

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to strengthen the Alcoholic Beverage Control Board (“Board”) enforcement authority to fine for Alcoholic Beverage Control violations and take enforcement action for interfering with Metropolitan Police Department and Alcoholic Beverage Regulation Administration (“ABRA”) investigations; to clarify the quantity of alcohol that may be shipped into the District of Columbia; to authorize the Board to require nightclubs to submit security plans with their license applications, and to provide the Board with the discretion to require security plans of restaurants, taverns, and multipurpose facilities; to clarify that a tasting permit is valid for 3 years; to improve Board transparency by establishing an open meeting requirement; to prohibit licensees from assigning away responsibility for security at an establishment; and to provide the Board with the authority to summarily fine licensees for specified acts or failures to act under the same standard for summary revocation and suspension; and to amend Chapter 7 of Title 23 of the District of Columbia Municipal Regulations to provide procedures for reimbursement by ABRA of Metropolitan Police Department details to licensees.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Omnibus Alcoholic Beverage Amendment Act of 2008”.

Sec. 2. Chapter 1 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section heading to read as follows:

“25-123. Farm winery retail license.”.

(b) Section 25-101 is amended by adding a new paragraph (21B) to read as follows:

Amend
§ 25-101

“(21B) “Farm winery” means a winery where at least 51% of the fresh fruits or agricultural products used by the owner or lessee to manufacture the wine shall be grown or produced on such farm.”.

(c) Section 25-113 is amended as follows:

Amend
§ 25-113

(1) Subsection (b) is amended by adding new paragraphs (4) and (5) to read as

follows:

“(4) The Board, in its sound discretion, may require that a restaurant (R) licensee file a security plan with the Board. A restaurant (R) licensee so required shall comply with the terms of its security plan.

“(5)(A) Notwithstanding any other provision of this subchapter, a restaurant license (R) under this section shall authorize the licensee to permit a patron to remove one partially consumed bottle of wine for consumption off premises.

“(B) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employee before removal from the premises.

“(C) The partially consumed bottle shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine shall be provided by the licensee and attached to the container.”.

(2) A new subsection (c)(4) is added to read as follows:

“(c)(4) The Board, in its sound discretion, may require that a tavern (T) licensee file a security plan with the Board. A tavern (T) licensee so required shall comply with the terms of its security plan.”.

(3) Subsection (d)(1) is amended to read as follows:

“(d)(1) A nightclub license (N) shall be issued only to a nightclub with a security plan. The holder of a nightclub license shall comply with the terms of its security plan.”.

(4) A new subsection (g)(4) is added to read as follows:

“(g)(4) The Board, in its sound discretion, may require that a multipurpose facility licensee file a security plan with the Board. A multipurpose facility licensee so required shall comply with the terms of its security plan.”.

(d) Section 25-116 is amended by adding a new sentence at the end to read as follows:

Amend
§ 25-116

“A solicitor’s license shall allow the licensee to transport samples to and from licensed establishments.”.

(e) Section 25-118 is amended as follows:

Amend
§ 25-118

(1) Subsection (a) is amended by striking the phrase “class A” and inserting the phrase “class A and B” in its place.

(2) Subsection (d) is amended by striking the number “2” and inserting the number “3” in its place.

(f) A new section 25-123 is added to read as follows:

New
§ 25-123

“§ 25-123. Farm winery retail license.

“(a) A farm winery retail license shall be issued to a farm winery to authorize the licensee to sell wine:

“(1) From the place described for consumption off-premises and to deliver the same in the sealed bottle or other closed container in which the same was received by the licensee at the licensed establishment; and

“(2) At the licensed establishment for consumption at the licensed establishment.

“(b) A licensee under a farm winery retail license may sell and deliver alcoholic beverages for off-premises consumption only during the hours of sale and delivery specified for a class B off-premises retail licensee under § 25-722, and may sell and serve alcoholic beverages for on-premises consumption except as restricted by § 25-724.

“(c) The provisions of §§ 25-725, 25-741 (a) and (b), 25-742, and 25-753 shall apply to a farm winery retail license.”.

Sec. 3. Chapter 2 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase “25.204.01. Board – open meetings.” after the phrase “25-204. Board – functions and duties.”.

(b) A new section 25-204.01 is added to read as follows:

“§ 25-204.01. Board — open meetings.

New
§ 25-204.01

“(a) This section shall be construed broadly to maximize public access to meetings. Exceptions to open meetings shall be construed narrowly.

“(b)(1) “For the purposes of this section, the term “meeting” means any gathering of a quorum of the members of the Board, including hearings and roundtables, whether regular, special, or emergency, at which the members consider, conduct, or advise on public business, including gathering information, taking testimony, discussing, and voting.

“(2) A chance meeting or social encounter does not constitute a meeting unless it is held to evade the letter or spirit of this section.

“(3) The term “meeting” does not include:

“(A) Discussions by members of the Board on logistical and procedural methods to schedule and regulate a meeting;

“(B) Any on-site inspection of any project or program; and

“(C) General discussions among Board members on issues of interest to the public held in a planned or unplanned social, educational, informal, ceremonial, or similar setting when there is no intent to conduct public business, nor for the discussion to lead to an official action, even if a quorum is present and public business is discussed.

“(c)(1) Except as provided in paragraph (2) of this subsection, a meeting shall be open to the public.

“(2) A meeting, or portion of a meeting, may be exempt from the requirement in paragraph (1) of this subsection because of the following:

“(A) Statute or court order;

“(B) Contract negotiations;

“(C) Attorney-client privilege: To consult with an attorney, in order to preserve the attorney-client privilege between an attorney and the Boards, and to approve settlement agreements; provided, that nothing herein shall be construed to permit the Board to

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close a meeting that would otherwise be open merely because the Board's attorney is a participant;

“(D) Personnel matters: Discussion of the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials, unless the person requests a public meeting;

“(E) Quasi-judicial functions: Meetings held by the Board exercising quasi-judicial functions that are held solely for the purpose of deliberating or making a decision in an adjudication action or proceeding;

“(F) Enforcement: To plan, conduct, discuss, or hear reports concerning investigations of alleged criminal or civil misconduct or violations of federal or District law; or

“(G) Executive functions: To discuss the administration of a current District or federal statute, regulation, or procedure.

“(3) A public body that meets in closed session may not discuss or consider any official matter other than matters listed in paragraph (2) of this subsection.

“(4) No resolution, rule, act, regulation, or other official action shall be effective unless taken, made, or enacted at an open meeting.

“(d)(1) Before a meeting or portion of a meeting may be closed, the Board shall meet in public session at which a majority of the members of the public body who are present vote in favor of a motion for closure pursuant to an exemption listed under subsection (c)(2) of this section.

“(2) The motion shall state the reason for closing the meeting and include a listing of the topics to be discussed. The Chairperson of the Board shall conduct and record a roll call vote on the motion.

“(3) At the conclusion of the closed meeting, the Board shall reconvene in public session, to summarize, to the extent consistent with the applicable reason for closure, the matters discussed or considered at the closed session, and, if appropriate, take official action.”.

Sec. 4. Chapter 4 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase “[Repealed]” after the phrase “25-422. Notice by applicant.”.

(b) Section 25-402 is amended as follows:

(1) Subsection (a)(6) is amended to read as follows:

“(6) The size and design of the establishment, which shall include both the number of seats (occupants) and the number of patrons permitted to be standing, both inside and on any sidewalk café or summer garden.”.

(2) New subsections (d), (e), and (f) are added to read as follows:

“(d) The applicant for a nightclub license shall file a written security plan with the Board.

Amend
§ 25-402

“(e) The Board may require, in its sound discretion, the applicant for a restaurant, tavern, or multipurpose facility license to file a written security plan with the Board.

“(f) A written security plan shall include at least the following elements:

“(1) A statement on the type of security training provided for, and completed by, establishment personnel, including:

“(A) Conflict resolution training;

“(B) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and

“(C) Procedures for crowd control and preventing overcrowding;

“(2) The establishment’s procedures for permitting patrons to enter;

“(3) How security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;

“(4) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol; and

“(5) How the establishment maintains an incident log.”

(c) Section 25-403 is amended by adding new subsections (e), (f), and (g) to read as follows:

Amend
§ 25-403

“(e) In the case of an application for renewal of a nightclub license, the applicant shall submit a written security plan.

“(f) In the case of an application for renewal for a restaurant, tavern, or multipurpose facility license, the Board may, in its sound discretion, require that the applicant submit a written security plan.

“(g) A written security plan shall include at least the following elements:

“(1) A statement on the type of security training provided for, and completed by, establishment personnel, including:

“(A) Conflict resolution training;

“(B) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and

“(C) Procedures for crowd control and preventing overcrowding;

“(2) The establishment’s procedures for permitting patrons to enter;

“(3) How security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;

“(4) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol; and

“(5) How the establishment maintains an incident log.”

(d) Section 25-422 is repealed.

Repeal
§ 25-422

ENROLLED ORIGINAL

Sec. 5. Chapter 7 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase “[Repealed]” after the phrase “25-796. Valet parking.”.

(b) Section 25-701(c) is amended by striking the word “licensees” and inserting the phrase “the holder of a wholesaler’s license that is not open to the public or to licensees” in its place.

**Amend
§ 25-701**

(c) Section 25-712 is amended by adding a new subsection (f) to read as follows:

“(f) This section shall not apply to the holder of a wholesaler’s license that is not open to the public.”.

**Amend
§ 25-712**

(d) Section 25-772 is amended as follows:

(1) Subsection (a) is amended by striking the word “gallon” and inserting the word “case” in its place.

**Amend
§ 25-772**

(2) Subsection (b) is amended by striking the word “quart” and inserting the phrase “case per location” in its place.

(e) Section 25-796 is repealed.

**Repeal
§ 25-796**

(f) A new section 25-797 is added to read as follows:

“§ 25-797. Limitation on transfer of responsibility for licensee security.

**New
§ 25-797**

“(a) The holder of an on-premises retailer’s license may rent out or provide the licensed establishment for use by a third party or promoter for a specific event; provided, that the licensee maintains ownership and control of the licensed establishment for the duration of the event, including modes of ingress or egress, and the staff of the establishment, including bar and security staff.

“(b) Under no circumstances shall a licensee permit the third party or promoter to be responsible for providing security or maintain control over the establishment’s existing security personnel.

“(c) A violation of this section shall constitute a primary tier violation under section 25-830(c)(1).”.

Sec. 6. Chapter 8 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-823 is amended as follows:

(1) The lead-in text is amended by striking the phrase “may suspend” and inserting the phrase “may fine, as set forth in the schedule of civil penalties established under § 25-830, suspend,” in its place.

**Amend
§ 25-823**

(2) Paragraph (1) is amended by striking the phrase “laws of the District” and inserting the phrase “laws of the District, including the District’s curfew law” in its place.

(3) Paragraph (3) is amended by striking the word “or” at the end.

(4) Paragraph (4) is amended by striking period and inserting a semicolon in its place.

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(5) New paragraphs (5) and (6) are added to read as follows:

“(5) The licensee fails or refuses to allow an ABRA investigator, a designated agent of ABRA, or a member of the Metropolitan Police Department to enter or inspect without delay the licensed premises or examine the books and records of the business, or otherwise interferes with an investigation; or

“(6) The licensee fails to follow its voluntary agreement, security plan, or Board order.”.

(b) Section 25-826(a) is amended by striking the phrase “suspend,” and inserting the phrase “suspend, fine,” in its place.

**Amend
§ 25-826**

Sec. 7. Title 23 of the District of Columbia Municipal Regulations is amended as follows:

DCMR

(a) Section 207.2 is amended by adding the following phrase at the end of the table:

“Farm winery retail Oct. 1 to Sept. 30 2009.”.

(b) Section 208 is amended by adding a new subsection to read as follows:

“208.21. The annual fee for a farm winery retailer’s license shall be two thousand five hundred dollars (\$2,500).”.

(c) A new section 718 is added to read as follows:

“718. REIMBURSABLE DETAIL SUBSIDY PROGRAM.

“718.1. This section sets forth the procedures for receiving reimbursement from ABRA under the subsidy program for monies paid to the Metropolitan Police Department (“MPD”) by licensees for the hiring of MPD officers to work a reimbursable detail. A licensee, a group of licensees, or a Business Improvement District on behalf of licensees (“licensees”), may enter into an agreement with MPD to provide for reimbursable detail and are eligible for reimbursement under the subsidy program. This section shall apply only to the extent that:

“(a) The Council funds the subsidy program; and

“(b) ABRA has sufficient funds earmarked for this program remaining to reimburse MPD for costs incurred by licensees for MPD officers working reimbursable details.

“718.2. ABRA will reimburse MPD up to fifty percent (50%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details. MPD shall submit to ABRA on a monthly basis invoices documenting up to the fifty percent (50%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program’s funds are depleted. Any portion of any invoice submitted by MPD and not reimbursed by ABRA shall be the responsibility of the licensee.

“718.3. ABRA shall notify MPD when funds in the subsidy program fall below two hundred and fifty thousand dollars (\$250,000).

“718.4. Any invoices unpaid by ABRA either for good cause or a lack of sufficient funds left in the subsidy program shall remain the responsibility of the licensee.

“718.5. ABRA shall not be involved in determining the number of MPD officers needed to work a reimbursable detail.”.

Sec. 8. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia