Assessment of the compliance levels with Section 126a of the Public Health Act among public food enterprises in Bungoma County, Kenya

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ABSTRACT

Food enterprises in Kenya and Bungoma County experience challenges in complying with the provisions of section 126A of the Public Health Act (CAP 242). The county government invested limited resources to enforce public health laws regardless of the money collected in court fines and summons issued to proprietors due to non-compliance. Consequently, the objective of the study was to establish the level of compliance with the provisions of section 126A of the Public Health Act (CAP 242) by public food enterprises in Bungoma County, Kenya. Analysis of literature indicated that since the year 2015, when the findings of this study were recorded, other studies that focus on the level of compliance with section 126A of the Public Health Act (CAP 242) in Bungoma County have remained either non-existent or inaccessible. The extent of awareness of CAP 242, level of training among proprietors of public food enterprises, and public food enterprises' characteristics and practices are insightful variables in the compliance process. The study's methodology entailed a cross-sectional survey, targeting public food enterprises in Bungoma County. A representative sample was obtained using the Fisher et al. approach. The total number of public food enterprises as per the records in the Bungoma County offices was 639. After sample size determination and applying inclusion and exclusion criteria, 149 respondents were selected to participate. Data was collected using facility inspection checklists, structured questionnaires, interviews, and focus group discussions, while analysis was done using Stata software. A Likert scale with a score of five (5) was used to measure the extent of compliance with each provision of section 126A, recording an average compliance level of 2.53 in the county. The results recorded in the specific provisions of section 126A encompassed the certificate of fitness (3.1), wells and water appliances (2.9), cooking apparatus and its accessories (2.1), repair of facilities and emergency exits (2.2), and excavations and projections (2.3). In addition, the mean compliance with provisions of sewerage facility was 2.2, provisions of hourly refuse management 2.6, provisions pertaining to managing sanitary facilities 2.1, ventilation provisions 2.9, and lighting provisions 2.9. The study recommends the need to adapt co-regulation and improve training and awareness levels to enhance compliance with section 126A of the Public Health Act among public food enterprises.

Keywords: Compliance, Co-Regulation, Nuisance, Public Food Enterprises, Public Health Act (CAP 242), Section 126A

I. INTRODUCTION

The Public Health Act, Chapter 242, is the cornerstone of public health in Kenya. Section 126 is widely applicable to diverse sectors of Kenya's health system while section 126A maintains building and sanitation standards. Consequently, the specific guidelines under section 126A as applicable to public food enterprises incorporate certificate of fitness, provisions to safeguard wells and water appliances, provisions to maintain cooking apparatus and accessories, provisions to repair facilities and emergency exits, guidelines for excavations and projections, guidelines to maintain sewerage facilities, guidelines for hourly refuse management, management of sanitary facilities, provisions for ventilation, and provisions for lighting (Government of Kenya, 2012). While the relationship between compliance with public health laws and health presents a complex phenomenon, Patello-Mantovani and Olivieri (2022) and Oduol (2020) simplify this concept by indicating that enhanced levels of compliance allow the provision of safe foods, reducing the likelihood of foodborne and water related illnesses, such as diarrhea and typhoid. The benefits of compliance can be understood from a cost-benefit perspective that reflects the position of both the population and enterprises. A healthy population contributes productively to domestic and national economic processes. Enterprises seek to avoid bribery and arrests to safeguard their income and remain operational.

Mosota (2023) highlight that the increasing number of court summons and arrests indicate that the level of compliance with the Public Health Act is still low, citing the situation in Nairobi County. The authors note the hostile relationship between the government and public food enterprises because such enterprises pose nuisances to the environment. Consequently, local authorities impose penalties on premises that run their business contrary to the

requirements. However, businesses have adapted to this situation by offering bribes to continue running unsafely (Mosota, 2023). Consequently, assessing the level of compliance with the provisions in section 126A of the Public Health Act (CAP 242) would empower food enterprises, local county governments, and the central government to safeguard human health through effective enforcement.

This study proffers crucial data to design compliance systems and procedure to achieve full compliance with the law. In addition, it denotes the roles of local authorities, especially the county inspectorate team in enforcing laws. Given the limited data available on compliance, especially in Bungoma County, the government could use data from this study to understand compliance issues across Kenya and tighten the enforcement and compliance process.

1.1 Statement of the Problem

Complying with laws is a fundamental step in safeguarding human health. Africa, especially Kenya has limited studies that explicate the effect of public health laws, guidelines, and directives on population health. Majority of the studies, such as Kuboka et al. (2024) focused on informal public food markets that are not licensed, noting that these entities addressed food appearance and physical qualities rather than compliance with established food safety standards. On the other hand, Mosota (2023) examined only a subset of CAP 242, which entailed Hazard Analysis and Critical Control Point (HACCP) and temperature standards. While noting the existing studies on food safety, such as Mosota (2023), it is safe to indicate that a significant proportion of the remaining ones focus on communicable diseases, such as HIV, TB, and NCDs. Studies relating to compliance with section 126A of Public Health Act in public food enterprises in Bungoma County are noticeably lacking. The need for a relevant study on food safety is compounded by the constant prevalence of foodborne illnesses (Wabwoba, 2021). Consequently, this study provides relevant findings based on data collected in 2015 on compliance to section 126A of the Public Health Act, CAP 242. Given the progressive nature of compliance, the findings allow a future follow-up investigation to determine changes in compliance. These findings have been interpreted based on contemporary data from Kenya, Africa, and the globe.

1.2 Research Objective

To assess the level of compliance with section 126A of the Public Health Act (CAP 242) by public food enterprises in Bungoma County, Kenya.

1.3 Research Question

What is the level of compliance with section 126A of the Public Health Act (CAP 242) by public food enterprises in Bungoma County, Kenya?

II. LITERATURE REVIEW

2.1 Theoretical Review

The responsive regulatory theory and compliance theory highlight the relationship between law enforcers and proprietors of public food enterprises. On one hand, Parker (2021) indicates that enforcers need to apply both persuasion and punishment to improve compliance. On the other hand, Tohonon et al. (2025) highlights the need for institutional collaboration and a tailored regulatory setting that addresses real challenges. Specifically, they shun the use of the "tit for tat" approach where enforcers assert excessive enforcement strategies while proprietors focus on avoidance measures. For example, Tohonon et al. (2025) acknowledges the need to boost the capacity of vendors to comply with the law rather than focus on sanctions. Parker (2021), while advocating for the regulatory theory highlights the need to look at compliance from a lens that encompasses the business or proprietor, government or enforcer, and civil society organization. The theory of regulatory compliance closely mirrors the regulatory theory and compliance theory, noting the need for organizations to operate within a legal framework, safeguard stakeholders, and mitigate risks (Fiene, 2023). The theory acknowledges the need for a responsive legal and regulatory environment, which should begin with comprehending the existing and applicable laws. In addition, risk management is crucial as the theory acknowledges the importance of proactively identifying and mitigating risks. Other fundamental aspects mentioned by the law include policies and procedures, internal controls, training and awareness, reporting, documentation, and continuous improvement (Fiene, 2023). Therefore, designing the study while considering such theories help in contextualizing the variables.

The rational choice theory focuses on the costs and benefits of complying with public health law. Public health proprietors, like other actors, focus on minimizing costs while maximizing benefits (Shahbaz et al., 2021). In such instances, one must weigh the costs of fully complying by investing in infrastructure and personnel requirements vs. the benefits, such as reduced arrests, bribery, and closure of a business. Therefore, the theory is relevant and suitable in understanding the motivation and results of compliance.

2.2 Empirical Review

Many studies document the negative effects of poor food control measures while recommending the mitigating factors. Mosota (2023) examined the socio-demographic profiles of food handlers in determining the extent of compliance with HACCP directives. The author's analysis noted that 75.9 % of the food handlers were male and 18 % had a bachelor's degree. However, the study did not link these socio-demographic variables with compliance. Other deduced determinants that influence compliance include practices in food facilities, awareness of the law, and relevant training (Mwove et al., 2020). The relationship between law enforcers and proprietors and government support may prompt a proprietor to seek rewards, power, and information to support the compliance process. As such, compliance is an interplay of diverse factors that are yet to be fully investigated in the Kenyan context, specifically in Bungoma County.

While studies on compliance with public health law in Kenya and regionally are scarce and focus on the informal sector, especially street food vendors, they still report low compliance levels. Though scholars like Mosota (2023) highlight gaps in food handling among food enterprises in Nairobi County, especially in areas needing temperature control, studies that measure the extent of compliance as an absolute figure are surprisingly non-existent or inaccessible. WHO further acknowledges that the Africa region faces significant food safety issues that threaten public health standards due to erratic laws (World Health Organization, Regional Committee for Africa, 2024). Notably, compliance requirements are not standardized and sufficiently enforced, making it difficult to determine the cause and effects of unsafe foods. Operating in largely informal settings with few officially licensed food providers further complicates the situation.

Hoffman et al. (2023) highlight the importance of co-regulation in enhancing compliance. They note that co-regulation also denoted as enforced self-regulation should focus on enterprises having their own monitoring systems to enhance their capacity to adhere to the laws. Co-regulation allows enterprises to become partners in the implementation of the law rather than bystanders. As part of enhancing co-regulation, an industry self-regulation framework was developed, targeting Kenya, Uganda, and Tanzania (East Africa Grain Council et al., 2023). The findings highlighted the need for collaboration, proactive approaches, and recognition of different actors' roles. The approach supports a harmonized approach to safety, facilitates a standard setting process, and aids in monitoring. As such, this highlights the absence of flexible approaches to enhance compliance.

III. METHODOLOGY

3.1 Design of the Study

The study applied a descriptive study, targeting proprietors of public food enterprises in Bungoma County drawn from the county government administrative units, encompassing Bumula, Kanduyi, Sirisia, Kabuchai, Kimilili, Tongaren, Webuye West, Webuye East, and Mt. Elgon. The area has a population of 1,670, 570, covering 3,032.2 km² (Infotrak Research and Consulting, 2024). The total number of licensed public food enterprises serving over twenty people (20) in a day within the study area as per the statistics available at the county government was 639 in 2015.

3.2 Sampling

The study applied the Fisher et al. formula, represented as (Z2 pq/d2). The finite population was applied because the total number of public food enterprises did not reach 10,000. The final desired sample size was 149 proprietors, which was distributed proportionately in the sub-counties.

3.3 Data Collection

The data collection period for this study was from 15th January 2015 to 26th April 2015. The study applied an inspection checklist based on a likert scale to measure compliance with specific provisions of section 126A. The scores in the likert scale were interpreted as meeting one of the requirements of each provision (1), meeting less than half of the requirements of each provision (2), meeting half of the requirement of each provision (3), meeting more than half of the requirements of each provision (4), and meeting all the requirements of each provision (5). Under certificate of fitness, the requirements were having a certificate relevant to the size of the business, having the certificate publicly displayed, having the certificate displaying name of the facility, having a current/renewed certificate, and paying fees. Under wells, tanks and cisterns, the requirements focused on the diameter of the opening, frequency of cleaning or emptying, use of appropriate of construction materials, availability of access hatch/ air vent/ fill port, and availability of a withdrawal pipe with a screen. Under stoves, cooking apparatus, and chimney, the requirements included cooking apparatus that is free of smoke and soot, chimney that extends 25 meters above the roof, apparatus that is easy to operate, cooking apparatus has an ignition knob, cooking areas at least 1 m from each other, and the location of cooking apparatus should not be near windows. Under the section on construction, repair of dilapidated buildings and escape routes for occupants, the requirements included periodical cleansing, whitewashing, marking escape routes, directions for reaching the fire escape, and one fire escape for every 20 people. Under erection of movable objects, excavations and projections,

the requirements included having a permit/license, public notification of movable objects/ excavation, designation of excavation area, nuisance avoidance, and suitability/ conformity to settings. Under the sewerage system, the requirements included having a holding tank, having a permit for holding tank, restrictions of constructions, restrictions on maintenance, and having a certificate for sewerage system. Under hourly refuse management, the requirements included, reduction of waste, covering areas of deposit, categorization of waste, maintenance of waste collection equipment, and use of protective clothing. Under management of sanitary facilities, the requirements included frequency of disinfection and cleaning, accessibility, presence of accessories, warning signs during cleaning, and using the right gear while cleaning. Under ventilation, the requirements included ventilation of space that is not naturally ventilated, leaving naturally ventilated space open, proportionate window's size to the floor, proportionate distance of window from floor, and control ventilation for areas with air economizer. Under lighting, the requirements included proportionate location of windows, proportionate size of windows, availability of emergency lighting, bulb/sq ft –artificial lighting, and natural lighting should be left open.

In addition, structured questionnaires were used to collate data on socio-demographic characteristics of respondents, awareness, and factors that influence compliance. Focus group discussion and key informant interviews were also conducted. One (1) focus group discussion was conducted among eleven (11) proprietors of public food enterprises to prompt rich exchange of information pertaining to compliance. In addition, four (4) key informant interviews were conducted by enforcers attached to the county health department and two (2) subcounty public health officers. Research assistants were carefully selected and trained on administering the questionnaires, conducting inspection, focus group discussions, and interviews.

3.4 Pretesting of Research Instruments

The study tool was pretested in Kondele, Kisumu County as it presents a similar demographic profile to Bungoma County. A total of 10 public food enterprises were pretested.

3.5 Data Analysis

Qualitative data was analyzed using NVIVO after transcription and coding. Content analysis then identified major themes, allowing further analysis. Quantitative data was analyzed using stata and summarized to present major findings.

3.6 Inclusion Criteria

The inclusion criteria encompassed public food enterprises serving food to a minimum of 20 people in a day. In addition, the enterprise had to be licensed with a current/renewed license. This indicates that study focused on licensed facilities.

3.7 Exclusion Criteria

The exclusion criteria were closed premises, refusal to participate in the study, and serving less than 20 people in a day. In addition, facilities that were not licensed and lacking a current/renewed license were excluded.

3.8 Study Limitations

The study sampled licensed enterprises only, noting that many food vendors are unlicensed and operate informally. In addition, the study did not include the general population to gather their insights on compliance with section 126A, missing out on critical insights on reported barriers to compliance and self-reported illnesses after eating in a facility. In addition, the study's reliance on self-reported data for practices like bribery and arrests would contribute to under-reporting due to the perceived ethical ramifications. The study's cross-sectional design hindered the ability to link socio-demographic variables, practices, and occurrences in the food enterprises with compliance levels.

3.9 Ethical Considerations

Ethical approvals were sought from Kenyatta University Graduate School [PKU/132/I 116], Kenyatta University Ethical Committee and National Commission for Science, Technology and Innovation (NACOSTI) approved the study [NACOSTI/P/13/7582/397]. During the study, the principles of informed consent, beneficence, do no harm, and voluntary participation were followed.

IV. FINDINGS & DISCUSSION

4.1 Response Rate

This study sampled a total of 149 proprietors of public food enterprises in Bungoma County, recording a response rate of 116 (77.9%).

4.2 Socio-demographic Characteristics of Proprietors of Public Food Enterprises

As illustrated in the table 1 below, over half of the respondents were women 62 (53.4%) and their median age was 39 (20-64) years. In addition, most of the proprietors were married 69 (59.5%) and of African descent 109 (94 %). Majority of the respondents had tertiary education 54 (46.6%), however, only 16 (13.8%) were trained in a hotel related course. In addition, a significant proportion of the respondents had less than five years of experience in the food industry 50 (43.1%). Therefore, these results indicate diverse respondent characteristics, providing a platform for deeper analysis.

Table 1

The Socio-Demographic Characteristics of Respondents

Variable	No. (n)	Percentage (%)
Gender		
Male	54	46.6
Female	62	53.4
Age Mean (SD) 39.0 (±9.4) yrs Median Min-Max39 (20-64) yrs		
20-29 years	21	18.1
30-39 years	37	31.89
40-49 years	43	37.06
50-64 years	15	12.93
Marital status		
Single	19	16.4
Married	69	59.5
Divorced/separated	10	8.6
Widowed	5	4.3
Cohabiting	13	11.2
Ethnicity		
Black African	109	94
White	1	0.9
Indian/Asian	6	5.2
Religious Affiliation		
Christian	97	83.6
Muslim	14	12.1
Hindu	5	4.3
Education		
Highest level		
Primary	20	17.2
Secondary	42	36.2
College/University	54	46.6
Educational training		
hotel course	16	13.8
Non-hotel course	100	86.2
Employment		
Employed elsewhere	24	20.7
Not employed elsewhere	92	79.3
Experience in the hotel industry Mean (SD) 6.8 (±6.2) yrs 5 (0.25-30) yrs		
<5 years	50	43.1
5 - <10 years	39	33.62
≥10 years	27	23.27

Source: Ogweno (2015).

4.3 Characteristics of the Public Food Enterprises

Analysis of the characteristics of public food enterprises is illustrated in table 2 below. The results indicate that restaurants constituted majority of the public food enterprises 43 (37.06%). In addition, cafés constituted 39 (33.62%), bar and restaurants made up 20 (17.24%) while fast food constituted 14 (12.06 %). A bigger proportion of these enterprises were operating in the urban environment 94 (81.03%) while 22 (18.96%) were in rural areas A significant proportion had been operational for less than 10 years. On average, the enterprises had 9.7 employees serving 99.1

customers per day and making a monthly total revenue collection with a median of 70,000 Kenya shillings (10,000-400,000) as evident in the table 2 below.

Table 2

Characteristics of the Public Food Enterprises

Variable	No. (n)	Percentage (%)
Type of Public Food Enterprises		
Café	39	33.62
Restaurant	43	37.06
Bar and Restaurant	20	17.24
Fast food	14	12.06
Operating environment		
Rural	22	18.96
Urban	94	81.03
Years of existence		
<5 years	37	31.89
5 - <10 years	43	37.06
≥10 years	36	31.03
Number of employees Mean (SD) 9.7 (±9.3) Median Min-Max 7 (2-48)		
Number of customers/ days Mean (SD) 99.1(±75.9) Median Min-Max 70(20-300)		
Total revenue per month (Kenya Shillings) Mean (SD) 87, 281 (77,978) Median Min-Max 70,0000(10,000-400,000)		
<Kenya shillings 20,000	15	12.94
≥Kenya shillings 20, 000 and < 50,000	29	25.00
≥Kenya shillings 50,000 and < 100,000	43	37.06
≥Kenya shillings 100,000	29	25.00

Source: Ogweno (2015).

4.4 Practices and Occurrences within the Public Food Enterprises

Table 3 below notes that only a small proportion 16 (13.8%) respondents had been arrested for non-compliance while the majority 100 (86.2%) had never been arrested. In addition, a small proportion, 22 (18.96%) of the public food enterprises had been penalized for non-compliance paying on average a penalty of 13, 285 Kenya shillings. Bribery was not reported as a widespread practice as only 6 (5.7 %) issued a bribe of about 6, 208 Kenya shillings. Approximately a third of the respondents 35 (30.7%) indicated that they had not been inspected by county officials while 81 (69.83%) had been inspected. This study indicated that a total of 55 customers reported contracting diarrhea and typhoid after visiting the facility in the last 12 months, with these results disputed and explained in the KII caption below.

Table 3

Practices and Occurrences within the Public Food Enterprises

Variable	No. (n)	Percentage (%)
Arrested for non-compliance		
Yes	16	13.79
No	100	86.21
Penalized for non-compliance		
Yes	22	18.96
No	94	81.04
Customers complained to have suffered from		
Diarrhea	28	24.13
Typhoid	16	13.79
Diarrhea and typhoid	11	9.48
No complain	59	50.86
Cost of the penalty Kenya shillings Mean (SD) 13, 285 (±10,520) Median 14, 000 (10-40,000)		
Issued bribe after arrest		
Yes	6	5.7
No	110	94.3
Amount of Bribe Mean (SD) 6, 208 (±7,949) Median 3,687 (3- 39,000)		
Inspection by the authorities		
Yes	81	69.83
No	35	30.17

Source: Ogweno (2015).

"*We notice several instances when individuals report that they got diarrhea after eating in a hotel in town, but you see, it's very difficult to say they got it from this hotel……..unless we have several reports from the same hotel*". Enforcement official, Bungoma County, 23-02-2015.

4.5 Extent of Compliance with the Provisions of Section 126A of the Public Health Act

The total possible score to measure compliance was 5.0 using a likert scale. The average compliance recorded for Bungoma County was 2.53 based on the likert scale as illustrated in table 4 below. The provisions of section 126A that recorded below average performance were cooking apparatus and chimney (2.1), construction, repair of dilapidated buildings and escape routes for occupants (2.2), erection of movable objects, excavations and projections (2.3), sewerage system (2.2), and regulating sanitary conveniences (2.1).

Table 4

Scores Recorded on Each Section of 126A

Provisions of Section 126A	**Mean Compliance (SD)**
Certificate of fitness	3.1 (0.97)
Wells and water appliances	2.9 (1.02)
Cooking apparatus and accessories	2.1 (0.96)
Repair of facilities and emergency exits	2.2 (1.4)
Erection of movable objects, excavations and projections	2.3 (1.39)
Sewerage facility	2.2 (1.5)
Hourly refuse management	2.6 (0.8)
Management of sanitary facilities	2.1 (0.6)
Ventilation	2.9 (1.4)
Lighting	2.9 (1.8)
Average Compliance	**2.53**

Source: Ogweno (2015).

4.6 Public Food Enterprises Compliant with Each Provision in Section 126A

Apart from measuring the general average compliance levels, it was necessary to present the percentage of respondents who were fully compliant with each section of 126A of Public Health Act as illustrated in figure 1 below. Public food enterprises that were fully compliant scored five while those that were non- compliant scored between four and one as depicted in the figure below. A sum of 51 (44%) scored five (5) indicating they were fully compliant with provisions on certificate of fitness while 65 (56 %) were not fully compliant. The results show that measuring compliance as binary, either yes/no may not reflect a facility's strength in each provision of section 126A.

Table 5

Number of Organizations That Are Compliant with Each Section of 126A

	Frequency		Percent	
Provision	Fully compliant	Not compliant	Fully compliant	Not compliant
Certificate of fitness	51	65	44%	56%
Hygiene of premises	62	54	53%	47%
Maintenance of facilities	61	55	53%	47%
Hygiene of food handling	58	58	50%	50%
Hygiene of food storage	61	58	51%	49%
Sanitary conveniences	61	53	54%	46%
Wholesome water supply	51	63	45%	55%
Cleanliness of vehicles	51	63	45%	55%

Source: Ogweno (2015).

4.7 Awareness on Section 126A of the Public Health Act

The proportion of respondents who knew about the existence of section 126A of the Public Health Act was 90 (77.58%) while those who were unfamiliar was 26 (22.42%) as illustrated in Figure 1 below.

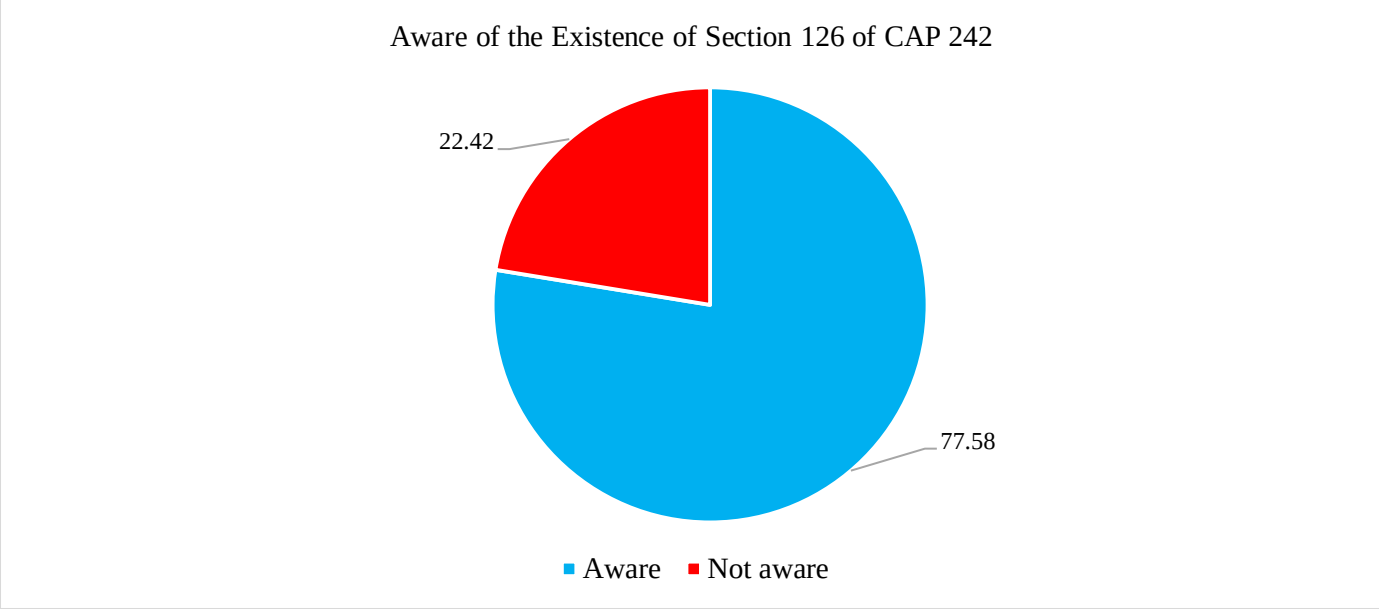

Figure 1
Awareness and training of section 126A of the Public Health Act
Source: Ogweno (2015).
Note. The figure shows the proportion of individuals who are aware of the existence of section 126A.

The extent of awareness is also evident in the following caption from a focus group discussion (FGD). The respondent below is classified as not being aware.

> "*When I began working, I did not even know the requirements, then we were inspected and that's when I started looking for a medical certificate for food handlers. I then opened my own hotel and nobody taught me about this law, we are on our own……. when I hear that inspectors are coming, I just prepare something…. laughs….* (FGD Respondent-Bungoma, 12-02-2015)

4.8 Discussion

Compliance with public health laws remains a critical component of safeguarding public health act. Socio-demographic characteristics, commitment by public food enterprises to compliance with the law, and cultural predispositions within the facilities influence compliance (Mosota, 2023). Although this study did not attempt to link socio-demographic variables with compliance, it noted the diverse mix of respondents' characteristics, specifically noting that less than 50 % of the respondents were trained in a hotel-related course. This clearly shows that informal knowledge is applied to run the enterprises, departing from basic expertise in food safety courses and public health law environment. Organisation for Economic Cooperation and Development [OECD] (2021) acknowledges the tenets of the compliance theory, which underscores the fact that capacity through education is a determinant of compliance to public health law. On the same breath, Saha et al. (2021) acknowledge that compliance is linked to being knowledgeable about food safety rules, allowing entities to practice self-control. Concurrently, Segbedzi et al. (2023) reiterate that training, education, and experience levels are crucial socio-demographic aspects to consider when measuring compliance level though the authors did not find it necessary to measure religious affiliation and ethnicity. Therefore, these results mean that socio-demographic variables help in understanding unique attributes that are typical of a study site, setting the stage for determining the compliance levels.

The characteristics of public food enterprises investigated included the type of public food enterprises (café, restaurant, bar, fast-food), operating environment (rural vs. urban), years of existence, number of employees, number of customers, and total revenue. Of specific interest are number of employees and total revenue. The number of employees reflects an enterprise's ability to perform its co-mandate and apply innovative techniques that include co-regulation. Ngqangashe et al. (2021) elucidates that the compliance theory, noting that capacity and legitimacy influence compliance. In this case, legitimacy is derived from having a capable workforce and sufficient resources to adhere to business requirements, including adhering to existing laws. However, the pertinent question that remains unanswered is sufficient resources relative to the size of a business. For example, a study conducted on fast food restaurants in Kenya found that the average daily sales for 67.3 % of the enterprises were between 10,000 to 50,000 Kenya shillings. At a face value, this appears sufficient to obtain and renew licenses though it is difficult to determine sufficiency in operations. Consequently, Asuga (2024) highlights some of the financial challenges facing the hotel industry including high interest rates, need for collateral to borrow, and borrowing costs. The rational choice theory denotes the value of

cost-benefit analysis, noting that organizations consider the value of compliance considering limited resources. This shows that hotels face economic pressures beyond obtaining and renewing licensure as well as achieving capacity to enhance compliance with public health law.

The rational theory as depicted by cost and benefit of compliance must be understood from the lenses of arrests, bribery, and inspection of public food enterprises. Though arrests and bribery are at risk of underreporting due to the moral and ethical burdens that ensue, they are still crucial variables that illustrate the complexities of compliance. Bribery offers an alternative for entities that are unwilling to comply with the law while arrest is a strong deterrent. Another strong deterrent noted by Nortey et al. (2024) is disease attributed to poor compliance. Although it is difficult to link disease to eating from a specific food enterprise, the possibility that consumers will speak amongst themselves and shun such enterprises motivates the proprietors to comply. Besides, weak enforcement measures means that a food enterprise finds it lucrative not to comply with laws. For example, this study found that a sizeable proportion of the enterprises 35 (30.17 %) had not been inspected, meaning that enterprises may weigh the possibility of arrest following inspection and choose their most beneficial outcome. Conclusively, when it becomes difficult to bribe officials and the frequency inspection increases, the cost of non-compliance increases. This increases the compliance rates.

Using a likert scale to measure the level of compliance shows the progress that an enterprise makes toward complying with specific sections of the law. Ngqangashe et al. (2021) mirror the tenets of the compliance theory, indicating that organizations/entities may take time to enhance compliance as they learn and familiarize with the laws. Consequently, they may fulfill some requirements while struggling to achieve others, explaining the largely average compliance levels. Saha et al. (2021) indicate that average compliance levels are attributed to a focus on the number of inspection violations. This mirrors the results recorded in this study that found non-compliance with specific attributes, which could be interpreted as violations. Saha et al. (2021) consider compliance as a ladder that one is expected to climb incrementally. Segbedzi et al. (2023) equally applied a likert scale albeit to focus on "Food handling practices and sanitary conditions of charitable food assistance programs (CFAPs) in eThekwini District, KwaZulu-Natal, South Africa". Like this study, the methodology allowed the ranking of the programs based on seven food hygiene and safety presented on a likert scale. Segbedzi et al.'s study attributes such below average compliance rates to low levels of awareness, training, and practices, such as bribery and corruption that hinder effective enforcement of laws. On the other hand, Oduol (2022) used absolute measures to determine compliance to relevant laws among food vendors/proprietors, finding the compliance levels to be 72%. Taken together, these reflections explain the average compliance levels recorded at 2.53 in Bungoma County as they are tied to low levels of training and awareness. Taken collectively, using a likert scale highlights the need to measure compliance as procedural rather than an absolute value.

Awareness levels to the tenets of section 126A of the Public Health Act (CAP 242) is a vital measure to consider when measuring compliance. Though Mwove et al. (2020) focused majorly on street vendors who were unlicensed, departing significantly from this study that focused on licensed vendors, they emphasize that low levels of awareness toward public health laws and guidelines hinders compliance. An interesting aspect in this study is that a significant proportion of the respondents, 90 (77.58%) were aware of the Public Health Act though the average compliance remained low. The focus group discussion explains this phenomenon as proprietors are knowledgeable, but "try" to comply with some of the laws when an inspection is pending. Taken collectively, these results and previous studies affirm that awareness of relevant laws among food proprietors impacts public health standards.

V. CONCLUSION & RECOMMENDATIONS

5.1 Conclusions

The average compliance level recorded in Bungoma County indicates the need for combined efforts from government, public food enterprises, the community, and civil society organizations to enhance compliance. The specific corrective measures include enhancing awareness levels, expanding enforcement parameters, and eliminating bribery. Compliance must be measured as a process rather than absolute figure, introducing an interesting perspective, which means that an average compliance does not necessarily mean poor compliance levels rather it highlights the need to measure adherence incrementally. This insinuates that a follow-up study is required to check the progress noted, following the results of this study.

5.2 Recommendations

Simplifying the provisions of Section 126A of the Public Health Act: The national, county, and local governments must consider simplifying the provisions of section 126A of the Public Health Act (CAP 242) so that all stakeholders can understand. Formulating guidelines, standard operating procedures, and white papers would enhance the understanding of the law by the proprietors. The approach is expected to enhance compliance levels with section 126A by public food enterprises. This recommendation must be combined with enhancing literacy levels, which would enable the proprietors to access and understand relevant provisions of the public health Act. Literacy entails accessing and understanding section 126A of CAP 242, critiquing the law to prompt revisions and amendments that reflect evolving

socio-economic changes occurring in Bungoma County, Kenya, Africa, and the globe. Literacy would allow proprietors to link compliance with improved health outcomes.

Improving Enforcement Practices: Given that bribery was reported, albeit at lower levels, designing and implementing anti-corruption strategies are crucial in enhancing compliance levels. Stiffer penalties for bribery both for proprietors and enforcers would eliminate the practice. Limiting unnecessary contact between law enforcers and proprietors is also crucial.

Cooperative enforcement strategies: The national and county governments must consider modern and tested approaches to enhance compliance levels. A unique approach is cooperative enforcement approaches, also denoted as co-regulation. The approach treats enforcement as needing the support of diverse players, including the government, proprietors, civil society organizations, and interest groups. They identify the major hurdles to enforcement through regular needs analysis and devise corrective approaches.

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