ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-609

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend Title 25 of the District of Columbia Official Code to establish a class C manufacturer's license, to clarify who can apply for a hotel license, to clarify that class CX and DX licenses are eligible to obtain a sidewalk café or summer garden endorsement, to clarify that the holder of a manufacturer's license, class A, may allow the sampling of wine with a tasting permit, to allow a holder of a manufacturer's license, class A, to apply for an on-site sales and consumption permit, to create a new festival license, to provide that when a licensee is transferred to a new location the burden shall be on the applicant to demonstrate that provisions of an existing settlement agreement do not apply to the new location, to clarify that an applicant for a manager's license is not required to be the true and actual owner of an existing or proposed business, to clarify that the 400-foot distance prohibition between off-premises retail licensees does not apply to internet businesses that are not open to the public, to clarify that the Alcoholic Beverage Control Board is not required to schedule an administrative review hearing in those instances when no protests have been received by the Board, to clarify when the record closes for a protested license application, to define the term license's renewal period to clarify when a request to amend or terminate a settlement agreement must be filed with the Board, to clarify that a Board-approved settlement agreement submitted by an affected Advisory Neighborhood Commission does not dismiss a valid protest filed by an abutting property owner, to clarify that a Board-approved manager or owner who personally superintends the establishment during licensed hours of sale shall not be under the influence of alcohol or illegal drugs, to clarify that the failure to post a warning sign regarding the dangers of alcohol consumption during pregnancy is a secondary tier violation, to eliminate the requirement that extended-hours applications be submitted by licensees annually, to require that all advertisements relating to alcoholic beverages can only be displayed in the window of a licensed establishment if the total area covered by the advertisements does not exceed 25% of the window space, to enhance the penalties for the prohibited sale of alcohol to minors or intoxicated persons, to provide Alcoholic Beverage Regulation Administration investigators with the authority to seize a liquor license from an establishment that has been suspended, revoked, or cancelled by the Board or is out of business or has been closed by another government agency, to clarify that it is a violation for a licensee to fail to follow the terms of its license approved by the Board, to clarify that it is a violation for a licensee to fail to preserve a crime scene, to

allow the Board to hold licensees responsible for a single assault, sexual assault, or other violent act, to clarify that a licensee may be held accountable for a single violation of its settlement agreement, security plan, or Board order, to clarify that the summary suspension deadlines are business days, and to establish a process in those instances when a licensee fails to timely remit a fine.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Alcoholic Beverage Regulation Amendment Act of 2014".

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

(a) Chapter 1 is amended as follows:

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

"25-127. Festival license.".

(2) Section 25-101 is amended as follows:

(A) Paragraph (19A) is redesignated as paragraph (19B).

(B) A new paragraph (19A) is added to read as follows:

"(19A) The term "disc jockey" shall not include anyone who plays or changes prerecorded music or programs prerecorded music; provided, that the person does not:

"(A) Make announcements or comments;

"(B) Take song requests;

"(C) Run contests or games;

"(D) Manipulate or mix the music;

"(E) Provide live entertainment;

"(F) Play music from a disc-jockey booth; or

"(G) Alter or manipulate a playlist while it is being played, including adding elements such as sound effects or additional pieces of music.".

(3) Section 25-110(a) is amended as follows:

(A) Paragraph (1)(A)(ii) is amended by striking the phrase "The licensee may sell spirits to the consumer" and inserting the phrase "Except as provided in § 25-126, the licensee may sell wine and spirits to the consumer" in its place.

(B) A new paragraph (3) is added to read as follows:

"(3)(A) A manufacturer's license, class C, shall authorize the licensee to operate a facility for the manufacture of alcohol-infused confectionery food products at the establishment described in the license.

"(B) The license shall authorize the licensee to sell the alcohol-infused confectionary food products manufactured under the license to:

"(i) Another licensee licensed under this title for resale;

"(ii) A dealer licensed under the law of any state or territory of the United States for resale; and

"(iii) A consumer.

"(C) The licensee shall sell the alcohol-infused confectionery food products in a sealed or closed container.

"(D) Alcohol-infused confectionery food products shall not contain alcohol in excess of 5% by volume.

"(E) All alcohol-infused confectionery food products that are manufactured or sold that contain between one-half of one percent and 5% of alcohol by volume:

"(i) Shall not be sold to individuals under 21 years of age;

"(ii) Shall state on the label that the sale of the product to an individual under 21 years of age is prohibited;

"(iii) Shall state on the label the brand of alcohol used in the alcohol-infused confectionery food product; and

"(iv) Shall state on the label that the alcohol-infused confectionery food product contains alcohol up to 5% by volume.

"(F) A manufacturer's license, class C, shall be required to obtain and maintain all appropriate licenses required by the Department of Health related to the sale and manufacture of alcohol-infused confectionery food products.

"(G) The minimum annual fee for a class C manufacturer's license shall be $1,000.".

(4) Section 25-113(e) is amended by adding a new paragraph (6) to read as follows:

"(6) A restaurant operating inside of a hotel shall be eligible to obtain a hotel license; provided, that the restaurant has a written agreement with the hotel to sell and serve alcoholic beverages in the hotel's dining rooms, lounges, banquet halls, other similar facility, or in the private rooms of registered guests.".

(5) Section 25-113a(c) is amended by striking the phrase "CN, and DN," and inserting the phrase "CN, DN, CX, and DX," in its place.

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

(A) Subsection (a) is amended to read as follows:

"(a) A tasting permit shall be issued only to a licensee under a manufacturer's license, class A or B, or a retailer's license, class A or B, to utilize a portion of its licensed premises for the tasting of products as listed in subsection (c) of this section.".

(B) Subsection (e) is amended by striking the phrase "of spirits," and inserting the phrase "of wine and spirits," in its place.

(7) Section 25-126 is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a) The holder of a manufacturer's license, class A or B, may apply for an on-site sales and consumption permit to use a portion of the licensed premises for the on-premises sale, service, and consumption of beer brewed by the brewery, wine manufactured by the winery, and beverages with spirits distilled by the distillery.".

(B) Subsection (b) is amended by striking the phrase "beer brewed by the brewery" and inserting the phrase "beer brewed by the brewery, wine manufactured by the winery, and beverages with spirits distilled by the distillery" in its place.

(C) Subsection (c) is amended to read as follows:

"(c) The on-premises sales and consumption permit shall not obviate the requirement of the holder of a manufacturer's license, class A or B, to obtain a tasting permit pursuant to § 25-118, to be authorized to provide samples of beer, wine, or spirits.".

(D) New subsections (e) and (f) are added to read as follows:

"(e) Any additional spirits that are added to beverages primarily containing spirits distilled by the distillery shall be purchased from a wholesaler or manufacturer licensed under this title.

"(f) For the purposes of this section, the term "beverages" means brandy, cordials, fortified wines, liqueur, and non-alcoholic beverages.".

(8) A new section 25-127 is added to read as follows:

"§ 25-127. Festival license.

"(a) A festival license shall authorize a licensee temporarily to sell, serve, and permit the consumption of alcoholic beverages at the specific premises described for consumption on the premises where sold; provided, that a festival license may be issued only for an event that includes the performance of sports or a cultural or tourism-related activity.

"(b) A festival license shall be issued for an event that is at least 5 consecutive days but no more than 15 consecutive days.

"(c) The issuance of a festival license shall be solely at the discretion of the Board.

"(d) The Board may deny the license application if the applicant had failed to control the environment of a previous event associated with either a festival license or a temporary license, or has sustained community complaints or police action.

"(e) There shall be 2 classes of festival licenses:

"(1) Class H (beer and wine); and

"(2) Class I (spirits, beer, and wine).

"(f) The holder of a festival license shall be permitted to receive deliveries from a wholesaler for up to 48 hours before a Board-licensed event occurring on a Saturday, Sunday, or a legal District or federal holiday; provided, that the alcoholic beverages delivered pursuant to this subsection shall not be consumed until the date and time of the event and shall be stored at a secure location before the event.

"(g) The minimum annual fee for a class H license shall be $1,000. The minimum annual fee for a class I license shall be $2,000.

"(h) Only one festival license shall be issued to an applicant in a 3-month period.".

(b) Chapter 3 is amended as follows:

(1) Section 25-301(a)(5) is amended by striking the phrase "solicitor's license," and inserting the phrase "solicitor's or manager's license," in its place.

(2) Section 25-317 is amended as follows:

(A) Designate the existing text as subsection (a).

(B) A new subsection (b) is added to read as follows:

"(b)(1) Notwithstanding the requirements set forth in § 25-446(d), an applicant filing an application to transfer to a new location may petition the Board in writing to not have provisions of an existing settlement agreement applied at the new location.

"(2) The Board shall consider the petition; provided, that the Board shall deem the request to be a substantial change subject to the notice requirements set forth in §§ 25-421 and 25-423.

"(3) The burden shall be on the applicant to demonstrate to the satisfaction of the Board that the request will not adversely affect the locality, section, or portion of the District where the establishment is to be located under the appropriateness standards set forth in § 25-313 and that none of the provisions of the existing settlement agreement, or the agreement in its entirety, are applicable to the new location.

"(4) The Board may amend, terminate, or maintain the existing settlement agreement at the new location.".

(3) Section 25-333 is amended by adding a new subsection (d) to read as follows:

"(d) This section shall not prohibit the issuance of a retailer's license, class A or B, if the:

"(1) Applicant's establishment will not be open to the public; and

"(2) Sale of alcoholic beverages will occur only through the Internet.".

(4) Section 25-339(a) is amended to read as follows:

"(a) The number of nightclub or tavern license holders, class C or D, within the Georgetown historic district shall not exceed 6. No existing nightclub or tavern license shall be transferred to any other person or to any other location within the Georgetown historic district, except when the number of such licensed establishments in the Georgetown historic district is 6 or less.".

(5) Section 25-340.01(b) is amended by striking the phrase "class A or B" both times it appeals and inserting the phrase "class A or B off-premises retailer's" in its place.

(c) Chapter 4 is amended as follows:

(1) Section 25-432(a) is amended by striking the phrase "schedule an administrative review to".

(2) Section 25-433(b) is amended to read as follows:

"(b) For the purposes of this section, the record shall close 30 days after a hearing is concluded to allow the parties to submit proposed findings of fact and conclusions of law and any other document submissions requested by the Board.".

(3) Section 25-446(d) is amended by adding a new paragraph (6) to read as follows:

"(6) For the purposes of this subsection, the term "license's renewal period" means the 60-day period before the expiration date of a license.".

(d) Section 25-609(b) is amended by striking the phrase "ANC or by a citizens association" and inserting the phrase "ANC, a citizens association, or an abutting property owner" in its place.

(e) Chapter 7 is amended as follows:

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

"25-703. Manager and owner conduct requirement.".

(2) A new section 25-703 is added to read as follows:

"§ 25-703. Manager and owner conduct requirement.

"The Board-approved manager of an establishment or owner of the establishment who personally superintends the establishment during licensed hours of sale shall not be under the influence of alcohol or illegal drugs.".

(3) Section 25-712(e) is amended to read as follows:

"(e) A violation of this section shall be punishable as a secondary tier violation.".

(4) Section 25-721(c) is amended by striking the phrase "class A or B" and inserting the phrase "class A, B, or C" in its place.

(5) Section 25-723(c)(4) is amended by striking the phrase "Once each calendar year and no fewer" and inserting the phrase "No fewer" in its place.

(6) Section 25-731 is amended by striking the word "retailer" wherever it appears and inserting the phrase "retailer or manufacturer" in its place.

(7) Section 25-765(a) is amended by striking the phrase "to the prices of alcoholic" and inserting the phrase "to alcoholic" in its place.

(8) Section 25-781(f) is amended to read as follows:

"(f) Upon finding that a licensee has violated subsection (a), (b), or (c) of this section in the preceding 4 years:

"(1) Upon the 1st violation, the Board shall fine the licensee not less than $2,000, and not more than $3,000, and suspend the licensee for 5 consecutive days; provided, that the 5-day suspension may be stayed by the Board for one year if all employees who serve alcoholic beverages in the licensed establishment complete an alcohol training program within 3 months;

"(2) Upon the 2nd violation, the Board shall fine the licensee not less than $3,000, and not more than $5,000, and suspend the licensee for 10 consecutive days; provided, that the Board may stay up to 6 days of the 10-day suspension for one year if all employees who serve alcoholic beverages in the licensed establishment complete an alcohol training program within 3 months;

"(3) Upon the 3rd violation, the Board shall fine the licensee not less than $5,000, and not more than $10,000, and suspend the licensee for 15 consecutive days, or revoke the license; provided, that the Board may stay up to 5 days of the 15-day suspension for one year if all employees who serve alcoholic beverages in the licensed establishment complete an alcohol training program within 3 months; and

"(4) Upon the 4th violation, the Board may revoke the license.

(9) Section 25-783(c) is amended by striking the phrase "preceding 2" and inserting the phrase "preceding 4" in its place.

(f) Chapter 8 is amended as follows:

(1) Section 25-801 is amended by adding a new subsection (g) to read as follows:

"(g) ABRA investigators may seize a liquor license from an establishment if:

"(1) The liquor license has been suspended, revoked, or cancelled by the Board;

"(2) The business is no longer in existence; or

"(3) The business has been closed by another District government agency.".

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

(A) Designate the existing text as subsection (a).

(B) The newly designated subsection (a) is amended as follows:

(i) Paragraph (5) is amended by striking the phrase "investigation; or" and inserting the phrase "investigation;" in its place.

(ii) Paragraph (6) is amended by striking the period and inserting a semicolon in its place.

(iii) New paragraphs (7) and (8) are added to read as follows:

"(7) The licensee fails to follow the terms of its license approved by the Board; or

"(8) The licensee fails to preserve a crime scene.".

(C) New subsections (b) and (c) are added to read as follows:

"(b) A single incident of assault, sexual assault, or violence shall be sufficient to prove a violation of subsection (a)(2) of this section; provided, that the licensee has engaged in a method of operation that is conducive to unlawful or disorderly conduct.

"(c) A licensee shall be required to comply with the terms and conditions of the licensee's settlement agreement, security plan, or order from the Board that is attached to the license during all times that it is in operation. A single violation of a settlement agreement, security plan, or order from the Board shall be sufficient to prove a violation of subsection (a)(6) of this section.".

(3) Section 25-826(c) is amended to read as follows:

"(c) A licensee may request a hearing within 3 business days after service of notice of a summary revocation, suspension, fine, or restriction of license. The Board shall hold a hearing within 2 business days of receipt of a timely request and shall issue a decision within 3 business days after the hearing.".

(4) Section 25-830 is amended by adding a new subsection (k) to read as follows:

"(k)(1) A licensee's failure to timely remit a fine issued pursuant to this section shall be cause for the Board to suspend the license until the licensee pays the fine.

"(2) If a licensee is 90 days delinquent on the payment of the fine, the Board shall give notice of its intent to revoke the licensee's license.

"(3) The licensee shall have 14 days to respond to the notice issued pursuant to paragraph (2) of this subsection.

"(4) If the Board determines that the failure to pay the fine issued pursuant to this section is not for good cause, the Board shall revoke the licensee's license.".

Sec. 3. 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. 4. 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

APPROVED
January 26,2015

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

Docket No. **B20-902**

[ ] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE — **ADOPTED FIRST READING, 12/2/2014**

[X] VOICE VOTE
RECORDED VOTE ON REQUEST — **APPROVED**

ABSENT

[ ] ROLL CALL VOTE – Result ( )

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Cheh	X				Orange	X			
Alexander	X				Evans	X				Wells	X			
Bonds	X				Graham	X								
Bowser	X				Grosso	X								
Catania	X				McDuffie	X								

X – Indicate Vote AB – Absent NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council — 1/9/2015 Date

[X] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE — **ADOPTED FINAL READING, 12/17/2014**

[X] VOICE VOTE
RECORDED VOTE ON REQUEST — **APPROVED**

ABSENT

[ ] ROLL CALL VOTE – Result ( )

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Cheh	X				Orange	X			
Alexander	X				Evans	X				Wells	X			
Bonds	X				Graham	X								
Bowser	X				Grosso	X								
Catania	X				McDuffie	X								

X – Indicate Vote AB – Absent NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council — 1/9/2015 Date

[ ] ITEM ON CONSENT CALENDAR

[ ] ACTION & DATE

[ ] VOICE VOTE
RECORDED VOTE ON REQUEST

ABSENT

[ ] ROLL CALL VOTE – Result ( )

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson					Cheh					Orange				
Alexander					Evans					Wells				
Bonds					Graham									
Bowser					Grosso									
Catania					McDuffie									

X – Indicate Vote AB – Absent NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council — Date