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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 9-40

"District of Columbia Alcoholic Beverage Control Act Brew Pub License Amendment Act of 1991".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 9-68 on first and second readings, June 4, 1991, and July 2, 1991, respectively. Following the signature of the Mayor on July 24, 1991, this legislation was assigned Act No. 9-77, published in the August 9, 1991, edition of the D.C. Register, (Vol. 38 page 4974) and transmitted to Congress on July 25, 1991 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that this legislation became effective on the date that the President of the United States signed P. L. 102-105* on August 17, 1991, and therefore, cites this enactment as D.C. Law 9-40, effective August 17, 1991.



JOHN A. WILSON
Chairman of the Council

* Public Law 102-105 waived the 30-day Congressional Review period for this Law.

AN ACT

Codification

D.C. ACT 9-77

District of Columbia Code

(1992 Supplement)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 1991

To amend the District of Columbia Alcoholic Beverage Control Act and the Alcoholic Beverage Control Regulations to provide for a new classification of license for brew pubs.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Alcoholic Beverage Control Act Brew Pub License Amendment Act of 1991".

Sec. 2. The District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 319; D.C. Code §25-101 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Code §25-103) is amended by adding new subsections to read as follows:

Section
25-103

"(z) The words "brew pub" mean a suitable place, approved by the Board for the manufacture of beer to be sold for consumption only at the place of manufacture. A brew pub license shall only be approved for a place, located in the brew pub zone, that holds a retailer's license, class C/R, C/T, D/R, or D/T.

"(aa) The words "brew-pub zone" mean the area defined in Section 199 of the Alcoholic Beverage Control Regulations (23 DCMR 199)."

(b) Section 11 (D.C. Code §25-111) is amended as follows:

Section
25-111

(1) By striking, in the lead-in text, the figure "21" and inserting the figure "22" in its place; and

(2) By adding a new subsection (1-1) to read as follows:

"(1-1)(A) Brew pub license for a licensed restaurant or tavern. Such a license shall be issued only to the holder of a retailer's license, class C/R, C/T, D/R, or D/T, or in conjunction with the issuance of a retailer's license, C/R, C/T, D/R, or D/T. A holder of a brew pub license may brew malt beverages at 1 location for consumption at a licensed restaurant or tavern. The location used to brew malt beverages shall be on or immediately adjacent to the licensed restaurant or tavern where the brewed beverage is sold to the public and shall be located in the brew-pub zone. The brew pub license shall be void if:

"(i) The restaurant or tavern ceases to be operated as a restaurant or tavern; or

"(ii) The licensee's retailer class C or class D license is revoked or transferred to a different location.

Enclined Original

Condition

District of Columbia Code

(Supplement _____)

Enrolled Original

"(B) If the licensee's class C or class D retailer license is suspended, the brew pub license shall be automatically suspended for the same period of time.

"(C) The annual fee for a brew pub license shall be \$3000."

(c) Section 12(b) (D.C. Code §25-113(b)) is amended to read as follows:

Section
25-113

"(b) A licensee who holds any direct or indirect interest in a retailer's license class C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, or D/X, shall not hold any direct or indirect interest in any license other than a retailer's license class C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, D/X, E, or a brew pub license issued in conjunction with a class C/R, C/T, D/R, or D/T license. A licensee who holds any direct or indirect interest in a retailer's license class A or class B shall not hold any direct or indirect interest in any license other than a retailer's license class E. For purposes of this subsection, the term "interest" shall include, but not be limited to, any pecuniary interest in the operation, management, or profits of a licensed establishment. The term "interest" shall not include a bona fide agreement for the lease of real property."

(d) Section 40 (D.C. Code §25-138) is amended to read as follows:

Section
25-138

"(a) There shall be levied and collected by the District of Columbia, a tax of \$2.79 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for the fractional parts thereof, on all beer:

"(1) Sold by the holder of a manufacturer's or wholesaler's license, except such beer as may have been purchased from a licensee under this act, and except such beer as may be sold to a dealer licensed under the laws of any state or territory of the United States and not licensed under this act;

"(2) Purchased for resale by the holder of a retailer's license, except such beer as may have been purchased from a licensee under this act; or

"(3) Brewed or produced by the holder of a brew pub license, and transferred for consumption at the holder's restaurant or tavern.

"(A) Taxes shall be determined prior to the time that beer is dispensed into a container for consumption. Each holder of a brew pub license shall have a suitable method for measuring tax-determined beer, such as a meter or gauge glass.

"(B) If the holder of a brew pub license uses one or more tanks for tax determination:

"(i) Taxes shall be determined each time beer is added to a tax-determination tank; and

"(ii) The holder of a brew pub license may never simultaneously pump into and out of a tax determination tank.

"(C) Beer consumed by employees and visitors at the holder's restaurant or tavern shall be beer on which the tax has been paid or determined.

"(a-1) Unless the Council of the District of Columbia shall by regulation prescribe otherwise, the collection and payment of the tax shall be in the following manner:

"(1) Each holder of a manufacturer's or wholesaler's license shall, on or before the 15th day of each month, furnish to the Mayor of the District of Columbia, on a form to be prescribed by the Mayor, a

statement under oath showing the quantity of beer subject to taxation hereunder sold by him during the preceding calendar month.

"(2) No licensee holding a retailer's license shall transport or cause to be transported into the District of Columbia for resale any beer, other than the regular stock on hand in a passenger-carrying marine vessel operating in and beyond the District of Columbia, or a club car or dining car on a railroad operating in and beyond the District of Columbia, for which a retailer's license, class C or D, has been issued under this act, unless such licensee has first obtained a permit to do so from the Alcoholic Beverage Control Board. No permit shall issue until the tax imposed by this section shall have been paid for the beer for which the permit is requested. Such a permit shall specifically set forth the quantity, character, and brand or trade name of the beer to be transported and the names and addresses of the seller and of the purchaser. Such a permit shall accompany the beer during its transportation in the District of Columbia to the licensed premises of the retail licensee and shall be exhibited upon the demand of any police officer or duly authorized inspector of the Board. Such a permit shall, immediately upon receipt of beer by the retail licensee, be marked "cancelled" and retained by him.

"(3) Each holder of a brew pub license shall, on or before the 15th day of each month, furnish to the Mayor, on a form to be prescribed by the Mayor, a statement under oath showing the quantity of beer subject to taxation hereunder brewed or produced by the holder and transferred for consumption at the holder's restaurant or tavern during the preceding calendar month.

"(b) The Council of the District of Columbia is authorized and empowered to prescribe by regulation any other methods or devices or both for the assessment, evidencing of payment, and collection of the taxes imposed by this section in addition to or in lieu of the method hereinbefore set forth whenever, in its judgment, such action is necessary to prevent fraud or evasion.

"(c) The taxes imposed hereby, when collected, shall be deposited in the Treasury of the United States to the credit of the District of Columbia."

Sec. 3. The Alcoholic Beverage Control Regulations, issued June 24, 1988 (23 DCMR chapters 1-18) are amended as follows:

(a) Section 199 (23 DCMR 199) is amended by adding a new definition as follows:

"Brew-pub zone - an area bordered by both sides of the following streets, either north or south, or east or west: Beginning at the intersection of 19th and M Streets, N.W.; continuing east on M Street, N.W., to 15th Street, N.W.; south on 15th Street, N.W., to K Street, N.W.; east on K Street, N.W., to Massachusetts Avenue, N.W.; east on Massachusetts Avenue, N.W., to Louisiana Avenue, N.W.; southwest on Louisiana Avenue, N.W., to Constitution Avenue, N.W.; west on Constitution Avenue, N.W., to Pennsylvania Avenue, N.W.; west on Pennsylvania Avenue, N.W., to 15th Street, N.W.; north on 15th Street, N.W., to I Street, N.W.; west on I Street, N.W., to 19th Street, N.W.; and north on 19th Street, N.W., to M Street, N.W.

"(2) For the purposes of this subsection, the words "Union Station Zone" mean the premises at the Union Railroad Station building

23 DCMR
199

located at Massachusetts Avenue, N.E., and 1st Street, N.E. The Union Station Zone shall be included in the brew pub zone defined in paragraph (1) of this subsection.

"(3) After two (2) years from the effective date the District of Columbia Beverage Control Act Brew Pub License Amendment Act of 1991 the Board may redefine the brew pub zone, after notice and public hearing pursuant to D.C. Code §1-1506."

(b) Section 200 (23 DCMR 200) is amended by adding a new subsection to read as follows:

23 DCMR
200

"200.14 A Brew Pub's License for a Licensed Restaurant or Tavern, issued under authority of D.C. Code §25-111(a)(12A), shall authorize the holder to brew malt beverages at one (1) location for consumption at a licensed restaurant or tavern. The location used to brew malt beverages shall be on or immediately adjacent to the licensed restaurant or tavern where the brewed beverages is sold to the public and shall be located in the brew-pub zone.

"(a) The brew pub license shall be void if the restaurant or tavern ceases to be operated as a restaurant or tavern, or the licensee's retailer class C or class D license is revoked or transferred to a different location.

"(b) If the licensee's class C or class D retailer license is suspended, the brew pub license shall be automatically suspended for the same period of time."


(c) Section 204 (23 DCMR 204) is amended by adding a new subsection to read as follows:


23 DCMR 204

"204.5 The annual fee for a brew pub license shall be \$3000."

Sec. 4. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(1)), and publication in either the District of Columbia Register, the District of

Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: July 24, 1991



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

RECORD OF OFFICIAL COUNCIL VOTE

B9-68

DOCKET NO: _____

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 6-4-91

VOICE VOTE: Approved

Recorded vote on request

Absent: All present

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Stephie Jones
Secretary to the Council

July 10, 1991
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 7-2-91

VOICE VOTE: Approved

Recorded vote on request

Absent: Lightfoot and Rolark

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Stephie Jones
Secretary to the Council

July 10, 1991
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date