¹ <https://stm.fi/-/suomi-on-vastannut-euroopan-komission-ns.-pilot-mekanismissa-esittamiin-kysymyksiin-alkoholijuomien-vahittaismyynnista>

fermented alcoholic beverages containing more than 8.0 per cent ethyl alcohol by volume and alcoholic beverages containing more than 5.5 per cent ethyl alcohol by volume, it would not be possible to obtain a licence for retail sales, since Alko has the exclusive right to sell these alcoholic beverages with the exception of the tilaviini and craft beer exemption. On the other hand, for alcoholic beverages sold in retail trade, an approved retail outlet at which the alcoholic beverages are released for consumption is required. Therefore, in the case of alcoholic beverages produced by fermentation and containing a maximum of 8.0 per cent ethyl alcohol by volume and alcoholic beverages produced by other methods and containing a maximum of 5.5 per cent ethyl alcohol by volume, it would in practice not be possible for a distance seller to obtain a licence if they do not have an approved retail outlet in Finland.

Distance selling, i.e. situations where the seller sells and himself transports the customer or arranges the transport to a third party, has therefore been considered comparable to domestic retail. In the decision KKO 2018:49 referred to above, the Supreme Court held that the foreign seller had committed an alcohol offence when the seller transported the beverages from Estonia to Finland without a licence under the Alcohol Act. On the other hand, remote purchasing has been permitted according to the authorities' instructions. Distance purchasing is considered to be the case if a customer purchases an alcoholic beverage and arranges its transport to it for itself. In this case, it is an import by a private individual, which is not equivalent to domestic retail.

However, case-law has not been consistent with whether distance selling is prohibited on the basis of the Alcohol Act or not. In spring 2022, the prosecutor announced that they had decided to waive charges in the case involving distance selling of alcohol. On 25 September 2020, Valvira had made a request for an investigation in which it had asked the pre-trial investigation authorities to investigate whether the persons in charge of and the parties with control over the Estonian and French companies had committed an offence when selling alcoholic beverages to Finland via the internet.³² However, in the opinion of the public prosecutor, the preliminary investigation submitted by Customs did not have the likely reasons to support the guilt of suspects of a criminal offence.

In its ruling R 20/1078 of 7 February 2023, the Helsinki Court of Appeal, in turn, dismissed the prosecution of a serious alcohol offence. In the case, between 2014 and 2016, the Estonian company had sold, through its websites, alcoholic beverages to private individuals living in Finland, among other things, in such a way that when ordering, purchasers could authorise a company, independent of the seller and independent of the seller, offered on the site to assist in concluding a transport contract for the ordered products with a separate carrier. The seller company had not notified the sales to the Finnish Tax Authorities for the purpose of determining the Value Added Tax or Excise Duty, and the company did not have an alcohol wholesale or retail licence within the meaning of the Finnish Alcohol Act. The respondent was convicted of serious tax fraud, but in the case of a serious alcohol offence, the court of appeal found that importing alcoholic beverages as such was not contrary to alcohol legislation. Furthermore, according to the Court of Appeal, the Act did not state, as required by the principle of legality in criminal law, that the sale of alcoholic beverages, in the form of distance selling from abroad to buyers in Finland, would be prohibited and punishable. The judgment of the Court of Appeal is not final, since the Supreme Court has granted leave to appeal in the case³³.

³² Public Prosecutor's Announcement 12 April 2022: <https://syyttajalaitos.fi/-/syyttamattajattamispaa-tokset-ns.-alkoholin-etamyyntiasiassa>

³³ KKO VL:2023-62.

On 5 November 2018, the Ministry of Social Affairs and Health requested an opinion from the Prime Minister's Office of Justice on, inter alia, whether the legal situation concerning the distance selling of alcohol is unclear, in particular with regard to the principle of criminal law, in such a way that the Alcohol Act and/or the Criminal Code should be amended. In its opinion of 30 November 2018, OKV/94/20/2018, the Chancellor of Justice considered that amendments to the Alcohol Act and/or the Criminal Code are not necessary due to the requirements of the principle of legality in criminal law. The Chancellor of Justice based its view on the fact that it is normal that the legislation does not provide a direct response in all situations to different situations, but that the law must be interpreted by the authorities and the courts. The Chancellor of Justice also pointed out that the ambiguity of the legislation on the distance selling of alcohol is related to what is prohibited as a business operator under penalty or to whether a private person may have committed a criminal offence by acquiring alcoholic beverages for own consumption from an operator engaged in distance selling. On the other hand, the Chancellor of Justice stated in its opinion that there are substantial grounds for specifying the legislation on distance selling. According to the Chancellor of Justice, the Visnapuu solution of the Supreme Court³⁴ applies only to the incident that has occurred in the case in question, which means that it cannot be concluded that the distance selling situations have been comprehensively covered in the decision in question. The Chancellor of Justice has also stated in its resolutions on complaints related to the distance selling of alcohol that the provisions of the Alcohol Act and the Criminal Code concerning the distance selling of alcohol are subject to genuine ambiguity.³⁵

For its part, in decision EOAK/911/2023 of June 2024, the Deputy Parliamentary Ombudsman found that the ambiguity of the regulation of distance selling of alcohol endangers the provision of legal certainty in a way which, according to the Deputy Ombudsman, cannot be regarded as acceptable. According to the Deputy Ombudsman, the lack of clarity of the legal position concerning the distance selling of alcohol cannot be corrected by the interpretation of the authority applying the Act, but only by measures of the legislator.

3 Objectives

The aim of the Government Proposal is to implement the Government Programme of Prime Minister Petteri Orpo. In accordance with the Government Programme, the Government will reform alcohol policy responsibly in a European direction and continue the overall reform of the Alcohol Act carried out in 2018. The Government's objective is to promote fair and open competition.

In line with the Government Programme, the proposal is to allow Alko and retail operators to sell alcoholic beverages online and realise other retail sales concepts related to distribution and collection, while ensuring age limit checks. The aim of the proposal is to promote growth in the domestic market and greater freedom for Finnish citizens.

According to the Government Programme, the proposal is to make any current unclear interpretation unambiguous as regards its meaning, so that Finns will have the right to buy alcohol in a distance selling process from companies operating in other EU countries. The regulation of distance selling across borders laid down in the Alcohol Act would also be extended to other EEA countries and third countries when the seller or someone on their behalf sends or transports the products to Finland directly or indirectly. The proposal would provide Finnish consumers with more scope and freedom of choice in their purchases of

³⁴ KKO:2018:49.

³⁵ OKV/1605/1/2018, OKV/1954/1/2018 and OKV/2030/1/2018.

alcohol and promote the free movement of goods in the EU's internal market. The proposal would also improve the legal protection of citizens and businesses and facilitate the interpretation of the Alcohol Act by the authorities responsible for overseeing compliance with the Act.

In accordance with the Government Programme, the Proposal also proposes to remove restrictions on the marketing of alcoholic beverages by Finnish operators to and for the public of another European Economic Area State within the limits of EU law. The proposal would therefore improve the competitiveness and export opportunities of operators in the alcohol industry established in Finland in the internal market of the European Union by enabling the online marketing of spirits.

4 Proposals and their impacts

4.1 Main proposals

The Act would explicitly provide for the right of Finns to purchase alcohol from other EU Member States, EEA countries and third countries through a distance selling procedure. In distance selling, alcoholic beverages containing up to 80% by volume of ethyl alcohol could be purchased. In addition to distance selling, the Act would allow the delivery of alcoholic beverages from domestic retail sales and from the State Alcohol Monopoly to customers.

A definition of cross-border distance selling, based on the definition of distance selling referred to in the Excise Duty Act, would be added to the Alcohol Act. Regulation of distance sales under the Alcohol Act would be extended to apply not only to orders for alcohol issued by private individuals for their own use but also, for example, to purchases of alcohol from abroad by companies and other legal persons or sole traders for activities for which a licence referred to in the Alcohol Act is not required. In addition, the Act would define distance purchasing and, to make things clear, state that distance purchasing is permitted.

In addition to the retail and serving licences, a new licence for the delivery of alcoholic beverages would be introduced to the Act. A separate licence would thus be required for the delivery of alcoholic beverages to customers from domestic retail sales, the state alcohol company, or through cross-border distance selling. Consequently, situations in which the supply takes place in distance selling would also be subject to supervision. The authorities would be given the right to control deliveries by means of test purchases.

The Act would stipulate that the delivery of alcoholic beverages would only be allowed if the alcoholic beverage was purchased and collected from a domestic retail store, the government-owned alcohol company Alko or cross-border distance sales. As with alcoholic beverages sold from a domestic retail sales point or from an alcohol company, in the case of distance selling, suppliers of alcoholic beverages would have to supply the alcoholic beverages to the buyer or other recipient. However, cross-border distance selling would not require all operators in the supply chain to have a supply licence: the licence must be held by the party that ultimately supplies the alcoholic beverages to the customer in Finland. The distance seller would be responsible for ensuring that the consignment was marked stating that it contained alcoholic beverages and that the consignment would be separately indicated if it contained spirits. When an alcoholic beverage is purchased from domestic retail sales, a supplier of an alcoholic beverage may deliver to a buyer or other recipient only fermented alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume or a maximum of 5.5 per cent by volume in other ways. The delivery of fermented alcoholic beverages containing more than

8.0 per cent by volume of ethyl alcohol, and of alcoholic beverages produced by other means containing more than 5.5 per cent by volume of ethyl alcohol, under a delivery license would be permitted only if the beverage has been purchased and collected from the alcoholic beverage company or through cross-border distance selling.

In addition, the law would lay down the conditions and requirements of the licence for the delivery of alcoholic beverages. The delivery of alcoholic beverages would only be allowed between 9 and 21.00. However, the delivery of the alcoholic beverages acquired from Alko would be permitted only in accordance with the Alko's retail sale hours. The age of the recipient would need to be verified every time alcoholic beverages are supplied to the recipient. Alcoholic beverages should not be supplied if the recipient refuses to prove their age.

The prohibitions on retail trade and serving laid down in the Alcohol Act would also be extended to the supply of alcoholic beverages, as well as the supply of alcoholic beverages in other business activities. In addition, separate provisions on bans on the delivery of alcoholic beverages would be added to the Alcohol Act. Alcoholic beverages should not be delivered to a social welfare and healthcare service unit, to a place of early childhood education and care, or to a place of pre-school education or basic education. Furthermore, alcoholic beverages may not be delivered to a place referred to in section 85 of the Alcohol Act subject to a ban on the consumption of alcoholic beverages or to premises or places that have been approved as a licensed area.

The holder of a licence to deliver alcoholic beverages should ensure that the alcoholic beverage delivery drivers acting on its behalf are sufficiently qualified. The delivery licence holder would be required to ensure that the alcoholic beverage delivery drivers acting on its behalf have acquired a certificate in accordance with the model approved by the National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the Alcohol Act's provisions on delivery and the instructions for delivery (*delivery passport*). At the same time, the term 'alcohol passport' ('anniskelupassi'), which is already well established, would be introduced to the Act as a document proving its holder's knowledge of the Alcohol Act.

The provisions of the Alcohol Act on the presence of retail and serving personnel would be clarified. In the future, a representative of the licensee appointed by the authorisation holder would be required to be present at retail locations and premises licenced for serving alcohol, where alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol are sold or consumed and the location is open to customers. The amendment would allow a retail or serving licence to be granted for the period during which alcohol was actually sold at the retail outlet or alcoholic beverages would actually be served or consumed at the premises licenced for serving alcohol. Personnel would therefore only be required to be present when alcoholic beverages could be sold, served or consumed.

The financial penalty would also be extended to cover situations in which the licence holder would violate obligations related to the delivery of alcoholic beverages, or the distance seller would violate their obligation to indicate that the delivery contains an alcoholic beverage.

The scope of the alcohol infringements punishable under the Alcohol Act would be extended to include the supply of alcoholic beverages in connection with the delivery of alcoholic beverages if the prohibition on delivery laid down in the Act in a manner specified in more detail in the section in question is violated. An alcoholic beverage supplier would be guilty of

an alcohol infringement if, intentionally or through gross negligence, they were to supply alcoholic beverages to, for example, a minor or a severely intoxicated person. Alcohol violations would in future also be covered by violations of the prohibitions on supply laid down in § 37(1)–(2) in trade activities other than retail trade, delivery or serving.

The legislation in force would be clarified so that only alcoholic beverages containing more than 2.8 % of ethyl alcohol would be subject to licence under the Alcohol Act. For the sake of clarity, a new section would be added to the Act on the withdrawal of licences.

The provisions on the marketing of alcoholic beverages would be amended so that in the future, the online marketing of strong alcoholic beverages (spirits) would be permitted. Therefore, the proposal also enables operators established in Finland to market spirits online targeting other countries in the European Economic Area. However, online influencer marketing would be prohibited for both mid-strength drinks and spirits. The marketing of alcoholic beverages would also be prohibited in streaming services. The ban on the marketing of mid-strength alcoholic beverages on the television or radio would be extended by an hour in the evening, the period for the ban now being between 07:00 and 23:00.

In addition, some other minor or technical amendments would be made to the Act, for example in relation to access to information.

4.2 Principal impacts

4.2.1 General

The production, sale and marketing of alcoholic beverages generates over 1 billion of tax revenues for the society, billions of business income for various businesses and labour income for people involved in the production, sale and marketing of alcohol. However, alcohol consumption costs billions of euros directly and indirectly for the society, businesses and individuals.

E-commerce and delivery of alcohol are relatively new phenomena in alcohol trade. The COVID-19 pandemic accelerated online sales of alcoholic beverages worldwide and e-commerce and delivery restrictions were relaxed in several countries during the COVID-19 pandemic in order to improve business conditions under the extraordinary circumstances. The e-commerce and delivery of alcoholic beverages as new access channels pose new challenges to the implementation and control of responsible alcohol retail sales. Alcohol is not a normal consumer product but causes a wide range of social and health problems for consumers. As e-commerce and delivery of alcohol are still relatively new phenomena, only a limited number of articles on the delivery (or home delivery) of alcohol have been published in international literature. In early 2024, Finnish Institute for Health and Welfare (THL) compiled existing research and experience on the impact of delivery activities of alcoholic beverages (in this Proposal, the delivery of alcoholic beverages would include home delivery) in a research publication³⁶. This evidence base has also been used in the impact assessment of this draft act.

There is no direct scientific data on whether the supply of alcoholic beverages affects the overall volume of alcohol consumption at individual or social level. In e-commerce, consumers may tend to spend more money on alcohol in one transaction than in a shop, and

³⁶ Mäkelä, P. & Warpenius, K. (2024) Alkoholijuomien kotiinkuljetus – tietopohjaa sääntelystä ja vaikutuksista. The Tutkimuksesta tiiviisti publication series 11/2024. Finnish Institute for Health and Welfare, Helsinki

storing higher volumes of alcohol at home can increase consumption. It is also known that the price of alcoholic beverages has an impact on consumption and alcohol deliveries may reduce the effort involved in obtaining alcohol, including in the form of saved time. The effort involved in purchasing alcoholic beverages can also be seen as a part of the total cost of the drink to the consumer³⁷. The ease of ordering could therefore increase the consumption of alcoholic beverages by some consumers.

The legal situation of distance selling of alcoholic beverages across borders has been unclear. In the future, the Act would specifically provide for distance selling and that Finns would have the right to purchase alcoholic beverages through a distance selling procedure. Although Valvira, as the licensing authority, has instructed that distance selling is not permitted under the current Alcohol Act, it is known that distance selling has also been carried out. For this reason, distance selling cannot be regarded as an entirely new sales channel, but to some extent as an established part of the Finnish alcohol market. In recent years, the share of distance sales in total alcohol consumption in Finland has been in the order of a few per cent. However, clarifying the legal situation of distance selling could increase the distance selling of alcohol to some extent, as some consumers are currently unlikely to have preferred or believed in orders for alcohol from a foreign distance seller in view of the unclear legal situation. For its part, consumer demand is likely to be affected by the extent to which distance sellers would pay legal taxes. If the taxes required by law were not paid in connection with distance selling, it would be more advantageous to buy alcoholic beverages from distance selling than when purchasing from domestic retail sales. Significant price differences between foreign online stores and domestic retail sales are unlikely to arise if the taxes on drinks purchased by distance selling or by distance purchasing are paid to Finland in accordance with the provisions, as well as the transportation costs when ordering from abroad are still taken into account. The duty-paid price of alcoholic beverages is therefore likely to be in the same range as that of domestic retail sales in online foreign sales.

It is known that only a fraction of alcoholic beverages sold via distance selling are currently subject to tax correctly. The amendment to the Excise Duties Act, which entered into force in September 2024, provides for the unique identification of transport in transportation and also for the purchaser's solidarity with paying the taxes, but there are no indications that this would significantly improve the payment of taxes. An amendment to the Alcohol Act could increase the supply to Finland of foreign operators who wish to operate lawfully and, as a current situation, have considered the legislation to be unclear, and for this reason have not sold their products at a distance to Finland. Harmonising definitions with the Excise Duty Act and safeguarding the rights of access to information between the Tax Administration and Valvira would contribute to ensuring that operators have an incentive to comply with the provisions of the Alcohol Act and the Excise Duty Act. On the other hand, some operators would probably continue to seek to circumvent their tax liability, for example by disguising their own share in the organisation of transport and thus presenting the situation as a distance purchase. Extensive monitoring of distance sales is challenging and would require significant resources, so tackling tax evasion can be challenging.

As a whole, the clarification of the legal position of the distance selling of alcohol would hardly have a significant impact on the volume of alcohol ordered by consumers from abroad to Finland, so that it would have a significant impact on domestic alcohol consumption or the harms caused by consumption. This assessment is also supported by recent findings in

³⁷ Stockwell T, Gruenewald PJ. (2004) Controls on the physical availability of alcohol, The essential handbook of treatment and prevention of alcohol problems. West Sussex: John Wiley & Sons, pp. 213–33.

Sweden, where distance selling has been permitted under certain conditions since summer 2023. According to preliminary data, in Sweden, distance selling has not become a significant sales channel since the change. Even if distance sales were to increase in popularity in Finland, purchases made from distance sales could replace domestic retail sales or passenger imports. However, the proposal would have an impact on the position of the State Alcohol Monopoly, since by clarifying the legal situation of distance selling in such a way that it would be possible unequivocally to purchase products under the monopoly from distance selling, it would undermine the criteria for which the monopoly has been established. In addition, the Proposal would increase competition for products under the monopoly, as in the future the State Alcohol Monopoly would compete with online stores engaged in cross-border distance sales for alcoholic beverages sold online. Foreign operators could offer consumers monopoly goods when delivered home, at their best, only with slightly longer delivery times than those from Alko's online store.

In the future too, the bulk of the alcohol consumed is likely to be bought in physical outlets and the proportion of alcohol purchased through delivery is likely to be relatively low. In this way, the legislative proposal is likely to affect a relatively small proportion of total alcohol consumption and therefore its impact on the overall consumption of alcohol at social level is estimated to be relatively limited. However, this assessment is subject to significant uncertainty. At the individual level, the delivery of alcoholic beverages, in particular fast delivery, can have an impact on high-risk alcohol consumption and episodic drinking, and thus on alcohol-related harm. The impact of the Proposal on alcohol-related harm is described in more detail in the section titled 'Effects on well-being and health' in particular.

The Proposal would have the desired positive economic effects as it would promote consumer consumption and business opportunities for operators selling alcoholic beverages on the market by enabling the delivery of alcoholic beverages. Even if the Proposal would also increase the regulatory burden for businesses, the Proposal would be business-friendly overall. At the same time, the proposal could have an impact on alcohol-related harm and increase the load on social welfare, health care and public order, in particular. However, the significance of these disadvantages varies depending on whether they are viewed at the level of an individual, a community or the society. At the social level, the impact of the Proposal on alcohol-related harm is likely to be rather limited, but for some individuals or communities the impact of the Proposal may be significant. However, there is no direct research data on the link between alcoholic beverage supply and alcohol harms that could be used to form precise estimates of the link between the proposal and alcohol harm.

The amendments to the marketing provisions proposed in the proposal could have a positive impact on the companies exporting alcoholic beverages. The value of the export of alcoholic beverages in 2023 was EUR 204 million. The vast majority of the value of exports consisted of spirits, which accounted for about 70 per cent of the total exports of spirits. Of the exports of spirits, 83% were directed to other EEA countries, as the largest exporting countries Estonia, Poland and Sweden.³⁸ The European Economic Area is the main market for the export of alcoholic beverages, and by enabling the online marketing of spirits to other EEA countries, the proposal would create even better conditions for the growth and internationalisation of the alcohol companies established in Finland. The Proposal could have a minor positive impact on public finances in the form of increased tax revenue if Finnish alcohol manufacturers were to grow and thrive in international markets more effectively.

³⁸ Customs Statistics Database.

Since there is considerable uncertainty as to the economic benefits and disadvantages of the proposal, it is very difficult to provide estimates between the economic benefits of the proposal and the harms caused by the proposal. In addition, the proposal has advantages as well as disadvantages, the mutual comparison of which is very difficult due to their different quality. For example, for consumers, the presentation combined with online sales of alcohol would make it easier to compare the price of alcohol products and reduce the need to travel separately to shops for the purpose of purchasing alcoholic beverages. Revenues would accrue to companies from services related to the delivery of alcoholic beverages and from the sale of alcoholic beverages. The Proposal could cause costs to social welfare and healthcare services and to order maintenance if the Proposal would increase the alcohol harm or alcohol-related public disturbances.

The Government Programme of Prime Minister Petteri Orpo's Government has several objectives in relation to the alcohol market. The Act amending sections 17 and 26 of the Alcohol Act (HE 7/2024) entered into force on 10 June 2024. The Act allows stronger fermented alcoholic beverages to be sold in licensed retail. The amendments to the alcoholic beverage tax (HE 37/2023), which entered into force in January 2024, will reduce the tax collected on beer and increase the tax collected on wines and other fermented beverages containing more than 5.5 % alcohol by volume, intermediate products and ethyl alcohol beverages. The proposed Bill mainly targets the same groups of people and operators as the legislative reform that entered into force in 2024, which allowed the sale of increasingly strong alcoholic beverages in licensed retail trade. The performances can be seen to create synergies, in particular with the position of the Alko. Looking at the proposals as a whole, the proposals will have an impact on the monopoly sector, on the justification of Alko's status and on the sale of Alko. In other respects, the proposals are not likely to have synergies that significantly strengthen the independent effects of the proposals. Even if both proposals would have an impact on the sales channels of alcoholic beverages, the independent effects of the legislative proposals would probably be quite similar even if the other proposal were not implemented. The legislative proposal proposes that the delivery of alcoholic beverages would be allowed if the alcoholic beverages were purchased and collected from domestic retail trade, the government-owned alcohol company Alko or cross-border distance sales.. Allowing the sale of stronger alcoholic beverages in licensed retail has therefore not affected what kind of alcoholic beverages could be delivered from domestic retail sales under the legislative proposal. On the other hand, it would be possible for the threshold for ordering from a grocery store to be lower when food and other products could also be purchased from it. Looking at the Government's overall alcohol policy during the Government term up to this point, from the perspective of total alcohol consumption it can be seen to have included both measures likely to increase alcohol consumption (sale of stronger fermented alcoholic beverages in licensed retail trade) and tax changes likely to reduce overall alcohol consumption. From a business point of view, the Proposal continues to pursue the objectives of the Government Programme to promote fair and open competition.

4.2.2 Economic impact

Impact on public finances

As described above, there is no direct scientific evidence of the effect of alcohol deliveries on alcohol consumption and, in general, the impact of the Proposal on overall alcohol consumption is estimated to be limited. Nor is it estimated that the clarification of the legal situation of distance selling will have significant independent effects on the total consumption of alcohol. It is likely that some of the new purchases of alcoholic beverages via the network

to other countries would replace alcoholic beverages previously purchased from Finland or imported via passenger imports, and the total consumption would therefore hardly increase. Nevertheless, the Proposal may have implications for public finances on the revenues and costs of alcohol consumption. The burden of alcohol on social and health care is significant. For healthcare services, the load occurs, for example, as break or follow-up treatment caused by alcohol and as long-term treatment of addictions or direct treatment of injuries or injuries due to the state of intoxication. In social welfare services, the load is, for example, presented in the form of social emergency interventions, such as situations of domestic violence, assessments of the urgent need to care children, or challenges to financial income support or housing. If the legislative proposal were to increase the overall consumption of alcohol or alcohol consumption among alcohol-intensive users, place an additional burden on social and health care services due to the treatment of alcohol-related harms, thereby increasing the costs of such treatment. Overall, the independent effects of this Government proposal on the burden on the social welfare and healthcare system would be mainly negative in nature, but relatively limited. The impacts could vary from region to region, as Finland has a strong distribution across regions in terms of alcohol problems. Even if the effects are likely to be relatively limited, they will be challenging from the point of view of the social welfare and healthcare system, as the availability and resources of services, particularly in terms of mental health and substance abuse services, are already, in principle, found to be quite limited and in part insufficient. In well-being areas, the need for substance abuse and addiction services is estimated to increase due to the increase in substance abuse and addiction problems, as well as improved accessibility to services.³⁹ In addition, public service production is at the same time subject to significant savings pressures.

So far, the popularity of distance selling of alcohol has been based on significantly cheaper prices than Finland, which has meant that only a small proportion of distance selling of alcoholic beverages abroad has currently been subject to alcohol tax, either by sellers or purchasers, in accordance with the regulations. Currently, approximately EUR 1 million in alcohol duties has been paid annually on e-commerce sales, whereas in 2023, for example, the amount of alcohol duty calculated on the volume of alcoholic beverages purchased online, estimated at approximately 0.7 million litres of 100% alcohol⁴⁰, would be approximately EUR 30 million. However, it is likely that the amount of foreign online shopping would not be realised in the same amount if taxes were paid on all drinks in Finland in accordance with the Act. This is because some drinks would probably not be purchased, they would be purchased in Finland as passenger imports exempt from tax, instead of online purchasing, or they would be purchased through domestic retail sales. The proposal could have an impact on the revenue from alcohol taxes if, in connection with foreign online purchases, excise duties become more frequently duly paid to Finland as a result of the proposal.

An amendment to the Alcohol Act could increase the supply to Finland of foreign operators who wish to operate lawfully and, as a current situation, have considered the legislation to be unclear, and for this reason have not sold their products at a distance to Finland. Harmonising definitions with the Excise Duty Act and safeguarding the rights of access to information

³⁹ Substance abuse and addiction services in the transformation – results from welfare area surveys 2024. The Tutkimuksesta tiivistä publication series 7/2025. Finnish Institute for Health and Welfare. https://www.julkari.fi/bitstream/handle/10024/150871/URN_ISBN_978-952-408-469-7.pdf?sequence=1&isAllowed=y

⁴⁰ Alkoholijuomien matkustajatuonti ja verkko-ostaminen 2023. Tilastoraportti publication series 10/2024, 1 March 2024. Finnish Institute for Health and Welfare. <https://www.julkari.fi/handle/10024/148582>

between the Tax Administration and Valvira would contribute to ensuring that operators have an incentive to comply with the provisions of the Alcohol Act and the Excise Duty Act. At the same time, clearly allowing distance selling in the Alcohol Act in a way that supports the effective collection of excise duties could also have a negative impact on the attractiveness of distance selling, since the popularity of distance selling has been based on significantly lower prices than in Finland today due to non-payment of taxes. On the other hand, some operators would probably continue to seek to circumvent their tax liability, for example by disguising their own share in the organisation of transport and thus presenting the situation as a distance purchase. Comprehensive monitoring of distance sales is challenging and would require significant resources, so addressing the recycling of tax liability could be challenging. If the proposal were to direct the consumption of alcohol from foreign online purchases acquired tax-free to domestic retail sales, this could also have minor positive changes in the revenue from alcohol tax. Overall, the impact of the proposal on the revenue from the alcohol tax would be likely to be minor.

The direct budgetary impact of the proposal would be on the budget of Valvira and the Regional State Administrative Agencies. The Proposal would increase the workload and costs of the authorities supervising the Alcohol Act – the Regional State Administrative Agencies and Valvira – as a completely new delivery licence for alcoholic beverages would become subject to control. With the proposal, the Regional State Administrative Agencies could charge supervision fees to delivery authorisation holders.

Effects on Alko's position

Clarifying the legal situation of distance selling in such a way that distance selling would also be possible for products in the scope of the State Alcohol Monopoly would undermine the grounds for maintaining the monopoly of the State Alcohol Monopoly. Allowing consumers to buy products subject to the State Alcohol Monopoly from distance selling would discriminate between foreign and domestic operators. Foreign operators could distance sell alcoholic beverages of all strengths to Finland, while domestic operators could sell alcoholic beverages containing up to 5.5/8.0 per cent ethyl alcohol by volume.⁴¹ In practice, the situation could be considered to be sufficiently discriminatory so that the monopoly may not necessarily be considered to have the same justification as at present. It could be challenging to maintain in the long term a situation in which foreign operators would have the right to sell strong alcoholic beverages directly to consumers, whereas domestic operators would have no such possibility. In decision R 12/2908⁴² on the Visnapuu case, for example, the Helsinki Court of Appeal stated that if the distance selling of products covered by the retail monopoly of the State Alcohol Monopoly to Finnish consumers were permitted to operators established in other Member States, it should also be permitted to operators established in Finland. The Alcohol Act grants Alko exclusive rights to sell alcoholic beverages for public health reasons. If products subject to a monopoly could be sold remotely to Finland, the grounds for a monopoly would also be weakened from the point of view of public health.

The justification of a monopoly is also important from the point of view of EU law. According to Article 37 of the Treaty on the Functioning of the European Union (TFEU), Member States must adjust state commercial monopolies in such a way that there is no discrimination between nationals of Member States in the conditions governing the procurement or

⁴¹ In addition, the retail trade license for craft beer and tilaviini wine makes it possible to sell the craft beer up to 12% and the 13% farm wine from the place of production.

⁴² The case eventually went to the Supreme Court, see KKO:2018:49 (Visnapuu case).

marketing of goods. In principle, Article 37 merely requires that the operation of monopolies must not discriminate against citizens of other countries and that the Article does not directly address the grounds on which the monopoly itself may be maintained. On the other hand, monopolies are always significant exceptions from the point of view of EU law, in which the principle is the free movement of goods. At the same time, when Finland joined the EU, alcohol monopolies other than a retail monopoly were abolished. The retail monopoly was specifically justified on public health grounds. Based on the case law of the Court of Justice of the European Union, it can be considered clear in itself that Member States may seek to combat the health-related and other societal harms of alcohol by restricting access to alcohol and granting exclusive rights. However, restrictions must be non-discriminatory and proportionate. They must also be suitable for securing the achievement of the objective pursued and must not, in terms of their limitation go beyond what is necessary. The objectives set must be responded to in a way that is consistent and systematic. If the size of the monopoly were to shrink so that it no longer plausibly protects public health, it could be possible that the justification for the monopoly would be challenged in breach of EU law. Since a monopoly on the retail sale of alcohol has been agreed upon at the time of Finland's accession to the EU, and since Article 37 TFEU nevertheless allows for the existence of monopolies, the threshold for challenging a monopoly from the perspective of EU law would be likely to be high.

The proposal would also have an impact on the position of the State Alcohol Monopoly if Alko's sales were to decrease as a result of the clarification of the legal situation of distance selling. The sales channel that is in direct competition with the State Alcohol Monopoly could reduce sales by the State Alcohol Monopoly and thus reduce the economic conditions for operations. The more popular distance selling would become, the more it would weaken the position of the State Alcohol Monopoly. A possible reduction in sales of the State Alcohol Monopoly and a preference for ordering from abroad are likely to be significantly affected by the extent to which alcoholic beverages would be subject to tax. If taxes required by law are paid on alcoholic beverages acquired from abroad, the price of the alcoholic beverage would not differ significantly from the price of alcoholic beverages purchased from Finland. In this case, consumers would not necessarily have a large incentive to acquire alcoholic beverages abroad. At present, however, only a fraction of alcoholic beverages ordered from abroad have been adequately taxed. It is assumed that at least some of the parties engaged in distance selling would continue to evade tax in order to allow them to sell alcoholic beverages cheaply to Finland. A significant proportion of online buyers could therefore choose to make purchases from sources that are cheaper in terms of price and tax evasion. The attractiveness of online purchasing could also be increased by the fact that strong beverages could also be legally purchased online from which they could be obtained much cheaper than in Finland in the absence of tax payments. On the other hand, for example, in Sweden, distance selling has been permitted under certain conditions since the summer of 2023, but according to preliminary data, distance selling has not become a significant sales channel.

In Sweden, distance sales of alcohol have been permitted since summer 2023 with the Swedish Supreme Court ruling Winefinder (T 4709-22). The judgement is discussed in more detail in Chapter 5.2. Following the ruling, the Swedish Minister for Alcohol stated that the Swedish Government was examining the need for legislative amendments to protect Systembolaget's retail monopoly.⁴³ At present, however, there are no legislative projects on this issue in Sweden. According to preliminary data, there has been no large increase in foreign online purchases of alcohol in Sweden. The Winefinder ruling was issued in July 2023. In 2023, foreign online purchases of alcohol accounted for 1.9% of total consumption, compared with 2.2% of total consumption in 2022 in the case of distance sales. In the longer

⁴³ <https://www.expressen.se/nyheter/regeringen-vill-skydda-monopolet-efter-domen/>

term, compared to 2019, the purchase of alcoholic drinks from foreign online stores has increased. Internet purchases from foreign online shops accounted for 1.2% of total consumption in 2019 and 1.9% in 2023.⁴⁴ For its part, the proportion of online purchases in total sales may have been influenced by the fact that in Sweden there has been effective fiscal surveillance and severe penalties for the evasion of alcohol tax. Furthermore, a significant proportion of Swedes are not aware of the changed legal situation and the fact that the purchase of alcoholic beverages from foreign online stores is permitted — according to a survey published in May 2024, 39% did not know that the sale of alcohol online is legal for anyone other than Systembolaget or considered it illegal⁴⁵.

Clarification of the legal situation of distance selling in such a way that it would be possible for all alcoholic beverages to be sold at a distance to exert price pressure on Alko in any event. Currently, Alko has no direct competition with regard to the products covered by the system of exclusive rights. Price pressure could therefore occur especially for products under a monopoly, i.e. for example wine and spirits. However, these taxes are higher, and the sales margin is already lower in principle than for mild alcoholic beverages. For example, the taxes on the sales price of a bottle containing 0.7 litres of a 40% spirit sold in Alko account for 72% of the sales price, and the sales margin is 9%. Taking into account all categories of alcoholic beverages, the sales margin of the State Alcohol Monopoly is, on average, 17 per cent of the alcohol-taxed price of the product. If the State Alcohol Monopoly were to reduce its own sales margin, this would reduce the profitability of the State Alcohol Monopoly.

For its part, the position of the State Alcohol Monopoly would be affected by the fact that the State Alcohol Monopoly would have a different position compared to distance sellers, as the State Alcohol Monopoly has a legal obligation to treat sellers equally and in a non-discriminatory manner. According to Section 25 of the Alcohol Act, the alcoholic beverage company's decisions regarding the inclusion of alcoholic beverages in retail sales, their removal from retail sales, and their pricing must be made on public and non-discriminatory grounds, regardless of the nationality or domicile of the producer or seller. The requirement for the non-discriminatory operation of the State Alcohol Monopoly shall also apply to the display of alcoholic beverages and other sales arrangements in the State Alcohol Monopoly store, as well as to any other presentation of alcoholic beverages to consumers. According to section 16 of the Government Decree on the implementation of the Alcohol Act (151/2018), the State Alcohol Monopoly shall decide on the pricing of alcoholic beverages by groups of products so that the revenue and average expenses related to the sale of groups of products can be specified. The State Alcohol Monopoly cannot therefore reduce the price of individual products, but the size of the sales margin applies to the entire product group. However, as the legal situation of cross-border distance sales would be clarified in such a way that the sale of products subject to a monopoly would also be possible without restrictions to other operators, sales for these operators would no longer be subject to exclusive rights alone but would be sold in a competitive market. Distance sellers could therefore compete more effectively at the prices of individual alcoholic beverages.

In relation to the other Nordic alcohol monopolies, the coverage of products subject to the State Alcohol Monopoly is currently already the lowest among all. The legislative reform, which entered into force in June 2024, appears to have transferred Alko's sales to retail establishments significantly, and allowing distance selling to products under a monopoly

⁴⁴ Trolldal B. Alkoholkonsumtionen i Sverige 2001-2023. Stockholm: Centralförbundet för alkohol- och narkotikaupplysning (CAN); 2024. Rapport 231.

⁴⁵ E-handel av alkohollagad drycker 2024. <https://www.svl.se/app/uploads/2024/05/svl-rapport-under-sokning-e-handel-verian-maj-2024.pdf>

could also transfer Alko's sales to distance selling to some extent. On the other hand, allowing distance selling of products that are subject to a monopoly undermines the grounds on which a monopoly is justified. The combined effect of the proposals would reduce and weaken the monopoly position of the State Alcohol Monopoly.

Impact on companies

In general, the Proposal would increase the functioning of the market and competition by allowing the delivery of alcoholic beverages for all holders of delivery licences for alcoholic beverages. A delivery licence for alcoholic beverages could be obtained, under the conditions laid down in the draft Act, by all the holders of a retail licence, Alko and transport and catering services, for example. A delivery licence could also be obtained by a company established abroad. A prerequisite for the delivery of an alcoholic beverage would be that the alcoholic beverage is purchased from domestic retail sales, from an alcohol company or from cross-border distance sales. The proposal would therefore also increase the business opportunities of domestic operators selling alcoholic beverages legally, as the buyer could expand to consumers who would not otherwise have visited the premises at which the alcoholic beverages are sold.

On the other hand, the proposal could also have a negative impact on the functioning of the market, as it would treat domestic and foreign operators differently. Sellers of alcoholic beverages established abroad would be allowed to distance sell all alcoholic beverages to Finland, including those falling within the scope of the State Alcohol Monopoly, and foreign distance sellers would not be required to have a licence or a declaration of their operations. As a result, up to 80 % of alcoholic beverages could be sold remotely from abroad. By contrast, domestic retailers would be able to sell by supply only alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume and alcoholic beverages containing a maximum of 5.5 per cent ethyl alcohol by volume produced by fermentation. The proposal would allow operators established abroad to sell alcoholic beverages to Finland at a distance, which according to the law cannot be sold by a retail vendor of alcoholic beverages established in Finland, and for the sale of which it is not even possible to obtain a licence. This could lead to a situation where it might be attractive for companies to establish themselves in, for example, Estonia, from which the company could sell, without a licence or declaration obligation, alcoholic beverages subject to a monopoly to consumers residing in Finland, for example. From the point of view of competitiveness, the proposal may therefore weaken the attractiveness of Finland as a location for business related to the alcohol industry.

The clarification of the legal situation of distance selling of alcoholic beverages will allow new operators to enter the Finnish market, which would increase competition. The change may increase, in particular, the supply to Finland of alcohol sellers established in another Member State of the European Union who wish to act lawfully and, under the current situation, have considered the legal situation concerning the distance selling of alcohol to be unclear, and for this reason have not sold alcoholic beverages at a distance to Finland. Increased competition could translate into lower prices of alcoholic beverages, but on the other hand, this mechanism is subject to a great deal of uncertainty. From a point of view of equal conditions of competition, it would be important to effectively pay taxes on online purchases from other EU Member States.

Retail shops are the largest sales channel for alcohol in Finland. In 2024, 52 % of the reported alcohol consumption was purchased from retail sale outside the Alko, i.e. food businesses, kiosks and transport stations. E-commerce of food has become more popular in recent years,

accounting for 3.0% of grocery sales in 2024⁴⁶. Currently, consumers are not able to order alcoholic beverages online when ordering food. The draft Act would allow consumers to order all their purchases from the retail shop online, which could contribute to the growth of e-commerce. The growing popularity of home delivery services shows that consumers are willing to pay for home delivery as it facilitates daily life. While some businesses in retail trade would probably deliver alcoholic beverages themselves, a significant number of companies could also rely on external delivery companies to deliver alcoholic beverages.

The draft Act could also increase business opportunities for restaurants. In particular, the delivery of alcoholic beverages could be taken advantage of by restaurants licensed for the retail sale of alcohol, which currently deliver food to customers as their own activity or which have concluded a delivery contract with another company. If the restaurants were to deliver the alcohol themselves to the customer, a delivery licence for alcoholic beverages would be required. If alcoholic beverages are delivered by another company, such as a food delivery service, that other company would be required to have a delivery licence for alcoholic beverages. From the point of view of the catering industry, enabling the delivery of alcoholic beverages would not merely be a reform favouring business. The sale of alcoholic beverages via delivery could partly be at the expense of serving sales. Therefore, the proposal could weaken, in particular, the position of restaurants with a serving licence, but not a retail licence. If, as a result of the proposal, alcohol consumption would increase in domestic conditions, this could in turn lead to a reduction in the sale of alcohol in restaurants.

Alcoholic beverage supplier acting on behalf of the licence holder for the delivery of alcoholic beverages should have completed alcoholic beverage delivery training (the alcoholic beverage delivery passport). The alcoholic beverages delivery passport would be similar in principle to the current alcohol passport. An alcoholic beverages delivery passport would entail low costs for companies delivering alcoholic beverages in the form of direct training costs and substitute schemes, for example. The direct cost of the delivery passport test is likely to be some dozens of euros per person taking the test. For example, the prices of the alcohol passport tests currently vary mainly between around EUR 30 and EUR 60.

Companies engaged in the delivery of alcoholic beverages would incur costs for applying for a delivery licence, in particular in the form of the licence fee charged by the Regional State Administrative Agencies. Provisions on the licence fees charged by the Regional State Administrative Agencies are laid down in the Decree on the fees of the regional state administrative agencies, and the amount of the licence fee to be charged for applications for a licence to deliver alcoholic beverages would be determined later by government decree. In addition, licence holders would be charged an annual supervision fee. The costs of applying for a licence, as well as the annual supervision fees, could discourage some small operators from applying for a licence. In the legislative proposal, the amount of the supervision fee for the delivery of alcoholic beverages would vary according to the number of deliveries notified by the licence holder. The supervision fee would amount to at least a basic fee of EUR 100 and would increase by EUR 0.1 per delivery after 1 000 deliveries. Delivery licences for alcoholic beverages would be applied for by operators with a sufficient stock of alcoholic beverages and a sufficient level of income derived from them in relation to the costs of applying for the licence. Operators currently lawfully selling alcohol who would not themselves start delivering alcoholic beverages after the Proposal's entry into force would be able to use a transport or food delivery service with a licence to deliver alcohol. Currently,

⁴⁶ The Finnish Grocery Trade Association. (26 March 2025). Sale and market shares in the grocery retail sector 2024. <https://www.pty.fi/blog/2025/03/26/paivittaistavarakaupan-myynti-ja-markkinaosuudet-2024/>

some food delivery services operating in Finland use self-employed persons for their deliveries, and it would be possible for self-employed persons to apply for a licence to deliver alcoholic beverages. However, the licence and supervision fees incurred by self-employed persons for applying for a licence could be high in proportion to the income generated by the activity. Therefore, it would be more likely that a platform service would apply for the licence and use self-employed persons in its operations.

The proposal would have a positive impact on the activities of companies exporting alcoholic beverages to the EU internal market. The effects would particularly affect companies exporting spirits to other EEA countries. Under the current Act, the marketing of spirits is generally prohibited. Online marketing is permitted only in print or online retail trade or serving price lists as well as manufacturers' or wholesalers' product catalogues, provided that the available beverages are presented to consumers in a consistent manner; and Due to the country of origin principle, a producer of alcoholic beverages established in Finland cannot currently market strong alcoholic beverages in another European Economic Area State via the internet or social media, even if the marketing is mainly or exclusively directed at that State and not at Finland. The possibility of more extensive marketing to other EEA countries could improve the recognition of Finnish alcoholic beverage brands and improve the financial position of companies.

Alcohol packaging coming to Finland from distance selling, such as bottles and cans, is not part of the national Palpa recycling system maintained and financed by the drink industry and trade. However, packaging entering Finland often ends with the recycling of beverage packaging. Processing the packaging of beverages ordered via distance selling could result in minor additional costs for domestic operators if deposit-free packaging is returned to reverse vending machines.

Impact on the activities of public authorities

The control of the retail sale, serving and advertising of alcoholic beverages is the responsibility of the National Supervisory Authority for Welfare and Health (Valvira) and the Regional State Administrative Agencies. The draft Act would require Valvira and the Regional State Administrative Agencies to supervise the delivery of alcoholic beverages. Supplier of alcoholic beverages would apply for the licence for delivering alcoholic beverages from the Regional State Administrative Agency. In addition, Valvira would control the distance selling of alcoholic beverages. In the case of distance selling, supervision would focus on delivery authorisation holders, since they would also take care of situations of supply in distance selling. If necessary, the activities of distance sellers could be examined in the event of any doubt that the distance seller would not indicate the alcoholic beverage or separately strong alcoholic beverage in the consignment. In addition, Valvira would guide and advise distance sellers and domestic supply license holders on the application of the provisions on distance selling. Distance sellers would not be subject to regular supervision, but they could be subject to supervision, for example, on the basis of incident reports or by sampling.

In early 2024, Finland had around 4 200 valid alcohol retail licences and about 490 Alko shops or pick-up outlets and about 9 900 valid licences for serving alcohol. Approximately 1 400 holders of a serving licence also held a licence for the retail sale of alcohol. The legislative proposal would increase the number of sites supervised by alcohol authorities, thereby increasing the supervisory workload of these authorities. A large proportion of applicants for a licence to deliver alcoholic beverages may not necessarily already hold an

alcohol retail licence. The delivery of alcoholic beverages as a new licensing process would significantly increase the work of the licensing authorities, at least upon the entry into force of the Act, but also as a regular and permanent form of licensing administration.

The proposed act would significantly increase the number of controlled subjects of the alcohol authorities and, at the same time, the supervisory work of the alcohol authorities. As some 14 500 serving areas or retail outlets have previously been supervised by the alcohol authorities, in future, there will be a virtually unlimited number of delivery points for alcoholic beverages. Valvira would continue to serve as the guiding authority for the enforcement of the Alcohol Act, thereby also supervising the delivery of alcoholic beverages throughout the country. Similarly, the Regional State Administrative Agencies would supervise the delivery of alcoholic beverages in their territory. The official supervision of the delivery of alcoholic beverages would be carried out in part by means of test purchases, which is a completely new form of official control in Finland in connection with the sale of alcohol. This would require the creation of new practices. It would also lead to a temporary increase in the need for supervision. As a new task, Valvira would be responsible for the supervision of educational organisations in relation to the delivery passport test.

When assessing the effects of the proposal on the alcohol administration and the amounts raised in supervision fees, it has been assumed that there would be approximately 100–300 licence holders for the delivery of alcoholic beverages. This assumption is subject to considerable uncertainty, as it is very difficult to predict how operators engaged in the delivery of alcoholic beverages would organise their activities in practice. Some of the current alcohol retail licence holders could arrange for the delivery of alcoholic beverages themselves, but a significant proportion would probably use an external transport company for the delivery of alcoholic beverages. For this reason, the Proposal is based on the assumption that the number of alcohol delivery licence holders will be significantly smaller than, for example, the number of alcohol retail licence holders.

The Proposal would result in new tasks for the Regional State Administrative Agencies. In the future, the Regional State Administrative Agencies would be responsible for licensing applicants for a delivery licence for alcoholic beverages and supervising the holders of a delivery licence for alcoholic beverages. New tasks would also cause additional work for the Regional State Administrative Agencies. From 2026, the cost of additional work is estimated to be approximately EUR 320,000, which would correspond to approximately four person-years. In the first year, half of this amount, EUR 160 000, corresponding to two person years, would be allocated to licensing and half, i.e. EUR 160 000, corresponding to two person years, would be allocated to control. The costs of licensing would be covered by the licence fees charged by the Regional State Administrative Agencies from delivery licence applicants. As the number of delivery licence applicants is difficult to predict, the licence fee revenue of the Regional State Administrative Agencies is uncertain. If the licence fee were assumed to correspond to, for example, the licence fee (EUR 950) for a serving licence where the licence applicant does not have premises to serve alcohol, 100 to 300 licence applicants would correspond to a licence fee revenue of approximately EUR 100 000 to EUR 290 000. After the first year, the additional workload related to licensing would decrease, while the proportion of supervision in the additional workload would increase. Starting from 2027, the cost of supervising license holders would amount to €240,000 for the Regional State Administrative Agencies, equivalent to three person-years. An additional appropriation of EUR 160 000 has been granted to Regional State Administrative Agencies in the 2025 budget for the supervision of deliveries of alcoholic beverages in connection with the Parliamentary Bill for an Act amending the Alcohol Act (HE 173/2024 vp). However, the Government decided to

withdraw the Government's proposal in spring 2025, and the Regional State Administrative Agencies would not have any new supervisory tasks under the proposal in 2025. For this reason, the additional appropriations granted in the 2025 budget should be deducted from the operating expenditure item of the Regional State Administrative Agencies.

The Proposal would also have an impact on the operations of the National Supervisory Authority for Welfare and Health (Valvira) and on the information systems necessary for alcohol control. From 2026, Valvira would incur a permanent need for additional resources of EUR 160,000 from the new duties laid down in the Proposal, which would correspond to two person-years. Half of the additional resource needs would be allocated to the supervision of alcohol deliveries, and the other half to the supervision of distance selling. In the 2025 budget, an increase of EUR 80 000 was granted to Valvira in connection with Article 33.02.05 of the October Bill to Parliament for an Act amending the Alcohol Act (HE 173/2024 vp). However, the Government decided to withdraw this Proposal in spring 2025, and thus Valvira would not have the statutory duties in 2025 for which the appropriation had been granted. Therefore, the amount of EUR 80 000 that was granted for 2025 should be deducted from Valvira's operating expenditure item for 2025.

In addition to the permanent need for additional resources, Valvira was granted a one-time additional funding of EUR 375 000 in connection with the third supplementary budget proposal for 2024, for changes to the alcohol trade register, electronic services, and application forms. Changes to the alcohol trade register, e-services and application forms had to be initiated quickly so that, when the Act enters into force, compliance with the requirements of the system can be verified when operations begin. The one-off additional resource for operating expenditure item 33.02.05 (operating expenditure of the National Supervisory Authority for Welfare and Health (Valvira)) would be financed by funding from the central government budget. However, the costs caused by the changes to the information system would be allocated to licence and supervision fees in the coming years in line with the annual depreciation of investment expenditure.

The Regional State Administrative Agencies would charge holders of a licence to deliver alcoholic beverages a supervision fee to cover the costs incurred by the alcohol administration from the control of the licence to deliver alcoholic beverages. A corresponding Supervision fee is levied on the holders of retail and serving licences. In the Proposal, the supervision fees would be determined on the basis of the number of deliveries made by the licence holder for the delivery of alcoholic beverages. All delivery licence holders would be charged a basic fee of EUR 100. After one thousand deliveries, the amount of the supervision fee would be EUR 0.1 per delivery in addition to the basic fee. For example, a licence holder making 10 000 deliveries per year would pay a supervision fee of EUR 1 000. The supervision fees to be collected are subject to significant uncertainty as regards the estimation of both the number of delivery licence holders and the number of deliveries by delivery licence holders. When assessing the amount of fees to be collected, it has been assumed that a large proportion of licence holders (around three-quarters) would be relatively small operators paying the basic fee. In addition, about a quarter of licence holders would be slightly larger operators with a delivery volume of some tens of thousands of deliveries per year. In addition to these, there would be a few large operators with an annual delivery volume of some hundreds of thousands of deliveries. Based on the assumptions described above, the annual revenue from supervision fees is estimated to be in the range of EUR 200 000 to EUR 350 000.

Revenue from the supervision fees for alcohol control will be credited to item 11.10.19 of the state budget. (other tax-like payments). The supervision fee revenue collected would make it

possible to finance the additional resource needs of Valvira and the Regional State Administrative Agencies arising from the supervision of alcohol delivery license holders, as set out in the Government's proposal.

Supervision fee revenue would not yet accrue in 2026, as supervision fees would only be invoiced retrospectively based on actual deliveries reported by the licence holder. The need for additional resources to finance the new tasks imposed on the authorities by the proposal, as well as the level of supervisory fees charged to licence holders, may require reassessment following the entry into force of the amendment, taking into account the final number of delivery licence holders and practical experience gained in the implementation of supervisory activities.

On 13 March 2025, the government presented a proposal to Parliament on legislation concerning the reform of the State Regional State Administrative Agencies (HE 13/2025 vp). If implemented, the regional administration reform will have a significant impact on the activities of the licensing and supervisory authorities under the Alcohol Act, as the regional administration reform would involve, for example, the merger of the National Supervisory Authority for Welfare and Health (Valvira) and the Regional State Administrative Agencies into a single national licensing and supervisory agency. The Regional Administration Reform is to enter into force at the beginning of 2026. If the Regional State Administrative Reform is approved in Parliament, the new tasks of Valvira and the Regional State Administrative Agencies as set out in the proposal, as well as the resources of Valvira and the Regional State Administrative Agencies, will be transferred to the National Supervisory Authority.

The Proposal could also have implications for the police. Alcohol is the most common factor behind violence, accidents and accidents. Alcohol consumption, in particular episodic drinking, increases the risk of both committing and becoming a victim of a violent crime. In 2023, the police had approximately 22 4000 alcohol-related emergency calls⁴⁷. The draft Act could increase public order related calls and criminal offences and thus the workload of the police. In particular, the emergency calls to private homes could increase if the use of alcohol in the home environment is increased as a result of the Proposal. However, alcohol-related emergency calls occur particularly during evening and night-time periods. Since the delivery of alcoholic beverages would only be allowed from 9 a.m. to 9 p.m., the draft Act is unlikely to have a significant impact on police call-outs during night time. In addition to police, the proposal could have an impact on the activities of the social authority, since social emergency services typically leave for police tasks, if children or other persons in need of care are involved in the situation.

The Proposal would allow educational establishments to organise delivery passport tests, after passing which a person would receive a delivery passport certificate. The delivery passport would be an indication of the competence of the supplier of the alcoholic beverage. Educational establishments would be entitled to charge a fee for the test. In general, the number of persons taking the test would depend on the number of companies applying for a licence to deliver alcohol. For each undertaking applying for a delivery licence, the number of alcoholic beverage delivery drivers completing the test could range from a handful of individuals to thousands of persons. Demand for delivery passport tests is likely to be high immediately after the entry into force of the Act.

⁴⁷ Alcohol-related emergency calls are defined here as assault, emergency calls to private homes, inappropriate public behaviour and violence, driving while intoxicated and other call-outs related to intoxicated persons.

As a result of the proposal, Valvira would have the right to obtain information from Finnish Customs on consignments of alcohol inspected by Finnish Customs for control purposes. Access to information could be carried out, for example, through an open interface or a viewing connection. In addition, Valvira would have the right to obtain information from the Tax Administration if it were necessary for control purposes. Similarly, the Finnish Tax Administration would be provided with the right to information from Valvira and the Regional State Administrative Agency if the information was necessary for tax supervision. The proposal is not estimated to have an impact on the resources of the Finnish Customs or the Tax Administration.

Impact on the situation of households and consumers

While the regular consumption of alcohol by Finns has decreased, weekly alcohol consumption still stood at 48 % for men and 22 % for women in 2023. The share of fully sober persons in 2023 was 12 % of the population⁴⁸. The reform would benefit the significant proportion of Finns who consume alcohol, as the purchasing alcoholic beverages would not require visiting a physical point of sale. Consumers who have alcohol delivered by would save time and costs for shopping. The proposal would particularly benefit people who, for example, would have mobility problems or other obstacles or difficulties in moving outside the home. Ordering alcoholic beverages from domestic retail sales could also be linked to online grocery purchases. In addition, in e-commerce, consumers can more easily compare the prices of alcoholic beverages, which reduces the search costs of alcoholic beverages. E-commerce will also enable consumers to benefit from a wider range of products. Clarifying the legal situation of distance selling will make the offer of alcohol sellers established in other EU Member States, EEA countries and third countries available to Finnish consumers and the possibility of receiving these products, e.g. when delivered home. The proposal would therefore improve consumers' purchasing possibilities and freedom of choice when obtaining alcoholic beverages from distance selling from abroad.

A significant proportion of Finns would still continue to buy their alcoholic beverages by going to a physical point of sale. The costs of supplying alcoholic beverages purchased from cross-border distance sales to Finland are likely to be higher than the transportation costs of beverages ordered from domestic retail sales or from the State Alcohol Monopoly. In addition, it is not possible to obtain beverages ordered from abroad by rapid delivery to home door, which prevents alcohol initiation purchases and impulsive alcohol consumption. In view of the above, it may be possible that distance selling of alcoholic beverages across borders would not become a significant purchasing channel among consumers in terms of volume in Finland. The delivery of alcoholic beverages ordered from domestic retail sales or from alcohol companies is likely to be the easiest and most affordable for consumers in densely populated areas where delivery can be arranged cheaply and quickly. In these areas, the distances to the nearest shop or Alko are still mostly short.

⁴⁸ Suomalaisten alkoholinkäyttötavat 2023. THL statistical report 59/2023, 30 October 2023. https://www.julkari.fi/bitstream/handle/10024/147677/Tilastoraportti_59_2023_Suomalaisten_alkoholink%C3%A4ytt%C3%B6tavat_2023_s.pdf?sequence=1&isAllowed=y

4.3 Other effects on people and society

Impacts on wellbeing and health

In Finland, the number of people who die from alcohol-related diseases and poisonings is more than three times as high as in Sweden and Norway. Alcohol is also a determinant of many diseases. There is a significant increase in the risk of developing cancers of the oral cavity, larynx, throat, oesophagus and liver, and a mildly increased risk of breast and colorectal cancer. For example, alcohol increases the risk of breast cancer even at low levels of consumption and the risk increases in proportion to alcohol consumption. Although the overall consumption of alcoholic beverages as well as risk consumption has decreased steadily over the past decade, high-risk alcohol consumption in Finland remains widespread.

Academic literature shows that those who purchase alcohol online and have it delivered (the studies use the term home delivery meaning 'kotiinkuljeuts') include a higher-than-average share of high-risk alcohol users⁴⁹. However, it is possible that high-risk alcohol consumers prefer to buy online more than other consumers, as opposed to online shopping in itself increasing the consumption of alcohol of those who have it delivered. However, the draft Act may have a negative impact on alcohol-related harm, especially for those who already consume alcohol at a high level.

For many people with alcohol problems, purchasing alcoholic beverages has required them to be fit to drive, which would no longer be necessary if alcoholic beverages can be delivered. If the compliance of alcoholic beverage deliveries with legislation cannot be sufficiently ensured, there is a risk that alcohol consumption by person suffering from alcohol addiction will increase if there is no longer a need to be sober when purchasing alcohol. In general, it is much more difficult to assess the state of intoxication at the time of delivery of an alcoholic beverage, as the person who hands them out is not able to observe the intoxicated person for signs of intoxication in the same way as in a shop.

Indeed, the delivery of alcoholic beverages may lead to prolonged drinking situations for some people and to drinking large quantities of alcohol at a time when orders are made⁵⁰. In an Australian study, the above problem has been linked in particular to fast deliveries. Callinan et al. (2023)⁵¹ stressed that fast deliveries increase the possibility of impulsive consuming alcohol consumption, and impulsiveness is a key factor of high-risk alcohol consumption and related harms. However, the draft law would limit the deliveries of alcoholic beverages between 9 a.m. and 9 p.m. This would prevent, in particular, impulsive ordering of alcoholic beverages very late in the evening. In Finland, episodic drinking (five or more doses consumed) usually happens in the evening. Of the times Finns (aged 20 to 79) drink until intoxication, in 74% of the cases alcohol was also consumed outside the time between 9 a.m. and 9 p.m.⁵².

⁴⁹ Coomber K. ym. (2023) Characteristics of high- and low-risk drinkers who use online alcohol home delivery in Western Australia. *Drug and Alcohol Review*, 1-9.

⁵⁰ Colbert S ym. (2023) Cross-sectional survey of a convenience sample of Australians who use alcohol home delivery services. *Drug Alcohol Rev.* 42, 986–995

⁵¹ Callinan S. ym. (2023) In order to assess the impact of home delivery expansion within Australia, researchers need regulators to collect and share data on sales. *Drug Alcohol Rev.* 42, 1309–1311.

⁵² The data is based on a 2023 drinking habit study produced by THL

Alcohol-related harms manifest in older people at a significantly lower number of units than in young people. The delivery of alcoholic beverages could make it easier to buy alcohol, especially for elderly people who are in poor health, thereby increasing their alcohol consumption and the resulting harms. Both the alcohol-related harms caused by long-term alcohol consumption and accidents in the home could increase if the Proposal were to increase alcohol consumption among the elderly.

Alcohol marketing through both traditional and digital marketing techniques has been shown to increase alcohol consumption⁵³, and it has been estimated that this is a causal effect, particularly among young people.⁵⁴ Research has shown that particularly attractive target groups for targeted marketing are, on the one hand, children and young people and, on the other hand, people who consume alcohol in a problematic manner or suffer from addiction and those who try to refrain from alcohol or reduce their consumption. On the other hand, alcohol-dependent persons often report more strongly their desire to drink alcohol when they face alcohol related triggers, such as alcohol advertising.⁵⁵ Limiting the marketing of alcoholic beverages is a means of reducing alcohol-related harm recommended by the World Health Organisation (WHO), based on broad evidence.⁵⁶

Allowing the marketing of spirits more widely than at present would increase exposure to alcohol marketing, which could have an impact on alcohol consumption and, consequently, on the harm caused by alcohol. On the other hand, the Act would also provide for new restrictions on the marketing of alcoholic beverages, which would also apply to mild alcoholic beverages. For both low-alcohol and spirits, online influencer marketing and streaming service marketing would be prohibited. Marketing should continue to comply with provisions on, among other things, what kind of marketing would be prohibited in terms of content. In addition, the marketing of strong substances would be prohibited as is currently the case in other channels such as television, streaming services and newspapers and periodicals.

⁵³ Babor, T. F., Casswell, S., Graham, K., Huckle, T., Livingston, M., Österberg, E., Rehm, J., Room, R., Rossow, I., & Sornpaisarn, B. (2023). *Alcohol: No ordinary commodity: Research and public policy* (3. painos). Oxford University Press.; Smith, L.A., Foxcroft, D.R. (2009). The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Pub Health*, 9(51). <https://doi.org/10.1186/1471-2458-9-51>; Bryden, A., Roberts, B., McKee, M. and Petticrew, M. (2012) A systematic review of the influence on alcohol use of community level availability and marketing of alcohol, *Health & Place*, 18(2), pp. 349-357. doi:10.1016/j.healthplace.2011.11.003; Jernigan, D.H., Noel, J., Landon, J., Thornton, N., & Lobstein, T. (2017) Alcohol marketing and youth consumption: A systematic review of longitudinal studies published since 2008, *Addiction*, 112(S1), pp. 7-20.

⁵⁴ Sargent JD, Babor TF (2020). The relationship between exposure to alcohol marketing and underage drinking is causal. *J Stud Alcohol Drugs*. (Suppl. 19):113–24.

⁵⁵ Babor TF, Robaina K, Noel JK, Ritson EB (2017). Vulnerability to alcohol-related problems: a policy brief with implications for the regulation of alcohol marketing. *Addiction*. 112(Suppl. 1):94–101; Mainz V, Drüke B, Boecker M, Kessel R, Gauggel S, Forkmann T (2012). Influence of cue exposure on inhibitory control and brain activation in patients with alcohol dependence. *Front Hum Neurosci*. 6:92; Townshend J, Duka T (2001). Attentional bias associated with alcohol cues: differences between heavy and occasional social drinkers. *Psychopharmacology*. 157(1):67–74.

⁵⁶ WHO (2011). *Scaling up action against noncommunicable diseases: how much will it cost?* Geneva: World Health Organization (<https://iris.who.int/handle/10665/44706>).

Impact on children and young people

In Finland, the most typical alcohol-drinking situation is the home environment (own home or another's home or other private space)⁵⁷. The Proposal could lead to an increase in alcohol consumption, especially in home conditions. There are approximately 89 000 minor children in Finland (approximately 8.7 % of all minors) whose second or both biological parents have, at some point before the child is of legal age, a serious substance abuse problem. At least 42,000 children (4%) live in families where these problems are currently relevant. A large proportion (60%) of the records of narcotics problems relate to alcohol use alone, the remainder is drug use or both alcohol and drug use. When adding together problems related to alcohol consumption only and alcohol and drugs use, between 80% and 90% of parental substance abuse problems resulting in registers are alcohol consumption in one way or another. The above figures only describe the serious substance abuse problems that have arisen in the registers. Register entries related to drug abuse problems include, for example, one of the main or side diagnostics related to problem alcohol or drugs, residential care for drug abuse or intoxicants as a cause of death. In reality, the number of children living with parents suffering from substance abuse problems is clearly higher.⁵⁸

Childhood with a parent with substance abuse problems poses a serious risk to the health and development of a child. Drug abuse problems experienced in families are one of the risk factors that has been found to be linked to accumulation of social and health harms and transmission of disadvantages from one generation to another. It has also been found that people with substance abuse problems often accumulate other forms of disadvantage. They are less likely to have vocational education and training subsequent to basic education, and they are more likely to rely on income support. In addition, they more often experience health and mental health problems and have a higher risk of dying prematurely.⁵⁹

The negative effects of alcohol on children and adolescents are not only related to children of severely substance-dependent parents. High-risk alcohol consumption is also common in many families. In families with risk consumption, there is also an increased risk of children and adolescents feeling of unsafe, fearfulness of different kinds and of their care being neglected. If the use of alcohol in home conditions is increased as a result of the Proposal, especially in families where one parent has a problem with alcohol or engages in risk-consumption of alcohol, children's wellbeing could also be reduced in those families.

Alcohol is a major determinant of domestic violence.⁶⁰ If the Proposal were to increase alcohol use, especially at home, the risk of increased domestic violence would also increase. The link

⁵⁷ Mäkelä P. ym. (2023) Drinking in the home: what does it entail for younger and older Finns? Drug and Alcohol Review 42, 1004–1012.

⁵⁸ This study was summarised in 23/2024. How common are family abuse problems? Finnish Institute for Health and Welfare: https://www.julkari.fi/bitstream/handle/10024/149101/TUTI2024_023_Miten%20yleisi%c3%a4%20perheiden%20p%c3%a4ihdeongelmat%20ovat_s_korjattu%20290524.pdf?sequence=4&isAllowed=y

⁵⁹ This study was summarised in 23/2024. How common are family substance abuse problems? Finnish Institute for Health and Welfare: https://www.julkari.fi/bitstream/handle/10024/149101/TUTI2024_023_Miten%20yleisi%c3%a4%20perheiden%20p%c3%a4ihdeongelmat%20ovat_s_korjattu%20290524.pdf?sequence=4&isAllowed=y

⁶⁰ Ministry of Social Affairs and Health 2007. A vicious circle for the whole family. Interpersonal violence and alcohol. Reports of the Ministry of Social Affairs and Health 2007:27, p. 31. Online: <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/72104/Selv200727.pdf?sequence=1&isAllowed=y>.

between the increase in alcohol consumption and the increase in domestic violence also affects children. In the home, children may themselves be subjected to violence by a parent or they may witness violence between parents or by one parent against the other parent.

In Finland, one of the key factors contributing to the decline in alcohol consumption among young people has been the difficulty in accessing alcohol that young people have experienced,⁶¹ i.e. more effective age-limit controls in practice. Both private retail establishments and Alkos stepped up age control in the 2010s. Based on the experience of countries that currently allow the delivery of alcohol, the main problem of responsible sales and sales control in the delivery of alcoholic beverages is related to the checking of age limits and the supply of alcohol to minors. For example, in the Netherlands, regulatory controls carried out in early 2024 revealed that 70% of sellers of alcoholic beverages did not check the age of the recipient at the time of delivery of the alcoholic beverage and handed the alcoholic beverage over to a minor test buyer⁶².

The Proposal would provide that the age of the recipient should be verified in connection with the delivery of alcoholic beverages, and alcoholic beverages should not be supplied to a person who was not 18 years of age at the time of delivery. On the other hand, strong alcoholic beverages could not be handed over to persons under the age of 20. Even in distance sales, only the alcoholic beverages could be handed over to a buyer or other recipient by the supplier of the alcoholic beverages. This would better control the delivery situations in distance selling. However, if age-limit control is not effectively implemented, the delivery of alcohol may increase the availability of alcohol, especially for young people.

In Australia, fast deliveries were particularly common for people under the age of 25. In this way, fast deliveries can lead to prolonged drinking situations and an increase in the quantities of alcohol consumed at one time, especially for young people. However, the legislative proposal would not allow delivery after 9 p.m., which would prevent fast deliveries late in the evening and drinking episodes being prolonged late to the evening and or night-time. In about 60 % of the drinking episodes of young people (aged 20–34) in the home environment, alcohol was also consumed outside the time between 9 a.m. and 9 p.m. In all, 90 % of drinking sessions in the home among young people, and where binge drinking took place, ended outside the hours between 09:00 and 21:00.

Allowing the marketing of spirits on websites and social media could increase the exposure of children and young people to alcohol marketing. Operators are constantly developing new means of marketing as part of their promotional actions to which the internet and social media offer new possibilities. Even though the proposal would partially liberalise the marketing of strong alcoholic beverages, new restrictions would also be introduced into the Act in relation to marketing on the data network. The proposal would prohibit influencer marketing on the information network, which can be considered particularly important from the perspective of youth protection. Influencer marketing often targets young people, so a ban on influencer marketing could significantly prevent and reduce the exposure of young people to the marketing of alcoholic beverages, especially since online marketing would also be allowed to

⁶¹ Raitasalo K ym. (2018) What is going on in underage drinking? Reflections on Finnish ESPAD data. *Drug and Alcohol Review* 37, 76–84.

⁶² Inspectieresultaten - Pilot leeftijdsgrenscontrolle bij aflevering van alcoholhoudende dranken bij online networkop. Dutch Food and Consumer Product Safety Authority, 31 May 2024. <https://www.rijksoverheid.nl/documenten/publicaties/2024/05/31/inspectieresultaten-pilot-leeftijdsgrenscontrolle-bij-aflevering-van-alcoholhoudende-dranken-bij-online-verkoop>

be more extensive than at present for strong alcoholic beverages. Under the current Act, the marketing of spirits on social media is not possible. Studies show that alcohol publications on social media can lead to an increase in alcohol consumption among young people⁶³. The ban on influencer marketing would apply to both mild and spirits, so the marketing provisions would become stricter for mild alcoholic beverages. In addition, the marketing of both mild and spirits would be prohibited in on-demand services under the Act on Electronic Communications Services, i.e. various streaming services, for example. This would also limit the exposure of children and young people to marketing. Children and young people would also be protected by extending the marketing ban on television and radio broadcasting in the evening. In the future, mild alcoholic beverages should not be marketed in the television and radio broadcasting sector between 7:00 and 23:00, when the prohibition under the Act in force expires at 22:00.

Impact on gender equality

According to Statistics Finland's 2021 survey on the use of information and communications technology by the population, online shopping is roughly as common among men and women.⁶⁴ Nevertheless, the main effects of the legislative proposal can be estimated to affect women and men in different ways. In the case of men, the effects may be particularly visible as an increase in alcohol consumption and, consequently, in alcohol-related harms. The key risks of the Proposal related to the increase in alcohol-related harms are especially related to prolonged drinking sessions and to an increase in the number of units consumed at one time, which can be seen to be linked to express orders in particular. These risks can be estimated to be particularly pronounced in the case of individuals who intensively consume alcohol. As it is significantly more common for men than women to suffer from serious alcohol problems, it can be estimated that the Proposal may have a greater impact on men's health than on women's health.

Alcohol mortality is higher among men than among women. A total of 1 727 people died of alcohol-related diseases and alcohol poisoning in Finland in 2023. Of these, 1 283 were men and 444 were women.⁶⁵ According to the 2023 drinking habits survey, men consume alcohol more often than women. Among men, the proportion of people consuming alcohol on a weekly basis was 48 % and for women the proportion was 22 %. Men's binge drinking is also much more common than women's. The percentage of people getting drunk on a monthly basis was 32 % for men and 10 % for women.⁶⁶ The moderate risk limit for alcohol consumption (more than 14 units per week for men and more than 7 units per week for women) was exceeded by 15 % of men and 9 % of women.⁶⁷

If home delivery were to increase alcohol-related harms, more men than women would likely experience these additional problems. The regulation, licencing and regulatory control of the

⁶³ Hendriks, H., Wilmsen, D., van Dalen, W., & Gebhardt, W. A. (2020). Picture Me Drinking: Alcohol-Related Posts by Instagram Influencers Popular Among Adolescents and Young Adults. *Frontiers in psychology*, 10, 2991. <https://pmc.ncbi.nlm.nih.gov/articles/PMC6987445/>

⁶⁴ Statistics Finland: Verkkokauppa murroksessa 30 November 2021, https://stat.fi/til/sutivi/2021/sutivi_2021_2021-11-30_tie_001_fi.html

⁶⁵ Statistics Finland, death cause statistics, https://pxdata.stat.fi/PxWeb/pxweb/fi/StatFin/ksyyt/statfin_ksyyt_pxt_11bx.px/, 11 March 2025.

⁶⁶ National Institute for Health and Welfare, Statistical Report 59/2023, Finnish alcohol consumption habits 2023. pp. 3-4.

⁶⁷ THL Statistical Report 59/2023, Finnish alcohol consumption habits 2023, p. 6.

alcoholic beverage deliveries can contribute to the realisation of risks. In particular, the extent to which the delivery of alcoholic beverages complies with the prohibition on serving alcohol to intoxicated persons is of particular importance for ensuring that the availability of alcohol to intoxicated persons is not improved as a result of the Proposal.

Alcohol is also an important driver of domestic violence. If the proposal were to increase alcohol use, especially in the home, the risk of a rise in domestic violence can also be estimated to increase. domestic violence is a common and serious occurrence in Finland. Most of the victims of domestic violence are women or girls. According to a recent statistical report, domestic violence and domestic violence offences involving 10 900 victims were reported to the authorities in 2021. Of adult victims, 75 % were women and 77 % of those suspected of domestic violence were men. However, far from all cases of domestic and domestic violence are reported to the authorities.⁶⁸ According to statistics, around a third of women have experienced physical violence, threats of physical violence or sexual violence from a partner at some point in their lives. Less than one-fifth of men have experienced such violence from a partner.⁶⁹

Heavy alcohol consumption increases the risk of domestic violence and affects the recurrence, severity and consequences of violence. The perpetrator's inebriation increases the risk more than the victim's inebriation. Drinking large amounts is a more significant factor than the frequency of drinking. The consequences are more severe when the perpetrator or both parties to the violence are intoxicated.⁷⁰ The perpetrator of domestic violence is intoxicated in almost half of the situations involving violence and the consequences of alcohol-related domestic violence are often more serious than those of non-alcohol-related domestic violence.⁷¹

domestic violence often takes place in homes or other private places. As the legislative proposal could have the effect of increasing drinking at home, it could also increase the risk of domestic violence. In particular, enabling express deliveries would increase this risk, as such orders can be placed on impulse and possibly while intoxicated. According to the Proposal, the delivery of alcoholic beverages would comply with the same prohibitions on the supply of alcoholic beverages as, for example, has been the case so far in retail sales. This means that alcoholic beverages should not be supplied to a clearly intoxicated person. The extent to which the prohibitions on supply are complied with is significant for the realisation of the risks.

In recent decades, Finnish homicides have been most likely to take place in private dwellings. Of the offences committed during the period under review, 68 % had been committed in private dwellings. Finnish homicides are closely related to alcohol consumption and situations involving alcohol use. The majority of homicides in Finland are related to situations involving alcohol use by middle-aged men who are not gainfully employed. Between 2010 and 2018, in 58 % of adult homicides, all parties were drunk at the time of the crime, while in 77 % of crimes at least one of the parties was drunk. The association with alcohol consumption was

⁶⁸ THL statistical report 43/2023, domestic violence 2021. 23 August 2024, p. 3.

⁶⁹ Statistics Finland: Gender-based violence and domestic violence in Finland 2021, p. 17.

⁷⁰ Finnish Institute for Health and Welfare: Alcohol as a risk factor for domestic violence https://www.julkari.fi/bitstream/handle/10024/116695/Alkoholi_1%c3%a4hisuhdev%c3%a4kivallan_riskitekij%c3%a4n%c3%a4_2014.pdf?sequence=1&isAllowed=y, 2014.

⁷¹ Ministry of Social Affairs and Health 2007. A vicious circle for the whole family. Interpersonal violence and alcohol. Reports of the Ministry of Social Affairs and Health 2007:27, p. 31. <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/72104/Selv200727.pdf?sequence=1&isAllowed=y>.

particularly strong in men: 72 % of adult males involved in homicides were drunk at the time of the crime. The men and women who committed the crimes and who were caught immediately after the act had on average a blood alcohol content of just under 2.0 per mille (2 %) and the victims well over 2.0 per mille (2 %). In the case of the culprits, the results cannot be generalised, as it is likely that the level of intoxication affected the risk of being caught. On the other hand, in the case of the victims, the level of intoxication had no effect on the survey results whereas it was likely to impact victim selection. In alcohol-related homicides, the victims' level of intoxication was usually higher than that of the perpetrators. Severe intoxication may have made it more difficult for victims to function in conflict situations – both mentally and physically. Of the male suspects who were drunk at the time of the crime, 67 % were intoxicated by alcohol alone and 33 % were under the influence of alcohol and some other (or several other) substance(s). The corresponding proportions for female suspects were 69 % and 31 %.⁷²

Impact on occupational safety of suppliers of alcoholic beverages

According to the proposal, the supplier of the alcoholic beverage would deliver the beverage to the customer. The 'supplier' would mean the holder of the delivery license and the party carrying out the delivery arranged by them. At the time of delivery, the supplier would most likely be alone and handovers could take place in private premises. Alcoholic beverages could, for example, be ordered at the home of the purchaser, in which case delivery would take place at a home door. In these situations, there may be challenges and even threats endangering occupational safety of the supplier of alcoholic beverages.

The handover at the time of delivery would be quite different from the situation in a shop where often other colleagues and possibly security guards are present. The shop will often also have CCTV cameras and a button on it, which a seller can click to call for help. Since the supplier would be alone in these situations at a foreign location, the risks to occupational safety could be greater than, for example, in retail sales. In the delivery of alcoholic beverages, the customer would, for example, be able to persuade or exert pressure on the alcoholic beverage supplier to deliver them to the customer, even if, for example, they are intoxicated. In its most serious cases, a supplier of alcoholic beverages could even face the threat of violence.

Compliance with European Union law

According to the proposal, the Alcohol Act would be amended to allow the supply of alcoholic beverages from domestic retail sales points, Alko and cross-border distance sales. A licence would be required for the supply of alcoholic beverages. This would mean that the retail licence holder and Alko would be obliged to deliver an alcoholic beverage to the supply licence holder, who would in turn be responsible for supplying the alcoholic beverage to the purchaser. There would be no direct obligation on the distance seller to supply the alcoholic beverage to the holder of the supply licence: it would be sufficient for the distance seller to have labelled the alcoholic beverage in the consignment. In international supply chains, sellers typically enter into a contract with a first-stage carrier, which in turn agrees on forwarding the package with the next party in the transport chain. Therefore, the distance seller's responsibility would be limited to marking the consignment stating that it contains alcohol. In addition, the distance seller should also mark the consignment if it contains spirits. When a consignment indicates that it contains alcoholic beverages, the information would be

⁷² Lehti, Martti (2020) Homicide Review 2020. University of Helsinki, Institute of Criminology and Legal Policy, Reviews, 41/2020;

transmitted in the supply chain and the operator in Finland would be obliged to comply with the provisions of the Alcohol Act in a supply situation. The retail trade licence holder, Alko and the distance seller would also be able to apply for a supply licence for alcoholic beverages, in which case they could arrange to supply alcoholic beverages to the purchaser themselves.

The free movement of goods is the starting point in Union law. Therefore, the issue of whether a quantitative restriction on imports or a measure having equivalent effect in violation of Article 34 TFEU is relevant to be assessed in a different authorisation procedure and, if so, whether the restriction or measure is nevertheless permitted under Article 36 TFEU. Since cross-border distance sales are linked to a supply licence, it is necessary to assess the conformity of the supply licence with Union law.

The purpose of the Alcohol Act is to prevent harm caused by alcohol to its users, to other people and to society as a whole by restricting alcohol consumption and monitoring related business activities. Oversight of the provisions of the Alcohol Act is based on a comprehensive licensing system. In practice, the licensing system ensures that traders operating in the alcohol sector are able to meet their obligations and can be reached and monitored, and that any illegal activities can be effectively addressed. The starting point of the current Alcohol Act is that the supply of all alcoholic beverages sold in Finland is carried out from an establishment approved by the licensing authority. The requirement for retail outlets is justified by the fact that retail outlets can be subject to effective supervision. The CJEU and the Supreme Court have held that a licensing system that requires a retail outlet is compatible with EU law.

The proposal would amend the basic principle under the current Alcohol Act that alcoholic beverages should be delivered in approved retail outlets. In the future, alcoholic beverages could be delivered directly to the purchaser at the place designated by him or her. However, the delivery of alcoholic beverages would comply with time restrictions and prohibitions on delivery as is currently the case for retail sales. Thus, the delivery of alcoholic beverages would be allowed only at times defined by law, and, on the other hand, alcoholic beverages could not be delivered to persons under the age of 18 or to persons under the age of 20. Alcoholic beverages could also not be delivered if the person were clearly intoxicated or if there were reasonable grounds to suspect illegal delivery or procurement of alcoholic beverages for other persons.

To achieve the purpose of the Alcohol Act, it would be necessary for the supply of alcoholic beverages to be subject to control and to similar provisions on, for example, permitted time limits for the supply of alcohol and prohibitions regarding delivery and retail sales. If the supply of alcohol were not subject to control, a new retail sales channel would be established alongside the retail licence system, one which would not be subject to any regulatory control. It would therefore be crucial for the entire licensing system under the Alcohol Act that the supply of alcoholic beverages is monitored and that action can be taken if necessary.

However, control over the supply of alcoholic beverages would be more challenging than control at retail outlets. Therefore, the supply of alcoholic beverages would be subject to certain conditions, which would not exist for sales at retail outlets. Alcoholic beverages could only be delivered in delivery by persons who have a certificate (delivery passport) in accordance with a model approved by the National Supervisory Authority for Welfare and Health (Valvira) demonstrating knowledge of the regulation governing delivery and the instructions for delivery. Delivery of alcoholic beverages in the delivery system differs from

supplies carried out in retail outlets. The suppliers of alcoholic beverages would be in a supply situation on their own. It would be more likely that threatening situations could occur in handover situations if alcoholic beverages were not handed over, for example due to intoxication, or if the suppliers of alcoholic beverages could be persuaded to hand over alcoholic beverages, even if the recipient is, for example, a minor. It would therefore be very important for suppliers of alcoholic beverages to have sufficient knowledge of the legislation and of how to act in handover situations. Suppliers of alcoholic beverages would also be criminally liable if they were to supply alcoholic beverages in violation of the Alcohol Act. For these reasons, each alcoholic beverage supplier would have had to successfully complete a delivery passport test. The test questions would relate to the provisions of the Alcohol Act and, in particular, to prohibitions on delivery and the procedures to be followed in delivery. The tests would be organised by an educational institution providing training under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture. The educational institution must offer delivery passport tests in Finnish, Swedish and English.

In the case of delivery of alcoholic beverages, the age of the recipient should be verified in a verifiable manner. The requirement for verification of the age of the recipient would secure compliance with the age limits and enable the monitoring of compliance with the age limits. On the other hand, the requirement would also safeguard the position of alcoholic beverage suppliers when it could be clarified ex post that the age of the recipient of the alcoholic beverage was properly checked. In addition, since it is more difficult to control situations where alcoholic beverages are handed over than those taking place in retail outlets, the supervisory authorities would be given the power to carry out trial purchases. Making it possible to carry out test purchases would be necessary to enable appropriate age control in the delivery of alcoholic beverages.

A requirement for a licence to supply alcoholic beverages could restrict trade between Member States, as it would prevent operators established in other Member States from freely importing alcoholic beverages for retail sale in Finland. This would constitute a measure having equivalent effect to a quantitative restriction on imports in violation of Article 34 TFEU. However, the case-law of the CJEU has held that national legal rules restricting or prohibiting certain sales arrangements, which, on the one hand, apply to all operators established in the territory of a Member State and, on the other hand, have the same legal and factual effect on the marketing of both domestic products and products imported from other Member States, do not restrict trade between Member States. In solution C-918/14 *Visnapuu*, the CJEU considered that, as regards the retail licensing system for alcoholic beverages containing up to 4.7 per cent ethyl alcohol by volume, it did not apply to all operators operating in the territory of a Member State, as the State Alcohol Monopoly was not obliged to obtain a retail licence. Consequently, it was not necessary to examine whether such a requirement had the same legal and factual effect on the marketing of both domestic products and products imported from other Member States, but instead constituted a measure having equivalent effect to a quantitative restriction on imports in violation of Article 34 TFEU.

The requirement for a supply licence would apply to all operators on Finnish territory who wish to deliver alcoholic beverages directly to the purchaser. The requirement would apply equally to alcoholic beverages supplied from domestic retail sales, Alko and cross-border distance sales. A delivery licence could be obtained by any operator who meets the general conditions for a licence laid down in section 13 of the Alcohol Act and the special conditions for a delivery licence for alcoholic beverages laid down in section 17a of the Alcohol Act. A distance seller could also apply for a supply licence, in which case he could arrange for the

alcoholic beverages to be delivered directly to the recipient. Under section 17a of the Act, the delivery authorisation would be granted if the applicant has drawn up a self-monitoring plan and an explanation of how it ensures that the alcoholic beverage drivers operating on its behalf hold a delivery passport referred to in section 57(3). For its part, the conditions of section 13 concern economic conditions. For example, an applicant may not be bankrupt or its members of the administrative bodies, the chief executive officer and partners in an open company or a limited partnership with general liability must meet the financial requirements and be legally competent.

Since the requirement for a delivery authorisation would apply equally to domestic products and to products purchased from other Member States, it would be possible that the system of delivery authorisations would not be considered contrary to Article 34. What is relevant to the assessment would be whether the requirement would actually place domestic and foreign operators in a different position. In principle, domestic and foreign operators would be in an equal position if they themselves wish to obtain a supply licence. The acquisition of a supply licence is not relevant as to whether the operator is a domestic or a non-domestic operator and whether obtaining a licence would not require, for example, a permanent establishment in Finland. Even if the supply licence concerns certain conditions, they would be available to both domestic and foreign operators on equal terms. For example, the delivery passport test for suppliers of alcoholic beverages should be organised in both Finnish, Swedish and English. In addition, it would be possible to draw up a self-supervision plan in English.

On the other hand, it could be possible that obtaining a delivery authorisation would be considered more difficult in practice for a distance seller than for a domestic operator. It could be argued that, for example, carrying out a supply passport test would be considered more challenging for foreign operators than for domestic operators. Supply passport tests would be organised by educational institutions in Finland. Educational institutions would determine, for example, the frequency with which they organise examinations. As a result, it could be somewhat more difficult for foreign operators to obtain a delivery passport. Furthermore, in the event that the distance seller arranges the transport and does not supply the alcoholic beverages themselves, the regulation would differ to some extent from the obligations of the domestic retailers and the State Alcohol Monopoly. Distance sellers would be subject to fewer obligations than domestic operators, since they would only be obliged to indicate on the consignment that it contains alcoholic beverages and potentially strong alcoholic beverages. Unlike domestic retailers or Alko, a distance seller is not obliged to conclude a contract separately with a delivery licence holder or to ensure that the alcoholic beverage is delivered to the alcoholic beverage supplier. When a consignment is correctly labelled as containing alcoholic beverages, it would be the responsibility of an entity operating in Finland to ensure that it does not deliver alcoholic beverages if it does not have authorisation to do so. Labelling alcohol supplies would be easily feasible, for example, in the electronic information system used by logistics companies already. The contractual terms of many international logistics companies already require the labelling of alcohol shipments separately.

In the case of alcoholic beverages delivered from domestic retail sales or from the State Alcohol Monopoly, the Act would not have any separate provisions on labelling a consignment, since the domestic operator is required to deliver the alcoholic beverage directly to the supplier of the alcoholic beverage and thus directly contract the holder of a licence to deliver the alcoholic beverage. The domestic retailer or the Alko and the holder of the alcoholic beverage delivery licence would agree on how to ensure the information about a consignment of alcoholic beverage between the supplier of the alcoholic beverage and the retailer. In the case of alcoholic beverages delivered from domestic retail sales, it would not be

possible to deliver spirits, as only the State Alcohol Monopoly can sell spirits. When alcoholic beverages are delivered from Alko, an agreement should be reached between the alcoholic beverage supplier and the State Alcohol Monopoly on how the flow of information on the strength of the alcoholic beverage will be conveyed to the alcoholic beverage supplier. In the case of delivery of alcoholic beverages from home countries, holders of a retail licence and Alkoo have more obligations, as it is the responsibility of domestic operators to ensure that the alcoholic beverages are delivered from retail sale or from Alko to the holder of a delivery licence. In the case of a distance seller, responsibility is limited to the fact that the distance seller indicates the alcoholic beverage and possibly the spirit drink in the consignment. The obligation of a distance seller to mark a consignment cannot therefore be regarded as a means of arbitrary discrimination or a disguised restriction on trade between Member States. In particular, given the fact that the obligations are less for distance sellers than for domestic operators, the regulation would be proportionate to the objective pursued. In ruling C-244/06 of the Court of Justice of the European Union, *Dynamic Medien* was a matter of German national law which, among other things, required age limit labelling on visual recordings to be sold by mail order to Germany. In order to obtain this label on visual recordings sold by mail order, they had to go through the national inspection and classification procedure in Germany. The labelling obligation applied not only to sellers established in Germany, but also to sellers established in other Member States. In this respect, the CJEU considered German legislation to constitute a measure having equivalent effect to the quantitative restrictions on imports referred to in Article 34 TFEU, since, according to the CJEU, this requirement constituted a less favourable treatment of imported products in a way that made it more difficult and costly to import image recordings from other Member States. However, according to the CJEU, this legislation could be justified on the basis of Article 36 TFEU in order to protect minors. The purpose of the proposed obligation to mark a distance seller to the Alcohol Act would be to ensure that alcoholic drink suppliers identify alcoholic beverages containing alcohol when delivering alcoholic consignments and, therefore, to implement age limit controls when delivering alcoholic beverages, so as not to deliver alcoholic beverages to minors.

Even if, for example, for the reasons mentioned above, it were considered that the supply authorisation would de facto place foreign operators in a different position, the requirement for a supply authorisation would be justified on the basis of Article 36 TFEU. The purpose of the Alcohol Act to reduce the harm caused by alcohol and the licensing system to support this purpose have been set out above. The purpose of the supply authorisation is the protection of human health and the protection of minors. The protection of human health and life is the most important of the assets and interests protected by the Treaty on the Functioning of the European Union (TFEU) and it is for the Member States to decide on the level to which they intend to protect public health and the manner in which that level is to be achieved. It has already been pointed out above that if alcoholic beverages could be supplied without a licence, the activity would not be subject to supervision and it would not be possible to control compliance with the provisions of the Alcohol Act. Supplying alcoholic beverages freely would completely eliminate the other licensing system under the Alcohol Act. The supply authorisation requirement would therefore be in line with EU law.

5 Other options for implementation

5.1 Alternatives and their impacts

Delivery of alcoholic beverages under a retail licence

As an alternative to the amendments now proposed, a regulatory model was considered which would allow the delivery of alcoholic beverages only for the retail licence holders referred to in the Alcohol Act. The options considered were a model where delivery would automatically be included in the retail licence, without any separate application for a delivery licence. As a second option, a model was considered where only retail licence holders could apply for a licence to deliver alcoholic beverages. The licence would then have been applied for either as an amendment to an existing retail licence or in conjunction with the application for a new retail licence.

It was recognised in the preparation that including the licence to deliver alcoholic beverages in the retail licence would least change the current licensing system under the Alcohol Act. With this model, the ability of alcohol traders to meet their obligations would be considered in the licence process and their data would already be included in the register for regulatory control purposes. Responsibility for operations and compliance with the law would clearly lie with the licence holder, who would also have concrete means to guide the work of their staff. Under this model, the necessary changes to the alcohol business register would be the least costly. Similarly, the scope of regulatory control and the number of persons to be controlled was deemed unlikely to increase significantly, as the number of operators licenced for retail sale was not estimated to change significantly under this option.

This option was deemed as least likely to require extensive changes to alcohol legislation as other regulatory options under assessment. The adverse effects of the amendments enabling the delivery of alcoholic beverages would also be assessed to be the least significant in this option. However, this regulatory option is unlikely to make it possible for new operators to enter the market to the same extent as the option chosen, and would thus be less effective in achieving the underlying objective of the regulation.

Enabling the delivery of alcoholic beverages is driven in particular by the Government's objective of promoting fair and open competition. The aim of the Government is to promote growth in the domestic market and greater freedom for Finnish citizens. The Government will also continue to open the market with determination and responsibility. The Government also aims to reform alcohol policy responsibly towards a more European direction. It was estimated that the option where the delivery licence of alcoholic beverages was included in the retail licence would not be as effective as the regulatory option chosen to achieve the objectives of the Government and the proposed change to open the market and to promote fairer and more transparent competition. It was estimated in the preparation that, even if the adverse effects of that option were likely to be lower than the regulatory option chosen, the positive effects of regulation would also be smaller than those of the chosen option. In addition, the delivery licence included in the retail licence would not allow new operators to enter the market and the regulatory option now chosen will therefore better promote the right to business than this option.

Delivery licence for alcoholic beverages only to home and business addresses

An alternative that would otherwise be identical with the proposed regulation was considered in the preparation, but in this option, alcoholic beverages could only have been delivered to home and business addresses. Under this regulatory option, alcoholic beverages could have been ordered as in the amendment now proposed, but delivery could only have been made to fixed home or business addresses and thus deliveries could not have been made to public spaces, for example.

It was estimated in the preparation that this regulatory option would have achieved well the purpose and objective of the Alcohol Act, but would not have been as well and broadly in line with the objective set out in the Government Programme as the regulatory option chosen. The regulatory option might have better minimised the possible increase in public disorder possibly resulting from deliveries of alcoholic beverages, but at the same time, it could have created confusion for supplier of alcoholic beverages as regards the addresses to which alcoholic beverages would be allowed to be delivered and which addresses not.

Delivery of alcoholic beverages as an activity subject to a declaration

Another option in the preparation was to assess a model in which the supplier of alcoholic beverages would submit a declaration to the authority prior to the start of the delivery activities. The advantage of this model would be that, like retail licence holders, supplier of alcoholic beverages would continue to be registered with the authority. However, with regard to the activities subject to declaration, there would be no assessment of the capacity of the operator engaged in the delivery of alcoholic beverages, that is to say, there would be no prior control by the authorities. Under this regulatory option, the number of operators and thus the number of operators the public authorities would have to supervise, would be likely to increase more and it would be more challenging to address illegal activities than in the regulatory option chosen. This model would make it easier for the trader to start delivering alcoholic beverages than the one chosen and would thus open up more competition than the one chosen, in line with the Government's objectives. However, it was estimated in the preparation that the problems of supervising and addressing illegal activities as well as the potential harmful effects of alcoholic beverages would be significantly higher under this option than in the chosen model. The model chosen also better serves the purpose and objective of the alcohol legislation than this regulatory option.

Delivery of alcoholic beverages without a licence or declaration procedure

One option was also assessed where the delivery of alcoholic beverages would not require declaration to the authorities or the application for a separate licence. This would be the lightest model for traders and would allow all operators to enter the market freely.

Under this regulatory option, operators involved in the delivery of alcoholic beverages would not be included in the register of the authority or be covered by the licensing system, and their general conditions for acquiring a licence would not be examined. In this case, operators who would not be able to obtain a licence under the Alcohol Act could still provide delivery services. The number of suppliers would also be totally unrestricted and even retailers of alcoholic beverages, let alone the public authorities, would have no knowledge of the those who handle the deliveries or the legality of their activities. The risks of increasing alcohol-related harm, including the grey economy, would be the highest under this regulatory option compared to the other regulatory options under assessment.

It was noted that a regulatory option allowing alcoholic beverages to be delivered freely to customers by anyone would call into question the licensing system of the existing alcohol legislation and would also blur the limits of the activity subject to licensing. It was noted in the preparation that the prohibition on brokering alcohol for remuneration, which is included in the Criminal Code as an alcohol offence, would be rendered meaningless in practice in this legislative option. Under this option, the legitimacy of the licensing system under the alcohol legislation would also be called into question if the supply of alcoholic beverages at premises licenced for serving alcohol and by retail outlets were subject to licensing, but the same requirement would not apply to delivery, even though studies have shown that the risks of violating prohibitions on serving alcohol are higher for alcohol deliveries than for premises licenced to service alcohol or retail outlets.

It was estimated that this regulatory option would outweigh the benefits and would not be acceptable from the point of view of the spirit and purpose of the Alcohol Act.

Supply of farm wines and craft beer up to 13/12%

An option was considered for preparation where farm wine with a maximum of 13% ethyl alcohol and craft beer with a maximum of 12% ethyl alcohol could have been delivered from retail outlets connected to their production sites. The system of retail licences for farm wine and craft beer is a limited exception to the retail monopoly of the State Alcohol Monopoly, which is justified by, among other things, the fact that their sale is territorially limited by tying the sale to take place in connection with production sites. Extending the exemption by allowing the supply of these beverages to also apply to alcoholic beverages above 8 % falling within the scope of Alko's exclusive right could be problematic from the point of view of EU internal market rules. The preparation concluded that the option to deliver farm wines of up to 13% and craft beer of up to 12% is resolved in connection with the preparation of the Government proposal on the extension of the right to sell off by small producers. The extension of the right to sell out by small producers and the right to transport products sold out home are linked to each other, which is why it is justified to treat the reform as a whole. In this context, it is possible to better examine the EU legal framework conditions of the reform and its impact on the position of the State Alcohol Monopoly.

Distance selling as an activity subject to authorisation

During the preparations, an alternative was also considered where a distance seller should obtain a licence to commence its activities. Distance sellers should therefore not start their operations until they have obtained authorisation from Valvira. The licensing of distance selling would allow for more extensive powers for the supervisory authority. For example, in activities subject to authorisation, it would be possible to ultimately refuse a licence if an operator fails to comply with its obligations. This could be done in the case of a distance seller, for example, if the distance seller repeatedly failed to fulfil its obligation to indicate the alcoholic beverage containing it on the consignment.

On the other hand, during the preparatory work, it was identified that the main object of the control in distance selling is situations where alcoholic beverages are delivered to the buyer, i.e. the control of delivery licence holders is key. Compared to this, the permit procedure was seen as pregnant as an alternative to distance sellers. In addition, a challenge was seen in the fact that the powers of the domestic supervisory authority abroad would be limited. It was therefore considered that bringing distance selling within the scope of the authorisation

procedure would not necessarily meet the requirement for the proportionality of the restrictions under Article 36 TFEU.

Distance selling as an activity subject to a declaration

With regard to distance selling, an alternative was considered in the preparations where a distance seller had to submit a one-off declaration to Valvira before the delivery or transport of alcoholic beverages purchased from cross-border distance sales was dispatched. During the preparations, it was identified that the declaration obligation would contribute to supervision by knowing the parties that would carry out distance selling to Finland. The purpose of the obligation to declare would therefore be to ensure that, where necessary, the supervisory authority can reach operators, for example, in situations where alcoholic beverages would not have been delivered to a delivery licence holder.

In the preparations, it was decided that distance sellers will not be required to submit a declaration. The aim of the proposal is to enable the free movement of goods to the greatest extent possible. It was considered that the declaration procedure will increase the administrative burden on distance sellers. The most essential in terms of supervision and, for example, compliance with age limits is that situations in which transfers to the customer are carried out are subject to supervision and that they comply with the provisions of the Act. It was therefore considered more appropriate that supervision and regulation should, as far as possible, target supply licence holders and not distance sellers.

Allowing distance selling completely freely

The preparation also assessed separately the regulatory solution for distance selling, where distance selling would not be linked to the delivery license. From the point of view of the EU internal market, this option would least restrict the free movement of goods, while the authorisation system could be a quantitative restriction on imports or a measure having equivalent effect in violation of Article 34 TFEU.

The purpose of the supply authorisation system would be to ensure that the prohibitions on supply laid down in the Alcohol Act are not violated. In particular, it is important to ensure that alcoholic beverages are not handed over to minors. When the delivery of alcoholic beverages was subject to a licence, the licence holders would be known to the authority and they could be subject to supervision and sanctions. The authority would have the right to test purchases that make it possible to control that alcoholic beverages are not handed over to minors. In addition, suppliers of alcoholic beverages should have undergone training in the delivery of alcoholic beverages (delivery passport). Thus, suppliers of alcoholic beverages would have sufficient knowledge of the provisions, regulations and guidelines concerning the delivery of alcoholic beverages, as well as the necessary know-how to act also in possible challenging situations in which alcoholic beverages are delivered. The regulation would ensure that persons involved in the delivery of alcoholic beverages, in particular those involved in handing over beverages, would have the legal conditions and knowledge to manage the delivery and handover of alcoholic beverages safely and in the manner required by law.

If alcoholic beverages were not delivered to a delivery licence holder in connection with distance selling, two parallel regulations would be established in Finland for the delivery of alcoholic beverages. The delivery of alcoholic beverages ordered from home countries would be subject to their own separate licensing system, which would aim to ensure that the

requirements of alcohol legislation are met in the delivery of alcoholic beverages, while the delivery of alcoholic beverages sold remotely from abroad would not be subject to any control. Based on this, it was estimated during the preparation that it would be possible to link distance selling to the delivery authorisation on the basis of Article 36 TFEU.

Article 36 TFEU sets out the exemption criteria on the basis of which restrictive measures may be taken. On the basis of Article 36 of the Treaty on the Functioning of the European Union (TFEU), the provision of Article 34 shall not preclude prohibitions or restrictions on imports, exports, or transit which are justified, inter alia, by the protection of human health and life. Prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

It was considered necessary to link distance selling to the delivery authorisation in order to guarantee the fulfilment of the purpose stated in Article 1 of the Alcohol Act. According to the subsection, the purpose of this act is to reduce the consumption of alcoholic substances by limiting and supervising related economic activity to prevent the damaging effects of alcohol on consumers, other persons and society in general.

The licensing system for the delivery of alcoholic beverages would become irrelevant to some extent if products sold remotely from abroad were subject to different provisions than the alcoholic beverages delivered domestically. The fact that sellers established in other Member States could freely sell and transport alcoholic beverages to persons residing in Finland would create a new channel for the sale of alcoholic beverages, which would not be subject to any regulatory control.

Prohibition of distance selling for alcoholic beverages above 8.0/5.5 per cent by volume

As an alternative to the regulatory solution proposed in the proposal, a solution prohibiting distance selling of alcoholic beverages containing more than 5.5/8.0% by volume of ethyl alcohol was assessed (see the 2.1.4.1 *Visnapuu case*). A distance seller would therefore be entitled to sell and import alcoholic beverages produced by fermentation and containing a maximum of 8.0 per cent ethyl alcohol by volume, and alcoholic beverages produced by other methods and containing a maximum of 5.5 per cent ethyl alcohol by volume. Distance selling of alcoholic beverages stronger than this would be prohibited. Again, remote purchasing would be permitted for all alcoholic beverages in the option, i.e. up to 80% vol.

During the preparations, it was identified that this option would best safeguard the monopoly position of the State Alcohol Monopoly and public health. In Finland, the State Alcohol Monopoly has the exclusive right to engage in retail sale of alcoholic beverages, except for the exceptions laid down in section 6 of the Act, in order to reduce the harm caused by alcoholic substances. By limiting distance sales to the retail sales limit, the monopoly position of the State Alcohol Monopoly would remain unchanged and there would be no competitive sales channel for products under the monopoly. In this case, the availability of products subject to the monopoly would not increase as well.

Limiting distance sales to the general retail limit would also, in principle, equally treat Finnish and foreign operators. The sale of alcoholic beverages would be permitted on the same grounds, regardless of whether the operator is domiciled in Finland, in another EU or EEA country or in a third country. Equal treatment would also safeguard the functioning of the market. If entities abroad were to have a wider right to sell alcoholic beverages to Finns, this

could create incentives for domestic operators to transfer their activities to another Member State, such as Estonia.

On the other hand, during the preparations, it was estimated that distance selling differs to some extent from the retail sale of alcoholic beverages within Finland. In distance selling, the delivery of the product takes time, thereby reducing impulsive purchasing. If taxes were lawfully paid on alcoholic beverages ordered via distance selling, the prices of alcoholic beverages sold abroad would not necessarily differ greatly from the prices of beverages sold in Alko. Thus, allowing distance selling would not necessarily have any significant direct impact, for example, on Alko's sales.

The option would also include risks from the point of view of its acceptability under EU law. An alternative would not contribute to the free movement of goods as well as the alternative that was ultimately concluded during the preparation. A prohibition of distance selling of products subject to the State Alcohol Monopoly would limit the ability of Finnish consumers to obtain alcohol from other EU and EEA countries.

Limitation of the provisions on distance selling to purchases from EU countries

During the preparation, an alternative was considered where the provisions on cross-border distance sales would only have applied to purchases of alcoholic beverages from other EU countries. This would have been more closely aligned with the Government Programme document, as Prime Minister Petteri Orpo's Government Programme clarifies the prevailing unclear interpretation will be clarified unambiguously so that Finns have the right to buy alcohol through distance selling from companies operating in other EU countries. The case law on distance selling concerns procurement from other EU countries, and the constraints under EU law apply specifically to distance selling from other EU countries. The distance selling and distance purchasing defined in the Excise Duty Act also apply only to products consumed for delivery from other EU countries. Efforts have been made to keep the definitions of distance selling and distance purchasing in line with the Excise Duty Act in order to ensure consistency between the definitions, and to make the application of regulation easier for both operators and the authorities supervising operations.

However, during the preparation, it was identified that it was also necessary to regulate sales from other EEA countries and from third countries from the perspective of the Alcohol Act. The purpose of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related business activities in order to prevent harm caused by alcohol to its users, to other people and to society as a whole. From the point of view of this purpose, it is irrelevant from which country alcoholic beverages are sold to Finland. It was therefore considered necessary in the preparation that the legal position concerning distance sales from third countries and other EEA countries should also be clarified. Since the framework conditions under EU law do not apply to sales from third countries, it would also have been possible to prohibit distance sales from third countries. However, it was considered more consistent in the preparation that all sales from abroad are regulated in a uniform manner. For this reason, it was considered justified that in distance sales from third countries, the holder of a licence to supply alcoholic beverages should also supply alcoholic beverages to customers.

Marketing provisions

During the preparations, an option was considered which would have changed marketing regulations only to the extent that marketing would be carried out abroad. The Act would therefore lay down separate provisions on marketing to and from countries of origin. As regards marketing abroad, it was considered to amend the provisions in such a way that marketing of alcoholic beverages exclusively or mainly to another State of the European Economic Area and to any audience therein would be permitted within certain restrictions resulting from EU legislation. These restrictions would have involved, for example, a ban on marketing aimed at minors, which should also apply when marketing is directed towards countries in the European Economic Area. In this option, the proposed regulation would have been followed more closely than the proposed regulation under the Government Programme document, as the Government Programme proposal only concerns the removal of restrictions on marketing abroad.

However, in the preparation of implementation in accordance with the Government Programme entry, challenges under EU law were identified. Regulating the marketing of alcohol is not only national, but should take into account European Union law, such as the requirements of the Electricity Trading Directive and the Audiovisual Media Services Directive. Both directives use the country of origin principle as the starting point. The idea of the country of origin principle is that the operator complies with the legislation of the country in which it is established and in which its activities are carried out. If the regulation were to differentiate between the provisions on marketing vis-à-vis the home country and another EEA State, it would be possible for the Commission to consider the proposed regulation as problematic in terms of the country of origin principle. The main idea in the Directive of the application of the legislation of the Member State of establishment could not be realised if several Member States lay down separate provisions for the home country and other EEA countries.

In addition to EU law, challenges were identified in the practical implementation of the considered legislative amendment. Today, a large part of marketing takes place on various social media platforms. Although it may be possible, for example, to limit access to websites depending on geographical areas, such control on social media is not always possible. This would create difficult interpretative situations as to when and on which criteria marketing is considered to be directed to Finland and when it is considered to be carried out abroad. The assessment could be challenging, for example, in cases where a Finnish influencer or a company with both Finnish and foreign successors would advertise strong alcoholic beverages in English on their account. In addition, advertising could in any case also affect Finland, even if they are, as a rule, followed by persons from another EEA country. Social media algorithms also offer content to anyone other than an account for them, so for example, an advertisement video could be viewed by Finns even if the actual followers only contain people in another EEA state. It was therefore considered more justified to modify the marketing provisions uniformly for domestic and foreign marketing.

The Government Programme registration requires that marketing restrictions are removed within the limits of EU law. Since differentiation in marketing regulations with regard to domestic and marketing abroad could be in conflict with EU law, on the other hand, since in practice the application of the provisions could be challenging, it was considered more justified in the preparation to generally amend marketing regulations. Even if this would mean allowing the marketing of spirits online also in Finland, it was estimated in the preparatory work that marketing regulations could be tightened for mild alcoholic beverages at the same

time. When implemented in this way, the provisions on the marketing of alcohol form a whole and continue to effectively control marketing. In addition, the marketing of strong seals would be opened only to the extent that this would be necessary to promote the exports of domestic operators. Therefore, the marketing of strong substances would be allowed online, but strong products should not be advertised at all, for example on television or radio.

5.2 Legislation and other means in place in other countries

E-commerce and delivery or home delivery of alcoholic beverages are relatively new phenomena in alcohol trade in a global context. The coronavirus outbreak contributed to the acceleration of online sales of alcoholic beverages. In various parts of the world, restrictions on e-commerce and deliveries were eased during the COVID-19 outbreak in order to improve the business environment under the extraordinary circumstances.⁷³ However, many of these rapid policy changes remained in force on a permanent basis. The delivery of alcoholic beverages is allowed in Finland's nearest analogue countries, such as Sweden, Norway, Denmark, Estonia, Latvia and Lithuania.

Sweden

In Sweden, the production, import and export of alcoholic beverages, and their marketing, wholesale and retail trade and disposal are regulated by the 2010 alcohol legislation (Alkohollag 2010:1622). The government-owned alcohol company Systembolaget Aktiebolag, founded in 1955, has an exclusive right to the retail sales of spirits, wine and strong beer (above 3.5 %). In Sweden, alcohol trade is thus almost entirely centralised in the state system of exclusive rights (Systembolaget) and the same applies to online sales and the delivery of alcoholic beverages. The sale of beer with an alcohol content of between 2.25 % and 3.5 % in grocery stores and the serving of alcohol in restaurants is permitted, subject to declaration to the municipality. Sweden has a draft act adopted in spring 2025⁷⁴, which would allow certain small producers of alcoholic beverages to sell their own products from the place of manufacture under a farm sales permit. The legislative amendment shall enter into force on 1 June 2025.

According to its wording, the Swedish Alcohol Act does not actually regulate the distance selling of alcoholic beverages, but it stipulates that a private person may import alcoholic beverages from another EEA country into Sweden. A prerequisite for a private person's right to import alcoholic beverages from another EEA country to Sweden is that the person has reached the age of 20, he or she himself or herself has purchased and transported the beverages to Sweden, or arranges for such transport himself, and the beverages are intended for the personal use of him or his family⁷⁵. This means that alcohol can be ordered from other

⁷³ Huckle T & ym. (2021) Online alcohol delivery is associated with heavier drinking during the first New Zealand COVID-19 pandemic restrictions. *Drug and Alcohol Review* (July 2021) 40, 826–834.
Callinan S & ym. (2023) In order to assess the impact of home delivery expansion within Australia, researchers need regulators to collect and share data on sales. *Drug Alcohol Rev.* 42, 1309–1311.
Lemp JM & ym. (2023) Here to stay? Policy changes in alcohol home delivery and “to-go” sales during and after COVID-19 in the United States. *Drug Alcohol Rev.* 2023, 1–6.

⁷⁴ https://www.riksdagen.se/sv/dokument-och-lagar/dokument/proposition/battre-forutsattningar-for-be-soksningen-i-fraga_hc0386/

⁷⁵ According to the website of the Swedish Customs Agency, family refers in the Act to a person closest to and living in the same home (e.g. wife or husband). In this context, the Swedish Customs refers to a decision of the Court of Appeal of Skåne and Blekinge (Case No B2328-04 of 20 April 2006). As the

EEA countries if the consumer imports the alcohol himself or uses an independent driver. Orders of alcoholic beverages from outside the European Economic Area are not permitted and must be made through Systembolaget.

In its ruling T 4709-22 on the online sale and distance selling of alcohol in July 2023, the Swedish Supreme Court considered that distance selling of alcoholic beverages to consumers in Sweden by a company established in another EU or EEA country was not contrary to Swedish alcohol legislation. According to the facts of the case, Winefinder ApS, a subsidiary of the Swedish parent company Winefinder AB established in Denmark, sold, among other things, wine to Swedish consumers in its online store, while offering the transport of products to Sweden as supplied by separate transport companies. The Swedish alcohol monopoly, Systembolaget, brought an action against both Winefinder companies before the Swedish Patent and Market Court, since, according to Systembolaget, it was a prohibited sale of alcoholic beverages contrary to the retail monopoly. The case finally progressed to the Supreme Court of Sweden, and according to the Supreme Court, distance selling of alcoholic beverages by transportation organised by a seller is permitted and does not infringe the retail monopoly of Systembolaget, provided that the transport is carried out by an independent transport company. In addition, the seller may not be established in Sweden and the sales activity may not be carried out in Sweden, for example through a sales representative or equivalent.

Before 2008, Swedish alcohol legislation contained an explicit prohibition on importing alcohol, even for private use, other than by importing passengers. However, the Act was amended following the Rosengren judgment issued by the Court of Justice of the European Union. According to the preliminary work of the Swedish Alcohol Act, since 1 July 2008, private individuals may purchase spirit drinks, wine and spirits from another country within the EEA or import the goods to Sweden via an agent or other independent broker. According to the explanatory memorandum, the majority of private imports take place via the internet and, according to the preliminary work of the Act, the share of these imports in Sweden's total consumption of alcohol is small. The preliminary work states that there are no indications that passenger imports have expanded (i.e. an assessment in the explanatory memorandum to the 2009 Act) and that Swedish excise tax legislation as well as the transport costs of alcoholic beverages makes beverages expensive and difficult to import.

Under the Swedish Alcohol Tax Act, in the case of distance selling of alcohol, the person liable for excise duty is a distance seller who is registered temporarily or until further notice. A distance seller shall, in addition to registration, provide a security to cover the excise duty on products sold via distance selling to Sweden. If the tax is not paid, security shall be provided to cover the taxes. A registered distance seller shall be liable for tax at the time the recipient receives the products in Sweden. If the distance seller is not registered, the recipient of the products becomes taxable, instead of the distance seller, and the recipient is required to report the products to the tax authority before the dispatch of the products. If the recipient is liable for excise duty, the tax liability arises at the time when the excise goods are brought into Sweden.

If products taxed in another EU Member State are introduced into Sweden other than via distance selling or passenger imports, the transfer of the products shall comply with the obligations relating to the transfer of the taxed products, such as those relating to the use of the electronic simplified document. If an individual arranges the transport of alcohol acquired

Swedish Supreme Court has not given a ruling in this case, that ruling is to be regarded as a preliminary ruling.

from an online store operating in another EU Member State in a completely independent manner to Sweden, the buyer shall, before the transport of the products, temporarily register as a certified consignee in Sweden and provide security in Sweden. In addition, the buyer must be temporarily registered as a certified consignor in the country of origin of the products. Before the beginning of the transport, the purchaser shall create an electronic simplified document in the computerised control system of the Member State of dispatch and, after receipt of the products in Sweden, a receipt report shall be made in the Swedish computerised control system.

Norway

The Norwegian alcohol act (LOV-1989-06-02-27) governs the manufacture, import and export of alcoholic beverages, the sale and distribution of alcoholic beverages and the related licensing system and marketing.

The Norwegian alcohol act divides alcoholic beverages into three different categories. The first category includes alcoholic beverages between 2.5 % and 4.7 % in strength. The second category includes alcoholic beverages between 4.7 % and 22 % in strength. The third category includes all strong alcoholic beverages above 22 % in strength. A sales licence must be applied for the retail sale of the first category of alcoholic beverages. Licences are granted by the municipality in which the point of sale is located. In Norway, the sale of strong alcohol (categories 2 and 3) is controlled by the Norwegian government monopoly Vinmonopolet. Vinmonopolet has an exclusive right to the retail sales of alcoholic products in Norway of more than 4.7 % in strength, with the exception of ciders and fruit wines which may be sold directly from producer farms' own shops for up to 15 000 litres per year. In addition, in Norway, the auctioning of alcohol has been made possible through an auction company, but even in this case the sale takes place under the mandate of Vinmonopolet.

The Norwegian alcohol act allows alcoholic beverages belonging to alcohol category 1 to be sold online (e.g. mild beers). In this case, an application must be made for a licence to sell the alcohol from the municipality in which the point of sale or warehouse is located. In addition, the sales licence must be applied for separately from all municipalities in whose territory the alcohol is to be delivered. The delivery of alcohol must take place within the shelf-life of the alcohol in each municipality. The recipient must be able to prove their identity at the time of delivery and the delivery may not be handed over to an intoxicated person. In practice, this means that e.g. grocery shops may deliver mild products of alcohol category 1 in connection with a food delivery, provided that the local municipality has granted a sales licence.

The online sales of categories 2 and 3 are made via Vinmonopolet. It is possible to order alcoholic beverages from Vinmonopolet's website either for pick-up at the selected Vinmonopolet shop, at a self-selected pick-up location or at a home address. Pick-up and home delivery must take place within the opening hours of Vinmonopolet. The recipient must be able to prove their identity at the time of delivery and the delivery may not be handed over to an intoxicated person. In Norway, the home deliveries of Vinmonopolet are carried out by the Norwegian state post company.

Norway is not a Member State of the European Union, but Norway is, alongside Iceland and Liechtenstein, part of the European Economic Area (EEA) under the Agreement on the European Economic Area. Thus, Norway is part of the internal market of the European Union, and EEA countries must comply with it, such as EU legislation on the free movement of goods. However, the EEA countries do not form part of the customs territory and the tax

territory of the EU. Since 2009, individuals in Norway have been able to import beer, wine, spirits and other alcoholic beverages for personal use without a separate licence under the Norwegian Alcohol Act. The import of alcoholic beverages is permitted for persons over 18 years of age. Importation of spirits or other beverages with an alcohol content exceeding 22% by volume shall be permitted only to persons over 20 years of age. The import of alcoholic beverages containing more than 60% by volume of alcohol is prohibited. The fact that an individual may order alcohol from a foreign online store and obtain a shipping company to transport the alcohol on their behalf is considered a private import. A private person may enter into a contract with a foreign seller for both the sale and supply of alcoholic beverages. Therefore, a foreign seller may offer alcoholic beverages by home delivery in Norway, but the seller cannot itself carry out the delivery to Norway, but the transport must be carried out by a transport company independent of the seller.

The Norwegian Ministry of Health may set further requirements that must be met in order for an import to be considered as private import. In order for alcohol to qualify as private import, it must be for private use, e.g. use by a personal or family member. If the import is not private import, the importer must have a licence or be registered. There is no quantitative restriction on private import, but it is for the private individual to bear the burden of proof that the alcohol is consumed by the private individual himself and his close relationship. Norwegian Customs and the Health Agency will work together to stop shipments where there are doubts as to whether genuine private imports are involved.

The Norwegian Alcohol Act provides for a registration obligation for transport companies that wish to supply alcoholic beverages to consumers in connection with private import. Without such registration, the distribution of alcoholic beverages is not permitted. Registration shall be subject to a declaration form completed by the company, stating that the company meets the prescribed requirements. The Norwegian Directorate of Health is the authority responsible for registration. The Health Agency may decide to refuse or revoke registration if a company fails to fulfil its obligations under the Alcohol Act or regulations adopted pursuant to it. The same applies in cases of violations of provisions laid down in or pursuant to other legislation when these provisions relate to the purpose of the Alcohol Act. Refusal or withdrawal of registration are individual decisions that can be appealed. Such decisions may be made if, for example, the transport company delivers alcoholic beverages to minors or the company does not have an internal control system that ensures the training of employees. Delivery of alcoholic beverages ordered by private import may take place on weekdays from 8:30 a.m. to 6:00 p.m. and on Saturdays from 10:00 a.m. to 4:00 p.m. It is prohibited to supply alcoholic beverages on Sundays and on certain holidays. If a transport undertaking infringes the statutory delivery deadlines or, for example, delivers alcoholic beverages to minors, the Danish Health Agency may impose on it a financial penalty of up to 4 % of its annual turnover or up to 20 times the basic amount of national insurance, which in 2024 was approximately EUR 210 000.

Denmark

In Denmark, regulation of the retail sales of alcoholic beverages has been minimal. The food trade licence granted by the authorities also includes a licence for the sale of alcoholic beverages. Retail opening hours were abolished in 2012, with the exception of a dozen public holidays during shops must be closed. There are no time restrictions on the sale of alcohol.

In Denmark, the retail sale of alcohol is therefore not subject to a separate licence for the retail sale of alcoholic beverages, nor is the delivery of alcohol subject to authorisation in Denmark.

For the sale of beverages containing 1.2% to 16.5% alcohol via an e-shop, the seller shall require customers to declare that they are at least 16 years of age before the sale takes place. Similarly, for alcoholic beverages above 16.5 % in strength, the customer is required to declare that they are at least 18 years old.

Iceland

The State Alcohol and Tobacco Company of Iceland has a monopoly on the retail sale of alcoholic beverages containing more than 2.25% by volume of ethyl alcohol (Vínbúðin). Selling alcohol to persons under 20 years of age is prohibited in Iceland and sellers may refuse to sell alcohol to a person who is obviously intoxicated. In Iceland, alcohol advertising is not allowed. By way of derogation, the 2022 amendment to the Act, which was implemented at the retail monopoly of the Icelandic State Alcohol Monopoly, allowed up to 500 000 litres per year of product manufactured by small-scale producers of alcoholic beverages to be sold directly from the place of production. The home delivery of alcoholic beverages purchased from small producers is not permitted. However, home delivery is possible for products purchased from a retail monopoly if the consumer lives more than 25 kilometres from the monopoly store.

The Icelandic alcohol legislation does not contain any provisions on distance selling of alcohol. However, on the basis of the Agreement on the European Economic Area, it has been considered possible to order alcoholic beverages from abroad. However, many businesses have started selling alcoholic beverages online in Iceland in such a way that Icelandic consumers can order alcoholic beverages on their foreign websites, but alcoholic beverages are already stored in warehouses in Iceland. This will allow consumers to pick up the products already in the same day or receive them in their homes by express delivery. The authorities have considered the arrangement to be unlawful as a result of a retail monopoly and the Icelandic police are investigating the operation of these online shops.

Estonia

Estonia's independence led to the privatisation of the alcohol trade, with little initial regulation on alcohol. Legislation aimed at preventing alcohol-related harm came back in 1995. Kiosk sales of alcoholic beverages were banned altogether in 2001. In 2008, sales times were harmonised throughout the country so that sales are allowed from 10 a.m. to 10 p.m.

In Estonia, the retail and online sales of alcohol do not require a separate sales licence. However, the seller must declare its activity to the Agricultural and Food Board and declare the economic activity in the business register. Online sales of alcoholic beverages must be linked to a physical address. However, an online sales outlet does not have to have commercial premises, but can instead operate from a warehouse, for example.

The delivery of alcohol is permitted with the same time limit as its retail sale, i.e. from 10:00 a.m. to 10:00 p.m. Furthermore, no specific licence is required for deliveries. When ordering from an online shop, the age of the buyer must be verified before the delivery of the alcohol. The handover may take place by means of a courier or a pick-up device.

The conditions of the Estonian Alcohol Act do not apply to distance sellers established in other EU Member States. Under Estonian tax law, a distance seller is liable to excise duty on distance selling of alcohol across borders. If the distance seller has appointed a tax representative, the tax representative shall be responsible for the excise duties. If the distance

seller has not registered and provided a guarantee to the tax authority for the dispatch of excise goods, the excise duty shall be paid by the recipient of the goods.

The alcohol policy plan for 2025–2035 drawn up by the Ministry of Social Affairs of Estonia proposes a number of actions to reduce alcohol consumption in Estonia, including the introduction of an alcohol marketing authorisation system and the reduction of retail sale times. The plan was circulated for comments at the end of 2024, and a final version of the plan is expected in April 2025.⁷⁶

Latvia

In Latvia, e-commerce is subject to licence and linked to a physical point of sale. In January 2025, the Saeima adopted an amendment to the Alcohol Act, which limits, among other things, retail time limits for alcoholic beverages. In the future, the retail sale of alcoholic beverages is permitted between 10:00 a.m. and 8:00 p.m. on Monday to Saturday and between 10:00 p.m. and 6:00 p.m. on Sundays. Currently, the retail sale of alcoholic beverages is permitted from Monday to Saturday until 10:00 p.m. and on Sundays until 8:00 p.m. In addition, the amendment to the Act prohibits the ‘quick delivery’ of alcoholic beverages purchased from an online store. In the future, alcoholic beverages ordered online may not be delivered to a purchaser earlier than six hours after the order has been made. The purpose of the ban on express services is to prevent impulsive purchases of alcohol.⁷⁷

Lithuania

In Lithuania, e-commerce is subject to a licence and linked to a physical point of sale. Under Lithuanian alcohol legislation, the directorate for the control of the wholesale and retail sale of medicines, tobacco and alcohol authorises, inter alia, the wholesale distribution of alcoholic beverages and may issue warnings on the possible suspension or revocation of a licence, or suspend or revoke a licence, for example. That directorate also monitors that those holding a licence for the wholesale or retail distribution of alcoholic beverages comply with the terms of the activity subject to licence. In Lithuania, the mayor of the municipality or the municipal administration authorised by the mayor issues the retail licences for alcoholic beverages and supplements or amendments to the licence and specifies the conditions of the licence. The mayor of the municipality or the municipal administration authorised by the mayor may also issue warnings of the possible suspension or revocation of the licence.

Licences are granted to companies, European legal persons and their branches which have submitted a licence application to produce alcoholic products, or to engage in the wholesale or retail sale of alcoholic beverages provided that they fulfil the conditions for obtaining a licence laid down in law.

In Lithuania, alcohol may not be sold to people under the age of 20. The age limit was raised from 18 to 20 years by an amendment to the Alcohol Act that entered into force at the beginning of 2018. The sale of alcohol in Lithuania is prohibited, inter alia, in prisons, military and paramilitary services, police, health care, educational establishments, and in the territories of these institutions and in houses of worship. In addition, alcohol may not be sold

⁷⁶ <https://www.sm.ee/uudised/uued-ettepanekud-alkoholitarvitamise-vahendamiseks-korralik-alkoholi-muugilubade-susteem-ja>

⁷⁷ <https://www.saeima.lv/en/news/saeima-news/34236-alcohol-sales-restrictions-tightened-in-effort-to-reduce-consumption>

in retail shops where goods for children and adolescents account for at least 30 % of the retail sales of goods, at trade fairs (except naturally fermented alcoholic beverages with an ethyl alcohol content not exceeding 7.5% by volume), exhibitions (with the exception of naturally fermented alcoholic beverages with a maximum ethyl alcohol content of 13%), or in vending machines and, as a general rule, alcohol may not be sold in temporary retail outlets and public catering.

The sale of alcohol online and delivering alcoholic beverages is allowed in Lithuania. The online sale or delivery of alcoholic beverages does not require a separate licence or authorisation, but a trader wishing to sell alcoholic beverages online and/or deliver alcoholic beverages must obtain a legal retail licence and have a shop where the retail trade takes place. The delivery of alcohol in Lithuania is subject to the same requirements for the sale of alcoholic beverages as for retail outlets.

The Lithuanian Alcohol Law does not prohibit private individuals from buying alcoholic beverages from abroad, nor legal entities from selling alcoholic beverages at distance, but to this end a licence is required that entitles the retail sale of alcoholic beverages. The distance selling of alcoholic beverages may be carried out only with a licence and from a physical point of sale. Thus, a licence is required for all retail businesses, including those not engaged in the trade of alcoholic beverages in the territory of Lithuania but engaged in distance selling across borders for the wholesale and/or retail trade of alcoholic beverages. Operators carrying out distance selling shall ensure that all the requirements laid down in the legislation are met. For example, operators must comply with the retail sale times and the age limit and intoxication control provided for in the Alcohol Act — alcoholic beverages may be delivered from Monday to Saturday from 10:00 a.m. to 8:00 p.m. and on Sundays from 10:00 a.m. to 3:00 p.m. and beverages may only be delivered to people over 20 years of age. It is prohibited to deliver alcoholic beverages to intoxicated persons. Financial penalties can be imposed on companies engaged in the distance selling of alcoholic beverages, for example, for violation of the age limits laid down in the Alcohol Act.

Poland

In Poland, the sale of alcoholic beverages is subject to licence and the requirement applies to all products containing more than 0.5 % ethyl alcohol. In Poland, there are separate license types for alcoholic products of different strengths; (a) licence for products containing less than 4.5% alcohol and beer products (b) licence for products containing between 4.5% and 18% alcohol, and (c) licence for products containing more than 18% alcohol. Licences are subject to a fee and are granted by the municipal or municipal council. Each municipality or city grants a limited number of sales licences for alcoholic products per year.

The Polish legislation on alcohol dates back to 1982 and because of this, online sales as one of the authorised sales outlets are not covered. In the past, the Polish authorities and courts have taken the view that the absence of e-commerce on the list of authorised sales places means that the sale of alcoholic beverages in online shops is prohibited. The judgement of the Polish supreme administrative court of 8 September 2022 changed the above approach, stating that e-commerce is not a separate place for the sale of alcohol, but a form of communication between the entrepreneur and potential customers and a tool that also allows sales via a computer network. According to the judgement of the Polish supreme administrative court, the current regulations do not prohibit the sale of alcohol via the internet, and the absence of a clear prohibition therefore means that the sale in this form is lawful. The online sale of alcohol

in Poland requires the seller to have a valid licence to sell alcohol products at fixed points of sale.

According to the reasoning of the Polish supreme administrative court, the correct determination of the terms and conditions for the sale of alcohol in the e-commerce rules is crucial in order to safeguard that sales model. The decisive factor in the positive judgments handed down to operators selling alcohol was that, at the time of purchase, customers were required to accept rules stating that the place of sale of the alcoholic beverages is deemed to be the point of sale of the products and not the place of delivery of the alcohol, and if the customer orders the products at home, the products are deemed to have been delivered to the customer at the same time as they are handed over by the seller to a delivery operator authorised by the customer, e.g. courier. In other words, the buyer authorises a transport company or a courier to collect and deliver the products, for example.

England and Wales

In England and Wales, the sale of alcoholic beverages is subject to licence. There are two types of licences; a premises licence, required for restaurants and bars wishing to sell alcohol, for example, and a personal licence required for persons selling alcohol. In addition, each for premises licence at least one person holding a personal licence must be designated. The person concerned does not need to be present at all times, but they are responsible for ensuring that the alcohol is sold in accordance with the law. The applicant completes the Personal Licence Holders Qualification Certificate. The permit is issued by a local council.

In England and Wales, the minimum age for buying alcohol is 18 years, and this applies to both mild and high-strength alcoholic beverages. However, people aged 16 and 17 can drink mild alcoholic beverages in the supervision of an adult, provided that this happens in the context of eating and in a designated space. Shops in England and Wales can sell alcohol 24 hours a day, except on Sundays when sales can only start after 10:00 a.m. At serving premises, customers can buy alcohol until 11:00 p.m. However, bars and restaurants and similar may apply for an extension of the sales licence through which sales may continue through the night. In England and Wales, it is illegal to sell or serve alcoholic beverages to intoxicated persons.

Online sales of alcoholic beverages in England and Wales are permitted and online sales require the same licences as are required for a bar, for example, meaning a premises licence and a personal licence to sell alcohol. E-commerce requires buyers to declare that they are of age, but this is not controlled and does not require identification. The delivery of alcoholic beverages is subject to the condition that the premises licence includes the right to sell alcohol outside the premises. The alcohol product must be handed over against proof of identity if the purchaser appears to be a minor. When buying the product, you must also declare that you have reached the age of majority.

Spain

The sale of alcoholic beverages in Spain is subject to licence, which is obtained from the local municipal or municipal administration. Sales of alcohol in Spain are generally allowed between 8 a.m. and 10:00 p.m., depending on the autonomous community. Drinking and selling alcohol in public places is prohibited unless it happens on a terrace of a private operator (such as a bar or restaurant).

The authority responsible for the sale and home delivery of alcoholic beverages is the tax administration (Agencia Tributaria). In addition, the trader must be registered in the general health register of food businesses (Registro General Sanitario de Empresas Alimentarias y Alimentos, RGSEAA). Alcohol sales are monitored by the directorates for consumer affairs of the autonomous regions (Direcciones generales de Consumo de las CCAA). In addition, the supervision of marketing and age control is decentralised to more than one authority.

It is possible to sell alcohol online, and it is controlled in the same way as other sales. Delivery of alcohol is also possible in Spain. The same time constraints, age limits and other physical sales restrictions also apply to deliveries.

France

In France, anyone intending to open an establishment selling alcoholic beverages, whether as a principal activity or as a secondary activity, must have a licence (Permis d'Exploitation), both in the case of on-the-spot sales (e.g. restaurants, night clubs, etc.) or to-go sales (e.g. supermarkets, mail order or internet sales). In order to obtain a licence, a training course of 20 hours must be completed. The completion is valid for 10 years. Licences are applied from the town hall – in which a certificate of such training is requested – when the business is being opened or if a person applies for a business licence. In France, licences are granted by the municipality (i.e. local authority, or *mairie*) in which the business selling alcohol is established.

When alcoholic beverages are served with meals, the owner of the restaurant must be in possession of a restaurant licence (for all alcoholic beverages) or a 'petite licence de restaurant' (only for wines, ciders and beers). Mobile sellers (food trucks, caterers, pizza trucks, etc.) are only allowed to sell beverages with an alcoholic strength of up to 18 %, i.e. they only need a 'small restaurant licence'. Temporary licences (such as sporting events for sports clubs and associations) are also possible within the limits of French public health legislation.

The sale of alcohol to minors (under 18 years of age) and pregnant women is prohibited in France in restaurants, shops and bars. Service stations may not sell alcoholic beverages to-go between 6:00 p.m. and 8:00 a.m. All take away operators (supermarkets, grocery shops, etc.) wishing to sell alcohol between 10:00 p.m. and 8:00 a.m. need to undergo specific training in order to be authorised to sell alcoholic beverages at night.

In France, sales of alcohol on the internet are subject to the same legislation as alcohol sold on the spot. Thus, holders of 'petite licence' are allowed to sell category 1 beverages (non-alcoholic) and category 3 (less than 18 %) beverages on the internet. A licence is required for the sale of beverages such as rum in category 4. The licence allows operators to sell alcoholic beverages below and over 18 % of alcohol online. The delivery of alcoholic beverages is also possible in France and is subject to the same legislation as alcohol sold to-go. The sale and delivery of alcoholic beverages to people under the age of 18 is also prohibited in the case of delivery, but ordering alcohol online and having it delivered does not require identification.

In France, sales of alcoholic beverages are primarily controlled by the police (police administrative). The gendarmerie primarily supervises temporary alcohol licences (e.g. mobile sellers), but the municipal police also participate in monitoring them.

Private consumers can order alcohol from sellers established in other Member States of the European Union. Distance selling shall be made to an individual resident in mainland France. Excise goods must have already been released for consumption in the Member State from which they are dispatched. The French tax shall be paid upon arrival of the goods in France. The goods must be dispatched or transported to France, either directly or indirectly, by or on behalf of the seller.

Italy

In Italy, the sale of alcoholic beverages is subject to a licence issued by the Italian customs and monopolies agency (Agenzia delle Dogane e dei Monopoli). Licences are subject to the condition that the applicant has not been convicted of the illegal production of alcohol or tax evasion. In Italy, it is possible to sell alcoholic beverages online and deliver alcoholic beverages under the licence in question.

Greece

In Greece, there is no specific licensing process for the sale of alcohol. The sale of alcohol should be mentioned in the description of the company's activities when it applies for an operating licence. Alternatively, information on the sale of alcohol should be brought to the attention of the authorities if alcoholic beverages are added as a product sold at a later stage. In Greece, alcohol is also sold in supermarkets.

In Greece, the only restriction on the sale of alcohol is that alcohol may not be sold to persons under the age of 18. However, it is the seller's responsibility to supervise compliance with this age limit. The authorities may carry out spot checks, in particular in bars and nightlife leisure establishments, including in relation to alcoholic beverages that may be served to minors. In Greece, there are no restrictions on selling alcohol online or on the delivery of alcoholic beverages. However, in the case of online sales, personal data must normally be filled in, indicating the age of the customer.

In Greece, the sale of alcoholic beverages is supervised by different authorities; the control units of the customs and tax authorities mainly supervise taxes and duties paid on imported alcohol (if imported from third countries). The ministry of development also has its own inspectors, who carry out inspections mainly on the basis of complaints made. One particular reason for the control by the Greek authorities are the alcoholic mixes sold at some nightlife leisure establishments, which can be dangerous to consumers' health.

6 Feedback

The call for opinions for the Government proposal was held from....

7 Provision-specific rationale

Section 2 Scope. The delivery of alcoholic beverages would be added to the scope of *subsection 1* of the section. The delivery of alcoholic beverages would be subject to the provisions of the Alcohol Act, as well as to other matters falling within the scope of the Act.

The reference to the repealed Food Act would be amended to a reference to the new Food Act in *subsection 2* of the section.

A new *subsection 4* would be added to the section stating that the provisions of this Act on distance selling across borders and distance purchasing would also apply to distance selling across borders from third countries and EEA countries. Cross-border distance selling would be defined in section 3, subsection 1, paragraph 19 and distance purchasing would be defined in section 3, subsection 1, paragraph 21. The definition of cross-border distance sales would be in line with the Excise Duty Act and would refer to alcoholic beverages released for consumption in another Member State of the European Union. The provision would extend the provisions on distance selling and distance purchasing to sales from third countries and EEA countries as well. Cross-border distance selling would be provided for in section 17b and distance purchasing would be provided for in section 32.

Section 3 Definitions. To the definition of retail sale of alcohol in *subsection 1*, paragraph 11 of the section would be added the delivery of alcoholic beverages from a domestic retail outlet or the government-owned alcohol company Alko directly to the buyer of the alcoholic beverage, with the holder of the delivery licence or the alcoholic beverage delivery driver carrying out the delivery arranged by the holder of the delivery licence for delivery to the buyer or other recipient. The definition should be supplemented, as it has not previously been possible to supply alcoholic beverages by means of delivery. In addition, the definition would clarify that cross-border distance sales would not be retail. Cross-border distance sales would be defined separately in the new paragraph 21 of subsection 1 of the section.

An amendment related to the technicalities of legislative drafting would be made to subsection 1, paragraph 16 of the section as a result of the addition of the new paragraph 17. A new paragraph 17 would be added to subsection 1, defining the concept of ‘alcoholic beverage delivery’. The delivery of alcoholic beverages would be defined as the transport and supply for commercial purposes of alcoholic beverages, sold from a domestic retail outlet, the government-owned alcohol company Alko or cross-border distance sales, from the seller to the buyer or other recipient. The definition implies that the supply of alcoholic beverages from a domestic retail outlet, the government-owned alcohol company Alko could take place, in accordance with section 17, either at the retail outlet or at retail outlet pick-up points specified in the retail licence. The delivery of the alcoholic beverage would take place for commercial purposes. Thus, for example, it would not be regarded as delivery if the consumer purchased alcoholic beverages from retail sale and delivered them free of charge to an acquaintance. Such an activity would be permitted as it has hitherto.

A new paragraph 18 would be added to subsection 1, defining the concept of ‘alcoholic beverage delivery driver’. ‘Alcoholic beverage delivery driver’ would mean the holder of a licence to deliver alcoholic beverages or the person carrying out a delivery arranged by the holder of the delivery licence, who transports an alcoholic beverage from a domestic retail outlet, the government-owned alcohol company Alko or cross-border distance sales and delivers it to the recipient of the ordered beverage. The alcoholic beverage delivery driver would therefore expressly be the person who hands over the alcoholic beverage to the recipient, that is to say, the mere transport of an alcoholic beverage without handing over the beverage to the recipient would not be regarded as delivering an alcoholic beverage. All alcoholic beverage delivery drivers referred to here – i.e. persons who supply beverages ordered for delivery from a domestic retail store, the government-owned alcohol company Alko or cross-border distance sales to a recipient – should have a delivery passport as referred to in section 57, subsection 3 of the Act.

A new paragraph 19 would be added to subsection 1, defining the concept of ‘cross-border distance sales of alcoholic beverages’. According to the definition, cross-border distance sales

would refer to sales where a private person established in Finland who does not carry out an independent economic activity has purchased alcoholic beverages released for consumption from another Member State of the European Union, and the seller or another party acting on its behalf sends or transports those alcoholic beverages to Finland directly or indirectly. The content of the definition would correspond to distance selling as defined in section 6, subsection 10 of the Excise Duty Act.

On the basis of the preparatory work for the Excise Duty Act, sales are considered distance selling and thus the distance seller is the excise tax payer if, for example, the seller directs the buyer to use certain transportation companies on its website. In order to be a distance purchase within the meaning of section 74 of the Excise Duty Act, the seller and no one on their behalf may in any way participate in the dispatch, transport or organisation of transport of the products. The Excise Duty Act is based on the EU Directive on excise duties, and in the *Ostrobothnia* judgment of 19 December 2024, the Court of Justice of the European Union confirmed, in accordance with Finland's established excise duty practice, that distance selling within the meaning of the Excise Duty Directive refers to a situation in which the distance seller guides the choice of the purchaser by proposing and facilitating the use of certain transport companies when the purchaser is choosing the company responsible for the shipment and/or transport of the goods in question. The case concerned a situation where the seller's website had provided the services of separate transport companies in connection with the ordering of alcoholic beverages. According to the Court, it was not relevant for the fact that the buyer had concluded a separate agreement with the transport company. In accordance with the decision of the Court of Justice, a situation where the seller instructs the buyer on its website to use certain transportation companies would also be considered distance selling under the Alcohol Act.

The definition of distance selling under the Alcohol Act would be assessed in the same way as the definition in the Excise Duty Act. Therefore, if the seller assists the buyer, directly or indirectly, in any way in the dispatch, transport or organisation of the transport of the goods, this would constitute distance selling. Recently, in the case of online cross-border trade in alcohol, there is a generalised approach, in which the seller does not necessarily clearly direct the buyer in the selection of the driver and who enters into a separate transport contract with a so-called carrier. The transport operator coordinates the transport arrangements and decides by which company and the route by which the products are to be delivered to the buyer in Finland. If the activities required from the buyer to order the transport are very limited, this typically implies that there is cooperation between the seller and the transport operator, which means that distance selling is involved. A typical situation is therefore that the seller and the transport operator are partners, the seller allows advertising of their network trade and in some cases also the link to their e-shop on the sides of the transport operator. Instead of providing precise product information, it is generally sufficient for the buyer to mainly provide the transport operator with his order number and contact details. Such situations would involve distance selling. Distance selling would also be a situation where a seller of alcoholic beverages would have marketed, directly or indirectly, the transport of alcoholic beverages to Finland. Indirect marketing would be, for example, if information on the distance seller is available on the website of the transport operator.

According to the definition, in distance selling, alcoholic beverages would be purchased from another Member State of the European Union. Therefore, the warehouse or other facility of the distance seller where he sells alcoholic beverages must be located outside Finland.

A new paragraph 20 would be added to subsection 1, defining the concept of ‘distance seller or alcoholic beverages’. A distance seller of alcoholic beverages would mean a seller who sells alcoholic beverages to Finland by a distance selling procedure in accordance with paragraph 19.

A new subparagraph 21 would be added to subsection 1 of the section to define distance purchase. ‘Distance purchase’ would refer to alcoholic beverages acquired by a private person from another Member State of the European Union by means of distance communication in the manner laid down in section 74 of the Excise Duty Act. Section 74 of the Excise Duty Act regulates a situation where a private person purchases products that are subject to excise duty from another Member State by means other than passenger imports or distance selling. Distance purchasing is not defined in the Excise Duty Act, but in accordance with established practice, the procedure laid down in section 74 of the Excise Duty Act, whereby a private person purchases from Finland products subject to excise duty taxed in another Member State in such a way that the seller does not participate in arranging transport in any way, is referred to as distance purchasing. In the case of distance purchasing, the buyer is a taxable person for the goods it purchases.

For the sake of clarity, the definition of distance purchasing would be included in the Alcohol Act. Thus, a distance purchase would be involved when a private person established in Finland purchases alcoholic beverages from another Member State of the European Union in such a way that the seller would not participate in the transportation organisation in any way.

The essential differences between distance purchasing and the distance selling procedure are, on the one hand, the organisation of transport and, on the other, the allocation of the tax liability. In distance purchasing, private persons must organise the transport of the products they have purchased to Finland themselves, and neither the seller nor any person on behalf of the seller may in any way participate in the dispatch, transport or organisation of the transport of the products. In accordance with the C-596/23 *Ostrobothnia* judgment of the EU court of justice, the conclusion of a separate transport contract does not mean that distance sales are not involved. In that judgment, there was a situation in which the seller referred the purchasers on its website to the sides of certain transport companies. However, distance selling may also take place without such guidance. In the assessment of the matter, it is relevant whether the seller is directly or indirectly involved in the dispatch or transport of the products. Since a distance seller plays an active role in organising the transport of alcoholic beverages, it can be considered to be involved in the placing of alcoholic beverages on the Finnish market. In distance purchasing, the seller’s role is limited to the sale of the product only, and there is no role in arranging transport.

Section 4 *Prohibition on operations contrary to good practices.* It would be added to *subsection 1* of the section that the delivery of alcoholic beverages must not be contrary to good practice. A similar prohibition is provided for the production, import, sale and marketing of alcohol and it would be appropriate to add a similar prohibition also in relation to deliveries.

Section 5 *Activities subject to licensing.* It would be added to *subsection 1* of the section that alcoholic beverages should not be supplied without authorisation. The delivery of alcoholic beverages from the point of sale or distance sales by means of an undertaking providing transport services or similar would in future be subject to a separate delivery licence in accordance with section 17a of this Proposal.

Section 6 *Exemptions from the licence requirement* Subsection 1, paragraph 1 of the section would be amended to include the possibility of delivering alcoholic beverages containing up to 2.8 % by volume of ethyl alcohol without a delivery licence for alcoholic beverages. In addition, for the sake of clarity, it would be mentioned that distance selling of the alcoholic beverages in question across borders is permitted. Under the legislation in force, the production and sale of alcoholic beverages containing up to 2.8 % ethyl alcohol by volume is possible without a licence and it would be justified, from the point of view of regulatory consistency, that they could also be delivered without a licence.

A new paragraph 8 would be added to paragraph 1, according to which cross-border distance sales of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume is permitted as provided for in section 17b.

Section 7 *Licensing authorities* The section would be amended in its entirety. Subsection 1 would remain the same.

Subsection 2 of the section would be changed completely. The new subsection 2 would lay down provisions on the licensing authority in the case of a serving licence for serving alcoholic beverages that are not tied to a specific serving location or a licence to supply alcoholic beverages. A serving licence for serving alcoholic beverages that is not tied to a specific serving location and a delivery licence for alcoholic beverages would be granted upon application by the Regional State Administrative Agency of the applicant's premises. If the applicant does not have a place of business in Finland, the licence would be granted by the Regional State Administrative Agency of the applicant's place of residence or, if the applicant is not domiciled in Finland, by the Regional State Administrative Agency for Southern Finland.

According to section 8 of the Government Decree on the Implementation of the Alcohol Act (151/2018), an application for a serving licence must contain the location and contact details of the place of business where the alcohol would be served or, in the absence of premises that would be licensed for serving alcohol, of the applicant's place of business. It would therefore be natural for the Regional State Administrative Agency processing an application for an alcohol serving licence without a place of business to be determined according to the location of the applicant's place of business. The place of business would be the place from which the alcohol serving business is carried out, e.g. a warehouse. The provision did not previously make any reference to such cases. The amendment would introduce a technical correction and clarification of the current state.

Regional State Administrative Agencies also issue authorisations for the retail sale and distribution of alcoholic beverages, so it would be appropriate, in the interests of regulatory consistency, for the Regional State Administrative Agency to also examine the conditions for granting a licence for the delivery of alcoholic beverages and to grant licences to operators who fulfil the legal conditions for the delivery of alcoholic beverages.

The current subsection 2 of the section would be made *subsection 3*. The reference to subsections 1 and 2 would be specified in the subsection, but in terms of its content, it would not change from the current one.

A new *subsection 4* would be added according to which the Regional State Administrative Agency responsible for processing the declarations and applications for approval referred to in the Act would be determined in accordance with the provisions of subsection 1. Consequently,

the other declarations and applications for approval referred to in the Alcohol Act would be processed by the Regional State Administrative Agency in whose jurisdiction the retail sale or serving premises is located in which the activities covered by the declaration or application for approval are to be carried out. The division of powers would therefore apply not only to applications but also to the various declarations, activity reporting, changes and approvals referred to in the Alcohol Act. In practice, this also is done based on the current provision. The purpose of this amendment is to clarify the provision to be in line with the current situation.

Section 11 Declaration of changes. For technical reasons, the section would be completely amended. The current subsection 1 of the current Act would be repealed as superfluous as the information referred to therein is obtained directly from the Finnish Patent and Registration Office and does not require a separate declaration from legal persons.

Similar to subsection 2 of the Act in force, *subsection 1* of the section would provide that the licence holder would be required to apply for an amendment to the licence before making substantial changes. The change should not take place until the licence has been approved by the licensing authority. This subsection would correspond to the wording of the Act in force.

An obligation would be imposed in *subsection 2* of the section on licence holders to inform the licensing authority if the activity were to be reduced or discontinued on a non-temporary basis. The obligation to notify of the cessation or reduction of operations would only apply to changes of a permanent nature. For example, seasonal restaurants would still be able to maintain their licences throughout the year if they so wish, and there would be no need to notify the licensing authority of any seasonal suspension of operations. It would also be possible to maintain extended serving hours even if they are not used continuously.

This addition is necessary, as it is currently the case that the data of operators who have already ceased to exist is now still left in the registries of the authorities. This amendment would help the authorities keep their records up-to-date. The declaration should be made one month after the closure or reduction of the activity. One month would be a reasonable period of time for the licence holder to notify of the change. This amendment would ensure the currency and correctness of the information in the register.

According to the new *subsection 3* of the section, the obligations laid down in subsections 1 and 2 regarding the application for or declaration of changes to the license shall also apply to other changes related to declarations and approvals referred to in the Alcohol Act.

A new *subsection 4* would be added to the section, according to which the license application, declaration, or application for approval referred to in subsections 1 to 3 must be accompanied by the necessary documentation to assess the requirements set out in Sections 13–20. This documentation shall include information about the applicant, the operations and their impacts, as well as other relevant matters not already available to the authority handling the case.

A new *subsection 5* would be added to the section, which would provide for the power to issue decrees. Further provisions on the information required for applications for amendments to licences and approvals, as well as for declarations of amendments, would be laid down by Government decree. Section 13 of the Government Decree on the Implementation of the Alcohol Act (151/2018) already regulates the content of the declaration of changes, but the Act has not included the power to issue decrees on this matter.

Section 12 *General conditions for granting a licence.* A delivery licence for alcoholic beverages would be added to the other licences of the Alcohol Act. This section would provide that the issue of a licence for the delivery of alcoholic beverages would also require that the applicant of the delivery licence fulfils the requirements laid down in the Alcohol Act for granting a licence. If the applicant fulfils the requirements for the licence, the applicant would be granted a licence for the delivery of alcoholic beverages in accordance with the proposed section 17a.

Section 17 *Retail trade licence for alcoholic beverages and requirements for the granting thereof.* In *subsection 1*, paragraph 1 of the section, the reference to the Land Use and Building Act would be amended to the Construction Act, as the title of the Land Use and Building Act has become the Land Use and Building Act since 1 January 2025. The provisions on construction are differentiated into the Construction Act (751/2023), which entered into force on 1 January 2025. As a result of the amendment, the definition of a building has also become more narrow in the new Construction Act. For this reason, in the future, the Alcohol Act would refer to construction works under the Construction Act instead of a building, so that the definition would continue to cover situations where a retail outlet for alcoholic beverages, for example, a store, would be replaced by a container store imported to the plot for the duration of a renovation. According to section 2, subsection 4 of the Building Act, a construction site means a building or structure, which may have an effect on the use of surrounding areas, and the implementation of which must take account of essential technical requirements, as well as an area to be constructed for specific activities which have an impact on the use of the surrounding areas; The mobile retail container would meet the definition of a construction works under the new Construction Act. The aim of the amendment is to allow continuation of the current practice whereby a retail trade licence can be granted for a retail store. Otherwise, the requirements of the Act for granting a retail licence remain the same, i.e. a retail licence can continue to be granted only in indoor areas. The same update would be made to *subsection 2* of the section.

A new *subsection 5* would be added to the section, according to which the retail licence could specify pick-up points from which alcoholic beverages could be delivered for delivery. The pick-up points should be located in the construction works referred to in the Construction Act. A storage building on a loading bay where alcoholic beverages could be delivered for delivery could, for example, be defined as a collection point. According to the law in force, the retail trade licence applies only to retail sales inside one retail outlet. The amendment would enable the retailer to, within the scope of their business operations, arrange to supply the beverages to the delivery licence holder at a location where this would be most efficient and appropriate from the point of view of organising operations. The supply could take place, for example, at a warehouse, as long as the warehouse in question has been defined as a pick-up point in the licence holder's retail trade licence. This procedure would ensure that the transfer points are known to the licensing authorities and thus subject to control.

Section 17a. *Delivery licence for alcoholic beverages and the conditions under which it is granted.* An new section would be added to the Alcohol Act to specify the specific conditions for granting a licence to deliver alcoholic beverages. If the applicant fulfils the general requirements for granting a licence laid down in sections 12 and 13 of the Alcohol Act and the specific requirements for granting a licence for the delivery of alcoholic beverages laid down in section 17a, the applicant would be granted a licence for the delivery of alcoholic beverages in accordance with this section.

The conditions for granting a licence for the delivery of alcoholic beverages would be provided in *subsection 1* of the section. The delivery licence would apply to the transport of alcoholic beverages sold from domestic retail trade, cross-border distance sales or the government-owned alcohol company Alko to a buyer or other recipient to a location of their choice, as well as to the supply of alcoholic beverages to the recipient, taking into account the delivery prohibitions laid down in section 37 of the Act. In addition to paragraphs 1 and 2 of the subsection, the licence would be conditional on the applicant being able to ensure compliance with the obligations under the Alcohol Act. The applicant should, as with the retail licence and the serving licence, fulfil the general requirements for obtaining a licence in accordance with section 13. The criteria for this would be the same as in the current legislation and its explanatory memorandum.

According to subsection 1, paragraph 1 of the section, the applicant should have a self-monitoring plan as referred to in section 56. In addition, on the basis of subsection 1, paragraph 2 of the section, a prerequisite for obtaining a licence would be that the licence applicant would submit a report on how the applicant will ensure that the alcoholic beverage delivery drivers acting on its behalf have a delivery passport as referred to in section 57, subsection 3. All alcoholic beverage delivery drivers referred to here – i.e. persons who supply beverages ordered for delivery from a domestic retail store, the government-owned alcohol company Alko or cross-border distance sales to a recipient – should have a delivery passport as referred to in section 57, subsection 3 of the Act. In all situations, the licence holder would be obliged to ensure that the persons delivering alcoholic beverages have a delivery passport. Since alcoholic beverage delivery drivers could change and there would not necessarily be any information at the stage of applying for the licence on all the persons who would act as alcoholic beverage delivery drivers, the applicant for the licence would not be required to provide a detailed list of which alcoholic beverage delivery drivers have passed the delivery passport test when applying for the licence. However, when applying for the licence, the applicant should be able to clarify how the applicant will ensure that the alcoholic beverage delivery drivers have passed the delivery passport test.

The aim of the regulation would be to ensure that all alcoholic beverage delivery drivers acting on behalf of the licence applicant would have obtained a delivery passport and thus have sufficient knowledge of the provisions, regulations and guidelines concerning the delivery of alcoholic beverages, as well as the necessary knowledge on how to act even in challenging situations involving the delivery of alcoholic beverages. The regulation would ensure that persons involved in the delivery of alcoholic beverages, in particular those involved in handing over beverages, would have the legal conditions and knowledge to manage the delivery and handover of alcoholic beverages safely and in the manner required by law.

The right of the licensing authority to impose conditions and restrictions on a licence for the delivery of alcoholic beverages would be provided for in *subsection 2* of the section. These conditions would be considered on an individual and case-by-case basis. The conditions could concern the monitoring of age control and the state of intoxication, self-monitoring and the information to be provided to the supervisory authority. A prerequisite for imposing conditions would be that the conditions are necessary to safeguard control or to ensure safety.

Setting permit conditions would concern, in particular, the monitoring of age control and the state of intoxication. In the delivery of alcoholic beverages, challenging situations can occur at the point of delivery. Control of the point of delivery is also difficult to implement, as the supervisory authority cannot know where alcoholic beverages are being supplied and what

happens at the point of delivery. On the other hand, monitoring of the point of delivery may also be difficult for licence holders when they do not deliver alcoholic beverages themselves but use alcoholic beverage delivery drivers. For this reason, it would be important that the supervisory authority has the ability, when necessary, to impose licence conditions specifically concerning age verification and monitoring of intoxication at the point of delivery. The purpose of the licence conditions would be to ensure the legality of the activity when the licensing authority would otherwise not be able to verify that the conditions for granting the licence are met.

The licence holder would submit a self-monitoring plan referred to in section 56 as an appendix to the permit application, which shall describe, among other things, how compliance with the Act is monitored, how risk management in critical situations is implemented and how any identified shortcomings are rectified. It could be justified to impose licence conditions, for example, if the licence holder's self-monitoring plan did not provide sufficient details of how the licence holder would ensure that its operations are in compliance with the prohibitions on supply at the point of delivery. Because the delivery activities of different licence applicants may differ in both scope and methods of implementation, the operational risk management measures presented in the self-monitoring plan may also be different. Therefore, licence conditions would be considered on a case-by-case and applicant-by-applicant basis. The licence conditions could, for example, require the licence holder to keep records of deliveries where the delivery driver has refused to hand over alcoholic beverages, or, for example, to ensure, through self-monitoring, that procedural standards have been drawn up for the delivery of alcoholic beverages in case of problems related to the point of delivery.

In *subsection 3* of the section it would be provided that the conditions and limitations referred to in subsection 2 should be dimensioned in such a way that they do not prevent or unduly impede the exercise of the licence holder's activities. If conditions and restrictions were imposed on the licence holder's ongoing activities, they should be ordered to enter into force at the earliest 30 days after declaration of the decision. At the licence holder's application, the licensing authority must change a licence's conditions or limitations or remove these without delay if the nature of the activities or other special circumstances have changed so that the conditions or limitations are no longer necessary. The rules would be similar to those laid down in section 22, subsection 4 on the terms of the licence.-

Section 17b. *Distance selling of alcoholic beverages across borders.* It is proposed to add a new section to the Alcohol Act that would provide for the distance selling of alcoholic beverages across borders. According to *subsection 1*, cross-border distance sales to Finland of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume would be permitted. Alcoholic beverages purchased via cross-border distance selling may only be delivered to a buyer or other recipient by an alcoholic beverage supplier. The distance seller would be responsible for indicating that the delivery is labelled as containing an alcoholic beverage. If the delivery would contain a strong alcoholic beverage, the distance seller should also ensure that the delivery is marked with a strong alcoholic beverage containing it.

The labelling obligation would be justified so that operators supplying alcoholic beverages in Finland could identify the alcohol content of the package. Since in cross-border distance sales, the distance seller is directly or indirectly involved in the organisation of the transport, the seller has a real opportunity to indicate the alcoholic beverage containing it in the package. As held by the Court of Justice of the European Union in Case C-244/06 *Dynamic Medien*, national legislation may require sellers established abroad to mark parcels if the justification criteria of Article 36 TFEU are met.

Similarly to alcoholic beverages delivered from domestic retail sales, in the case of distance selling, the alcoholic beverage would also be delivered to an alcoholic beverage supplier who would be responsible for handing over the alcoholic beverage to the purchaser. This means that non-alcoholic beverage suppliers would not be allowed to supply alcoholic beverages via distance selling. It would be the responsibility of the distance seller to ensure that the delivery would reveal the alcoholic beverage in which it is contained. If the delivery would include a strong alcoholic beverage, the distance seller would also have to ensure that this is indicated in the delivery.

International transport chains have electronic systems in place that can be used to record transport-related information, and distance sellers could, for example, make use of such a system. Many international delivery stores already have contractual terms at their disposal, according to which, for example, alcoholic beverages must be declared in the electronic system.

In the case of distance selling, the supply chain for the customer starts from abroad and the number of operators in the supply chain may vary depending on the place of origin and transport routes. The supply chain may start with a separate company that picks up the package from the seller and, for example, takes care of the initial transport in the country of exit. In addition, there may be different international transport companies responsible for transporting the package from one country to another in the supply chain. In Finland, the package can be taken to a separate distribution centre before it is handed over to the local transport company. The purpose of the delivery licence is to ensure that situations where alcoholic beverages are delivered are subject to control in the same way as in the case of domestically delivered alcoholic beverages. Thus, it would be essential to control operators who deliver alcoholic beverages to customers expressly. Control of the entire international supply chain, on the other hand, would not be appropriate. For this reason, there could also be other entities in the supply chain than holders of a delivery licence, but the supplier of alcoholic beverages should always be responsible for the final stage in the distribution chain, i.e. the supply situation itself to the customer.

In international transport chains, the seller may not have information when shipping cargo about who is responsible in the destination country for delivering the package to the buyer. The seller may enter into an agreement for the delivery of the package, for example with an international transport company, which in turn has its own agreements for the onward delivery of the package. Therefore, the distance seller would not be required to directly agree on the delivery of the package to the delivery licence holder, but the distance seller would be obliged to communicate the fact that the package contains alcoholic beverages. This will allow operators operating in Finland to ensure that they do not deliver consignments of alcoholic beverages if they do not have a delivery licence. On the other hand, suppliers of alcoholic beverages are informed that the package contains alcoholic beverages, in which case they will comply with the provisions of the Alcohol Act when handing over the package.

If a distance seller were to transport alcoholic beverages to Finland itself and deliver them to the purchaser, the distance seller itself must have a delivery licence. In practice, the majority of distance sellers would probably use transport companies that are separate from the seller.

According to section 3(1)(2) of the Act, alcoholic beverage means a beverage containing a maximum of 80 per cent ethyl alcohol by volume. Thus, distance selling could be used to sell and deliver all alcoholic beverages containing up to 80 per cent of alcohol by volume. However, it would not be possible to sell and deliver spirits in distance selling. Pursuant to

Section 3(1)(5) of the Act, spirits mean ethyl alcohol and an aqueous solution of ethyl alcohol containing more than 80 per cent by volume of ethyl alcohol. Spirits are therefore not an alcoholic beverage within the meaning of the Act. According to section 5(2) of the Act, a licence is required for the sale and import of spirits. In decision of the Court of Justice of the EU C-434/04, Ahokainen and Leppik, the system of prior authorisation for the import of spirits has been found to be in compliance with EU law.

Subsection 2 of the section would include an informative reference to the Excise Duty Act. Pursuant to this subsection, the tax liability of a distance seller would be laid down in the Excise Duty Act.

Section 17c. *Cross-border private procurement by a legal entity or sole proprietor.* The proposed section would provide that the provisions on cross-border distance selling and distance purchasing would apply to sales where a legal person or sole trader established in Finland has purchased alcoholic beverages from a seller established abroad, which the seller or someone on its behalf sends or transports to Finland, directly or indirectly, for the purpose of activities for which a licence referred to in this Act is not required. The purpose of the provision would be to ensure that, in addition to private individuals, legal persons and sole traders would also be able to obtain alcoholic beverages in a distance selling procedure. The definition of distance selling of alcoholic beverages across borders applies only to private individuals, which is why it would be necessary to provide for this separately for legal entities and sole proprietors.

The provisions on distance selling and distance purchasing would only apply where a legal person or sole trader imports alcoholic beverages for a use other than activity subject to a licence. Such a situation could be the case, for example, if a company or association were to order alcoholic beverages to be given as a gift. If, on the other hand, alcoholic beverages are used for commercial or other business purposes, a legal person or private trader would have a licence for its activities in accordance with the law in respect of the alcoholic beverages imported in accordance with § 32. In practice, procurements made by legal persons in distance selling would likely be relatively rare. In most cases, alcoholic beverages are imported by legal persons, for example, for the purpose of resale, which means that there is no cross-border distance selling.

Section 26 *Retail trade establishment and granting of retail trade licence.* Subsection 1 of this section would be amended to take into account the possibility for the State Alcohol Monopoly to operate pick-up points. According to this subsection, a decision of the Regional State Administrative Agency could define pick-up points located in construction works referred to in the Construction Act from which alcoholic beverages can be delivered for delivery. This would be a regulation similar to that provided for in section 17 in respect of operators with a retail licence. The amendment would enable Alko to, within the scope of their business operations, arrange to supply the beverages to the delivery licence holder at a location where this would be most efficient and appropriate from the point of view of organising operations. The supply could take place, for example, at a warehouse, as long as the warehouse in question has been defined as a pick-up point in the decision by the Regional State Administrative Agency. This procedure would ensure that the transfer points are known to the licensing authorities and thus subject to control.

Section 28 *Other sales of alcoholic beverages.* The current *subsection 3* would be repealed as superfluous. The current section provides that Alko may be granted a wholesale licence. It also provides that alcoholic beverages may be supplied by Alko to licence holders and other

traders by sending them to the purchaser. Alko would in future have the same right to supply alcoholic beverages for delivery as any retail licence holder. In addition, all other licences under the Alcohol Act may be granted to Alko, provided that the conditions laid down in the Act are met. Consequently, there would be no need for a separate provision on the Alko's licences in the future.

Section 32 Import of alcoholic beverages A new subsection 2 would be added to the section, according to which distance purchasing and other purchases by private individuals referred to in section 74 of the Excise Duty Act would be permitted. Section 17b would provide for the distance selling of alcoholic beverages across borders.

Distance purchasing has been permitted until now, but for the sake of clarity, a mention to that effect would be included in the Act. The definition of distance purchasing would be laid down in section 3, subsection 1, paragraph 21 of the Act. According to the definition, private individuals could order and obtain all alcoholic beverages from other Member States from Finland if a buyer arranged the transport of the products to Finland through another private person or a transport company without the seller or anyone acting on their behalf sending or transporting the products directly or indirectly. When a purchaser had purchased an alcoholic beverage from another Member State and then the transport arranged independently without the vendor's influence, the foreign seller would not be responsible for labelling the package.

Another private individual procurement within the meaning of § 74 of the Excise Duty Act is involved when a person purchases alcoholic beverages on the spot in another Member State and arranges for transport to Finland of the product so that the products are transported by someone other than the person himself. For example, the procurement of a private person is a case if a person travels to another Member State, purchases alcoholic beverages there and agrees with the seller that the product is delivered to Finland. The age limits for the import of alcoholic beverages are laid down in § 33.

In the case of distance selling, the legal situation has been unclear. The proposal would make any current unclear interpretation unambiguous as regards its meaning, so that Finns have the right to buy alcohol in a distance selling process from abroad. In the future, distance selling would be permitted both when the seller himself transports the alcoholic beverages and when someone is transporting the beverages on behalf of the seller. A reference to section 17b on distance selling of alcoholic beverages across borders would be added to the subsection. Cross-border distance sales would be defined in section 3, subsection 1, paragraph 19 of the Act.

Chapter 5. The title of the chapter would be changed from *Alkoholijuomien vähittäismyynti ja anniskelu* [Retail sale and serving of alcoholic beverages] to *Alkoholijuomien vähittäismyynti, toimitus ja anniskelu* [Retail sale, delivery and serving of alcoholic beverages] in order to ensure that the title of the chapter will continue to include the new regulation proposed for the chapter and thus better reflect the content of the chapter.

Section 35 Retail trade premises for alcoholic beverages The section would be amended in its entirety. It would be clarified in subsection 1 of the section that alcoholic beverages containing more than 2.8 % would be covered by the provision. The section has not previously stated that the requirement to have an approved place of for the sale of alcoholic beverages applies to beverages with more than of 2.8 % alcohol. The absence of the percentage limit has led to contradictory interpretations. According to section 6 of the Act, the sale of alcoholic beverages of up to 2.8 % alcohol is not subject to authorisation. However, the current

provision has been interpreted as meaning that retail licence holders may only supply between beverages of an alcohol content between 1.2% and 2.8% at a licenced retail outlet, whereas, without a retail licence, these beverages may be sold anywhere.

In addition, subsection 1 of the section would provide that retail sales could be carried out by supplying alcoholic beverages to a customer or alcoholic beverage delivery driver from domestic retail trade or the government-owned alcohol company Alko. Currently, the Act only allows the supply of alcoholic beverages to customers. Since the alcohol delivery license concerns the transport of alcoholic beverages sold through retail sales, from the alcoholic beverage company, or via cross-border distance selling, it would be necessary to add a provision to the section allowing the handover of alcoholic beverages to the alcohol supplier. In addition, the subsection would lay down provisions on the retailer's obligation, in connection with the supply of the alcoholic beverage for transportation, to check the name and licence number of the delivery licence holder delivering the alcoholic beverage in a way that ensures the information can be verified afterwards, if necessary. The requirement would increase the transparency and improve the control of the delivery of alcoholic beverages. If, for example, the licensing authority would later need an alcoholic beverage delivery driver's information, it would be available from the retailer or Alko.

The same clarification would be made in *subsection 2* for alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol as in subsection 1. In addition, the subsection would specify the prohibition on the consumption of alcoholic beverages in the retail outlet so that the prohibition on consumption would remain in force, unless otherwise provided for by law. That clarification applies to situations in which a retail outlet also holds a serving licence. The proposed addition would clarify the current situation.

Section 35 a. Delivery of alcoholic beverages. The proposed new section would lay down key rules for all holders of delivery licences for alcoholic beverages. According to *subsection 1*, the delivery of alcoholic beverages would be possible from domestic retail sales, from the State Alcohol Monopoly or from cross-border distance sales. When an alcoholic beverage is purchased from domestic retail sales, a supplier of an alcoholic beverage may deliver to a buyer or other recipient only fermented alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume or a maximum of 5.5 per cent by volume in other ways. The delivery of fermented alcoholic beverages containing more than 8.0 per cent by volume of ethyl alcohol, and of alcoholic beverages produced by other means containing more than 5.5 per cent by volume of ethyl alcohol, under a delivery license is permitted only if the beverage has been purchased and collected from the alcoholic beverage company or through cross-border distance selling.

Setting a percentage limit on the general strength limit for retail sales subject to licence for alcoholic beverages delivered from domestic retail sales would mean that the supply of alcoholic beverages from the retail premises of tilaviini wine and craft beer would be possible for fermented alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume, and for alcoholic beverages produced by other methods and containing a maximum of 5.5 per cent ethyl alcohol by volume. Craft beer and wine containing more than 8.0 per cent ethyl alcohol by volume could only be delivered from the State Alcohol Monopoly. Although under § 17(2), a retail trade licence for 'farm wine' wine enables the sale of farm wines and craft beer products containing a maximum of 13% by volume of ethyl alcohol at the place of production, and a retail trade licence for craft beer enables the sale of farm wines and craft beer products containing a maximum of 12% by volume of ethyl alcohol at the place of production, on condition wines and craft beer containing more than 8% by volume of ethyl

alcohol could not be delivered directly to the purchaser at the place of production. This would be justified because the retail licence for farm wines and craft beer is a limited exception to the monopoly of the State Alcohol Monopoly. The admissibility of the derogation from the point of view of the monopoly of the State Alcohol Monopoly and EU law is justified by the fact that it is a small-scale derogation linked to the place of manufacture.

According to *subsection 2*, the delivery licence holder should be able to verify *ex post* which retail licence holder or distance seller, or which retail premises of the State Alcohol Monopoly, the alcoholic beverages have been taken over for delivery. For the purposes of supervision, it would be necessary for delivery authorisation holders to be able to verify from which entities they have received alcoholic beverages. This obligation is particularly important as far as distance sellers are concerned, since the supervisory authority is not aware of the parties engaged in distance selling to Finland. Since distance sellers are not obliged to notify of their activities, the information would not necessarily be available other than from the holder of the supply licence. It could be necessary to contact the distance seller, for example, if it turned out that the consignment was not correctly labelled as containing a strong alcoholic beverage. An *ex post* control is also important for domestic operators should there be any suspicion that alcoholic beverages have been obtained from a party other than the holder of a retail licence or a state alcohol company.

Subsection 3 of the section would provide that the age of the person receiving the alcoholic beverages shall be verified at the point of delivery by means of a document referred to in section 40, subsection 1. Alcoholic beverages should not be supplied if the recipient refuses to prove their age.

In contrast to retail trade or the serving of alcoholic beverages, in the delivery of alcoholic beverages the age of the recipient should be verified every time. It would be justified to require age checks every time, as it is much more challenging to control the point of delivery than retail sales or the serving of alcohol. For this reason, the provision would safeguard the implementation of age control in all situations. This would also mean that in delivering alcoholic beverages, the handover would always take place directly from the supplier to the recipient in person. Alcoholic beverages should therefore not be left at the door of the customer, for example, but the delivery would always require the simultaneous presence of the supplier and the recipient at the time the alcoholic beverages are handed over. Age control should be carried out in a verifiable manner. The information on the inspection to be verified should be kept in the licence holder's register for two years from the date on which the inspection was carried out, after which it should be deleted. Verifiability would be important to enable the supervisory authority to check that prohibitions on the supply of alcohol have been observed with regard to age limits and also to check that the recipient's age has also been verified by the alcoholic beverage delivery driver. The verification of personal details could be carried out using various technical means. This would make it possible to ensure that age-limit controls laid down in alcohol legislation are observed.

The verification of age counts as processing of personal data and is therefore subject to Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation; hereinafter 'GDPR') The right to process personal data provided for in the section would be based on Article 6(1)(c) of the GDPR, i.e. the processing would be necessary in order to comply with the controller's legal obligation, meaning the verification of age and the prohibition to hand over alcohol to minors. In accordance with Article 6(3) of the GDPR, the proposed

amendment would be laid down in Member State law and the basis of the processing would explicitly be the verifiable verification of the purchaser's age to make sure that the supervisory authority's opportunity to intervene in illegal activities is also ensured at the level of the law.

It would also provide that, in the case of the delivery of alcoholic beverages, it should be verified that there are none of the obstacles to delivery laid down in section 37, subsections 1 and 2 apply to the delivery. This provision would emphasise the obligation if the supplier of the alcoholic beverages to ensure that there the obstacles to the delivery provided for in the Alcohol Act do not apply. This would help to ensure not only compliance with the age limits laid down in the Alcohol Act, but also intoxication control at the time of delivery of alcoholic beverages, for example.

Subsection 4 would provide that if an alcoholic beverage could not be delivered due to the prohibition on delivery laid down in subsection 2 or section 37, the alcoholic beverage should be returned to the seller or delivered to the customer at a later date within the period referred to in section 42a, subsection 1 or 2. By way of derogation from the general rule, however, alcoholic beverages should always be returned to the seller if the alcoholic beverage could not be delivered due to the prohibition on delivery laid down in section 37(1)(1) or (2).

Section 37(1)(1) of the Act provides for a prohibition on transfer to persons under the age of 18. Subsection 2 provides for a ban on the delivery of strong alcoholic beverages to persons under the age of 20. If the recipient of the alcoholic beverage does not meet the required age limit, the alcoholic beverage would always be returned to the seller and it would not be possible to redeliver it at another time. This would also be the case if the alcoholic beverage was ordered by distance selling. If, on the other hand, the alcoholic beverage could not be delivered for other reasons than the above, the delivery licence holder could either return the alcoholic beverage to the seller or deliver the alcoholic beverage to the customer at a later permitted delivery period. In such situations, it would therefore be a matter for the customer and the seller to agree on how to deal with the situations. This would be the case, for example, if the recipient were not reached at the agreed time of delivery or if the recipient was unable to produce their identity document in the event of handover. In addition, it would be a matter for the seller and the customer to agree on the place of delivery if alcoholic beverages were delivered again. Delivery could take place, for example, at a delivery point of the licence holder from which the customer could visit to pick up the products.

Subsection 5 of the section would state that the holder of the delivery licence could not to impose financial or managerial penalties on the supplier of the alcoholic beverages if the supplier refuses to hand over the alcoholic beverages pursuant to subsection 2 or section 37. For example, in the case of various courier services, the driver's earnings may be based on the number of orders they deliver. The proposed provision would ensure that an employee or a person in a contractual relationship would not have the financial motivation to supply an alcoholic beverage even if, for example, the buyer of the alcohol was intoxicated or unable to prove their age.

Section 37 *Prohibitions on retail trade, delivery and serving of alcoholic beverages, as well as prohibitions on supply in other business activities.* The section would be amended in its entirety. The title of the section would be amended from *Prohibitions on retail trade and serving of alcoholic beverages* to *Prohibitions on retail trade, supply and serving of alcoholic beverages, as well as prohibitions on supply in other business activities*, so that the title of the section would also better correspond to the new regulation proposed in the section. In the

introductory part of *subsection 1*, it would be added that the prohibitions laid down in this subsection would also apply to the delivery of alcoholic beverages. Alcoholic beverages should not be delivered or handed over to a minor, a person that is too intoxicated or whose behaviour is inappropriate or if it is suspected that they will be surrendered or brokered in contravention of the law.

Subsection 2 of the section would be amended in the same way as in subsection 1 to include a reference to the delivery of alcoholic beverages. Thus, strong alcoholic beverages should not be sold or otherwise handed over in the retail sale or delivery of alcoholic beverages to persons under the age of 20. Compliance with the prohibitions on delivery would mean that the supplier of alcoholic beverages should have information on whether the alcoholic beverages to be delivered include spirits.

Subsection 3 would be the same as subsection 3 of the current section.

A new *subsection 4* would be added to the section concerning locations where the delivery of alcoholic beverages is prohibited. In principle, the place of delivery in the delivery would be freely agreed between the buyer and the seller. By way of derogation from the general rule, alcoholic beverages should not be delivered to the places referred to in subsection 4. Alcoholic beverages should not be delivered to a social care and health service unit, such as a hospital or health centre or social welfare residential care unit. Alcoholic beverages should also not be transported to, for example, mother and child homes and shelters, child welfare institutions or substance abuse rehabilitation units. The prohibition on transportation to these would be necessary because of the prohibition of operations contrary to good practice under section 4 of the Act, and it would not be necessary for such entities to have alcoholic beverages delivered to them, taking into account the nature of those entities. Furthermore, alcoholic beverages should not be delivered to the place where early childhood education is organised or to the place where pre-primary or basic education is organised. In view of the fact that a minor may not enjoy alcoholic beverages in the aforementioned places, it would not be justified to prohibit the delivery of alcoholic beverages to those places. The delivery of alcoholic beverages would also be prohibited to a location referred to in Section 85 of the Alcohol Act where alcohol consumption is not permitted, as well as to premises or locations approved as licensed serving areas.

The prohibition on the consumption of alcoholic beverages referred to in section 85 of the Alcohol Act applies, unless otherwise provided by law, to restaurants and other places where food or refreshments are made available to the public in return for payment, as well as to public events referred to in the Assembly Act. This means that, firstly, no alcoholic beverages may be consumed without a serving licence in a restaurant or other place where food or refreshments are made available to the public in return for payment. The serving licence applies to the licensed areas of premises licensed to serve alcohol, and only alcoholic beverages sold by the holder of the serving licence may be consumed in the licensed area. Alcoholic beverages may also not be consumed at a public event referred to in the Assembly Act without a licence to serve alcohol. According to section 2, subsection 3 of the Assembly Act (530/1999), a public event means recreational events, competitions, performances and other similar events open to the public that are not considered to be public meetings.

Under section 4, subsection 1 of the Public Order Act (612/2003), the consumption of intoxicating substances in public places is not permitted. Parks and similar public places are excluded from this prohibition on consumption in accordance with subsection 2 of the above section. Although alcoholic beverages may be delivered to public places, they must not be

consumed there, unless this is permitted under the Public Order Act. Similarly, under Section 85 of the Alcohol Act, alcoholic beverages may not be consumed, unless otherwise provided by law, in a catering establishment or any other place where food or refreshments are made available to the public for payment and not at a public event within the meaning of the Assembly Act. In addition, the police may, if the maintenance of public order so requires, prohibit the consumption of alcoholic beverages in a public place. A ban on the delivery of alcoholic beverages to such premises or areas would also be justified, as the consumption of own alcoholic beverages in such places would also be prohibited in other circumstances.

A new *subsection 5* would be added to the section, according to which the provisions on prohibitions on delivery in subsections 1 and 2 would also apply in other business activities. The provision would mean that, for example, in situations of distance purchasing, the party giving up the beverages would be obliged to comply with the same prohibitions on supply as, for example, retail sales and deliveries. Although the age limits for imports have been laid down in section 33, age control has in fact proved challenging. The regulation would ensure that in the future, all handover situations would be covered by the regulation. Since the seller is not obliged to label the package in the case of distance purchasing, the driver may not be aware in these cases that the package contains alcohol. However, if the driver were to notice, for example, on the basis of the packaging, that it contains alcohol, the party handing the package should ascertain, for example, the age of the recipient.

Section 38 *Personnel involved in the retail sales, delivery and serving of alcoholic beverages.* The section would be amended in its entirety. The title of the section would be changed from *Retail and serving personnel* to *Personnel involved in the retail sales, delivery and serving of alcoholic beverages* in order to ensure that the title of the section is more in line with the new regulation proposed to be added to the section.

Subsection 1 of the section would be amended so that, in addition to retail sales and serving premises, the operations concerning delivery of alcoholic beverages should be adequately resourced, taking into account the scale and quality of the activity, to ensure effective control and maintenance of public order. The provisions laid down in the subsection relating to personnel would not be part of the conditions for granting the licence in respect of delivery either, but the holder of the licence would be responsible for fulfilling the obligations laid down in the Act as part of the self-monitoring plan referred to in section 56.

Subsection 2 would be amended so that in the future, a representative appointed by the licence holder would be required to be present at retail and serving premises, if alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol can be sold and consumed in the premises and the premises are accessible to customers. According to the current provision, personnel must be present whenever the premises are open to customers, irrespective of whether or not the holder of the licence is selling alcohol at that time. Under the new provision, licence could be granted for a period when personnel are present and alcohol is sold or consumed. For example, in self-service shops, personnel may be present a few hours a day and licence could be applied for this period only.

In subsection 2 of the section, as well as later in the section, the expression ‘vastaava vastaava hoitaja tai muu luvanhaltijan tähän tehtävään nimeämä henkilö’ [responsible manager or other person designated by the licence holder] in force would also be replaced with a reference to a representative of the licence holder appointed by the licence holder. The amendment would simplify and clarify the wording of the section. For the sake of clarity, the supervision authorities have considered it appropriate to replace the term *vastaava hoitaja tai muu*

luvanhaltijan tähän tehtävään nimeämä henkilö’ [responsible manager or other person designated by the licence holder] used in the Alcohol Act with the term ‘luvanhaltijan määräämä luvanhaltijan edustaja’ [representative of the licence holder appointed by the licence holder]

A new *section 3* would be added and subsection 3 of the Act in force would thus become section 4. The new section 3 would provide that the suppliers of alcoholic beverages referred to in section 3, subsection 1, paragraph 18 should be in possession of the delivery passport for alcoholic beverages referred to in section 57, subsection 3.

Later in section 57 it would be specifically provided that suppliers of alcoholic beverages should be in possession of a delivery passport attesting to their knowledge of the provisions of the Alcohol Act and the delivery instructions.

Subsection 4 of the section would in essence be the same subsection 3 of the Act in force. This subsection would be supplemented in such a way that a person has not reached the age of 18 years should not be allowed to deliver or hand over alcoholic beverages to customers. The purpose of this addition would be to ensure that age-limit controls are implemented in all situations. Section 37 of the Alcohol Act provides that alcoholic beverages may not be sold or otherwise handed over in retail sale or alcohol serving to persons under the age of 18. It would be justified to regulate the age of alcoholic beverage delivery drivers in the same way, as the beverage to be delivered would, as a rule, be picked up from a retail outlet where alcoholic beverages may not lawfully be supplied to a person under the age of 18.

In *subsection 5* it would be provided, in the same way as in section 4 of the Act in force, that a person who sells alcoholic beverages and is involved in the supervision of retail sales or serving of alcohol should not be under the influence of alcohol or other intoxicating substances. The subsection would be amended to state that a person delivering alcoholic beverages or a person participating in the supervision of the delivery should not be under the influence of alcohol or other intoxicating substances either.

Section 39 General supervision A new *subsection 3* would be added to the section. The new subsection 3 would provide that the holder of a licence to deliver alcoholic beverages and the alcoholic beverage delivery driver shall monitor compliance with the prohibitions and obligations laid down in sections 35a, 37 and 38. The control of delivery would be subject to the same provisions and obligations on general control as the retail trade and the serving of alcohol.

Section 40 Verification of age The section would be amended in its entirety. *Subsection 1* would be amended to list exhaustively the documents enabling the purchaser of alcoholic beverages and customers in premises licenced for serving alcohol to prove their age. In the future, age could only be proven with a valid photo ID card, driving licence or passport issued by a public authority. Under the rules in force, age can also be proved by another reliable document with a photograph issued by the authority. The provision has been open to interpretation as to which entities are public authorities within the meaning of the section and what is considered a reliable document with a photograph. In particular, non-Finnish documents have created difficulties in interpretation. The proposed amendment would clarify the status quo.

A new *subsection 2* would be added to this section which would lay down that the recipient of the delivery of alcoholic beverages would be required to prove, by means of a document

referred to in subsection 1, their age to the person delivering the alcoholic beverages. This would be justified in order to ensure that neither the purchaser nor the recipient of the drink is a minor. The regulation would also allow an alcoholic beverage to be ordered as a gift to another person, while ensuring that both the purchaser and the recipient of the alcoholic beverage meet the age limit laid down by law. In such a case, delivery would be possible while still retaining compliance with age-limit controls.

Section 42 a. Delivery time A new article would be added to the Act to regulate the delivery time for alcoholic beverages. *Subsection 1* of the section would determine that the delivery of alcoholic beverages to the recipient would be permitted during the same period as alcohol retail sales, i.e. between 9 a.m. and 9 p.m. The delivery of alcoholic beverages should take place within this permitted period, even if the transport of alcoholic beverages could take place at other times.

The delivery time for beverages purchased from Alko would be specified in *subsection 2*. In such cases, the delivery of the alcoholic beverage to the recipient would comply with the provisions of section 42, subsection 2 on the retail sale times of Alko.

Subsection 3 of the section would lay down what would happen to the alcoholic beverage if the alcoholic beverage could not be delivered within the time period specified in subsections 1 or 2. In this case, the alcoholic beverage delivery driver should return the alcoholic beverages to the seller or deliver them to the customer later within the delivery period specified in subsections 1 or 2, unless the failure to hand over was due to a reason referred to in Section 37, subsection 1, point 1 or subsection 2. If alcoholic beverages could not be delivered due to the prohibition on delivery of the age limit laid down in section 37(1)(1) or (2), the alcoholic beverage should always be returned directly to the seller. If the delivery fails for other reasons, the supplier of the alcoholic beverage could attempt delivery to the customer at a later time. The re-delivery of alcoholic beverages would only be possible at the next permitted time, which must be agreed between the customer and the supplier. As is the case with the supply of other alcoholic beverages, the place of delivery of alcoholic beverages in the case of redelivery of alcoholic beverages would be freely agreed between the buyer and the seller, excluding the delivery interdiction sites laid down in section 37(4). However, if the supplier of the alcoholic beverage did not directly return the drinks back to the seller, the provisions of the Food Act (297/2021) should be taken into account.

Section 45 Supervision of the serving of alcoholic beverages in certain cases. The wording of the delegation of authority in *subsection 3* of the current section would be amended so that, in the future, more detailed provisions on the limitation of quantities of alcoholic beverages may be issued by Government Decree. Under subsection 3 of this section in the current Act, further provisions on limiting the quantity of alcoholic beverages will be issued by government decree. However, the Government decree on the implementation of the Alcohol Act issued under the Alcohol Act does not contain further provisions on limiting the quantity of alcoholic beverages.

In addition, the power to issue decrees would be separated into a separate subsection, i.e. a new *subsection 4* would be added to the section.

Section 46 Procuring alcoholic beverages. *Subsection 1* would be specified to apply to alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol. This clarification would clarify the current state.

Section 50 Regulation of marketing. The section would be amended in its entirety. In the future, strong alcoholic beverages could be advertised online. As a result, online marketing of alcoholic beverages to other countries of the European Economic Area would also be possible. However, online advertising of alcoholic beverages for influencers would be prohibited.

Subsection 1 of the section would provide for prohibited advertising channels for alcoholic beverages. Alcoholic beverages should not be marketed or related to the marketing of other products or services in the television and radio broadcasting sector between 7:00 a.m. and 11:00 p.m. in connection with a public display of audiovisual programmes in a cinema, if the age limit for the film is less than 18 years, in a public place within the meaning of the Public Order Act (612/2003) or in an on-demand service, i.e. a streaming service. The prohibition on the marketing of alcoholic beverages concerning streaming services would apply to service providers established in Finland. The ban on television and radio advertising would be extended by hours compared to the Act in force. Television broadcasters have agreed on a joint code of conduct to meet the requirements of the Audiovisual Programmes Act (710/2011) and to promote the protection of children. According to the Rules, an audiovisual programme with an age limit of 18 years shall not be presented before 11:00 p.m. The time limit for television and radio advertising under the Alcohol Act would therefore be amended to reflect the current practice of authorised broadcasting times for programmes that are inappropriate for minors.

Subsection 2 of the section would provide for derogations from the prohibition on marketing in a public place or directed at the public referred to in subsection 1 regarding mild alcoholic beverages. According to the current Act, mild alcoholic beverages could be marketed in public events and in places permanently used for them. In addition, mild alcoholic beverages could be advertised, as is currently the case, on foreign transport vessels and at retail trade or serving premises. Mild alcoholic beverages could also be advertised at the place of production of alcoholic beverages, as the place of production of alcoholic beverages is not considered a common place within the meaning of the Public Order Act. As in the case of retail trade and serving premises, the permissible advertising of mild alcoholic beverages concerns the internal premises of the production site.

Subsection 3 of the section would lay down an exception to the general rule laid down in subsection 1 for spirit drinks concerning prohibited marketing channels. According to the proposed subsection 3, the marketing of strong alcoholic beverages and their connection to the marketing of other products or services would be prohibited entirely in television and radio broadcasting, in connection with a public display of audiovisual programmes in a cinema, and in newspapers and periodicals. In addition, it would be prohibited to advertise strong alcoholic beverages on public premises other than on licensed premises for retail sale and serving of strong alcoholic beverages. Given that the general marketing ban on spirits would be abolished when the section is being reformed and that the place of production of an alcoholic beverage is not a common place within the meaning of the Public Order Act, the marketing of spirits at strong points of production would be permitted without a separate provision. Alcoholic beverages pose greater health risks than mild alcoholic beverages, although the evidence shows that these differences are not substantial or not entirely indisputable. However, it would be justified to regulate the marketing of strong alcoholic beverages more strictly than the marketing of mild alcoholic beverages. Online marketing of strong alcoholic beverages would be permitted. Thus, for example, the manufacturer of spirits could market their own products on their website or through their social media accounts subject to the restrictions laid down in subsection 4. Marketing could target Finland and Finnish consumers online, as well as other EEA countries and the general public in the EEA.

Subsection 4 would list the prohibited marketing contents of alcoholic beverages. The content of the proposed section would largely correspond to subsection 2 of the current section. According to the new paragraph 10 of the proposed subsection 4, alcoholic beverages should not be advertised online as influencer marketing. In practice, this refers to the prohibition on the marketing of alcoholic beverages in the form of commercial cooperation between companies and social media influencers. Commercial cooperation may arise, for example, in the form of an agreement between the undertaking and the influencer on the content production concerning the undertaking's products. For example, content production consists of an image, a video, an audio or a text post on a collaboration company or its products, published by the influencer on a social media channel. The consideration for marketing received by the influencer from the enterprise may be money or a monetary benefit, such as a good or service received free of charge or at a discount price. Even if there is no money in consideration received, the publication is still marketing. The aim of the ban on influencer marketing is to protect children and young people from alcohol marketing on social media. Various social media channels have a strong presence in the daily lives of children and young people, and influencer marketing through these channels is a particularly attractive marketing method for companies to reach a specific target group. In Finland, social media influencers typically have thousands of followers, and the most popular influencers have up to hundreds of thousands of followers. Among children and young people, social media influencers are extremely popular, and the product recommendations published by social media influencers may have a major impact on children and young people. The ban on influencer marketing would apply not only to content published by the influencer himself, but also to content published by the licence holder on his own website or social media account, such as an advertising campaign featuring a social media influencer.

Subsection 5 would be clarified so that the proposed marketing provisions would apply to the marketing of alcoholic beverages carried out from abroad where the marketing is intended to be received specifically in Finland and where the operator is established in another European Economic Area State in order to circumvent the Finnish legislation. Even if it were a Finnish website for a foreign online store that markets alcoholic beverages and their distance selling to Finnish consumers, this would not necessarily be a marketing specifically intended to be received in Finland within the meaning of the subsection, as the online store is not usually directed only at a specific country, but is generally aimed at consumers of different countries of the country. The proposed provision would be in line with EU settled case-law, according to which a Member State retains the right to take measures against a service provider that is established in another Member State but whose activity relates, either wholly or mainly, to the territory of the first Member State, if the choice of establishment in another Member State was made in order to circumvent the legislation which would have been applicable to the service provider if they were established in the territory of the first Member State.

Section 51 Pricing and advertising prices In *subsection 1*, it would be added that the delivery of two or more packages or portions of alcoholic beverages at a reduced joint price would also be prohibited for the delivery of alcoholic beverages. The price of alcoholic beverages sold and delivered individually should not be higher than the price of an individual beverage in a multipack or jointly sold and delivered. The regulation would be in line with the provisions on the pricing of retail and serving of alcoholic beverages.

In *subsection 2*, it would be added that the provision and payment of rebates on the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages or other consumer goods and services, would also be prohibited in the case of deliveries. The proposed provision also provides that the sale of alcoholic beverages should not be promoted in the

context of loyalty cards or bonus schemes applicable to the delivery in a manner where the purchase and delivery of alcoholic beverages would be cheaper the more a customer buys as a result of rebates. In addition to offering such rebates, it would also be prohibited to pay them. Thus, even for purchases and deliveries of alcoholic beverages that have taken place outside Finland – e.g. in Estonia – no rebate should be paid in the context of the benefit scheme in Finland. The regulation would be in line with the provisions on the pricing of retail and serving of alcoholic beverages.

Section 55 *Production, import and sale of non-denatured alcoholic substances.* Subsection 2 of the section would be amended so that non-denatured alcoholic substances would also be subject to the regulation on the supply of alcoholic beverages and on distance selling across borders. This would make it possible, for example, to deliver liqueurs with ethyl alcohol in excess of 2.8 per cent by volume from domestic retail sales and cross-border distance sales.

Section 57 *Personnel competence.* To subsection 1 would be added an alcoholic beverage delivery driver acting on behalf of the delivery licence holder, and the delivery licence holder should ensure that the alcoholic beverage delivery driver is aware of their obligations as laid down in this Act and set out in the self-monitoring plan.

A reference to the alcohol passport would be added to subsection 2 of the section. The current provision refers to serving licences as proof of knowledge of the Alcohol Act. However, according to the Proposal, a new delivery passport for alcoholic beverages would be required, and it is therefore appropriate, for the sake of clarity, to explicitly include the alcohol passport in the provision as well. The name of the certificate demonstrating knowledge of the Alcohol Act has already been established as ‘anniskelupassi’ [alcohol passport] and, for reasons of clarity of the regulation, it would be advisable to use a similar term in the sections. Similarly, the Food Act (297/2021) contains an explicit reference to ‘hygieniapassi’ [hygiene passport].

A new subsection 3 on the delivery passport would be added. The delivery licence holder would be required to ensure that alcoholic beverage delivery drivers acting on its behalf have a certificate (*delivery passport*) in accordance with the model approved by the National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the regulations on delivery of alcoholic beverages in the Alcohol Act and the guidance on delivery. All alcoholic beverage delivery drivers referred to here – i.e. persons who supply beverages ordered for delivery from a domestic retail store or the government-owned alcohol company Alko to a recipient – should have a delivery passport as referred to in section 57, subsection 3 of the Act.

It would be important to ensure that the licence holder or the person involved in the delivery of alcoholic beverages understands the age limit verification obligations under the Alcohol Act and is able to act in accordance with the law, even in potentially challenging situations. The obligation laid down in subsection 1 of this section to ensure that the personnel and the alcoholic beverage delivery drivers acting on behalf of the delivery licence holder are aware of their obligations laid down by law and in the self-monitoring plan, as well as to keep records of the training and competence of the persons concerned, also applies to delivery licence holders. The regulation on the delivery passport would contribute to safeguarding this objective. At the time of delivery, the driver would most likely be alone and handovers could take place in private premises. The situation at the time of delivery is quite different from the situation in a shop where other colleagues and possibly security guards are present. In these situations, there may be challenges and even threats endangering occupational safety of the supplier of alcoholic beverages. It is much more difficult to refuse the delivery of beverages at

the customer's doorstep because of their age or state of intoxication, for example. Therefore, all suppliers of alcoholic beverages should have a delivery passport.

Section 58 *Granting a certificate demonstrating knowledge of the Alcohol Act.* The section would be amended in its entirety. *Subsection 1* would be amended so that the certificate demonstrating knowledge of the Alcohol Act would be called 'anniskelupassi' [alcohol passport]. The name of the certificate demonstrating knowledge of the Alcohol Act has already been established as 'anniskelupassi' [alcohol passport] and, for reasons of clarity of the regulation, it would be advisable to use a similar term in the sections. The Food Act (297/2021) also provides for certificate demonstrating competence in food hygiene, which is also called 'hygieniapassi' [hygiene passport] in the Act.

In addition, subsection 1 would be amended in such a way that the qualification of the holder's representative could be proven by means of a certificate on an alcohol passport or a certificate of a qualification that included the same information as the alcohol passport test. The licence to serve alcohol would be granted to a person who successfully passes the licence test. According to the Act in force, the certificate is issued to a person who successfully passes a test assessing their knowledge of the Alcohol Act and its control practices, or obtains the equivalent knowledge through training or a course, or passes an examination containing the corresponding information. It would be unnecessary to delete the reference to training with similar information, since section 7 of the Decree of the Ministry of Social Affairs and Health on the supervision of the Alcohol Act (158/2018) does not, despite its title, provide that any training or education would be equivalent to an alcohol passport test. In addition, despite the wording of the subsection, graduates have in practice not been awarded a certificate in accordance with the Valvira model. It would therefore be necessary to clarify the rules so that the qualifications of the authorised representative of the licence holder could be demonstrated not only by the certificate on the successful completion of an alcohol passport test, but also by means of a diploma indicating that the representative's training or education included knowledge of the subjects listed in section 6, subsection 1 of the Decree of the Ministry of Social Affairs and Health on the supervision of the Alcohol Act (158/2018).

The wording of the section would also be clarified to state that an alcohol passport certificate would be granted to a person who has passed the alcohol passport test. The provision would not change the current situation. The provisions of section 58, subsection 1 of the Alcohol Act would remain unchanged in other respects, and the certificate would continue to be issued by an educational institution providing training in hospitality services under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture.

A new *subsection 2* would be added, which would provide for a certificate demonstrating knowledge the provisions on delivery called 'toimituspassi' [delivery passport], in the same way as for the alcohol passport. Proof of the competence of the supplier of alcoholic beverages could be provided by means of a certificate of delivery passport. The delivery passport would be issued by an educational establishment holding a licence for the organisation of diplomas and training referred to in the Act on Vocational Education and Training (531/2017) or an educational establishment holding a licence as referred to in the Act on Universities of Applied Sciences (932/2014). Accordingly, the certificate would be issued to a person who would have successfully passed the delivery passport test. By way of derogation from the rules on alcohol passport, the delivery passport for alcoholic beverages could be issued by an educational establishment within the meaning of the Vocational Training Act other than an educational establishment providing training in restaurant services. This would be appropriate as the delivery and hand over of alcoholic beverages would not be

tied to restaurant companies but could also be supplied by other operators holding a licence for the delivery of alcoholic beverages within the meaning of the Alcohol Act. Educational institutions offering delivery passport tests should make it possible to take the test in Finnish, Swedish and English.

Subsection 2 of the current section would be made to *subsection 3*. From this subsection, the reference to the updated Food Act instead of the repealed Food Act would be amended and the reference would be changed to section 19 of the Food Act currently in force, which regulates the matter. At the same time, the designation of the credential referred to in the Food Act as certificate of competence will be amended to hygiene passport and the designation of the certificate of knowledge of the Alcohol Act will be amended to alcohol passport. The educational institution would have the right to charge a fee for the alcohol passport test, which would not exceed the actual cost of organising the examination. The educational institution would have the right to charge a fee for organising a supply passport test and for issuing a delivery passport. It would be appropriate to make it possible to charge a fee in order to ensure that educational establishments actually organise these tests, the organisation of which is not one of their basic tasks. Educational institutions would be able to price the test on a commercial basis.

Subsection 3 of the current section on the power to issue decrees would be moved to a new *subsection 4*. The power to issue decrees would be amended so that further provisions on the content and assessment of the test for the delivery passport referred to in subsection 2 could also be issued by decree of the Ministry of Social Affairs and Health.

Section 60 *Supervision and related guidance* The section of the Alcohol Act in force defines the authorities supervising the Alcohol Act and their powers. Monitoring responsibilities for the delivery of alcoholic beverages and for cross-border distance selling would be added to the section. It would be added to the *subsection 1* of the section that the Regional State Administrative Agencies would supervise not only the retail sale and serving of alcoholic beverages but also the delivery of alcoholic beverages on their territory.

It would be added to the *subsection 2* of the section that the National Supervisory Authority for Welfare and Health would supervise the delivery and cross-border distance sales of alcoholic beverages throughout the country. The National Supervisory Authority for Welfare and Health would continue to act as the guiding authority for the enforcement of the Alcohol Act, i.e. it would also be responsible for supervising, coordinating and developing the authorisation management and supervision of the Regional State Administrative Agencies, the provision of information, statistics and communication services of the Alcohol Administration, as well as the other tasks provided for in this Act. The National Supervisory Authority for Welfare and Health would therefore also be responsible for supervising, coordinating and developing the authorisation management and supervision of the Regional State Administrative Agencies for the delivery of alcoholic beverages, as well as the provision of information, statistics and communication services relating to the delivery of goods, as well as the other tasks provided for in this Law.

Valvira would also act as the supervisory authority for cross-border distance sales. Distance selling would not constitute an activity subject to authorisation or declaration, but could be carried out by anyone from abroad. However, even in distance selling, the supplier of alcoholic beverages would have to hand them over to the purchaser. In the case of distance selling, supervision would therefore focus on the activities of delivery licence holders, since the most essential thing would be to ensure that the delivery prohibitions defined in section 37

are complied with. However, Valvira would have the power, where necessary, to monitor the compliance of distance sellers with their obligations under the Alcohol Act to indicate that alcoholic beverages are supplied. If the delivery contains strong alcoholic beverages, information on this should also be given in the delivery. Valvira's supervision would mainly be based on possible incident reports. Therefore, if, on the basis of an inaccurate declaration, there were doubts as to whether the party carrying out the distance selling had not fulfilled their obligation to mark the delivery with the alcoholic beverage, Valvira would have the power to determine whether the distance seller has acted in accordance with its obligations.

Under section 63, Valvira has the right to obtain from Customs, free of charge and without prejudice to confidentiality provisions, the information necessary to monitor compliance with the Alcohol Act and the provisions and regulations issued pursuant to it. In intra-EU traffic, Finnish Customs statistics the alcohol consignments on which it has checked. Shipments of alcohol from third countries will always be cleared through customs. It would therefore be possible for Valvira to obtain information on the consignments of alcohol cleared or inspected. Even if remote sales were not subject to regular supervision, but were mainly based on reports of incidents, the right to information would allow Valvira to have the power, for example, to carry out random supervision of alcohol shipments. Valvira would therefore have the right to monitor whether alcohol consignments inspected by Customs have been distance selling and whether the alcohol consignment is appropriately marked. Provisions on technical interfaces are laid down in § 22 of the Data Management Act and on opening a view connection in section 23 of the Data Management Act. Valvira's right to impose a financial penalty on a distance seller for breaches of its obligations would be laid down in the new subsection 5 of section 71.

In *subsection 3*, paragraph 1 of the section, it would be added that Valvira's duties would include the supervision of cross-border distance sales of alcoholic substances. A new paragraph 5 would be added to the subsection on the guidance of educational establishments in connection with the examination of the alcohol and delivery passports. On the basis of Section 57(2) of the Alcohol Act, the National Supervisory Authority for Welfare and Health approves a model certificate for alcohol passport tests. In practice, in addition to this the Agency has instructed educational establishments organising alcohol passport tests. However, the guidance of educational establishments in the context of the alcohol passport tests is not defined for any public authority, and therefore the necessary powers should be included in the law, while a provision on the delivery passport test is introduced. The current paragraph 5 of subsection 3 of the section would be moved to a new paragraph 6.

Section 61 *Supervision programme* It would be added to subsection 1 of the section that the supervisory authorities must also take account of the delivery of alcoholic beverages in their control programme. From a supervisory point of view, it would be important to include not only serving and retail but also delivery in the control programme in order to guide and control this activity in a harmonised manner.

Section 62 *Right of inspection and access to information.* *Subsection 4* of the section would be changed completely. A new subsection 4 would provide for the right of the public authority to make test purchases of alcoholic beverages if this would be necessary to carry out control of the delivery of alcoholic beverages. The competent authority would also have the right to use adult volunteers to carry out test purchases if the authority has reason to believe that the holder of a licence to deliver alcoholic beverages or an alcoholic beverage delivery driver acting on its behalf is not complying with their obligations laid down by law with regard to the delivery and supply of alcoholic beverages.

A key part of the regulatory control of retail sales of alcoholic beverages is currently based on unannounced inspection visits, which *inter alia* monitor the fulfilment by retail authorisation holders of their obligation to verify age. Such control of actual hand over transactions would not be practically possible in the case of the delivery of the alcoholic beverage, since the authority would not have information on when and where the hand overs will take place. In addition, most of the hand overs would probably take place in the inviolability of the home, where there is a very high legal threshold for carrying out checks. In order to ensure the control of the age limit, the relevant supervisory authorities would be entitled to make or arrange for trial purchases in order to determine whether the delivery of alcoholic beverages complies with the prohibitions on delivery laid down in the Alcohol Act. In Finland, for example, in accordance with the Act on the obligation to offer receipts in cash transactions (658/2013, 'the receipts law'), the right to make test purchases is subject to supervision by the Tax Administration and the police, as well as by the Regional State Administrative Agencies, at the premises to be licenced for serving alcohol. Similarly, under the Act on Certain Powers of Consumer Protection Authorities (566/2020), the Consumer Ombudsman has the power to make test purchases in certain situations, including the right to use fake identity where this is necessary to prevent the discovery of the test purchase. For the sake of clarity, the section would explicitly provide that the competent authority has the right to obtain information on the name and licence number of the delivery licence holder performing the delivery.. It would therefore be sufficient to appoint a delivery licence holder, as the retail licence holder would not necessarily have knowledge of who the alcoholic beverage supplier acting on behalf of the delivery licence holder would have completed the delivery.

Subsection 4 of the current section would be made into *subsection 5*. From a substantive point of view, however, no changes would be made to the subsection.

A new *subsection 6* would be added to the section. According to this subsection, the control authority would have the right to receive information on the person who delivered the alcoholic beverage from the holder of the delivery licence for control purposes. The delivery licence holder is responsible not only for the delivery of alcoholic beverages but also for ensuring that the delivery prohibitions laid down in section 37 of the Act are complied with in cases where alcoholic beverages are delivered. The delivery licence holder must therefore be able to establish *ex post* who has acted as a supplier of alcoholic beverages.

Section 63 *Right to information*. A technical amendment would be made to *subsection 1*, as the Unemployment Insurance Fund is now the Employment Fund, so the name would be changed to correspond to the current situation. On the basis of this provision, supervisory authorities would have the right to obtain the same information as in the current law, including extracts from criminal records from the Legal Register Centre.

A new *subsection 2* would be added to the section and it would provide for the right for the supervisory authorities to obtain, free of charge and without prejudice to confidentiality provisions, information from the register of fines referred to in Section 46 of the Act on the Enforcement of Fines (672/2002). The right of access to information would be limited to the information that would be necessary to establish the conditions of the general authorisation of the applicant or holder of the authorisation or, in the event of a penalty, to establish the prohibition of double criminality. At present, the problem has been that supervisory authorities have not received information directly from the register of fines, as the disclosure of information is not specifically provided for by law. The amendment would speed up and streamline the authorisation process and improve the right to information when penalties are imposed.

The processing of data from the fine register is personal data processing and is subject to the General Data Protection Regulation. The right to process personal data stipulated in the section would be based on Article 6(1)(c) of the General Data Protection Regulation (GDPR), meaning that the processing is necessary for compliance with a legal obligation of the data controller—namely, to verify the conditions for granting a licence to the applicant or licence holder. The proposed amendment would be enacted in national legislation in accordance with Article 6(3) of the General Data Protection Regulation (GDPR), and the legal basis for processing would be specifically the assessment of the applicant's or licence holder's eligibility for obtaining the licence.

Section 64 *Provision of information.* Subsection 2 of the section would be amended to better reflect the need to make the information in the alcohol business register public. The provision would list only those categories of data that could potentially contain personal data. The publication of information which does not contain personal data is not restricted by Article 16(3) of the Public Information Access Act and should therefore not be mentioned in that provision. The majority of the information published is also information that does not contain personal data, as the majority of those carrying out activities under the Alcohol Act have legal personality. The requirement to seek information as individual searches would be removed from the provision.

Under Article 6(1)(e) of the General Data Protection Regulation (GDPR), the processing of personal data is lawful if it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller. Section 4, subsection 1 of the National Data Protection Act (1050/2018). Paragraph 2 specifies that personal data may be processed in accordance with Article 6(1)(e) of the GDPR if the processing is necessary and proportionate for the performance of a task carried out in the public interest by an authority. The publication of information would meet the requirement of public interest, as it would promote the openness and transparency of the administration and allow easy use of information from the alcohol sector, for example in research. On the basis of the information to be published, anyone would receive a list of all operators who have been granted a licence for the sale of alcoholic beverages. Among other things, it would be easy for wholesalers to ensure that alcoholic beverages are sold only to licence holders. The publication of information would also contribute to the fight against the shadow economy. The usefulness of the information would be undermined if the information of sole traders should be removed from the published material and made available for search only on an individual basis.

A new *subsection 3* would be added to the section. According to the subsection, notwithstanding the obligation of secrecy laid down in the Act on the Openness of Government Activities, supervisory authorities may, while performing duties referred to in this Act, provide information obtained to the Tax Administration if the information is necessary for tax supervision.

Section 71 *Penalty* In the introductory part of *subsection 1*, it would be specified that the licensing authority could also order the obliged entity to pay a penalty fee. The introductory part of subsection 1 of the current section does not explicitly state that a financial penalty may also be imposed on a party obliged to notify, even though, for example, on the basis of subsection 1, paragraph 5, a fine may also be imposed on an operator engaged in activities subject to declaration.

A technical amendment to paragraph 7 of subsection 1 of the section would be made as a result of the addition of a new paragraph 8. The new paragraph 8 would provide for the grounds for determining the penalty fee for the supply of alcoholic beverages. A delivery licence holder could be ordered to pay a penalty fee if they violate their legal obligations, licence conditions or provisions related to the competence of alcoholic beverage delivery drivers acting on behalf of the licence holder.

A new *subsection 5* would be added to the section, which would provide for a financial penalty to be imposed on a distance seller. Valvira could order a distance seller to pay an administrative fine of at least EUR 300 and not more than EUR 1,000 if the distance seller violated its obligation to mark the delivery with an alcoholic beverage that contains it, as laid down in section 17b, subsection 1. If the delivery contains strong alcoholic beverages, the obligation would also apply to the labelling of strong alcoholic beverages in accordance with Section 17b(1). This would be a similar penalty fee that could be imposed on a holder of a domestic retail licence. A financial penalty could be imposed on a holder of a retail licence if the holder violated the obligations laid down in chapter 5 of the Act when selling alcoholic beverages to delivery.

A distance seller would be obliged to ensure that the delivery is marked as containing alcoholic beverages. The purpose of labelling an alcoholic beverage delivery is to ensure that in situations where alcoholic beverages are handed over, the supplier of the alcoholic beverage recognises that the delivery contains alcohol. Thus, in situations where alcoholic beverages are handed over and ordered from a distance, the supplier of an alcoholic beverage can ensure that the provisions of the Alcohol Act on, inter alia, prohibitions on delivery are observed. Suppliers of alcoholic beverages are obliged, in their operations, to ensure that alcoholic beverages are not handed over contrary to the law, for example, to minors. In addition, supply licence holders have the obligation to ensure that any alcoholic beverage supplier operating on their behalf is delivered with a delivery passport. A delivery passport shall be issued to persons who have passed a delivery passport exam for knowledge of the Alcohol Act. Holders of licences for the supply of alcoholic beverages are subject to supervision and their activities can be addressed if they do not comply with, for example, prohibitions on supply to minors. If a distance seller would not mean that the delivery contains an alcoholic beverage, there would be a risk that the consignments would not necessarily be recognised as a supply of alcohol. In order to ensure age control and compliance with other obligations under the Alcohol Act, it would be justified to allow a financial penalty to be imposed on a distance seller if the distance seller failed to fulfil its obligation to indicate the alcoholic beverage containing it in the delivery.

A new *subsection 6* would be added to the section, according to which the provisions of subsections 2 to 4 would apply to the fine. Therefore, the same provisions would apply to the imposition of a financial penalty as in the case of penalties imposed on domestic operators. Pursuant to subsection 2 of the current section, the penalty payment shall be imposed to be paid to the State, and when assessing its amount, the nature of the conduct, its harmfulness, and recurrence shall be taken into account. The penalty fee may be imposed at a lower amount than prescribed if, considering the aforementioned factors or other mitigating circumstances related to the conduct, there is justified cause to do so. A penalty fee shall not be imposed if the conduct is considered to be minor in nature or if the imposition of the fee would be unreasonable having regard to the nature, repetition, planning, compliance with the self-monitoring plan, and other circumstances of the conduct. In addition, under subsection 2, the licence holder may be issued a notice if a financial penalty is not imposed. However, the comment provision would not apply to the distance seller, as the distance seller would not be

the licence holder. In practice, distance sellers could be instructed to comply with the law in such situations.

Pursuant to subsection 2 of the current section, a penalty fee may not be ordered payable by a person who is suspected of the same act in a pre-trial investigation, is under consideration of charges or pending criminal charges, or who was issued a final judgement for the same act. If a penalty has been ordered for a natural or legal person, a court may not order a fine for the same act to the same person. A distance seller would therefore not be able to be ordered to pay a financial penalty if the seller's conduct is suspected of an alcohol offence. Offences related to alcohol are prescribed under Chapter 50a, Section 1 of the Criminal Code. Section 17b(1) of the Act would provide for the obligation of a distance seller to indicate on the delivery an alcoholic beverage containing it. A distance seller could commit an offence if he or she did not ensure the marking of broadcasts as required by law. However, an alcohol offence shall only be punished as an intentional act. For this reason, the Act would also allow the imposition of a financial penalty when the distance seller would not have indicated that the delivery contains an alcoholic beverage.

Under Subsection 4 of the current section, no financial penalty may be imposed if more than six months have elapsed since the act. The enforcement of the fine is governed by the Act on Enforcement of a Fine (672/2002). A penalty shall expire within five years from the date it was ordered.

Section 72 *Withdrawal of a licence* The structure of the section would be clarified by providing for temporary and permanent withdrawals in separate subsections. The section would continue to be based on a gradual increase in penalties, in which case the suspension or withdrawal of the authorisation would, as a general rule, require a penalty previously imposed.

According to *subsection 1* of the section, a temporary withdrawal of the permit could be envisaged if the operator, following the issue of the notice or the imposition of a penalty, were to continue to infringe or fail to fulfil its obligations under Paragraphs 1 to 8 of Section 71(1). In the future, a breach or failure to comply with the obligations laid down in Section 71(1)(8) could lead to the suspension of the authorisation if the conditions laid down in Section 71(1)(1)(1) are met. Under subsection 1, paragraph 2 of this section, the licensing authority could revoke the licence for a limited period without a penalty previously imposed if the operator violated or failed to fulfil the essential obligations laid down in the Act in a manner that shows obvious disregard for the obligations referred to in section 56. *Subsection 2* would continue to provide that in determining the length of the period of the withdrawal, account should be taken, in particular, of the seriousness of the conduct giving rise to the withdrawal and the circumstances in which it was carried out.

According to *subsection 3*, paragraph 1 of the section, the permanent withdrawal of a licence could be considered if the operator, after imposing a financial penalty or withdrawing a temporary licence, would continue the violation of its obligations or neglect deliberately and it has also been deemed aggravated as a whole. Paragraph 2 of subsection 3 corresponds in substance to the rules in force and should continue to apply only in exceptional circumstances. According to Paragraph 3 of Subsection 3, the licensing authority could withdraw the permit or approval on a permanent basis if the conditions for the permit or approval were not in force and the situation has not been remedied within the prescribed time limit..

Section 72a. *Termination of the permit.* For the sake of clarity, a new section on the termination of the permit and activity would be introduced. The new distinction would make it

clear that the termination of activities does not constitute a withdrawal of a permit and the termination of activities does not give rise to a waiting period under section 13(4), subsection 3, which prevents the granting of a new permit.

According to *subsection 1* of the section, the licensing authority should enter in the register that a permit or approval under this Act has expired if the operator had ceased its activity otherwise than temporarily. This provision would, in principle, apply only if the operator himself declares the termination of its activity. However, by way of derogation from the law in force, the provision would also allow the authority to register the expiry of a permit or approval if the operator would have failed to comply with the obligation to notify the termination of activities introduced in section 11. This provision would be necessary, for example, in a situation where the applicant would be in the process of applying for a licence to operate in a place where another operator holds a valid on-trade licence, but that other operator would have terminated its activity on a non-temporary basis in that place. A formal registration of a permit as terminated would require a declaration that the operator would have ceased its activity on a non-temporary basis, e.g. that the operator would no longer have access to the premises of the site or that the activity would have been discontinued in the business register of another public authority. In future, in such a situation, the licensing authority could, after consulting the holder of the authorisation, enter the permit as terminated in the register and grant the new applicant a permit to operate in the premises in question.

There are currently no provisions in the current law on how to act in the event of bankruptcy of the holder of the permit or of the holder of a fixed-term permit or in the event of the death of a private trader holding a permit or approval. The Act contains only a provision that the insolvency estate of the licensee has the right to continue the activity subject to authorisation for a maximum period of one year from the start of the bankruptcy. In *subsection 2* of the section the same right would be extended to the estate of the holder of the permit and to the bankruptcy or estate of the holder of the permit. In addition, the provision would specify for how long it would be possible to continue at most the activity if the permit or approval had been in force for a fixed period of time. The provision would also include the condition that the continuation of the activity should be notified to the licensing authority without delay after the declaration of bankruptcy or death. As a general rule, declaration could be required within one month of the declaration of bankruptcy or death.

Section 75 Fees charged by the Regional State Administrative Agency. A new paragraph 3 on the supervision fee for alcoholic beverage delivery would be added to *subsection 2*. The supervision fee would be charged to the licence holder. The corresponding supervision fee is already charged to the holder of the retail and serving licence. A technical amendment to paragraph 2 of subsection 2 of the section would be made as a result of the addition of a new paragraph 3.

Section 84 Procurement of alcoholic beverages The section would be clarified in relation to prohibited passing on of alcohol. According to that section, alcoholic beverages should not be passed on or handed over for remuneration unless otherwise provided for by law. The passing on and handing over of alcoholic beverages for remuneration would not be prohibited in the case of delivery by the holder of the licence under the Alcohol Act. The prohibition referred to in this section does not apply to this activity subject to authorisation.

Section 85 Prohibition on consuming alcoholic beverages *Subsection 1* of the section would be specified to cover alcoholic beverages of over 2.8 %. This clarification would clarify the current situation.

Section 90 Penal provisions. Paragraph 1 of *subsection 5* of the section would be amended as a result of the proposed amendments to section 37 referred to therein. At the same time, the scope of acts punishable as alcohol infringements would be specified. Anyone who deliberately or through gross negligence violates the prohibition on retail trade, supply or serving laid down in Section 37(1)–(3) or the prohibition on transfer in other business laid down in Section 37(5) would also be sentenced for an alcohol offence. Accordingly, if the supplier of alcoholic beverages or the party handing over the drinks in distance purchase situations were to deliver an alcoholic beverage, for example, to a minor or a heavily intoxicated person, this would constitute a punishable act as referred to in the proposed Section 90. Selling or otherwise supplying alcoholic beverages in retail trade and the serving of alcohol to, for example, a minor or a severely intoxicated person is already criminalised in this section of the Act in force, so extending the criminalisation to the supply of alcoholic beverages in delivery operations and other commercial activities involving the supply of alcoholic beverages would be justified.

Paragraph 2 of subsection 5 of the section would be amended as a result of the proposed amendments to section 38 referred to therein. The responsible manager or other person appointed for the task referred to in section 38 of the current Act would be changed to ‘representative of the licence holder’ in accordance with the proposed section 38. Consequently, a person who, in accordance with section 90, subsection 5, paragraph 2, intentionally or through gross negligence, as the holder of a retail or serving licence or as the representative of the holder of the licence referred to in section 38, infringes the obligation laid down in section 35 or 36 concerning the supervision of the order of the retail premises and licensed premises would also be sentenced for an alcohol offence.

In addition to the alcohol infringements punishable by a fine under the Alcohol Act referred to in subsection 5, paragraphs 1 and 2 above, chapter 50a of the Criminal Code (39/1889) lays down provisions on alcohol offences. According to chapter 50a, section 1, subsection 1, paragraph 3 of the Criminal Code currently in force, anyone who, contrary to the Alcohol Act or a provision issued under it, sells, distributes or otherwise supplies alcoholic beverages or spirits to another person shall be sentenced for an alcohol offence to a fine or to imprisonment for a maximum of two years. This provision of the Criminal Code could become applicable in the delivery of alcoholic beverages in situations and other commercial activities involving the point of delivery. In addition, the provision of the Criminal Code could be applicable if, in connection with the delivery of alcoholic beverages, a retail trade licence holder would not take care of the delivery of alcoholic beverages to a delivery licence holder.

Annex. A new *paragraph 6a* would be added to the Annex concerning the supervisory fee or the delivery of alcoholic beverages and its determination. According to point 6(a) of the Annex, the Regional State Administrative Agency would charge an annual supervision fee of indefinite duration to holders of licences for the delivery of alcoholic beverages. The supervision fee period would be a calendar year. The supervisory fee for the delivery of alcoholic beverages would consist of a fixed basic fee and an additional fee depending on the scope of the operations, so that the basic fee per licence holder would be EUR 100.

The amount of the additional fee based on the size of the operation would be determined during the supervision fee period on the basis of the annual reported deliveries of alcoholic beverages to the licensing authority. One delivery means a delivery based on a single order. Deliveries also include those in which it has not been possible to supply the alcoholic beverages due to e.g. the prohibition on delivery laid down in section 37. It would not matter how many alcoholic beverages were supplied in one delivery, as the supervision fee would be

determined on the basis of the number of deliveries made. In addition to the basic fee, the supervision fee per delivery would be EUR 0.10 per delivery above 1 000 deliveries. The supervision fee determined on the basis of the above-mentioned criteria would be rounded down to the nearest EUR 10.

The licence holder would be obliged to notify the licensing authority of the total number of deliveries made each year. If the licence holder fails to submit the declaration within the time limit, the Licencing Authority would have the right to order the licence holder to report the total number of deliveries on pain of incurring a periodic penalty payment as laid down in section 70. However, the Licencing Authority should issue a reminder to the licence holder and allow a reasonable period to report the above-mentioned information before imposing a periodic penalty payment. The legal remedies provided for in section 80 would also apply to the supervision fee for deliveries, i.e. it would be possible to object to the supervision fee to the authority that imposed the fee, and the decision on the objection may be appealed to the Administrative Court. In accordance with section 80, subsection 4 of the Alcohol Act, the supervision fee must be paid within the prescribed time limit, regardless of any objection and appeal.

It is proposed to add a new provision on charging supervision fees to *paragraph 7* of the Annex. The fees would be invoiced retrospectively but not later than 30 April and the calculation period based on the number of deliveries from the previous calendar year.

8 Regulation at the level of secondary legislation

A new subsection 4 on the content of an application or declaration made as a result of changes to operations referred to in section 11 would be added to section 11 of the proposed Act concerning the power conferred on the government to issue further provisions by decree. Section 13 of the Government Decree on the Implementation of the Alcohol Act (151/2018) already provides for the content of an application to amend a licence, but the current Act does not cover the power to issue decrees in this regard. As a result of the amendments contained in the proposed Act, the necessary amendments to the government decree would be made by means of an amending decree. In addition, the necessary amendments to the Decree of the Ministry of Social Affairs and Health on Control of the Alcohol Act (158/2018) issued under the Alcohol Act will be prepared by means of an amending decree. These amending decrees are due to enter into force at the same time as the draft Act.

It is proposed to amend the wording of the power to issue decrees referred to in section 45, subsection 3 of the current Act so that further provisions on the limitation of the quantity of alcoholic beverages referred to in that section may be issued by government decree. The power to issue decrees would also be separated into its own subsection 4. On the basis of the wording of the current Act, further provisions on the limitation of the quantity of alcoholic beverages will be issued by government decree, but the government decree in force does not contain provisions on the limitation of the quantity of alcoholic beverages. The decree amending the government decree that is under preparation would also not contain provisions on limiting the quantity of alcoholic beverages, but the amendment being made to the Act concerning the power to issue decrees would enable further provisions to be issued by government decree if necessary.

9 Entry into force

It is proposed that the Act enter into force on 1 January 2026.

10 Implementation and monitoring

The economic, social and health impact of the reform will be monitored in cooperation with the National Institute for Health and Welfare, the National Supervisory Authority for Social Affairs and Health, the Regional State Administrative Agencies and the Competition and Consumer Authority. It will be necessary to examine the need for additional resources for agencies and the level of supervision fees after the entry into force of the legislative amendment, taking into account the final number of delivery licence holders and the experience gained in the practical implementation of the supervisory work.

It has been agreed in the government programme that a study on the liberalisation of sale of wines with a strength of 15 % will be carried out by the mid-term in cooperation between the Ministry of Social Affairs and Health and the Ministry of Employment and the Economy.

11 Relationship to other Bills

The Proposal is related to the draft government budget for 2026 and is intended to be discussed in connection with the draft budget. Additional appropriations are proposed for the new tasks provided for in the proposal for the National Supervisory Authority for Welfare and Health (Valvira). The proposal would thus have an impact on Valvira's operating expenditure item (item. 33.02.05).

On 13/03/2025, the government presented a proposal to Parliament on legislation concerning the reform of the State Regional State Administrative Agencies (HE 13/2025 vp). As part of this Government Proposal, amendments are also to be proposed to certain provisions of the Alcohol Act which would be partly the same as in this Proposal (Sections 7, 26, 57, 60 and 75 of the Alcohol Act). This should be taken into account, where necessary, in the Parliament consideration of this Government Proposal.

12 Relationship to the Constitution and legislative process

12.1 General

The Proposal proposes to provide for the delivery of alcoholic beverages for domestic retail sale, for an alcohol company or for distance selling across borders directly to a buyer or other recipient at a place agreed between the buyer and the seller. According to the proposal, the delivery of an alcoholic beverage would require a licence for the delivery of the alcoholic beverage in order to ensure the legality of the delivery of alcoholic beverages and also to ensure effective official control of the delivery. The proposed regulation aims to reform alcohol policy responsibly towards Europe and to pursue the overall reform of the Alcohol Act in 2018. The Government's objective is to promote fair and open competition. The proposed legislation thus also aims at a freer right to engage in alcohol trade, while maintaining the proper protection of the purpose and objectives of the Alcohol Act.

The proposed amendments are linked to section 19(3) of the Constitution, according to which public authorities, as further specified by law, must promote the health of the population. According to the explanatory memorandum, the obligation to promote the health of the population refers, on the one hand, to preventive action in the field of social and health care and, on the other, to the development of social conditions in the various spheres of public authority in a direction that is promoting the health of the population in general. The proposed legislation is also linked to the obligation of the public authorities, referred to in the second

sentence of section 19(3) of the Constitution, to support the ability of the family and other carers to ensure the well-being and individual growth of the child. In addition, it is necessary to examine the proposal in relation to equality provided for in section 6 of the Constitution, the principle of criminal law laid down in section 8 of the Constitution, the protection of private life provided for in section 10, subsection 1 of the Constitution, in particular the protection of personal data, the freedom of expression provided for in section 12, subsection 1 of the Constitution and the right to work and freedom to conduct a business provided for in section 18, subsection 1 of the Constitution. The proposed amendments should also be seen in the light of the obligation of the public authorities to safeguard fundamental and human rights, as laid down in section 22 of the Constitution.

12.2 Protection of private life and personal data

The draft law is relevant for the protection of private life and personal data provided for in section 10 of the Constitution. The proposed regulation is also relevant to the EU Charter of Fundamental Rights. Articles 7 and 8 of the EU Charter of Fundamental Rights safeguard the right to privacy and the right to the protection of their personal data. According to this Article, personal data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. In this regard, the judgments of the Court of Justice of the EU determine the essence of the protection of private life and personal data. Similarly, Article 8 of the ECHR, concerning the protection of private life, has been interpreted in the case-law of the European Court of Human Rights as covering also the protection of personal data.

According to the Constitutional Committee, the detailed regulation of the General Data Protection Regulation, interpreted and applied in accordance with the rights guaranteed by the Charter of Fundamental Rights of the EU, generally provides an adequate legal basis for the protection of private life and personal data protected by section 10 of the Constitution. In the Committee's view, the regulation of the GDPR, when interpreted and applied correctly, also corresponds to the level of protection of personal data as determined by the European Convention on Human Rights. Consequently, within the scope of application of the General Data Protection Regulation, it is no longer necessary for constitutional reasons to include comprehensive and detailed regulations regarding the processing of personal data in specific national legislation. In the view of the Constitutional Committee, the protection of personal data should be ensured primarily under the General Data Protection Regulation (GDPR) and the national general legislation to be enacted (PeVL 14/2018 vp, p. 4). The Constitutional Committee is also of the opinion that, for reasons of regulatory clarity, the enactment of specific national legislation should be restricted and limited to what is strictly necessary within the national margin of manoeuvre granted by the Data Protection Regulation. The necessity of specific legislation must also be assessed in accordance with the risk-based approach required by the GDPR, taking into account the threats and risks posed by the processing of data. The higher the risk to a person's rights and freedoms caused by the processing, the more justified is a more detailed regulation. This is particularly relevant for the processing of sensitive data (PeVL 14/2018 vp, p. 5).

The legislative proposal would provide for the obligation of the alcoholic beverage delivery driver, i.e. the supplier of the alcoholic beverage, to verify the age of the recipient of the alcoholic beverage before supplying the alcoholic beverage to the person. This is no different from the way in which alcohol is sold or served, and the proposal follows the general scheme of the Alcohol Act in this respect. The regulation is intended to contribute to ensuring effective age control of alcoholic beverages, thereby also protecting children and adolescents

from the harmful effects of alcohol. The regulation is therefore proportionate, necessary and also effective in order to safeguard the underlying objective.

According to the legislative proposal, a new subsection 2 would be added to section 63 of the Act, according to which the authority would have the right to obtain, free of charge and without prejudice to confidentiality provisions, information from the register of fines referred to in section 46 of the Act on the Enforcement of a Fine. The regulation is related to the protection of private life guaranteed by section 10 of the Constitution, the principle of which is the right of the individual to live his or her own life without arbitrary or undue interference by public authorities and third parties.⁷⁸ In terms of the protection of private life, it has been considered relevant, among other things, to the right of an authority to access personal data, as well as to the obligation of a person to provide information relating to him or her to an authority.

The Constitutional Law Committee has stated that the right of access to information, which takes precedence over the provisions on confidentiality of information, ultimately consists in the legitimate authority, with its own needs, superseding the grounds and interests protected by the confidentiality obligation relating to the information. The more fully the right to information is linked to the relevant conditions in the regulations, the more likely a specific request for information is to be justified in practice.⁷⁹ In assessing the rules on access to and disclosure of information from the point of view of privacy and the protection of personal data as provided for in section 10(1) of the Constitution, the Constitutional Law Committee has drawn attention, among other things, to what and to whom the right of access to information extends and how the right of access to information is tied to the necessity of the data. In this case, the possibility of access to information and disclosure may have been linked to 'necessary information' for a purpose, provided that the information content referred to has been exhaustively listed in law. On the other hand, if the data content is not listed in the same way, the regulation must have included a requirement for the data to be 'necessary' for a certain purpose. In the opinion of the Constitutional Law Committee, elements in support of the separation may be given a special weight when laying down the right of an authority to obtain or disclose information, notwithstanding confidentiality provisions, in an electronic environment.⁸⁰ On the other hand, the Constitutional Law Committee has also stated in its opinion that registering the activities without prior verification that they meet the conditions laid down in the Act is not entirely problematic.⁸¹

According to the Constitutional Committee, in principle, the detailed regulation of the General Data Protection Regulation, interpreted and applied in accordance with the rights guaranteed by the Charter of Fundamental Rights of the EU, generally provides an adequate legal basis for the protection of private life and personal data protected by section 10 of the Constitution.

In the proposed amendment, the right of the supervisory authority to obtain information from the register of fines would be limited to the information necessary either for assessing the conditions for obtaining a licence laid down in the Alcohol Act or for assessing that no penalty is imposed on the data subject in a situation where a fine would already have been imposed on him or her for the same infringement. The regulation would therefore protect, on the one hand, the social interest, so that licences referred to in the Alcohol Act would not be granted for activities that do not comply with the requirements laid down in the Act and, on

⁷⁸ Cf. HE 309/1993 vp, p. 52/II, PeVL 36/2002 vp, p. 5/II, PeVL 9/2004 vp, p. 5/II.

⁷⁹ Cf. PeVL 62/2010 vp, p. 3-4, PeVL 42/2010 vp, p. 3.

⁸⁰ Cf. PeVL 12/2019 vp, p. 4 and PeVL 73/2018 vp, p. 8-10.

⁸¹ Cf. PeVL 26/2017 vp, p. 67.

the other hand, it would also protect the register itself in such a way that he or she would not be subject to a double penalty for the same act. In accordance with the Act on the Enforcement of a Fine, information from the register of fines may no longer be disclosed after three years have passed since the final judgment or other final decision of the authority was delivered or rendered. The supervisory authority could therefore not obtain information on fines for which more than three years had passed since they were imposed. When requesting information, the supervisory authority should also justify why the information in question would be specifically necessary to assess the conditions for obtaining an authorisation or to establish a prohibition of double criminality. Furthermore, the supervisory authority cannot, on the basis of the provisions of section 66 of the Alcohol Act, enter information obtained from the register of fines in the alcohol trade register. Consequently, the supervisory authority would not retain the information in the register of fines for longer than is necessary to assess the conditions for obtaining a licence or to investigate the prohibition of double criminality.

The right to access information would be strictly limited to only those data necessary for the supervisory authority to ascertain the general licensing requirements of the applicant or licence holder, or to clarify the prohibition of double punishment in penalty payment situations. According to section 13 of the current Alcohol Act, the general condition for obtaining a licence is that the applicant is known to be reliable and has personal characteristics suitable for the task, and that the persons and CEO of the administrative bodies of a legal person who is the applicant or licence holder, as well as the partners in an open company and the partners in a limited partnership, may also meet this condition.

Assessing the conditions for obtaining a licence is a statutory task of the authorities, and in order to examine them, the authorities must also be able to obtain information from the register of fines. Assessing the conditions for obtaining a licence is largely related to the ability of the authority, in advance and also through in-service control, to ensure the appropriateness and legality of operations and thus also to protect the social interests underlying the regulation, such as the licensing administration and control measures to prevent the harm caused by alcohol to its users, other people and society as a whole. In addition, the licensing and supervisory authority referred to in the Alcohol Act could not disclose the information it has received from the register of fines to others. In its consultation practice, the Constitutional Law Committee has considered that confidentiality provisions also protect the protection of private life.⁸² The regulation must therefore be considered necessary, proportionate and effective in achieving the underlying objective. In the light of the above, the presentation cannot be considered problematic with regard to the protection of privacy or the constitutional protection of personal data.

Section 64(3) of the draft Act would provide for the Tax Administration's right of access to information. The right of access would include a requirement for the information to be necessary for tax control purposes. The Act would therefore list the situations in which the right of access to information would be restricted and the right of access would be linked to the necessity of the information (e.g. PeVL 12/2019 vp, p. 4 and PeVL 73/2018 vp, p. 8-10).

The draft Act would amend the right to publish the information contained in the Alcohol Business Register under the current Act, so that the provision would remove the requirement to search the information in the form of individual searches. Under the proposed Section 64(2), the content of the information to be published would be fundamentally different from the public information service containing information on health professionals, for which at the time of the adoption, the Constitutional Law Committee had required that the consultation of

⁸² See e.g. PeVL 39/2009 vp, p. 3, PeVL 40/2005 vp, p. 2.

information be limited to individual searches in order to process the legislative proposal in the order of ordinary law enactment (PeVL 32/2008 vp). The Constitutional Law Committee has considered it possible to publish personal data as a public information service if there are acceptable grounds for it in terms of the guarantees of legal protection and the objectives of the fundamental rights system (PeVL 2/2017 vp, p. 7, PeVL 65/2014 vp, p. 4/II-5/I, PeVL 32/2008 vp p. 2/I-3/II). For example, when adopting the Transparency Register Act, the Constitutional Law Committee has considered it possible that it was not proposed to restrict the search for data from the register in such a way that only individual searches would be possible or that data applicants should identify themselves. In view of the purpose of the regulation and the related content relating to the public activities and the exercise of public powers of the information to be published, the Constitutional Law Committee had no comments on the basic regulatory solutions in this respect either (PeVL 86/2022 vp, paragraphs 11-22). Taking into account the previous opinions of the Constitutional Law Committee, the proposed amendment of section 64, subsection 2 of the existing Act does not prevent the Act from being dealt with in the ordinary legislative procedure.

The Act would provide for the right of the supervisory authority to obtain information on the person who performed the delivery of alcoholic beverages from the delivery licence holder for supervision purposes. In addition, the supervisory authority shall be entitled to obtain from the retail licence holder the name of the delivery licence holder who delivers the alcoholic beverage and the licence number. Pursuant to Section 62 of the current Act, for purposes of supervising the enforcement of the act, the supervisory authority shall have the right to inspect the premises, operations and documentation of the licence holder as well as the transport of alcoholic beverages. The right to obtain information on a person who has served an alcoholic beverage supplier would be laid down separately for the sake of clarity. In order to safeguard supervision, separate provisions would also be laid down for the authority's right to obtain from the retail licence holder the name of the delivery licence holder carrying out the delivery of alcoholic beverages, as well as the licence number. The authority's right of access to information would be related to the information necessary for supervision, and with regard to the proposed rights to obtain information, the information content would have been defined exhaustively by law (e.g. PeVL 12/2019 vp, p. 4 and PeVL 73/2018 vp, p. 8-10).

12.3 Right to work and freedom to conduct a business

According to section 18, subsection 1 of the Constitution, everyone has the right, as provided by the law, to earn their livelihood by the employment, occupation, or commercial activity of their choice. The freedom to conduct a business is also enshrined in the EU Charter of Fundamental Rights, Article 16 of which recognises the freedom to conduct a business in accordance with Union law and national laws and practices. Article 15 of the Charter guarantees the right to engage in work and to pursue a freely chosen or accepted occupation.

Under Article 52 of the Charter, any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. In accordance with the principle of proportionality, restrictions may be imposed only if they are necessary and effectively meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of other persons. National law within the scope of EU law must not conflict with the provisions of the EU Charter of Fundamental Rights. The drafting of legislation must therefore take into account EU fundamental rights to the extent that a matter for which national law is being prepared can be considered to fall within the scope of EU law. For example, in case C198/14 Visnapuu, the Court of Justice of

the EU specifically examined and applied the licensing system and Alko's exclusive rights provisions laid down in the Alcohol Act.

In practice, the Constitutional Committee has considered the freedom to conduct a business as the general rule, it has considered it acceptable to require authorisation of the various forms of alcohol-related economic activity, in order to reduce, inter alia, the health damage associated with alcohol consumption and the social harm caused by its use. The same applies to the rules on exclusive rights (see PeVL 48/2017 vp). A licence to supply alcoholic beverages would be a new form of licence and would in itself constitute an exception to the general freedom to conduct a business.

However, the proposed Act would in fact extend the freedom to conduct business by lifting restrictions on alcoholic activities, since according to the proposed Act, it would also be possible to deliver alcoholic beverages from domestic retail sales, from the State Alcohol Monopoly and cross-border distance sales to a buyer in the future. According to the law in force, this is not possible. The proposed regulation would thus partially extend the right to conduct a business and also the right to work, since it would allow for a new form of alcohol business – which would require a license for the delivery of alcoholic beverages in order to ensure the proper functioning of the activity and effective control by the authorities. In its opinion PeVL 10/2024 vp on the amendment to the Alcohol Act, the Constitutional Law Committee considered that the key issue for the assessment of the legislative proposal at the time was that it was not a new restriction on business activities, but that some of the products that were at that time subject to the exclusive right of the government-owned alcohol company Alko were being moved to licensed retail trade. Consequently, that proposal de facto reduced the restrictive regulation relating to the alcohol trade, which derogates from section 18, subsection 1 of the Constitution of Finland.

In its consultation practice, the Constitutional Law Committee has considered that the authorisation of business activities must be laid down by law, which must meet the general conditions required of a law restricting a fundamental right, such as the requirements for accuracy and precision. As far as the content of the regulation is concerned, the Committee has considered it important that the provisions on the conditions and permanence of authorisation make the actions of authorities sufficiently predictable. In that regard, what matters is, in particular, the extent to which the powers of the public authorities are determined by so-called circumscribed or expediency considerations. In addition, the authority's power to attach conditions to the licence must be based on sufficiently precise legal provisions (see, for example, PeVL 32/2010 vp).

The delivery of alcoholic beverages would be subject to authorisation in a manner similar to retailing and serving. From the point of view of the freedom to conduct a business, it is a specific economic activity, the authorisation of which must be regarded as acceptable in order to safeguard the health of the population and to reduce social disadvantages. A licence would be necessary for the transport and delivery of alcoholic beverages from the retailer to the purchaser. In distance selling situations, the licence should be held by the last operator in the supply chain who delivers the alcoholic beverages to a purchaser in Finland. A license should be granted if the conditions relating to the applicant and necessary for the pursuit and supervision of the activity are met. The requirements relating to the applicant would relate in particular to reliability and economic conditions which contribute to the applicant's ability to comply with the provisions of the Alcohol Act. In addition, the licensing authority could, under strict conditions laid down by law, impose necessary permit conditions, for example in order to prevent various risks to safety and to ensure the proper functioning of the activity.

In the context of the regulation of business activities, the Constitutional Law Committee has considered the withdrawal of the license to be more severe than the refusal of the license applied for. Therefore, the Committee has considered it necessary for the proportionality of the regulation to tie the possibility of revocation of a retail licence to serious or material infringements or omissions, and to the fact that any comments or warnings given to the licensee have not led to the correction of the deficiencies in operations that have occurred (e.g. PeVL 13/2014 vp).

Section 72 of the Alcohol Act concerning the withdrawal of a licence would also be extended to delivery activities. According to section 72 of the Proposal, the licensing authority could suspend the delivery authorisation for a fixed period if the operator, despite a comment or penalty from the licensing authority, continues violation of obligations or negligence referred to in section 71, subsection 1, paragraph 8 and the procedure is considered material. The license could be permanently withdrawn if the breach of obligations has persisted after the fine has been imposed or a temporary license has been revoked and the infringement of the law was intentional and assessed as a whole as serious. The license could be revoked without notice or penalty only in exceptional circumstances. A licence or approval could also be revoked if the conditions for obtaining a licence were no longer in force and the situation had not been corrected within the set time limit. The proposed provision takes as a starting point the requirements of the Constitutional Committee's practice in its opinions.

Oversight of the provisions of the Alcohol Act is based on a comprehensive licensing system. In practice, the licensing system ensures that traders operating in the alcohol sector are able to meet their obligations, are reached through supervision, and their illegal activities can be effectively addressed. The purpose of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related economic activities in order to prevent the harm caused by alcohol to its users, to other people and to society as a whole. The proposed regulation thus also implements the purpose of the Alcohol Act in a proportionate and effective manner.

The proposed regulation will enable a new way of conducting alcohol business and thus may also increase employment in the alcohol industry. In other words, in relation to the alcohol legislation in force, the proposed amendment would mainly reduce restrictions related to the alcohol industry, as in the future it would be possible to deliver alcoholic beverages to the recipient, and it would no longer be necessary to collect alcoholic beverages from a retail outlet or the government-owned alcohol company Alko. This contributes to safeguarding the freedom to conduct a business and the right to work in a proportionate manner and in a manner that achieves the purpose and objective of the Alcohol Act.

The proposal would also have an impact on the right to property and the freedom of contract, as the restrictions on alcohol policy have some impact on the right to property and freedom of contract. Freedom of contract is not separately protected by the Constitution, but through section 15, subsection 1 of the Constitution concerning the protection of property, contractual freedom is also protected by the constitutional level. In addition, the freedom to conduct a business is a relevant fundamental right in terms of contractual freedom. Linking delivery sales from domestic retail sales, from the State Alcohol Monopoly and cross-border distance sales to delivery sales via the holder of a delivery licence would to some extent restrict contractual freedom. However, the proposed regulation is based on compelling grounds relating to public health, which is why the proposed regulation can be considered to be an acceptable restriction on the protection of property or the freedom of contract.

12.4 Equality

The draft Act is also relevant from the point of view of equality as provided for in section 6 of the Constitution. In principle, the non-discrimination provision of the Constitution applies only to people. However, the principle of equal treatment may also play a role in the assessment of regulation applied to legal persons, in particular where the legal situation of natural persons may be affected indirectly. The more distant this connection is the less important this point of view is.⁸³ The proposed amendment concerns, in principle, legal persons and their status. The change may have an indirect effect on the legal position of natural persons whose economic activity is based on the retail sale of alcoholic beverages.

On the basis of the regulation on cross-border distance sales proposed in the Proposal, foreign operators could distance sell to Finland all alcoholic beverages, including those falling under the exclusive right of the State Alcohol Monopoly. Cross-border distance sales would be permitted without a separate marketing authorisation or declaration. However, in the case of delivery activities in Finland, distance selling would be linked to the delivery licence in such a way that the supplier of the alcoholic beverage would be responsible for handing over the alcoholic beverages to the recipient. Domestic sellers would be in an unequal position vis-à-vis foreign sellers, when it would be possible to sell all alcoholic beverages delivered to Finland remotely from abroad, while the domestic retail sale of alcohol is subject to authorisation, and even for products subject to the State Alcohol Monopoly, it is not possible to obtain a licence. In domestic retail trade requiring a licence, it would be possible to sell fermented alcoholic beverages with an alcoholic strength of up to 8 per cent by supply, and alcoholic beverages with an alcoholic strength of up to 5.5 per cent produced by other methods. However, the proposal would contribute to the realisation of the fundamental freedom of the EU, the free movement of goods. In its system of opinions, the Constitutional Law Committee has stated that the assessment of the regulation of legal persons must take particular account of the fact that the general principle of equality cannot result in strict limits on the discretion of the legislator in pursuing the regulation required by the current social development. However, even in this case, the distinctions must not be arbitrary and the differences must not become excessive.⁸⁴ The majority of holders of retail licences for alcoholic beverages are legal persons, although a retail licence can also be granted to a natural person. The Constitutional Law Committee has taken the view that the aspect of equality is of relatively minor importance for regulation that largely affects legal persons⁸⁵.

12.5 The principle of legality in criminal law

Section 8 of the Constitution of Finland contains the main elements of the requirement of legality in criminal law. According to the government proposal for basic rights reform, these include at least the requirement to define criminal offences in law, the prohibition of retrospective criminal legislation, the prohibition of the analogous application of the Criminal Code, the requirement to define in law the penalties resulting from a criminal offence, the prohibition on the use of a more severe penalty than that provided for at the time the offence was committed, and the requirement that the standards for criminal legislation be laid down by law (see HE 309/1993 vp). The provision also requires that the constituent elements of each offence must be expressed in law with sufficient precision from the point of view of the person applying the law. The draft Act proposes that section 90, subsection 5, paragraph 1 on alcohol infringements be amended so that a supplier of alcoholic beverages would also be

⁸³ See e.g. PeVL 11/2012 vp, p. 2.

⁸⁴ PeVL 11/2012 vp, p. 2 and PeVL 37/2010 vp, p. 3.

⁸⁵ PeVL 37/2010 vp, p. 3

sentenced for an alcohol infringement if they intentionally or through gross negligence infringe the prohibition on supply laid down in section 37, subsections 1–3. Therefore, if the alcoholic beverage delivery driver were to supply alcoholic beverages to, for example, a minor or a severely intoxicated person, this would be a criminal offence within the meaning of the proposed section 90. In the section in force, selling or otherwise supplying alcoholic beverages in retail trade and the serving of alcohol to, for example, a minor or a severely intoxicated person has already been criminalised, so extending the criminalisation to the supply of alcoholic beverages in delivery operations would be justified and proportionate.

In addition, a reference to the new section 37, subsection 5, which would lay down provisions on prohibitions on supply applicable to other business activities, would be added to section 90, subsection 5, paragraph 1. Thus, in the future, the elements constituting an alcohol offence could be met in situations where the driver of a transport company would have handed over to a minor a package known by the driver to contain alcohol during a distance purchasing process.

Section 90 of the Alcohol Act has been enacted with the Constitutional Law Committee's approval. The prohibitions on supply under the current section would also be extended to the supply of alcoholic beverages and other supplies in the course of trade. On the basis of the wording of the penal provision, it would still be foreseeable what kind of conduct or negligence in violation of the Alcohol Act would be punishable under that provision.

It is justified to provide for penalties for infringements, either deliberate or committed through gross negligence, of the obligations of delivery operations specified in the section, in the same way as for the serving and retail sale of alcohol. In delivery operations, the supply of alcoholic beverages may involve more risks of negligence at the point of delivery than in alcohol serving and retail supply situations, as the delivery of the alcoholic beverage may take place at the door to the home of the recipient of the beverage or in another place or space where there may not necessarily be any outsiders or staff present other than the delivery driver. The reasons behind the prohibitions on supply include the need to protect children and young people from alcohol-related harms, to reduce the potential harms to individuals and society caused by alcohol intoxication, and also to protect both the alcohol user and other people from the possible adverse effects of alcohol intoxication – such as accidents and disruptive behaviour. In order to ensure compliance with the prohibition on supply and to ensure the effectiveness of the regulations, it is also necessary to provide for penalties for non-compliance with the prohibition on supply. Since, for example, in remote purchasing situations, alcoholic beverages may be delivered in other ways than in delivery operations, it is justified that the same prohibitions on delivery are applied in these situations.

Alcohol offences are laid down in Chapter 50a of the Criminal Code (39/1889), and the provisions of the Criminal Code are not proposed to be amended. Under chapter 50a, section 1, subsection 1 of the Criminal Code, a person is sentenced for an alcohol offence who, in violation of the Alcohol Act or a provision issued pursuant to it, 1) produces alcoholic beverages or spirits, 2) imports alcoholic beverages or spirits, 3) sells, transfers or otherwise transfers alcoholic beverages or spirits, 4) possesses or transports alcoholic beverages or spirits, 5) possesses or transports alcoholic beverages for sale, or 6) possesses or transports alcoholic beverages that have been illegally produced or imported. The alcohol offence is punishable by a fine or imprisonment for up to two years. The attempt to commit the offence referred to in paragraph 1(1) to (3) shall be punishable. Provisions on the aggravated form of an alcohol offence are laid down in chapter 50a, section 2 of the Criminal Code, and on the minor form of an offence are laid down in chapter 50a, section 3 of the Act.

In its opinion of 2017 in the context of the overall reform of the Alcohol Act, the Constitutional Law Committee considered that the punishment of distance selling should be regulated by a penal provision that complies with the principle of legality in section 8 of the Constitution. At that time, the Constitutional Law Committee assessed whether the law contained a sufficiently precise prohibition on distance selling. According to the Constitutional Law Committee, the combination of the proposed Alcohol Act and the Criminal Code did not prohibit distance selling for private use as required by section 8 of the Constitution, as set out in the explanatory memorandum to the draft Act. According to the Constitutional Law Committee, punishment is linked to illegal import of alcohol in the Criminal Code, but not to 'distance selling'.⁸⁶ On the other hand, in its prior decision of 2018 in the so-called Visnapuu case⁸⁷, the Supreme Court stated that the Constitutional Law Committee, in its opinion on the Government proposal HE 100/2017 vp, which led to the adoption of the Alcohol Act in 2017, assessed the appropriateness of the penalty regulation in terms of the principle of legality only as regards the question of whether the cross-border 'distance selling' of alcoholic beverages was punishable for the import of alcoholic beverages. According to the Supreme Court, there was no reason for the opinion of the Constitutional Law Committee to be relevant when assessing whether the penalty provision on the unlawful sale or other supply of alcoholic beverages laid down in chapter 50a, section 1, subsection 1, paragraph 3 of the Criminal Code should also be considered problematic in situations where distance selling takes place in terms of the principle of legality.⁸⁸ In its ruling, the Supreme Court took the view that the criminality of the practice in the case at issue was demonstrated in a manner required by the principle of legality in criminal law as a whole formed by the provisions of Chapter 50a, § 1(1)(3) of the Criminal Code and the Alcohol Act.⁸⁹

If, in accordance with the proposed proposal, the provisions on the conditions for distance selling across borders were included in the Alcohol Act, violation of the provisions on distance selling could constitute an offence against alcohol. Criminalisation requires that a clear and well-defined set of elements complies with the principle of legality laid down in section 8 of the Constitution of Finland. The obligations of a distance seller of alcoholic beverages would be laid down in a clear and precise manner. According to the proposed Section 17 b(1), alcoholic beverages purchased via distance selling across borders may only be delivered to an alcoholic beverage purchaser or other recipient by an alcoholic beverage supplier. If a distance seller itself were to transport alcoholic beverages directly to the customer without a delivery licence, the procedure could constitute an alcohol offence. In addition, if the distance seller did not ensure its obligation laid down in section 17b, subsection 1 to mark the delivery of an alcoholic beverage containing it, this procedure could become a criminal assessment. In accordance with section 17b, subsection 1, the labelling obligation of a distance seller would also apply to the labelling of a spirit drink if the consignment contains a spirit drink.

Intent is required in order to fulfil the definitional elements of an alcohol offence under the Criminal Code. From the point of view of compliance with the constituent elements, it is decisive whether the seller has acted intentionally. A trader has an awareness-raising obligation to ensure the legality of their business⁹⁰. A distance seller is therefore always obliged to find out the legislation of the destination country to which he is supplying alcoholic

⁸⁶ PeVL 48/2017, p. 9.

⁸⁷ KKO:2018:49.

⁸⁸ KKO:2018:49, item 17.

⁸⁹ KKO:2018:49, item 22.

⁹⁰ See e.g. KKO:2017:98, § 57.

beverages. Intentional action is assessed in criminal proceedings and, ultimately, the court makes a judgement as to whether the distance seller's action is considered intentional or not.

Chapter 30, Section 1a of the Criminal Code, on the other hand, provides for an offence concerning the marketing of alcoholic beverages. According to it, which, in violation of section 50 of the Alcohol Act, markets strong alcoholic beverages, targets marketing of mild alcoholic beverages to minors, or links them to marketing of other products or services to minors, or describes minors in marketing of mild alcoholic beverages referred to above, shall be sentenced to a fine or to imprisonment for a maximum of six months for an alcoholic beverage marketing offence. In addition, under § 90(4) of the Alcohol Act, a person who deliberately markets a mild alcoholic beverage in violation of § 50 or § 51 shall be sentenced to a fine for an alcohol offence, unless a more severe penalty for the offence is laid down elsewhere in the law.

By way of derogation from the provisions of the Criminal Code on alcohol offences, marketing offences for alcoholic beverages and alcohol offences under section 90, subsection 5 of the Alcohol Act, a person could also be sentenced by gross negligence for an alcohol offence under section 90, subsection 4 of the Alcohol Act. Alcohol infringements also include a subsidiarity clause according to which a fine is imposed for an alcohol infringement, unless a more severe penalty is provided for the act elsewhere in the law. This ensures that a person would not be sentenced for both an alcohol offence and an alcohol infringement for the same act.

12.6 Right to social security

In accordance with section 19.3 of the Constitution, public authorities must ensure adequate social and health services for everyone and promote the health of the population. In addition, the public authorities must support the ability of the family and other caregivers to ensure the well-being and individual growth of the child. The provision in section 19(3) of the Constitution on the duty of public authorities to promote the health of the population refers, on the one hand, to the preventive activities of social and health care and, on the other hand, to the development of the conditions of society in the various branches of public authorities in a manner conducive to the health of the population in general.⁹¹

Article 35 of the EU Charter of Fundamental Rights also states that everyone has the right of access to preventive health care and to medical treatment under the conditions laid down in national law and practices.

As pointed out in the Impact Assessment of the Bill, the proposal may have a limited impact on alcohol-related harm and the resulting costs. The proposal may increase the availability of alcoholic beverages in some respects, as in the future, alcoholic beverages could be ordered directly home, for example. Alcohol is not a normal consumer product but causes a wide range of social and health problems for consumers. At the social level, the impact of the Bill is likely to be rather limited, but for some individuals or communities the impact of the Bill may be significant. Scientific literature shows that online alcohol purchases and deliveries are used more than average by high-risk alcohol users. The draft law can therefore have a negative impact on alcohol-related social and health problems, especially for those who already consume a lot of alcohol.

⁹¹ see Government proposal to Parliament to amend the fundamental rights provisions of the Constitution (HE 309/1993 vp. p. 71).

Although little research is still available, the development described above is possible, *inter alia*, because, for example, being fit to drive would no longer be necessary for the supply of alcoholic beverages, it is also more difficult to monitor the customer's state of intoxication, as the person handing over the alcoholic beverages is not able to observe the characteristics of the intoxicated person in the same way as in a shop. The delivery of alcoholic beverages may also lead to prolonged drinking situations and high volumes of alcohol at the time of the placing of an order. In a study carried out in Australia⁹² the above problem has been linked in particular to express orders. In all, 74 % of the binge drinking sessions in Finnish homes (occupants aged 20–79) took place outside the time between 09:00 and 21:00⁹³

The proposed amendment to the Alcohol Act includes a time limit for delivery in order to prevent, in particular, the impulsive ordering of alcoholic beverages in the evening and, in part, express orders for alcoholic beverages. In this way, the aim was to ensure that the delivery time for alcoholic beverages does not allow for the purchase of alcoholic beverages outside retailing periods, and thus to minimise the adverse social and health impacts that the proposed change might entail.

The social and health risks of the Bill relate, in particular, to prolonged drinking situations and to the increase in doses consumed at any one time. These risks can be estimated to be particularly pronounced in the case of individuals who intensively consume alcohol. The extent to which the prohibition on delivering alcoholic beverages to intoxicated persons is complied with is a key factor in the realisation of the risks. However, the purpose of the legislation was to ensure that, even in the case of the delivery of alcoholic beverages, alcoholic beverages cannot be handed over in breach of the prohibitions laid down in the Alcohol Act. This means that, in the case of deliveries, alcohol should not be handed over to an intoxicated person either. Violation of the prohibition on delivery could result in a criminal penalty for the alcohol supplier that has delivered the alcoholic beverage, as well as administrative sanctions for the delivery licence holder, which will contribute to strengthening the effectiveness and efficiency of regulation and implement the public authority's obligation to promote the health of the population under section 19, subsection 3 of the Constitution.

Cross-border distance sales of alcoholic beverages would be linked to the delivery licence in such a way that only the alcoholic beverages supplier could deliver the alcoholic beverages to a purchaser or other recipient. Accordingly, alcoholic beverages ordered from foreign online stores would be brought within the scope of regulation under the Alcohol Act in respect of supply operations in Finland. The proposed regulatory solution would contribute to the public authorities' obligation under § 19(3) of the Constitution to promote the health of the population, as in situations of the delivery of alcoholic beverages ordered by distance selling from abroad to customers, the alcoholic beverage supplier would be obliged to check the age and intoxication condition of the recipient of the delivery. Bringing these handover situations within the scope of the regulation of the Alcohol Act would aim to ensure that, for example, no alcoholic beverages would be delivered to minors or strongly intoxicated persons.

Limiting the marketing of alcoholic beverages aims to prevent alcohol-related harm and thus to promote the health of the population. The proposal would allow spirits to be marketed online more widely than at present, but on the other hand, marketing provisions would be tightened for mild alcoholic beverages. For both low-alcohol and spirits, online influencer marketing and online marketing via on-demand programme service or streaming service

⁹² Callinan S. *ym.* (2023) In order to assess the impact of home delivery expansion within Australia, researchers need regulators to collect and share data on sales. *Drug Alcohol Rev.* 42, 1309–1311.

⁹³ The data is based on a 2023 drinking habit study produced by THL

pursuant to the Act on Electronic Communications Services would be prohibited. When implemented in this way, the provisions on the marketing of alcohol will continue to form a whole that can effectively limit marketing.

For the reasons set out above, the proposal may, on the one hand, increase the adverse effects related to the health of the population, but, on the other hand, the proposal would allow the alcohol industry to operate more extensively than currently regulated, which would safeguard the freedom to conduct a business. The proposed regulatory model allowing the supply of alcoholic beverages would be based on a licensing system whereby the competent authorities would be able to control operations and this would contribute to promoting the health of the population in accordance with section 19, subsection 3 of the Constitution, while enabling freedom to conduct a business more widely than at present.

12.7 The role of children and young people

According to Article 3 of the Convention on the Rights of the Child (SopS 60/1991), *inter alia*, legislative action must take into account the best interests of the child in matters concerning children. In accordance with Article 24 of the EU Charter of Fundamental Rights, a child has the right to such protection and care as is necessary for his or her well-being. According to the same article, in all actions relating to children, whether taken by public authorities or private institutions, the best interests of the child must be a primary consideration.

There are 89 000 minors in Finland (8.7 % of all minors), in whom one or both biological parents have, or have had, a serious substance abuse problem at some point before the child was of legal age. There is currently a serious substance abuse problem with 42,000 children's biological parents. At the age of 13–17, the risk of mental health problems in children with parental substance abuse is about one and a half times higher and the risk of harmful substance use is twice as high as for children whose parents do not have a substance abuse problem. However, the adverse effects of alcohol on children and adolescents are not linked merely to the children of parents who are seriously dependent on intoxicants. In many families, high-risk alcohol consumption is also common. In families where the risk is high there is additionally an increased risk of feelings of insecurity among children and adolescents, and they may be prone to various states of fear and suffer from a lack of care in everyday life. The weakening of children's and young people's feelings of safety can jeopardise the growth and development of children and adolescents in many ways also in later ages, including their performance at school and their social relationships. In families with children where one or both parents have alcohol problems or alcohol-risk consumption, the child's well-being and individual growth may be further weakened as a result of the proposed change.

As highlighted in the impact assessment of this draft law, in Finland one of the key factors contributing to the reduction of alcohol consumption among young people has been the increased difficulty of access to alcohol experienced by young people,⁹⁴ i.e. more effective age-limit controls in practice. Both private retail establishments and Alkos stepped up age control in the 2010s. According to academic literature on the delivery of alcoholic beverages (usually called 'home delivery of alcoholic beverages' or 'alkoholijuomien kotiinkuljetus' in literature), the main problem of responsible sales and sales control for the delivery of alcoholic beverages is related to the age limit control. However, the proposal would provide

⁹⁴ Raitasalo K ym. (2018) What is going on in underage drinking? Reflections on Finnish ESPAD data. Drug and Alcohol Review 37, 76–84.

that the supply of alcoholic beverages would be subject to verification of the age of the recipient at the point of delivery and that alcoholic beverages should not be supplied to a person who would not be 18 years at the time of the delivery. However, if age-limit control is not effectively implemented, the delivery of alcohol may increase the availability of alcohol, especially for young people. The purpose of the verifiable verification would be to ensure that operators comply with the age-limit checks and, in that regard, that the operator can also be subject to posteriori checks, if necessary, and thus to effectively address unlawful conduct, including in the context of an in-service control.

In Australia, fast deliveries were particularly common for people under the age of 25. In this way, fast deliveries can lead to prolonged drinking situations and an increase in the quantities of alcohol consumed at one time, especially for young people. However, the legislative proposal would not allow delivery after 9 p.m., which would prevent fast deliveries late in the evening and drinking episodes being prolonged late to the evening and or night-time. Around 60 % of the drinking sessions of young people (aged 20-34) in the home also took place outside the time between 09:00 and 21:00. In all, 90 % of drinking sessions in the home among young people, and where binge drinking took place, ended outside the hours between 09:00 and 21:00.

The proposed amendment may have some adverse effects on human health and well-being in general, as well as on children's and young people's well-being and individual growth. However, the proposed amendment seeks to ensure that age-limit controls are as effective as possible in order to avoid a significant increase in the harm caused by alcohol consumption to children and adolescents. On the other hand, the delivery of alcoholic beverages to parents of children can contribute to the insecurity experienced by already vulnerable children of high-risk users at home, while endangering the child's individual growth and development and well-being. However, the time limits on the delivery of alcoholic beverages may contribute in part to the fact that parents of children with substance abuse do not, however, have the possibility of ordering alcoholic beverages by home delivery at a time when the retail sale of alcohol would not be legally permitted. This will also contribute to safeguarding the position of children and limiting the availability of alcohol. On the other hand, the draft law would also allow for a wider exercising of alcohol trade and, possibly, could also create new jobs in the sector.

In its opinion⁹⁵, the Constitutional Law Committee stated that the Government must ensure that the changes to be implemented do not unreasonably affect the ability of families to ensure the wellbeing of children. The proposed amendment could in some respects increase the availability of alcoholic beverages as alcoholic beverages could be ordered directly to a home address, for example, and it would therefore no longer be necessary to collect alcoholic beverages in person from a retail outlet or an alcohol company. On the other hand, the Proposal would not allow the delivery of alcoholic beverages at times when the purchase of alcoholic beverages from a retail store or the government-owned alcohol company Alko would also not be allowed. This would, for its part, limit the possibility of impulse purchases and orders for home delivery to those times when the beverage would otherwise be available to buy by picking it up from a retail store or Alko. Similarly, the same prohibitions on the supply of alcoholic beverages would apply to the delivery of alcoholic beverages as for retail sales. This means that alcoholic beverage delivery drivers would not be allowed to supply the beverage outside the hours when alcoholic beverages can be sold by retail, nor should the beverage be supplied, for example, to a clearly intoxicated person. On the grounds described

⁹⁵ See e.g. PeVL 11/2015 vp, in which the Constitutional Law Committee discussed the constitutionality of cuts to financial support.

above, the proposed amendment cannot be regarded as a significant weakening of the position of children and young people or families with children, nor can the combined effects of the proposed amendment and the previous amendment to the Alcohol Act (Act amending sections 17 and 26 of the Alcohol Act, L 305/2024) on the position of families with children be considered unreasonable on the grounds described above and in Government proposal HE 7/2024 vp.

As regards the potential adverse health effects of the legislative proposal, the Government is taking a number of other measures to support measures to promote the health and wellbeing of children and young people. For example, the government plans to implement reforms in the field of social and health services to make well-being services more resilient to the challenges of the future. The structure of the services will be restructured in a step-by-step approach, with the aim of shifting the focus from corrective services towards earlier support, assistance and prevention. Government action will aim to ensure timely access to care and services and to reduce queues.

The government is also committed to promoting the availability and effectiveness of social and healthcare services, including those related to mental health and substance abuse problems. These services pay particular attention to the prevention of mental health problems and substance use in children's and young people's activities. In line with the government programme, drug prevention is also being developed, including by taking into account and securing different alternatives to substance-based care models that meet customers' needs. These and other reforms in social and health care, services for children and adolescents, and in particular reforms in drug prevention and mental health work, will promote health and safeguard children's well-being and individual development in a context where the purpose and objective of the Alcohol Act also allow for a new form of alcohol activity.

12.8 The duty of the public authorities to safeguard the enjoyment of fundamental and human rights;

Fundamental rights are binding and obligatory primarily on the public authorities. The fundamental rights regulation has traditionally been based on the protection of the sphere of freedom of the individual against state interference. Section 22 of the Constitution states that the public authorities must guarantee the observance of basic rights and liberties and human rights. The effective exercise of fundamental rights often requires active public intervention, for example to protect fundamental rights against external violations or to create effective conditions for the exercise of fundamental rights. On the other hand, the means of safeguarding and clarifying the exercise of a fundamental right also include the establishment of legislation which guarantees and clarifies the exercise of a fundamental right.

The proposed amendment to the Alcohol Act can have detrimental effects on human health, the well-being of children and young people, and, on the other hand, the burden of social and health services, and thus the adequacy of social and health services, due to possible increased alcohol-related illnesses. On the other hand, the draft law would make it possible to carry out the alcohol retail in a new way and thus extend the exercise of the right to do business to a greater extent than the current rules.

The government is committed to measures to improve access to social and health services, access to mental health services and equal access for children and young people to short-psychotherapy services. In its government programme, the government is also committed to improving the availability and effectiveness of social and healthcare services related to mental

health and substance abuse issues, paying particular attention to the prevention of mental health and substance use in children's and adolescents' activities. These actions, together with the proposed change, can contribute to the realisation of fundamental and human rights, the well-being of children and young people and individual development, while at the same time enabling the alcohol industry to be practised with fewer restrictions.

The purpose of the Alcohol Act is to reduce the consumption of alcoholic substances by limiting and controlling the related business activities in order to prevent harm caused by alcohol to its users, to other people and to society as a whole. The proposed amendment is not contrary to the aim and purpose of the Alcohol Act. The objective of the Alcohol Act would continue to be to reduce alcohol-related harm and the delivery of alcoholic beverages would also be subject to a license, as would the retail sale and serving of alcohol. Alcoholic beverages could only be purchased from domestic retail sales or from the State Alcohol Monopoly within the sale hours laid down in the Act. In addition, ordering alcoholic beverages by home delivery would be possible from foreign online stores. In some cases, the availability of alcoholic beverages could nevertheless improve; for example, in situations where the buyer of an alcoholic beverage has to travel far to a shop or the government-owned alcohol company Alko and does not own a car, the possibility of delivery of alcoholic beverages could actually improve the availability of alcoholic beverages for this person. The Proposal would thus allow new ways of buying alcoholic beverages domestically, as alcoholic beverages would no longer have to be bought only from a retail outlet or from Alko, but could instead be ordered online for delivery to the buyer's preferred location. The proposed amendment would not have significant effects on the system of licences for the retail and serving of alcohol, and the proposed amendment would also contribute to improving and making more effective the control regulation of the Alcohol Act. For the reasons set out above, the proposed amendment is acceptable from the point of view of the objective and purpose of the Alcohol Act. In line with the above, the draft law can also be considered acceptable and proportionate from the point of view of the fundamental rights system.

12.9 Freedom of speech

The draft Act is relevant for the freedom of expression provided for in section 12(1) of the Constitution. According to section 12, subsection 1 of the Constitution, everyone enjoys freedom of expression. Freedom of expression includes the right to express, publish and receive information, opinions and other messages without prejudice to anyone. More detailed provisions on the exercise of freedom of expression are laid down by law. Freedom of expression is also safeguarded in Article 11(1) of the EU Charter of Fundamental Rights, according to which everyone has the right to freedom of expression, and this right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of regional borders.

In its consultation practice, the Constitutional Law Committee has considered advertising and marketing to fall, in principle, within the scope of the provision on freedom of expression in section 12 of the Constitution, but it has not been considered to be one of the core areas of freedom of expression.⁹⁶ In addition to freedom of expression, the regulation of marketing also relates to the freedom to conduct a business guaranteed in section 18 of the Constitution. In its practice, the Constitutional Law Committee has consistently considered the promotion of public health and the protection of children to justify fairly long fundamental rights restrictions for the marketing of business activities with particular risks of harm. However, in

⁹⁶ PeVL 40/2013 vp, p. 2

accordance with the Committee's practice, marketing regulation must meet the general conditions required of a law restricting a fundamental right.⁹⁷

On the one hand, the proposal would promote freedom of expression, as strong alcoholic beverages should in future be marketed more widely than at present. The main provision prohibiting the marketing of spirits under section 50, subsection 1 of the Act in force would be removed in the draft Act. The proposal would therefore allow, among other things, the marketing of online spirits. However, the marketing channels referred to in section 50, subsection 3 of the Draft Act would continue to be prohibited for spirit drinks, in line with the legal situation in force.

On the other hand, some entirely new marketing restrictions would be introduced into the Act. According to the proposal, the online advertising of alcoholic beverages would be prohibited, and both low alcohol and spirits would be subject to the ban. The proposed restriction is based on the criteria for the promotion of health and the protection of children and young people. The aim is to prevent and reduce the exposure of children and adolescents to the advertising of alcoholic beverages on social media and in this way to the harmful effects of alcohol. The research suggests that alcohol advertising has a particular impact on alcohol consumption by children and adolescents. The purpose of the restriction is therefore to be considered acceptable from the point of view of the fundamental rights system.

A new restriction would also introduce a ban on the marketing of alcoholic beverages on an on-demand programme service or a streaming service pursuant to the Act on Electronic Communications Services. In addition, the ban on television and radio advertising on mild alcoholic beverages under the current Act between 7 a.m. and 22 p.m. would be extended by one hour to 23 a.m. The proposed restrictions would be based on the grounds of health promotion and the protection of children and young people, which are considered acceptable from the point of view of the fundamental rights system.

12.10 Test purchases by the supervisory authority

According to the draft Act, the competent authority would have the right to make test purchases if this is necessary for the control of the delivery of alcoholic beverages. The competent authority would also have the right to use adult volunteers to carry out test purchases if the authority has reason to believe that the holder of a licence to deliver alcoholic beverages or an alcoholic beverage delivery driver acting on its behalf is not complying with their obligations laid down by law with regard to the delivery and supply of alcoholic beverages. The use of adult volunteers for test purchases can be seen as a transfer of public authority to a party other than a public authority within the meaning of section 124 of the Constitution of Finland. On the other hand, the volunteer carrying out the test purchase would only carry out the purchase and acceptance of the alcoholic beverage and would not participate in any other decision-making related to the supervision or control carried out by the authority. Provisions or decisions on delegating a public administrative task outside the public authority system may only be made under the conditions referred to in the Constitution. The delegation of a task must be necessary for the appropriate performance of the task, and the assignment of a public administrative task to a party other than a public authority must not endanger basic rights, legal remedies or other requirements of good governance.

⁹⁷ PeVL 40/2013 vp, p. 2-3 and PeVL 15/2010 vp, p. 2-3.

The proposed amendment is necessary to enable appropriate age control in the proposed delivery of alcoholic beverages. In practice, it is very challenging for the supervisory authority to monitor compliance with age limits in transport operations unless the authority has the opportunity to also employ volunteers who are adults but may seem young. If the control were ineffective, there would be a high risk that the age limit checks would not be complied with and that alcoholic beverages could also end up in the possession of minors. In such a case, the authority would have very little opportunity to obtain information about the illegal activity or intervene in it, which would allow the activity to continue for a long time before the authority became aware of it. It would be possible to use the authority's own staff for test purchases, but it is possible for different operators to find out with very little effort that the purchaser is an official of the supervisory authority, which would make it difficult to carry out the control properly. It is very important to ensure the effectiveness of control in order to protect children and young people from harms caused by alcohol and to ensure compliance with the age limits and other prohibitions on supply referred to in the Alcohol Act – and also to effectively address possible illegal activity in a way that would ensure it would no longer take place at the operator concerned in the future.

Having a voluntary adult conduct test purchases would not jeopardise the requirements of compliance with basic rights, legal protection or the legal principles of good administration. Neither the competent authority nor a volunteer acting on its behalf could in any way incite the trader to commit an unlawful act when making a test purchase. In other words, if the alcoholic beverage delivery driver refused to supply the product to a volunteer who did not prove their age or appeared to be intoxicated, the test buyer would not be allowed to incite the alcoholic beverage delivery driver to supply it to them after the refusal. In addition, the volunteer would not otherwise participate in control or in the decision-making on control, and the authority would itself consider the possible need for measures as a result of test purchases and make any decisions required in the supervision matter. The legal protection of the operator would continue to be provided by the legal remedies provided for in the Act, i.e. the operator would have the possibility to appeal against the decision to an administrative court as provided for in the Administrative Procedure Act, in accordance with section 81 of the Alcohol Act.

The use of volunteers in test purchases is necessary to ensure effective control and, in particular, to protect children and young people. Conducting test purchases with the help of a voluntary adult would, on the one hand, safeguard the obligation of the public authorities laid down in section 19, subsection 3 of the Constitution to promote the health of the population, as test purchases would enable the authority to intervene in illegal activities that could cause harm to children and young people or even adult intoxicated persons. On the other hand, the purpose of the test purchases would be to safeguard children's right to wellbeing and individual growth, as the supply of alcoholic beverages to minors could seriously endanger the wellbeing and individual growth of that child or young person.

On the basis of the above-mentioned grounds, the possibility for an authority to use adult volunteers for test purchases is a proportionate, necessary and effective means of ensuring the realisation of the underlying objective – that is, the protection of children and young people and, on the other hand, also of intoxicated persons.

12.11 Supervisory fee

According to a well-established definition, a tax is a financial contribution which is not compensation or consideration for benefits or services provided by the public authorities to the person liable for payment and which is characterised by the financing of state expenditure (see HE 1/1998 vp). According to section 81, subsection 1 of the Constitution, state taxation is governed by an act containing provisions on the basis of tax liability and tax amounts and on the legal protection of the taxpayer.

It is proposed that the Regional State Administrative Agency should also charge the annual supervision fee to holders of licences for the delivery of alcoholic beverages. Like the supervision fees charged to retail and serving licensees, the proposed supervision fee would also be a tax. The basis for tax liability would be the licence for the delivery of alcoholic beverages. Provisions on legal protection are laid down in section 80 on appeals.

According to the proposal, the Regional State Administrative Agency would also charge the holders of licences for the delivery of alcoholic beverages an annual supervision fee based on the validity of the licence and intended to cover, in general, the costs of monitoring compliance with the Alcohol Act. From the point of view of constitutional law, the supervisory fee would be a tax which, as explained above, must be laid down by law. According to the proposal, the Alcohol Act would provide for the obligation to pay the supervision fee, the criteria for the amount of the supervision fee and the legal protection of the person liable to pay the supervision fee.

12.12 Penalty fee

Under the new § 71(1)(8) of the proposal, the licensing authority could order the licence holder to pay a penalty if the obligations laid down in chapter 5 or § 57 or the conditions or restrictions imposed on the licence holder under § 17a were to be violated in the supply of alcoholic beverages.

The Constitutional Law Committee has consistently taken the view that a financial penalty is not a tax or a fee within the meaning of section 81 of the Constitution, but can be characterised as a penalty of an administrative nature for an unlawful act. The Committee pertinently equated the financial penalty to a criminal penalty. The general grounds for an administrative sanction shall be laid down by law in the manner set in § 2(3) of the Constitution, since the imposition of such a sanction involves the use of public authority. The Committee has also taken the view that this is a significant exercise of public authority. The law must precisely and clearly lay down the grounds for the payment obligation and the amount of the fee, as well as the legal protection of the person liable to pay and the grounds for enforcement of the law. Although the principle of legality in criminal cases laid down in section 8 of the Constitution does not, as such, apply to provisions on administrative fines, the general requirement of precision cannot be disregarded in the context of such provisions.⁹⁸

The Alcohol Act lays down precise and clear provisions on the grounds for the obligation to pay a penalty fee, the grounds for the amount of the fee, the legal protection of the licence holder and the grounds for the enforcement of the fee.

It is proposed to add a new provision to section 71 of the Act, which would provide separately for the imposition of a financial penalty on a distance seller. Even if cross-border distance

⁹⁸ See e.g. PeVL 2/2017 vp, p. 4-5 and PeVL 43/2013 vp, p. 3.

sales do not constitute a licence or declaration activity, it would be possible, on the basis of section 71, subsection 5 proposed, to impose a financial penalty on an operator who fails to comply with the obligations laid down in the Act. The financial penalty imposed on a distance seller would be subject to the same criteria laid down in law as regards the financial penalty imposed on licence holders and persons subject to declaration, legal certainty and the enforcement of the penalty.

The financial penalty referred to in the proposal would be an administrative penalty of a sanctioning nature and could be imposed for an act that could also be subject to criminal penalties. The *ne bis in idem* rule prohibiting double punishment has been taken into account in such a way that the fine should not be imposed on a natural or legal person who is suspected of, subject to a pre-trial investigation for, subject to consideration of charges or pending criminal proceedings for the same infringement, or who has been issued a final judgment for the same infringement. If a penalty been ordered for a natural or legal person, a court may not order a fine for the same act to the same person.

12.13 Power to issue decrees

The proposed amendment to section 11 would include a new power to issue decrees, which would allow more detailed provisions to be laid down by government decree on the information required for applications for amendments to licences and approvals, as well as for declarations of amendments.

According to section 80 of the Constitution, the President of the Republic, the Government and ministries may issue decrees on the basis of powers provided for in the Constitution or elsewhere by law. However, the principles governing the rights and obligations of private individuals and the other matters that under the Constitution are of a legislative nature must be regulated by Acts.

The proposed amendment is necessary because such further provisions on the content of an application amending the licence have already been issued by government decree under the Act in force, even though such a power to issue decrees had not previously existed in the Act. Section 8, subsection 2 of the current Act lays down the power to issue decrees on the content of an application for a licence, but the corresponding power to issue decrees on the content of an application for amending a licence or the content of another declaration of amendment has not previously existed, even though such further provisions have been issued by decree. Therefore, it is appropriate to amend the law in this respect, and due to the precise delimitation of the delegation of authority, it is also necessary that the delegation of authority includes the possibility to issue more detailed provisions regarding the information required in applications for modifying approvals as well as in declarations of changes.

The proposed power to issue decrees would therefore be granted on the basis of an act in accordance with the provisions of section 80 of the Constitution. The proposed power to issue decrees would also be specific, so that the Alcohol Act would provide for the grounds for the rights and obligations of the individual and on matters that, under the Constitution, fall within the scope of the Act, and the decree would only be used to issue provisions specifying these rights and obligations.

Consequently, the legislative proposal may be processed in the normal legislative procedure. The proposed amendment includes such a meaningful balancing exercise between different fundamental rights that the Government considers it desirable for the Constitutional Law

Committee to issue an opinion on the matter. For example, there may be a conflict to some extent between the obligation of the public authorities to promote the health of the population and to take into account the best interests of the child as a matter of priority in their decision-making, on the one hand, and to enable the right to carry on a business more freely, on the other hand.

Resolution

Based on the foregoing, the following Government Proposal is submitted to Parliament for approval:

Act

amending the Alcohol Act

In accordance with the decision of Parliament

Section 28, Subsection 3 of the Alcohol Act (1102/2017) is *repealed*;

Section 2, subsections 1 and 2; section 3, subsection 1, paragraphs 11 and 16; section 4, subsection 1; section 5, subsection 1; section 6, subsection 1, paragraph 1; sections 7, 11, and 12; section 17, subsection 1, paragraph 1 and subsection 2; heading of chapter 5; sections 35, 37, 38, and 40; section 45, subsection 3; section 46, subsection 1; section 50; section 51, subsections 1 and 2; section 55, subsection 2; sections 57 and 58; section 60, subsections 1 and 2 and subsection 3, paragraphs 1 and 5; section 61, subsection 1; section 62, subsection 4; section 63, introductory paragraph to subsection 1; section 64, subsection 2; section 71, introductory paragraph and paragraph 7 of subsection 1; section 72; section 75, subsection 2, paragraph 2; section 84; section 85, introductory paragraph to subsection 1; section 90, subsection 5; and Annex 7, paragraph 7 are *amended*.

of which, section 12 as amended by Act 605/2023; and section 17, paragraph 1 to subsection 1 as amended by Act 305/2024; and

a new subsection 4 of section 2; new paragraphs 17 to 21 of section 3; new paragraph 8 to section 6, subsection 1; new subsection 5 to section 17; new sections 17a, 17b, 17c, 35a, 42a and 72a; a new subsection 2 to section 32; new subsection 3 to section 39; new subsection 4 to section 45; new paragraph 6 to section 60, subsection 3; new subsections 5 and 6 to section 62; new subsection 2 to section 63; new subsection 3 to section 64; new paragraph 8 to section 71, subsection 1; and new subsections 5 and 6; a new paragraph 3 to section 75, subsection 2; and a new paragraph 6a to the Annex are *added* as follows:

Section 2

Scope of the Act

This Act applies to alcoholic substances, their production, importation, exportation, transport, sale and other dispensing, use, possession and marketing, as well as to delivery of alcoholic beverages.

Unless otherwise stipulated in this act, the Food Act (297/2021) shall apply to alcohol substances which are food.

The provisions of this Act on distance selling across borders and distance purchasing also apply to distance selling across borders from third countries and EEA countries.

Section 3

Definitions

For the purposes of this Act:

11) *retail sale of an alcoholic beverage* means the sale of an alcoholic beverage for consumption in a place other than premises controlled by the seller or under the supervision of the seller, whereby the alcoholic beverage is supplied directly from a domestic retail outlet or the government-owned alcohol company Alko to the buyer of the alcoholic beverage, the holder of the delivery licence or the alcoholic beverage delivery driver carrying out the delivery arranged by the holder of the delivery licence, for delivery to the buyer or another recipient;

16) *marketing* means advertising, indirect advertising and other activities promoting sales; indirect advertising means promoting a product's sales in the context of another commodity so that the distinctive mark of the other product is used as such or modified so that it can be identified, or the seller's distinctive mark or other imposed image of a certain product or seller is otherwise conveyed.

17) *delivery of alcoholic beverages* means the transport and supply from the seller to the buyer or other recipient, for commercial purposes, of alcoholic beverages sold from domestic retail trade or the government-owned alcohol company Alko;

18) *Supplier of alcoholic beverages* means a holder of an alcoholic beverage delivery licence and the party performing the delivery organised by the holder, who releases a beverage ordered for carriage from domestic retail sale, from an alcohol company, or from cross-border distance sales to the recipient;

19) *cross-border distance selling of alcoholic beverages* refers to sales where a private person established in Finland who does not carry out an independent economic activity has purchased alcoholic beverages released for consumption from another Member State of the European Union, and the seller or another party acting on its behalf sends or transports those alcoholic beverages to Finland directly or indirectly.

20) *distance seller of alcoholic beverages* means a seller who sells products to Finland in accordance with point 19;

21) *distance purchase* refers to a purchase of alcoholic beverages by a private person from another Member State of the European Union by means of distance communication in the manner prescribed in Section 74 of the Excise Duty Act.

Section 4

Prohibition on operations contrary to moral principles

Any business operator involved in the production, import, sale and marketing of alcoholic substances or that is contractually or by any other arrangement operating in relation to alcoholic substances is prohibited from engaging in operations contrary to moral principles. What is prescribed in this subsection also applies to the delivery of alcoholic beverages.

Section 5

Activities subject to a licence

Alcoholic beverages may not be manufactured, sold or delivered without authorisation.

Section 6

Exemptions from the permit requirement

By derogation from § 5 above:

1) the production, sale and supply of alcoholic beverages containing a maximum of 2.8 per cent ethyl alcohol by volume are permitted, including distance selling of alcoholic beverages across borders;

8) cross-border distance sales of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume is permitted as laid down in section 17b.

Section 7

Licensing authorities

The retail license and license to serve alcoholic beverages shall, upon application, be granted by the Regional State Administrative Agency in whose jurisdiction the applicant's retail or licensed premises are located. If the retail sale and serving of alcoholic beverages do not take place within the area of a specific Regional State Administrative Agency, the licence shall be issued by the Regional State Administrative Agency of the applicant's place of residence or, if the applicant does not reside in Finland, the Regional State Administrative Agency for Southern Finland.

A serving licence for serving alcoholic beverages that is not tied to a specific serving location shall be granted by the Regional State Administrative Agency of the applicant's premises upon application. If the applicant does not have a place of business in Finland, the licence is granted by the Regional State Administrative Agency of the applicant's place of residence or, if the applicant is not domiciled in Finland, by the Regional State Administrative Agency for Southern Finland.

Licences other than those referred to in subsections 1 and 2 shall be granted by the National Supervisory Authority for Welfare and Health upon application.

The Regional State Administrative Agency for the declarations and applications for approval referred to in this Act shall be determined in accordance with the provisions of paragraph 1.

Section 11

Declaration of changes

If the licence holder decides to change the nature or extent of its operations and the granted licence no longer covers the changed operations, the licence holder shall apply for a change in licence prior to making the change. Changes may not be implemented until the licensing authority has approved the licence change.

The licence holder must notify the licensing authority within one month if it reduces its operations or discontinues them other than temporarily.

The provisions of subsections 1 and 2 on applications or declarations of changes to a licence shall also apply to the declarations and approvals referred to in this Act.

An application for a licence, declaration, or an application concerning approval, as referred to in subsections 1 to 3 above, must be accompanied by the necessary documentation to assess the conditions specified in Sections 13 to 20. This documentation should include information about the applicant, the activity and its impacts, as well as other relevant matters not already in the possession of the authority handling the case.

Further provisions on the information required for applications for amendments to licences and approvals, as well as for declarations of amendments, shall be laid down by Government decree.

Section 12

General conditions for granting a licence

A licence to manufacture, import, use, wholesale, retail, deliver and serve under this Act shall be granted to a natural or legal person referred to in Section 2(1) or Section 3(1) or (2) of the Trade Act (565/2023) who fulfils the conditions laid down in this Act relating to the applicant and necessary for the pursuit of the activity.

Section 17

Retail trade licence for alcoholic beverages and requirements for the granting thereof

The retail trade licence for fermented alcoholic beverages containing up to 8.0 % of ethyl alcohol by volume, and alcoholic beverages produced by other methods and containing up to 5.5 % by volume of ethyl alcohol applies to retail sales inside one retail outlet and the licence shall be issued:

1) an applicant selling other than temporarily a diverse offering of foods of everyday use in a building site referred to in the Building Act (751/2023), if the share of the sale of alcoholic beverages in the business is not considerably larger than the share of other foodstuffs sold;

The retail licence for farm wine and craft beer applies to the retail sale inside one retail establishment and is granted to the producers of said alcoholic beverages in a production location where fermentation takes place or in its immediate vicinity, in a building site referred to in the Building Act. Alcoholic beverages referred to in subsection 1 may also be sold at the retail outlet.

The retail licence may specify pick-up points located in construction works referred to in the Construction Act from which alcoholic beverages may be delivered for delivery.

Section 17a

License for the delivery of alcoholic beverages and the conditions under which it is granted

The licence for the delivery of alcoholic beverages concerns the transport and supply of alcoholic beverages sold from domestic retail trade, from the government-owned alcohol company Alko or cross-border distance sales to a buyer or other recipient. Authorisation shall be granted if the applicant has drawn up:

1) the self-supervision plan referred to in Section 56; and

2) a report on how the applicant will ensure that the alcoholic beverage delivery drivers acting on its behalf have a delivery passport as referred to in section 57, subsection 3.

The licensing authority may impose conditions and restrictions on the licence to supply alcoholic beverages concerning the monitoring of age control and state of intoxication, self-monitoring and information to be provided to the monitoring authority, if this is necessary to safeguard supervision or to ensure security.

The conditions and restrictions referred to in subsection 2 shall be calibrated in such a way that they do not prevent or unduly impede the exercise of the licence holder's activities. If conditions and restrictions are imposed on the holder's ongoing activities, they may be ordered to take effect no earlier than 30 days after declaration of the decision. At the licence holder's application, the licensing authority shall change a licence's conditions or limitations or remove these without delay if the nature of activities or other special circumstances have changed so that the conditions or limitations are no longer necessary.

Section 17b

Distance selling of alcoholic beverages across borders

Cross-border distance sales to Finland of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume are permitted. Alcoholic beverages purchased via cross-border distance sales may be delivered to an alcoholic beverage purchaser or other recipient only by the alcoholic beverage supplier. A distance seller of an alcoholic beverage shall ensure that the delivery is marked as containing an alcoholic beverage. If a delivery contains a strong alcoholic beverage, the distance seller of the alcoholic beverage shall also ensure that this is marked in the delivery.

Provisions on the tax liability of distance sellers of alcoholic beverages are laid down in the Excise Duty Act.

Section 17c

Private cross-border purchases by a legal person or sole proprietor

For sales where a legal person or sole trader established in Finland has purchased alcoholic beverages from a seller established abroad, which the seller or someone on its behalf sends or transports to Finland, directly or indirectly, for the purpose of an activity for which a licence referred to in this Act is not required, the provisions on cross-border distance selling and distance purchasing shall apply.

Section 26

Retail trade establishment and granting of retail trade licence

The local Regional State Administrative Agency at the retail trade premises location shall approve the retail trade premises of the State Alcohol Monopoly upon request. A decision of the Regional State Administrative Agency may define pick-up points located in construction works referred to in the Construction Act from which alcoholic beverages may be delivered for delivery. A sales outlet shall not be approved if its location causes undue harm to the residential environment.

Section 32

Import of alcoholic beverages

Distance purchasing and other purchases by private individuals referred to in Section 74 of the Excise Duty Act are permitted. Provisions on distance selling of alcoholic beverages across borders are laid down in Section 17b.

Chapter 5

Retail sale, delivery and serving of alcoholic beverages

Section 35

Retail trade premises for alcoholic beverages

The sale by retail of alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may be carried out only by supplying them to the customer or to an alcoholic beverage delivery driver from domestic retail trade or the government-owned alcohol company Alko. The retailer must be able to subsequently verify the name and authorisation number of the holder of the delivery license supplying the alcoholic beverage. A retail trade licence holder may only sell alcoholic beverages referred to in the licence.

Alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol shall not be consumed in the indoor or outdoor area controlled by the retailer holder or in the immediate vicinity of the retail outlet, unless otherwise provided by law. If necessary, the licence holder shall mark the area where consumption of alcoholic beverages is prohibited.

Section 35 a

Delivery of alcoholic beverages

The delivery of alcoholic beverages shall only be permitted if the alcoholic beverage has been purchased and picked up from a domestic retail store, the government-owned alcohol company Alko or cross-border distance sales. When an alcoholic beverage is purchased from domestic retail sales, a supplier of an alcoholic beverage may deliver to a buyer or other recipient only fermented alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume, and alcoholic beverages containing a maximum of 5.5 per cent by volume, produced by other methods. The delivery of fermented an alcoholic beverage containing more than 8.0 % by volume of ethyl alcohol and otherwise produced alcoholic beverage containing more than 5.5 % by volume of ethyl alcohol shall be permitted only if the alcoholic beverage has been purchased and recovered from Alko. A licence holder for the delivery of alcoholic beverages must be able to verify afterwards which retail licence holder or distance seller or which retail premises of the State Alcohol Monopoly the alcoholic beverages were taken over for delivery.

At the point of delivery of the alcoholic beverage, the age of the recipient shall be verified by means of a document referred to in section 40, subsection 1. Information about the inspection being attested shall be kept in the licence holder's register for two years after the inspection has been carried out, after which it shall be deleted. Alcoholic beverages may not be handed over if the recipient refuses to prove his or her age. In the case of the handing over

of alcoholic beverages, it shall be verified that there are no obstacles to the handing over provided for in Article 37(1) or (2).

If an alcoholic beverage cannot be delivered due to a prohibition on delivery in accordance with paragraph 2 or Section 37, the alcoholic beverage shall be returned to the seller or delivered to the customer at a later date within the period referred to in Section 42a(1) or (2). By way of derogation from the above, an alcoholic beverage must always be returned to a seller if the alcoholic beverage cannot be delivered due to a prohibition on delivery under Section 37(1)(1) or (2).

The holder of the delivery licence shall not impose financial or managerial penalties on the supplier of the alcoholic beverage if he refuses to hand over the alcoholic beverage pursuant to subsection 2 or section 37.

Section 37

Prohibitions on retail trade, delivery and serving of alcoholic beverages, as well as prohibitions on supply in other business activities

Alcoholic beverages may not be sold or otherwise handed over in the retail sale, delivery or serving:

- 1) to persons under the age of 18;
- 2) to persons who behave disturbingly or are clearly intoxicated;
- 3) if there is reason to suspect illegal delivery or procurement of alcoholic beverages for other persons.

By way of derogation from paragraph 1 of subsection 1, a spirit drink may not be sold or otherwise handed over in retail sale or for delivery of alcoholic beverages to persons under the age of 20.

The holding and consumption of alcoholic beverages in the licensed premises shall not be allowed for persons under the age of 18 years, for persons who behave disturbingly or are clearly intoxicated.

Alcoholic beverages may not be delivered to a social welfare and healthcare service unit, to a place of early childhood education and care or to a place of pre-school education or basic education. Furthermore, alcoholic beverages may not be delivered to a place referred to in section 85 where the consumption of alcoholic beverages is prohibited or to premises or places that have been approved as a licensed area.

The provisions of subsections 1 and 2 on the procurement of alcoholic beverages shall also apply in other business activities.

Section 38

Staff involved in retail sales, delivery and serving of alcoholic beverages

The retail and licensed premises and the delivery of alcoholic beverages must be adequately staffed, taking into account the scale and quality of the activity, to ensure effective control and order.

The retail and licensed premises must be accompanied by a representative of the license holder designated by the license holder, when alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may be sold or consumed and the place is open to customers.

Supplier of alcoholic beverages shall hold a delivery passport for alcoholic beverages referred to in section 57(3).

A person who has not reached the age of 18 may not act as a representative of the licence holder or sell or serve alcoholic beverages. However, a person who has reached the age of 16 may, under the direct supervision of a representative of the licence holder, sell alcoholic beverages in a retail outlet referred to in section 17 and serve alcoholic beverages. A person who has not reached the age of 18 shall not transport or deliver alcoholic beverages to the customer.

The person selling or delivering alcoholic beverages and involved in the control of the retail sale, delivery or serving of alcoholic beverages shall not be under the influence of alcohol or other intoxicating substances.

Section 39

General supervision

The holder of a licence to deliver alcoholic beverages and the alcoholic beverage delivery driver shall monitor compliance with the prohibitions and obligations laid down in sections 35a, 37 and 38.

Section 40

Verification of age

Buyers of alcoholic beverages and persons present in a licensed area are required, on demand, to prove their age to the staff supervising the retail sale and serving of alcoholic beverages and to the official responsible for monitoring compliance with this Act by means of a valid photo ID card, driving licence or passport issued by a public authority.

In addition, the recipient of the delivery of the alcoholic beverage shall be required to prove, by means of a document referred to in subsection 1, their age to the person delivering the alcoholic beverage.

Section 42 a

Delivery Term

Alcoholic beverages may only be delivered to the recipient from 9 a.m. to 9 p.m.

By way of derogation from subsection 1, the delivery to recipients of alcoholic beverages acquired from the government-owned alcohol company Alko shall be carried out in accordance with the provisions of section 42, subsection 2 on Alko's retail trading hours.

If the alcoholic beverage cannot be delivered during the period referred to in subsection 1 or 2, the alcoholic beverage shall be returned to the seller or delivered to the customer later during the period referred to in subsection 1 or 2, unless the delivery did not take place due to a reason referred to in section 37.

Section 45

Supervision of the serving of alcoholic beverages in certain cases

Notwithstanding what is laid down in section 41, subsection 2 and, for rooms in accommodation establishments, also in section 36, subsection 2 and 3 as well as section 43, the serving of alcoholic beverages in cases referred to in section 19, subsection 2 is permitted if the quantity of alcoholic beverages is limited according to the number of customers and the requirements on the supervision of the serving of alcoholic beverages.

Further provisions on limiting the quantity of alcoholic beverages may be issued by government decree.

Section 46

Purchase of alcoholic beverages

Where alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol are purchased for retail sale or delivery within the meaning of section 30(2), the purchaser shall inform the seller of his authorisation number.

Section 50

Regulation of marketing

The marketing of alcoholic beverages and combining it with the marketing of other products or services is prohibited if:

1) it is done contrary to the Information Security Code (917/2014) in a television or radio programme between 7:00 a.m. and 10:00 p.m., or in a cinema showing a film which can be seen by people under 18 in accordance with the Motion Picture Law (710/2011), or in on an on-demand programme service or a streaming service pursuant to the Act on Electronic Communications Services;

2) it is implemented and targeted at an audience in a public place referred to in the Public Order Act (612/2003).

The provisions of subsection 1, paragraph 2 above on a prohibition on the marketing of alcoholic beverages taken in a public place or directed at the public shall not apply to the marketing of mild alcoholic beverages:

1) at a public event referred to in the Assembly Act (530/1999) and a place permanently designated for it;

2) a vessel used in international transport;

3) on retail trade and serving premises;

4) outside retail and licensed premises if it concerns advertising the beverages available and their prices.

By way of derogation from paragraph 1, it shall be prohibited to advertise the sale of strong alcoholic beverages:

1) in television and radio broadcasting;

2) in connection with a public display of an audiovisual programme in a cinema;

3) newspapers and magazines;

4) on a public place referred to in the Public Order Act other than a licensed premises for the retail sale and serving of alcoholic beverages.

The marketing of alcoholic beverages and combining it with the marketing of other products or services is prohibited:

1) it is aimed at minors or other persons to whom according to § 37 no alcoholic beverages may be sold, or if such persons are depicted in it;

2) it is contrary to moral principles, it uses methods that are inappropriate from the viewpoint of the consumer or otherwise gives untruthful or misleading information about alcohol, its use, effects or other properties;

3) consumption of alcohol is linked to driving a vehicle;

4) the alcohol content of an alcoholic beverage is emphasised as a positive quality;

5) an abundant consumption of alcohol is described in positive terms, or temperance or moderate consumption of alcohol in negative terms;

6) it is implied that alcohol use increases performance or promotes a person's social or sexual success;

7) it gives the impression that alcohol has medical or therapeutic properties or that it refreshes, calms or is a means to settle conflicts;

8) it uses the participation of a consumer in a game, lottery or competition;

9) its commercial implementer uses in its IT network service verbal or graphic content produced by consumers or uses the service to communicate its own or consumer-produced verbal or graphic content for sharing;

10) it is implemented as an influencer for an information network service.

Subsections 1, 3 and 4 above shall not apply to publication and programming activities of an operator outside of Finland solely intended for an audience other than in Finland or, with the same content, regardless of the target audience country, as referred to in the Act on the Exercise of Freedom of Expression in Mass Media (460/2003). However, the provisions shall apply where the marketing of alcoholic beverages carried out from abroad is intended to be received especially in Finland and the operator is established in another EEA State in order to circumvent the Finnish legislation.

Section 51

Pricing and advertising prices

It shall be prohibited to offer at joint discount price two or more packages or doses of alcoholic beverages in retail sale, delivery and serving.

The provision and payment of a refund of the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages or other consumables and services, shall be prohibited in retail, delivery and serving.

Section 55

Production, import and sale of non-denatured alcoholic substances

Provisions of alcoholic beverage retail sale, delivery, serving, cross-border distance sales and marketing are applied to an alcoholic preparation which is solid or contains solid ingredients, which is intended to be consumed as is or can be made fit for consumption by removing ingredients or adding liquid if the total per cent by volume of ethyl alcohol exceeds 2.8. The alcoholic strength by volume of the preparation shall then be taken to be the alcoholic strength by volume of the preparation by weight.

Section 57

Competence of personnel

As part of their self-monitoring, licence holders and the government-owned alcohol company Alko shall ensure that their personnel and the alcoholic beverage delivery drivers acting on behalf of the delivery licence holders are aware of their obligations as laid down in this Act and in the self-monitoring plan. As part of self-monitoring, licence holders and Alko shall keep records of the training and skills of staff working at the respective places of business and present this information to the supervisory authorities upon request.

The holder of a licence to serve alcohol shall ensure that the holder's representative referred to in section 38 holds a certificate in accordance with the model approved by the National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the Alcohol Act (*alcohol passport*).

Holders of a licence for the delivery of alcoholic beverages shall ensure that alcoholic beverage delivery drivers acting on their behalf have a certificate (*delivery passport*) in accordance with the model approved by the National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the regulations on delivery of alcoholic beverages in this Act and the guidance on delivery.

Section 58

Granting a certificate demonstrating knowledge of the Alcohol Act

Proof of competence of the representative of the alcohol serving licence holder may be provided by means of an alcohol passport or a certificate of an examination covering information equivalent to that of the test for the alcohol passport. The alcohol passport is granted by an educational institution providing training in hospitality services under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture. An alcohol passport is issued to a person who has passed the alcohol passport test.

The competence of alcoholic beverage delivery drivers can be proven by means of a delivery passport. The delivery passport is issued by an educational institution providing training under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture. The educational institution must offer delivery passport tests in Finnish, Swedish and English. A delivery passport is granted to a person who has passed the delivery passport test.

The educational institution shall have the right to charge a fee for the serving passport test, which shall not exceed the actual cost of organising the test, as well as for the organisation of the supply passport test and the issuance of the supply passport. The alcohol passport may be combined with the hygiene passport referred to in section 19 of the Food Act.

Further provisions on the content and assessment of the tests referred to in subsections 1 and 2 and on equivalent examinations as well as on the acceptance of a certificate issued in Åland as a certificate referred to in subsection 1 may be issued by decree of the Ministry of Social Affairs and Health.

Section 60

Supervision and related guidance

The Regional State Administrative Agencies supervise within their area of operation the retail trade, serving and marketing of alcoholic beverages and their advertising within their respective regions.

The National Supervisory Authority for Welfare and Health shall supervise the retail trade, delivery, serving, marketing and cross-border distance sales of alcoholic beverages in the whole country as well as on vessels referred to in the Aviation Act (864/2014) and Maritime Act (674/1994) under Finnish nationality.

The duties of The National Supervisory Authority for Welfare and Health also include:

1) supervision of the production, import, export, cross-border distance sales and wholesale of alcoholic beverages;

5) guidance for educational establishments related to the alcohol passport and delivery passport examination;

6) other tasks provided for in this Act.

Section 61

Control programme

The National Supervisory Authority for Welfare and Health, together with the Regional State Administrative Agencies, create a national supervision programme for the alcohol administration. The programme will guide regional licensing management and supervision of the serving, retailing, delivery and marketing of alcoholic beverages towards consistent decision-making practices and effective implementation of this Act.

Section 62

Right of inspection and access to information

The competent authority shall have the right to make test purchases if this is necessary for the control of the delivery of alcoholic beverages. The competent authority shall have the right to use adult volunteers to carry out test purchases if the authority has reason to believe that the holder of a licence to deliver alcoholic beverages or an alcoholic beverage delivery driver acting on its behalf does not comply with their obligations laid down by law with regard to the delivery and supply of alcoholic beverages. Volunteers may be used for test purchases of alcoholic beverages that they are legally entitled to purchase. The competent authority shall be entitled to obtain from the retail license holder the name of the delivery license holder who delivers the alcoholic beverage and the license number.

A licence holder shall, on a regular basis, submit to the supervisory authority declarations and information regarding his or her sales and other operations necessary for supervision and operational risk assessment. Further provisions on submitting declarations and information are laid down by decree of the Ministry of Social Affairs and Health.

The supervisory authority has the right to receive information on the person who performed the delivery of alcoholic beverages from the delivery licence holder for supervision purposes.

Section 63

Right of access to information

Notwithstanding the provisions on secrecy, supervisory authorities shall have the right to obtain, free of charge, information from national authorities and municipal authorities, the Social Insurance Institution of Finland, the Employment Fund and the Finnish Centre for Pensions which is essential for:

The supervisory authorities shall also have the right, free of charge and notwithstanding secrecy provisions, to obtain from the register of fines referred to in section 46 of the Act on the Enforcement of a Fines (672/2002) the information necessary to determine the conditions of the licence referred to in section 13 or section 72, subsection 3, paragraph 3, or the double jeopardy laid down in section 71, subsection 3.

Section 64

Provision of information

By way of derogation from Section 16(3) of the Act on the Openness of Government Activities (621/1999), the name, license, approval and declaration number and the name and address of the establishment of the holder of the license, business id, approval and declaration number may be made public as such.

Notwithstanding the obligation of secrecy laid down in the Act on the Openness of Government Activities, the Tax Administration shall have the right to obtain information received from the National Supervisory Authority for Welfare and Health and the Regional State Administrative Agencies while carrying out the duties referred to in this Act, if the information is necessary for tax supervision.

Section 71

Penalty fee

The licensing authority may require the licence holder or the party subject to declaration to pay a penalty fee of no less than EUR 300 and no more than EUR 1 000, if:

7) the obligation to notify changes referred to in section 11, the obligation to keep records laid down in section 56, the obligation to keep the self-monitoring plan up-to-date, or the obligation to provide declarations and information laid down in section 62(4) has not been complied with despite the invitations;

8) the delivery of alcoholic beverages has infringed the obligations of the licence holder laid down in chapter 5 or section 57, or the conditions or restrictions imposed pursuant to section 17a.

The National Supervisory Authority for Welfare and Health may order a distance seller to pay an administrative fine of at least EUR 300 and at most EUR 1 000 if the distance seller breaches the obligation laid down in section 17b, subsection 1 to mark the delivery with an alcoholic beverage containing it.

The provisions of paragraphs 2–4 shall apply to the fine.

Section 72

Revocation of a licence

The Licensing Authority may withdraw a license under this Act if:

1) the operator, after giving a notice or imposing a financial penalty, continues violation of obligations or negligence referred to in points 1 to 6 or 8 of section 71, subsection 1, and the conduct is considered material, or

2) the operator infringes the essential obligations laid down in this Act in a manner indicating a manifest disregard of the obligations referred to in section 56.

The deadline is set by accounting the severity and conditions of the activity serving as a basis for the withdrawal.

The Licensing Authority may withdraw a license or approval under this Act if:

1) following the imposition of a financial penalty or the withdrawal of a temporary licence, the operator continues intentionally breach of its obligations or negligence and it has been deemed overall to be serious;

2) the operator is in breach of this Act by an act or omission causing a serious danger to human health and the conduct as a whole has been aggravated, or

3) the conditions of the license or approval are not in force and the situation has not been rectified within the specified time limit.

Section 72 a

Termination of the license

The Licensing Authority shall enter in the register a license or approval under this Act as expired if the operator has ceased its activity otherwise than temporarily.

The bankruptcy estate or estate of the holder of a license or holder of approval of an indefinite duration shall be entitled to continue to operate for a maximum period of one year from the commencement or death of the bankruptcy. The bankruptcy estate or estate of the holder of a permit or approval valid for a limited period of time shall be entitled to continue to operate until the end of the period of validity, but for a maximum period of one year from the start of bankruptcy or death. The continuation of the activity shall be notified to the Licensing Authority without delay after the declaration of bankruptcy or death.

Section 75

Fees charged by the Regional State Administrative Agency

The Regional State Administrative Agency shall charge an annual supervision fee to cover the costs incurred on supervision of this Act as follows:

2) the supervision of the retailing of alcohol by the holder of the retail licence referred to in section 17 and by Alko (*retail supervision fee*);

3) from the holder of the delivery licence referred to in section 17 a for the supervising of the delivery of the alcoholic beverage (delivery supervision fee).

Section 84

Procurement of alcoholic beverages

Alcoholic beverages may not be brokered or transferred for remuneration, unless otherwise provided for by law. The procurement and delivery of alcoholic beverages shall also be prohibited, without remuneration, to any person to whom the alcoholic beverage may not be sold under section 37.

Section 85

Prohibition on consuming alcoholic beverages

Alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may not be consumed unless otherwise provided by law:

Section 90

Penal provisions

A person shall also be penalised for alcohol infringement who deliberately or through gross negligence:

1) violates a prohibition on retail trade, supply or serving laid down in section 37(1)–(3) or a prohibition on transfer in other business laid down in section 37(5), or

2) as the holder of a retail or alcohol serving licence, or as the representative of the licence holder referred to in section 38, infringes the obligation laid down in section 35 or 36 concerning the supervision of order in the retail premises and licensed premises.

Annex

Supervision fees referred to in sections 74 and 75 of the Alcohol Act

6 a. Supervision fee for delivery of alcoholic beverages

The Regional State Administrative Agency charges an annual supervision fee of indefinite duration for holders of licences for the delivery of alcoholic beverages. The reporting period is a calendar year. The fee is comprised of a fixed basic fee and additional fees based on the size of the operation as follows:

The basic, licence holder–specific fee is EUR 100.

The amount of the additional fee based on the size of the operation is determined on the basis of the annual quantities of deliveries of alcoholic beverages reported to the licensing au-

thority during the supervision fee period. In addition to the basic fee, the supervision fee based on number of deliveries is EUR 0.10 per delivery per year for deliveries above 1 000 deliveries. The fee shall be rounded down to the nearest EUR 10.

The licence holder is obliged to notify the licensing authority of the total number of deliveries made each year by 31 January. If the licence holder fails to submit the declaration within the time limit, the Licencing Authority shall have the right to order the licence holder to report the total number of deliveries on pain of incurring a periodic penalty payment as laid down in section 70. The Licencing Authority shall issue a reminder to the licence holder and allow a reasonable period to report the above-mentioned information before imposing a periodic penalty payment.

7. Collection of supervision fees

The supervision fees referred to above in paragraphs 1-3 shall be billed after the period by 30.11. in such a manner that the fee period runs from 1.9. through 31.8. No supervision fee will be collected from a licence holder if operations were discontinued by 31 March and the licence holder gave written notice within the required period. Supervision fees referred to in paragraph 4 shall be billed in advance for a calendar year by 31 March at the latest. No supervision fees will be collected for a partial calendar year if a licence holder's operations ended by 31 March, provided that he or she gave written notice within the required period.

No supervision fees will be collected from a new holder of a retail trade licence or serving licence or regarding a new notice of extended serving hours during the first calendar year. Supervision fees for retail trade, serving and extension of serving hours shall be billed on a calendar year basis no later than 30 April when the licence holder has a valid licence the 1 April.

The supervision fees referred to in paragraph 6a shall be invoiced retrospectively, but not later than 30 April, and the calculation period based on the number of deliveries shall be the previous calendar year.

Helsinki, xx.xx.2025

Prime Minister

Petteri Orpo

Minister of Social Security Sanni Grahn-Laasonen

Act

amending the Alcohol Act

In accordance with the decision of Parliament

Section 28, Subsection 3 of the Alcohol Act (1102/2017) is *repealed*;

Section 2, subsections 1 and 2; section 3, subsection 1, paragraphs 11 and 16; section 4, subsection 1; section 5, subsection 1; section 6, subsection 1, paragraph 1; sections 7, 11, and 12; section 17, subsection 1, paragraph 1 and subsection 2; heading of chapter 5; sections 35, 37, 38, and 40; section 45, subsection 3; section 46, subsection 1; section 50; section 51, subsections 1 and 2; section 55, subsection 2; sections 57 and 58; section 60, subsections 1 and 2 and subsection 3, paragraphs 1 and 5; section 61, subsection 1; section 62, subsection 4; section 63, introductory paragraph to subsection 1; section 64, subsection 2; section 71, introductory paragraph and paragraph 7 of subsection 1; section 72; section 75, subsection 2, paragraph 2; section 84; section 85, introductory paragraph to subsection 1; section 90, subsection 5; and Annex 7, paragraph 7 are *amended*.

of which, section 12 as amended by Act 605/2023; and section 17, paragraph 1 to subsection 1 as amended by Act 305/2024; and

a new subsection 4 of section 2; new paragraphs 17 to 21 of section 3; new paragraph 8 to section 6, subsection 1; new subsection 5 to section 17; new sections 17a, 17b, 17c, 35a, 42a and 72a; a new subsection 2 to section 32; new subsection 3 to section 39; new subsection 4 to section 45; new paragraph 6 to section 60, subsection 3; new subsections 5 and 6 to section 62; new subsection 2 to section 63; new subsection 3 to section 64; new paragraph 8 to section 71, subsection 1; and new subsections 5 and 6; a new paragraph 3 to section 75, subsection 2; and a new paragraph 6a to the Annex are *added* as follows:

Existing Act

Proposal

Section 2

Section 2

Scope of the Act

Scope of the Act

This act applies to the production, import, export, transport, sale and other delivery, use, possession and advertising of alcoholic substances.

This Act shall apply to the manufacture, import, export, transport, sale and other handing over, use, possession and marketing of alcoholic substances. *and the delivery of alcoholic beverages.*

Unless otherwise stipulated in this act, the Food Act (23/2006) shall apply to alcohol substances which are food.

Unless otherwise stipulated in this act, the Food Act (297/2021) shall apply to alcohol substances which are food.

The act does not apply to alcoholic substances which are medicines or pharmaceutical preparations in the meaning of the Medicines Act (395/1987).

The act does not apply to alcoholic substances which are medicines or pharmaceutical preparations in the meaning of the Medicines Act (395/1987).

Existing Act

Proposal

The provisions of this Act on distance selling across borders and distance purchasing also apply to distance selling across borders from third countries and EEA countries.

Section 3

Section 3

Definitions

Definitions

For the purposes of this Act:

For the purposes of this Act:

11) *retail sale* means the sale of alcoholic beverages to be consumed in places other than premises controlled by the seller or under the seller's supervision;

11) *retail sale of an alcoholic beverage* means the sale of an alcoholic beverage for consumption in a place other than premises controlled by the seller, *whereby the alcoholic beverage is supplied directly from a domestic retail outlet or the government-owned alcohol company Alko to the buyer of the alcoholic beverage, the holder of the delivery licence or the alcoholic beverage delivery driver carrying out the delivery arranged by the holder of the delivery licence, for delivery to the buyer or another recipient;*

16) *marketing* means advertising, indirect advertising and other activities promoting sales; indirect advertising means promoting a product's sales in the context of another commodity so that the distinctive mark of the other product is used as such or modified so that it can be identified, or the seller's distinctive mark or other imposed image of a certain product or seller is otherwise conveyed.

(new)

16) *marketing* means advertising, indirect advertising and other activities promoting sales; indirect advertising means promoting a product's sales in the context of another commodity so that the distinctive mark of the other product is used as such or modified so that it can be identified, or the seller's distinctive mark or other imposed image of a certain product or seller is otherwise conveyed.

17) *Delivery of alcoholic beverages means the transport and handover, for commercial purposes, of alcoholic beverages sold through domestic retail sales, from the alcoholic beverage company, or via cross-border distance selling, from the seller to the buyer or another recipient.*

Existing Act

Proposal

(new)

18) *alcoholic beverage supplier* means a holder of an alcoholic beverage delivery licence and the party performing the delivery organised by the holder, who releases a beverage ordered for carriage from domestic retail sale, from an alcohol company, or from cross-border distance sales to the recipient;

(new)

19) *distance selling of alcoholic beverages across borders* means sales where a private person established in Finland, who does not carry out an independent economic activity, has purchased alcoholic beverages released for consumption from another Member State of the European Union, and the seller or another party acting on its behalf sends or transports those alcoholic beverages to Finland directly or indirectly;

(new)

20) *distance seller of alcoholic beverages* means a seller who sells alcoholic beverages in Finland in accordance with point 19;

(new)

21) *distance purchase*: a purchase of alcoholic beverages by a private person from another Member State of the European Union by means of distance communication in the manner prescribed in § 74 of the Excise Duty Act.

Section 4

Section 4

Prohibition on operations contrary to moral principles

Prohibition on operations contrary to moral principles

Any business operator involved in the production, import, sale and marketing of alcoholic substances or that is contractually or by any other arrangement operating in relation to alcoholic substances is prohibited from engaging in operations contrary to moral principles.

Any business operator involved in the production, import, sale and marketing of alcoholic substances or that is contractually or by any other arrangement operating in relation to alcoholic substances is prohibited from engaging in operations contrary to moral principles. *What is prescribed in this subsection also applies to the delivery of alcoholic beverages.*

Existing Act

Proposal

Section 5

Activities subject to a licence

Alcoholic beverages may not be produced or sold without a licence.

Section 5

Activities subject to a licence

Alcoholic beverages may not be manufactured, *sold or delivered* without authorisation.

Section 6

Exemptions from the permit requirement

By derogation from § 5 above:
1) the production and sale of alcoholic beverages containing a maximum of 2.8 per cent ethyl alcohol by volume is permitted;

(new)

Section 6

Exemptions from the permit requirement

By derogation from § 5 above:
1) the production, sale *and supply* of alcoholic beverages containing a maximum of 2.8 per cent ethyl alcohol by volume is permitted, *including cross-border distance sales*;

8) *cross-border distance sales of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume is permitted as laid down in section 17b.*

Licensing authorities

The retail license and license to serve alcoholic beverages shall, upon application, be granted by the Regional State Administrative Agency in whose jurisdiction the applicant's retail or licensed premises are located. If the retail sale and serving of alcoholic beverages do not take place within the area of a specific Regional State Administrative Agency, the licence shall be issued by the Regional State Administrative Agency of the applicant's place of residence or, if the applicant does not reside in Finland,

Section 7

Licensing authorities

The retail license and license to serve alcoholic beverages shall, upon application, be granted by the Regional State Administrative Agency in whose jurisdiction the applicant's retail or licensed premises are located. If the retail sale and serving of alcoholic beverages do not take place within the area of a specific Regional State Administrative Agency, the licence shall be issued by the Regional State Administrative Agency of the applicant's place of residence

Existing Act

the Regional State Administrative Agency for Southern Finland.

Other licences shall be granted after an application to the National Supervisory Authority for Welfare and Health.

Section 11

Declaration of changes

If a licence is granted to a legal person and the authority based on the legal person's ownership, contract or other arrangement is transferred, the licence holder shall notify the licensing authority within two weeks of the transfer of authority.

If the licence holder decides to change the nature or extent of its operations and the granted licence no longer covers the changed operations, the licence holder shall apply for a change in licence prior to making the change. Changes may not be implemented until the licensing authority has approved the licence change.

Proposal

or, if the applicant does not reside in Finland, the Regional State Administrative Agency for Southern Finland.

A serving licence for serving alcoholic beverages that is not tied to a specific serving location shall be granted by the Regional State Administrative Agency of the applicant's premises upon application. If the applicant does not have a place of business in Finland, the licence is granted by the Regional State Administrative Agency of the applicant's place of residence or, if the applicant is not domiciled in Finland, by the Regional State Administrative Agency for Southern Finland.

Licences other than those referred to in subsections 1 and 2 shall be granted by the National Supervisory Authority for Welfare and Health upon application.

The Regional State Administrative Agency for the declarations and applications for approval referred to in this Act shall be determined in accordance with the provisions of paragraph 1.

Section 11

Declaration of changes

If the licence holder decides to change the nature or extent of its operations and the granted licence no longer covers the changed operations, the licence holder shall apply for a change in licence prior to making the change. Changes may not be implemented until the licensing authority has approved the licence change.

The provisions of subsections 1 and 2 on applications or declarations of changes to a licence shall also apply to the declarations and approvals referred to in this Act.

An application for a licence, declaration,

Existing Act

Proposal

or an application concerning approval, as referred to in subsections 1 to 3 above, must be accompanied by the necessary documentation to assess the conditions specified in Sections 13 to 20. This documentation should include information about the applicant, the activity and its impacts, as well as other relevant matters not already in the possession of the authority handling the case.

Further provisions on the information required for applications for amendments to licences and approvals, as well as for declarations of amendments, shall be laid down by Government decree.

Section 12

General conditions for granting a licence

A licence to manufacture, import, use, wholesale, retail and serve alcohol under this Act shall be granted to a natural or legal person referred to in Section 2(1) or 3(1) or (2) of the Trade Act (565/2023) who has the conditions laid down in this Act relating to the applicant and necessary for the pursuit of the activity.

Section 12

General conditions for granting a licence

The licence to manufacture, import, use, wholesale, retail sale and *deliver* in accordance with this Act must be granted to a natural or legal person referred to in Section 2(1) or 3(1) or (2) of the Trade Act (565/2023) who fulfils the conditions laid down in this Act relating to the applicant and necessary for the pursuit of the activity.

Section 17

Retail trade licence for alcoholic beverages and requirements for the granting thereof

The retail trade licence for fermented alcoholic beverages containing up to 8.0 % of ethyl alcohol by volume, and alcoholic beverages produced by other methods and containing up to 5.5 % by volume of ethyl alcohol applies to retail sales inside one retail outlet and the licence shall be issued:

1) an applicant selling a diverse selection of food products for everyday use in a building within the meaning of the Land Use and Building Act (132/1999), if the share of the sales of alcoholic beverages of the total business activities is not considerably larger

Section 17

Retail trade licence for alcoholic beverages and requirements for the granting thereof

The retail trade licence for fermented alcoholic beverages containing up to 8.0 % of ethyl alcohol by volume, and alcoholic beverages produced by other methods and containing up to 5.5 % by volume of ethyl alcohol applies to retail sales inside one retail outlet and the licence shall be issued:

1) an applicant selling other than temporarily a diverse offering of foods of everyday use in a *construction site* referred to in the *Construction Act*, if the share of the sale of alcoholic beverages in the business is not considerably larger than the share of

Existing Act

than the share of the sales of other food products sold;

The retail licence for farm wine and craft beer applies to the retail sale inside one retail establishment and is granted to the producers of said alcoholic beverages in a production location where fermentation takes place or in its immediate vicinity, in a building referred to in the Land Use and Building Act. Alcoholic beverages referred to in subsection 1 may also be sold at the retail outlet.

Proposal

other foodstuffs sold;

The retail licence for farm wine and craft beer applies to the retail sale inside one retail establishment and is granted to the producers of said alcoholic beverages in a *building site* where fermentation takes place or in its immediate vicinity, in a building referred to in the *Building Act*. Alcoholic beverages referred to in subsection 1 may also be sold at the retail outlet.

The retail licence may specify pick-up points located in construction works referred to in the Construction Act from which alcoholic beverages may be delivered for delivery.

License for the delivery of alcoholic beverages and the conditions under which it is granted

(new)

The licence for the delivery of alcoholic beverages applies to the transport of alcoholic beverages sold from domestic retail trade, the government-owned alcohol company Alko or cross-border distance sales to a buyer or other recipient. Authorisation shall be granted if the applicant has drawn up:

1) the self-supervision plan referred to in Section 56; and

2) a report on how the applicant will ensure that the alcoholic beverage delivery drivers acting on its behalf have a delivery passport as referred to in section 57, subsection 3.

The licensing authority may impose conditions and restrictions on the licence to supply alcoholic beverages concerning the monitoring of age control and state of intoxication, self-monitoring and information to be provided to the monitoring authority, if this is necessary to safeguard supervision or to ensure security.

The conditions and restrictions referred to

Existing Act

Proposal

in subsection 2 shall be calibrated in such a way that they do not prevent or unduly impede the exercise of the licence holder's activities. If conditions and restrictions are imposed on the holder's ongoing activities, they may be ordered to take effect no earlier than 30 days after declaration of the decision. At the licence holder's application, the licensing authority shall change a licence's conditions or limitations or remove these without delay if the nature of activities or other special circumstances have changed so that the conditions or limitations are no longer necessary.

Section 17b

Distance selling of alcoholic beverages across borders

(new)

Cross-border distance sales to Finland of alcoholic beverages containing more than 2.8 per cent ethyl alcohol by volume are permitted. Alcoholic beverages purchased via cross-border distance selling may only be delivered to a buyer or other recipient by an alcoholic beverage supplier. A distance seller of an alcoholic beverage shall ensure that the delivery is marked as containing an alcoholic beverage. If a delivery contains a strong alcoholic beverage, the distance seller of the alcoholic beverage shall also ensure that this is marked in the delivery.

Provisions on the tax liability of distance sellers of alcoholic beverages are laid down in the Excise Duty Act.

Section 17c

Private cross-border purchases by a legal person or sole proprietor

(new)

For sales where a legal person or sole trader established in Finland has purchased alcoholic beverages from a seller established abroad, which the seller or someone on its behalf sends or transports to Finland,

Existing Act

Proposal

directly or indirectly, for the purpose of an activity for which a licence referred to in this Act is not required, the provisions on cross-border distance selling and distance purchasing shall apply.

Section 26

Section 26

Retail trade establishment and granting of retail trade licence

Retail trade establishment and granting of retail trade licence

The local Regional State Administrative Agency at the retail trade premises location shall approve the retail trade premises of the State Alcohol Monopoly upon request. A sales outlet shall not be approved if its location causes undue harm to the residential environment.

The local Regional State Administrative Agency at the retail trade premises location shall approve the retail trade premises of the State Alcohol Monopoly upon request. A *decision of the Regional State Administrative Agency may define pick-up points located in construction works referred to in the Construction Act from which alcoholic beverages may be delivered for delivery.* A sales outlet shall not be approved if its location causes undue harm to the residential environment.

Section 28

Section 28

Other sales of alcoholic beverages

Other sales of alcoholic beverages

The State Alcohol Monopoly (Alko) may also sell alcoholic beverages in a food truck or boat referred to in section 17(1)(2), the route of which has been confirmed by the Regional State Administrative Agency.

The State Alcohol Monopoly may arrange an auction where alcoholic beverages are sold.

A wholesale licence may be granted to the State Alcohol Monopoly. The State Alcohol Monopoly may deliver alcoholic beverages to licence holders and other business operators by sending them to purchasers.

The State Alcohol Monopoly (Alko) may also sell alcoholic beverages in a food truck or boat referred to in section 17(1)(2), the route of which has been confirmed by the Regional State Administrative Agency.

The State Alcohol Monopoly may arrange an auction where alcoholic beverages are sold.

(repealed)

Section 32

Section 32

Existing Act

Proposal

Import of alcoholic beverages

(new)

Distance purchasing and other purchases by private individuals referred to in Section 74 of the Excise Duty Act are permitted. Provisions on distance selling of alcoholic beverages across borders are laid down in Section 17b.

Chapter 5

Retail sale and serving of alcoholic beverages

Section 35

Retail trade premises for alcoholic beverages

Retail trade of alcoholic beverages may be carried on only by delivering them to customers in an approved retail trade establishment. A retail trade licence holder may only sell alcoholic beverages referred to in the licence.

Alcoholic beverages may not be consumed inside or outside of a licence holder's retail trade premises or in their immediate vicinity. If necessary, the licence holder shall mark the area where consumption of alcoholic beverages is prohibited.

Chapter 5

Retail sale, *delivery* and serving of alcoholic beverages

Section 35

Retail trade premises for alcoholic beverages

The sale by retail of alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may be carried out only by supplying them to the customer or to an alcoholic beverage delivery driver from domestic retail trade or the government-owned alcohol company Alko. The retailer must be able to retrospectively verify the name and licence number of the delivery licence holder carrying out the delivery of the alcoholic beverage. A retail trade licence holder may only sell alcoholic beverages referred to in the licence.

Alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol shall not be consumed in the indoor or outdoor area controlled by the retailer holder or in the immediate vicinity of the retail outlet, unless otherwise provided by law. If necessary, the licence holder shall mark the area where consumption of alcoholic beverages is prohibited.

Section 35 a

Delivery of alcoholic beverages

The delivery of alcoholic beverages shall only be permitted if the alcoholic beverage

(new)

Existing Act

Proposal

has been purchased and picked up from a domestic retail store, the government-owned alcohol company Alko or cross-border distance sales. When an alcoholic beverage is purchased from domestic retail sales, a supplier of an alcoholic beverage may deliver to a buyer or other recipient only fermented alcoholic beverages containing a maximum of 8.0 per cent ethyl alcohol by volume, and alcoholic beverages containing a maximum of 5.5 per cent by volume, produced by other methods. The delivery of fermented an alcoholic beverage containing more than 8.0 % by volume of ethyl alcohol and otherwise produced alcoholic beverage containing more than 5.5 % by volume of ethyl alcohol shall be permitted only if the alcoholic beverage has been purchased and recovered from Alko. A licence holder for the delivery of alcoholic beverages must be able to verify afterwards which retail licence holder or distance seller or which retail premises of the State Alcohol Monopoly the alcoholic beverages were taken over for delivery.

At the point of delivery of the alcoholic beverage, the age of the recipient shall be verified by means of a document referred to in section 40, subsection 1. Information about the inspection being attested shall be kept in the licence holder's register for two years after the inspection has been carried out, after which it shall be deleted. Alcoholic beverages may not be handed over if the recipient refuses to prove his or her age. In the case of the handing over of alcoholic beverages, it shall be verified that there are no obstacles to the handing over provided for in Article 37(1) or (2).

If an alcoholic beverage cannot be delivered due to a prohibition on delivery in accordance with paragraph 2 or Section 37, the alcoholic beverage shall be returned to the seller or delivered to the customer at a later date within the period referred to in Section 42a(1) or (2). By way of derogation from the above, an alcoholic beverage must always be returned to a seller if the alcoholic beverage cannot be delivered due to a

Existing Act

Proposal

prohibition on delivery under Section 37(1) or (2).

The holder of the delivery licence shall not impose financial or managerial penalties on the supplier of the alcoholic beverage if he refuses to hand over the alcoholic beverage pursuant to subsection 2 or section 37.

Section 37

Section 37

Prohibitions on retail trade and serving of alcohol

*Prohibitions on retail trade, **delivery** and serving of alcoholic beverages, **as well as prohibitions on supply in other business activities***

Alcoholic beverages may not be sold or otherwise disposed of in retail sale or delivery:

- 1) to persons under the age of 18;
- 2) to persons who behave disturbingly or are clearly intoxicated;
- 3) if there is reason to suspect illegal delivery or procurement of alcoholic beverages for other persons.

By derogation from subsection 1(1) above, strong alcoholic beverages may not be sold or otherwise delivered in retail trade to persons under the age of 20.

The holding and consumption of alcoholic beverages in the licensed premises shall not be allowed for persons under the age of 18 years, for persons who behave disturbingly or are clearly intoxicated.

Alcoholic beverages may not be sold or otherwise handed over in the retail sale, *delivery* or serving of alcoholic beverages:

- 1) to persons under the age of 18;
- 2) to persons who behave disturbingly or are clearly intoxicated;
- 3) if there is reason to suspect illegal delivery or procurement of alcoholic beverages for other persons.

By way of derogation from subsection 1, paragraph 1, a spirit drink may not be sold or otherwise disposed of in retail sale *or in the delivery of alcoholic beverages* to a person under 20 years of age.

The holding and consumption of alcoholic beverages in the licensed premises shall not be allowed for persons under the age of 18 years, for persons who behave disturbingly or are clearly intoxicated.

Alcoholic beverages may not be delivered to a social welfare and healthcare service unit, to a place of early childhood education and care or to a place of pre-school education or basic education. Furthermore, alcoholic beverages may not be delivered to a place referred to in section 85 where the consumption of alcoholic beverages is prohibited or to premises or places that have been approved as a licensed area.

The provisions of subsections 1 and 2 on

Existing Act

Proposal

the procurement of alcoholic beverages shall also apply in other business activities.

Section 38

Retail trade and serving staff

The retail and serving premises shall have, in view of the extent and quality of the activity, an adequate number of staff to ensure efficient supervision and maintenance of order.

A responsible manager or other person acting as a representative and appointed by the licence holder shall be present at the retail and serving premises if the premises are open to customers.

A person under the age of 18 years cannot act in the capacity of a responsible manager or other person acting as a representative and cannot sell or serve alcoholic beverages. However, a person who has reached the age of 16 may sell alcoholic beverages at the retail outlet referred to in section 17 under the direct supervision of the responsible manager or other appointed person. However, a person who is at least 16 years old may serve alcoholic beverages if the sale takes place under the immediate supervision of a responsible manager or appointed person.

A person selling alcoholic beverages or supervising the selling or serving of alcoholic beverages must not be under the influence of alcohol or intoxicating substances when performing these duties.

Section 38

*The staff of retail sale, serving and **delivery** of alcoholic beverages*

At retail and licensed premises *and in the delivery of alcoholic beverages* taking into account the scale and quality of the activities, there must be sufficient staff to carry out effective control and order

The retail and licensed premises must be present *a representative of the licence holder designated by the licence holder when alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may be sold or consumed at the site, and the site is open to clients.*

Supplier of alcoholic beverages shall hold a delivery passport for alcoholic beverages referred to in section 57(3).

A person who has not reached the age of 18 may not act as a representative of the licence holder or sell or serve alcoholic beverages. *However, a person who has reached the age of 16 may, under the direct supervision of a representative of the licence holder, sell alcoholic beverages in a retail outlet referred to in section 17 and serve alcoholic beverages. A person who has not reached the age of 18 shall not transport or deliver alcoholic beverages to the customer.*

The person selling or delivering alcoholic beverages and involved in the control of the retail sale, delivery or serving of alcoholic beverages shall not be under the influence of alcohol or other intoxicating substances.

Existing Act

Proposal

Section 39

Section 39

General supervision

General supervision

A retail trade and serving licence holder and their staff shall supervise the prohibitions and obligations laid down in §§ 35–38 above and shall be responsible for keeping order at the retail and serving premises.

The holder of the licence and his or her representative may remove a person who has breached the prohibition or is clearly intoxicated from a holding controlled by the licence holder. A licence holder or his or her representative has the right to take a container that has been removed from a serving area away from the person who violated the prohibition and to destroy the alcoholic beverage it contains.

A retail trade and serving licence holder and their staff shall supervise the prohibitions and obligations laid down in §§ 35–38 above and shall be responsible for keeping order at the retail and serving premises.

The holder of the licence and his or her representative may remove a person who has breached the prohibition or is clearly intoxicated from a holding controlled by the licence holder. A licence holder or his or her representative has the right to take a container that has been removed from a serving area away from the person who violated the prohibition and to destroy the alcoholic beverage it contains.

The holder of a licence to deliver alcoholic beverages and the alcoholic beverage delivery driver shall monitor compliance with the prohibitions and obligations laid down in sections 35a, 37 and 38.

Section 40

Section 40

Verification of age

Verification of age

A buyer of alcoholic beverages or a customer in a serving area shall, upon request, provide proof of identity to a staff member or supervisory authority supervising retail sales and serving and to officials supervising conformance with this act, in the form of a photo ID, driver's licence or passport or other reliable picture document issued by authorities.

Buyers of alcoholic beverages and persons present in a licensed area are required, on demand, to prove their age to the staff supervising the retail sale and serving of alcoholic beverages and to the official responsible for monitoring compliance with this Act by means of a valid photo ID card, driving licence or passport issued by a public authority.

In addition, the recipient of the delivery of the alcoholic beverage shall be required to prove, by means of a document referred to in subsection 1, their age to the person delivering the alcoholic beverage.

Existing Act

Proposal

Section 42 a

Delivery Term

(new)

Alcoholic beverages may only be delivered to the recipient from 9 a.m. to 21 p.m.

By way of derogation from subsection 1, the delivery to recipients of alcoholic beverages acquired from the government-owned alcohol company Alko shall be carried out in accordance with the provisions of section 42, subsection 2 on Alko's retail trading hours.

If the alcoholic beverage cannot be delivered during the period referred to in subsection 1 or 2, the alcoholic beverage shall be returned to the seller or delivered to the customer later during the period referred to in subsection 1 or 2, unless the delivery did not take place due to a reason referred to in section 37.

Section 45

Supervision of the serving of alcoholic beverages in certain cases

If serving is continued on the licensed premises after 1:30 a.m., the licence holder shall assign one doorkeeper referred to in the Act on Private Security Services (1085/2015) for each started 100 customers to supervise order and safety on the licensed premises and in its immediate vicinity from 1:30 a.m. to the customer's ceasing to consume alcoholic beverages.

A licensing authority can reduce the requirement specified in (1) or remove it if the licence holder in a follow-up notice or written application shows that the requirement is clearly unnecessary due to the business concept or other similar reason, or can require a larger number of doorkeepers if this is unavoidable for the purposes of § 22(2).

Notwithstanding what is laid down in section 41, subsection 2 and, for rooms in accommodation establishments, also in section 36, subsection 2 and 3 as well as section 43, the serving of alcoholic beverages in cases referred to in section 19, subsection

If serving is continued on the licensed premises after 1:30 a.m., the licence holder shall assign one doorkeeper referred to in the Act on Private Security Services (1085/2015) for each started 100 customers to supervise order and safety on the licensed premises and in its immediate vicinity from 1:30 a.m. to the customer's ceasing to consume alcoholic beverages.

A licensing authority can reduce the requirement specified in (1) or remove it if the licence holder in a follow-up notice or written application shows that the requirement is clearly unnecessary due to the business concept or other similar reason, or can require a larger number of doorkeepers if this is unavoidable for the purposes of § 22(2).

Notwithstanding what is laid down in section 41, subsection 2 and, for rooms in accommodation establishments, also in

Existing Act

2 is permitted if the quantity of alcoholic beverages is limited according to the number of customers and the requirements on the supervision of the serving of alcoholic beverages. Further provisions on limiting the number of alcoholic beverages is laid down by government decree.

Section 46

Purchase of alcoholic beverages

Where alcoholic beverages are purchased for retail sale and delivery within the meaning of section 30(2), the purchaser shall inform the seller of his licence number.

A retail trade licence holder may sell alcoholic beverages to a serving licence holder for serving. The serving licence holder shall thus report the purchase to the supervision authority as laid down in § 62(4).

Proposal

section 36, subsection 2 and 3 as well as section 43, the serving of alcoholic beverages in cases referred to in section 19, subsection 2 is permitted if the quantity of alcoholic beverages is limited according to the number of customers and the requirements on the supervision of the serving of alcoholic beverages.

Further provisions on limiting the quantity of alcoholic beverages may be issued by government decree.

Section 46

Purchase of alcoholic beverages

When alcoholic beverages *containing more than 2.8 % by volume of ethyl alcohol* are purchased for retail sale and delivery as referred to in section 30(2), the purchaser shall inform the seller of his licence number.

A retail trade licence holder may sell alcoholic beverages to a serving licence holder for serving. The serving licence holder shall thus report the purchase to the supervision authority as laid down in § 62(4).

Section 50

Regulation of marketing

It is prohibited to advertise the sale of strong alcoholic beverages.

The marketing of mild alcoholic beverages and combining it with the marketing of other products or services is prohibited:

1) it is aimed at minors or other persons to whom according to § 37 no alcoholic beverages may be sold, or if such persons are depicted in it;

2) consumption of alcohol is linked to driving a vehicle;

3) the alcohol content of an alcoholic beverage is emphasised as a positive quality;

4) an abundant consumption of alcohol is described in positive terms, or temperance or moderate consumption of alcohol in negative terms;

The marketing of alcoholic beverages and combining it with the marketing of other products or services is prohibited if:

1) it is done contrary to the Information Security Code (917/2014) in a television or radio programme between 7:00 a.m. and 10:00 p.m., or in a cinema showing a film which can be seen by people under 18 in accordance with the Motion Picture Law (710/2011), or in on an on-demand programme service or a streaming service pursuant to the Act on Electronic Communications Services;

2) it is implemented and targeted at an audience in a public place referred to in the

Existing Act

5) it is implied that alcohol use increases performance or promotes a person's social or sexual success;

6) it gives the impression that alcohol has medical or therapeutic properties or that it refreshes, calms or is a means to settle conflicts;

7) it is contrary to moral principles, it uses methods that are inappropriate from the viewpoint of the consumer or otherwise gives untruthful or misleading information about alcohol, its use, effects or other properties;

8) it is done contrary to the Information Security Code (917/2014) in a television or radio programme between 7:00 and 22:00, or in a cinema showing a film which can be seen by people under 18 in accordance with the Motion Picture Law (710/2011);

9) it is implemented and targeted at an audience in a public place referred to in the Public Order Act (612/2003);

10) it uses the participation of a consumer in a game, lottery or competition;

11) its commercial implementer uses in its IT network service verbal or graphic content produced by consumers or uses the service to communicate its own or consumer-produced verbal or graphic content for sharing.

By derogation from the regulations of paragraph 1 above, strong alcoholic beverages may be advertised within the limits laid down in paragraph 2:

1) at places designated for the production, retail trade and serving of strong alcoholic beverages;

2) in print or online retail trade or serving price lists as well as manufacturers' or wholesalers' product catalogues, provided that the available beverages are presented to consumers in a consistent manner; and

3) in any other case, over the information network open to consumers, those involved in the sale of alcoholic beverages.

The prohibition in paragraph 2(9) shall not apply to the advertising of mild alcoholic beverages other than what restrictions are set out in paragraph 2:

1) at a public event referred to in the Assembly Act (530/1999) and a

Proposal

Public Order Act (612/2003).

The provisions of subsection 1, paragraph 2 above on a prohibition on the marketing of alcoholic beverages taken in a public place or directed at the public shall not apply to the marketing of mild alcoholic beverages:

1) at a public event referred to in the Assembly Act (530/1999) and a place permanently designated for it;

2) a vessel used in international transport;

3) on retail trade and serving premises;

4) outside retail and licensed premises if it concerns advertising the beverages available and their prices.

By way of derogation from paragraph 1, it shall be prohibited to advertise the sale of strong alcoholic beverages:

1) in television and radio broadcasting;

2) in connection with a public display of an audiovisual programme in a cinema;

3) newspapers and magazines;

4) on a public place referred to in the Public Order Act other than a licensed premises for the retail sale and serving of alcoholic beverages.

The marketing of alcoholic beverages and combining it with the marketing of other products or services is prohibited:

1) it is aimed at minors or other persons to whom according to § 37 no alcoholic beverages may be sold, or if such persons are depicted in it;

2) it is contrary to moral principles, it uses methods that are inappropriate from the viewpoint of the consumer or otherwise gives untruthful or misleading information about alcohol, its use, effects or other properties;

3) consumption of alcohol is linked to driving a vehicle;

4) the alcohol content of an alcoholic beverage is emphasised as a positive quality;

5) an abundant consumption of alcohol is described in positive terms, or temperance or moderate consumption of alcohol in negative terms;

6) it is implied that alcohol use increases performance or promotes a person's social or sexual success;

Existing Act

place permanently designated for it;

- 2) a vessel used in international transport;
- 3) on retail trade and serving premises;
- 4) outside retail and licensed premises if it concerns advertising the beverages available and their prices.

Paragraphs 1 and 2 above shall not apply to publication and programming activities of an operator outside of Finland solely intended for an audience other than in Finland or, with the same content, regardless of the target audience country, as referred to in the Act on the Exercise of Freedom of Expression in Mass Media (460/2003). The provisions shall apply to advertising by an operator abroad of alcoholic beverages available on the Finnish market and intended specifically for an audience in Finland.

Section 51

Pricing and advertising prices

It is prohibited to offer at a joint discount price two or several alcoholic beverage packages or doses in retail sale or serving on the premises.

The provision and payment of a refund of the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages or other consumables and services, shall be prohibited in retail sale and delivery.

Advertising a special price for an alcoholic beverage package which is valid for less than two months outside of a retail establishment is prohibited.

Proposal

7) it gives the impression that alcohol has medical or therapeutic properties or that it refreshes, calms or is a means to settle conflicts;

8) it uses the participation of a consumer in a game, lottery or competition;

9) its commercial implementer uses in its IT network service verbal or graphic content produced by consumers or uses the service to communicate its own or consumer-produced verbal or graphic content for sharing;

10) it is implemented as an influencer for an information network service.

Subsections 1, 3 and 4 above shall not apply to publication and programming activities of an operator outside of Finland solely intended for an audience other than in Finland or, with the same content, regardless of the target audience country, as referred to in the Act on the Exercise of Freedom of Expression in Mass Media (460/2003). However, the provisions shall apply where the marketing of alcoholic beverages carried out from abroad is intended to be received especially in Finland and the operator is established in another EEA State in order to circumvent the Finnish legislation.

Section 51

Pricing and advertising prices

It shall be prohibited to offer at joint discount price two or more packages or doses of alcoholic beverages in retail sale, delivery and serving.

The provision and payment of a refund of the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages or other consumables and services, shall be prohibited in retail sale and delivery.

Advertising a special price for an alcoholic beverage package which is valid for less than two months outside of a retail establishment is prohibited.

Existing Act

Proposal

Section 55

Section 55

Production, import and sale of non-denatured alcoholic substances

Production, import and sale of non-denatured alcoholic substances

Specifications laid out above in § 52(1) are not applied to alcoholic substances used as food or food supplements that are produced according to § 8 of the Alcohol and Alcoholic Beverages Act. The producer, importer or seller of the mentioned alcoholic substance cannot promote or present its use for intoxication.

Specifications laid out above in § 52(1) are not applied to alcoholic substances used as food or food supplements that are produced according to § 8 of the Alcohol and Alcoholic Beverages Act. The producer, importer or seller of the mentioned alcoholic substance cannot promote or present its use for intoxication.

Provisions of alcoholic beverage retail sale, serving and marketing are applied to an alcoholic preparation which is solid or contains solid ingredients, which is intended to be consumed as is or can be made fit for consumption by removing ingredients or adding liquid if the total per cent by volume of ethyl alcohol exceeds 2.8. The alcoholic strength by volume of the preparation shall then be taken to be the alcoholic strength by volume of the preparation by weight.

Provisions of alcoholic beverage retail sale, *delivery*, serving, *cross-border distance sales* and marketing are applied to an alcoholic preparation which is solid or contains solid ingredients, which is intended to be consumed as is or can be made fit for consumption by removing ingredients or adding liquid if the total per cent by volume of ethyl alcohol exceeds 2.8. The alcoholic strength by volume of the preparation shall then be taken to be the alcoholic strength by volume of the preparation by weight.

Section 57

Section 57

Competence of personnel

Competence of personnel

As part of their self-monitoring, licence holders and the government-owned alcohol company Alko shall ensure that their personnel are aware of their obligations as laid down in this Act and in the self-monitoring plan. As part of self-monitoring, licence holders and Alko shall keep records of the training and skills of staff working at the respective places of business and present this information to the supervisory authorities upon request.

As part of *their self-monitoring*, licence holders and the government-owned alcohol company Alko shall ensure that their personnel *and the alcoholic beverage delivery drivers acting on behalf of the delivery licence holder* are aware of their obligations as laid down in this Act and in the self-monitoring plan. As part of self-monitoring, licence holders and Alko shall keep records of the training and skills of staff working at the respective places of business and present this information to the supervisory authorities upon request.

A serving licence holder shall ensure that the responsible manager or other appointed person for the task specified in § 38 possesses a certificate indicating competence,

The holder of a licence to serve alcohol shall ensure that the holder's *representative* referred to in section 38 holds a certificate in accordance with the model approved by the

Existing Act

approved by the National Supervisory Authority for Welfare and Health.

Proposal

National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the Alcohol Act (*alcohol passport*).

Holders of a licence for the delivery of alcoholic beverages shall ensure that alcoholic beverage delivery drivers acting on their behalf have a certificate (delivery passport) in accordance with the model approved by the National Supervisory Authority for Welfare and Health (Valvira), demonstrating knowledge of the regulations on delivery of alcoholic beverages in this Act and the guidance on delivery.

Section 58

Granting a certificate demonstrating knowledge of the Alcohol Act

An Alcohol Act competence certificate shall be granted by an educational institution for the hospitality industry accredited by the government or Ministry of Education. The certificate is issued to a person who has successfully passed an examination assessing the knowledge of the Alcohol Act and its monitoring practices, or has obtained a training course containing equivalent knowledge, or has passed an examination containing equivalent knowledge.

The educational institution has the right to charge a fee for this examination, which shall not exceed the actual cost of organising the

Section 58

Granting a certificate demonstrating knowledge of the Alcohol Act

Proof of competence of the representative of the alcohol serving licence holder may be provided by means of a an alcohol passport or a certificate of an examination covering information equivalent to that of the test for the alcohol passport. The alcohol passport is granted by an educational institution providing training in hospitality services under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture. An alcohol passport is issued to a person who has passed the alcohol passport test.

The competence of alcoholic beverage delivery drivers can be proven by means of a delivery passport. The delivery passport is issued by an educational institution providing training under a government authorisation or a licence to arrange training issued by the Ministry of Education and Culture. The educational institution must offer delivery passport tests in Finnish, Swedish and English. A delivery passport is granted to a person who has passed the delivery passport test.

The educational institution shall have the right to charge a fee for the serving passport test, which shall not exceed the actual cost of

Existing Act

examination. An Alcohol Act competence certificate may be combined with a competence certificate referred to in § 27 of the Food Act.

Specific regulations regarding the content of the examination laid out in (1), its evaluation and the relevant training and studies as well as approving a certificate granted in the county of Åland as the certificate specified in (1) are laid down by decree of the Ministry of Social Affairs and Health.

Section 60

Supervision and related guidance

The Regional State Administrative Agencies supervise within their area of operation the retail trade and serving of alcoholic beverages and their advertising.

The National Supervisory Authority for Welfare and Health shall supervise the retail trade, serving and advertising of alcoholic beverages in the whole country as well as on vessels referred to in the Aviation Act (864/2014) and Maritime Act (674/1994) under Finnish nationality.

The duties of The National Supervisory Authority for Welfare and Health also include:

1) supervision of the production, import, export and wholesale of alcoholic beverages;

5) other tasks provided for in this Act.

Proposal

organising the test, *as well as for the organisation of the supply passport test and the issuance of the supply passport*. The *alcohol passport* may be combined with the *hygiene passport* referred to in section 19 of the Food Act (297/2021).

Further provisions on the content and assessment of the tests referred to in subsections 1 and 2 and on *equivalent examinations* as well as on the acceptance of a certificate issued in Åland as a *certificate referred to in subsection 1* may be issued by decree of the Ministry of Social Affairs and Health.

Section 60

Supervision and related guidance

The Regional State Administrative Agencies supervise within their area of operation the retail trade, *delivery, serving and marketing of alcoholic beverages and their advertising* within their respective regions.

The National Supervisory Authority for Welfare and Health shall supervise the retail trade, *delivery, serving, marketing and cross-border distance sales* of alcoholic beverages in the whole country as well as on vessels referred to in the Aviation Act (864/2014) and Maritime Act (674/1994) under Finnish nationality.

The duties of The National Supervisory Authority for Welfare and Health also include:

1) supervision of the production, import, export, *cross-border distance sales* and wholesale of alcoholic beverages;

5) *guidance for educational establishments related to the alcohol passport and delivery passport examination;*

6) other tasks provided for in this Act.

Existing Act

Proposal

Section 61

Section 61

Control programme

Control programme

The National Supervisory Authority for Welfare and Health, together with the Regional State Administrative Agencies, create a national supervision programme for the alcohol administration. The programme will direct regional licensing management and control of the distribution and marketing of alcoholic beverages to a harmonised decision-making practice and to the effective implementation of this Act.

The supervision programme specifies appropriate measures required for achieving the goals of legislation and government and the National Supervisory Authority for Welfare and Health and the methods for targeted supervision of risk targets by authorities.

The National Supervisory Authority for Welfare and Health, together with the Regional State Administrative Agencies, create a national supervision programme for the alcohol administration. The programme will guide regional licensing management and supervision of the serving, retailing, *delivery* and marketing of alcoholic beverages towards consistent decision-making practices and effective implementation of this Act.

The supervision programme specifies appropriate measures required for achieving the goals of legislation and government and the National Supervisory Authority for Welfare and Health and the methods for targeted supervision of risk targets by authorities.

Section 62

Section 62

Right of inspection and access to information

Right of inspection and access to information

The competent authority shall have the right to make test purchases if this is necessary for the control of the delivery of alcoholic beverages. The competent authority shall have the right to use adult volunteers to carry out test purchases if the authority has reason to believe that the holder of a licence to deliver alcoholic beverages or an alcoholic beverage delivery driver acting on its behalf does not comply with their obligations laid down by law with regard to the delivery and supply of alcoholic beverages. Volunteers may be used for test purchases of alcoholic beverages that they are legally entitled to purchase. The competent authority shall be entitled to obtain from the retail license holder and the distance seller, the name of the delivery license holder who delivers the alcoholic beverage and the license number.

Existing Act

A licence holder shall, on a regular basis, submit to the supervisory authority declarations and information regarding his or her sales and other operations necessary for supervision and operational risk assessment. Further provisions on submitting declarations and information are laid down by decree of the Ministry of Social Affairs and Health.

Section 63

Right of access to information

Notwithstanding the provisions on secrecy, supervisory authorities shall have the right to obtain, free of charge, information from federal and municipal authorities, the Social Insurance Institution of Finland, the Unemployment Insurance Fund and the Finnish Centre for Pensions which is essential for carrying out:

- 1) assessment of requirements for granting a licence or information provided in the declaration referred to in §§ 13–18; or
- 2) supervision of adherence to this act and provisions and regulations issued by virtue of it.

Proposal

A licence holder shall, on a regular basis, submit to the supervisory authority declarations and information regarding his or her sales and other operations necessary for supervision and operational risk assessment. Further provisions on submitting declarations and information are laid down by decree of the Ministry of Social Affairs and Health.

The supervisory authority has the right to receive information on the person who performed the delivery of alcoholic beverages from the delivery licence holder for supervision purposes.

Section 63

Right of access to information

Notwithstanding secrecy provisions, the supervisory authorities shall have the right to obtain, free of charge, information from national and municipal authorities, the Social Insurance Institution of Finland, *the Employment Fund* and the Finnish Centre for Pensions which is essential for:

- 1) assessment of requirements for granting a licence or information provided in the declaration referred to in §§ 13–18; or
- 2) supervision of adherence to this act and provisions and regulations issued by virtue of it.

The supervisory authorities shall also have the right, free of charge and notwithstanding secrecy provisions, to obtain from the register of fines referred to in section 46 of the Act on the Enforcement of a Fines (672/2002) the information necessary to determine the conditions of the licence referred to in section 13 or section 72, subsection 3, paragraph 3, or the double jeopardy laid down in section 71, subsection 3.

Existing Act

Proposal

Section 64

Section 64

Provision of information

Provision of information

Notwithstanding the obligation of professional secrecy laid down in the Act on the Openness of Government Activities (621/1999), supervisory authorities may communicate information obtained in the performance of the duties referred to in this Act to another supervisory authority on the financial and business secrets of a private operator or entity, if that information is necessary for the performance of the task assigned to that authority.

By way of derogation from section 16, subsection 3 of the Act on the Openness of Government Activities, the name of the licensee and the notifier, the licence and declaration number and the address and contact details intended for general use may be made public in the register such that the data can only be searched as individual searches using the name of the licensee or the notifier, the business ID or the licence or declaration number or the name of the place of sale.

Notwithstanding the obligation of professional secrecy laid down in the Act on the Openness of Government Activities (621/1999), supervisory authorities may communicate information obtained in the performance of the duties referred to in this Act to another supervisory authority on the financial and business secrets of a private operator or entity, if that information is necessary for the performance of the task assigned to that authority.

By way of derogation from Section 16(3) of the Act on the Openness of Government Activities (621/1999), *the name, license, approval and declaration number and the name and address of the establishment of the holder of the license, business id, approval and declaration number may be made public as such.*

Notwithstanding the obligation of secrecy laid down in the Act on the Openness of Government Activities, the Tax Administration shall have the right to obtain information received from the National Supervisory Authority for Welfare and Health and the Regional State Administrative Agencies while carrying out the duties referred to in this Act, if the information is necessary for tax supervision.

Section 71

Section 71

Penalty fee

Penalty fee

The licensing authority may impose on the licensee a penalty of between EUR 300 and EUR 1000 if:

7) The obligation to notify changes referred to in section 11, the obligation to keep records laid down in section 56, the

The licensing authority may require the licence holder or the *party subject to declaration* to pay a penalty fee of no less than EUR 300 and no more than EUR 1 000, if:

7) the obligation to notify changes referred to in section 11, the obligation to keep records laid down in section 56, the

Existing Act

obligation to keep the self-monitoring plan up-to-date, or the obligation to provide declarations and information laid down in section 62(4) has not been complied with despite the invitations.

(new)

(new)

Proposal

obligation to keep the self-monitoring plan up-to-date, or the obligation to provide declarations and information laid down in section 62(4) has not been complied with despite the invitations;

8) the delivery of alcoholic beverages has infringed the obligations of the licence holder laid down in chapter 5 or section 57, or the conditions or restrictions imposed pursuant to section 17a.

The National Supervisory Authority for Welfare and Health may order a distance seller to pay an administrative fine of at least EUR 300 and at most EUR 1 000 if the distance seller breaches the obligation laid down in section 17b, subsection 1 to mark the delivery with an alcoholic beverage containing it.

The provisions of paragraphs 2–4 shall apply to the fine.

Existing Act

Proposal

Section 72

Section 72

Revocation of a licence

Revocation of a licence

A licensing authority may withdraw a licence or approval under this act temporarily or permanently if a business operator continues to violate obligations or exhibit negligence referred to in points 1–6 of § 71(1) despite written warnings or penalty fees, and the actions are considered significant. The deadline is set by accounting the severity and conditions of the activity serving as a basis for the withdrawal. A licence or approval can be permanently withdrawn if the activity is intentionally continued after a penalty has been imposed, or can be temporarily withdrawn if the activity as a whole is considered significant.

Even if no notice has been issued or a penalty has been imposed, the license or approval may be suspended if the licence holder breaches his essential obligations laid down in this Law in a manner which demonstrates manifest disregard of his obligations under section 56, or permanently if the operator infringes this Act by an act or omission causing a serious danger to human health and the conduct as a whole has been aggravated.

A licence or approval shall be withdrawn if the applicant so requests or if the conditions for a licence or approval are no longer valid due to incorrect information on the application or to a change in circumstances and the situation has not been corrected within the given period. A licence holder's bankruptcy estate, however, has the right to continue licensed operations for up to one year after bankruptcy proceedings are initiated.

The Licensing Authority may withdraw a license *for a limited period* under this Act if:

1) the operator, after giving a notice or imposing a financial penalty, continues violation of obligations or negligence referred to in points 1 to 6 or 8 of section 71, subsection 1, and the conduct is considered material, or

2) the operator infringes the essential obligations laid down in this Act in a manner indicating a manifest disregard of the obligations referred to in section 56.

The deadline is set by accounting the severity and conditions of the activity serving as a basis for the withdrawal.

The Licensing Authority may withdraw a license or approval under this Act if:

1) following the imposition of a financial penalty or the withdrawal of a temporary licence, the operator continues intentionally breach of its obligations or negligence and it has been deemed overall to be serious;

2) the operator is in breach of this Act by an act or omission causing a serious danger to human health and the conduct as a whole has been aggravated, or

3) the conditions of the license or approval are not in force and the situation has not been rectified within the specified time limit.

Section 72 a

Termination of the license

(new)

The Licensing Authority shall enter in the register a license or approval under this Act

Existing Act

Proposal

as expired if the operator has ceased its activity otherwise than temporarily.

The bankruptcy estate or estate of the holder of a license or holder of approval of an indefinite duration shall be entitled to continue to operate for a maximum period of one year from the commencement or death of the bankruptcy. The bankruptcy estate or estate of the holder of a permit or approval valid for a limited period of time shall be entitled to continue to operate until the end of the period of validity, but for a maximum period of one year from the start of bankruptcy or death. The continuation of the activity shall be notified to the Licensing Authority without delay after the declaration of bankruptcy or death.

Section 75

Fees charged by the Regional State Administrative Agency

Charges collected by the State Administrative Agency are regulated in the Act on Criteria for Charges Payable to the State.

The Regional State Administrative Agency shall charge an annual supervision fee to cover the costs incurred on supervision of this Act as follows:

1) for supervision of a holder of a serving licence referred to in § 18 (*supervision fee for serving alcohol*);

2) the supervision of the retailing of alcohol by the holder of the retail licence referred to in Article 17 and by Alko (*retail supervision fee*);
(new)

Supervision fees shall be charged in accordance with the Annex.

Section 75

Fees charged by the Regional State Administrative Agency

Charges collected by the State Administrative Agency are regulated in the Act on Criteria for Charges Payable to the State.

The Regional State Administrative Agency shall charge an annual supervision fee to cover the costs incurred on supervision of this Act as follows:

1) for supervision of a holder of a serving licence referred to in § 18 (*supervision fee for serving alcohol*);

2) the supervision of the retailing of alcohol by the holder of the retail licence referred to in Article 17 and by Alko (*retail supervision fee*);

3) from the holder of the delivery licence referred to in section 17a for the supervising of the delivery of the alcoholic beverage (*delivery supervision fee*).

Supervision fees shall be charged in accordance with the Annex.

Existing Act

Proposal

Section 84

Procurement of alcoholic beverages

It is prohibited to broker or transfer alcoholic beverages against commissions. The procurement and delivery of alcoholic beverages shall also be prohibited, without remuneration, to any person to whom the alcoholic beverage may not be sold under section 37.

Section 84

Procurement of alcoholic beverages

The spirit drink shall not be brokered or transferred for remuneration, *unless otherwise provided by law*. The procurement and delivery of alcoholic beverages shall also be prohibited, without remuneration, to any person to whom the alcoholic beverage may not be sold under section 37.

Section 85

Prohibition on consuming alcoholic beverages

Unless otherwise provided elsewhere in this act, it is prohibited to consume alcoholic beverages:

- 1) on the premises of a restaurant establishment or at other locations where food or other refreshments are provided to consumers for payment;
- 2) at a public meeting or public event referred to in the Assembly Act.

The police may, if the maintenance of public order so requires, prohibit the consumption of alcoholic beverages in a public place.

The owner of the premises, the organiser of the event or the doorkeeper may not allow drinking of alcoholic beverages on premises or during an event referred to in paragraph 1.

Section 85

Prohibition on consuming alcoholic beverages

Alcoholic beverages containing more than 2.8 % by volume of ethyl alcohol may not be consumed unless otherwise provided by law:

- 1) on the premises of a restaurant establishment or at other locations where food or other refreshments are provided to consumers for payment;
- 2) at a public meeting or public event referred to in the Assembly Act.

The police may, if the maintenance of public order so requires, prohibit the consumption of alcoholic beverages in a public place.

The owner of the premises, the organiser of the event or the doorkeeper may not allow drinking of alcoholic beverages on premises or during an event referred to in paragraph 1.

Section 90

Penal provisions

A person shall also be penalised for alcohol infringement who deliberately or through gross negligence:

Section 90

Penal provisions

A person shall also be penalised for alcohol infringement who deliberately or through gross negligence:

Existing Act

in section 37; or

2) as the holder of a licence to retail or serve alcoholic beverages or the responsible manager of the licensed premises or other appointed person referred to in § 38, violates obligations regarding maintaining public order on the licensed premises laid down in §§ 35 or 36.

Proposal

section 37(1)–(3) or a prohibition on transfer in other business laid down in section 37(5), or

2) as the holder of a retail or alcohol serving licence or as the representative of the licence holder referred to in section 38 infringes the obligation laid down in section 35 or 36 concerning the supervision of order in the retail premises and licensed premises.

Annex

Supervision fees referred to in §§ 74 and 75 of the Alcohol Act

(new)

Annex

Supervision fees referred to in §§ 74 and 75 of the Alcohol Act

6 a. Supervision fee for delivery of alcoholic beverages

The Regional State Administrative Agency charges an annual supervision fee of indefinite duration for holders of licences for the delivery of alcoholic beverages. The reporting period is a calendar year. The fee is comprised of a fixed basic fee and additional fees based on the size of the operation as follows:

The basic, licence holder-specific fee is EUR 100.

The amount of the additional fee based on the size of the operation is determined on the basis of the annual quantities of deliveries of alcoholic beverages reported to the licensing authority during the supervision fee period. In addition to the basic fee, the supervision fee based on number of deliveries is EUR 0.10 per delivery per year for deliveries above 1 000 deliveries. The fee shall be rounded down to the nearest EUR 10.

The licence holder is obliged to notify the licensing authority of the total number of deliveries made each year by 31 January. If the licence holder fails to submit the declaration within the time limit, the Licensing Authority shall have the right to

Existing Act

7. Collection of supervision fees

The supervision fees referred to above in paragraphs 1-3 shall be billed after the period by 30.11. in such a manner that the fee period runs from 1.9. through 31.8. No supervision fee will be collected from a licence holder if operations were discontinued by 31 March and the licence holder gave written notice within the required period. Supervision fees referred to in paragraph 4 shall be billed in advance for a calendar year by 31 March at the latest. No supervision fees will be collected for a partial calendar year if a licence holder's operations ended by 31 March, provided that he or she gave written notice within the required period.

No supervision fees will be collected from a new holder of a retail trade licence or serving licence or regarding a new notice of extended serving hours during the first calendar year. Supervision fees for retail trade, serving and extension of serving hours shall be billed on a calendar year basis no later than 30 April when the licence holder has a valid licence 1.4.

Proposal

order the licence holder to report the total number of deliveries on pain of incurring a periodic penalty payment as laid down in section 70. The Licencing Authority shall issue a reminder to the licence holder and allow a reasonable period to report the above-mentioned information before imposing a periodic penalty payment.

7. Collection of supervision fees

The supervision fees referred to above in paragraphs 1-3 shall be billed after the period by 30.11. in such a manner that the fee period runs from 1.9. through 31.8. No supervision fee will be collected from a licence holder if operations were discontinued by 31 March and the licence holder gave written notice within the required period. Supervision fees referred to in paragraph 4 shall be billed in advance for a calendar year by 31 March at the latest. No supervision fees will be collected for a partial calendar year if a licence holder's operations ended by 31 March, provided that he or she gave written notice within the required period.

No supervision fees will be collected from a new holder of a retail trade licence or serving licence or regarding a new notice of extended serving hours during the first calendar year. Supervision fees for retail trade, serving and extension of serving hours shall be billed on a calendar year basis no later than 30 April when the licence holder has a valid licence 1.4.

The supervision fees referred to in paragraph 6a shall be invoiced retrospectively, but not later than 30 April, and the calculation period based on the number of deliveries shall be the previous calendar year.