GOVERNMENT OF THE DISTRICT OF COLUMBIA
Alcoholic Beverage Regulation Administration

Laws and Regulations

DISTRICT OF COLUMBIA OFFICIAL CODE TITLE 25; ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

AND

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS TITLE 23; ALCOHOLIC BEVERAGES

FOR ABRA STAFF USE ONLY
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Subchapter I. General Provisions.

§ 25-101. Definitions.

For the purposes of this title, the term:

(1) "ABRA" means the Alcoholic Beverage Regulation Administration established by § 25-202.

(2) "ABRA Fund" means the Alcoholic Beverage Regulation Administration Fund established by § 25-210.

(3) "Adult" means a person who is 21 years of age or older.

(4) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or by whatever processes produced.

(5) "Alcoholic beverage" means a liquid or solid, patented or not, containing alcohol capable of being consumed by a human being. The term "alcoholic beverage" shall not include a liquid or solid containing less than one-half of 1% of alcohol by volume.

(6) "Applicant" means, as the context requires, the individual applicant, each member of an applicant partnership or limited liability company, or each of the principal officers, directors, and shareholders of an applicant corporation, or, if other than an individual, the applicant entity.

(7) "ANC" means an Advisory Neighborhood Commission as authorized under D.C. Official Code § 1-207.38.

(8) "Back-up drink" means a drink, including a single drink consisting of more than one alcoholic beverage, that is served to a customer before the customer has consumed a previously served drink.

(9) "Bartender" means a person who fixes, mixes, makes, or concocts an alcoholic beverage for consumption.

(10) "Beer" means a fermented beverage of any name or description manufactured from malt, wholly or in part, or from any substitute for malt.

(11) "Board" means the Alcoholic Beverage Control Board established by § 25-201.

(12) "Brew pub" means an establishment for the manufacture of beer to be sold for consumption only at the place of manufacture and for sale to licensed wholesalers for the purpose of resale to other licensees.

(13) "Business days" means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays.

(14) "Caterer" means a corporation, partnership, individual, or limited liability company that prepares, sells, delivers, and serves food and beverages to its customers, under an agreement in advance of delivery, for a catered event on the premises designated by the customer for the duration of the catered event.

(15) "Club" means a corporation, duly organized and in good standing under Chapters 1 and 4 of Title 29, owning, leasing, or occupying a building, or a portion thereof, at which the sale of alcoholic beverages is incidental to, and not the prime source of revenue from, the operation of the building or the portion thereof. The term "club" shall not include a college fraternity or sorority.

(15A) "Cooperative agreement" shall have the same meaning, and is synonymous with, settlement agreement.

(16) "Credit card" means a consumer credit card extended on a nationally recognized account pursuant to a plan under which:

(A) The creditor may permit the customer to make purchases or obtain loans by the use of a credit card, check, or other device as the plan may provide;

(B) The customer has the privilege of paying the balance in full or in installments; and

(C) A finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(17) "CSA" means Chapter 9 of Title 48.

(18) "DC Arena" means the multi-purpose arena for the performance of sports and entertainment events and related amenities described in recital "E" of the Land Disposition Agreement-Ground Lease By and Among the District of Columbia Redevelopment Land Agency, the District of Columbia, and DC Arena L.P., dated December 29, 1995.

(19) "Director" means the Director of the Alcoholic Beverage Regulation Administration appointed under § 25-207.

(20) "District" means the District of Columbia.

(21) "Establishment" means a business entity operating at a specific location.

(21A) "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The term "entertainment" shall not include the operation of a jukebox, a television, a radio, or other prerecorded music.

(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.

(22) "Food" means any substance consumed by human beings except alcoholic beverages and any nonalcoholic liquid or solid substance served as part of the contents of an alcoholic beverage drink.

(23) "Go-cup" means a drinking utensil provided at no charge or a nominal charge to a customer for the purpose of consuming alcoholic beverages off the premises of an establishment.

(24) "Gross annual receipts" means the total amount of money received during the most recent one-year accounting period for the sale of food and alcoholic beverages, not including the amount received for taxes and gratuities in conjunction with sales or charges for entertainment or other services. Gross annual receipts are subject to audit and examination under § 25-802.

(24A) "Gross annual food sales" means the total amount of food sold during the most recent one-year accounting period. Gross annual food sales are subject to audit and examination under § 25-802.

(24B) "Growler" means a reusable container that is capable of holding up to 64 fluid ounces of beer and is designed to be filled and sealed on premises for consumption off premises.

(25) "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has at least 30 guest rooms and a dining room in the same or connecting buildings.

(26) "Interest" includes the ownership or other share of the operation, management, or profits of a licensed establishment. The term "interest" shall not include an agreement for the lease of real property.

(27) "Keg" means a container which is capable of holding 4 gallons or more of beer, wine, or spirits and which is designed to dispense beer, wine, or spirits directly from the container.

(28) "Land Disposition Lease" means the Land Disposition Agreement-Ground Lease By and Among the District of Columbia Redevelopment Land Agency, the District of Columbia, and DC Arena L.P., dated December 29, 1995.

(29) "Legal drinking age" means 21 years of age.

(30) "Legitimate theater" means premises in which the principal business shall be the operation of live theatrical, operatic, or dance performances, or such other lawful adult entertainment or recreational facilities as the Board, giving due regard to the convenience of the public and the strict avoidance of sales prohibited by this title, shall, by regulation, classify as legitimate theater. The term "legitimate theater" shall not mean a motion picture theater.

(31) “Locality” means the neighborhood within 600 feet of an establishment.
(32) “Manufacture” includes any purification or repeat distillation processes or rectification.
(32A) “Miniature” means an alcoholic beverage in a sealed container holding 50 milliliters or less.
(33) “Nightclub” means a space in a building, and the adjoining space outside of the building, regularly used and kept open as a place that serves food and alcoholic beverages and provides music and facilities for dancing.
(34) “Nude performance” means dancing or other entertainment by a person whose genitals, pubic region, or anus are less than completely and opaquely covered and, in the case of a female, whose breasts are less than completely and opaquely covered below a point immediately above the top of the areola.
(35) “Open container” means a bottle, can, or other container that is open or from which the top, cap, cork, seal, or tab seal has at some time been removed.
(35A) “Overconcentration” means the existence of several licensed establishments that adversely affect a specific locality, section, or portion of the District of Columbia, including consideration of the appropriateness standards under § 25-313(b).
(36) “Parking” means that area of public space which lies between the property line and the edge of the actual or planned sidewalk which is nearer to such property line, as such property line and sidewalk are shown on the records of the District.
(37) “Person” includes an individual, partnership, corporation, limited liability company, and an unincorporated association.
(37A) “Pool buying agent” means the licensed vendor who is registered by the pool buying group with the Alcoholic Beverage Regulation Administration.
(37B) “Pool buying group” means a group of 2 or more licensees under an on-premises restaurant license (R), as defined in § 25-113(b), who have been approved by the Alcoholic Beverage Regulation Administration to consolidate orders for alcoholic beverages ordered through a licensed pool buying agent from any lawful source in a single order.
(38) “Portion” means the neighborhood within 1800 feet of an establishment.
(39) “Protest” means a written statement in opposition to the issuance of a license.
(40) “Protest hearing” means the adjudicatory proceeding held by the Board, after receipt of a protest, to hear persons objecting to, or in support of, the issuance of a license.
(41) “Protest period” means a 45-day period during which an objection to the issuance or renewal, substantial change in operation under § 25-404, or transfer to new location, may be filed.
(42) “Residential districts” means those districts identified as residential by the zoning regulations and the official atlases of the Zoning Commission for the District of Columbia.
(43) Restaurant means a space in a building which shall:

(A)(i) Be regularly ready, willing, and able to prepare and serve food, have a kitchen which shall be regularly open, have a menu in use, have sufficient food on hand to serve the patrons from the menu, and have proper staff present to prepare and serve the food;

(ii) Be held out to and known by the public as primarily a food-service establishment;

(iii) Have all advertising and signs emphasize food rather than alcoholic beverages or entertainment;

(iv) Be open regular hours that are clearly marked with no unusual barriers to entry (such as cover charges or membership requirements);

(v) Have its kitchen facilities open until at least 2 hours before closing;

(vi) Obtain an entertainment endorsement prior to offering entertainment, charging a cover, or offering facilities for dancing;
(vii) If possessing an entertainment endorsement, be permitted to charge a cover and advertise entertainment, but shall not primarily advertise drink specials;
(viii) Be permitted to have recorded and background music without obtaining an entertainment endorsement;
(ix) Not have nude performances; and
(x) Have annual gross food sales of $1500 or $2000 per occupant (as determined by the establishment's Board-approved certificate of occupancy), depending on license class; or

(B)(i) Have adequate kitchen and dining facilities;
(ii) Keep its kitchen facilities open until 2 hours before closing;
(iii) Obtain an entertainment endorsement prior to offering entertainment, charging a cover, or having facilities for dancing;
(iv) Be permitted to have recorded and background music without obtaining an entertainment endorsement;
(v) Not have nude performances; and
(vi) Have the sale of food account for at least 45% of the establishment's gross annual receipts.

(C) Any licensee operating under a C/R, D/R, C/H, or D/H license who is not in compliance with the food sales requirements of this paragraph as of [September 30, 2004], shall be permitted to maintain its current license and operations for a period of 2 years from [September 30, 2004]; provided, that there is no substantial change in operations during that period without a substantial change application.

(44) “RLA” means the District of Columbia Redevelopment Land Agency.

(45) “Sale” or “sell” includes offering for sale, keeping for sale, manufacturing for sale, soliciting orders for sale, trafficking in, importing, exporting, bartering, delivering for value or in any way other than by purely gratuitously transferring. Every delivery of any alcoholic beverage made otherwise than purely gratuitously shall constitute a sale.

(46) “Section” means the neighborhood within 1,200 feet of an establishment.

(47) “Settlement conference” means a meeting between the applicant and the protestants held for the purpose of discussing and resolving, where possible, the objections raised by the protestants.

(48) “Sign” shall have the same meaning as defined in Chapter 31 of Title 12 of the District of Columbia Municipal Regulations.

(48A) “Southeast Federal Center” means the area as defined in section 2 of the Southeast Federal Center Public-Private Development Act of 2000, approved November 1, 2000 (Pub. L. No. 106-407; 114 Stat. 1758), and Chapter 18 of Title 11 of the District of Columbia Municipal Regulations.

(49) “Spirits” means:
(A) A beverage which contains alcohol mixed with water and other substances in solution, including brandy, rum, whisky, cordials, and gin; and
(B) An alcoholic beverage containing more than 15% alcohol.

(50) “Statement” means a representation by words, design, picture, device, illustration, or other means.

(51) “Table” shall not include a counter, bar, or similar contrivance.

(52) “Tavern” means a space in a building which:
(A) Is regularly used and kept open as a place where food and alcoholic beverages are served;

(B) May offer entertainment, except nude performances, and offer facilities for dancing for patrons only with an entertainment endorsement and may have recorded and background music without an entertainment endorsement; and

(C) Does not provide facilities for dancing for its employees or entertainers.

(53) "Valid identification document" means an official identification issued by an agency of government (local, state, federal, or foreign) containing, at a minimum, the name, date of birth, signature, and photograph of the bearer.

(54) Repealed.

(55) Repealed.

(56) "Wine" means an alcoholic beverage containing not more than 15% alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

§ 25-102. Sale of alcoholic beverages without a license prohibited.

(a) No person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.

(b) No wholesaler or manufacturer located within the District shall offer any alcoholic beverage for sale to, or solicit orders for the sale of any alcoholic beverage from, any person not licensed under this title, irrespective of whether the sale is to be made inside or outside the District.

(c) No person located outside the District shall ship, import, or cause to be shipped or imported into the District, any alcoholic beverage without having first obtained an importation permit under this title for such shipment or importation.

(d) No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

(e)(1) No person shall sell or transfer alcoholic beverages between members of a pool buying group, except for the combination of individual orders and the placement of a pool order with a distributor.

(2) To effectuate convenience or economies of delivery of pool orders, a pool member other than the buying agent may transfer to another pool member any portion of the alcoholic beverages ordered by the transferee retailer as part of the single transaction pool purchase; provided, that:

(A) The acquisition of alcoholic beverage product is recorded on an invoice maintained by both participating retailers for 3 years and the invoice includes:

(i) That the transferee retailer has properly ordered the alcoholic beverages as part of the pool order;

(ii) The date of acquisition;

(iii) The business names and addresses, the license names, and numbers of both licenses involved; and

(iv) The resale certificate number of the licensee acquiring the products for resale; and

(B) The transfer is being made without cost or charge by the transferor retailer of any nature whatsoever.

(3) A transfer pursuant to this subsection shall be made within 7 days of the pool delivery without any cost or charge whatsoever to the transferee retailer.

§ 25-103. Exceptions to license requirement.
(a) A physician, dentist, veterinarian, or person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may administer alcoholic beverages to a patient in their care receiving treatment.
(b) This title shall not apply to alcohol sold for use in the manufacture and sale of any of the following if they are unfit for beverage purposes:
(1) Denatured alcohol produced and used pursuant to Acts of Congress and regulations promulgated thereunder;
(2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
(3) Flavoring extracts, syrups, and food products; or
(4) Scientific, chemical, mechanical, and industrial products.

§ 25-104. Board authority to grant licenses.
(a) The Board may issue licenses to persons who meet the requirements set forth in this title.
(b) All licenses issued under this title, except for a temporary license issued under § 25-115, shall be valid for a term of 3 years and may be renewed upon completion of the procedures set forth in this title and payment of the required fees.
(c) A license to sell alcoholic beverages in the District can be granted only by the Board upon completion of the application and review process as contained in this title.
(d) Except as set forth in subchapter II of this chapter, each license or permit shall particularly describe the place where the rights of the license are to be exercised.
(e) The Board, in issuing licenses, may require that certain conditions be met if it determines that the inclusion of the conditions will be in the best interest of the locality, section, or portion of the District where the licensed establishment is to be located. The Board, in setting the conditions, shall state, in writing, the rationale for the determination.
(f) Unincorporated associations, other than limited liability companies, shall not be issued a license other than a temporary license.

Subchapter II. Classification of Licenses and Permits.

§ 25-110. Manufacturer's licenses.
(a) The following licenses shall be issued to manufacturers of alcoholic beverages:
(1)(A) A manufacturer's license, class A, shall authorize the licensee to:
(i) Operate a rectifying plant, at the place therein described, for the manufacture of the products of rectification by purifying or combining alcohol, spirits, wine, or beer; a distillery for the manufacture of alcohol or spirits by distillation or redistillation; or a winery for the manufacture of wine; and
(ii) Sell the products manufactured under the license from the licensed establishment to another licensee under this title for resale or to a dealer licensed under the law of any state or territory of the United States for resale or to a consumer. The licensee may sell spirits to the consumer only in barrels and sealed bottles, which shall not be opened after sale or the contents consumed on the premises where sold.
(B) A manufacturer operating a facility where more than 50% of alcohol produced is sold for nonbeverage purposes qualifies for a reduced license rate.

(2)(A) A manufacturer's license, class B, shall authorize the licensee to operate a brewery for the manufacture of beer at the establishment described in the license.
(B) The license shall authorize the licensee to sell the beer manufactured under the license to (i) another licensee under this title for resale; (ii) to a dealer licensed under the laws of any state or territory of the United States for resale; and (iii) to a consumer. The licensee may sell beer to the consumer only in barrels, kegs, and sealed bottles, which shall not be opened after sale, or the contents consumed, on the premises where sold.
(b) A separate license shall be required for each establishment under subsection (a)(1)(A)(i) of this section.

§ 25-111. Wholesaler's licenses.
(a) A wholesaler's license shall authorize the licensee to sell beverages from the establishment described to (1) another licensee under this title for resale; (2) a dealer licensed under the law of any state or territory of the United States for resale; and (3) in the case of beer or wine, to a consumer. The licensee shall sell beer to the consumer only in barrels, kegs, sealed bottles, and other closed containers, which shall not be opened after sale, or the contents consumed, on the premises where sold.
(b) No licensee, except a wholesale druggist or a wholesale grocer, shall be engaged in a business on the premises for which the license is issued other than the sale of alcoholic and nonalcoholic beverages.
(c) There shall be 2 classes of wholesalers licenses:
(1) A wholesaler's license, class A, shall authorize the licensee to sell spirits, wine, and beer.
(2) A wholesaler's license, class B, shall authorize the licensee to sell beer and wine.

§ 25-112. Off-premises retailer's licenses.
(a) An off-premises retailer's license shall authorize the licensee to sell alcoholic beverages from the place described and to deliver the same in the barrel, keg, sealed bottle, or other closed container in which the same was received by the licensee, including the sale of growlers by the holder of an off-premise retailer licensee, class A, notwithstanding any other provision or restrictions of this title.
(a-1)(1) An off-premises retailer's licensee, class B, that is also a full-service grocery store meeting the requirements of § 25-331(d), may also sell beer in growlers.
(2)(A) The Board shall promulgate rules within 45 days of the effective date of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012, effective January 14, 2013 (D.C. Act 19-597)("Emergency Act"), to provide a definition of "full-service grocery store" as used in this title.
(B) Notwithstanding subchapter III of Chapter 3 of this title, the Board shall not issue any new full-service grocery store, off-premises retailer's class B licenses for 45 days from the effective date of the Emergency Act or until the rulemaking required by this paragraph has been promulgated and approved by the Council, whichever date is sooner.
(C) Upon approval by the Council of the regulations promulgated by the Board pursuant to this paragraph, the Council shall incorporate the definition of "full-service grocery store" into § 25-101.
(b) The barrel, keg, sealed bottle, or other closed container shall not be opened, except for the sale of growlers, or the contents consumed, at the licensed establishment.
(c) The license shall not authorize the licensee to sell to other licensees for resale; provided, that the licensee under an off-premises retailer's license, class A, may sell to:

(1) Caterers licensed under § 25-113(i);
(2) [Expired]
(2A) Licensees under a temporary license or an on-premises retailer's license, class C or D, if the alcoholic beverages were purchased by the off-premises retailer from a licensee under a wholesaler license or brought into the District under a validly issued import permit; provided, that the sales to an on-premises retailer's class C and D license, may be made only on a Saturday, Sunday, or holiday during the hours when licensees under a wholesaler's license are closed; provided further, that an on-premises retailer's licensee shall maintain on the licensed premises for 3 years either a receipt or invoice containing:
(A) The date of the purchase;
(B) The quantity and brand name of the alcoholic beverages purchased; and
(C) The name of the on-premises licensee to which the sale was made; and
(3) If the licensee that is a member of a pool buying group, to other members of the same pool buying group any alcoholic beverages if:
(A) A pool member other than the buying agent transfers to another pool member any portion of the alcoholic beverages ordered by the transferee retailer as part of the single transaction pool purchase;
(B) A transfer pursuant to this section is made within 7 days of the pool delivery without any cost or charge whatsoever being made against the transferee retailer;
(C) The acquisition of alcoholic beverage products is recorded in an invoice maintained by both participating retailers for 3 years and includes:
(i) Business name, address, and license number of each licensee;
(ii) Names, sizes, and quantities of the products transferred;
(iii) Date that the delivery of products was received;
(iv) Date that the physical transfer of products was made;
(v) Unique identifier that links the record with a specific pool order; and
(vi) The resale certificate number of the licensee acquiring the products for resale.
(d) There shall be 2 classes of off-premises retailer's licenses:
(1) A retailer's license, class A, shall authorize the licensee to sell spirits, beer, and wine.
(2) A retailer's license, class B, shall authorize the licensee to sell beer and wine.
(e) The licensee under an off-premises retailer's license, class B, who qualifies for the license as a result of the application of § 25-303(c), § 25-331(d), § 25-332(c), or § 25-333(c), shall:
(1) File with the Board, within 60 days after the end of each year, a statement of expenditures and receipts by the licensed establishment containing the following:
(A) The total amount of receipts for the sale of alcoholic beverages, indicating the amount received for the sale of alcoholic beverages, the amount received for the sale of food, and the percentage of the total amount of receipts represented by each amount;
(B) A statement indicating the method used to compute the amounts and percentages; and
(C) An affidavit, executed by the individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation or limited liability company, attesting to the truth of the annual statement.
(2) The annual accounting period, for the purposes of the annual report, shall correspond to each of the 3 years for which a license is issued.
(3) The making of a false statement on an annual statement shall constitute grounds on which the Board may deny the renewal of a license, or subsequently revoke the license, if the renewal

of the license is based in whole or in part on the contents of the false statement.

§ 25-113. On-premises retailer's licenses.

(a)(1) On-premises retailer's licenses shall be classified by the type of establishment licensed, as follows: restaurant, tavern, nightclub, hotel, club, multipurpose facility, and common carrier.

(2) For each type of establishment listed in paragraph (1) of this section, there shall be 2 classes of on-premises retailer's license:

(A)(i) Except as otherwise provided, an on-premises retailer's license, class C, shall authorize the licensee to sell spirits, wine, and beer at the licensed establishment for consumption only at the licensed establishment.

(ii) It shall be a secondary tier violation for an on-premises retailer's class C or D licensee, to knowingly allow a patron to exit the licensed establishment with an alcoholic beverage in an open container.

(B) Except as otherwise provided, an on-premises retailer's license, class D, shall authorize the licensee to sell wine and beer at the licensed establishment for consumption only at the licensed establishment.

(3) The licensee of any kind of on-premises retailer's licenses, class C or D, shall not sell or serve alcoholic beverages in any closed container; provided that:

(A) A hotel may sell and serve alcoholic beverages in closed containers in the private rooms of registered guests; and

(B) A club may sell and serve alcoholic beverages in closed containers in any room or area available only to members of the club or their guests.

(4)(A) Except as provided in subparagraph (B) of this paragraph, nothing in the license classifications in this section shall be construed as prohibiting or restricting a restaurant from offering entertainment or facilities for dancing, preventing or restricting a tavern from offering entertainment, or preventing or restricting a nightclub from offering food. A licensee who offers food, entertainment, or facilities for dancing may advertise the food, entertainment, or facilities for dancing that are offered, regardless of the kind of license held.

(B) No licensed establishment other than a nightclub or a legitimate theater may provide entertainment by nude performers.

(b)(1) A restaurant license (R) shall be issued only for a restaurant. It shall be a secondary tier violation for a restaurant to not keep its kitchen facilities open until 2 hours before closing.

(2)(A) The licensee shall file with the Board quarterly statements, on the dates and in the manner prescribed by the Board, reporting for the preceding quarter: the gross receipts for the establishment; its gross receipts for sales of alcoholic beverages; its gross receipts for the sale of food; its total expenses for the purchase of food and alcoholic beverages; its expenses for the purchase of food; and its expenses for the purchase of alcoholic beverages.

(B) The Board shall make a licensee's quarterly statements available for the purpose of allowing a protestant of a license to determine the gross annual receipts of a licensee.

(3)(A) There shall be 2 classes of restaurant licenses:

(i) Class C/R (spirits, wine, and beer); and

(ii) Class D/R (wine and beer).

(B)(i) A class C/R license may be issued to:

(I) An establishment which qualifies as a restaurant under § 25-101(43)(A) and has gross annual food sales of at least $2000 per occupant (as determined by the establishment's Board-approved certificate of occupancy); or

(II) An establishment which qualifies as a restaurant under § 25-101(43)(B).

(ii) A class D/R license may be issued to:

(I) An establishment which qualifies as a restaurant under § 25-101(43)(A) and has gross annual food sales of at least $1500 per occupant (as determined by the establishment's Board-approved certificate of occupancy); or

(II) An establishment which qualifies as a restaurant under § 25-101(43)(B).

(iii) The Board shall, by rule, adjust for inflation the gross annual food sales per occupant requirements established under subparagraphs (B)(i)(I) and (B)(ii)(I) of this paragraph once every 5 years. The first adjustment shall be effective January 1, 2010. In determining the appropriate inflation index to be applied, the Board may consider the inflation indices customarily employed by the federal and District governments for similar purposes.

(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.

(c)(1) A tavern license (T) shall be issued only for a tavern.

(2) The size of the dance floor in a tavern that does not possess an entertainment endorsement shall not exceed 140 square feet; provided, that the licensee whose establishment on September 30, 1986 contained a regularly used dance floor in excess of 140 square feet and who is occupying the same establishment shall not be disqualified under this limitation.

(3) There shall be 2 classes of tavern licenses:

(A) Class C/T (spirits, wine, and beer); and

(B) Class D/T (beer and wine).

(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.

(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.

(2) There shall be two classes of nightclub licenses:

(A) Class C/N (spirits, wine, and beer); and

(B) Class D/N (beer and wine).

(e)(1) A hotel license (H) shall be issued only for a hotel license.

(2) The license shall authorize the sale and service of alcoholic beverages for consumption in the dining rooms, lounges, banquet halls, and other similar facilities on the licensed premises, and in the private rooms of registered guests.

(3) The license shall not authorize the sale and service of alcoholic beverages for consumption in a nightclub on the premises of the hotel. The licensee may also be issued a nightclub license on the premises of the hotel.

(4)(A) The licensee shall file with the Board quarterly statements, on the dates and in the manner prescribed by the Board, reporting for the preceding quarter: the gross receipts for the establishment; its gross receipts for sales of alcoholic beverages; its gross receipts for the sale of food; its total expenses for the purchase of food and alcoholic beverages; its expenses for the purchase of food; and its expenses for the purchase of alcoholic beverages.

(B) The Board shall make a licensee's quarterly statements available for the purpose of allowing a protestant to determine the gross annual receipts of a licensee.

(5)(A) There shall be 2 classes of hotel licenses:

(i) Class C/H (spirits, beer, and wine); and

(ii) Class D/H (beer and wine).

(B)(i) A class C/H license may be issued to:

(I) An establishment that has annual gross food sales in a hotel dining room of at least $2000 per occupant (as determined by the establishment's Board-approved certificate of occupancy); or

(II) An establishment that has sales of food in a hotel dining room which accounts for at least 45% of gross annual receipts from the operation of the dining room; provided, that in the case of a hotel that has 200 or fewer rooms and was built before January 1, 1940, sales of food shall account for at least 25% of gross annual receipts from the operation of the dining room.

(ii) A class D/H license may be issued to:

(I) An establishment that has annual gross food sales in a hotel dining room of at least $1500 per occupant (as determined by the establishment's Board-approved certificate of occupancy); or

(II) An establishment that has sales of food in a hotel dining room which accounts for at least 45% of gross annual receipts from the operation of the dining room; provided, that in the case of a hotel that has 200 or fewer rooms and was built before January 1, 1940, sales of food shall account for at least 25% of gross annual receipts from the operation of the dining room.

(f)(1) A club license shall be issued only for a club.

(2) No license shall be issued to a club which has not been incorporated for at least one year immediately before the filing of an application for the license.

(3) The licensee may permit consumption of alcoholic beverages on the parts of the licensed premises as may be approved by the Board.

(4) There shall be 2 classes of club licenses:

(A) Class C (spirits, beer, and wine); and

(B) Class D (beer and wine).

(g)(1) A multipurpose facility license shall be issued only to legitimate theaters, universities, museums, conference centers, art galleries, or facilities (such as the Lincoln Theatre or the D.C. Arena) for the performance of sports, cultural, or tourism-related activities.

(2) The licensee may permit consumption of alcoholic beverages on the parts of the licensed premises as may be approved by the Board.

(3) There shall be 2 classes of multipurpose facility licenses:

(A) Class C (spirits, beer, and wine); and

(B) Class D (beer and wine).

(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.

(h)(1) A common carrier license shall be issued only for a passenger-carrying marine vessel serving food or a railroad club or dining car.

(2) Any person operating a railroad in interstate commerce of 100 miles or more may be issued a single license covering all of the railroad's dining and club cars. The license shall identify the railroad dining cars and club cars covered by the license and shall be kept on display at the licensee's principal place of business in the District.

(3) Any person operating a passenger-carrying marine vessel line in the District may be issued a single license covering all of its passenger-carrying marine vessels serving food and its dockside waiting areas for its passengers. The license shall identify the passenger-carrying marine vessels and dockside waiting areas covered by the license and shall be kept on display at the licensee's principal place of business in the District. The license issued shall not cover any permanently berthed vessel.

(4) There shall be 2 classes of common carrier licenses:

(A) Class C (spirits, beer, and wine); and

(B) Class D (beer and wine).

(i)(1) A caterer's license shall be issued only to a caterer.

(2) Notwithstanding any provision of this title, a caterer's license under this subsection shall authorize the licensee to sell, deliver and serve alcoholic beverages for consumption on the premises of a catered event at which the licensee is also serving prepared food.

(3) A caterer's license shall be valid for 3 years.

(4) A caterer licensed under this subsection shall file records with, and maintain records for inspection by, the Board in such manner as the Board shall determine by regulation promulgated under § 25-211(b); provided, that commercial or financial information considered by the Board to be proprietary information or trade secrets, the disclosure of which would result in harm to the competitive position of the licensee, shall not be made available to the public.

(5) Wholesalers and off-premises retailers, class A, may sell alcoholic beverages to caterers licensed under this subsection for catered events of 100 persons or less. Only off-premises retailers, class A, may sell alcoholic beverages to caterers licensed under this subsection for catered events in excess of 100 persons. A caterer that also holds an on-premises retailer’s license may purchase alcoholic beverages from wholesalers for use at catered events regardless of the number of persons attending the event.

(j)(1) Cover charges or the sale of items other than food or beverage shall not be included in determining an establishment's gross annual food sales or whether the sale of food accounts for at least 45% of the establishment's gross annual receipts; provided, that minimum charges that are readily identifiable as food or beverage shall be included in calculating whether the establishment is meeting the food sales requirements set forth in § 25-101(43) and this section.

(2) Off-site food sales by a licensee under a license, class C/R, D/R, C/H, or D/H, shall also not be included for purposes of calculating whether the establishment is meeting the food sales requirement set forth in either § 25-101(43) or this section.

(3)(A) Each licensee under a license, class C/R, D/R, C/H, or D/H, shall keep and maintain on the premises for a period of 3 years adequate books and records showing all sales, purchase invoices, and dispositions, including the following:

(i) Sales information that includes the date, the price of food sold, the price of alcoholic beverages sold, and the amount of total sales;
(ii) Purchase information that includes the date and quantity of the purchase, the name, address, and phone number of the wholesaler and or vendor with the original invoice; and
(iii) Register receipts or guest checks, which may be kept daily or weekly that include the food sold, the alcoholic beverages sold, and the amount of total sales.

(B) Any licensee may file a written request with the Board to have his books and records, except the day to day records or register receipts, kept at an accountant's office or the licensee's office; provided, that the records are made available within 3 days of request by ABRA staff. A licensee may also store its books and records on the premises electronically. The records stored on the premises electronically shall be made immediately available at the request of ABRA staff.

(C) The failure of a licensee under a license, class C/R, D/R, C/H, or D/H, to keep and maintain records as required by this section shall be subject to the following penalties:
(i) One-quarter of non-compliance shall result in a penalty not to exceed $3,000 and ABRA monitoring;
(ii) Non-compliance after 2 quarters shall result in a penalty not to exceed $4,500 or license suspension for a period not to exceed 5 days; or
(iii) Non-compliance after 3 or more quarters shall result in a show cause hearing for revocation or a mandatory change in license class.

(D) A violation of this section shall also be a primary tier violation under § 25-830(c).

§ 25-113a. License endorsements.

(a) All license endorsements shall be placed on the applicant's license.

(b) The licensee under a license, class C/R, D/R, C/H, D/H, C/T, and D/T, shall obtain an entertainment endorsement from the Board to be eligible to have entertainment, a cover charge, or offer facilities for dancing.

(c) The licensee under an on-premises license, class C/R, D/R, C/H, D/H, C/T, D/T, C/N, and D/N, shall obtain a sidewalk cafe endorsement or summer garden endorsement from the Board to be eligible to conduct business operations on a sidewalk cafe or summer garden, which may include the sale, service, and consumption of alcoholic beverages on outdoor public or private space.

§ 25-114. Arena C/X license requirements and qualifications; special provisions for on-premises retail licenses, class C, at DC Arena.

(a) A retailer's license, class Arena C/X, shall be issued only for the DC Arena and shall permit the storage and sale of spirits, wine, and beer for consumption on the premises of the DC Arena. The license shall not permit the sale or dispensing of alcoholic beverages in unbroken packages for the purpose of permitting the packages to be carried off the premises.

(b)(1) Upon application by an applicant as set forth in Chapter 4, the Board shall issue one or more retailer's licenses, class Arena C/X, to the lessee under the Land Disposition Lease.
(2) At the option of the lessee, the licenses may be issued to concessionaires and tenants of the lessee, as may be requested from time to time by the lessee.
(3) Licenses may be canceled by the Board at the request of the RLA if the lessee ceases to operate the DC Arena.

(4) If the lessee assigns its interest in the Land Disposition Lease, the Board shall, at the request of the RLA, transfer the licenses to the lessee's assignee, upon application under Chapter 4 and approval by the Board.

(d) One or more retailer's licenses, class Arena C/X, shall be issued either as the license for all alcoholic beverage operations at the DC Arena or individually for concession stands, portable bars, and other non-fixed locations, and suite and club suite service.

(e) One or more on-premises retailer's licenses, class C, may be issued to concessionaires or tenants of the DC Arena for suitable locations within the DC Arena, approved by the Board, where food and alcoholic beverages are served.

§ 25-115. Temporary license requirements and qualifications.

(a) A temporary license shall authorize the licensee temporarily to sell or permit the consumption of alcoholic beverages at the specific premises described for consumption on the premises where sold. The license may be issued for a banquet, picnic, bazaar, fair, or similar public gathering where food is served for consumption on the premises. No alcoholic beverages shall be sold or served to a customer in an unopened container.

(b) A temporary license shall be issued for no more than 4 consecutive days.

(c) The issuance of a temporary license shall be solely in the discretion of the Board.

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

(e) There shall be 2 classes of temporary licenses:

(1) Class F (beer and wine); and

(2) Class G (spirits, beer, and wine).

(f) The holder of a temporary license shall be permitted to receive deliveries from a wholesaler up to 48 hours before a Board-approved event occurring on a Saturday, Sunday, or holiday. The alcoholic beverages delivered pursuant to this subsection shall not be consumed until the date and time of the event and shall be stored in a secure location.

§ 25-116. Solicitor's license requirements and qualifications.

A solicitor's license shall authorize the licensee to sell any alcoholic beverage on behalf of the vendor whose name appears upon the license and whom the solicitor represents. A license shall be issued for only one vendor and a license shall be issued to the solicitor for each vendor whom the solicitor represents. A solicitor's license shall allow the licensee to transport samples to and from licensed establishments.

§ 25-117. Brew pub permit requirements and qualifications.

(a) A brew pub permit shall authorize the licensee to brew malt beverages at one location for consumption at a licensed restaurant, tavern, multipurpose facility, hotel, or nightclub and for sale to licensed wholesalers for the purpose of resale to other licensees. The location used to brew malt beverages shall be on or immediately adjacent to the restaurant, tavern, multipurpose facility, hotel, or nightclub licensed to the brew pub owner in accordance with subsection (b) of this section.

(a-1) A brew pub permit shall authorize the licensee to sell beer in growlers.

(b) A brew pub permit shall be issued only to the licensee under an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub retailer's license, class C or D, or in conjunction with the

issuance of an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub retailer's license, class C or D.
(c) A brew pub permit shall be cancelled or revoked if:
(1) The restaurant, tavern, multipurpose facility, hotel, or nightclub ceases to be operated as a restaurant, tavern, multipurpose facility, hotel, or nightclub; or
(2) The licensee's on-premises retailer license, class C or D, is revoked or cancelled.
(d) A brew pub permit shall be automatically suspended whenever and for the same period of time that the licensee's retailer's license, class C or D, is suspended.

§ 25-118. Tasting permit requirements and qualifications.
(a) A tasting permit shall be issued only to a licensee under a manufacturer's license, class A and B, a retailer's license, class A and B, or an applicant which is a full service grocery store and meets the requirements of § 25-303(c)(1), (2), and (3), to utilize a portion of their licensed premises for the tasting of products as listed in subsection (c) of this section.
(b) Containers of alcoholic beverages used for sampling purposes shall be labeled as such and may not be sold.
(c) A licensee shall not provide to a customer, in one day, samples greater than the following quantities:
(1) 3 ounces of spirits;
(2) 6 ounces of wines; and
(3) 12 ounces of beer.
(d) A tasting permit shall be valid for 3 years.
(e) The holder of a manufacturer's license, class A, may utilize a portion of the licensed premises for the sampling of spirits, and the holder of a manufacturer's license, class B, may utilize a portion of the licensed premises for the sampling of beer, between the hours of 1:00 p.m. and 9:00 p.m., Thursday through Saturday.

§ 25-119. Importation permit requirements and qualifications.
(a) An importation permit shall authorize the licensee to import, transport, or cause to be imported or transported, alcoholic beverages into the District. An importation permit shall be issued to the licensee under a retailer's license, class A, B, C, or D, and a pool buying agent if the Board is satisfied that the alcoholic beverages bearing the same brand or trade name are not obtainable by the licensee from a licensed manufacturer or wholesaler in the District in sufficient quantity to reasonably satisfy the immediate needs of the licensee and when the licensee has paid the appropriate taxes as imposed by Chapter 9.
(b) The permit shall specifically set forth the quantity, character, and brand or trade name of the alcoholic beverage to be transported and the names and addresses of the seller and the licensee.
(c) The permit shall accompany the alcoholic beverages during transportation in the District to the licensed premises of the licensee and shall be exhibited upon the demand of any police officer or duly authorized inspector of the Board.
(d) The permit shall, immediately upon receipt of the alcoholic beverages by the retail licensee, be marked “canceled” by the licensee.

§ 25-120. Manager's license requirements and qualifications.
(a) A manager's license shall authorize the licensee to manage a licensed business.

(b) A licensee may be employed by one or more licensed businesses without further investigation, subject to compliance by the licensed businesses.
(c) A manager's license shall be valid for 2 years or until surrendered, suspended, or revoked. The fee for both years of the manager's license shall be paid at the time of application.
(d) A manager shall complete an alcohol training and education certification program conducted by a Board-approved provider. The manager shall be recertified every 2 years from the date of the initial certification.
(e) A manager who is licensed on or before May 3, 2001, shall complete a certification program within 6 months of May 3, 2001.
(f) A manager licensed under this section after May 3, 2001, shall complete the certification program prior to receiving his or her manager's license.
(g) Subsection (e) of this section shall not apply to a manager licensed on or before May 3, 2001, who provides proof of his or her prior certification within 2 years prior to May 3, 2001.
(h) A manager required to complete an alcohol training and education certification program under this section shall submit proof of certification to the Board on a form supplied by a Board-approved training provider.

§ 25-121. Alcohol training and education certification providers.
The Board shall approve providers of alcohol training and education certification programs for the purposes of:
(1) The certification of managers licensed under § 25-120; and
(2) Providing alcohol training and education to a licensee as a result of an order of the Board.

§ 25-122. Pool buying groups.
(a) A pool buying group shall be created in the following manner:
(1) Prior to commencing operations, a pool buying group shall file with ABRA a copy of the agreement under which the pool buying group will operate. The ABRA shall review the agreement and, if the requirements of applicable law and rules are met, shall approve the agreement.
(2) Any proposed amendment to a pool buying group agreement shall be filed with, and be approved by, ABRA in the same manner as original agreements before the proposed amendments shall be effective.
(3) Pool buying agreements shall include:
(A) The name and address the cooperative or pool buying group;
(B) The name of the buying agent for the group;
(C) The cooperative buying group's bylaws;
(D) For each member, the licensee's name, business name, business address, business phone number, license number, and the date each licensee joined the group;
(E) The signatures of all the members of the pool buying group;
(F) An attestation that the licensee is not a member of more than one pool buying group at that time; and
(G) The license status of each member.
(b) The buying agent shall be a licensed retailer of alcoholic beverages in the District.
(c) A member of the pool buying group shall not be eligible to place an order with the group until the member has executed the pool buying agreement and the licensee's name, business name, license number, and the date of membership have been filed with, and approved by, the ABRA.

(d) Any addition or termination to the membership of the pool buying group shall be provided to ABRA under the signature of the buying agent. The notice shall include the effective date of the addition of an new member or the termination of an existing member. The notice may be in letter form or on official forms which may be promulgated by ABRA.
(e) The transfer, suspension, or revocation of a license held by a member of a pool buying group shall automatically terminate the licensee from membership in the pool buying group.

§ 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.

§ 25-124. Wine pub permit requirements and qualifications.
(a) A wine pub permit shall authorize the licensee to manufacture wine at one location from grapes or fruit transported from an area that produces wine to the licensed restaurant, tavern, multipurpose facility, hotel, or nightclub for on-premises consumption and for sale to licensed wholesalers for the purpose of resale to other licensees.
(b) A wine pub permit shall be issued only to the licensee under an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub license, class C or D, in conjunction with the issuance of an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub license, class C or D.
(c) The location used to manufacture wine shall be on or immediately adjacent to the restaurant, tavern, multipurpose facility, hotel, or nightclub licensed to the wine pub owner in accordance with subsection (b) of this section.
(d) The holder of a wine pub permit may also sell wine to patrons in sealed bottles or other closed containers for off-premises consumption.
(e) The minimum annual fee of the wine pub permit shall be $5,000.
(f) A wine pub permit shall be cancelled or revoked if:
(1) The restaurant, tavern, multipurpose facility, hotel, or nightclub ceases to be operated as a restaurant, tavern, multipurpose facility, hotel, or nightclub; or
(2) The licensee's on-premises retailer's license, class C or D, is revoked or cancelled.
(g) A wine pub permit shall be automatically suspended whenever and for the same period that the licensee's retailer's license, class C or D, is suspended.

CHAPTER 2. ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION.

25-201. Establishment of the Alcoholic Beverage Control Board -- appointment and responsibilities.
25-202. Establishment of the Alcoholic Beverage Regulation Administration.
25-203. Transfer of functions of Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs.
25-204. Board -- functions and duties.
25.204.01 Board – open meetings.
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25-206. Board member qualifications; term of office; chairperson; conflict of interest.
25-207. ABRA Director and staff.
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25-209. Community resource officer.
25-210. ABRA funding.
25-211. Regulations.
25-212. New licensee and general public orientation class.

§ 25-201. Establishment of the Alcoholic Beverage Control Board--appointment and responsibilities.

(a) There is established an Alcoholic Beverage Control Board. The Board shall be composed of 7 members. The Mayor, with the advice and consent of the Council and according to the requirements set forth in § 25-206, shall nominate persons to serve on the Board. A nomination shall be submitted to the Council for a 90-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination by resolution within this 90-day review period, the nomination shall be deemed disapproved.

(b) The Board shall administer and enforce the provisions of this title and regulations issued under this title.

(c) The Board shall:

(1) Oversee ABRA;

(2) Receive and evaluate applications for licenses, transfers of licenses to new owners, and renewals of licenses;

(3) Issue, transfer, and renew licenses to qualified applicants;

(4) Regularly conduct inspections of the premises and the books and records of all licensees during day and evening hours and, on a reasonable number of occasions, without prior notification to the licensee or the licensee's employees, for compliance with the requirements of this title and regulations issued under this title;

(5) Establish procedures to receive and respond timely to complaints from any person alleging a violation of any provision of this title or regulations issued under this title;

(6) Conduct investigations, on its own initiative or on the basis of valid complaints, to identify violations of this title or regulations issued under this title;

(7) Suspend or revoke licenses and impose civil fines as authorized by this title and regulations issued under this title; and

(8) Refer evidence of criminal misconduct to the Inspector General of the District of Columbia, the Corporation Counsel, or the United States Attorney for the District, for investigation and prosecution.

§ 25-202. Establishment of the Alcoholic Beverage Regulation Administration.
There is established an Alcoholic Beverage Regulation Administration ("ABRA") as an independent agency of the District to provide professional, technical, and administrative staff assistance to the Board in the performance of its functions. ABRA shall carry out its functions under the supervision of the Board.

§ 25-203. Transfer of functions of Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs.
All positions, property, records, and unexpended balances of appropriations, allocations, assessments, and other funds available or to be made available to the Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs relating to the duties and functions assigned herein are transferred to ABRA.

§ 25-204. Board--functions and duties.
All duties and responsibilities in respect to the regulation of alcoholic beverage control establishments that previously have been given to the Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs, established by Reorganization Plan No. 1 of 1983, shall be assumed by the Board.

§ 25-204.01. Board -- open meetings.
(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 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.

§ 25-205. Board record-keeping responsibilities.

(a) The Board shall maintain complete and accurate records of all action taken on:

(1) Applications for licenses; and

(2) Recommendations for, and remonstrances against, the granting of licenses.

(b) The Board shall maintain the records in a manner readily accessible for inspection by the public during normal business hours.

(c) The Board shall provide to the Director and the Council annual reports detailing the activities of the Board for the previous year regarding the following items:

(1) Licenses, including the number of licenses outstanding; the number of new alcohol licenses and permits issued; the number of alcohol licenses and permits renewed; the number of licenses suspended; and the number of licenses revoked;

(2) Enforcement, including the number of regulatory inspections performed and the number of investigations conducted;

(3) The workload of the Board, including the number of adjudicated cases processed; the number of hearings conducted; and the number of show cause cases pending;

(4) Community notification efforts, including the number of ANC notifications issued; the number of ANC meetings attended by Board members; and the number of community meetings attended by Board members; and

(5) Revenue generated by Board actions, including revenue generated by the Board from permits and licenses and from fines.

(d) The Board shall provide to the office of each ANC, on a quarterly basis, a list of all licenses due to expire during the ensuing 6 months.

§ 25-206. Board member qualifications; term of office; chairperson; conflict of interest.
(a) Each member of the Board shall be a resident of the District for at least 3 years immediately preceding his or her appointment and, during that period, have claimed a principal residence nowhere else.
(b) No member of the Board shall hold any other full-time employment with the District government during his or her term of service on the Board.
(c) Each member of the Board shall have a demonstrated record of substantial involvement in issues related to the community impact of licensed establishments before his or her appointment to the Board.
(d) All appointments shall be for a term of 4 years, except appointments made for the remainder of unexpired terms. Vacancies caused by death, resignation, or otherwise shall be filled by the Mayor, with the advice and consent of the Council, under § 25-201. The Mayor may remove a board member for just and reasonable cause.
(e) Board members may be reappointed.
(f)(1) The Mayor, with the advice and consent of the Council as provided by 25-201, shall appoint one member of the Board as chairperson.
(2) The chairperson shall have a demonstrated knowledge of the laws and regulations relating to the sale and delivery of alcoholic beverages in the District.
(g) No member or employee of the Board, directly or indirectly, individually, or as a member of a partnership, association, or limited liability company, or a shareholder in a corporation, shall have any interest in selling, transporting, or storing alcoholic beverages, or receive a commission or profit from any person licensed under this title to sell alcoholic beverages; provided, that a Board member or employee may purchase, transport, or keep in his or her possession an alcoholic beverage for his or her personal use or the use of the members of his or her family or guests.
(h) Former board members may not represent a client before the Board for a period of one year following their service on the Board. Former board members may appear before the Board as an applicant for licensure, a protestant, or a witness during a protest hearing during this time period. This provision shall be applicable to future board members and for board members who are serving on the Board on May 3, 2001.

§ 25-207. ABRA Director and staff.
(a) The Board, with the advice and consent of the Council, shall appoint a Director of ABRA for a renewable 4-year term. The Director shall be removed by the Board for just and reasonable cause.
(b) The Director shall organize the personnel and property transferred by § 25-203 and, within the limits provided in this chapter and annual appropriations, shall employ staff as needed to carry out the function of ABRA.

§ 25-208. Office of the General Counsel.
There shall be established within ABRA an Office of the General Counsel. The head of the office shall be the General Counsel, who shall be an attorney admitted to the practice of law in the District and who shall be appointed by, and serve at the pleasure of, the Mayor. The General Counsel shall advise the Board regarding all legal matters. The Office of the General Counsel shall also be available to provide mediation services or a professional mediator, as a delegate, if the parties to a settlement conference require or request assistance.

§ 25-209. Community resource officer.
The Director shall appoint an employee to be a community resource officer, who shall serve as the primary contact for members of the community, both residents and businesses, wishing to submit complaints or to protest a license. The community resource officer shall provide information to citizens and the business community about the license application process, qualifications, complaint or protest process, and the citizen's or businesses' responsibilities and options in each step of the process.

§ 25-210. ABRA funding.
(a) There is established a fund designated as the Alcoholic Beverage Regulation Administration Fund, which shall be separate from the General Fund of the District of Columbia. All funds obtained from alcoholic beverage licensing and permitting fees shall be deposited into the ABRA Fund without regard to fiscal year limitation pursuant to an act of Congress. All fees deposited into the ABRA Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this subsection, subject to authorization by Congress in an appropriations act. The funds deposited in the ABRA Account shall be used to fund the expenses of ABRA in the discharge of its administrative and regulatory duties. Funds obtained from penalties and fines, as prescribed by Chapter 8 of this title, shall be credited to the General Fund of the District of Columbia.
(b) The Mayor shall submit to the Council, as part of the annual budget, a budget for ABRA and a request for an appropriation for expenditures from the ABRA Fund. This estimate shall include expenditures for salaries, fringe benefits, overhead charges, training, supplies, technical, professional, and any and all other services necessary to discharge the duties and responsibilities of ABRA.

§ 25-211. Regulations
(a) (1) Within 180 days after May 3, 2001, the Mayor shall issue conforming regulations necessary or appropriate to carry out the provisions of this title.
(2) The Mayor shall submit the proposed regulations to the Council for a 45-day period of review. The Council may approve the proposed regulations in whole or in part. If the Council has not approved the regulations upon expiration of the 45-day review period, the regulations shall be deemed disapproved.
(3) The current regulations in Chapter 23 of the District of Columbia Municipal Regulations shall remain in effect until the Council approves new regulations as provided in this subsection.
(b) (1) The Mayor shall submit other proposed regulations to the Council for a 90-day period of review.
(2) The Council may approve the proposed regulations in whole or in part. If the Council has not approved the regulations upon expiration of the 90-day review period, the regulations shall be deemed disapproved.
(3) The Mayor may submit proposed regulations under this subsection regarding the regulation of promotional events such as pub crawls.
(c) The Mayor may in any time of public emergency, without previous notice or advertisement, prohibit the sale of any or all alcoholic beverages.
(d) (1) Any regulations promulgated under this section shall become effective 5 days after being published in the District of Columbia Register.
(2) Within 30 days after their promulgation, the regulations shall also be published in a newspaper

of general circulation in the District. Failure to do so shall not affect the validity of the regulations.
(e) Within 180 days after May 3, 2001, the Board shall implement a process to provide additional notification, via electronic media, to the public and Advisory Neighborhood Commissions of the publication of proposed and adopted regulations.
(f) The Board shall establish, under subsection (b) of this section, procedures to implement *§ 25-601* to:
(1) Receive written complaints from the public, regarding community concerns about the activity at a site;
(2) Conduct protest hearings regarding community concerns filed under paragraph (1) of this subsection; and
(3) Place restrictions upon the number, nature, or size of events permitted at a site, based on findings of fact and conclusions of law determining that events at the site have violated District of Columbia law and created parking, trash, noise, congestion or other alcohol related problems which have been substantially injurious to neighborhood residents.

§ 25-212. New licensee and general public orientation class.
ABRA shall establish a new licensee orientation class that shall be available to licensees and the public at no charge. The class curriculum shall include the following:
(1) A review of relevant provisions contained in both this title and Title 23 of the District of Columbia Municipal Regulations;
(2) Noise abatement and sound management; and
(3) How to work proactively with Advisory Neighborhood Commissions, neighborhood and business groups, and residents.

CHAPTER 3. REQUIREMENTS TO QUALIFY FOR LICENSE.

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25-373. Transfer of ownership of establishments which permit nude dancing.
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Subchapter I. Applicant Qualifications.

§ 25-301. General qualifications for all applicants.

(a) Before issuing, transferring to a new owner, or renewing a license, the Board shall determine that the applicant meets all of the following criteria:

(1) The applicant is of good character and generally fit for the responsibilities of licensure.

(2) The applicant is at least 21 years of age.

(3) The applicant has not been convicted of any felony in the 10 years before filing the application.
(4) The applicant has not been convicted of any misdemeanor bearing on fitness for licensure in the 5 years before filing the application.
(5) Except in the case of an application for a solicitor's license, the applicant is the true and actual owner of the establishment for which the license is sought, and he or she intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, limited liability company, or corporation not identified in the application.
(6) The licensed establishment will be managed by the applicant in person or by a Board-licensed manager.
(7) The applicant has complied with all the requirements of this title and regulations issued under this title.

(a-1) To determine whether an applicant for a new license meets the criteria of subsection (a)(1) of this section, the Board shall examine records, covering the last 10 years from the date of application, maintained by ABRA regarding prior violations of the District's alcohol laws and regulations by the applicant or establishments owned or controlled by the applicant.

(b) Notwithstanding § 47-2861(1)(B), the Board shall not issue a license or permit to an applicant if the applicant has failed to file required District tax returns or owes more than $ 100 in outstanding debt to the District as a result of the items specified in § 47-2862(a)(1) through (9), subject to the exceptions specified in § 47-2862(b).

(c) To determine whether an applicant for a new retailer or wholesaler license meets the criteria of subsection (a)(3) and (4) of this section, the Board may obtain criminal history records of criminal convictions maintained by the Federal Bureau of Investigation and the Metropolitan Police Department. The Board shall:

(1) Inform the applicant that a criminal background check will be conducted;
(2) Obtain written approval from the applicant to conduct a criminal background check;
(3) Coordinate with the Metropolitan Police Department to obtain a set of qualified fingerprints from the applicant; and
(4) Obtain any additional identifying information from the applicant that is required for the Metropolitan Police Department and the Federal Bureau of Investigation to complete a criminal background check.

(d) The Board shall coordinate with the Metropolitan Police Department to adopt procedures necessary to facilitate this objective.

(e) The fingerprint card shall not be maintained by the Board or by the Metropolitan Police Department and shall be returned to the applicant after the completion of the criminal background check.

(f) Once notified, the Board shall seal, set aside, expunge, and otherwise maintain any record received pursuant to this section so that the record is in compliance with any order issued by the Superior Court of the District of Columbia pursuant to a sealing, set aside, or expungement statute, including Chapter 8 of Title 16 and Chapter 9 of Title 24. Once notified, the Board shall also seal, set aside, expunge, and otherwise maintain any record received pursuant to this section so that the record is in compliance with any court order or official government request or statement from the jurisdiction that is the source of that record.

(g) The Board shall maintain the confidentiality of any information returned from the Metropolitan Police Department and the Federal Bureau of Investigation and use such information only for the

purpose of determining whether the applicant satisfies the criteria set forth in subsection (a)(3) and (4) of this section.

§ 25-302. Special qualifications for wholesaler's or retailer's licenses.
In the case of an application for a wholesaler's license or for a retailer's license of any class, except a temporary license, before issuing, transferring to a new owner, or renewing a license, the Board shall further determine that:
(1) No manufacturer, wholesaler, or shareholder holding 25% or more of the common stock of, or equity interest in, a manufacturer or wholesaler, or officer of a manufacturer or wholesaler corporation, or partner or member of a partnership or limited liability company owning 25% or more of its equity interest, has such a substantial interest, direct or indirect, in the applicant's business or establishment that the applicant would be influenced to purchase alcoholic beverages from the manufacturer or wholesaler; and
(2) The business for which the license is sought has not been, and will not be, conducted with money, equipment, furniture, fixtures, or property (A) rented from, (B) loaned from, (C) given by, or (D) sold for less than fair market value, upon a conditional sale agreement, or a chattel trust from, a manufacturer, wholesaler, shareholder holding 25% or more of the common stock of, or equity interest in, a manufacturer or wholesaler, or officer of a manufacturer or wholesaler corporation, or partner or member of a partnership or limited liability company owning 25% or more of its equity interest.

§ 25-303. Restrictions on holding a conflicting interest.
(a) Before issuing, transferring to a new owner, or renewing a license, the Board shall determine that the applicant is not disqualified because of a conflicting interest in another license, as follows:
(1) No licensee under a manufacturer's or wholesaler's license shall hold a license of any other class or kind.
(2) No licensee under an on-premises retailer's license, class C or D, shall hold any other license except an on-premises retailer's license, class C or D, or a caterer's license.
(3) No licensee under an off-premises retailer's license, class A or B, shall hold an interest in any other license.
(b) The Board shall not reject, solely on the basis of this section, the application of a franchisee who controls, or will control, the entire interest in the receipts, profits, inventory, purchases, pricing, and sales of beverages under the license, if the franchisee held a license, or had an application for a license pending, on June 22, 1982.
(c) The requirements of this section shall not apply to an applicant for an off-premises retailer's license, class B, for the sale of alcoholic beverages in an establishment if:
(1) The primary business and purpose is the sale of a full range of fresh, canned, and frozen food items, and the sale of alcoholic beverages is incidental to the primary purpose;
(2) The sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis;
(3) The establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;
(4) The establishment is a full service grocery store which is newly constructed with a certificate of occupancy issued after January 1, 2000, or is an existing store which has undergone renovations in excess of $500,000 after January 1, 2000;
(5) The opinion of the ANC, if any, has been given great weight; and

(6) The applicant does not hold a manufacturer's or wholesaler's license.
(d)(1) A manufacturer, or its affiliate, licensed under this title, may hold an interest in a limited partnership providing financial assistance to a general partner wholesaler as described in paragraph (2) of this subsection, but shall only exercise such control of the limited partnership business as is permitted by this chapter. The limited partner shall not have or exercise managerial control or decision-making authority with respect to daily operations of the limited partnership. Upon a default by the general partner wholesaler, the limited partner shall not acquire or assume additional control, ownership, or financial interest in the limited partnership. The manufacturer, or its affiliate licensed in the District shall not have a financial or ownership interest in the general partner wholesaler.

(2) The only financial assistance allowed pursuant to paragraph (1) of this subsection shall be the initial financial assistance to the limited partnership to acquire a licensed beer wholesaler. In that arrangement for financial assistance, the wholesaler license issued under this title shall be issued in the name of the general partner wholesaler on behalf of the limited partnership, and shall not be issued in the name of the limited partnership nor in the name of the manufacturer, or its affiliate.

(3) The limited partnership providing the financial assistance described in this section shall not exist for more than 10 years from the date of its creation, and shall not be recreated, renewed, or extended beyond that date.

(4) This section shall not amend or otherwise alter this title, except for the limited purpose of allowing a manufacturer, or its affiliate, which is licensed in the District, to provide financial assistance to a limited partnership for the exclusive purpose of acquiring a licensed beer wholesaler. A manufacturer or its affiliate shall not require the wholesaler to use the financial assistance as described above.

Subchapter II. Qualification of Establishment.

§ 25-311. General provisions--qualification of establishment.

(a) Unless expressly stated otherwise in this chapter, the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located; provided, that if proper notice has been given under subchapter II of Chapter 4, and no objection to the appropriateness of the establishment is filed with the Board, the establishment shall be presumed to be appropriate for the locality, section, or portion of the District where it is located.
(b) Before evaluating the appropriateness of the establishment for which the license is sought, the Board shall ensure that the applicant has complied fully with the notification requirements set forth in § 25-422.
(c) No license, except a solicitor's license, shall be issued to an applicant unless the applicant has a valid certificate of occupancy for the premises in which the establishment is located and has all other licenses and permits required by law or regulation for its business.
(d) If a temporary license is sought for an outdoor event or a private residential home used for non-commercial purposes, the applicant shall not be required to provide a valid certificate of occupancy.

§ 25-312. Defining size of areas relevant to determination of appropriateness.

(a) The Board shall determine, on a case-by-case basis, whether the locality, section, or portion proposed by the applicant is a competent measure for determining the appropriateness of the

establishment and, if not, shall identify the proper boundaries of the locality, section, or portion for evaluating the application. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.
(b) In establishing any geographic boundaries required by this title, the Board shall measure the specified distance in an arc from each corner of the lot or parcel on which the establishment is located, connecting the arcs by tangent lines.
(c) If the Board is required to state the distance between one or more places, (such as the actual distance of one licensed establishment from another or the actual distance of a licensed establishment from a school), the distance shall be measured linearly and shall be the shortest distance between the property lines of the places.
(d) If a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.
(e) In submitting evidence of appropriateness, the applicant shall propose the boundaries of the locality, section, or portion to be considered.
(f) Any person may submit written objections to the boundaries proposed by the applicant or a written proposal listing alternative boundaries for consideration by the Board.

§ 25-313. Appropriateness standard.
(a) To qualify for issuance, renewal of a license, transfer of a license to a new location, or an application for the approval of a substantial change in operation as determined by the Board under § 25-404, an applicant shall demonstrate to the satisfaction of the Board that the establishment is appropriate for the locality, section, or portion of the District where it is to be located.
(b) In determining the appropriateness of an establishment, the Board shall consider all relevant evidence of record, including:
(1) The effect of the establishment on real property values;
(2) The effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726;
(3) The effect of the establishment upon residential parking needs and vehicular and pedestrian safety; and
(4) In the case of a license renewal, the provisions of this subsection and § 25-315.
(c)(1) The requirements of this section shall not apply to applicants for a solicitor's license or a temporary license.
(2) Applicants for a caterer's license shall apply according to the procedures under Chapter 20 of the District of Columbia Municipal Regulations.
(d) No license shall be issued for an outlet, property, establishment, or business which sells motor vehicle gasoline or which holds a Motor Vehicle Sales, Service, and Repair endorsement under § 47-2851.03(c)(9) or an Environmental Materials endorsement under § 47-2851.03(c)(4) to its master business license.

§ 25-314. Additional considerations for new license application or transfer of license to a new location.
(a) In determining the appropriateness of an establishment for initial issuance of a license or a transfer of a license to a new location, the Board shall also consider the following:
(1) The proximity of the establishment to schools, recreation centers, day care centers, public libraries, or other similar facilities;

(2) The effect of the establishment on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities; and

(3) Whether school-age children using facilities in proximity to the establishment will be unduly attracted to the establishment while present at, or going to or from, the school, recreation center, day care center, public library, or similar facility at issue.

(4) Whether issuance of the license would create or contribute to an overconcentration of licensed establishments which is likely to affect adversely the locality, section, or portion in which the establishment is located.

(b)(1) No license shall be issued for any establishment within 400 feet of a public, private, or parochial primary, elementary, or high school; college or university; or recreation area operated by the District of Columbia Department of Parks and Recreation, except as provided in paragraphs (2) through (5) of this subsection.

(2) The 400-foot restriction shall not apply to a restaurant, hotel, club, caterer's, or temporary license.

(3) The 400-foot restriction shall not apply if there exists within 400 feet a currently-functioning establishment holding a license of the same class at the time that the new application is submitted.

(4) The 400-foot restriction shall not apply if:

(A) The applicant applies for an off-premises retailer's license, Class B;

(B) The primary business and purpose of the establishment is the sale of a full range of fresh, canned, and frozen food items, and the sale of alcoholic beverages is incidental to the primary purpose;

(C) The sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis;

(D) The establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;

(E) The establishment is a full service grocery store which is newly constructed with a certificate of occupancy issued after January 1, 2000, or is an existing store which has undergone renovations in excess of $500,000 (i) after January 1, 2000 and prior to [March 8, 2006], or (ii) during the preceding 12 months in which an application is made;

(F) The opinion of the ANC in which the establishment is located has been given great weight as specified in Chapter 4 [of this title]; and

(G) The applicant does not hold a manufacturer's or wholesaler's license.

(5) The 400-foot restriction shall not apply where the main entrance to the college, university, or recreation area, or the nearest property line of the school is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.

(c) In the case of applications for nightclub or tavern licenses, the Board shall consider whether the proximity of the establishment to a residence district, as identified in the zoning regulations of the District and shown in the official atlases of the Zoning Commission for the District, would generate a substantial adverse impact on the residents of the District.

§ 25-315. Additional considerations for renewal of licenses.

(a) If proper notice has been given, as provided in subchapter II of Chapter 4, and no objection to the appropriateness of the establishment is filed, the establishment shall be presumed to be appropriate for the locality, section, or portion of the District where it is located.

(b)(1) The Board shall consider the licensee's record of compliance with this title and the regulations promulgated under this title and any conditions placed on the license during the period of licensure, including the terms of a settlement agreement.

(2) The Board shall prepare a check sheet documenting the licensee's compliance. This check sheet shall be available to the public for review.

(c) If an application for license renewal is made the subject of contested proceedings and the license expires before the Board's decision on the renewal application, the Board may extend the expiration date during the pendency of the decision on the renewal application.

§ 25-316. Additional considerations for transfer of licensed establishment to new owner.

(a) In determining the appropriateness of the transfer of a licensed establishment to a new owner, the Board shall consider only the applicant's qualifications as set forth in § 25-301.

(b) The Board shall not allow the transfer of the license of an establishment to a person against whom there is pending in the courts or before the Board a charge of keeping a disorderly house or of violating this title or the laws against gambling in the District.

(c) When the transferred license comes due for renewal, the Board shall evaluate the appropriateness of the application for renewal according to the standards set forth in §§ 25-313 and 25-315.

(d) If the transfer of ownership, as defined in § 25-405, includes a proposed substantial change in the operation of the establishment, the Board shall evaluate this transfer of ownership in accordance with § 25-404.

§ 25-317. Transfer of licensed establishment to new location.

The Board shall consider an application to transfer a license to a new location according to the same standards and procedures as an application for an initial license and shall not presume appropriateness if a protest to the application is filed as set forth in Chapter 6.

Subchapter III. Denial of License.

§ 25-331. Quotas--off-premises retail licenses.

(a) The number of off-premises retailer's licenses, class A, shall be no more than 250.

(b) The number of off-premises retailer's licenses, class B, shall be no more than 300.

(c) The quotas set forth in this section shall have a prospective effect.

(d) The quotas set forth in subsection (b) of this section shall not prohibit the issuance of a license for an off-premises retailer's license, Class B, for the sale of alcoholic beverages in an establishment if:

(1) The primary business and purpose is the sale of a full range of fresh, canned, and frozen food items, and the sale of alcoholic beverages is incidental to the primary purpose;

(2) The sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis;

(3) The establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;

(4) The establishment is a full service grocery store which is newly constructed with a certificate of occupancy issued after January 1, 2000, or is an existing store which has undergone renovations in excess of $500,000 in the calendar year in which an application is made; and

(5) The opinion of the ANC, if any, has been given great weight.

§ 25-332. Moratorium on class B licenses.

(a)(1) After [May 1, 2013], the Board may issue new off-premises retailer's class B licenses, if the Board finds that the number of retailer's class B licenses is less than the quota set forth in § 25-331(b). A condition of the license shall be that the sale of alcoholic beverages for consumption off-premises shall constitute no more than 25% of the total volume of gross receipts of the licensee on an annual basis.

(2) No more than one retailer's license, class B, issued under this subsection shall be issued to the same applicant or to an individual with an ownership interest in another license issued under this subsection.

(3) The issuance of new retailer's licenses, class B, under this subsection shall be audited by ABRA and subject to the reporting requirements set forth in § 25-112(e).

(b) The moratorium shall have a prospective effect.

(c) This moratorium shall not apply to an applicant for an off-premises retailer's license, class B, for the sale of alcoholic beverages in an establishment if:

(1) The primary business and purpose is the sale of a full range of fresh, canned, and frozen food items, and the sale of alcoholic beverages is incidental to the primary purpose;

(2) The sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis;

(3) The establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;

(4) The establishment is a full service grocery store which is newly constructed with a certificate of occupancy issued after January 1, 2000, or is an existing store which has undergone renovations in excess of $500,000 during the preceding 12 months in which an application is made; and

(5) The opinion of the ANC, if any, has been given great weight.

(d) An exception to the moratorium shall be granted for 4 new class B licenses on Connecticut Avenue, N.W., between N Street and Florida Avenue, N.W., after October 22, 1999; provided, that no licensee shall devote more than 3,000 square feet to the sale of alcoholic beverages.

§ 25-333. Limitation on the distance between off-premises retailer's licenses.

(a) No new off-premises retailers license, class A, shall be issued for an establishment which is located within 400 feet from another establishment operating under an off-premises retailer's license, class A.

(b) No new off-premises retailers license, class B, shall be issued for an establishment which is located within 400 feet from another establishment operating under an off-premises retailer's license, class B.

(c) This section shall not prohibit the issuance of a license for an off-premises retailer's license, Class B, for the sale of alcoholic beverages in an establishment if:

(1) The primary business and purpose is the sale of a full range of fresh, canned, and frozen food items, and the sale of alcoholic beverages is incidental to the primary purpose;

(2) The sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis;

(3) The establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;

(4) The establishment is a full service grocery store which is newly constructed with a certificate of occupancy issued after January 1, 2000, or is an existing store which has undergone renovations in excess of $500,000 in the calendar year in which an application is made;
(5) The opinion of the ANC, if any, has been given great weight.

§ 25-334. Denial--Board-certified referendum. [Repealed]

§ 25-335. Denial--public health and safety restrictions.
Notwithstanding any other provision of this title, the Board shall deny a license if the evidence reasonably shows that:
(1) The establishment for which the license is sought is in violation of one or more of the Construction Codes for the District contained in Title 12 of the District of Columbia Municipal Regulations, or any other law or rule of the District intended to protect public safety; or
(2) The applicant has knowingly permitted, at the place for which the license is sought, the illegal sale, or negotiations for sale, or the use, of any controlled substance in violation of the CSA, or the possession or sale, or negotiations for sale, of drug paraphernalia in violation of the CSA, or Chapter 11 of Title 48. Successive sales, or negotiations for sale, over a continuous period of time constituting a recognizable pattern of activity shall be deemed evidence of knowing permission.

§ 25-336. Retail license prohibited in residential-use district.
(a) No retailer's license shall be issued for, or transferred to, a business operated in a residential-use district as defined in the zoning regulations and shown in the official atlases of the Zoning Commission for the District, except for a restaurant or tavern operated in a hotel or apartment house, if the entrance to the restaurant or tavern is entirely inside the hotel or apartment house and no sign or display is visible from the outside of the building.
(b) A nightclub license may be issued on the premises of a hotel that was legally located in a residential-use district and was operating a nightclub on the licensed premises on September 30, 1986.
(c) Subsection (a) of this section shall not apply if, at the time the application for a new license is submitted to the Board, a license of the same type and class is operating an establishment within 400 feet of the applicant.
(d) The provisions of this section shall not apply to:
(1) A restaurant which has received a valid certificate of occupancy as of January 1, 2000 for a restaurant operation in a residential-use district; or
(2) A club which is operated under a license issued by the Board as of January 1, 2000 for operation in a residential-use district.
(e)(1) For the purposes of this subsection, the term “ANC 3/4G” means the single member district area partly in Ward 3 and partly in Ward 4, established under § 1-309.03.
(2) Notwithstanding the restriction in subsection (a) of this section, a full service grocery store in a residential-use district in ANC 3/4G with a certificate of occupancy issued prior to [March 21, 2009], may apply for a retailer Class B license.
(3) The Mayor, pursuant to [subchapter I of Chapter 5 of Title 2], may issue rules to implement the provisions of this subsection. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the proposed rules shall be deemed approved.

§ 25-337. Wholesaler's license prohibited in residential-use district.
No wholesaler's license shall be issued for an establishment in a residential-use district as defined in the zoning regulations and shown in the official atlases of the Zoning Commission for the District.

§ 25-338. Limitation on successive applications after denial.
(a) A second and each subsequent application for the same class of license for the same person or persons shall not be considered within 5 years of a denial.
(b) If an application is withdrawn for good cause, as determined by the Board, before the timely filing of a protest, or if the first application was denied for purely technical or procedural reasons, as determined by the Board, another application by the same applicant for a license of the same class at the same premises may be made at any time.

§ 25-339. Special restrictions for the Georgetown historic district.
(a) The number of nightclub or tavern license holders, class C or D, within the Georgetown historic district shall not exceed 6. No new nightclub or tavern license shall be issued, and 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 less than 6.
(b) A licensee of a nightclub license, or a tavern license, class C, within the Georgetown historic district as of May 24, 1994, may apply for a conversion to a restaurant license, class C or D, for its present location, present owner, and for the duration of its present license. The application shall not require a public hearing or the assessment of fees.

Subchapter IV. Board-created Moratoria.

§ 25-340. Special restrictions for Ward 4. [Repealed]

§ 25-340.01. Special restrictions for Ward 4.
(a) For the purposes of this section, the term:
(1) “ANC 4C07” means the single member district area in Ward 4, established under § 1-309.03.
(2) “Ward 4” means the area defined as Ward 4 in § 1-1041.03 on September 30, 2004.
(b) Except as provided in subsections (c) and (d) of this section, no class A or B license shall be issued in or transferred into Ward 4; provided, that this section shall not prohibit the transfer of a class A or B license within Ward 4.
(c) This section shall not apply to any application for a new or transferred license pending on September 30, 2004.
(d) An exception to the moratorium imposed by subsection (b) of this section on the application of a Class B license shall be granted for a full service grocery store or substantially renovated full service grocery store located within the boundaries of ANC 4C07, with a certificate of occupancy issued after [March 21, 2009]; provided, that no licensee shall devote more than 3,000 square feet to the sale of alcoholic beverages.
(e) The Mayor, pursuant to [subchapter I of Chapter 5 of Title 2], may issue rules to implement the provisions of this section. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council

does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the proposed rules shall be deemed approved.

§ 25-341. Targeted Ward 4 Moratorium Zone. [Repealed]

§ 25-341.01. Targeted Ward 4 Moratorium Zone.
(a) For the purposes of this section, the term "Targeted Ward 4 Moratorium Zone" means the area bounded by the line starting at 13th Street, N.W., and Eastern Avenue, N.W.; thence in a southerly direction along 13th Street, N.W., to Fern Street, N.W.; thence in an easterly direction along Fern Street, N.W., to Georgia Avenue, N.W.; thence in a southerly direction along Georgia Avenue, N.W., to Aspen Street, N.W.; thence in a westerly direction along Aspen Street, N.W., to 13th Street, N.W.; thence in a southerly direction along 13th Street, N.W., to Piney Branch Road, N.W.; thence in a southerly direction along Piney Branch Road, N.W., to 13th Street, N.W.; thence in a southerly direction along 13th Street, N.W., to Colorado Avenue, N.W.; thence in a southwesterly direction along Colorado Avenue, N.W., to Madison Street, N.W.; thence in a westerly direction along Madison Street, N.W., to 16th Street, N.W.; thence in a southerly direction along 16th Street, N.W., to Spring Road, N.W.; thence in an easterly direction along Spring Road, N.W. to 13th Street, N.W.; thence in a northerly direction along 13th Street, N.W., to Randolph Street, N.W.; thence in an easterly direction along Randolph Street, N.W. to 10th Street, N.W.; thence in a southerly direction along 10th Street, N.W., to Spring Road, N.W.; thence in an easterly direction along Spring Road, N.W., to Rock Creek Church Road, N.W.; thence in an easterly direction along Rock Creek Church Road, N.W., to 7th Street, N.W.; thence in a northerly direction along 7th Street, N.W., to Randolph Street, N.W.; thence in an easterly direction along Randolph Street, N.W., to Rock Creek Church Road, N.W.; thence in a northeasterly direction along Rock Creek Church Road, N.W., to Varnum Street, N.W.; thence in a westerly direction along Varnum Street, N.W., to Grant Circle, N.W.; thence in a westerly direction along the southern circumference of Grant Circle, N.W., to Varnum Street, N.W.; thence in a westerly direction along Varnum Street, N.W., to 8th Street, N.W.; thence in a northerly direction along 8th Street, N.W., to Ingraham Street, N.W.; thence in an easterly direction along Ingraham Street, N.W., to 2nd Street, N.W.; thence in a southerly direction along 2nd Street, N.W., to Farragut Street, N.W.; thence in a southeasterly direction along Farragut Street, N.W., to 1st Street, N.W.; thence in a northeasterly direction along 1st Street, N.W., to Gallatin Street, N.W.; thence in an easterly direction along Gallatin Street, N.W., to North Capitol Street; thence in a northerly direction along North Capitol Street to Riggs Road, N.E.; thence in an easterly direction along Riggs Road, N.E., to South Dakota Avenue, N.E.; thence in a southeasterly direction along South Dakota Avenue, N.E., to Kennedy Street, N.E.; thence in a northeasterly direction along Kennedy Street, N.E., to Madison Street, N.E.; thence in a northwesterly direction along Madison Street, N.E., to 6th Street, N.E.; thence in a northeasterly direction along 6th Street, N.E., to Nicholson Street, N.E.; thence in a northwesterly direction along Nicholson Street, N.E., to 6th Street, N.E.; thence in a northerly direction along 6th Street, N.E., to Eastern Avenue, N.E.; thence in a northwesterly direction along Eastern Avenue, N.E., to New Hampshire Avenue, N.E.; thence in a southwesterly direction along New Hampshire Avenue, N.E. to Blair Road, N.E.; thence in a northwesterly direction along Blair Road, N.E., to North Capitol Street; thence in a northwesterly direction along Blair Road, N.W., to Aspen Street, N.W.; thence in an easterly direction along Aspen Street, N.W., to Willow Street, N.W.; thence in a northeasterly direction along Willow Street, N.W., to Eastern Avenue, N.W.; thence in a northwesterly direction along Eastern Avenue, N.W., to the point of beginning at the intersection of

13th Street, N.W., and Eastern Avenue, N.W.; provided, that the Targeted Ward 4 Moratorium Zone shall not include the area bounded by the line starting at the intersection of 8th Street, N.W. , and Dahlia Street, N.W.; thence in a southerly direction along 8th Street, N.W., to Aspen Street, N.W.; thence easterly along Aspen Street, N.W., to Piney Branch Road, N.W.; thence southwesterly along Piney Branch Road, N.W., to 8th Street, N.W.; thence in a southerly direction along 8th Street, N.W., to Madison Street, N.W.; thence in an easterly direction along Madison Street, N.W., to 3rd Street, N.W.; thence in a northerly direction along 3rd Street, N.W., to Whittier Street, N.W.; thence in a westerly direction along Whittier Street, N.W., to 5th Street, N.W.; thence in a northerly direction along 5th Street, N.W., to Dahlia Street, N.W.; thence in a westerly direction along Dahlia Street, N.W., to the point of beginning at the intersection of 13th Street, N.W., and Dahlia Street, N.W.

(b) Within the Targeted Ward 4 Moratorium Zone, a licensee under an off-premises retailer's license, class A or B, shall not:

(1) Divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less; or

(2) Sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.

(c) The Mayor, pursuant to [subchapter I of Chapter 5 of Title 2], may issue rules to implement the provisions of this section. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the proposed rules shall be deemed approved.

§ 25-342. Special restrictions for off-premises retailer's license in Ward 7.

(a) For the purposes of this section, the term “Ward 7” means the area defined as Ward VII in § 1-1041.03(a) on [August 15, 2008].

(b) A licensee under an off-premises retailer's license in Ward 7, class A or B, shall not divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less.

(c) A licensee under an off-premises retailer's license in Ward 7, class A or B, shall not sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.

§ 25-343. Special restrictions for off-premises retailer's license in Ward 8.

(a) For the purposes of this section, the term “Ward 8” means the area defined as Ward VIII in § 1-1041.03(a) on [August 15, 2008].

(b) A licensee under an off-premises retailer's license in Ward 8, class A or B, shall not divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less.

(c) A licensee under an off-premises retailer's license in Ward 8, class A or B, shall not sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.

§ 25-344. Special restrictions for off-premises retailer's license in Mt. Pleasant.

(a) For the purposes of this section, the term "Mt. Pleasant" means the area defined as ANC-1D, delimited by Piney Branch Parkway to the north, 16th Street to the east, Harvard Street to the south, and Adams Mill and Klingle Roads to the west, on [December 24, 2008].

(b) A licensee under an off-premises retailer's license in Mt. Pleasant, class A or B, shall not:

(1) Divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less; or

(2) Sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.

§ 25-345. Ward 2 restrictions for off-premises retailer's license.

(a) For the purposes of this section, the term "Ward 2" means the area defined as Ward II in § 1-1041.03 on [December 24, 2008].

(b) A licensee under an off-premises retailer's license, class A or B, located in Ward 2, shall not:

(1) Divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less; or

(2) Sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less, as well as spirits (liquor) sold in half-pints or smaller volumes.

(c)(1) An existing licensee may apply to the Alcoholic Beverage Control Board for an exception to the restrictions in subsection (b) of this section. The Board shall notify the Advisory Neighborhood Commission in which the licensee is located when a licensee applies for an exception and provide a copy of the application. The copy of the application shall be provided at the address of the ANC's office of record. The Board shall make its determination on the licensee application within 60 calendar days of receipt of the application.

(2) In making a determination on the licensee application under this subsection, the Board shall consider the following factors:

(A) The input, if any, of the ANC in which the licensee is located, as evidenced by a vote of the ANC, which shall be given great weight;

(B) Whether the exception will negatively impact the enforceability and effectiveness of the ban;

(C) The absence or presence of any primary or secondary tier violations within the 12 months immediately preceding the date of application, including sales to minors, use of premises for unlawful purposes, or sale to persons without a valid identification;

(D) Evidence of licensee participation in the community, such as attendance at ANC and Police Service Area community meetings; and

(E) Clear and convincing evidence that there have been no significant adverse community impacts, such as loitering, littering, or other anti-social behavior in the vicinity of the licensee establishment.

(3) A new licensee under an off-premises retailer's license, class A or B, may not apply for an exception under this subsection within the first 12 months of having obtained a license under this title.

(d) The restrictions in subsection (b) of this section shall not apply to a licensee located in a federal building, or to a licensee that is a full-service grocery store, as described in this title.

§ 25-346. Ward 6 restrictions for off-premises retailer's license.

(a) For the purposes of this section, the term "Ward 6" means the area defined as Ward VI in § 1-1041.03 on [December 24, 2008].

(b) A licensee under an off-premises retailer's license, class A or B, located in Ward 6 shall not:

(1) Divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package if the capacity of the individual container is 70 ounces or less; or

(2) Sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less, as well as spirits (liquor) sold in half-pints or smaller volumes.

(c)(1) An existing licensee may apply to the Alcoholic Beverage Control Board for an exception to the restrictions in subsection (b) of this section. The Board shall notify the Advisory Neighborhood Commission in which the licensee is located when a licensee applies for an exception and provide a copy of the application. The copy of the application shall be provided at the address of the ANC's office of record. The Board shall make its determination on the licensee application within 60 calendar days of receipt of the application.

(2) In making a determination on the licensee application under this subsection, the Board shall consider the following factors:

(A) The input, if any, of the ANC in which the licensee is located, as evidenced by a vote of the ANC, which shall be given great weight;

(B) Whether the exception will negatively impact the enforceability and effectiveness of the ban;

(C) The absence or presence of any primary or secondary tier violations within the 12 months immediately preceding the date of application, including sales to minors, use of premises for unlawful purposes, or sale to persons without a valid identification;

(D) Evidence of licensee participation in the community, such as attendance at ANC and Police Service Area community meetings; and

(E) Clear and convincing evidence that there have been no significant adverse community impacts, such as loitering, littering, or other anti-social behavior in the vicinity of the licensee establishment.

(3) A new licensee under an off-premises retailer's license, class A or B, may not apply for an exception under this subsection within the first 12 months of having obtained a license under this title.

(d) The restrictions in subsection (b) of this section shall not apply to a licensee located in a federal building, or to a licensee that is a full-service grocery store, as described in this title.

§ 25-351. Board-created moratoria.

(a) If the Board reasonably determines that it is in the public interest to do so based on the appropriateness standard set forth in subchapter II of this chapter, the Board may, by rule:

(1) Limit the number of licenses of any class to be issued;

(2) Declare a moratorium on the issuance of licenses of any class, or the issuance of amended licenses that constitute a substantial change, in any locality, section, or portion of the District; or

(3) Declare a moratorium in any locality, section, or portion of the District to limit the sale of products by licensees under an off-premises retailer license, class A and B.

(b) Any group with standing under § 25-601 may request the Board to issue regulations establishing the limit or declaring the moratorium. A moratorium issued by the Board under subsection (a)(1) or (a)(2) of this section shall have a prospective effect and shall not apply to existing licenses.
(c) A moratorium on the issuance of an amended license that constitutes a substantial change, in accordance with § 25-762, shall only be allowed in those geographical areas for which a limit or moratorium on the number of licenses in any class is in effect and shall apply to any application filed after May 3, 2001, for an amended license that would constitute a substantial change.
(d) No licensee or agent of any licensee shall be entitled to make a request under subsection (b) of this section.
(e) A moratorium shall be effective for 5 years from the date of final rulemaking, or for a lesser period as determined by the Board.
(f) If the Board acts on a moratorium request, a moratorium request for the same area, or an area covering substantially the same area, shall not be considered for 2 years from the date of the Board's action.
(g) The requirements of this section shall not apply to solicitor's licenses, manager's licenses, caterer's licenses, or to temporary licenses.

§ 25-352. Procedures to request a moratorium.
(a) The moratorium request shall be made to the Board in writing, stating:
(1) The name and address of the individual, group, or business entity seeking the moratorium;
(2) The area of the District to be covered by the moratorium;
(3) The class or classes of licenses to be covered by the moratorium; and
(4) A detailed statement of the reasons that the moratorium is appropriate under at least 2 of the appropriateness standards set forth in subchapter II of this chapter.
(b) For the purposes of subsection (a)(2) of this section, the individual, group, or business entity seeking the moratorium shall identify one licensed establishment. The area to be covered by the moratorium shall be measured from the property lines of that establishment. The entire area to be covered under a moratorium shall be either a locality, section, or portion.
(c) For the purposes of subsection (a)(3) of this section, a moratorium may be sought for a single class of license or for any combination of the classes of licenses.
(d) No moratorium request to limit the number of licenses to be issued, the number of licenses issued for any single class, or the issuance of amended licenses for any single class that constitute a substantial change shall be considered by the Board unless all the requirements of subsection (a) of this section have been met and the following conditions are satisfied:
(1) If the requested moratorium area is a locality, there shall exist in the area at least 3 licensed establishments of the same class or 6 licensed establishments of any class or combination of classes;
(2) If the requested moratorium area is a section, there shall exist in the area at least 6 establishments of the same class or 12 establishments of any class or combination of classes; or
(3) If the requested moratorium area is a portion, there shall exist in the area at least 9 establishments of the same class or 18 establishments of any class or combination of classes.
(e) A moratorium request to limit the sale of products by licensees under an off-premises retailer's license, class A and class B, shall not be considered by the Board unless all the requirements of subsection (a) of this section have been met and the following conditions are satisfied:
(1) If the requested moratorium area is a locality, there shall exist in the locality at least 3 class A, 3 class B, or any combination of 3 class A or class B licensed establishments;

(2) If the requested moratorium area is a section, there shall exist in the section at least 5 class A, 5 class B, or any combination of 5 class A or class B licensed establishments; or
(3) If the requested moratorium area is a portion, there shall exist in the portion at least 7 class A, 7 class B, or any combination of 7 class A or class B licensed establishments.
(f) The requirements of this section shall not apply to solicitor's licenses, manager's licenses, caterer's licenses, or to temporary licenses.

§ 25-353. Notice requirements for moratorium proceedings.
If a moratorium request meets all of the requirements set forth in § 25-352, the Board shall provide notice to the public according to the same procedures as required by § 25-421.

§ 25-354. Board review of moratorium request.
(a) The Board shall hold a public hearing to review a proposed moratorium. The public hearing shall be in the nature of a rulemaking hearing under § 2-505 and not in the nature of a contested case under § 2-509.
(b) At the public hearing, any interested person may appear to give oral or written testimony in support of, or in opposition to, the moratorium request.
(c) In addition to receiving testimony from the public, the Board shall request formal comments from the following persons or agencies:
(1) The Councilmembers within whose wards the requested moratorium area is located;
(2) The ANCs within whose areas the requested moratorium area is located and any other ANC abutting the proposed moratorium area;
(3) The Assistant City Administrator for Economic Development, or his or her designee;
(4) The Office of Planning, or its successor agency; and
(5) The District Commander of the Metropolitan Police Department in which the requested moratorium zone is located.
(d) In deciding on a moratorium request, the Board shall consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least 2 of the appropriateness standards set forth in subchapter II of this chapter.
(e) The Board may grant the moratorium request in one or more of the following ways:
(1) In whole or in part;
(2) By enlarging or decreasing the moratorium area; or
(3) By limiting the moratorium to no more than one class of license.
(f) The Board may deny the moratorium request in its entirety.
(g) The decision of the Board shall be final and shall be issued in writing, including each member's vote.

Subchapter V. Involuntary Transfer.

§ 25-361. Involuntary transfer.
(a) The Board may transfer a license upon the request of a bona fide purchaser of the license who made the purchase at any of the following:
(1) A marshal's sale;
(2) A trustee's sale under foreclosure of a chattel deed of trust;
(3) A trustee's or receiver's sale in bankruptcy proceedings;
(4) Any other sale conducted upon the order of a court of competent jurisdiction;

(5) A sale under Article 9 of the Uniform Commercial Code;
(6) Upon the death of an individual who is a licensee or who has a stock ownership or partnership interest of 50% or more in the licensed business; or
(7) A tax sale under Chapter 13 or 13A of Title 47.

(b) Except as provided in this section, transfers made under this section may, because of their involuntary nature, be approved by the Board without an initial inquiry, as required by §§ 25-311 through 25-314, as to the appropriateness of the establishment, and without the notice provisions contained in subchapter II of Chapter 4.

(c) Bona fide purchasers whose transfers are approved under this section shall, at the time for renewal of the license, meet all of the requirements of § 25-313 regarding the appropriateness of the establishment and shall at that time have notice of their renewal application given under subchapter II of Chapter 4.

(d) Bona fide purchasers shall, before an approval of the transfer, submit to the Board an affidavit stating that no change which could be considered a substantial change to the business under § 25-762 will occur before the expiration of the license period during which the transfer takes place.

(e) If a change which could be considered a substantial change will occur before the expiration of the license period, the transfer application shall be considered under §§ 25-404 and 25-762.

Subchapter VI. Moratorium on Establishments Which Permit Nude Dancing.

§ 25-371. Moratorium on establishments which permit nude dancing.

(a) Except as provided in subsection (b) of this section, no licensee under this title shall permit nude dancers.

(b) A licensee who regularly provided entertainment by nude dancers before December 15, 1993, may continue to do so at its establishment.

§ 25-372. Nude dancing performances.

Nude dancers in an establishment licensed under § 25-371(b) shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least 3 feet from the nearest customer. The licensee under an on-premises retailer's license for a multipurpose facility for a legitimate theater may permit nudity by performers in dramatic productions.

§ 25-373. Transfer of ownership of establishments which permit nude dancing.

A licensee under 25-371(b) may transfer ownership in accordance with the provisions of this chapter.

§ 25-374. Transfer of location of establishments which permit nude dancing.

(a) A license under § 25-371(b) may only be transferred to a location in the Central Business District or, if the licensee is currently located in a CM or M-zoned district, transferred within the same CM or M-zoned district, as identified in the zoning regulations of the District of Columbia and shown in the official atlases of the Zoning Commission of the District of Columbia; provided, that no license shall be transferred to any premises which is located:
(1) Six hundred feet or less from another licensee operating under § 25-371(b); and
(2) Six hundred feet from a building with a certificate of occupancy for residential use or a lot or building with a permit from the Department of Consumer and Regulatory Affairs for residential construction at the premises.

(a-1) On or after January 1, 2013, a class CN license with a nude dancing endorsement under § 25-371(b) shall not be transferred into Ward 5, as defined by section 4 of the Redistricting Procedure Act of 1981, effective March 6, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03); provided, that this section shall not prohibit the transfer of an existing CN license with a nude dancing endorsement within Ward 5.

(b)(1) Notwithstanding the restrictions of subsection (a) and (a)(1) of this section, but subject to the provisions in subsection (a)(2) of this section, if a licensee was located in a CM or M-zoned district, in or within 2000 feet of the footprint of the Ballpark, as of January 1, 2006, or was located within the Skyland Development Project site as described in § 2-1219. 19(c)(1), as of January 1, 2007, then within one year of [October 18, 2007] a license may be transferred to:

(A) A location in any CM or M-zoned district, if the licensee was located in a CM or M-zoned district, respectively, as identified in the zoning regulations of the District of Columbia and shown in the official atlases of the Zoning Commission of the District of Columbia;

(B) A location in any CM-zoned district, if the licensee was located within the Skyland Development Project site; or

(C) In any C-3, C-4, or C-5 zone within 5000 feet from the Ballpark footprint.

(2) For the purposes of this subsection, the term "Ballpark" shall have the same meaning as provided in § 47-2002.05(a)(1)(A).

(c)(1) No more than 2 licensees may be transferred to any one ward pursuant to subsection (b) of this section.

(2) Licensees transferring to a C-4 zone shall not count against the ward limitations set forth in paragraph (1) of this subsection.

(d) Notwithstanding any other provision, licensees relocating pursuant to subsection (b) of this section shall not locate within 1,200 feet from each other.

(e) No portion of any establishment granted a license pursuant to subsection (b) of this section shall be located within 600 feet of a church, school, library, playground, or the area under the jurisdiction of the Commission of Fine Arts pursuant to §§ 6-611.01-6-611.02.

(f) All licensees shall consult the Advisory Neighborhood Commission in the area where the license is transferred pursuant to subsection (b) of this section regarding entering a settlement agreement with the community.

(g) Notwithstanding any other provision of this section, a license under subsection (b) of this section shall not be transferred prior to November 1, 2007, or to a location that has been rezoned by that date to a residential, C-1, or C-2 zoning district classification as identified in the Zoning Regulations of the District of Columbia.

CHAPTER 4. APPLICATION AND REVIEW PROCESSES.

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Subchapter I. Application Requirements.

§ 25-401. Form of application.
(a) A person applying for issuance, transfer to a new owner, or renewal of a license, or for approval of substantial changes in operation or change in license class, shall file with the Board an application in the form prescribed by the Board. The application shall contain the information set forth in this chapter and any additional information that the Board may require.
(b) A separate application shall be filed for each establishment for which a license is sought; provided, that a railroad company may file one application for all of its dining cars and club cars and a passenger-carrying marine vessel line may file one application for all of its passenger-carrying marine vessels and dockside waiting areas.

(c) An individual applicant, all of the general partners of an applicant partnership, all of the members of a limited liability company, or the president or vice-president of an applicant corporation shall sign a notarized statement certifying that the application is complete and accurate. Any person who knowingly makes a false statement on an application, or in any accompanying statement under oath that the Mayor or the Board may require, shall be guilty of the offense of making false statements. The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the Board, constitute sufficient cause for denial of the application or revocation of the license.

§ 25-402. New license application for manufacturer, wholesaler, or retailer.

(a) The application of a person applying for a manufacturer's, wholesaler's, or retailer's license shall include:

(1) In the case of an individual applicant, the trade name of the business, if applicable, and the name and address of the individual; in the case of a partnership or limited liability company applicant, the trade name of the business, if applicable, and the names and addresses of each member of the partnership or limited liability company; and in the case of a corporate applicant, the legal name, trade name, place of incorporation, principal place of business, and the names and addresses of each of the corporation's principal officers, directors, and shareholders holding, directly or beneficially, 10% or more of its common stock;

(2) The name and address of the owner of the establishment for which the license is sought and the premises where it is located; provided, that this requirement shall not apply to applicants for a solicitor's license;

(3) The class of license sought;

(4) The proximity of the establishment to the nearest public or private, elementary, middle, charter, junior high, or high school, and the name of the school;

(5) 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.

(6) A detailed description of the nature of the proposed operation, including the following:

(A) The type of food to be offered, if any;

(B) The type of entertainment to be offered, if any;

(C) The goods and services to be offered for sale, in addition to alcoholic beverages, if any;

(D) The hours during which the establishment plans to sell alcoholic beverages;

(E) If different from those stated in subparagraph (D) of this paragraph, the hours during which the establishment plans to remain open for the sale of goods or services other than alcoholic beverages and a description of the provisions planned for the storage of the alcoholic beverages, as required under § 25-754, during hours when the sale of alcoholic beverages is prohibited;

(7) An affidavit that complies with § 47-2863(b);

(8) Documents or other written statements or evidence establishing to the satisfaction of the Board that the person applying for the license meets all of the qualifications set forth in § 25-301; and

(9) Written statements or evidence establishing to the satisfaction of the Board that the applicant has complied with the requirements of § 25-423.

(b) The applicant for a restaurant or hotel license shall attest that it will receive at least 45% of its gross annual receipts from the sale of food during each year of the license period.
(c) The Board shall establish application procedures for the issuance of a caterer's license under § 25-211(b).
(d)(1) The applicant for a nightclub license shall file a written security plan with the Board.
(2) 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.
(3) A written security plan filed pursuant to this subsection shall include at least the following elements:
(A) A statement on the type of security training provided for, and completed by, establishment personnel, including:
(i) Conflict resolution training;
(ii) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and
(iii) Procedures for crowd control and preventing overcrowding;
(B) The establishment's procedures for permitting patrons to enter;
(C) A description of how security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;
(D) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol;
(E) A description of how the establishment maintains an incident log;
(F) The establishment's procedures for preserving a crime scene; and
(G) In the event that cameras are required to be installed by the Board or in accordance with the establishment's security plan, the establishment shall ensure the following:
(i) The cameras utilized by the establishment are operational;
(ii) Any footage of a crime of violence or a crime involving a gun is maintained for a minimum of 30 days; and
(iii) The security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.

§ 25-403. License renewal application for manufacturer, wholesaler, or retailer.
(a) An applicant for license renewal shall verify, by affidavit, the accuracy of its application, including all documents and submissions constituting a part of the application for its initial license or, if appropriate, at the time of a Board-approved substantial change in operation.
(b) In the case of an application for renewal of a restaurant or hotel license, the applicant shall present evidence establishing that the sale of food accounted for at least 45% of gross annual receipts from the operation of the restaurant or of the dining room of the hotel during the current license period.
(c) The applicant shall submit documents or other written evidence establishing to the satisfaction of the Board that the applicant has complied with the requirements of § 25-423.
(d) The Board shall establish application procedures for the renewal of a caterer's license under § 25-211(b).
(e)(1) In the case of an application for renewal of a nightclub license, the applicant shall submit a written security plan.

(2) 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.
(3) A written security plan filed pursuant to this subsection shall include at least the following elements:
(A) A statement on the type of security training provided for, and completed by, establishment personnel, including:
(i) Conflict resolution training;
(ii) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and
(iii) Procedures for crowd control and preventing overcrowding;
(B) The establishment's procedures for permitting patrons to enter;
(C) A description of how security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;
(D) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol;
(E) A description of how the establishment maintains an incident log;
(F) The establishment's procedures for preserving a crime scene; and
(G) In the event that cameras are required to be installed by the Board or in accordance with the establishment's security plan, the establishment shall ensure the following:
(i) The cameras utilized by the establishment are operational;
(ii) Any footage of a crime of violence or a crime involving a gun is maintained for a minimum of 30 days; and
(iii) The security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.

§ 25-404. Application for approval of substantial change in operation.
(a) Before making a substantial change in the nature of the operation of the licensed establishment, an applicant shall file with the Board an amendment to its application or last application, providing the information required on an application under § 25-402(a).
(b)(1) If the Board determines that the proposed change to the nature of the operation is substantial:
(A) It shall provide notice of the licensee's amended filing to the same persons and in the same manner required for license renewal applications in subchapter II of this chapter; and
(B) The applicant requesting approval of a substantial change shall demonstrate appropriateness as set forth in §§ 25-313 and 25-314.
(2) There shall be no presumption of appropriateness with respect to substantial change applications. If the applicant fails to demonstrate that the proposed change in the nature of operation is appropriate for the locality, section, or portion of the District where the establishment is located, the Board shall disapprove the proposed change.
(3) In determining whether the proposed changes are substantial, the Board shall consider whether they are potentially of concern to the residents or businesses surrounding the establishment.
(c) If proper notice has been given as provided under subchapter II of this chapter, and no objection to the appropriateness of the proposed substantial change in the nature of the operation of the establishment is filed with the Board during the protest period, the proposed change shall be presumed appropriate for the locality, section, or portion of the District where it is located.

§ 25-405. Application for transfer to new owner.
(a) A voluntary transaction which results in (1) the transfer to an individual of 50% or more of the legal or beneficial ownership of (A) the licensed establishment, or (B) the entity owning or controlling the licensed establishment, or (2) a change in stock ownership or partnership interest of 50% or more, within any 12 month period, shall require application for transfer of the license to new owners from the Board.
(b) An application to transfer a license to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer.
(c) An applicant requesting the transfer of a license to a new owner shall submit documents and other written statements and evidence requesting written approval of the transfer and establishing to the satisfaction of the Board that the new owner meets all of the qualifications set forth in § 25-301.
(d) The current licensee shall submit an affidavit which complies with § 47-2863(b).
(e) If the Board finds that the licensee is in violation of this title or regulations promulgated under this title, the Board shall deny the application for transfer.

§ 25-406. Application for a solicitor's license.
The application for the issuance or renewal of a solicitor's license shall include:
(1) The full name and home address of the applicant, if an individual;
(2) The business name and address of the applicant;
(3) The name, business address, and business telephone number for the vendor that the applicant represents; and
(4) Written statements and evidence establishing to the satisfaction of the Board that the applicant meets all of the qualifications set forth in § 25-301.

§ 25-407. Application for brew pub permit.
The application for issuance or renewal of a brew pub permit shall include:
(1) A copy of the applicant's restaurant or tavern license, or a copy of the pending application for a license; and
(2) A map showing the relation of the restaurant or tavern to the premises to be used to brew malt beverages.

§ 25-408. Application for a tasting permit for a class A licensee.
The application for issuance or renewal of a tasting permit for off-premises retailer's license, class A, shall include:
(1) A copy of the applicant's off-premises’ retailers license, class A;
(2) Drawings of the premises indicating the areas where sampling is to occur; and
(3) The hours and days during which the tasting is to occur.

§ 25-409. Application for importation permit.
The application for issuance or renewal of a importation permit shall include:
(1) The quantity, character, and brand or trade name of the alcoholic beverage to be transported; and
(2) The name and address of the retailer.

§ 25-410. Application for manager's license.
The application for a manager's license shall include:

(1) Certification that he or she has obtained read a copy of this title;
(2) Written statements or evidence establishing to the satisfaction of the Board that the applicant meets all of the qualifications set forth in § 25-301; and
(3) A copy of the applicant's alcohol training and education certificate.

§ 25-411. Application and responsibilities of pool buying retail agent.
(a) The application for a pool buying group retail agent permit shall include:
(1) The name of the pool buying group;
(2) The appointed license retail agent for the pool buying group; and
(3) A statement that the agent will fully comply with Chapter 9 and other regulations regarding recordkeeping.
(b) All taxes due on alcoholic beverages imported by an agent who has been issued an importation license shall be paid as prescribed in Chapter 9.
(c) Pool buying agents shall maintain the records of each pool order placed for 3 years. The records shall include:
(1) The date the pool order was placed and each date it was revised;
(2) The distributor who was given the order;
(3) The names and license numbers of each pool member participating in the pool order;
(4) The price, discounts, and net price of all alcoholic beverages ordered by each member in the pool order; and
(5) The date when deliveries of pool orders are made to the pool buying agent's premises, which is a permitted off-premises storage area.
(d) The pool buying agent shall place the order under the name of the pool buying group and provide instructions for delivery as well as each licensed retailer's part of the pool order.
(e) Upon written request, a pool buying agent shall make available for inspection all papers and reports related to pool orders, purchases, and payments within 10 days to any ABRA employee.
(f)(1) Individual members of a pool buying group shall place their orders and remit their payment to the pool buying agent.
(2) Payments shall be made payable to the pool buying agent or the distributor.
(3) Distributors of alcoholic beverages may accept pool orders and payment only from the designated pool buying agent of a pool buying group.

Subchapter II. Notice of Application Proceedings

§ 25-421. Notice by Board.
(a) Upon the receipt of an application for the issuance or renewal, for a substantial change in operation as determined by the Board under 25-404, or for the transfer of a license to a new location, of a retailer's license, the Board shall give notice of the application to the following parties:
(1) The Council;
(2) Repealed.
(3) Repealed.
(4) Any ANC within 600 feet of where the establishment is or will be located; and
(5) A citizens association meeting the requirements of § 25-601(3); provided, that the citizens association has, at least 30 days before the Board's receipt of the application, registered with

ABRA by providing a copy of its charter, and an e-mail or other electronic address in a form consistent with ABRA's procedures.

(b) The notice shall contain the legal name and trade name of the applicant, the street address of the establishment for which the license is sought, the class of license sought, and a description of the nature of the operation the applicant has proposed or the proposed change in operation. The description shall include the hours of sales or service of alcoholic beverages.

(c) The notice to the Board of Education shall state the proximity of the establishment to the nearest public school of the District and the name of the nearest public school.

(d) The notice shall state that persons objecting to approval of the application are entitled to be heard before the granting of the license, and shall inform the recipient of the final day of the protest period and the date, time, and place of the administrative review in accordance with subchapter III of this chapter.

(e) The Board shall give notice to the ANC by first-class mail, postmarked not more than 7 days after the date of submission, and addressed to the following persons:

(1) The ANC office, with a copy for each ANC member;

(2) The ANC chairperson, at his or her home address of record; and

(3) The ANC member in whose single-member district the establishment is or will be located, at his or her home address of record.

(f) The Board shall publish the notices required under this section in the District of Columbia Register.

(g) Within 180 days after May 3, 2001, the Board shall implement a procedure by which it will provide additional notification, via electronic media, to the public and ANCs, of these notification requirements, and the publication of proposed and adopted regulations.

(h) The requirements of this section shall not apply to applicants for a caterer's license.

§ 25-422. Notice by applicant. [Repealed]

§ 25-423. Posted notice required after submission of application and for the duration of the protest period.

(a) The applicant shall post 2 notices, furnished by ABRA, of the application in conspicuous places on the outside of the establishment for the duration of the protest period.

(b) The notices shall state:

(1) The information required by § 25-421(b);

(2) The final day of the protest period;

(3) The date, time, and place of the administrative review; and

(4) The telephone number and mailing address of ABRA.

(c) Any person willfully removing, obliterating, or defacing the notices shall be guilty of a violation of this chapter.

(d) An applicant who fails to maintain the posted notices continuously during the protest period shall be guilty of a violation of this chapter.

(e) If the Board determines that the notices posted at an applicant's establishment have not remained visible to the public for a full 45 days, the Board shall require the reposting of the notices and shall reschedule the administrative review for a date at least 45 days after the originally scheduled review, unless the applicant has fully performed all other notice requirements and the Board determines that it is in the best interests, of the parties to proceed at an earlier date.

(f) The requirements of this section shall not apply to applicants for a solicitor's license, manager's license, caterer's license, or a temporary license.

Subchapter III. Review of License Applications.

§ 25-431. Review procedures--general provisions.

(a) Except as otherwise provided herein, Board actions and procedures shall be governed by Chapter 5 of Title 2.
(b) Except as provided in subsection (c) of this section, the Board may meet in panels of at least 3 members for the purpose of conducting hearings and taking official actions. Three members shall constitute a quorum.
(c) The Board may establish alternate procedures for uncontested, interim administrative proceedings or issuing stipulated licenses. Such procedures shall be submitted to the Council for approval as provided under § 25-211(b).
(d) The Chair of the Board may appoint a Vice-Chair for the purposes of leading panels as provided for in this section.
(e) For the purposes of this chapter, the Board may permit the Board of Directors of a licensee under a club license to designate a representative to represent it during proceedings before the Board.
(f) Upon receipt of a complete application, the Board shall schedule an administrative review on the application. The administrative review shall not take place until after the close of the 45-day protest period. This administrative review may be conducted by a panel of 3 Board members.
(g) Before any license is issued or renewed, and before any substantial change in the operation of a licensed establishment as determined by the Board under § 25-404, the Board shall ensure that proper notice has been provided to the public and that the public has been given at least 45 days in which to protest the license and that an administrative review has been conducted.
(h) The administrative review shall be a non-adversarial proceeding held by the Board, at which hearing a list of applications for a new or renewed license or approval of substantial change in operation as under § 25-404, and the protestants thereto, shall be read to the public.

§ 25-432. Standard review procedures.

(a) If no protest has been received by the Board during the protest period, the Board shall schedule an administrative review to consider the application within 10 days after the end of the protest period.
(b) If a protest has been received by the Board during the protest period, the Board shall take the following actions:

(1) The Board shall schedule a protest hearing, to be held within 75 days of the end of the protest period, for new license applications to receive testimony and other evidence regarding the application in accordance with §§ 25-442 and 25-444.
(2)(A) The parties shall be informed of their obligation to attend a settlement conference under § 25-445 for the purpose of discussing and resolving, if possible, the objections raised by the protestants.

(B) The parties shall be informed of their rights and responsibilities with respect to reaching a settlement under §§ 25-445 and 25-446.
(C) At the request of all parties, and if a settlement conference would be unlikely to succeed, the Board may waive the parties' obligation to attend a settlement conference.

(3) The Board shall issue a decision in accordance with § 25-433.

§ 25-433. Decisions of the board; petition for reconsideration.
(a) No application shall be approved until the Board has determined that the applicant has complied with § 25-402(a)(8) through (10) (and § 25-402(b) if the applicant is a restaurant or hotel) or, in the case of a renewal, has fulfilled the license requirements of this title. The Board shall make findings of fact with respect to each requirement, including the appropriateness standards set forth in §§ 25-313, 25-314, and 25-315, and the food sales requirements for restaurants and hotels.
(b) For the purposes of this section, the record shall close when a hearing is concluded. Parties shall have 30 days after the conclusion of the hearing to submit proposed findings of fact and conclusions of law to the Board.
(c) Within 90 days after the close of the record, the Board shall issue its written decision accompanied by findings of fact and conclusions of law. For new license applications, the Board shall issue its written decisions accompanied by findings of fact and conclusions of law within 60 days after the close of the record. The Board shall publish and maintain a compilation of its decisions and orders.
(d)(1) A petition for reconsideration, rehearing, reargument, or stay of a decision or order of the Board may be filed by a party within 10 days after the date of receipt of the Board's final order.

(2) The filing or the granting of a petition filed under paragraph (1) of this subsection shall not stay the final order unless the stay is specifically ordered by the Board.
(3) A stay shall be granted only upon good cause, which shall consist of unusual or exceptional circumstances.

(e) The Board may establish procedures under § 25-211(b) to consider an application which is not protested during the protest period.

§ 25-434. Influencing the application process.
(a) A person shall not provide, offer to provide, request, or receive anything of value for the personal use, enjoyment, or profit of an individual in exchange for the individual's promise not to exercise his or her rights provided under this title to object to, or petition against, a license application.
(b) Any person who violates subsection (a) of this section shall be guilty of a criminal misdemeanor, and, upon conviction, shall be imprisoned for not more than 90 days, or fined not more than the amount set forth in [§ 22-3571.01], or both.

Subchapter IV. Review and Resolution Procedures.

§ 25-441. Hearings--continuances.
(a) A hearing may be continued for good cause. A written motion for a continuance shall be filed with the Board at least 6 days before the scheduled hearing date and served upon all parties at least 6 calendar days before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for continuance or demonstrate that an extreme emergency exists.
(b) A continuance shall not waive the requirements of this chapter governing the time in which to file objections, petitions, or other pleadings.

(c) The Board may, on motion of any party or on its own motion, continue a hearing to permit an ANC to vote on a material issue in the hearing or upon a determination that the interests of justice will be served by the granting of the continuance to any party.
(d) The Board may waive the provisions of this section if all parties agree to a continuance.
(c) The Board may, on motion of any party or on its own motion, continue a hearing to permit an ANC to vote on a material issue in the hearing or upon a determination that the interests of justice will be served by the granting of the continuance to any party.
(d) The Board may waive the provisions of this section if all parties agree to a continuance.

§ 25-442. Hearings--witnesses.
(a) A party shall have the right to call and examine witnesses.
(b) Except as provided in subsection (c) of this section, at any proceeding before the Board in a contested case, the Board shall hear as witnesses all persons residing within and outside the neighborhood who desire to be heard.
(c) The Board may exclude any irrelevant or unduly repetitious evidence or testimony.
(d) A witness who shall willfully give false testimony in a proceeding or hearing before the Board shall be guilty of perjury.

§ 25-443. Subpoena of witnesses.
(a) Subpoenas issued by the Board shall be served:
(1) By an officer of the Metropolitan Police Department;
(2) By a special process server, at least 18 years of age, designated by the Board from among the staff appointed by the Board who are not directly involved in the investigation; or
(3) By a special process server, at least 18 years of age, engaged by the Board for this purpose.
(b) Witnesses, other than those employed by the District or by the United States, shall be entitled to the same fees as are paid witnesses for attendance before the Superior Court of the District of Columbia.
(c) In the case of contumacy or refusal to obey a subpoena, the Superior Court of the District of Columbia, upon written request by the Board, shall issue an order requiring the contumacious person to appear and testify before the Board or to produce evidence if so ordered.

§ 25-444. Protest hearings; parties identified.
(a) If a protest is filed in a contested case, the Board shall hold a protest hearing for the purpose of receiving evidence and testimony regarding the appropriateness of the licensing action.
(b) The parties to the protest hearing shall be the applicant and the protestants as identified at the administrative review.
(c) If there is more than one protestant, the Board, in its discretion, may require the protestants to confer among themselves and designate one person to conduct the protestants' case.

§ 25-445. Settlement conference.
(a) A settlement conference among the parties shall be held to discuss and resolve, if possible, the objections raised by the protestants.
(b) If the date of the settlement conference is not arranged on or before the date of the administrative review, the applicant shall contact the protestants to arrange the conference.

(c) If the applicant fails to make a good faith effort to contact the protestants timely, the Board shall deny the license application unless, in the judgment of the Board, the applicant shows good cause for his or her failure to act.
(d) No protestant shall unreasonably refuse to make himself or herself available to attend a settlement conference.
(e) If the protestant unreasonably refuses to make himself or herself available to attend a settlement conference, the Board shall consider the protest withdrawn unless, in the judgment of the Board, the protestant shows good cause for refusing to be available.
(f) At the request of any party, the Board may designate a member of its staff to attend the settlement conference.
(g) If the parties fail to reach an agreement on one or more of the protest issues they shall so state at the scheduled protest hearing.
(h) A party may be represented at a settlement conference by an attorney or a designated representative who has been authorized to act on the party's behalf.

§ 25-446. Settlement agreements; approval process; penalties for violations.
(a) The applicant and any protestant may, at any time, negotiate a settlement and enter into a written settlement agreement setting forth the terms of the settlement.
(b)(1) The signatories to the agreement shall submit the agreement to the Board for approval.
(2) Except as provided in § 25-446.02, all provisions of a settlement agreement approved by the Board shall be enforceable by ABRA or the Board.
(3) A settlement agreement not approved by the Board shall not be enforced by ABRA or the Board.
(c) If it determines that the settlement agreement complies with all applicable laws and regulations and the applicant otherwise qualifies for licensure, the Board shall approve the license application, conditioned upon the licensee's compliance with the terms of the settlement agreement. The Board shall incorporate the text of the settlement agreement in its order and the settlement agreement shall be enforceable by the Board.
(d)(1) Unless a shorter term is agreed upon by the parties, a settlement agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.
(2) The Board may accept an application to amend or terminate a settlement agreement by fewer than all parties in the following circumstances:
(A) During the license's renewal period; and
(B) After 4 years from the date of the Board's decision initially approving the settlement agreement.
(3) Notice of an application to amend or terminate a settlement agreement shall be given both to the parties of the agreement and to the public at the time of the applicant's renewal application according to the renewal procedures required under §§ 25-421 through 25-423.
(4) The Board may approve a request by fewer than all parties to amend or terminate a settlement agreement for good cause shown if it makes each of the following findings based upon sworn evidence:
(A)(i) The applicant seeking the amendment has made a diligent effort to locate all other parties to the settlement agreement; or
(ii) If non-applicant parties are located, the applicant has made a good-faith attempt to negotiate a mutually acceptable amendment to the settlement agreement;

(B) The need for an amendment is either caused by circumstances beyond the control of the applicant or is due to a change in the neighborhood where the applicant's establishment is located; and

(C) The amendment or termination will not have an adverse impact on the neighborhood where the establishment is located as determined under § 25-313 or § 25-314, if applicable.

(5) To fulfill the good faith attempt criteria of paragraph (4)(A)(ii) of this subsection, a sworn affidavit from the applicant shall be filed with the Board at the time that an application to amend a settlement agreement by fewer than all parties is filed stating that either:

(A) A meeting occurred between the parties which did not result in agreement; or

(B) The non-applicant parties refused to meet with the applicant.

(e) Upon a determination that a licensee has violated a settlement agreement, the Board shall penalize the licensee according to the provisions set forth for violations of a license in Chapter 8 of this title.

§ 25-446.01. Settlement agreements -- enforceable provisions.

A settlement agreement enforceable by the Board under this subchapter may include:

(1) Provisions allowing or prohibiting entertainment and the hours that entertainment would be allowed;

(2) Specific methods to mitigate the level of noise outside the establishment, including:

(A) Sound attenuation elements;

(B) Requiring that the doors and windows of the establishment remain closed (except for ingress and egress) during hours of entertainment;

(C) Restricting indoor entertainment to a specific area of the establishment; and

(D)(i) Specification of physical attributes to mitigate noise emanating from an outdoor facility.

(ii) For the purposes of this subparagraph, the term “physical attributes” may include architectural features, sound barriers, and placement of speakers;

(3) Descriptions of reasonable efforts that the applicant or existing licensee will take to control litter and other debris in the immediate area surrounding the establishment, including:

(A) The frequency that the applicant or existing licensee will monitor the area;

(B) The days and time that the applicant or existing licensee will remove trash; and

(C) The efforts to be made by the licensee to limit rat and vermin infestation;

(4) Descriptions of parking arrangements, including the use of valet service contingent on proper permitting by the District Department of Transportation;

(5) Requirements that the applicant or existing licensee maintain an incident log and that the incident log be made available to ABRA and the Board, upon request;

(6) A notice to cure provision;

(7) Restrictions on hours of operation and sales and service for a new or existing licensee's facilities;

(8) Descriptions of how the licensee will address specific issues in determining the hours of operation, including:

(A) The licensee's history of previous violations;

(B) The proximity of the establishment to residences; and

(C) The hours of operation and sales and service of alcohol for other existing licensed establishments in the area;

(9) Restrictions on the utilization of floors, occupancy, and the number of seats for existing licensees and address specific issues in determining occupancy issues, including:
(A) The licensee's history of previous violations;
(B) The proximity of the establishment to residences; and
(C) The hours of operation and sales and service of alcohol for other existing licensed establishments in the area; and
(10) Stipulations that the establishment will comply with existing District statutes and regulations, or will comply with privileges granted by ABRA or any other District agency.

§ 25-446.02. Settlement agreements -- unenforceable provisions.
The Board shall not enforce the following provisions if included in a settlement agreement covered by this subchapter:
(1) Restraints on the ability of an applicant or existing licensee to operate its business, including:
(A) Requirements that the ANC or other community members approve future ownership changes;
(B) Requirements that the ANC or other community members be notified of intent to transfer ownership;
(C) Prohibitions against the applicant or existing licensee applying for a change in license class;
(D) A requirement that the applicant or existing licensee change the license class before selling the license;
(E) Requirements that prohibit the licensee from applying for changes to licensed operation procedures, including applications for summer gardens, sidewalk cafes, rooftop decks, entertainment endorsements, and changes of hours:
(F) Mandates regarding specific brands of alcohol or pricing for alcohol;
(G) Restrictions on the age of patrons; and
(H) Requirements that the applicant or existing licensee use a specific company for services;
(2) Statements that create administrative procedures in addition to those required by ABRA or any other District agency;
(3) A requirement that the applicant or existing licensee attend ANC meetings or other community meetings;
(4) Statements or requirements that the applicant or existing licensee:
(A) Provide money, special considerations, or other financial benefits to the community;
(B) Join any group; or
(C) Hire local individuals; and
(5) Any requirement that contracts, incident logs, or similar documents, be made available to the ANC or other community groups or members.

§ 25-447. Show cause hearing.
(a) The Board shall receive, at any time during the license period, complaints from any person, or an affected ANC, alleging a violation by a licensee of the terms of its license. Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.
(b) In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any ABRA investigator. Anonymous complaints shall be investigated to the best of the Board's ability, but may result in no action being taken if the anonymous complainant fails to provide the Board or the investigator with adequate information.

(c) Within 30 days of receiving evidence supporting a reasonable belief that any licensee or permittee is in violation of the provision of this title or the regulations issued under it, the Board shall order the licensee or permittee, by personal service or certified mail, to appear before the Board not less than 30 days thereafter to show cause why the license or permit should not be revoked or suspended, or the licensee or permittee penalized, as provided by subchapter II of Chapter 8. The notice shall state the time and place set by the Board for the hearing.
(d) The licensee or permittee (or in the case of an entity, all members, partners, or officers) shall appear in person, may be represented by counsel, and shall be entitled to offer evidence in his, her, or its defense.
(e) If the licensee or permittee waives the hearing or fails to appear, the Board shall proceed *ex parte*, unless the Board extends the time for the hearing for good and sufficient cause.
(f) If the Board holds a show cause hearing on a complaint made under subsection (a) of this section, the Board, in issuing its order, may place certain conditions on the license if it determines that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed. The Board, in placing the conditions, shall state, in writing, the rationale for its decision.
(g) All written complaints as set forth under subsection (a) of this section, which identify the complainant by name and address, shall be responded to by the Board or its staff within 90 days of receipt of the complaint, and shall advise the complainant of the action that the Board or its staff has taken on the matter.
(h) The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

CHAPTER 5. ANNUAL FEES.

25-501. Annual fees.
25-502. Mayor may propose alteration in license fees.
25-503. Minimum annual fees for manufacturer's, wholesaler's, and off-premises retailer's licenses.
25-504. Minimum annual fees for on-premises retail licenses, class C and D.
25-505. Fees for Arena C/X by Mayor.
25-506. Minimum fees for temporary licenses.
25-507. Minimum annual fee for solicitor's licenses.
25-508. Minimum fee for permits.
25-509. Minimum fee for transfer of a license to new owner.
25-510. Minimum fee for amendment to license.
25-511. Minimum fee for pool buying group retail importation permit.

§ 25-501. Annual fees.

(a) License fees shall be paid annually. The fee for the first year shall be paid at the time of application and the renewal fee shall be paid on or before the anniversary date of issuance of the license.
(b) The applicant shall pay the initial license fee to the D.C. Treasurer. The applicant's duplicate receipt shall accompany the application for license. If the application for the license is denied, the fee shall be returned. This subsection shall not apply to an application for a temporary license.

(c) A licensee's failure to timely remit the annual fee shall be cause for the Board to suspend the license until the licensee pays the fee and any fines imposed by the Board for late payment. If a licensee is 90 days delinquent on payment of the renewal fee, the Board shall give notice to the licensee of its intent to revoke the license. The licensee shall have 14 days to respond to the notice. If the Board thereafter determines that the failure to pay the fees and fines is not for good cause, the Board shall revoke the license.
(d) The Board may establish license periods at intervals necessary to facilitate efficient processing of applications. If the Board changes a license period, the licensee shall pay the proportionate amount of the annual license fee. If the Board issues a license for less than one year, the licensee shall pay a fee reduced by the proportionate amount of the annual fee.
(e) The fee for a temporary license shall be assessed according to the number of days for which the license is issued and shall be paid at the time of the application.
(f) The minimum fee for a stipulated license issued by the Board pursuant to section 200 of Title 23 of the District of Columbia Municipal Regulations (23 DCMR § 200) shall be $100.

§ 25-502. Mayor may propose alteration in license fees.
The Mayor may propose regulations, subject to approval in accordance with § 25-211(b), to alter the license fees established by this chapter or to create additional license categories.

§ 25-503. Minimum annual fees for manufacturer's, wholesaler's, and off-premises retailers' licenses
The minimum annual fees for a manufacturer's, wholesaler's, and off-premises retailer's licenses shall be as set forth on the following:

License Class	Cost/year
MANUFACTURERS	
Manufacturer's license, class A. (rectifying plant)	$ 6,000
Manufacturer's license, class A. (distillery)	$ 6,000
Manufacturer's license, class A. (winery)	$ 1,500
Manufacturer's license, class A. (distillery producing more than 50% nonbeverage alcohol)	$ 3,000
Manufacturer's license, class B. (brewery)	$ 5,000
WHOLESALERS	
Wholesaler's license, class A. (beer, wine, and spirits)	$ 4,000
Wholesaler's license, class B. (beer and wine)	$ 2,000
OFF-PREMISES RETAILERS	
Retailer's license (off-premises), class A. (beer, wine, and spirits)	$ 2,000
Retailer's license (off-premises), class B. (beer and wine)	$ 1,000

§ 25-504. Minimum fees for on-premises retail licenses, class C and D
The minimum annual fees for an on-premises retailer's licenses, class C and D, shall be as set forth on the following schedule. Capacity shall be the posted level of occupancy approved under the Construction Codes, as defined under *§ 6-1401* and as set forth in Title 12 of the District of Columbia Municipal Regulations.

Type	Capacity	Class C (beer, wine, and spirits)	Class D (beer & wine)
Restaurant	99 or fewer.	$ 500	$ 300
	100 to 199.	$ 1,000	$ 600
	200 to 499.	$ 1,500	$ 900
	500 or more.	$ 2,000	$ 1,200
Tavern	99 or fewer.	$ 800	$ 500
	100 to 199.	$ 1,600	$ 1,000
	200 or more.	$ 2,400	1,500
Nightclub	99 or fewer.	$ 1,500	$ 1,000
	100 to 199.	$ 2,000	$ 1,250
	200 to 499.	$ 2,500	$ 1,500
	500 to 999.	$ 3,500	$ 2,000
	1,000 or more.	$ 4,500	$ 3,500
Hotel	99 or fewer guest rooms	$ 2,000	$ 1,000
	100 or more guest rooms	$ 4,000	$ 2,000
Club		$ 1,500	$ 500
Multipurpose facility		$ 1,500	$ 500
Marine vessel	Single vessel.	$ 1,500	$ 750
Marine vessel line	3 or fewer vessels and dockside waiting areas	$ 2,500	$ 1,000
	Each additional vessel or dockside waiting area.	$ 1,500	$ 500
Railroad dining or club car	Single car.	$ 500	$ 250
Railroad company	All dining or club cars	$ 1,500	$ 750
Caterer	More than $ 1,000,000 per year gross annual receipts	$ 5,000	--
Caterer	$ 1,000,000 or less per year	$ 4,000	--

	gross annual receipts		
Caterer	$ 500,000 or less per year gross annual receipts	$ 3,000	--
Caterer	$ 300,000 or less per year gross annual receipts	$ 2,000	--
Caterer	$ 200,000 or less per year gross annual receipts	$ 1,000	--
Caterer	$ 100,000 or less per year gross annual receipts	$ 750	--
Caterer	$ 50,000 or less per year gross annual receipts	$ 500	--
Caterer	$ 25,000 or less per year gross annual receipts	$ 300	--

§ 25-505. Fees for Arena C/X by Mayor.
The annual license fee for the retailer's licenses, class Arena C/X, for the DC Arena shall be established by the Mayor.

§ 25-506. Minimum fees for temporary licenses
(a) The minimum fee for the issuance of a temporary license shall be the following:

Temporary license (class F) (beer and wine)	$ 100/day
Temporary license (class G) (spirits, beer, and wine)	$ 300/day

(b) Upon request, the Board has the authority to reduce the fee to $ 150 per day, for a temporary license, class G, or to $ 50 per day, for a temporary license, class F, for nonprofit organizations. This reduction shall only be available once each calendar year to any single organization.
(c) The Board may create regulations and fees, in accordance with *§§ 25-211(b)* and *25-502*, to permit an on-premises retailer under a restaurant license to apply for a one-day substantial change to the size of their licensed premises to expand the establishment's interior or exterior space in order to facilitate participation in community or street festivals. The Board shall not grant permission for this change more than twice in any calendar year for any establishment.

§ 25-507. Minimum annual fee for solicitor's licenses
The minimum annual fee for a solicitor's license shall be $ 250.

§ 25-508. Minimum fee for permits and manager's license
The minimum fees for permits and manager's license shall be as follows:

Brew pub permit	$ 3,000/year
Tasting permit for class A licensees	$ 100/year
Importation permit	$ 5
Manager's license	$ 100/year

§ 25-509. Minimum fee for transfer of a license to new owner
The minimum fee for transfer of a license to a new owner shall be $ 150.

§ 25-510. Minimum fee for amendment to license
The minimum fee for an amendment to a license which results in an inspection of the licensed premises shall be $ 25.

§ 25-511. Minimum fee for pool buying group retail importation permit
The minimum annual license fee for a pool buying group agent importation permit shall be $ 1,000, in addition to any other license fees prescribed in this title.

CHAPTER 6. PROTESTS, REFERENDUM, AND COMPLAINTS.

25-601. Standing to file protest against a license.
25-601.01. Certain documents to be made available.
25-602. Filing a protest -- timing and requirements.
25-603. Repealed.
25-604. Repealed.
25-605. Repealed.
25-606. Repealed.
25-607. Repealed.
25-608. Repealed.
25-609. ANC comments.

§ 25-601. Standing to file protest against a license.
The following persons may protest the issuance or renewal of a license, the approval of a substantial change in the nature of operation as determined by the Board under § 25-404, or the transfer of a license to a new location:
(1) An abutting property owner;
(2) A group of no fewer than 5 residents or property owners of the District sharing common grounds for their protest; provided, that in a moratorium zone established under § 25-351 (or in existence as

of May 3, 2001), a group of no fewer than 3 residents or property owners of the District sharing common grounds for their protest;
(3) A citizens association incorporated under the laws of the District of Columbia located within the affected area; provided, that the following conditions are met:
(A) Membership in the citizens association is open to all residents of the area represented by the association; and
(B) A resolution concerning the license application has been duly approved in accordance with the association's articles of incorporation or bylaws at a duly called meeting, with notice of the meeting given to the voting body and the applicant at least 7 days before the date of the meeting;
(4) An affected ANC;
(5) In the case of property owned by the District within a 600-foot radius of the establishment to be licensed, the Mayor;
(6) In the case of property owned by the United States within a 600-foot radius of the establishment to be licensed, the designated custodian of the property; or
(7) The Metropolitan Police Department District Commander, or his or her designee, in whose Police District the establishment resides.

§ 25-601.01. Certain documents to be made available.
An ANC, or citizens association meeting the requirements of § 25-601(3), may request from ABRA or the Board a copy of a contract to which a licensee is a party, an incident log kept by a licensee, or similar document, if obtained by ABRA or the Board pursuant to this title.

§ 25-602. Filing a protest--timing and requirements.
(a) Any person objecting, under § 25-601, to the approval of an application shall notify the Board in writing of his or her intention to object and the grounds for the objection within the protest period.
(b) If the Board has reason to believe that the applicant did not comply fully with the notice requirements set forth in subchapter II of Chapter 4, it shall extend the protest period as needed to ensure that the public has been given notice and has had adequate opportunity to respond.

§§ 25-603 to 25-608 (Repealed). Referendum process -- General provisions; application to initiate a referendum process; referendum -- ANC review of petition proposal and statement; circulation of approved statement; approval of petitions submitted to the Board; licenses exempt from referendum process

§ 25-609. ANC comments.
(a) The affected ANC shall notify the Board in writing of its recommendations, if any, and serve a copy upon the applicant or licensee, not less than 7 calendar days before the date of the hearing. Whether the ANC participates as a protestant, the Board shall give great weight to the ANC recommendations as required by subchapter V of Chapter 3 of Title 1. The applicant or licensee shall have the opportunity to respond to the ANC recommendations in a manner to be prescribed in the rules adopted by the Board.
(b) In the event that an affected ANC submits a settlement agreement to the Board on a protested license application, the Board, upon its approval of the settlement agreement, shall dismiss any protest of a group of no fewer than 5 residents or property owners meeting the requirements of § 25-601(2). The Board shall not dismiss a protest filed by another affected ANC or by a citizens

association meeting the requirements of § 25-601(3) upon the Board's approval of an ANC's settlement agreement submission.

CHAPTER 7. STANDARDS OF OPERATION.

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25-791. Temporary surrender of license -- safekeeping.

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25-796. Repealed.
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Subchapter XII. Reimbursable Details

25-798. Reimbursable details.

Subchapter I. Staff Requirements.

§ 25-701. Board-approved manager required.
(a) A person designated to manage an establishment shall possess a manager's license.
(b) A licensee shall notify the Board within 7 calendar days of a manager's conviction for other than a minor traffic violation.
(c) This section shall not apply to the holder of a wholesaler's license that is not open to the public or to licensees who personally superintend the establishment during licensed hours of sale.

§ 25-702. Employees--notice of employee's criminal conviction.
A licensee shall immediately notify the Board in writing if the licensee discovers that a employee who sells or serves any alcoholic beverage has, at any time up to 5 years before or during her or his employment, been convicted for other than minor traffic violations.

Subchapter II. Posting of Signs.

§ 25-711. Posting and carrying of licenses.

(a) A person receiving a license to manufacture, sell, or permit the consumption of alcoholic beverages shall frame the license under glass and post it conspicuously in the licensed establishment. If a settlement agreement is a part of the license, the license shall be marked "settlement agreement on file" by the Board, and the licensee shall make a copy of the settlement agreement immediately accessible to any member of the public, official of ABRA, or officer of the Metropolitan Police Department upon request.
(b) The licensee under a retail license or a club license, shall post, in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee or licensees and the class and number of the license in plain and legible lettering not less than one inch nor more than 1.25 inches in height.

(c) A licensee under a temporary license shall have the license available for inspection by any member of the Board, employee of the Board, or member of the Metropolitan Police Department during the event for which the license was issued.
(d) A licensee under a solicitor's license shall, while soliciting orders, carry the license upon his or her person and shall exhibit the license, upon request, to any member of the Board, employee of the Board, or member of the Metropolitan Police Department.
(e) A licensee under a manager's license shall, while managing a licensed establishment, carry the license upon his or her person and shall exhibit the license, upon request, to any member of the Board, employee of the Board, or member of the Metropolitan Police Department.

§ 25-712. Warning signs regarding dangers of alcohol consumption during pregnancy required.
(a) A licensees shall post in a conspicuous place, in accordance with regulations, a sign which reads: "Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.".
(b) If the Board determines that action in addition to that required by subsection (a) of this section is necessary to accomplish the objectives of this title, the Board may require additional warnings.
(c) The Board shall prepare the signs and make them available at no charge to licensees.
(d) Each day of noncompliance shall constitute a separate violation of this section.
(e) A violation of this section shall be punishable by a civil penalty not to exceed $100.
(f) This section shall not apply to the holder of a wholesaler's license that is not open to the public.

§ 25-713. Retail licensee required to post current legal drinking age and notice of requirement to produce valid identification displaying proof of age.
A retail licensee shall post a notice, maintained in good repair and in a place clearly visible from the point of entry to the establishment, stating:

(1) The minimum age required for the purchases of an alcoholic beverage; and
(2) The obligation of the patron to produce a valid identification document displaying proof of legal drinking age.

Subchapter III. Hours; Noise Restrictions; Control of Litter.

§ 25-721. Hours of sale and delivery for manufacturers and wholesalers.
(a) A licensee under a manufacturer's license or a wholesaler's license shall sell and deliver alcoholic beverages only between the hours of 6:00 a.m. and 1:00 a.m., Monday through Saturday; provided, that licensees may also make deliveries between 5:00 a.m. and 6:00 a.m., Monday through Saturday.
(b) In addition to the provisions of subsection (a) of this section, the licensee under a manufacturer's license, class A or B, or a wholesaler's license, class A or B, may deliver alcoholic beverages to a license under a temporary license, class F or G, license between the hours of 9:00 a.m. and 9:00 p.m. on Sunday.

§ 25-722. Hours of sale and delivery for off-premises retail licensees.
(a) A licensee under an off-premises retailer's license, class A or B, may sell and deliver alcoholic beverages only between the hours of 7:00 a.m. and midnight, Monday through Saturday, and during those same hours on December 24 and 31 of each year, subject to voluntary agreements [settlement agreements] pursuant to § 25-446.
(b) The Board may also permit a licensee under an off-premises retailer's license, class A or B, to sell or deliver alcoholic beverages between the hours of 7:00 a.m. and midnight on Sundays, subject to voluntary agreements [settlement agreements] pursuant to § 25-446.
(c) A licensee under a retailer's license, class B, which meets the requirements of § 25-303(c)(1) through (3), may also sell or deliver alcoholic beverages between the hours of 9:00 a.m. and 10:00 p.m. on Sundays and between the hours of 10:00 p.m. and midnight, Monday through Sunday, and on December 24 and December 31 of each year.

§ 25-723. Hours of sale and service for on-premises retail licensees and temporary licensees.
(a) The licensee under a hotel license may make available in the room of a registered adult guest, and charge to the registered guest if consumed, miniatures as defined in § 25-101(32A) at all hours on any day of the week.
(b) Except as provided in § 25-724 and subsections (c), (d), and (e) of this section, the licensee under a on-premises retailer's license or a temporary license may sell or serve alcoholic beverages on any day and at any time except between the following hours:
(1) 2:00 a.m. and 8:00 a.m., Monday through Friday, excluding District and federal holidays; and
(2) 3:00 a.m. and 8:00 a.m. on Saturday and Sunday, excluding District and federal holidays.
(c)(1) Except as provided in § 25-724, the licensee under an on-premises retailer's license or a temporary license may sell or serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day during the following times:
(A) On a District or federal holiday;
(B) The Saturday and Sunday preceding Memorial Day and Labor Day, as set forth in § 1-612.02(a); and

(C) The Saturday and Sunday adjacent to January 1 (New Year's Day) and July 4 (Independence Day); except, that if the holiday under this subparagraph occurs on a Tuesday, Wednesday, or Thursday, this subparagraph shall not apply.

(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages and operate in accordance with paragraph (1) of this subsection.

(3) This subsection shall not apply during Inaugural Week, as defined in subsection (e) of this section.

(4) Once each calendar year and no fewer than 30 days before the first holiday on which a licensee seeks to extend its hours of operation pursuant to this subsection, the licensee shall provide written notification and a public safety plan to the Board and the Metropolitan Police Department of its intent to extend its hours of operation.

(d)(1) Except as provided in § 25-724, during the beginning of daylight savings time pursuant to § 28-2711, on the second Sunday in March of each year, a licensee under an on-premises retailer's license may sell and serve alcoholic beverages between 3:00 a.m. and 4:00 a.m., if the licensee:

(A) Registers with the Board;

(B) Pays a registration fee of $200; and

(C) Provides written notification, no later than 10 days before the beginning of daylight savings time, to the Board and the Metropolitan Police Department of its extended hours of operation.

(2) The fees collected pursuant to this subsection shall be used to fund the Reimbursable Detail Subsidy Program in the ABRA.

(3) A violation of paragraph (1) of this subsection shall constitute a secondary tier violation subject to the penalties set forth in § 25-830(d).

(4) This subsection shall expire on September 30, 2013.

(e)(1) Every 4 years, beginning in 2013, the week of January 15 through January 21, shall be designated “Inaugural Week.” Except as provided in § 25-724, during Inaugural Week, a licensee under an on-premises retailer's license or a temporary license may sell or serve alcoholic beverages until 4 a.m. and operate 24 hours a day if the licensee:

(A) Provides written notification and a public safety plan, no later than January 7, to the Board and the Metropolitan Police Department of its hours of operation; and

(B) Pays the following fee for each day it will serve alcohol pursuant to this subsection:

(i) $250 for a CN licensee;

(ii) $100 for a CR or CT licensee; and

(iii) $50 for any other licensee.

(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day during Inaugural Week.

(f)(1) During the beginning of daylight saving time under § 28-2711, on the 2nd Sunday of March of each year, a licensee under an on-premises retailer's license may sell and serve alcoholic beverages between 3:00 a.m. and 4:00 a.m.

(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages in accordance with paragraph (1) of this subsection.

(3) This subsection shall apply as of October 1, 2013.

§ 25-724. Board authorized to further restrict hours of operation.
At the time of initial application or renewal of any class of license, the Board may further limit the hours of sale and delivery for a particular applicant (1) based on the Board's findings of fact, conclusions of law, and order following a protest hearing, or (2) under the terms of a settlement agreement.

§ 25-725. Noise from licensed premises.
(a) The licensee under an on-premises retailer's license shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment by the use of any:
(1) Mechanical device, machine, apparatus, or instrument for amplification of the human voice or any sound or noise;
(2) Bell, horn, gong, whistle, drum, or other noise-making article, instrument, or device; or
(3) Musical instrument.
(b) This section shall not apply to:
(1) Areas in the building which are not part of the licensed establishment;
(2) A building owned by the licensee which abuts the licensed establishment;
(3) Any premises other than the licensed establishment which are located within a C-1, C-2, C-3, C-4, C-M, or M zone, as defined in the zoning regulations for the District;
(4) Sounds, noises, or music occasioned by normal opening of entrance and exit doors for the purpose of ingress and egress; or
(5) Heating, ventilation, and air conditioning devices.
(c) The licensees under this subchapter shall comply with the noise level requirements set forth in Chapter 27 of Title 20 of the District of Columbia Municipal Regulations.
(d)(1) ABRA shall maintain a complaint program to receive noise complaints by phone, email, and fax. The complaint program shall be staffed by an ABRA employee until at least one hour after the end time for the legal sale of alcoholic beverages as set forth in § 25-723.
(2) ABRA shall keep records regarding noise complaints and record the following information at the time the complaint is made:
(A) The time and date of the complaint;
(B) The name and address of the establishment that is the subject of the complaint;
(C) The name and address of the complainant, if available;
(D) The nature of the noise complaint; and
(E) Whether the complaint was substantiated by ABRA.
(3) Upon receipt of a noise complaint, ABRA shall attempt to contact the establishment by phone or in person and inform the ABC manager on-duty that a noise complaint has been received and describe the nature of the complaint.
(4) ABRA shall notify the licensee of the complaint by e-mail, phone, or registered mail within 72 hours of receiving the complaint. ABRA shall notify the licensee of the results of any investigation that may result in a show cause hearing within 90 days as required by § 25-832.
(e) The windows and doors of an establishment from which noise can be heard shall remain open or closed, as they were at the time the complaint was made, in order for an ABRA investigator or Metropolitan Police Department officer to determine whether a violation of subsection (a) of this section exists. The ABRA investigator shall have the authority to direct that windows and doors be closed or opened.

§ 25-726. Control of litter.
(a) The licensee under a retailer's license shall take reasonable measures to ensure that the immediate environs of the establishment, including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, are kept free of litter.
(b) The licensee under a retailer's license shall comply with the Litter Control Expansion Amendment Act of 1987, effective October 9, 1987 (D.C. Law 7-38; 23 DCMR § 720).

Subchapter IV. Sale on Credit, Gifts, and Loans.

§ 25-731. Credit and delinquency.
(a) For the purposes of this section, the term "payment" means the delivery to the manufacturer or wholesaler of cash or a check, draft, or other order for payment; provided, that the check, draft, or other order of payment is drawn only on the bank account of the retailer.
(b) No alcoholic beverage shall be sold by a manufacturer or wholesaler to a retailer, or purchased by a retailer, except on the following terms: (1) full payment in cash on delivery, or (2) full payment in cash before the 16th day of the month following the month of purchase or delivery.
(c) A retailer who fails to make payment in full in accordance with the terms of purchase shall not, during the period of delinquency, make any further purchases except for cash on delivery, and, during the period of delinquency, a manufacturer or wholesaler who has knowledge of such delinquency shall not sell any alcoholic beverages to the retailer except for cash on delivery.
(d) Subsections (b) and (c) of this section shall constitute a reasonable extension of credit and no enlargement or extension of such terms, whether cash or credit, shall be granted by the manufacturer or wholesaler or accepted by the retailer.
(e) Repealed.
(f) Repealed.
(g) Repealed.

§ 25-732. Payment plan for use in extenuating circumstances. [Repealed]

§ 25-733. Delivery and payment records and reports.
(a) A delivery of an alcoholic beverage to a licensee shall be accompanied by an invoice of sale or delivery which shall bear the date of delivery of the alcoholic beverages.
(b) Before the 26th day of each month, each manufacturer and wholesaler shall file with each other manufacturer or wholesaler within the District, on a form prescribed by the Board, a statement under penalties of perjury showing the following:

(1) The name, including trade name, and address of each retailer who has been required to make payment in cash for alcoholic beverages under § 25-731(c);
(2) All delinquent accounts; and
(3) All checks, drafts, or other orders for payment received from any retailer, which, since the previous report, were dishonored when presented for payment, when such dishonored checks, drafts, or other orders for payment exceed $15,000.

(c) A manufacturer or wholesaler who, after receiving notification of delinquency by a retailer under § 25-731(c), extends credit to any retailer, shall be deemed to have violated § 25-731(b).
(d) Repealed.
(e) Repealed.

(f) Repealed.

§ 25-734. Sale by retailer of beverages on credit prohibited.
(a) A licensee under a retailer's license shall not sell on credit any alcoholic beverages except as provided in this section.
(b) For purposes of this section, the extension of credit by the licensee under an off-premises retailer's license in connection with the sale of an alcoholic beverage through a document, device, or plan intended or adapted for the purpose of establishing credit, except through the use of a credit card, shall be considered a sale on credit.
(c) This section shall not prohibit a club from extending credit to its members or the guests of members or a hotel from extending credit to its registered guests.
(d) This section shall not prohibit the licensee under an on-premises retailer's license from accepting payment by credit card for sales of alcoholic beverages to customers.

§ 25-735. Gifts and loans from manufacturer prohibited.
(a) A manufacturer, whether or not licensed under this title, shall not engage in the following transactions with a wholesale or retail licensee:
(1) Loan or give money;
(2) Sell, rent, loan, or give equipment, furniture, fixtures, or property; or
(3) Give or sell a service.
(b) A retail licensee shall not engage in the following transactions with a manufacturer, whether or not licensed under this title:
(1) Receive or accept a loan or gift of money;
(2) Purchase from, rent from, borrow, or receive by gift equipment, furniture, fixtures, or property; or
(3) Accept or receive a service.
(c) Notwithstanding subsections (a) and (b) of this section, with the prior approval of the Board, a manufacturer may sell, give, rent, or loan to a retail licensee any service or article of property costing the manufacturer not more than $500 and a retail licensee may purchase from, rent from, borrow, or receive by gift from a manufacturer any service or article of property costing the manufacturer not more than $500.
(d) Notwithstanding subsections (a), (b), and (c) of this section, with the prior approval of the Board, a manufacturer may sell, give, rent, or loan to a retail licensee computer equipment for the purpose of tracking the sale or delivery of alcoholic beverages.

§ 25-736. Gifts and loans from wholesaler prohibited.
(a) A licensed wholesaler of alcoholic beverages, whether or not licensed under this title, shall not engage in the following transactions with a retail licensee:
(1) Lend or give any money;
(2) Sell equipment, furniture, fixtures, or property, except merchandise sold at the fair market value for resale by the licensee;
(3) Rent, loan, or give any equipment, furniture, fixtures, or property; or
(4) Give or sell any service.
(b) A retail licensee shall not engage in the following transactions with a wholesaler:
(1) Receive or accept any loan or gift of money;

(2) Purchase equipment, furniture, fixtures, or property, except merchandise purchased at the fair market value for resale;
(3) Rent from, borrow, or receive by gift equipment, furniture, fixtures, or property; or
(4) Receive any service.

(c) Notwithstanding subsections (a) and (b) of this section, with the prior approval of the Board, a wholesaler may sell, give, rent, or loan to a retail licensee any service or article of property costing the wholesaler not more than $500 and a retail licensee may purchase from, rent from, borrow, or receive by gift from a wholesaler any service or article of property costing the wholesaler not more than $500.

(d) Notwithstanding subsections (a), (b), and (c) of this section, with the prior approval of the Board, a wholesaler may sell, rent, give, loan to a retail licensee computer equipment for the purpose of tracking the sale or delivery of alcoholic beverages.

Subchapter V. Restrictions on Sales, Promotions, and Service.

§ 25-741. Go-cups and back-up drinks prohibited.

(a) The licensee under an off-premises retailer's license, class A or B, shall not provide go-cups to customers.

(b) The licensee under an on-premises retailer's license shall not serve back-up drinks to customers.

§ 25-742. Solicitation of drinks prohibited.

The licensee under an on-premises retailer's license shall not:

(1) Require, permit, suffer, encourage, or induce an entertainer or employee to solicit in the licensed establishment the purchase by a patron of any drink, whether alcoholic or non-alcoholic, or money with which to purchase the drink, for that entertainer or employee, or for any other person other than the patron and guests of the patron; or

(2) Pay to the licensee's agent or manager, or any other person frequenting the licensed establishment, a commission or any other compensation to solicit for herself, himself, or for others, the purchase by the patron of any drink, whether alcoholic or non-alcoholic.

§ 25-743. Tie-in purchases prohibited.

(a) A manufacturer or wholesaler shall not require, directly or indirectly, a retailer to purchase any type of alcoholic beverage or other commodity in order to purchase any other alcoholic beverage.

(b) A licensee under an off-premises retailer's license shall not require, directly or indirectly, a consumer to purchase any type of alcoholic beverage or other commodity in order to purchase any other alcoholic beverage.

Subchapter VI. Limitations on Container Number, Size, Labeling, and Storage.

§ 25-751. Limitations on container size.

(a) The licensee under an off-premises retailer's license, class A, may sell and deliver no fewer than 6 miniatures of spirits or wine per purchase.

(b) The licensee under a manufacturer's license, wholesaler's license, or an off-premises retailer's license shall not sell an alcoholic beverage in any container which does not comply with the

standards of fill set forth in the most recent regulations issued under the Federal Alcohol Administration Act, approved August 29, 1935 (49 Stat. 977; 27 U.S.C. § 201 *et seq.*).
(c) No person shall sell or deliver in the District alcoholic beverages in containers of a capacity of 1/10 gallon, except the following:
(1) Scotch whiskey, Irish whiskey, brandy, and rum;
(2) Cordials and liqueurs, cocktails, highballs, gin fizzes, bitters, and similar specialties; or
(3) Domestic and imported still wines and sparkling wines.

§ 25-752. Containers to be labeled.
No rectified or blended spirits shall be sold unless the container in which it is sold shall bear a legible label, firmly affixed, stating the nature and percentage of each ingredient (except water), the age of the ingredient, and the alcoholic content by volume.

§ 25-753. Keg registration required; procedures specified.
(a) A licensee under an off-premises retailer's or wholesaler's license shall not sell any alcoholic beverage in a keg to a consumer without having affixed a registration seal on the keg at the time of sale.
(b) A keg registration seal is a seal, decal, sticker, or other device approved by the Board which is designed to be affixed to kegs and which displays a registration number, name of the licensee offering the keg for sale to the consumer, and any other information required by the Board.
(c) At the point of sale of an alcoholic beverage in a keg, the licensee shall complete a keg declaration of receipt on a form provided by the Board receipt, which receipt shall contain the following information:
(1) Keg registration seal number;
(2) The name and address of the purchaser verified by a valid identification document;
(3) The type and registration number of the identification presented by the purchaser;
(4) A statement signed by the purchaser stating that:
(A) The purchaser is 21 years of age or older;
(B) The purchaser does not intend to allow persons under 21 years of age to consume any of the alcoholic beverage purchased; and
(C) The purchaser will not remove or obliterate the keg registration seal affixed to the keg or allow its removal or obliteration; and
(5) The specific address or location where the alcoholic beverage in the keg will be consumed and the date or dates on which it will be consumed.
(d) Upon return of a registered keg from a consumer, the licensee shall remove or obliterate the keg registration seal and note the removal or obliteration on the keg declaration of receipt form to be retained by the licensee at the licensed establishment. If a keg is made of disposable packaging that does not have to be returned by the consumer to the licensee, the licensee shall indicate on the keg declaration of receipt form that the keg is disposable.
(e) A licensee shall maintain the keg declaration of receipt form on the licensed establishment for 2 years following the date of purchase. These records shall be open at all reasonable times for inspection by the Board, or its authorized representatives, and other law enforcement officers.
(f) This section shall not apply to the wholesale sale of any keg between a wholesaler and a retailer or to the import of any keg by a retailer under this title or regulations promulgated hereunder.

§ 25-754. Restrictions on storage of beverages.
(a) Alcoholic beverages shall not be manufactured, kept for sale, or sold by any licensee other than at the licensed establishment; provided, that the Board may permit the storing of beverages upon premises other than the licensed establishment under the following classes of licenses:
(1) Manufacturer's license;
(2) Wholesaler's license;
(3) Off-premises retailer's license, class A;
(4) Common carrier license, class C or D; and
(5) Caterer's license.
(b) A licensee may not store alcoholic beverages upon premises outside the District.

Subchapter VII. Physical Space and Advertising.

§ 25-761. Structural requirements.
No license shall be issued for the sale or consumption of beverages in any building, a part of which is used as a dwelling or lodging house, unless the applicant files an affidavit stating to the satisfaction of the Board that access from the portion of the building used as a dwelling or lodging house to the portion where the applicant desires to sell alcoholic beverages is effectively closed; provided, that the provisions of this section shall not apply to a hotel or a club licensed under this title. The Board, by regulation, may provide for waiver of the provisions of this section upon application of a licensee.

§ 25-762. Substantial changes in operation must be approved.
(a) Before a licensee may make a change in the interior or exterior, or a change in format, of any licensed establishment, which would substantially change the nature of the operation of the licensed establishment as set forth in the initial application for the license, the licensee shall obtain the approval of the Board in accordance with § 25-404.
(b) In determining whether the proposed changes are substantial, the Board shall consider whether they are potentially of concern to the residents of the area surrounding the establishment, including changes which would:
(1) Increase the occupancy of the licensed establishment or the use of interior space not previously used;
(2) Expand the operation of the licensed establishment to allow for permanent use of exterior public or private space or summer gardens;
(3) Expand the operation of the licensed establishment to another floor, roof, or deck;
(4) Provide for, or expand, an area in which live entertainment would be performed by employees of the establishment, patrons, contract employees, or self-employed individuals, such as dancers or disc jockeys;
(5) Diminish, or expand, the space used by the establishment for service of meals, dining areas, or food preparation areas;
(6) Provide permanent space for dancing by patrons if none existed previously;
(7) Change the exterior design, architecture, or construction of the building in such a way as to convey to the public notice of the fact that alcoholic beverages are to be, or are sold, dispensed, stored, or distributed in or from the building;
(8) Provide music or entertainment if none was provided previously;

(9) Change from recorded to live music or entertainment or the kind of music or entertainment provided;
(10) Change the entertainment to include nude performances;
(11) Change from full-menu offerings to offering snack food;
(12) Change from on-premises consumption of food to carry-out sales or offering carry-out sales if none existed previously;
(13) Extend the hours of operation;
(14) Provide mechanical or electronic entertainment devices if these did not exist previously or provide for the installation of additional devices;
(15) Change the trade name or corporate name, coupled with a change in ownership of the establishment;
(16) Change the booth sizes;
(17) Reduce the number of toilet facilities; or
(18) Increase the number of vessels under the on-premises common carrier license class.
(c) A temporary or permanent reduction in the hours of operation of a licensed establishment shall not constitute a substantial change.

§ 25-763. Restrictions on use of signs.
(a) Exterior signs advertising alcoholic beverages, which signs have a total cumulative area in the aggregate in excess of 10 square feet, shall be prohibited.
(b) No sign advertising alcoholic beverages on the exterior of, or visible from the exterior of, any licensed establishment or elsewhere in the District shall be illuminated at any time when the sale of alcoholic beverages at the licensed premises is prohibited.
(c) A sign advertising alcoholic beverages on the exterior of, or visible from the exterior of, any licensed establishment, which is illuminated with intermittent flashes of light shall be prohibited.
(d) A retail licensee shall not erect or maintain at the licensed establishment, except to the extent required by federal law, a sign or lettering using the words “Wholesale,” “Wholesaler,” “Wholesale department,” or any other word or words designed or intended to mislead or deceive the general public into believing that the licensee is licensed to sell alcoholic beverages as a wholesaler.
(e) A sign which does not conform to this section shall be removed.
(f) In addition to the provisions of this section, signage shall be subject to § 1-303.21, and any rules issued pursuant to that section.

§ 25-764. Advertisements related to alcoholic beverages in general.
No person shall publish or disseminate, or cause to be published or disseminated, directly or indirectly, through any radio or television broadcast, in any newspaper, magazine, periodical, or other publication, or by any sign, placard, or any printed matter, an advertisement of alcoholic beverages which is not in conformity with this title.

§ 25-765. Advertisement on windows and doors of licensed establishment.
(a) Advertisements relating to the prices of alcoholic beverages shall 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.
(b) Advertisements relating to alcoholic beverages shall not be displayed on the exterior of any window or on the exterior or interior of any door.

§ 25-766. Prohibited statements.
A statement that is false or misleading with respect to any material fact shall be prohibited.

Subchapter VIII. Reporting, Importation.

§ 25-771. Reporting.
(a) Before the 21st day of each month, a licensee under a manufacturer's license shall furnish to the Board, on a form to be prescribed by the Mayor, a statement, under penalties of perjury, showing the quantity of each kind of alcoholic beverage, except beer, manufactured during the preceding calendar month. For the purposes of this section, alcoholic beverages shall not be considered as manufactured until they are ready for sale.
(b) Twice a year, a licensee under a wholesaler's or retailer's license shall furnish to the Board, on a form to be prescribed by the Mayor, a statement, under penalties of perjury, showing:
(1) The quantity of each kind of beverage, except beer, purchased by the license holder during the preceding 6 calendar months;
(2) The date of each such purchase;
(3) The name of the person from whom purchased, including the license number of the vendor, if licensed hereunder; and
(4) The quantity and kind of beverages in each purchase.

§ 25-772. Unlawful importation of beverages.
(a) Only a licensee under a manufacturer's, wholesaler's, or common carrier's license, or retailer's license under a validly issued import permit shall transport, import, bring, or ship or cause to be transported, imported, brought, or shipped into the District from outside the District any wines, spirits, or beer in a quantity in excess of one case at any one time.
(b) No public or common carrier shall transport or bring into the District wine, spirits, or beer in a quantity in excess of one case per location in any one calendar month for delivery to any one person in the District other than the licensee under a manufacturer's, wholesaler's, or retailer's license.
(c) This section shall not apply to persons possessing old stocks who are moving into the District, to embassies or diplomatic representatives of foreign countries, to wines imported for religious or sacramental purposes, to wine, spirits, and beer to be delivered to the licensee under a manufacturer's, wholesaler's, or retailer's license, or to any persons wishing to have liquor chocolates delivered to their residence. The term “liquor chocolates” may include other types of candies that have small amounts of liquor contained in the candy.
(d) The penalty for violation of this section shall consist of (1) the forfeiture of the beverages transported, imported, brought, or shipped, or caused to be transported, imported, brought, or shipped in violation of this section, and (2) a fine of not more than the amount set forth in [§ 22-3571.01] or imprisonment for not more than 6 months.
(e) In addition to other penalties provided in this section, any person who violates the provisions of this section shall be liable for any tax, penalties, and interest provided for in this title.

Subchapter IX. Minors and Intoxicated Persons.

§ 25-781. Sale to minors or intoxicated persons prohibited.
(a) The sale or delivery of alcoholic beverages to the following persons is prohibited:

(1) A person under 21 years of age, either for the person's own use or for the use of any other person, except as provided in § 25-784(b);
(2) An intoxicated person, or any person who appears to be intoxicated; or
(3) A person of notoriously intemperate habits.

(b) A retail licensee shall not permit at the licensed establishment the consumption of an alcoholic beverage by any of the following persons:
(1) A person under 21 years of age;
(2) An intoxicated person, or any person who appears to be intoxicated; or
(3) A person of notoriously intemperate habits.

(c) A licensee or other person shall not, at a licensed establishment, give, serve, deliver, or in any manner dispense an alcoholic beverage to a person under 21 years of age, except as provided in § 25-784(b).

(d) A licensee shall not be liable to any person for damages claimed to arise from refusal to sell an alcoholic beverage or refusal to permit the consumption of an alcoholic beverage in its establishment under the authority of this section.

(e) A person alleged to have violated this section may be issued a citation under § 23-1110(b)(1). The person shall not be eligible to forfeit collateral.

(f) Upon finding that a licensee has violated subsections (a), (b), or (c) of this section in the preceding 2 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;
(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;
(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;
(4) Upon the 4th violation, the Board may revoke the license; and
(5) The Board may revoke the license of a licensed establishment that has 5 or more violations of this section within a 5-year period.

§ 25-782. Restrictions on minor's entrance into licensed premises.

(a) The licensee under an off-premises retailer's license, class A, shall not permit a person under 18 years of age to enter the licensed establishment between the hours of 8 a.m. and 3 p.m. on any day in which the public schools of the District are in session during the regular school year.

(b) It shall be an affirmative defense to a charge of violating subsection (a) of this section that the licensee or a licensee's employee was shown a valid identification document indicating that the minor was 18 years of age or older, which document the licensee or the licensee's employee reasonably believed to be valid, and that the licensee or the licensee's employee reasonably believed that the person was 18 years of age or older or was not truant or unlawfully absent from school.

(c) Subsection (a) of this section shall not apply to a licensee under a retailer's license, class A, for a supermarket if its primary business and purpose is the sale of a full range of fresh, canned, and frozen food items, and if the sale of alcoholic beverages is incidental to the primary purpose and constitutes no more than 25% of total volume of gross receipts on an annual basis.

(d) Except as otherwise permitted, a licensee shall not deny admittance to a person displaying a valid identification document displaying proof of legal drinking age.
(e) The provisions of this section notwithstanding, a licensee not shall discriminate on any basis prohibited by Unit A of Chapter 14 of Title 2.

§ 25-783. Production of valid identification document required; penalty.
(a) A licensee shall refuse to sell, serve, or deliver an alcoholic beverage to any person who, upon request of the licensee, fails to produce a valid identification document.
(b) A licensee or his agent or employee shall take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves an alcoholic beverage is of legal drinking age. Any person who supplies a valid identification document showing his or her age to be the legal drinking age shall be deemed to be of legal drinking age.
(c) Upon finding that a licensee has violated subsection (a) or (b) of this section in the preceding 2 years:

(1) Upon the first violation, the Board shall fine the licensee not less than $1,000, and not more than $2,000, and suspend the licensee for 5 consecutive days. 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 second violation, the Board shall fine the licensee not less than $2,000, and not more than $4,000, and suspend the licensee for 10 consecutive days. 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 third violation, the Board shall fine the licensee not less than $4,000, and not more than $10,000, and suspend the licensee for 15 consecutive days, or revoke the license. 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.
(4) Upon the fourth violation, the Board may revoke the license.
(5) The Board may revoke the license of a licensed establishment that has 5 or more violations of this section within a 5-year period.

(d) The provisions of this section notwithstanding, no licensee shall discriminate on any basis prohibited by Unit A of Chapter 14 of Title 2.
(e) An affirmative defense to a violation of subsection (a) of this section shall be that the person was at the time of the violation 21 years of age or older.

§ 25-784. Sale or distribution of beverages by minor prohibited.
(a) Except as provided in subsection (b) of this section, a licensee shall not allow any person under 21 years of age to sell, give, furnish, or distribute an alcoholic beverage.
(b) A licensee may allow an employee who is 18 years of age or older to sell, serve, or deliver an alcoholic beverage on the licensed premises; provided, that no employee under 21 years of age shall serve as a bartender.

§ 25-785. Delivery, offer, or otherwise making available to persons under 21; penalties.
(a) A person who is not a licensee shall not, within the District, purchase an alcoholic beverage for the purpose of delivering the alcoholic beverage to a person who is under 21 years of age.

(b) A person who is a licensee shall not, within the District, offer, give, provide, or otherwise make available an alcoholic beverage to a person who is under 21 years of age, except if necessary to allow the person to perform lawful employment responsibilities that require the person to have temporary possession of alcoholic beverages.
(c) A person who violates any provision of this section shall:
(1) Upon conviction for the first offense, be fined not more than $1,000, or imprisoned up to 180 days, or both;
(2) Upon conviction for the second offense committed within 2 years from the date of any such previous offense, be fined not more than $2,500, or imprisoned up to 180 days, or both;
(3) Upon conviction for the third or any subsequent offense committed within 2 years from the date of any such previous offense, be fined not more than $5,000, or imprisoned up to one year, or both.
(d) A person alleged to have violated this section may be issued a citation under § 23-1110(b)(1). The person shall not be eligible to forfeit collateral.
(e) The fines set forth in this section shall not be limited by § 22-3571.01.

Subchapter XI. Temporary Surrender of License -- Safekeeping.

§ 25-791. Temporary surrender of license--safekeeping.

(a) A license which is discontinued for any reason shall be surrendered by the licensee to the Board for safekeeping. The Board shall hold the license until the licensee resumes business at the licensed establishment or the license is transferred to a new owner. If the licensee has not initiated proceedings to resume operations or transfer the license within 60 days after suspension, the Board may deem this license abandoned after giving notice to the licensee. The licensee has 14 days to respond to the Board's notice to request continued safekeeping.
(b) The Board may extend the period of safekeeping beyond 60 days for reasonable cause, such as fire, flood, other natural disaster; rebuilding or reconstruction; or to complete the sale of the establishment.
(c) Licenses in safekeeping beyond 60 days, as extended by the Board, shall be reviewed by the Board every 6 months to ensure that the licensee is making reasonable progress on returning to operation.
(c-1)(1) Except as proved by paragraph (3) of this subsection, the Board shall assess licenses in safekeeping a fee of 25% of the annual license fee for every 6 months that the license remains in safekeeping. The initial 6-month fee shall be paid by the licensee at the time the license is placed in safekeeping. Each additional 6-month safekeeping fee shall be paid in advance by the licensee.
(2) After 4 consecutive 6-month periods of safekeeping, the safekeeping fee shall be 50% of the annual license fee for every 6 months that the license remains in safekeeping.
(3) The safekeeping fee required by this subsection shall not apply to a licensee serving a suspension.
(d) This section shall not relieve a licensee from the responsibility for renewing the license upon its expiration.
(e) If a licensee notifies the Board that the licensee has ceased to do business under the license or if the Board cancels the license under this section, the license shall be marked as “canceled.”
(f) Licenses which are restored after being held in safekeeping for longer than 2 years shall be subject to the license renewal process set forth in Chapter 4.
(g) A license suspended by the Board under this title shall be stored at the Board.

Subchapter XII. Valet Parking.

§ 25-796. Valet parking. [Repealed]

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

§ 25-798. Reimbursable details.
(a) For the purposes of this section, the term:
(1) Agreement means a written contract, including provisions for the staffing requirement of the reimbursable details in accordance with subsection (c) of this section, and compensation of the MPD by the licensee when reimbursable details are requested by the licensee.
(2) MPD means Metropolitan Police Department.
(3) Reimbursable detail means an assignment of MPD officers to patrol the surrounding area of an establishment for the purpose of maintaining public safety, including the remediation of traffic congestion and the safety of public patrons, during their approach and departure from the establishment.
(b) A licensee or licensees, independently or in a group, may enter into an agreement with the MPD to provide for reimbursable details.
(c) Subject to adequate staffing of the police service areas and an assessment by the MPD of its staffing requirements, the MPD may staff reimbursable details as requested by the licensee. The MPD shall only use officers for this purpose who are overtime and would not otherwise be on duty at the time of the reimbursable detail.
(d) The MPD shall establish policies and procedures to implement the provisions of this section.
(e) The Mayor shall, in consultation with licensees, promulgate policies, rules and procedures to identify entertainment areas in the District, and establish security plans thereunder delineating the reimbursable detail deployment needs of those areas.

CHAPTER 8. ENFORCEMENT, INFRACTIONS, AND PENALTIES.

Subchapter I. Enforcement.

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Subchapter I. Enforcement.

§ 25-801. Authority of the Board to enforce this title; enforcement responsibilities of ABRA investigators and Metropolitan Police Department.

(a) The Board shall have the authority to enforce the provisions of this title with respect to licensees and with respect to any person not holding a license and selling alcohol in violation of the provisions of this title.

(b) Subject to subsection (c) of this section, ABRA investigators and the Metropolitan Police Department shall issue citations for civil violations of this title that are set forth in the schedule of civil penalties established under § 25-830.

(c) A citation for any violation for which the penalty includes the suspension of a license shall be issued under the direct authority of the Board as a result of an investigation carried out by ABRA investigators.

(d) Prosecutions for misdemeanors under this title shall be prosecuted and initiated by information filed in the Superior Court of the District of Columbia by the Corporation Counsel. Prosecutions for felonies under this title shall be prosecuted by the United States Attorney for the District of Columbia.

(e) Violations committed by an unlicensed person selling alcohol in violation of the provisions of this title shall be forwarded by the Board to the Corporation Counsel for prosecution.

(f) ABRA investigators may request and check the identification of a patron inside of or attempting to enter an establishment with an alcohol license. ABRA investigators may seize evidence that substantiates a violation under this title, which shall include seizing alcoholic beverages sold to minors and fake identification documents used by minors.

§ 25-802. Examination of premises, books, and records.

(a) An applicant for a license, and each licensee, shall allow any member of the Board, any ABRA investigator, or any member of the Metropolitan Police Department full opportunity to examine, at any time during business hours:

(1) The premises where an alcoholic beverage is manufactured, kept, sold, or consumed for which an application for a license has been made or for which a license has been issued; and
(2) The books and records of the business for which an application for a license has been made or for which a license has been issued.

(b) ABRA investigators shall examine the premises and books and records of each licensed establishment in the District at least once each year. The investigators shall make reasonable efforts to ensure that the licensee will know in advance the date of the inspection.

§ 25-803. Search warrants for illegal alcoholic beverages; disposition of seized beverages.
If a search warrant is issued by any judge of the Superior Court of the District of Columbia or by a United States Magistrate for the District of Columbia for premises where any alcoholic beverages are manufactured for sale, kept for sale, sold, or consumed in violation of this title, the alcoholic beverages and any other property designed for use in connection with the unlawful manufacture for sale, keeping for sale, selling, or consumption may be seized and shall be subject to such disposition as the court may make thereof.

§ 25-804. Notifications from DCRA, Fire Department, and Metropolitan Police Department.
(a) In accordance with procedures that the Mayor shall establish, the Department of Consumer and Regulatory Affairs and the Fire Department shall promptly notify the Board if a licensed establishment is the subject of a citation or other enforcement action for a violation of laws or regulations enforced by these departments.
(b) If a licensed establishment is the subject of an incident report by the Metropolitan Police Department, the Metropolitan Police Department shall file a copy of the incident report with the Board. The Board shall make the report available for public inspection upon request.

§ 25-805. Nuisance.
(a) Any building, ground, or premises where an alcoholic beverage is manufactured, sold, kept for sale, or permitted to be consumed in violation of this title shall be a nuisance.
(b) An action to enjoin any nuisance defined in subsection (a) of this section may be brought in the name of the District of Columbia by the Corporation Counsel in the Civil Branch of the Superior Court of the District of Columbia against any person conducting or maintaining such nuisance or knowingly permitting such nuisance to be conducted or maintained.

Subchapter II. Revocation, Suspension, and Civil Penalties.

§ 25-821. Revocation or suspension--general provisions.
(a) Except as provided in § 25-826, the Board shall not revoke or suspend a license until the licensee has been given an opportunity to be heard in his or her defense.
(b) If a license is revoked or suspended, no part of the license fee shall be returned.
(c) If the Board revokes a license, no license shall be issued to the same person or persons whose license is so revoked for any other location for 5 years following the revocation, except as provided below.
(d) If the Board revokes a manager's license, a manager's license shall not be issued to the same person for 2 years.
(e) Subsection (c) of this section shall not apply to licenses revoked by the Board for procedural reasons.

(f) The remaining alcoholic beverage stock of a licensee whose license has been revoked shall be disposed of only with the approval of the Board.

§ 25-822. Mandatory revocation.
The Board shall revoke the license of a licensee as a result of any of the following events during the period for which the license was issued:
(1) The licensee has been convicted of multiple violations of the terms of this title or the regulations issued under this title and the penalties set forth in Chapter 8 or established by the Board require revocation;
(2) The licensee has knowingly permitted, in the licensed establishment (A) the illegal sale, or negotiations for sale, or the use, of any controlled substance identified in the CSA, or (B) the possession or sale, or negotiations for sale, of drug paraphernalia in violation of the CSA or Chapter 11 of Title 48. Successive sales, or negotiations for sale, over a continuous period of time shall be deemed evidence of knowing permission; or
(3) The licensee has been convicted of a felony.

§ 25-823. Revocation or suspension for violations of this title or misuse of licensed premises.
The Board may fine, as set forth in the schedule of civil penalties established under § 25-830, and suspend, or revoke the license of any licensee during the license period if:
(1) The licensee violates any of the provisions of this title, the regulations promulgated under this title, or any other laws of the District, including the District's curfew law;
(2) The licensee allows the licensed establishment to be used for any unlawful or disorderly purpose;
(3) The licensee fails to superintend in person, or through a manager approved by the Board, the business for which the license was issued;
(4) The licensee allows its employees or agents to engage in prostitution, as defined under § 22-2701.01(1), or engage in sexual acts or sexual contact, as defined under § 22-3001, at the licensed establishment;
(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 settlement agreement, security plan, or Board order.

§ 25-824. Revocation when wholesale or retail licensee is subject to undue influence by manufacturer.
(a) If a manufacturer of alcoholic beverages, whether licensed by this title or not, shall have such a substantial interest, whether direct or indirect, in the business of a wholesale or retail licensee or in the premises on which the licensee's business is conducted as, in the judgment of the Board, may tend to influence the licensee to purchase alcoholic beverages from the manufacturer, the Board may revoke the license of the licensee.
(b) This section shall not apply to the wholesale license held by a person not licensed as a manufacturer in the District owning an establishment for the manufacture of alcoholic beverages outside of the District.

§ 25-825. Revocation when retail licensee is subject to undue interest by wholesaler.

If a wholesaler of alcoholic beverages, whether licensed under this title or not, shall have such a substantial interest, whether direct or indirect, in the business of any retail licensee or in the premises on which the licensee's business is conducted as may tend to influence the licensee to purchase beverages from the wholesaler, the Board may revoke the license of the licensee.

§ 25-826. Summary revocation or suspension.
(a) If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District.
(b) The Board, after investigation, may summarily revoke, suspend, fine, or restrict the license of a licensee whose establishment has been the scene of an assault on a police officer, government inspector or investigator, or other governmental official, who was acting in his or her official capacity, when such assault occurred by patrons who were within 1,000 feet of the establishment.
(c) A licensee may request a hearing within 72 hours after service of notice of the summary revocation, suspension, fine, or restriction of a license. The Board shall hold a hearing within 48 hours of receipt of a timely request and shall issue a decision within 72 hours after the hearing.
(d) A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2.

§ 25-827. Request for suspension or revocation of license by Chief of Police.
(a) The Chief of Police may request the suspension or revocation of a license if the Chief of Police determines that there is a correlation between increased incidents of crime within 1,000 feet of the establishment and the operation of the establishment. The determination shall be based on objective criteria, including incident reports, arrests, and reported crime, occurring within the preceding 18 months and within 1,000 feet of the establishment.
(b) The Chief of Police may close an establishment for up to 96 hours, subject to a hearing and disposition by the Board under § 25-826 if he or she finds that:

(1) There is an additional imminent danger to the health and welfare of the public by not doing so; and

(2) There is no immediately available measure to ameliorate the finding in paragraph (1) of this subsection.

(c) The order of the Chief of Police to close an establishment under subsection (b) of this section shall terminate upon the disposition by the Board of the matter under § 25-826.
(d) The Chief of Police may, without a hearing, summarily revoke, suspend, or restrict a licensee's privilege to extended hours of operation under subsection § 25-723(c), (d), and (e) if the licensee's operation presents a demonstrated danger to the health, safety, or welfare of the public. A licensee may seek review of the summary revocation, suspension, or restriction pursuant to § 25-826(c) and (d).

§ 25-828. Notice of suspension or revocation.
(a) If the Board orders the suspension or revocation of a license, the Board shall post a notice in a conspicuous place at or near the main street entrance of the outside of the establishment.
(b) The posted notice shall state that the license has been suspended, the period of the suspension, and that the suspension is ordered because of a violation of this title or of the regulations promulgated under this title.

(c) Any person willfully removing, obliterating, or defacing the notice shall be guilty of a violation of this chapter.

§ 25-829. Cease and desist orders.

(a) If the Board or the Mayor, after investigation but before a hearing, has cause to believe that a person is violating any provision of this title and the violation has caused, or may cause, immediate and irreparable harm to the public, the Board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) The alleged violator may, within 15 days after the service of the order, submit a written request to the Board to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the Board shall conduct a hearing in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2 and issue a decision within 90 days after the hearing.

(c)(1) The alleged violator may, within 10 days after the service of an order, submit a written request to the Board for an expedited hearing on the alleged violation.

(2) Upon receipt of a timely request for an expedited hearing, the Board shall conduct a hearing within 10 days after the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The Board shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made under subsections (b) and (c) of this section, the order of the Board or the Mayor shall be final.

(e) If, after a hearing, the Board determines that the alleged violator is not in violation of this title, the Board shall revoke the order.

(f) If a person fails to comply with a lawful order of the Board or the Mayor under this section, the Board may petition the Superior Court of the District of Columbia for an order compelling compliance or take any other action authorized by this subchapter.

§ 25-830. Civil penalties.

(a) Within 90 days after May 3, 2001, the Board shall submit proposed regulations setting forth a schedule of civil penalties ("schedule") for violations of this title to the Council for a 60-day period of review, including Saturdays, Sundays, holidays, and periods of Council recess. If the Council does not approve, in whole or in part, the proposed regulations by resolution with the 60-day review period, the regulations shall be deem disapproved. The schedule shall replace all civil penalties, except as expressly provided in this title.

(b) The schedule shall be prepared in accordance with the following provisions:

(1) The schedule shall contain 2 tiers that reflect the severity of the violation for which the penalty is imposed:

(A) The primary tier shall apply to more severe violations, including service to minors or violation of hours of sale or service of alcoholic beverages.

(B) The secondary tier shall apply to less severe violations, including the failure to post required signs.

(2) A subsequent violation in the same tier, whether a violation of the same provision or different one, shall be treated as a repeat violation for the purposes of imposing an increased penalty; provided, that all secondary tier infractions cited by ABRA investigators or

Metropolitan Police Department Officers, during a single investigation or inspection on a single day, shall be deemed to be one secondary tier violation for the purposes of determining repeat violations under this section.

(c)(1) For primary tier violations, the penalties shall be no less than the following:

(A) For the first violation, no less than $1,000;

(B) For the second violation within 2 years, no less than $2,000; and

(C) For the third violation within 3 years, no less than $4,000;

(2) A licensee who has been found in violation of no more than 3 secondary tier violations and who is subsequently found in violation of a primary tier violation shall be penalized according to a first primary tier violation.

(3) A licensee found in violation of a primary tier offense for the 4th time within 4 years shall have the license either revoked or fined no less than $30,000 and suspended for 30 consecutive days.

(4) A licensee found in violation of a primary tier offense for the 5th time within 4 years shall have the license revoked.

(d)(1) For secondary tier violations, the penalties shall be no less than the following:

(A) For the first violation, no less than $250.

(B) For the second violation within 2 years, no less than $500.

(C) For the third violation within 3 years, no less than $750.

(2) A licensee found in violation of a secondary tier violation for the fourth time within 4 years shall be penalized according to a first primary tier violation. Every subsequent secondary tier offense within 5 years of the first violation shall be fined according to the schedule for primary tier violations.

(e)(1) Except for an egregious violation as may be later defined by ABC rulemaking, no licensee shall be found to be in violation of a first-time violation of § 25-781 (sales to minors), unless the licensee has been given a written warning, or received a citation, for the violation, or had an enforcement proceeding before the Board, during the 4 years preceding the violation.

(2) A warning for a first-time violation of § 25-781 shall include a description of the violation. The Alcoholic Beverage Regulation Administration shall make available a schedule of fines that could be imposed upon subsequent violation. Within one year of [March 25, 2009], the Board shall submit a report on the status of the warning requirement for § 25-781 violations, including a statement on repeat offenders and subsequent fines or sanctions imposed. The provisions of paragraph (1) of this subsection, and the provisions of § 25-781(f) shall expire one year from [March 25, 2009], unless the Board finds each of the following:

(A) That the warning requirement was effective in correcting behavior that was the subject of the warning for those licensees; and

(B) That the warning requirement contributed to the overall prevention of sales to minors in the District of Columbia.

(3)(A) Within 60 days of [March 25, 2009], the Board shall issue proposed regulations for a comprehensive warning and violation structure, which shall include recommendations on which violations of the act or regulations shall require a warning for a first-time violation prior to penalty.

(B) Proposed rules under this subsection shall be submitted to the Council for a 30-day period of review. The Council may approve these proposed regulations, in whole or in part, by resolution. If the Council has not approved the regulations upon expiration of the 30-day review period, the regulations shall be deemed disapproved.

(f) The Board or the Council may amend the schedule. An amendment by the Board shall be submitted to the Council for its approval in accordance with subsection (a) of this section. The Board may fine for a violation not listed on the schedule consistent with the primary tier violation penalties set forth in subsection (c)(1) of this section.
(g) The schedule and any amendments to the schedule shall be published in the District of Columbia Register and promulgated by the procedure adopted under § 25-211(e).
(h) Penalties or fines assessed under this chapter shall be credited to the General Fund of the District of Columbia.
(i) It shall be a primary tier violation for a licensee to sell or serve alcohol on a suspended or expired license or a license held in safekeeping.
(j) It shall be a primary tier violation for a licensee to fail to comply with either of the statutory food requirements in § 25-113(b)(3)(B).

§ 25-831. Penalty for violation where no specific penalty provided; additional penalty for failure to perform certain required acts.
(a) A person who violates any of the provisions of this title, or regulations under this title, for which no specific penalty is provided shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than the amount set forth in [§ 22-3571.01], or imprisoned for not more than one year, or both.
(b) Any person required to file a return or report or perform any act under the provisions of this title who willfully fails or refuses to file the return or report or perform the act within the time required shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than the amount set forth in [§ 22-3571.01], or imprisoned for not more than 3 years, or both. The penalty provided herein shall be in addition to other penalties provided by this title.
(c) Violations of this section which are misdemeanors shall be prosecuted on information filed in the Superior Court of the District of Columbia by the Corporation Counsel. Violations of this subsection which are felonies shall be prosecuted by the United States Attorney for the District of Columbia.
(d) A civil fine may be imposed as an alternative sanction for any violation of this title for which no specific penalty is provided, or any rules or regulations issued under the authority of this title, under Chapter 18 of Title 2. Adjudication of an infraction of this chapter shall be under Chapter 18 of Title 2.

§ 25-832 Prompt notice of investigative reports.
(a) ABRA shall provide a licensee with either an investigative report or a public police incident report that may result in a show cause hearing as set forth in § 25-447 within 90 days of the date upon which the incident occurred.
(b) The requirement in subsection (a) of this section shall not apply where:
(1) Criminal action is being considered against the licensee or its employees; or
(2) Enforcement action is requested by the Chief of Police under § 25-827.

CHAPTER 9. TAXES.

25-901. Taxes to be levied, collected, and paid on alcoholic beverages except beer.
25-902. Taxes to be levied, collected, and paid on beer.
25-903. Collection of tax.

25-904. Importation permit and tax requirements.
25-905. Common carrier licenses and tax requirements.
25-906. Exemption from tax.
25-907. Mayor's responsibility in determining, redetermining, assessing, or reassessing any tax.
25-908. Collection of tax by OTR Director.
25-909. Refund of tax erroneously or illegally collected.
25-910. Judicial review of tax determination or denial of refund claim.
25-911. Seizure and forfeiture of alcoholic beverages and vehicles for which taxes have not been paid.

§ 25-901. Taxes to be levied, collected, and paid on alcoholic beverages except beer.
There shall be levied, collected, and paid on all of the following alcoholic beverages (1) manufactured by the licensee under a manufacturer's license, (2) imported or brought into the District by a licensee under a wholesaler's license, except alcoholic beverages 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 title, and (3) imported or brought into the District by a licensee under a retailer's license, a tax at the following rates to be paid by the licensee in the manner hereinafter provided:
(A) A tax of $.30 on every wine-gallon of wine containing 14% or less of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at the same rate on all fractional parts of such gallon;
(B) A tax of $.40 on every wine-gallon of wine containing more than 14% of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at the same rate on all fractional parts of such gallon;
(C) A tax of $.45 on every wine-gallon of champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at the same rate on all fractional parts of such gallon;
(D) A tax of $1.50 on every wine-gallon of spirits, and a proportionate tax at the same rate on all fractional parts of such gallon; and
(E) A tax of $1.50 on every wine-gallon of all other alcoholic beverages, and a proportionate tax at the same rate on all fractional parts of such gallon.

§ 25-902. Taxes to be levied, collected, and paid on beer.
(a) There shall be levied, collected, and paid a tax of $2.79 on every barrel of beer containing not more than 31 gallons, and at the same rate for any other quantity or for the fractional parts thereof, on all beer that is:

(1) Sold by the licensee under a manufacturer's or wholesaler's license, except beer as (A) may have been purchased from a licensee under this title, or (B) may be sold to a dealer licensed under the laws of any state or territory of the United States and not licensed under this title;
(2) Purchased for resale by the licensee under a retailer's license, except beer as may have been purchased from a licensee under this title; or
(3) Brewed or produced by the licensee under a brew pub permit and transferred for consumption at the licensee's restaurant or tavern.

(b)(1) Taxes shall be determined before the beer is dispensed into a container for consumption. A licensee under a brew pub permit shall have a suitable method for measuring the volume of beer, such as a meter or gauge glass.

(2) If the licensee under a brew pub permit uses one or more tanks for tax determination:

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

(B) The licensee under a brew pub permit may never simultaneously pump into and out of a tax-determination tank.

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

§ 25-903. Collection of tax.

(a) Taxes on alcoholic beverages shall be collected by, and paid to, the Deputy Chief Financial Officer for Tax and Revenue of the Office of Tax and Revenue, or any successor ("OTR Director") and shall be deposited in the Treasury of the United States to the credit of the District.

(b) Each licensee identified in §§ 25-901 and 25-902 shall, before the 16th day of each month, furnish to the OTR Director, on a form to be prescribed by the OTR Director, a statement under oath showing the quantity of alcoholic beverage subject to taxation sold by the licensee during the preceding calendar month and shall, before the 16th day of each month, pay to the OTR Director the tax imposed thereon.

§ 25-904. Importation permit and tax requirements.

The Board shall not issue an importation permit until the taxes imposed by this chapter have been paid for the alcoholic beverages for which the permit is requested.

§ 25-905. Common carrier licenses and tax requirements.

(a) In the case of a passenger-carrying marine vessel operating in and beyond the District or a club car or a dining car on a railroad operating in and beyond the District for which a retailer's license has been issued under this title, the tax as specified in § 25-901 shall be paid on all taxable beverages as are sold and served by the licensee while passing through or when at rest in the District, in the following manner:

(1) A record shall be made and retained by the licensee of all alcoholic beverages sold and served in the District.

(2) Each licensee shall, before the 11th day of each month, file with the OTR Director, on a form to be prescribed by the OTR Director, a statement under oath, showing the quantity of each kind of alcoholic beverage, except beer and wine, sold under the license in the District during the preceding calendar month and shall pay the tax imposed thereon.

§ 25-906. Exemption from tax.

No tax shall be levied and collected on any alcoholic beverage exempt from tax under the laws of the United States, or on any alcohol sold for nonbeverage purposes by the licensee under a manufacturer's or wholesaler's license in accordance with the regulations promulgated by the Council.

§ 25-907. Mayor's responsibility in determining, redetermining, assessing, or reassessing any tax.

(a) The Mayor shall determine, redetermine, assess, or reassess any tax imposed under this chapter, as follows:

(1) In the case of a fraudulent return or a failure to file a return, whether in good faith or otherwise, the tax may be assessed at any time.

(2) If the tax is determined to be due from any person other than a licensee under this title, the tax may be assessed at any time.

(3) In the case of an incorrect return, the tax shall be assessed within 5 years after the filing of such return.

(4)(A) If a return required by this title is not filed, if the return, when filed, is incorrect or insufficient, or if the tax has been determined to be due from a licensee or any other person, the amount of tax due shall be determined by the Mayor from such information as may be obtainable.

(B) Notice of the determination shall be given to the licensee or any person required to file a return or pay the tax.

(C) The notice shall state that the licensee or other person shall have not less than 30 days after the notice is sent within which to file a protest with the Mayor and show cause or reason why the amount of tax determined to be due should not be paid.

(D) If a protest is not filed within the 30-day period, the tax due, as determined by the Mayor, shall be final.

(E) If a protest is filed within the 30-day period, a hearing shall be conducted by the Mayor, a final decision thereon shall be made, and notice of the decision and a statement of taxes determined to be due shall be sent by registered or certified mail to the last known address of the person liable for the payment of the tax.

(b)(1) A licensee or other person required to file a return or pay the tax, who fails to file the return, fails to file a correct return, or fails to pay the tax to the District within the time required by this chapter, shall be subject to (A) a penalty of 5% of the tax due for each month or fraction thereof that the failure continues, not to exceed 25% in the aggregate, plus (B) interest at the rate of 1 1/2% per month on the amount of the tax for each month or fraction thereof during which the failure continues.

(2) If the Mayor determines that the delay was due to reasonable cause, the Mayor may waive all or any part of the penalty, interest, or both.

(3) Unpaid penalty and interest shall be collected in the same manner as the tax imposed by this chapter.

(4) The penalty and interest provided for in this section shall be applicable to any tax determined as a deficiency.

(c) The tax imposed by this chapter, and interest and penalties thereon, shall become, from the time due and payable, a personal debt of the person liable to pay the same to the District. For the purposes of this subsection, the term “person” shall include any officer, and any employee or former employee, of a corporation responsible for the payment of the tax and any member or former member of a partnership, limited liability company, or association, and any employee or former employee, of a partnership, limited liability company, or association responsible for the payment of the tax.

§ 25-908. Collection of tax by OTR Director.

(a) The taxes imposed by this chapter and penalties and interest thereon shall be collected by the OTR Director in the manner provided by law for the collection of taxes due to the District on personal property in force at the time of such collection. The liens for the taxes imposed by this chapter and penalties and interest thereon may be acquired in the same manner that liens for personal property taxes are acquired.

(b) If the OTR Director believes that the collection of a tax imposed by this chapter will be jeopardized by delay, the OTR Director shall, whether or not the time otherwise prescribed by law

for filing the return or for paying the tax has expired, immediately assess the tax, plus all interest and penalties, the assessment of which is provided by law. The tax, penalties, and interest shall be immediately due and payable and immediate notice and demand shall be made by the OTR Director for payment.
(c) Upon failure or refusal to pay the tax, penalty, or interest, the OTR Director may collect the tax by distraint.

§ 25-909. Refund of tax erroneously or illegally collected.
(a) If any tax has been erroneously or illegally collected by the District, the tax shall be refunded if application under oath is filed with the OTR Director for such refund within 3 years from the payment of the tax.
(b) The application shall be made by the person upon whom the tax was imposed and who has actually paid the tax.
(c) Application for a refund under this section shall be deemed an application for a revision of tax, penalty, or interest and the OTR Director may receive evidence on the application. After making a determination of whether the refund shall be made, the OTR Director shall notify the applicant of the determination.

§ 25-910. Judicial review of tax determination or denial of refund claim.
A person aggrieved by a final determination of tax or by a denial of a claim for refund (other than a refund of tax finally determined in § 25-909) may, within 6 months from the date of assessment of the deficiency or from the date of the denial of a claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308.

§ 25-911. Seizure and forfeiture of alcoholic beverages and vehicles for which taxes have not been paid.
(a) Notwithstanding the provisions of § 25-803, if the taxes levied and imposed on alcoholic beverages by this chapter which have not been paid as required by this chapter, such alcoholic beverages shall be declared contraband goods and shall be forfeited to the District in accordance with the procedure set forth in this section. The Mayor may seize any such alcoholic beverages wherever they are found.
(b) If the Mayor has knowledge or reason to suspect that a vehicle is carrying alcoholic beverages or contains any alcoholic beverages in violation of the regulations contained in this title concerning the importation of alcoholic beverages, the Mayor may stop the vehicle and inspect it for alcoholic beverages on which the taxes levied and imposed by this chapter have not been paid. If such alcoholic beverages are found, the alcoholic beverages and the vehicle shall be declared contraband goods, shall be seized, and shall be forfeited to the District; provided, that the following vehicles shall not be subject to forfeiture under this section:

(1) A vehicle used by a person as a common carrier in the transaction of business as a common carrier, unless it appears that the owner or other person in charge of the vehicle was a consenting party or privy to the violation on account of which the vehicle was seized.
(2) A vehicle that is subject to seizure and forfeiture under this section by reason of an act committed or omission established by the owner thereof, which act was committed or omitted by any person other than the owner while the vehicle was unlawfully in the possession of a

person other than the owner, in violation of the criminal laws of the United States, the District, or any other state.

(c) All property which is seized under subsection (a) or (b) of this section shall be placed under seal or removed to a place designated by the Mayor. A libel action in the name of the District property shall be prosecuted against the property in the Superior Court of the District of Columbia by the Corporation Counsel. Unless good cause is shown to the contrary, the property shall be forfeited to the District.

(d) The property shall not be subject to replevin, but shall be deemed to be in the custody of the Mayor, subject only to the orders, decrees, and judgments of the court.

(e) Notwithstanding the provisions of this section, if the property is subject to seizure and forfeiture on account of failure to comply with the provisions of this title and the Mayor determines that the failure was excusable, the Mayor may return the property to the owner.

(f) If the Mayor determines that any property seized is liable to perish or become greatly reduced in price or value by keeping the property until the completion of forfeiture proceedings, the Mayor may:

(1) Appraise the property and return it to the owner thereof upon the payment of any tax due under this chapter and receipt of a satisfactory bond in an amount equal to the appraised value, which bond may be used to satisfy the final order, decree, or judgment of the court; or

(2) If the owner neglects or refuses to pay the tax and provide the bond, sell the property in the manner provided by the Mayor by regulation and pay the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, to the court to satisfy its final order, decree, or judgment.

(g) After the final order, decree, or judgment is made, forfeited property shall be sold in the same manner as personal property seized for the payment of District taxes. The proceeds of the sale shall be deposited in the General Fund of the District of Columbia. If there is a bona fide prior lien against the forfeited property, the proceeds of the sale of the property shall be applied in the following priority:

(1) the payment of any tax due under this chapter and all expenses incident to the seizure, forfeiture, and sale of the property;

(2) the payment of the lien; and

(3) the remainder shall be deposited with the D.C. Treasurer; provided, that no payment of a lien shall be made if the lienor was a consenting party or privy to the violation of this title for which the property was seized and forfeited. To the extent necessary, liens against forfeited property shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

CHAPTER 10. LIMITATIONS ON CONSUMERS.

25-1001. Drinking of alcoholic beverage in public place prohibited; intoxication prohibited.
25-1002. Purchase, possession or consumption by persons under 21; misrepresentation of age; penalties.
25-1003. Prohibition on beverage storage containers in the DC Arena.
25-1004. Repealed.
25-1005. Repealed.
25-1006. Repealed.
25-1007. Repealed.

25-1008. Repealed.
25-1009. Repealed.

§ 25-1001. Drinking of alcoholic beverage in public place prohibited; intoxication prohibited.
(a) Except as provided in subsections (b) and (c) of this section, no person in the District shall drink an alcoholic beverage or possess in an open container an alcoholic beverage in or upon any of the following places:

(1) A street, alley, park, sidewalk, or parking area;
(2) A vehicle in or upon any street, alley, park, or parking area;
(3) A premises not licensed under this title where food or nonalcoholic beverages are sold or entertainment is provided for compensation;
(4) Any place to which the public is invited and for which a license to sell alcoholic beverages has not been issued under this title;
(5) Any place to which the public is invited for which a license to sell alcoholic beverages has been issued under this title at a time when the sale of alcoholic beverages on the premises is prohibited by this title or by the regulations promulgated under this title; or
(6) Any place licensed under a club license at a time when the consumption of the alcoholic beverages on the premises is prohibited by this title or by regulations promulgated under this title.

(b) Subsection (a)(1) of this section shall not apply if drinking or possession of an alcoholic beverage occurs:

(1) In or on a structure which projects upon the parking, and which is an integral, structural part, of a private residence, such as a front porch, terrace, bay window, or vault; and
(2) By, or with the permission of, the owner or resident.

(c) No person, whether in or on public or private property, shall be intoxicated and endanger the safety of himself, herself, or any other person or property.
(d) Any person violating the provisions of subsection (a) or (c) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than the amount set forth in [§ 22-3571.01], or imprisoned for not more than 90 days, or both.
(e) Any person in the District who is intoxicated in public and who is not conducting himself or herself in such manner as to endanger the safety of himself, herself, or of any other person or of property shall be treated in accordance with Chapter 6 of Title 24.

§ 25-1002. Purchase, possession or consumption by persons under 21; misrepresentation of age; penalties.
(a) No person who is under 21 years of age shall purchase, attempt to purchase, possess, or drink an alcoholic beverage in the District, except as provided under subchapter IX of Chapter 7.
(b)(1) No person shall falsely represent his or her age, or possess or present as proof of age an identification document which is in any way fraudulent, for the purpose of purchasing, possessing, or drinking an alcoholic beverage in the District.

(2) No person shall present a fraudulent identification document for the purpose of entering an establishment possessing an on-premises retailer's license, an Arena C/X license, or a temporary license.
(3) For the purpose of determining valid representation of age, each person shall be required to present to the establishment owner or representative at least one form of valid identification,

which shall have been issued by an agency of government (local, state, federal, or foreign) and shall contain the name, date of birth, signature, and photograph of the individual.

(c)(1) Except as provided in paragraph (4)(D) of this subsection, any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine and suspension of driving privileges as follows:

(A) Upon the first violation, a fine of not more than $300 and suspension of driving privileges in the District for 90 consecutive days;

(B) Upon the second violation, a fine of not more than $600 and suspension of driving privileges in the District for 180 days; and

(C) Upon the third and each subsequent violation, a fine of not more than $1,000 and suspension of driving privileges in the District for one year.

(2) In lieu of proceeding to trial or disposition under paragraph (1) of this subsection, the Mayor shall offer persons who are arrested, or criminally charged by information, for a first or second violation of this section, the option of completing a diversion program authorized and approved by the Mayor. The Mayor shall determine the content of the diversion program, which may include community service and alcohol awareness and education. If the person rejects enrollment in, or fails to comply with the requirements of, or fails to complete within 6 months, the diversion program, he or she may continue to be prosecuted in accordance with paragraph (1) of this section. The Mayor, may, at his discretion, decline to offer diversion to any person who has previously been convicted of, any felony, misdemeanor, or other criminal offense.

(3) As a condition to acceptance into a diversion program, the Mayor may request that the person agree to pay the District, or its agents, a reasonable fee, as established by rule, for the costs to the District of the person's participation in the program; provided, that:

(A) The fee shall not unreasonably discourage persons from entering the diversion program; and

(B) The Mayor may reduce or waive the fee if the Mayor finds that the person is indigent.

(4)(A) Upon the expiration of 6 months following the date of a conviction or a dismissal of a proceeding, or upon the expiration of 6 months following the date of arrest if no information was filed, any person who was arrested for, or criminally charged by information with, any offense under this section may petition the court for an order expunging from the official records all records relating to the arrest, information, trial, conviction, or dismissal of the person; provided, that a nonpublic record shall be retained by the court and the Mayor solely for the purposes of conducting a criminal record check for persons applying for a position as a law enforcement officer or determining whether a person has previously received an expungement under this subsection.

(B) The court shall grant the petition described in subparagraph (A) of this paragraph if the petitioner has no pending charges for and has not been convicted of, any other felony, misdemeanor, or other criminal offense and if any fine imposed as a result of a conviction under this section has been paid; provided, that the court may grant the petition described in subparagraph (A) of this paragraph if, other than a conviction for a misdemeanor under this section, the petitioner has no pending charges for, and has not been convicted of, any felony, misdemeanor, or other criminal offense.

(C) Except as provided by this subsection, the effect of an expungement order shall be to lawfully restore the person receiving the expungement to the status he or she occupied before the arrest or information described in subparagraph (A) of this paragraph. No person for whom an expungement order permitted by this subsection has been entered may be held

thereafter, under any provision of law, to be guilty of perjury or otherwise giving a false statement by failing to recite or acknowledge such arrest, information, trial, conviction, or dismissal for which the order permitted by this paragraph has been entered. The expungement of such records shall not relieve the person of the obligation to disclose such arrest, information, trial, conviction, or dismissal in response to a direct questionnaire or application for a position as a law enforcement officer.

(D) No person under the age of 21 shall be criminally charged with the offense of possession or drinking an alcoholic beverage under this section, but shall be subject to civil penalties under subsection (e) of this section.

(6) Failure to pay the fines set forth in paragraph (1) of this subsection shall result in imprisonment for a period not exceeding 30 days.

(7) The Metropolitan Police Department may enforce provisions of this section by issuing to a person alleged to have violated this section a citation under § 23-1110(b)(1). The person shall not be eligible to forfeit collateral.

(d) Repealed.

(e)(1) In lieu of criminal prosecution as provided in subsection (c) of this section, a person who violates any provision of this section shall be subject to the following civil penalties:

(A) Upon the first violation, a fine of not more than $300 and the suspension of driving privileges in the District for 90 consecutive days;

(B) Upon the second violation, a fine of not more than $600 and the suspension of driving privileges in the District for 180 days; and

(C) Upon the third or subsequent violation, a fine of not more than $1,000 and the suspension of driving privileges in the District for one year.

(2) ABRA inspectors or officers of the Metropolitan Police Department may enforce the provisions of this subsection by issuing a notice of civil infraction for a violation of subsections (a) and (b) of this section in accordance with Chapter 18 of Title 2. A violation of this subsection shall be adjudicated under Chapter 18 of Title 2.

(3)(A) In lieu of or in addition to the civil penalties provided under paragraph (1) of this subsection, as a civil penalty, the Mayor may require any person who violates any provision of this section to complete a diversion program authorized and approved by the Mayor. The Mayor shall determine the content of the diversion program, which may include community service, and alcohol awareness and education.

(B) As a condition to acceptance into a diversion program, the Mayor may request that the person agree to pay the District, or its agents, a reasonable fee, as established by rule, for the costs to the District of the person's participation in the program; provided, that:

(i) The fee shall not unreasonably discourage persons from entering the diversion program; and

(ii) The Mayor may reduce or waive the fee if the Mayor finds that the person is indigent.

§ 25-1003. Prohibition on beverage storage containers in the DC Arena.

(a) No person shall bring, or have in his or her possession, anywhere on the premises of the DC Arena, including space referred to in section § 25-114, a container used to hold or store beverages or liquids of any kind, including bottles and cans.

(b) This section shall not apply to a person licensed by the Board to possess, sell, give away, transport, or store alcoholic beverages or containers on the premises of the DC Arena; to an

employee or agency acting for any such duly authorized or licensed person; or to a container provided on the premises of the DC Arena by the lessee or its concessionaires and tenants.

§ 25-1004. Prohibition on use of watercraft under certain conditions. [Repealed]

§ 25-1005. Prohibition on use of watercraft under certain conditions -- consent to testing. [Repealed]

§ 25-1006. Prohibition on use of watercraft under certain conditions -- preliminary testing; admissibility of test results. [Repealed]

§ 25-1007. Prohibition on use of watercraft under certain conditions -- penalties. [Repealed]

§ 25-1008. Prima facie evidence of intoxication. [Repealed]

§ 25-1009. Operation of locomotive, streetcar, elevator, or horse-drawn vehicle by intoxicated person prohibited. [Repealed]

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 23 ALCOHOLIC BEVERAGES

TITLE 23
ALCOHOLIC BEVERAGES

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CHAPTER 1. PROVISIONS OF GENERAL APPLICABILITY

100. Extension of Expiration Dates of Protested Licenses
101. Delineation of Geographic Boundaries
102. Computation of Time
199. Definitions

100. EXTENSION OF EXPIRATION DATES OF PROTESTED LICENSES

100.1 Licenses that have been made the subject of protest hearings shall be extended as provided by this section.

100.2 If the Board has not issued a decision on the matter, and the license has expired, the license shall continue in effect until such time as the Board has rendered a final decision.

100.3 In the case of protested applications for the renewal of a license and for transfer to a new owner, the license shall continue in effect until the Board has rendered a final decision.

100.4 In the case of protested applications for the renewal of a license and for transfer to a new location, the license shall continue in effect only for purposes of the original location, and operations at the new location shall be prohibited until the Board has rendered a final decision.

101. DELINEATION OF GEOGRAPHIC BOUNDARIES

101.1 In establishing a geographic boundary, including the designations of locality, section, or portion set forth in the Act or this title, the Board shall measure the specified distance in an arc from each corner of the building on which the licensed establishment is located, connecting the arcs by tangent lines.

101.2 In establishing the distance between one or more places, (such as the actual distance of one licensed establishment from another or the actual distance of a licensed establishment from a school), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

101.3 If a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.

102. COMPUTATION OF TIME

102.1 In computing any period of time specified in this title, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday, or day on which ABRA is officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which ABRA is not closed.

199. DEFINITIONS

199.1 When used in this title, the following terms and phrases shall have the meanings ascribed:

ABRA -- the Alcoholic Beverage Regulation Administration.

Act -- Title 25, D.C. Code Enactment and Related Amendments Act of 2001.

ANC -- an Advisory Neighborhood Commission.

Applicant -- a person who has made an application for licensure or for a permit, and who has an application pending before the Board.

Back-up drinks -- shall include second drinks served as part of a “two-for-one” promotion, second drinks served just prior to last call and second drinks provided complimentary by the licensee or purchased by other patrons. Except as provided in the preceding sentence, back-up drinks shall not include two different drinks served together such as a beer and a shot or any other industry drink that can be considered a shot and a mixer. The prohibition against back-up drinks shall also not apply to the service of wine with a meal where the patron has not finished a previously served cocktail.

Board -- the Alcoholic Beverage Control Board.

Customer -- the event host who contracts for catering services.

Entertainment -- live music or any other live performance conducted by an actual person or persons, including but not limited to: live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The operation of a jukebox, a television, a radio, or other prerecorded music shall not be considered entertainment.

Fact-finding hearing -- a hearing held by the Board to obtain further information from an applicant in response to either (1) a licensing request or (2) an investigation conducted by ABRA.

Full-service grocery store --

(A) A self-service retail establishment independently owned or part of a corporation operating a chain of retail establishments under the same trade name that:

(i) Is licensed as a grocery store under § 47-2827; and

(ii) Offers for sale a full line of food products that includes at least six (6) of the seven (7) following food categories:

(a) Fresh fruits and vegetables,

(b) Fresh and uncooked meats, poultry and seafood;

(c) Dairy products;

(d) Canned foods;

(e) Frozen foods;

(f) Dry groceries and baked goods; and

(g) Non-alcoholic beverages.

(B) A “full-service grocery store” in subparagraph (A) may include related service departments, such as a bakery, pharmacy, or flower shop, as well as departments that offer household products and sundries.

(C) A retail establishment shall meet the primary business and purpose standard described in Title 25 of the D.C. Official Code if (1) a minimum of fifty percent (50%) of the store's square feet of selling area is dedicated to the sale of the food categories listed in (A)(ii) above; or (2) a minimum of six thousand (6,000) square feet of the store's selling area is dedicated to the sale of the food categories listed in (A)(ii) above.

(D) A retail establishment that meets either standard set forth in subparagraph (C) must also dedicate a minimum of five percent (5%) of the store's selling area set aside for the sale of food items listed in subparagraph (A) to each of six (6) of the seven (7) food categories listed in subsection (A)(ii).

(E) The term “selling area” means the area in a retail establishment that is open to the public and does not include storage areas, preparation areas, or rest rooms.

(F) The definition of “full-service grocery store” contained in this subsection shall apply to license applications being considered by the Board for approval on or after January 14, 2013.

Letter of information -- a written request from the Board for further factual information in response to a request for an advisory opinion.

Licensure period -- the period of time between the authorized beginning and expiration dates for each license.

Menu -- any presentation, whether written, spoken, or visual, of food offerings regularly available in a restaurant.

OTR -- Office of Tax and Revenue

Placards -- written notices posted at an establishment for the purpose of notifying the public of action involving a license.

Primary American source -- the manufacturer, distiller, rectifier, vintner or importer of the brand of alcoholic beverages at the time that the beverage became a marketable product in the United States, or its duly authorized agent.

Problem event -- disruptive activity or conduct at a catered location that adversely affects one or more of the appropriateness standards set forth in D.C. Official Code § 25-313.

Roll call hearing -- the proceeding specified in a placard posted at an applicant's premises. It is at this hearing that the applicant and the protestant(s) are introduced to each other and to the Board and where the grounds for objection to the license application are read to the public.

Safekeeping hearing -- proceeding held by the Board to determine whether reasonable cause exists to extend the period that a license is held in safekeeping with the Board or whether the license should be cancelled by the Board.

Stipulated license -- a temporary license issued to an applicant who has received a written letter of support from the ANC where the establishment is located that complies with the Board procedures set forth in § 200.1. This type of license shall be issued to the applicant only after the time that placards have been posted by the establishment and shall expire when the applicant receives a permanent license or is protested by an entity with standing under D.C. Official Code § 25-601, whichever comes first.

Status hearing -- the proceeding where the parties inform the Board of their progress in attempting to resolve the contested case through informal negotiations. It is at this hearing where the parties can request the Board to schedule the contested case for an official settlement conference or a protest hearing.

Title -- Title 23 of the District of Columbia Municipal Regulations.

CHAPTER 2. LICENSE AND PERMIT CATEGORIES

200. Stipulated Licenses
201. Auction Permit
202. Nonprofit Corporation Auction Permit
203. Wine and Beer Purchasing Permit
204. Disposal Permit
205. Storage Facility Permit and Off-Premises Storage Permit
206. Special Licensing Provisions
207. Licensure Periods
208. License Fees
209. Permit and Endorsement Fees
210. Application Fees
211. Alcohol Certification Provider Permit
212. Manager Certification
213. Exemption from Licensing Requirement
214. Notice to Advisory Neighborhood Commissions

200. STIPULATED LICENSES

200.1 The ABC Board will permit an applicant who has submitted a completed license application involving a Manufacturer's license, Wholesaler's license, or Retailer's license to apply for a stipulated license under the following conditions:

(a) The applicant must be applying for or must hold a Manufacturer's license, Wholesaler's license, or Retailer's license; and

(b) The applicant must submit to the ABC Board written correspondence from an ANC Officer where the applicant's premises is located stating that the ANC has voted with a quorum present to either support or not to object to the issuance of a stipulated license to the applicant pending completion of the 45-day protest period; and

(c) The applicant must stop serving or selling alcoholic beverages under the stipulated license if a valid protest is filed against the applicant during the 45-day protest period.

200.2 The holder of a Retailer's license Class C or Class D may also apply to the Board for stipulated approval under the procedures of § 200.1 for any amendment to its license that is determined by the

Board to be a substantial change, including a stipulated sidewalk café, summer garden, or entertainment endorsement.

201. AUCTION PERMIT

201.1 There shall be two types of auction permits under this section. A public auction permit shall authorize either (1) a licensee who is going out of business or had its license not renewed or revoked, or (2) the licensee's successor, to auction alcoholic beverages for sale at the Board approved location that may be taken off the premises by the purchasing party. A personal auction permit shall authorize the holder of the permit to auction off for sale the personal alcoholic beverage stock of an individual or his or her estate at the Board approved location that may be taken off the premises by the purchasing party. A personal auction permit to sell alcoholic beverages at an estate sale may be obtained by either an off-premises retailer or wholesaler licensed to carry the products being sold or an individual or corporate entity without an ABC license. However, a personal auction permit to sell an individual's own private alcoholic beverage stock not related to an estate sale must be obtained by an off-premises retailer or wholesaler licensed to carry the products being sold.

201.2 Any purchased barrel, keg, sealed bottle, or other closed container purchased at auction shall not be opened, or the contents consumed, at the approved location.

201.3 An auction permit shall not be issued for more than two (2) consecutive days.

201.4 An auction permit shall not be issued more than once a year to an individual or corporate entity that does not hold an ABC license.

202. NONPROFIT CORPORATION AUCTION PERMIT

202.1 A nonprofit corporation auction permit shall allow the retail sale of wine at auction, provided the auction is held as part of a fundraising event to benefit the organization's tax exempt activities. Each permit shall allow the sale of wine at a single auction only. A maximum of two such permits shall be issued to each non-profit corporation in any calendar year.

202.2 Alcoholic beverages sold at auction must be purchased or donated from or through the holder of a Wholesaler's or Retailer's license.

202.3 A nonprofit corporation auction permit may be issued in conjunction with a Temporary license. However, wine purchased at auction shall not be opened, or the contents consumed, at the approved location.

203. WINE AND BEER PURCHASING PERMIT

203.1 A wine and beer purchasing permit shall allow the holder of a Retailer's A, Class B, brew pub, or wine pub license to sell wine and/or beer to the public at the premises of a Temporary or a Retailer's Class C or Class D license holder.

203.2 Beer or wine that is purchased at the authorized location from the Class A, Class B, brew pub, or wine pub licensee under the wine and beer purchasing permit shall not be opened or consumed at the authorized location.

203.3 A District off-premises retailer, brew pub, or wine pub authorized to sell containers of beer or wine at the authorized location may remove closed containers of beer and/or wine from the authorized premises but shall not be permitted to remove opened containers of beer and/or wine from the authorized premises. This subsection also applies to customers who purchase or receive alcoholic beverages at the authorized location.

203.4 A wine and beer purchasing permit shall not be issued for more than four (4) consecutive days.

204. DISPOSAL PERMIT

204.1 A disposal permit shall allow the holder of a Retailer's license who (1) has had its license revoked or (2) is going out of business to sell and transport its remaining alcoholic beverages to other District retailers or wholesalers. The permit application shall specify the purchaser(s) and quantity and brand name of the alcoholic beverages sold.

204.2 Alcoholic beverages sold under this permit must be delivered to either the establishment of the purchasing licensee or another location in the District approved by the Board.

204.3 A disposal permit shall expire after thirty (30) days.

205. STORAGE FACILITY PERMIT AND OFF-PREMISES STORAGE PERMIT

205.1 A storage facility permit shall allow the holder to establish a bonded warehouse in the District of Columbia for the storage of alcoholic beverages by the holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license who possesses an off-premises storage permit or for the accounts of other persons.

205.2 The holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license shall obtain an off-premises storage permit to store alcoholic beverages at a storage facility approved by the Board.

205.3 The holder of a storage facility permit shall allow for the transportation of alcoholic beverages into the District of Columbia pursuant to § 1303 by the holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license who possesses an off-premises storage permit or for the accounts of others.

205.4 Delivery of alcoholic beverages to a Board approved storage facility shall create a bailment in favor of the holder of a storage facility permit.

205.5 The sale, service, or consumption of alcoholic beverages at a storage facility permit location shall be prohibited.

205.6 The holder of a storage facility permit shall maintain records that identify the kind and quantity of alcoholic beverages being stored at the facility.

205.7 The ABC Board shall have the right to inspect the warehouse of a storage facility permit holder as it may deem necessary for the proper regulation of the storage of alcoholic beverages.

206. SPECIAL LICENSING PROVISIONS

206.1 No holder of a Retailer's license Class C or Class D shall sell or serve alcoholic beverages in closed containers, with the following exceptions:

(a) Class CH and Class DH Hotels may sell and serve alcoholic beverages in closed containers in the private rooms of their registered guests; and

(b) Class CX and DX Clubs may sell and serve alcoholic beverages in closed containers in any room or area available only to bona fide members of the club or their guests.

206.2 A Retailer's license Class DR or DT may be issued to a restaurant or delicatessen that is located within a pavilion, shopping mall, or shopping center. In this case, patrons of the restaurant or delicatessen shall use the same common dining area within the pavilion, shopping mall or shopping center, and the common dining area must be approved by the Board. The restaurant or delicatessen may sell only beer or light wine. Beer or wine in open containers shall be clearly identifiable with the business where purchased.

206.3 The Board shall not grant a Retailer's license Class CN or DN to a hotel, unless the hotel holds a license of a corresponding class, that is, a Retailer's license CH or DH.

206.4 Nothing shall preclude the holder of a Retailer's license Class A or Class B from having tables provided that alcoholic beverages are not opened or consumed on the licensed premises. The holder of a Retailer's license Class A or Class B must state its intention to have tables on the ABC license application.

206.5 Nothing shall preclude the holder of a Retailer's license Class B issued pursuant to the provisions of D.C. Official Code § 25-303(c), who is also the holder of a Retailer's license Class CR or DR, from selling or serving wine, beer, or spirits for consumption on premises.

207. LICENSURE PERIODS.

207.1 Each license issued by the Board shall be valid for three (3) years, except in the following circumstances:

(a) When suspended or revoked;

(b) In the case of Temporary licenses;

(c) When the license takes effect on a date in between the dates established by the Board for the

regular licensure period of each license class, in which case the license shall be valid only until the end of the licensure period; and

(d) In the case of Stipulated licenses.

207.2 The three year renewal period for each license listed below shall occur sequentially every three years starting with the following dates:

License Class	Licensure Period	Ending Year
Manufacturer A	Apr. 1 to Mar. 31	2009
Wholesaler A	Apr. 1 to Mar. 31	2009
Retailer A	Apr. 1 to Mar. 31	2009
Manufacturer B	Apr. 1 to Mar 31	2011
Wholesaler B	Oct. 1 to Sept. 30	2011
Retailer B	Oct. 1 to Sept. 30	2011
Retailer CR	Apr. 1 to Mar. 31	2010
Retailer CT	Oct. 1 to Sept. 30	2010
Retailer CN	Oct. 1 to Sept. 30	2010
Retailer CH	Apr. 1 to Mar. 31	2010
Multipurpose facility CX	Apr. 1 to Mar. 31	2010
Common Carrier CX	Apr. 1 to Mar 31	2010
Retailer Arena CX	Apr. 1 to Mar 31	2010
Retailer DR	Apr. 1 to Mar. 31	2010
Retailer DT	Oct. 1 to Sept. 30	2010
Retailer DN	Oct. 1 to Sept. 30	2010
Retailer DH	Apr. 1 to Mar. 31	2010
Multipurpose facility DX	Apr. 1 to Mar. 31	2010
Common carrier DX	Apr. 1 to Mar 31	2010
Caterer	Apr. 1 to Mar 31	2010
Solicitor	July 1 to June 30	2011
Club CX	Apr. 1 to Mar 31	2010
Club DX	Apr. 1 to Mar 31	2010
Farm winery retail	Oct. 1 to Sept. 30	2009

208. LICENSE FEES.

208.1 All license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA. Applicants and licensees shall pay the annual fees specified by the Board in the following manner:

(a) The fee for the first year shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied; and

(b) The fees for the second and third year shall be paid no later than one (1) and two (2) years,

respectively, from the date of the issuance of the license; provided, that a licensee may pay the second and third year fees when the first year fee is paid. The payment of the second and third year license fees shall not require the filing of a clean-hands certificate by the applicant.

208.2 The Board may impose a late fee upon a licensee for failure to timely remit the second or third year fee, or the renewal fee, in the amount of fifty dollars ($ 50) for each day after the due date of payment. The total amount of the late fee to be paid to ABRA shall not exceed the annual cost of the license. The Board may suspend a license until the licensee pays the second or third year fee and any additional fee imposed by the Board for late payment. A licensee who has not renewed timely shall not be permitted to sell or serve alcoholic beverages with an expired license.

208.3 The Board may suspend a license, permit, or endorsement where payment was made by the applicant to ABRA with a check returned unpaid. The applicant, in addition to any late fees imposed by the Board pursuant to § 208.2, shall also be charged by ABRA with a one hundred dollar ($ 100) returned check fee.

208.4 The annual fees for a Manufacturer's license Class A shall be as follows:

(a) Rectifying Plant $ 6,000;

(b) Distillery $ 6,000;

(c) Distillery selling more than fifty percent (50%) of alcohol for non-beverage purposes $ 3,000; and

(d) Winery $ 1,500.

208.5 The annual fee for a Manufacturer's license Class B (brewery) shall be five thousand dollars ($ 5,000).

208.6 The annual fee for a Wholesaler's license Class A shall be five thousand two hundred dollars ($ 5,200).

208.7 The annual fee for a Wholesaler's license Class B shall be two thousand six hundred dollars ($ 2,600).

208.8 The annual fee for a Retailer's license Class A shall be two thousand six hundred dollars ($ 2,600).

208.9 The annual fee for a Retailer's license Class B shall be one thousand three hundred dollars ($ 1,300).

208.10 The annual license fees for all Class C licenses, except the Washington Convention Center and the DC Arena, shall be based on its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time The holder of a Class C license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both

its initial and renewal license applications. The annual license fees are as follows:

Class	Capacity	Fee
CR restaurant	99 or fewer	$ 1,000
CR restaurant	100 to 199	$ 1,300
CR restaurant	200 to 499	$ 1,950
CR restaurant	500 or more	$ 2,600
CT tavern	99 or fewer	$ 1,300
CT tavern	100 to 199	$ 2,080
CT tavern	200 or more	$ 3,120
CN nightclub	99 or fewer	$ 1,950
CN nightclub	100 to 199	$ 2,600
CN nightclub	200 to 499	$ 3,250
CN nightclub	500 to 999	$ 4,550
CN nightclub	1,000 or more	$ 5,850
CH hotel	99 or fewer guest rooms	$ 2,600
CH hotel	100 or more guest rooms	$ 5,200
CX club		$ 1,950
CX multipurpose facility		$ 1,950
CX marine vessel, single vessel		$ 1,950
CX marine vessel line, for 3 or fewer vessels and dockside waiting areas		$ 3,250
For each additional vessel or dockside waiting area		$ 1,950
CX railroad dining or club car, single car		$ 650
CX railroad company, all dining or club cars		$ 1,950

208.11 The annual license fees for all Class D licenses, except the Washington Convention Center and the DC Arena, shall be based on its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time. The holder of a Class D license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both its initial and renewal license applications. The annual license fees are as follows:

Class	Capacity	Fee
DR restaurant	99 or fewer	$ 600
DR restaurant	100 to 199	$ 780
DR restaurant	200 to 499	$ 1,170
DR restaurant	500 or more	$ 1,560
DT tavern	99 or fewer	$ 1,000
DT tavern	100 to 199	$ 1,300
DT tavern	200 or more	$ 1,950
DN nightclub	99 or fewer	$ 1,300
DN nightclub	100 to 199	$ 1,625
DN nightclub	200 to 499	$ 1,950
DN nightclub	500 to 999	$ 2,600
DN nightclub	1,000 or more	$ 4,550

Class	Capacity	Fee
DH hotel	99 or fewer guest rooms	$ 1,300
DH hotel	100 or more guest rooms	$ 2,600
DX club		$ 650
DX multipurpose facility		$ 650
DX marine vessel, single vessel		$ 975
DX marine vessel line, for 3 or fewer vessels and dockside waiting areas		$ 1,300
For each additional vessel or dockside waiting area		$ 650
DX railroad dining or club car, single car		$ 325
DX railroad company, all dining or club cars		$ 650

208.12 The daily fee for a Temporary license Class F shall be one hundred and thirty dollars ($ 130).

208.13 The daily fee for a Temporary license Class G shall be three hundred dollars ($ 300).

208.14 The annual fee for each Solicitor's license shall be three hundred and twenty five dollars ($ 325).

208.15 The annual fee for a Manager's license shall be one hundred and thirty dollars ($ 130).

208.16 The annual fee for the Retailer's license Class CX (multipurpose facility license) for the Washington Convention Center shall be ten thousand dollars ($ 10,000).

208.17 The annual fee for the Retailer's license Class Arena CX (multipurpose facility license) shall be ten thousand dollars ($ 10,000).

208.18 The annual license fee for a Catering License shall be based on the caterer's annual revenue for the previous year as follows:

Class	Gross Annual Revenue	Fee
Caterer	More than $ 1,000,000 per year gross annual revenue	$ 5,000
Caterer	$ 1,000,000 or less per year gross annual revenue	$ 4,000
Caterer	$ 500,000 or less per year gross annual revenue	$ 3,000
Caterer	$ 300,000 or less per year gross annual revenue	$ 2,000
Caterer	$ 200,000 or less per year gross annual revenue	$ 1,500
Caterer	$ 100,000 or less per year gross annual revenue	$ 1,000
Caterer	$ 50,000 or less per year gross annual revenue	$ 750
Caterer	$ 25,000 or less per year gross annual revenue	$ 500

208.19 For purposes of determining the catering fee set forth in § 208.18, the applicant, as part of its submitted application, shall provide the Board with a signed affidavit on a form provided by ABRA, which shall include a statement of the applicant's annual gross revenue from catering for the previous

year, as well as any additional supporting documentation necessary to verify the statement of the applicant. The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, and/or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

208.20 The fee for a duplicate license or replacement of a lost license shall be ten dollars ($ 10).

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

209. PERMIT AND ENDORSEMENT FEES

209.1 The fee for each Importation permit shall be five dollars ($5).

209.2 The annual fee for a Tasting permit for Class A Retailer licensees shall be one hundred and thirty dollars ($130).

209.3 The annual fee for a Brew Pub permit shall be three thousand nine hundred dollars ($3,900).

209.4 The annual fee for a Storage Facility permit shall be three hundred dollars ($300).

209.5 The annual fee for an Off-Premises Storage permit shall be twenty five dollars ($25).

209.6 The fee for an amendment to a license which results in an inspection to the licensed premises shall be fifty dollars ($50).

209.7 The annual fee for a sidewalk café or summer garden endorsement shall be seventy five dollars ($75).

209.8 The annual fee for an entertainment endorsement shall be twenty percent (20%) of the base license fee.

209.9 The annual fee for a certification provider permit shall be one hundred dollars ($100).

209.10 The fee for a personal auction permit or a nonprofit corporation auction permit shall be thirty dollars ($30).

209.11 The fee for a wine and beer purchasing permit shall be thirty five dollars ($35).

209.12 The annual fee for a Wine Pub permit shall be five thousand dollars ($5,000).

210. APPLICATION FEES

210.1 The processing fee for the filing of a new license application, excluding manager and solicitor license applications, shall be seventy five dollars ($75).

210.2 The fee for transfer of a license to a new owner shall be two hundred and fifty dollars ($250).

210.3 The fee for transfer of a license to a new location shall be two hundred and fifty dollars ($250).

210.4 The fee for a change of officer, director, stockholder, or general or limited partner in a partnership shall be one hundred dollars ($100).

210.5 The fee for a corporate or trade name change shall be fifty dollars ($50).

210.6 The fee for keg registration shall be six dollars ($6) per keg registration book. A registration book shall be valid for the registration of ten (10) kegs.

210.7 The fee for a stipulated license shall be one hundred dollars ($100).

211. ALCOHOL CERTIFICATION PROVIDER PERMIT

211.1 A person or entity wishing to become an alcohol certification provider shall obtain an alcohol certification provider permit which shall allow the holder to provide an alcohol training and education certification program in the District of Columbia. For purposes of this section, an “alcohol certification provider” shall mean any person or entity approved by the Board to conduct an alcohol and education training program as set forth in § 211.2. An alcohol certification provider permit shall be valid for three years.

211.2 An alcohol certification provider shall include the following subjects in its alcohol and education training program:

(a) Alcohol's effect on the body and behavior, especially as to driving ability;

(b) Recognizing the problem drinker;

(c) Intervention techniques, involving methods of dealing with the problem customer who has had or is approaching the point of having had too much to drink;

(d) Methods of recognizing and dealing with underage customers;

(e) Prevention techniques involving effective identification and carding procedures, and methods to reasonably regulate the service of alcoholic beverages to patrons;

(f) Explanation of the Title 25, D.C. Code Enactment and Related Amendments Act of 2001 and this title;

(g) Advertising, promotion, and marketing of alcoholic beverages; and

(h) Explanation that alcoholism is a chronic, progressive disease and that treatment is available through clinical providers and mutual support groups.

211.3 Independent contractors, private individuals, or educational institutions which seek approval to provide alcoholic beverage server training shall proceed as follows:

(a) Submit a letter of intent to the ABRA Director which must include a copy of all training materials, curriculum, and examinations, along with the annual fee set forth in § 209.9 for the entire three-year permit period.

(b) The ABRA Director will schedule a presentation of the applicant's program for evaluation by the Enforcement Division of ABRA who will prepare a written evaluation report on the program's compliance with the training standards.

(c) Should the ABRA Director find that the applicant meets the requirements of this section, the application will then be placed before the Board for consideration at its next regularly scheduled meeting.

(d) The Board shall make the final determination as to the qualifications of the applicant and compliance of the applicant's program with § 211.2.

(e) Approval of an alcohol training and education program shall expire after three years from the date of the course obtaining approval. The applicant may resubmit a program to the Board for approval as part of its application to renew its certification provider permit.

211.4 A person or entity currently approved by the Board to conduct an alcohol training and education program shall also be required to apply for an alcohol certification provider permit.

212. MANAGER CERTIFICATION

212.1 An applicant for a Manager's license shall submit a copy of his or her certificate showing completion of an alcohol training and education program within the previous two years from a Board approved training provider with his or her Manager's license application.

212.2 An applicant for a Manager's license, who has been selected by a licensee to serve as a licensed manager pursuant to § 707, but who has not completed an alcohol training and education program may be issued a temporary Manager's license pursuant to § 707.10 by the Board for a period not to exceed 30 days upon the submission of a sworn affidavit from the applicant that he or she will complete an alcohol training and education program and submit a copy of his or her certificate within the 30-day period.

213. EXEMPTION FROM LICENSING REQUIREMENT

213.1 A license shall not be required for any event, closed to the public, where alcoholic beverages are provided gratuitously for on-premises consumption on the host's own premises. A license shall not be required if the operator of the premises does not provide services for the consumption of alcoholic beverages which are provided, gratuitously, to guests of a private function on the premises. Notwithstanding the foregoing, if the operator of the premises provides entertainment, food, or nonalcoholic beverages or rents out the facility for compensation, a license shall be required.

214. NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS

214.1 Notice required to be provided by the Board to each ANC office, ANC Chairperson, and ANC single member district Commissioner, shall be sent to the ANC address on file with the Board of Elections and Ethics.

CHAPTER 3. LIMITATIONS ON LICENSES

300. Limitation on the Number of Class A and B Number Retailer's Licenses
301. Limitation on the Distance Between Retailer's Licenses, Class A and Class B
302. Licenses New Schools, Colleges, Universities, and Recreation Areas
303. Moratorium Procedures
304. Adams Morgan Moratorium Zone
305. Georgetown Moratorium Zone
306. East DuPont Circle Moratorium Zone
307. West DuPont Circle Moratorium Zone
308. Glover Park Moratorium Zone
309. New Retailer's License Class B Moratorium
310. H Street Moratorium Zone (Expired)

300. LIMITATION ON THE NUMBER OF CLASS A AND CLASS B RETAILER'S LICENSES

300.1 The 250 quota limit set forth in D.C. Official Code § 25-331(a) shall not apply to Class A Retailer's license renewal applications.

300.2 The 300 quota limit set forth in D.C. Official Code § 25-331(b) shall not apply to Class B Retailer's license renewal applications.

300.3 Nothing in D.C. Official Code § 25-331 shall prohibit the issuance of a license for any place for which a Retailer's license Class A or Class B has been issued or may be issued, if the license is in effect on the date the application is filed.

300.4 Nothing in D.C. Official Code § 25-331 shall prohibit the issuance of a Retailer's license Class A or Class B to an applicant who was the holder of a license and who was required to close the business for which the license was issued and to surrender the license because the premises on which the business was conducted was acquired by the United States or the District of Columbia through eminent domain, threat of eminent domain, or rendered unfit for use by action over which the licensee had no effective control during the period of an officially declared emergency, if the application for the new license is made within three (3) years after the expiration date of the then currently valid license surrendered at the time of acquisition or of the closing of the business.

300.5 All holders of Class A and Class B Retailer's licenses covered under § 300.4 shall pay the annual license renewal fees set out in § 208.8 and § 208.9 respectively for each year or any portion of the year.

300.6 The Board may, for good cause shown, extend the three (3) year application period set out in § 300.4.

301. LIMITATION ON THE DISTANCE BETWEEN RETAILER'S LICENSES, CLASS A AND CLASS B

301.1 The four hundred foot (400 ft.) distance shall be measured in accordance with the provisions of § 101.2 of this title.

301.2 Nothing in D.C. Official Code § 25-333(a) shall be construed to prohibit the transfer by the same owner of a Retailer's license Class A to a new location that is located four hundred feet (400 ft.) or less from the original location and in an area zoned non-residential.

301.3 Nothing in D.C. Official Code § 25-333(b) shall be construed to prohibit the transfer by the same owner of a Retailer's license Class B to a new location that is located four hundred feet (400 ft.) or less from the original location and in an area zoned non-residential.

302. LICENSES NEAR SCHOOLS, COLLEGES, UNIVERSITIES, AND RECREATION AREAS

302.1 The four hundred foot (400 ft.) distance shall be measured in accordance with the provisions of § 101.2 of this title.

302.2 A license may be transferred, in the discretion of the Board, from one (1) place within the prohibited distance to another place within the same prohibited distance by the same establishment.

302.3 A license may be issued, in the discretion of the Board, for a place of business located within four hundred feet (400 ft.) of a college or university if the Board is satisfied that the college or university does not object to the granting of the license, as evidenced by a written statement to the Board from the proper governing body of the college or university. If the college or university is itself the holder of a license, it shall be deemed not to object to the issuance of a license for another place of business.

302.4 A license may be issued for any place within the prohibited distance of a recreation area operated by the D.C. Department of Parks and Recreation if one of the following is satisfied:

(a) At the time the recreation area was established at that location, there was a place of business holding a license of the same class as that applied for within four hundred feet (400 ft.) of the recreation area; or

(b) The Board is furnished a written statement by the Department of Parks and Recreation of the District of Columbia to the effect that it does not object to the granting of the license.

302.5 No alcoholic beverage shall be sold or served by a licensee upon any portion of any premises which fronts upon, abuts, adjoins, or is opposite to the premises of any of the institutions or recreation areas mentioned in this section unless that portion of the premises where alcoholic beverages are

served is within a building; provided, that the restriction of service within a building is not applicable to Class C or D licensees on non-school days, weekends, and after 6:00 p.m. on weekdays, allowing alcohol products to be served on licensed outdoor patios which are part of the licensee's premises.

302.6 The provisions of § 302.5 shall not apply to premises designated in a Temporary license Class F or G or catered by the holder of a Caterer's license.

302.7 The provisions of this section shall not apply where the main entrance to the college, university, or recreation area, or the nearest property line of the school, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.

302.8 The Board may issue a Retailer's license Class CR or DR for a restaurant within four hundred feet (400 ft.) of a public, private, or parochial private, elementary, middle school, junior high school, high school, or charter school if the following conditions are met:

(a) The restaurant is located entirely inside of a hotel, apartment house, club, or office building and no sign or display is visible from the outside of the building unless the Board specifically approves the outside sign or display;

(b) The Board of Education of the District of Columbia in the case of a public school, or the proper governing body of a private or parochial school, has been notified by the Board of the license application pursuant to D.C. Official Code § 25-421 and has submitted a written statement to the Board that it has no objection to the issuance of the license; and

(c) The Board of Education or governing body files no written objection to the license application during the protest period.

303. MORATORIUM PROCEDURES

303.1 Any Board decision to implement or not implement a moratorium pursuant to D.C. Official Code § 25-351 shall be accompanied by a statement in writing that sets forth the reasons for the Board's decision in response to a petition for a moratorium.

303.2 In addition to the notice requirements set forth in D.C. Official Code §§ 25-353 and 25-354, the Board shall notify all ABC license holders and Advisory Neighborhood Commissions located within the proposed moratorium area at least ten (10) calendar days prior to the public hearing date.

303.3 In requesting the renewal of an existing moratorium pursuant to D.C. Official Code § 25-352, the proponent(s) of a moratorium must establish to the Board that the present conditions in the moratorium area, based upon the appropriateness standards set forth in D.C. Official Code §§ 25-313 and 25-314, justify an extension of the moratorium.

304. ADAMS MORGAN MORATORIUM ZONE

304.1 No new Retailer's License Class CR, CN, CT, CX, DR, DN, DT, or DX shall be issued for a period of five (5) years from the effective date of this section in the area that extends approximately fourteen (1400) hundred feet in all directions from the intersection of 18th Street and Belmont Road, N.W., Washington D.C. This area shall be known as the Adams Morgan Moratorium Zone.

304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Vernon Street, NW ; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19th Street; Northwest on 19th Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 20th Street to Belmont Road; East on Belmont Road to 19th Street; Northwest on 19th Street to Biltmore Street; East on Biltmore Street to Cliffbourne Street; North on Cliffbourne Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Southeast on Adams Mill Road to Columbia Road; Northeast on Columbia Road to Ontario Road; South on Ontario Road to Euclid Street; East on Euclid Street to 17th Street; South on 17th Street to Kalorama Road; Southwest on Kalorama Road to Ontario Road; South on Ontario Road to Florida Avenue; Southwest on Florida Avenue to U Street; West on U Street (North side only); across 18th Street to the South corner of 18th and Vernon Streets, N.W., Washington D.C.

304.3 The following license classes shall be exempt from the Adams Morgan Moratorium Zone:

(a) All hotels, whether present or future; and

(b) Retailer's licenses Class A and B

304.4 The number of Retailer's licenses Class CT, CX, DT, or DX located within the Adams Morgan Moratorium Zone shall not exceed ten (10). The number of Retailer's licenses Class CN or DN shall not exceed zero (0). The holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone shall be prohibited from changing its license class except when the number of Retailer's licenses Class CT, CX, DT, or DX in the Adams Morgan Moratorium Zone is fewer than ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.

304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CN, CT, CX, DN, DT, and DX within the Adams Morgan Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

304.6 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Adams Morgan Moratorium Zone to a new location within the Adams Morgan Moratorium Zone.

304.7 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone, unless exempt by section 304.3.

304.8 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.

304.9 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

304.10 This section shall expire five (5) years after the date of publication of the notice of final rulemaking (expires April 16, 2014).

305. GEORGETOWN MORATORIUM ZONE

305.1 No retailer's licenses class CT, DT, CN, DN, or CX, shall be issued for a period of five (5) years after the effective date of this section in the Georgetown Moratorium Zone that extends approximately one thousand eight hundred (1800) feet in all directions from the intersection of Wisconsin Avenue and N Street, N.W., Washington, D.C. The number of class CR or DR retailer's licenses permitted in this area shall not exceed sixty-eight (68). The number of class DX retailer's licenses in this area shall not exceed one (1).

305.2 The Georgetown Moratorium Zone is more specifically described as the area bounded by a line beginning at the intersection of 33rd and Q Streets, N.W.; continuing east on Q Street, N.W. to Wisconsin Avenue, N.W.; continuing southeast on Wisconsin Avenue, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to 29th Street, N.W.; continuing south on 29th Street, N.W., to P Street, N.W.; continuing east on P Street, N.W., to 28th Street, N.W.; continuing south on 28th Street, N.W., to O Street, N.W.; continuing east on O Street, N.W., to 27th Street, N.W.; continuing south on 27th Street, N.W., to the northwest boundary of Rock Creek Park; continuing southwest along the northwest boundary of Rock Creek Park to the north bulkhead of the Potomac River; continuing west along the north bulkhead of the Potomac River to the Key Bridge; continuing north on the Key Bridge to M Street, N.W.; continuing West on M Street, N.W., to 36th Street, N.W.; continuing north on 36th Street, N.W., to O Street, N.W.; continuing east on O Street, N.W., to 35th Street, N.W.; continuing north on 35th Street, N.W., to P Street, N.W.; continuing east on P Street, N.W., to 34th Street, N.W.; continuing north on 34th Street, N.W., to Volta Place, N.W.; continuing east on Volta Place, N.W., to 33rd Street, N.W.; and continuing north on 33rd Street, N.W., to Q Street, N.W. (the beginning point).

305.3 The following establishments shall be exempt from the Georgetown Moratorium Zone:

(a) All hotels, whether present or future; and

(b) Establishments located in or to be located in Georgetown Park, Georgetown Park II, Prospect Place Mall, Georgetown Court, and Washington Harbor.

305.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Class C or D retailer's license within the Georgetown Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

305.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Georgetown Moratorium Zone to a new location within the Georgetown Moratorium Zone.

305.6 A license holder outside the Georgetown Moratorium Zone shall not be permitted to transfer its license to a location within the Georgetown Moratorium Zone.

305.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

305.8 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

305.9 This section shall expire five (5) years after the date of publication of the notice of final rulemaking (expires February 3, 2016).

306. EAST DUPONT CIRCLE MORATORIUM ZONE

306.1 A limit shall exist on the number of Retailer's licenses issued in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17th and Q Streets, N.W., Washington, D.C., as follows: Class A -- Two (2); Class B -- Two (2); Class CR or Class DR -- Sixteen (16); Class CT or Class DT -- Two (2); Class CN or DN -- Zero (0); and Class CX or Class DX -- Zero (0). This area shall be known as the East Dupont Circle Moratorium Zone.

306.2 The East Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at New Hampshire Avenue and S Street, N.W.; continuing east on S Street, N.W., to 17th Street, N.W.; continuing south on 17th Street, N.W., to Riggs Place, N.W.; continuing east on Riggs Place, N.W., to 16th Street, N.W.; continuing south on 16th Street, N.W., to P Street, N.W.; continuing west on P Street, N.W., to 18th Street, N.W.; continuing north on 18th Street, N.W., to New Hampshire Avenue, N.W.; and continuing northeast on New Hampshire Avenue, N.W. to S Street, N.W.

306.3 All hotels, whether present or future, shall be exempt from the East Dupont Circle Moratorium Zone.

306.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CR, CT, DR, or DT located within the East Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.

306.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the East Dupont Circle Moratorium Zone to a new location within the East Dupont Circle Moratorium Zone.

306.6 A license holder outside the East Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the East Dupont Circle Moratorium Zone unless the transfer

will not exceed the number of licenses permitted in the East Dupont Circle Moratorium Zone for that particular class or type, as set forth in Section 306.1.

306.7 Subject to the limitation set forth in Section 306.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.

306.8 No licensee in the East Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CT, DT, CN, or DN.

306.9 No more than four (4) lateral expansion applications shall be approved by the Board in the East Dupont Circle Moratorium Zone. If four (4) lateral expansion applications are approved by the Board, current holders of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless either: (a) the prior owner or occupant of the adjacent space, property, or lot held within the prior five (5) years a Retailer's license Class A, B, C, or D; or (b) the adjacent space, property, or lot had, for the prior five (5) years, a certificate of occupancy or building permit held in the name of the current holder of the Retailer's license Class A, B, C, or D seeking the lateral expansion. Nothing in this section shall prohibit holders of a Retailer's license Class C or D from applying for outdoor seating in public space.

306.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

307. WEST DUPONT CIRCLE MORATORIUM ZONE

307.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred feet (600 ft.) in all directions from the intersection of 21st and P Streets, N.W., Washington, D.C., as follows: Class A - Two (2); Class B - Three (3); Class CT or Class DT - Six (6); Class CN or DN - Zero (0); and Class CX or Class DX - Three (3). This area shall be known as the West Dupont Circle Moratorium Zone.

307.2 The West Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at 22nd Street and Florida Avenue, N.W.; continuing north on Florida Avenue, N.W., to R Street, N.W.; continuing east on R Street, N.W., to 21st Street, N.W.; continuing south on 21st Street, N.W., to Hillyer Place, N.W.; continuing east on Hillyer Place, N.W., to 20th Street, N.W.; continuing south on 20th Street, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to Connecticut Avenue, N.W.; continuing southeast on Connecticut Avenue, N.W., to Dupont Circle; continuing southwest around Dupont Circle to New Hampshire Avenue, N.W.; continuing southwest on New Hampshire Avenue, N.W., to N Street, N.W.; continuing west on N Street, N.W., to 22nd Street, N.W.; and continuing north on 22nd Street, N.W., to Florida Avenue, N.W. (the starting point).

307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, N.W., shall be exempt from the West Dupont Circle Moratorium Zone. Establishments located in, or to be located in, the New Hampshire side of One Dupont Circle, N.W., shall be exempt from the West Dupont Circle Moratorium Zone.

307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class A, B, CR, CT, CX, DR, DT, or DX located within the West Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.

307.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the West Dupont Circle Moratorium Zone to a new location within the West Dupont Circle Moratorium Zone.

307.6 A license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone unless the transfer will not exceed the number of licenses permitted in the West Dupont Circle Moratorium Zone for that particular class or sub-class, as set forth in subsection 307.1.

307.7 Subject to the limitation set forth in subsection 307.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.

307.8 No Class CR or Class DR licensee in the West Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CT, DT, CN, or DN, unless the class change will not exceed the number of licenses permitted in the West Dupont Circle Moratorium Zone for that particular class or sub-class, as set forth in subsection 307.1.

307.9 A current holder of a retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless:

(a) the prior owner or occupant has held within the last five (5) years a retailer's license Class A, B, C, or D; or

(b) the applicant is a Class CR or DR licensee and the prior owner or occupant has held during the last three (3) years, and continues to hold at the time of application, a valid restaurant license from the Department of Consumer and Regulatory Affairs.

307.10 The number of substantial change applications approved by the Board for expansion of service or sale of alcoholic beverages into an adjoining or adjacent space, property, or lot, as allowed under subsection 307.9, shall not exceed three (3) during the three (3) year period of the West Dupont Circle Moratorium Zone.

307.11 Nothing in this section shall prohibit holders of a retailer's license Class C or D from applying for outdoor seating in public space.

307.12 This section shall expire three (3) years after the date of publication of the notice of final rulemaking (expires May 17, 2015).

308. GLOVER PARK MORATORIUM ZONE

308.1 No new retailer's license class A, CT, CN, CX, DN, DT, or DX shall be issued for a period of three (3) years from the effective date of this section in the area that extends approximately one thousand two hundred feet (1,200 ft.) in all directions from 2436 Wisconsin Avenue, N.W., Washington, D.C. 20007. The number of class CR retailer's licenses permitted in this area shall not exceed fourteen (14). This area shall be known as the Glover Park Moratorium Zone.

308.2 The Glover Park Moratorium Zone is more specifically described as beginning at Tunlaw Road and Fulton Street; East on Fulton Street to Wisconsin Avenue; South on Wisconsin Avenue to Edmunds Street; East on Edmunds Street to Massachusetts Avenue; Southeast on Massachusetts Avenue to Observatory Circle; Southeast around Observatory Circle to Calvert Street; West on Calvert Street to Wisconsin Avenue; Southeast on both sides of Wisconsin Avenue to 35th Street; South on 35th Street to Whitehaven Parkway; West on Whitehaven Parkway to 37th Street; North on 37th Street to U Street; West on U Street to a point of intersection of Huidekoper Place and W Street; West on W Street to 39th Street; North on 39th Street to Davis Place; East on Davis Place to Tunlaw Road; North and Northwest on Tunlaw Road to Fulton Street.

308.3 All hotels, whether present or future, shall be exempt from the Glover Park Moratorium Zone.

308.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license class A, CT, CN, CR, CX, DN, DT, or DX within the Glover Park Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

308.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Glover Park Moratorium Zone to a new location within the Glover Park Moratorium Zone.

308.6 A license holder outside the Glover Park Moratorium Zone shall not be permitted to transfer its license to a location within the Glover Park Moratorium Zone.

308.7 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.

308.8 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

308.9 This section shall expire three (3) years after the date of publication of the notice of final rulemaking (expires February 21, 2016).

309. NEW RETAILER'S LICENSE CLASS B MORATORIUM

309.1 Nothing in D.C. Official Code § 25-332 shall prohibit the issuance of a license for any place for which a Retailer's license Class B has been issued or may be issued, if the license is in effect on the date the application is filed.

309.2 Nothing in D.C. Official Code § 25-332 shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class B that was in effect on the date the application is filed.

309.3 Nothing in D.C. Official Code § 25-332 shall prohibit the Board from approving the transfer of a Retailer's license Class B from one location to another during the period of the moratorium.

310. H STREET MORATORIUM ZONE (EXPIRED).

310.1 The H Street Moratorium Zone shall consist of both sides of the street on H Street, N.E., between and including the 700 block of H Street, N.E., and the 1400 block of H Street, N.E.

310.2 Within the H Street Moratorium Zone, a licensee under an off-premises retailer's license, class A or B, shall not sell, give, offer, expose for sale, or deliver either: (1) an individual container of beer, malt liquor, or ale; or, (2) spirits (liquor) in sizes of half-pint or smaller.

310.3 Within the H Street Moratorium Zone, a licensee under an off-premises retailer's license, class A or B, shall not divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container of the package.

310.4 This section shall apply to new or transferred class A or B retailer's licenses issued during the moratorium period within the H Street Moratorium Zone.

310.5 The section shall expire on August 23, 2010.

CHAPTER 4. GENERAL LICENSING REQUIREMENTS

400. Appropriateness Requirements
401. Denial of License for Violation of Law
402. Board Check Sheet
403. Prohibited Business Interests
404. Certificate of Occupancy and Permits
405. License Approval Before Issuance of Certificate of Occupancy

400. APPROPRIATENESS REQUIREMENTS

400.1 For purposes of establishing the appropriateness of the establishment under D.C. Official Code § 25-313(b)(1) through (3), the applicant shall present to the Board such evidence and argument as would lead a reasonable person to conclude the following:

(a) The establishment will not interfere with the peace, order, and quiet of the relevant area, considering such elements as noise, rowdiness, loitering, litter, and criminal activity;

(b) The establishment will not have an adverse impact on residential parking needs, considering available public and private parking and any arrangements made to secure such parking for the clientele of the establishment; and

(c) The flow of traffic to be generated by the establishment will be of such pattern and volume as to neither increase the likelihood of vehicular accidents nor put pedestrians at an unreasonable risk of harm from vehicles.

(d) The establishment will not have an adverse impact on real property values in the locality, section, or portion of the District of Columbia where it is to be located.

400.2 The Board shall not consider objections to the issuance of a Retailer's license Class CN or DN, based upon adverse impact as set forth in D.C. Official Code § 25-314(c), when the establishment for which the license is sought is situated in a hotel and when a Retailer's license Class CN or DN may properly be issued.

400.3 Whenever an applicant has initially presented evidence to show that the establishment is appropriate, any person opposing the license shall present to the Board such evidence and argument as would establish the inappropriateness of the establishment, and as would overcome, to the satisfaction of a reasonable person, the evidence and argument presented by the applicant.

401. DENIAL OF LICENSE FOR VIOLATIONS OF LAW

401.1 The Board may deny a license to an applicant if evidence shows that the applicant has permitted at the establishment conduct which is in violation of this title.

402. BOARD CHECK SHEET

402.1 The Board check sheet to be made available to the public and considered by the Board in renewing a license shall contain the following information:

(a) a compliance check of the establishment involving ABC laws and regulations;

(b) verification that the applicant has submitted a police clearance pursuant to § 502 and is eligible to receive a license;

(c) verification of the owner of the license;

(d) a listing of the establishment's permitted hours for sale and delivery of alcoholic beverages and permitted hours of operation; and

(e) a copy of the establishment's cooperative agreement or voluntary agreement, if any.

403. PROHIBITED BUSINESS INTERESTS

403.1 The spouse of an ABC license holder may apply for a separate ABC license if he or she can establish that the conflict provisions of D.C. Official Code § 25-303 will not be violated. Specifically, in applying for a license the spouse not holding an ABC license must submit a signed and notarized affidavit which states that:

(a) the applicant has no present or future ownership interest in any other ABC establishment that the applicant is prohibited from owning under D.C. Official Code § 25-303;

(b) the applicant's spouse will have no ownership interest in the license being sought by the applicant;

(c) the applicant or another corporation (in which the spouse is not an officer, shareholder or member) is solely liable for the business rather than the spouse or spouse's business;

(d) the other spouse will not have any operational control over the establishment and will not serve in a management capacity for the ABC establishment or apply for an ABC Manager's license for that establishment; and

(e) the applicant will not transfer any alcoholic beverage inventory to or receive any alcoholic beverage inventory from their spouse's ABC licensed establishment.

403.2 The applicant shall provide documentation, upon request of the Board, necessary to validate the applicant's sworn affidavit. Failure to submit the necessary documentation within ten (10) business days of the Board's request may result in the suspension or revocation of the applicant's license, unless an extension is granted by the Board.

404. CERTIFICATE OF OCCUPANCY AND PERMITS

404.1 No license, except a Solicitor's license, Manager's license, or Caterer's license shall be issued to any person unless that person is the holder of a valid certificate of occupancy for the premises in which the business for which the license is sought is located, and is also the holder of all other licenses and permits required by law or regulation for that business.

404.2 If a certificate of occupancy has been obtained, and the applicant for the alcoholic beverage license has duly applied for all other licenses and permits required by law or regulation for that business, the Board may, in its discretion but subject to all other requirements of this chapter, issue the alcoholic beverage license prior to the issuance of those other licenses and permits.

404.3 The provisions of §§ 404.1 and 404.2 shall not apply to applications for Temporary licenses Class F or G, as long as the alcoholic beverages are sold and served in establishments that have a valid certificate of occupancy, and as long as the applicant for the license provides the Board with a statement from the owner of the establishment or the owner's duly authorized representative, consenting to the issuance of the license. A certificate of occupancy shall not be required for outdoor events or private residential homes used for non-commercial purposes. However, if alcoholic

beverages are to be sold or served in any outdoor place (including but not limited to public parks, public streets or alleys), the application for the license shall particularly describe the place and the applicant shall provide the Board with a written statement indicating the owner's consent, or applicable public approval, if required.

405. LICENSE APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY

405.1 The Board is authorized, in its discretion, to approve the granting of a license, subject to all other requirements of this title, to an applicant prior to the issuance of a certificate of occupancy for the building in which the licensed premises shall be located, if the Board finds to its satisfaction the following:

(a) That an applicant for a license has entered into a bona fide agreement with the owner of a building proposed to be constructed or remodeled;

(b) That, under the bona fide agreement, the applicant has agreed to lease, purchase, or otherwise occupy all or a portion of the building for the applicant's use in carrying on the business which would be authorized by the license;

(c) That the agreement provides that so much of the proposed building as is to be occupied for business purposes licensed under this chapter is to be constructed or remodeled in accordance with specifications set forth in the agreement;

(d) That the agreement describes the quarters as reasonably adequate and appropriate for the business to be carried on under the authority of the license;

(e) That the zoning of the premises to be licensed will allow the issuance of the license; and

(f) That the applicant shall not engage in the sale or service of alcoholic beverages until a certificate of occupancy and all other business licenses have been issued for the business.

405.2 An application for a license under § 405.1 shall be made on forms prescribed by the Board and shall include the following information:

(a) The street address of the establishment to be licensed or, in the case of new construction, the lot and square numbers of the ground upon which the establishment will be located; and

(b) The date on which the applicant plans to open the establishment.

405.3 A license approved by the Board under § 405.1 shall not be issued until the premises have been finally inspected by the Board or its staff, or until the applicant provides to the Board the following:

(a) A certificate of occupancy for the licensed premises;

(b) Copies of all necessary business licenses for the premises;

(c) Copies of all tax registration documents for the business; and

(d) Copies of an executed lease or deed for the licensed premises, provided, however, that the business terms of the lease including the rent may be redacted by the applicant.

405.4 Applicants for licensure under § 405.1 shall pay the appropriate license fee, as set forth in § 208 of this title, and approval by the Board shall remain effective until the end of the appropriate licensure period set out in § 207 of this title. If the applicant has not opened his or her business by the time the licensure period ends, the Board may, in its discretion, extend its approval through such further period as it deems proper upon payment by the applicant of all or any portion of the license renewal fee.

CHAPTER 5. LICENSE APPLICATIONS

500. Application Format and Contents
501. Required Statements
502. Police Clearance
503. Amendment Before Making Substantial Changes
504. Denied or Withdrawn Applications

500. APPLICATION FORMAT AND CONTENTS

500.1 The Board shall not accept as filed, and shall take no action upon, any application that is not complete.

501. REQUIRED STATEMENTS

501.1 An applicant for any license, except a Solicitor's license, or Manager's license shall submit two (2) statements, in such form as the Board shall require, as to the following:

(a) The applicant is the true and actual owner of the business for which the license is sought; that he or she intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, or corporation not identified in the application; and that the licensed establishment will be managed by the applicant in person or by a manager approved by the Board.

501.2 An applicant for any license shall advise the Board, in the application, as to the source of funds used to acquire or develop the business for which the license is sought, provided, however, that independent documentation concerning the source of such funds shall not be required as part of the application nor shall the applicant be required to file copies of closing documents in connection with the purchase of a licensed business in the absence of a Board order.

501.3 An application for transfer to a new owner filed pursuant to D.C. Official Code § 25-405 must contain both a Bill of Sale and a Purchase and Sales Agreement.

502. POLICE CLEARANCE

502.1 Each individual applicant for a license under this title and each manager of a licensed business who sells, gives, furnishes, or distributes any alcoholic beverage shall obtain a police clearance from the Metropolitan Police Department.

502.2 Each individual applicant's police clearance shall become a part of the license application.

502.3 Each individual partner of a partnership, the president, principal vice president, secretary, and treasurer of a corporation, and the managers of a limited liability company shall be required to comply with the provisions of this section.

502.4 Each stockholder, limited partner, or member of a limited liability company holding directly or indirectly over twenty-five percent (25%) of the stock of a corporation, partnership, or limited liability company shall be required to comply with the provisions of this section.

502.5 Any of the persons named under §§ 502.1, 502.3, and 502.4 who are not residents of the District of Columbia shall obtain a police clearance from the Metropolitan Police Department and from a comparable authority from the state in which they reside.

502.6 The failure to provide a police clearance as provided in this subsection shall not be grounds for refusal of the application for processing so long as the applicant provides evidence that the applicant requested clearance from the appropriate authority.

502.7 The requested clearance for all licenses, except for Temporary licenses, shall be filed with the Board within 90 days of the filing of the application. If the requested clearance is not filed with the Board within 90 days the application shall be rejected.

503. AMENDMENT BEFORE MAKING SUBSTANTIAL CHANGES

503.1 The Board may fine, revoke, and suspend a license, or deny a pending application for renewal of a license, when a license holder has been found to have made a substantial change in its operations as described in D.C. Official Code § 25-762 without Board approval.

504. DENIED OR WITHDRAWN APPLICATIONS

504.1 The service charge fee for processing an application which has been denied or withdrawn shall be one hundred fifty dollars ($150) for a proprietorship, two hundred fifty dollars ($250) for a partnership, and three hundred fifty dollars ($350) for a corporation or an unincorporated entity.

CHAPTER 6. LICENSE CHANGES

600. Trade Names and Corporate Names
601. Corporate and Partnership Changes

600. TRADE NAMES AND CORPORATE NAMES

600.1 No person licensed under the Act shall use any name other than that of an individual licensee or licensees, including a corporate or trade name, without first obtaining approval from the Board for use of the corporate or trade name.

600.2 A person licensed under this Act may file a written request with the Board to add an additional trade name at a location currently authorized for the sale of alcoholic beverages under its ABC license. The Board in its discretion may approve the use of an additional trade name at an ABC establishment. Any additional trade name approved by the Board shall appear on the establishment's ABC license.

600.3 An additional trade name shall not be used to identify a location separate and apart from the licensed premises. When a licensed establishment uses an additional trade name, its patrons must be able to access the area of the licensed premises identified by the additional trade name from the area of the licensed premises identified by the original trade name.

600.4 Any trade name requested by an applicant shall not be identical or confusingly similar to one currently used under a previously issued license.

601. CORPORATE AND PARTNERSHIP CHANGES

601.1 If there is a change in corporate officers, directors, limited or general partners in a partnership, or persons owning or controlling twenty-five percent (25%) or more of the common stock of a corporate licensee, the corporation or partnership shall submit to the Board within fifteen (15) calendar days the minutes or other instrument giving the names and addresses of any new officer, director, partner or person holding twenty-five percent (25%) or more of the stock.

601.2 Within fifteen (15) calendar days of the change, the corporation or partnership shall furnish to the Board any data pertaining to the personal and business history of any new officer, director, stockholder, general or limited partner in a partnership, or other person that the Board may require.

601.3 The fee for a change of officer, director, stockholder, or general or limited partner in a partnership shall be one hundred dollars ($100).

601.4 If there is a change in the general partners of a limited partnership or in the limited partnership owning or controlling twenty-five percent (25%) or more of the partnership interest of a limited partnership licensee, the limited partnership shall submit to the Board in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in partnership interests.

601.5 When there is any change as described in § 601.1 or § 601.4, the licensee shall, within ten (10) calendar days, submit a sworn affidavit to the Board that no change which could be deemed a “substantial change” to the business, as set out in D.C. Official Code §§ 25-404 and 25-762, will occur within the current licensure period.

601.6 If a change which could be deemed a "substantial change" will occur before the licensure period expires, the licensee shall be governed by all the provisions of D.C. Official Code §§ 25-313 and 25-314, and D.C. Official Code § 25-404.

601.7 If the licensee knowingly makes a false swearing under § 601.5, the Board may, in its discretion, order the licensee to show cause why its license should not be fined, suspended, or revoked pursuant to D.C. Official Code § 25-401(c), or may deny the license application, or treat the licensee as a new applicant, subject to all of the provisions of D.C. Official Code §§ 25-313 and 25-314.

601.8 If the licensee fails to adhere to any filing requirements set out in D.C. Official Code § 25-405, the Board may, in its discretion, order the licensee to show cause why the license should not be suspended or revoked, or impose a civil fine based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c), or deny the application for transfer.

601.9 Nothing in this subsection shall apply to publicly traded companies.

CHAPTER 7. GENERAL OPERATING REQUIREMENTS

700. Instructions to Licensees
701. Posting of Legal Drinking Age and Identification Requirement
702. Use of Class CX and DX Clubs by Non-Members
703. Temporary Operating Retail Permit
704. Surrender of License
705. Hours of Sale and Delivery for Off-Premises Retail Licensees
706. Locking of Beverages During Non-Sale Hours
707. Manager's License
708. Disposal of Remaining Alcoholic Beverages
709. Notice of Employee's Criminal Conviction
710. Minimum Charge
711. Permits for Sampling of Alcohol Beverages
712. Pub Crawls
713. Street Festivals
714. Outdoor Events on Public Space
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716. One Day Substantial Changes
717. Corking Fee
718. Reimbursable Detail Subsidy Program
719. Posting of Warning Sign
720. Public Safety Plan Requirements

700. INSTRUCTIONS TO LICENSEES

700.1 The Board shall develop and furnish to licensees, at the time of issuance of a license, written information describing the laws and rules applicable to the licensee's day-to-day operations.

700.2 Applications shall also be made available on the ABRA website. To the extent possible, applications shall be posted on the ABRA website in various languages for informational purposes. Applications submitted to the Board must be filled out in English.

701. POSTING OF LEGAL DRINKING AGE AND IDENTIFICATION REQUIREMENT

701.1 The notice required to be posted by the applicant pursuant to D.C. Official Code § 25-713, which must state the current legal drinking age and the requirement of patrons to produce a valid identification displaying proof of age, shall be provided to the applicant by the ABC Board at the time the license is delivered to the applicant.

702. USE OF CLASS CX AND DX CLUBS BY NON-MEMBERS

702.1 A club may, without losing its character as a club, grant permission to a member of the club to engage the club property and facilities for the use of an organization, association, or committee of which the club member is also a member; provided, that the granting of use by non-members under this section shall not be so frequent as to constitute a commercial or business purpose.

702.2 The members of the organization, association, or committee using the club may share the expenses of such use.

702.3 The use of a club by an organization, association, or committee in accordance with this section shall not be open to the public.

703. TEMPORARY OPERATING RETAIL PERMIT

703.1 The purchaser of an ABC licensed establishment awaiting Board approval on a transfer of ownership application where no substantial change will occur may apply to the Board for a permit to temporarily operate under the license pursuant to the following conditions:

(a) the transfer application must be filed with or before the application for temporary authority;

(b) the subject premises must not have been closed nor the sale or service of alcoholic beverages discontinued during the thirty (30) days immediately prior to the filing of the permit application; and

(c) that no substantial changes to the licensed premises will occur.

703.2 An applicant for a permit shall complete an application provided by the Board that shall include, but not be limited to, the name of the applicant, the license number, the name of the current licensee, the address of the licensed premises, and a signed affidavit that no substantial change to the licensed premises will occur.

703.3 The holder of a permit may purchase alcoholic beverages only by currency, money order, or check on or before delivery of the alcoholic beverages to the premises, unless the permit holder already holds another retail license.

703.4 The permit shall be valid until the applicant's transfer application is either granted or denied by the Board or until the permit is cancelled or suspended by the Board pursuant to § 703.5.

703.5 The permit may, after a hearing, be cancelled or suspended at any time, if the Board determines that good cause exists for the suspension or cancellation of the permit.

704. SURRENDER OF LICENSE

704.1 A license required to be in safekeeping pursuant to D.C. Official Code § 25-791 may be placed in safekeeping by either the Board or the licensee. A request by the licensee to place the license in safekeeping shall be in writing and must state: (1) the reason that the license is being placed in safekeeping and (2) the length of time that the licensee is seeking to keep the license in safekeeping.

704.2 An initial safekeeping period granted by the Board may be extended for reasonable cause as set forth in D.C. Official Code § 25-791(b). The Board shall hold a safekeeping hearing for any license in safekeeping longer than 6 months to determine whether the licensee has made sufficient progress toward reopening or whether the license should be cancelled by the Board.

704.3 Notwithstanding § 704.2, a license for premises located in a moratorium area shall be permitted to be kept in safekeeping with the Board for the length of the moratorium subject to the removal requirements set forth in D.C. Official Code § 25-791(f).

704.4 Whenever a license is being kept in safekeeping with the Board, the licensee shall upon requesting the removal of the license from safekeeping, submit for Board approval detailed plans of its operations upon reopening and shall notify the Board of the anticipated reopening date.

705. HOURS OF SALE AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES

705.1 The new hours for Class A and Class B off-premises retail licensees set forth in D.C. Official Code § 25-722 took effect on August 1, 2001.

705.2 The Board may, by written Order, further limit the hours of sale and delivery set forth in D.C. Official Code § 25-722 on a case-by-case basis upon conclusion of a protest hearing or through Board approval of a cooperative/voluntary agreement.

705.3 Any licensee, who held a Retailer's license Class B, as of May 3, 2001, and who was authorized under its license to sell alcoholic beverages on Sundays, may continue such sales unless the Board, after a hearing, finds that such authority should be discontinued. In determining whether to allow the holder of a Retailer's license Class B to sell on Sundays, the Board shall determine whether Sunday sales are appropriate applying the criteria set forth in D.C. Official Code § 25-313.

705.4 The holder of a Retailer's license Class A or Class B shall not sell or deliver alcoholic beverages during any hour or on any day other than during those days and during those hours stated in D.C. Official Code § 25-722 and § 705.2 of this title.

705.5 The holder of a Retailer's license Class A may sell and deliver, during the hours of sale set forth in D.C. Official Code § 25-722 and § 705.2 of this title, no less than six (6) miniatures of spirits or wine per purchase.

705.6 The holder of a Retailer's license Class A or B may not provide “go-cups” to patrons. A “go-cup” means a drinking utensil provided at no charge or a nominal charge to a patron for the purpose of consuming alcoholic beverages off the premises of an establishment.

705.7 A hotel holding a Retailer's license Class CH or Class DH may make available in the room of a registered adult guest, and charge to the registered guest if consumed, closed miniature containers of spirits, wines, and beer at all hours on any day of the week.

705.8 The holder of a Retailer's license Class C, D, F, or G, or a Catering license issued under D.C. Official Code § 25-113, may sell, dispense, serve, or give away any beverages for consumption on the premises during any hour or on any day other than during those hours prohibited by D.C. Official Code § 25-723.

705.9 The holder of a Retailer's license Class C, D, F, or G, or a Caterer's license may sell, serve, or permit the consumption of alcoholic beverages on the licensed premises at any time except between the hours of:

(a) 2:00 a.m. and 8:00 a.m., Monday through Friday;

(b) 3:00 a.m. and 8:00 a.m., on Saturday; and

(c) 3:00 a.m. and 10:00 a.m., on Sunday.

705.10 The hours of operation set forth in § 705.9 for an ABC establishment may be further reduced by hour restrictions that have been approved as conditions of the establishment's ABC license by the Board.

705.11 On each January 1st, service shall be lawful until 4:00 a.m. by the holder of any license listed in § 705.9. Licensee's listed in § 705.9 shall not be required to obtain Board approval to stay open until 4:00 a.m. on January 1st.

705.12 The holder of a Retailer's license Class C or D, may not serve “back-up” drinks.

705.13 The holder of a brew pub permit shall be permitted to sell beer in growlers to patrons for off-premise consumption between the hours of 7:00 a.m. and midnight. The holder of a wine pub permit shall be permitted to sell wine to patrons in sealed bottles or other closed containers for off-premise consumption between the hours of 7:00 a.m. and midnight.

706. LOCKING OF BEVERAGES DURING NON-SALE HOURS

706.1 No holder of a Retailer's license Class A, B, C, or D who offers for sale on the licensed premises commodities other than alcoholic beverages shall remain open during hours when the sale of alcoholic beverages is prohibited unless the licensee keeps all of the alcoholic beverages upon the premises in a separate beverage department which is securely closed and locked or there is a licensed manager or owner on the premises during all hours when the sale of alcoholic beverages is prohibited.

707. MANAGER'S LICENSE

707.1 In the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

707.2 An applicant for a Manager's license shall submit an application to the Board on the prescribed form and pay the required fee.

707.3 If a licensee has designated a person to manage the licensed business, each manager shall be the holder of a valid Manager's license which shall be renewable every two years.

707.4 A Manager's license shall remain valid until surrendered, expired, suspended, or revoked.

707.5 An applicant for a Manager's license shall be investigated and shall be subject to the approval of the Board.

707.6 Prior to issuance of a Manager's license, an applicant shall certify that he or she has obtained and read a copy of the Act (D.C. Official Code §§ 25-101 et seq.) and this title.

707.7 A manager holding a valid license according to the provisions of this section may be employed by one (1) or more licensees without further investigation.

707.8 All licensees shall notify the Board within seven (7) calendar days of discovering any manager's arrest or conviction for other than minor traffic violations.

707.9 Failure by the applicant to comply with § 707.8, may, in the discretion of the Board, cause the applicant's license to be suspended or revoked.

707.10 A licensee may file a written request with the Board that an applicant for a Manager's license who has not completed an alcohol training and education certification program be issued a temporary Manager's license subject to the requirements of § 212.2. The written request shall set forth the name of the licensed establishment, the trade name, the address of the establishment, the name of the applicant for the Manager's license, and the reason why the issuance of the temporary Manager's license is necessary. Such temporary authority shall cease after thirty (30) days or upon the approval or denial of the Manager's license application.

708. DISPOSAL OF REMAINING ALCOHOLIC BEVERAGES

\708.1 The holder of a Retailer's license who has had its license not renewed, revoked, or is going out of business may obtain approval from the Board to sell and transport alcoholic beverages back to the holder(s) of a District of Columbia Wholesaler's license.

708.2 The holder of a Retailer's license who has had its license not renewed, revoked, or is going out of business may also obtain an auction permit pursuant to § 201 or a disposal permit pursuant to § 204.

709. NOTICE OF EMPLOYEE'S CRIMINAL CONVICTION

709.1 Each licensee shall immediately notify the Board in writing if the licensee discovers that any employee who sells, gives, furnishes, or distributes any alcoholic beverage has at any time prior to or during his or her employment been arrested or convicted for other than minor traffic violations. For purposes of this section, “immediately” shall mean notifying the Board within seven (7) days of discovering the criminal conviction.

710. MINIMUM CHARGE

710.1 As used in this section, the phrase “minimum charge” means a price or fee imposed by a licensee on a patron or individual for food and/or beverages, either at the point of entrance to an establishment or at the point of service of food and/or beverages within the establishment.

710.2 The minimum charge must be equal in value to the price the patron would pay for the food and or beverage(s) inside.

710.3 A minimum charge shall not be considered a cover charge and may be charged by an establishment without Board approval or an entertainment endorsement unless restricted by Board order or voluntary agreement.

710.4 Any holder of a Retailer's license Class C or D, who makes a permitted minimum charge for either food or a beverage, shall, during the hours when the minimum charge is made, keep posted in a conspicuous place at each public entrance to the room or place where the minimum charge is made a sign stating that a minimum charge is made, the amount of the minimum charge, and whether the minimum charge shall be applied to food and/or beverage(s).

710.5 The sign required by § 710.4 shall be not less than one square foot in area with lettering not less than one inch (1 in.) in height, and the letters shall be easily legible.

711. RETAIL PERMITS FOR SAMPLING OF ALCOHOLIC BEVERAGES.

711.1 The holder of a Retailer's license Class A and B may utilize a portion of the licensed premises for the sampling of alcoholic beverages during the hours of sale authorized in D.C. Official Code § 25-722(a). Containers of alcoholic beverages used for sampling purposes shall be labeled as such and may not be sold.

711.2 No licensee may use any portion of the licensed premises for the sampling of alcoholic beverages without a permit issued by the Board. A request for a permit shall be in writing and shall:

(a) State in detail the type of beverages to be offered in the sampling;

(b) Include drawings of the premises indicating the areas where the sampling is to take place; and

(c) State the hours and days during which the sampling is to take place.

711.3 A permit issued under this section shall be valid for two years. The permit shall expire on the same date as the applicant's Class A and B Retailer's license.

711.4 The annual fee for a permit issued under this section shall be one-hundred and thirty dollars ($130). Payment shall be made at the same time that the second year fee or renewal fee for Class A and B Retailer's licenses is due.

711.5 The holder of a permit issued under this section shall be authorized to provide to one customer in any one day samples that do not exceed the following quantities:

(a) Three ounces (3 oz.) of spirits;

(b) Six ounces (6 oz.) of wines; and

(c) Twelve ounces (12 oz.) of beer.

711.6 The holder of a tasting permit may hold public tastings during the hours it is permitted to sell and serve alcoholic beverages under its Class A and B Retailer's license unless restricted by Board order or settlement agreement.

712. PUB CRAWLS

712.1 A promoter/organizer of a “Pub Crawl” shall be required to obtain Board approval. The promoter/organizer shall submit an application to hold the “Pub Crawl” on a form provided by the Board at least six (6) weeks prior to the scheduled date of the event. For purposes of this section a “Pub Crawl” shall be defined as an organized group of establishments within walking distance which offer discounted alcoholic drinks during a specified time period.

712.2 At least six (6) weeks prior to the scheduled date of the event, the event organizer/promoter must provide the Metropolitan Police Department and the Board with a written description of the event to include but not be limited to:

(1) the names and addresses of all the establishments which are expected to participate;

(2) the geographic area where the event will take place;

(3) the anticipated number and maximum number of participants;

(4) the actual hours of the event;

(5) the operational and security plan; and

(6) the location of the designated registration area(s).

712.3 The operational and security plan shall include but not be limited to the name and number of security personnel contracted for the event; a plan for the control of underage drinking; and the method to be used for checking participant identification.

712.4 The promoter/organizer must post at any designated registration area, the ABC Board approved operations and security plan.

712.5 “Pub Crawls” may not promote excessive drinking and shall not include unlimited amounts of drinks for one price (all you can drink).

712.6 Literature describing “responsible drinking practices” must be available at all designated registration points.

712.7 All advertising/promotional materials for “Pub Crawls” must:

(1) include a statement that “You must be 21 or older to participate”;

(2) promote the use of public transportation; and

(3) include the plan for a designated driver program for the event.

712.8 Establishments who are required by law to serve food, must have food available for purchase during the hours of the “Pub Crawl.”

712.9 No establishment with more than two primary tier offenses in a two-year period may participate in a “Pub Crawl.”

712.10 The Board shall make a decision whether to approve a completed “Pub Crawl” application within three weeks of its submission. Board approval shall not be required for a “Pub Crawl” containing less than 200 participants.

713. STREET FESTIVALS

713.1 The holder of a Retailer's license Class CR or Class DR who is participating in a street festival may apply to the Board for a one-day substantial change on a form provided by the Board to serve alcoholic beverages on public space rented by the licensee if the establishment abuts the closed street.

713.2 For the purposes of this section “street festival” means any event for which a temporary street closing permit has been issued and which meets the following conditions:

(1) The licensee to whom the street closing permit was issued is a nonprofit organization;

(2) The street closed is zoned for primarily retail use; and

(3) The festival uses the street closed primarily to rent to retail vendors.

713.3 Business associations or citizens associations incorporated under the laws of the District of Columbia shall be allowed to obtain approval from the Board on behalf of multiple festival permit participants.

713.4 The holder of a Class CR or Class DR Retailer's license who rents public space shall not permit patrons to take alcoholic beverages off the licensed premises or any public space rented by that establishment.

713.5 The cost of filing a one-day substantial change application shall be the same as the cost of a Temporary license.

714. OUTDOOR EVENTS ON PUBLIC SPACE

714.1 The holder of an on-premises Retailer's license may file a one-day substantial change application with the Board to receive permission to serve or sell alcoholic beverages on public space for a specific event that may involve a temporary street closing.

714.2 The one-day substantial change application to sell or serve alcoholic beverages on public space shall be on a form provided by the Board that shall include a copy of all other licenses and permits required for the event under District of Columbia law. The fee for a one-day substantial change shall be the same as the cost of a Temporary license.

714.3 Such a request shall not be granted by the Board more than three (3) times in a calendar year.

715. OUTDOOR EVENTS ON PRIVATE SPACE

715.1 The holder of an on-premises Retailer's license may file a one-day substantial change application with the Board to receive permission to serve or sell alcoholic beverages on private space other than the licensed premises.

715.2 The one-day substantial change application to sell or serve alcoholic beverages on private space other than the licensed premises shall be on a form provided by the Board that shall include a letter of permission from the owner of the private space. The fee for a one-day substantial change shall be the same as the cost of a Temporary license.

715.3 Such a request shall not be granted by the Board more than six (6) times in a calendar year.

716. ONE DAY SUBSTANTIAL CHANGES

716.1 The holder of an on-premises retailer's license may file a one-day substantial change request with the Board for permission to have entertainment, extended hours of operation, a cover charge, or dancing not permitted by the applicant's license as part of a specific event. The one-day substantial change request may be granted, in the Board's discretion, unless the activities sought by the applicant are otherwise prohibited by the applicant's ABC license.

716.2 Such a request made pursuant to § 716.1 shall not be granted by the Board more than six (6) times in a calendar year.

717. CORKING FEE.

717.1 The holder of an on-premises retailer's license may permit a patron to bring to and consume on the licensed premises an alcoholic beverage that the licensee is permitted to sell or serve under its on-premises retailer's license; provided that the alcoholic beverage is opened by an employee of the establishment, However, the holder of an on-premises retailer's license shall not permit any alcoholic beverage opened on the licensed premises to be removed from the licensed premises.

717.2 The holder of an on-premises retailer's license shall be permitted to charge a corking fee provided that the corking fee is disclosed to the patron prior to the opening of the alcoholic beverage.

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 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 on Friday and Saturday nights and District or federal Holidays. The hours eligible for reimbursement shall be 11:30 p.m. to 5:00 a.m. MPD shall submit to ABRA on a monthly basis invoices documenting 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.

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.

719. POSTING OF WARNING SIGN

719.1 The holder of a retailer's license shall post in a conspicuous place, a warning sign which covers: (1) the dangers of drinking and driving, (2) the dangers of alcohol consumption during pregnancy, and (3) the current legal drinking age and a patron's obligation to produce a valid identification document displaying proof of legal drinking age. The warning sign shall indicate that Driving While Intoxicated or Under the Influence is illegal in the District of Columbia.

719.2 The Board shall prepare the signs and make them available at no charge to licensees.

719.3 Each day of noncompliance shall constitute a secondary tier violation.

720. PUBLIC SAFETY PLAN REQUIREMENTS

720.1 An on-premise licensee shall be required to submit a public safety plan to ABRA in order to sell and serve alcoholic beverages and operate during the extended hours set forth in D.C. Official Code § 25-723(c)(1).

720.2 A public safety plan shall be submitted by the on-premise licensee, on a form prescribed by the Board, which at a minimum shall include the following information:

(a) The names and contact information for those individuals designated by the licensee to respond to any public safety issues that arise;

(b) Whether the establishment will have any security cameras in operation;

(c) The number and location of cameras used by the establishment and the length of time that video recordings will be kept;

(d) Whether the establishment will have any security working during the extended hours of operation;

(e) The number of security personnel to be present for the extended hours and the type of security training that security personnel have received;

(f) Whether the establishment will maintain an incident log; and

(g) What are the establishment's procedures for ensuring that intoxicated persons and minors are not served alcoholic beverages.

720.3 An on-premise licensee may utilize an existing security plan on file with ABRA to fulfill the public safety plan requirement set forth in § 720.1.

CHAPTER 8. ENFORCEMENT, INFRACTIONS, AND PENALTIES

800. Civil Infractions Schedule
801. Primary Tier Violations
802. Secondary Tier Violations
803. Citations for Primary Tier Violations
804. Citations for Secondary Tier Violations
805. Warnings
806. Citation Appeals
807. Sale to Minor Violations

800. ABRA CIVIL PENALTY SCHEDULE.

Section	Description	Violation	Warning
25-102(a)	Selling Alcoholic Beverages Without a License	Primary	N
25-102(b)	Wholesaler/Manufacturer Sale to Non-licensed Person for Resale	Primary	N
25-102(c)	Failure to Obtain Importation Permit	Primary	Y
25-102(d)	Permitting Consumption of Alcoholic Beverage Without a License	Primary	N
25-110	Violating Terms of Manufacturer's License	Primary	N
25-111	Violating Terms of Wholesaler's License	Primary	N
25-112(a)-(c)	Violating Terms of Off-Premise Retailer's License	Primary	N
25-112(e)(1)	Failure to File a Statement of Expenditures	Secondary	Y
25-113(a)(2)(A)(ii)	Knowingly Allowing Patron to Exit the Premises with an Open Container	Secondary	N
25-113(a)(3)	Selling or Serving Alcohol in a Closed Container	Secondary	Y - Mandatory
25-113(b)(1)	Failure to Keep Kitchen Open Two Hours Before Closing	Secondary	Y - Mandatory
25-113(b)(2)(A)	Failure of Restaurant to File a Quarterly Statement	Secondary	Y - Mandatory
25-113(d)(1)	Failure to Submit a Security Plan	Primary	Y
25-113(e)(4)(A)	Failure of Hotel to File a Quarterly Statement	Secondary	Y - Mandatory
25-102(a)	Selling Alcoholic Beverages Without a License	Primary	N
25-102(b)	Wholesaler/Manufacturer Sale to Non-licensed Person for Resale	Primary	N
25-102(c)	Failure to Obtain Importation Permit	Primary	Y
25-102(d)	Permitting Consumption of Alcoholic Beverage Without a License	Primary	N
25-110	Violating Terms of Manufacturer's License	Primary	N

25-111	Violating Terms of Wholesaler's License	Primary	N
25-112(a)-(c)	Violating Terms of Off-Premise Retailer's License	Primary	N
25-112(e)(1)	Failure to File a Statement of Expenditures	Secondary	Y
25-113(a)(2)(A)(ii)	Knowingly Allowing Patron to Exit the Premises with an Open Container	Secondary	N
25-113(a)(3)	Selling or Serving Alcohol in a Closed Container	Secondary	Y - Mandatory
25-113(b)(1)	Failure to Keep Kitchen Open Two Hours Before Closing	Secondary	Y - Mandatory
25-113(b)(2)(A)	Failure of Restaurant to File a Quarterly Statement	Secondary	Y - Mandatory
25-113(d)(1)	Failure to Submit a Security Plan	Primary	Y
25-113(e)(4)(A)	Failure of Hotel to File a Quarterly Statement	Secondary	Y - Mandatory
25-113(i)(l)(4)	Failure by Caterer to File and Maintain Records for Inspection	Secondary	Y
25-113(j)(3)	Failure to Obtain Board Approval for Off-Site Storage	Secondary	Y - Mandatory
25-113(j)(3)	Failure to Maintain Records on Premises	Primary	Y - Mandatory
25-113a(b)	Failure to Obtain Entertainment Endorsement	Primary	Y
25-113a(c)	Failure to Obtain a Summer Garden or a Sidewalk Café Endorsement	Primary	Y
25-114(a)	Violating Terms of Arena C/X License	Primary	N
25-115(a)	Violating Terms of Temporary License	Primary	N
25-116	Violating Terms of Solicitor's License	Primary	N
25-117	Violating Terms of Brew Pub Permit	Primary	N
25-118	Failure to Obtain Tasting Permit, or Exceeding Scope of Tasting Permit	Primary	N
25-119	Importing Alcohol Without Permit	Primary	Y
25-121	Providing Alcohol Awareness Training Without Board Approval	Secondary	Y
25-123	Violating Terms of Farm Winery License	Primary	N
25-341	Violating Ward 4 Moratorium	Primary	Y
25-342	Violating Ward 7 Special Restrictions	Primary	Y
25-343	Violating Ward 8 Special Restrictions	Primary	Y
25-344	Violating Mt. Pleasant Special Restrictions	Primary	Y
25-345	Violating Ward 2 Restrictions	Primary	Y
25-346	Violating Ward 6 Restrictions	Primary	Y
25-371	Allowing Nude Dancing Without a License	Primary	N
25-372	Violating Restrictions on Nude Dancing Performances	Primary	N
25-405	Transfer of Ownership Without Board Approval	Primary	N
25-423(d)	Failure to Maintain Posted Notices (Placards)	Secondary	Y
25-501	Failure to Pay Annual Fee	Primary	Y

25-701	Board-Approved Manager Required	Secondary	Y
25-701(b)	Failure to Notify Board of ABC Manager's Conviction	Secondary	Y - Mandatory
25-702	Failure to Notify Board of Employee's Conviction	Secondary	Y - Mandatory
25-711(a)	Failure to Post and Carry Licenses	Secondary	Y - Mandatory
25-711(b)	Failure to Post Lettering on Front Windows or Door	Secondary	Y - Mandatory
25-711(c)	Failure of Temporary License Holder to Have License Available	Secondary	Y
25-711(d)	Failure of Solicitor to Carry License	Secondary	Y - Mandatory
25-711(e)	Failure of Manager to Carry License	Secondary	Y - Mandatory
25-712	Failure to Post Signs: Warning Re: Pregnancy	Secondary	Y - Mandatory
25-713	Failure to Post Signs: Legal Drinking Age/Valid ID	Secondary	Y - Mandatory
25-721	Sale and Delivery Outside of Allowed Hours for Manufacturer & Wholesaler	Primary	N
25-722	Sale and Delivery Outside of Allowed Hours - Off Premises Licensees	Primary	N
25-723(b)	Sale and Delivery Outside of Allowed Hours - On-Premises Licensees	Primary	N
25-723(d)	Daylight Savings Time Operation Without Notice	Secondary	Y
25-724	Operating After Board Restricted Hours	Primary	N
25-725	Noise from Licensed Establishment	Secondary	N
25-726	Control of Litter, Trash, Garbage, and Proper Disposal of Refuse, Including Cooking Oils	Secondary	Y
25-731	Credit and Delinquency	Secondary	Y
25-733	Delivery and Payment Records and Reports	Secondary	Y
25-734	Sale by Retailer on Credit	Secondary	Y - Mandatory
25-735	Gifts and Loans from Manufacturer	Primary	Y
25-736	Gifts and Loans from Wholesaler	Primary	Y
25-741(a)	Providing Go-Cups at A & B Licensed Establishments	Secondary	Y
25-741(b)	Serving Back-up Drinks to Customers	Secondary	Y
25-742	Solicitation of Drinks by Employee	Secondary	Y
25-743	Tie-in Purchases Prohibited	Primary	Y
25-751	Limitations on Container Size	Secondary	Y
25-752	Containers to be Labeled	Secondary	Y
25-753	Keg Registration Required	Primary	N
25-754	Violating Beverage Storage Restrictions	Primary	Y
25-761	Structural Requirements	Secondary	Y
25-762(b)(1)	Failure to Obtain Approval to Increase Occupancy or the Use of Interior Space	Primary	Y
25-762(b)(2)	Failure to Obtain Approval to Expand Exterior Public	Primary	Y

	or Private Space Including Summer Gardens or Sidewalk Cafes		
25-762(b)(3)	Failure to Obtain Approval to Expand to Another Floor, Roof, or Deck	Primary	Y
25-762(b)(4)	Failure to Obtain Approval to Provide For or Expand Entertainment Area	Secondary	Y
25-762(b)(5)	Failure to Obtain Approval to Diminish or Expand Dining or Food Prep Area	Secondary	Y
25-762(b)(6)	Failure to Obtain Approval to Provide Permanent Space for Dancing	Primary	Y
25-762(b)(7)	Failure to Obtain Approval to Change Exterior Design	Secondary	Y
25-762(b)(8)	Failure to Obtain Approval to Provide Music or Entertainment if None Previously.	Primary	N
25-762(b)(9)	Failure to Obtain Approval to Change from Recorded to Live Music or Live Entertainment or Change the Kind of Music or Entertainment Provided	Secondary	Y - Mandatory
25-762 (b)(10)	Failure to Obtain Approval to Change Entertainment to Include Nude Performances	Primary	N
25-762(b)(11)	Failure to Obtain Approval to Change From Full Menu to Snack Menu	Secondary	Y - Mandatory
25-762(b)(12)	Failure to Obtain Approval to Change On-Premises to Carry-out	Primary	Y
25-762(b)(12)	Failure to Obtain Approval to Change On-Premises to Add Carry Out	Secondary	Y
25-762(b)(13)	Failure to Obtain Approval to Extend Hours of Operation	Primary	N
25-762(b)(14)	Failure to Obtain Approval to Provide New Mechanical or Electronic Entertainment	Secondary	Y
25-762(b)(15)	Failure to Obtain Approval to Change Trade Name or Corp Name With Ownership Change	Secondary	Y - Mandatory
25-762(b)(16)	Failure to Obtain Approval to Change Booth Size	Secondary	Y - Mandatory
25-762(b)(17)	Failure to Obtain Approval to Reduce Number of Toilet Facilities	Secondary	Y - Mandatory
25-762(b)(18)	Failure to Obtain Approval to Increase Number of Vessels Under On-Premises	Primary	N
25-763	Restrictions on Use of Signs	Secondary	Y - Mandatory
25-764	Advertisements Related to Alcohol	Secondary	Y - Mandatory
25-765	Advertisements on Windows and Doors	Secondary	Y - Mandatory
25-766	Prohibited Statements	Secondary	Y
25-771	Reporting by Manufacturers	Secondary	Y
25-772	Unlawful Importation of Beverages	Primary	Y
25-781	Sale to Minors or Intoxicated Persons - Egregious	Primary	Y
25-781	Sale to Minors or Intoxicated Persons - Non-	Primary	Y - Mandatory

	egregious		
25-782(a)	Restrictions on Minors Entrance into Class A	Primary	Y
25-782(d)	Denying Admittance to Someone of Legal Drinking Age	Secondary	Y
25-783(a)	Sale to Someone Who Fails to Produce a Valid ID	Primary	Y
25-783(b)	Failure to Take Reasonable Steps to Ascertain Legal Age	Primary	Y
25-784(a)	Prohibit Persons Under 21 From Sell, Give, Furnish or Distribute, Except as Provided in 25-784(b)	Secondary	Y
25-784(b)	18-20 Person May Sell, Serve or Deliver, But May Not Bartend	Secondary	Y
25-791(a)	Failure to Surrender License Into Safekeeping	Secondary	Y – Mandatory
25-797(a)	Failure to Control Licensed Establishment	Primary	N
25-797(b)	Allowing Third Party or Promoter to Provide Security	Primary	N
25-802	Failure to Allow Examination of Premises, Books and Records	Primary	N
25-823(1)	Violation of Any Law Outside of Title 25 of the District of Columbia Code or Title 23 of the District of Columbia Municipal Regulations	Primary	Y
25-823(2)	Allowing Establishment to be Used for an Unlawful or Disorderly Purpose	Primary	N
25-823(3)	Failure by Owner or ABC Manager to Superintend Licensed Business	Secondary	N
25-823(4)	Allowing Employees or Agents to Engage in Prostitution, Sexual Acts, or Sexual Contact	Primary	N
25-823(5)	Failure to Allow/Delays ABRA or MPD to Inspect Premises or Books and Records, or Otherwise Interferes With an Investigation	Primary	N
25-823(6)	Failure to Follow Settlement Agreement	Secondary	Y
25-823(6)	Failure to Follow Security Plan	Primary	Y
25-823(6)	Failure to Follow a Board Order	Primary	N
25-828(c)	Licensee Defaces Notice of Suspension Placard	Secondary	N
25-830(i)	Selling or Serving Alcohol on a Suspended or Expired License or License Held in Safekeeping	Primary	N
25-830(j)	Failure to Comply with Either of the Food Requirements	Primary	Y
23 DCMR 205.2	Failure to Obtain Storage Permit	Secondary	Y
23 DCMR 206.2	Retailer's Class DR or DT With Common Dining Area Fails to Sell Alcoholic Beverages in Containers Identifiable With Business	Secondary	Y
23 DCMR 206.4	Off-premise Retailer Class A or Class B failed to Inform Board in Application of Table Use	Secondary	Y - Mandatory
23 DCMR	Submission of Knowingly False or Misleading	Primary	N

208.19	Affidavit		
23 DCMR 600.1	Change Trade Name without Board Approval	Secondary	Y - Mandatory
23 DCMR 600.1	Change Corporate Name Without Board Approval	Secondary	Y - Mandatory
23 DCMR 600.3	Area Identified by Trade Name Inaccessible to Patrons	Secondary	Y
23 DCMR 601	Failure to Notify Board of Change in Ownership, Corporate Officers, or Partners	Secondary	Y
23 DCMR 702.3	Private Club Open to Public	Primary	Y
23 DCMR 705.9	Retailer's Class C, D, F, G, or Caterer Permits the Consumption of Alcoholic Beverages After Hours	Primary	N
23 DCMR 706	Remaining Open Without Securing Beverages or Having an ABC Manager or Owner Present	Secondary	N
23-707.1	Licensee or Board Approved Manager on Licensed Premises During Hours of Sale, Service or Consumption	Secondary	N
23 DCMR 710.2	Minimum Charge Greater Than Value of Food or Beverage	Secondary	Y - Mandatory
23 DCMR 710.4	Failure to Post Sign Indicating Minimum Charge	Secondary	Y - Mandatory
23 DCMR 712	Hosting a Pub Crawl Without Board Approval or in a Manner Other Than as Approved by the Board	Primary	Y
23 DCMR 717.1	Permitting Alcoholic Beverages Brought by Consumer to be Removed From Premises	Secondary	Y
23 DCMR 717.2	Corking Fee	Secondary	Y
23 DCMR 719.1	Sign re: Drinking and Driving	Secondary	Y - Mandatory
23 DCMR 900	Primary American Source of Supply	Primary	Y
23 DCMR 901	Beer Labeling	Secondary	Y
23 DCMR 902	Open Container or Package in Vehicle	Primary	N
23 DCMR 905	Discriminatory Admittance Requirements	Secondary	Y
23 DCMR 1002	Cover Charge Without Entertainment Endorsement	Secondary	Y
23 DCMR 1204	Failure to Keep and Maintain Delivery Slips	Primary	Y
23 DCMR 1206	Failure of Manufacturer Class A to Submit Monthly Report	Secondary	Y - Mandatory
23 DCMR 1207.1	Failure to File Quarterly Statements	Secondary	Y - Mandatory
23 DCMR 1207.5	Failure to File Annual Reports	Secondary	Y
23 DCMR 1208	Failure of the Licensee to Keep or Maintain its Books, Records, or Invoices.	Primary	Y
23 DCMR 1303	Failure to Properly Transport Alcoholic Beverages in a Vehicle	Secondary	Y
23 DCMR 2000.1	The Selling, Delivering, or Serving of Alcoholic Beverages at a Catered Event Where Snack Items Are the Only Food Products Served by the Caterer	Primary	N

23 DCMR 2000.2	Caterer or Designated Manager on Premises of Event	Secondary	Y
23 DCMR 2000.3	Submission of False or Misleading Affidavit	Primary	N
23 DCMR 2002.1	Purchase of Alcoholic Beverages by Caterers	Secondary	Y
23 DCMR 2002.2	Failure to Maintain Caterer Records	Primary	N
23 DCMR 2003.1	Improper Storage of Alcoholic Beverages by Caterer	Primary	Y
23 DCMR 2004.1	Importation and Transportation of Alcoholic Beverages by Caterer	Primary	Y
23 DCMR 2004.2	Removal of Unsealed Container by Caterer	Secondary	Y
23 DCMR 2004.3	Storage of Unopened Alcoholic Beverage by Caterer	Primary	Y
23 DCMR 2005.1	Caterer: No ABC Manager Present	Secondary	N
23 DCMR 2005.2	Caterer: No License Available for Public Inspection	Secondary	Y
23 DCMR 2006.1	Failure to File Caterer Report	Secondary	Y - Mandatory
23 DCMR 2006.2	Caterer: False or Misleading Information in Report	Primary	N
23 DCMR 2006.5	Caterer: Failure to Timely File Report	Secondary	Y - Mandatory

800.1 The penalties contained under this section shall become effective 5 days after publication in the *District of Columbia Register* (effective September 25, 2013).

800.2 None of the descriptions contained in Subsection 800.2 shall be construed to expand, limit, or define any specific violation.

800.3 Whether violations are classified as primary tier or secondary tier shall be determined with reference to the ABRA civil penalty schedule in effect when the violation was committed.

801. PRIMARY TIER VIOLATIONS.

801.1 The Board may fine a licensee for a primary tier violation at a show cause hearing scheduled pursuant to the notice requirements set forth in § 1604 as follows:

(a) For the first primary tier violation, the fine shall be $ 1000-$ 2000.

(b) For the second primary tier violation within two years, the fine shall be $ 2,000-$ 4,000.

(c) For the third primary tier violation in three years, the fine shall be $ 4,000-$ 6,000.

(d) For the fourth primary tier violation in four years, the ABC license shall be revoked or fined no less than $30,000 and suspended for 30 consecutive days.

(e) For the fifth primary tier violation in four years, the ABC license shall be revoked.

802. SECONDARY TIER VIOLATIONS

802.1 The Board may fine a licensee for a secondary tier violation at a show cause hearing scheduled pursuant to the notice requirements set forth in § 1604 as follows:

(A) For the first secondary tier violation, $250-$500.

(B) For the second secondary tier violation within two years, $500-$750.

(C) For the third secondary tier violation within three years, $750-$1,000.

(D) A licensee found in violation of a secondary tier violation for the fourth time within 4 years shall be penalized according to a first primary tier violation ($1,000-2,000). Every subsequent secondary tier offense within 5 years of the first violation shall be fined according to the schedule for primary tier violations.

803. CITATIONS FOR PRIMARY TIER VIOLATIONS.

803.1 ABRA investigators or Metropolitan Police Department Officers ("MPD Officer") shall issue citations, pursuant to D. C. Official Code § 25-801(b), for primary tier violations as follows:

(a) For the first primary tier violation, the fine shall be $ 1000.

(b) For the second primary tier violation within two years, the fine shall be $ 2,000.

(c) For the third primary tier violation in three years, the fine shall be $ 4,000.

(d) For the fourth or fifth primary tier violation in four years, the violation shall be referred to the Board for a show cause hearing pursuant to § 1604.

804. CITATIONS FOR SECONDARY TIER VIOLATIONS

804.1 ABRA investigators or MPD Officers shall issue citations, pursuant to D.C. Official Code § 25-801(b), for secondary tier violations as follows:

(A) For the first secondary tier violation, the fine shall be $250.

(B) For the second secondary tier violation within two years, the fine shall be $500.

(C) For the third secondary tier violation within three years, the fine shall be $750.

(D) For the fourth secondary tier violation within four years, the fine shall be $1,000. Every subsequent secondary tier offense within five years of the first shall be fined according to the schedule for primary tier violation citations set forth in § 803 of this title.

805. WARNINGS.

805.1 An ABRA investigator or MPD Officer is not precluded from issuing an administrative written warning before the issuance of a citation for a violation as permitted by § 800 of this title.

805.2 In not less than ten (10) business days following the issuance of an administrative written warning, an ABRA investigator shall conduct a subsequent inspection of the licensed premises to ensure that the licensee has taken corrective action for the violation found for which the administrative written warning was issued. If corrections to violations that resulted in the issuance of the administrative written warning are not completed at the time of the subsequent inspection, the ABRA investigator shall issue the licensee a citation or refer the matter to the ABC Board if (1) the licensee observes other violations that are not entitled to a warning or (2) the licensee already has three or more secondary tier violations.

805.3 A licensee entitled to a mandatory administrative written warning for a first violation shall not be entitled to a mandatory administrative written warning for a second or subsequent violation of the same offense. There shall be no expiration period on this subsection's prohibition against issuing a mandatory administrative written warning for a subsequent violation of the same offense.

806. CITATION APPEALS

806.1 A licensee may challenge the issuance of a citation issued by an ABRA Investigator or MPD Officer by requesting in writing a show cause hearing before the Board. The written request for a show cause hearing must be received by ABRA within thirty (30) days from the date that the citation was issued to the establishment.

807. SALE TO MINOR VIOLATIONS

807.1 The Board may give warnings for first-time sale to minor offenses, excluding “egregious” sale to minor violations. Egregious shall be defined as “a sale to minor violation where the licensee: (1) sold or served an alcoholic beverage to a minor who was unable to produce a valid identification after a request from the licensee to do so; (2) intentionally sold an alcoholic beverage to a minor; or (3) can be established to have had a pattern of prior alcoholic beverage sales or service to minors.”

CHAPTER 9. PROHIBITED AND RESTRICTED ACTIVITIES

900. Primary American Source of Supply
901. labeling of Beer Containers and Beer Taps
902. Unsealed Containers in Commercial or Public Vehicles

903. Gifts and Loans from Manufacturer Prohibited
904. Gifts and Loans from Wholesaler Prohibited
905. Restrictions on Entrance Into Licensed Premises

900. PRIMARY AMERICAN SOURCE OF SUPPLY

900.1 It shall be unlawful for any wholesaler to purchase any alcoholic beverage for resale unless the alcoholic beverages are purchased from the primary American source of supply for the brand of alcoholic beverages sought to be resold.

900.2 It shall be unlawful for any wholesaler to sell any alcoholic beverages in the District of Columbia if the alcoholic beverages have not been purchased by the wholesaler from the primary American source of supply.

901. LABELING OF BEER CONTAINERS AND BEER TAPS

901.1 No licensee shall sell, offer for sale, or import for sale, delivery, or shipment within the District of Columbia any beer unless the original container is correctly marked, branded, and labeled in English.

901.2 The label shall be firmly attached and shall contain the following:

(a) The brand name and address of the brewer, bottler, or wholesaler;

(b) The class of the beverage (including beer, ale, porter, lager, bock, stout, or half and half); and

(c) The net content of the container.

901.3 The label shall not contain any of the following:

(a) Any false or misleading statement, design, or device;

(b) The words “high test,” “high proof,” “full strength,” “prewar strength,” or similar words;

(c) Any statement, design, or device implying that the use of the beer has curative or therapeutic effects; or

(d) Any seal, flag, crest, coat of arms, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made, or used by the government, organization, family, or individual with which that seal, flag, crest, coat of arms, or other insignia is associated.

901.4 No licensee shall alter, obliterate, or destroy any label attached to a beer container.

901.5 The holder of a Retailer's license Class C or D, shall not sell any beer on draft from any tap, faucet, spigot, or other dispensing device unless there shall plainly appear on or be attached to such

device an inscription, clearly legible for a distance of ten feet (10 ft.) from the dispenser outlet to a person with normal vision, giving the brand or trade name of the beer so sold from the tap.

902. UNSEALED CONTAINERS IN COMMERCIAL OR PUBLIC VEHICLES

902.1 No driver of a commercial or public vehicle or common carrier in the District of Columbia shall have in his or her possession, while in or on the vehicle, any opened or unsealed package containing any alcoholic beverage.

903. GIFTS AND LOANS FROM MANUFACTURER PROHIBITED

903.1 The five hundred dollar ($500) limitation set forth in D.C. Official Code § 25-735 shall apply to each separate service or article of property for each individual transmittal being promoted by such service or article of property.

903.2 Such application for approval shall include the following information: licensee name, location, date of the event, nature of the promotion, name of the entity contributing the service or article of property, description of each service or article of property, value of each (each not to exceed $500), whether the service or article of property is a purchase, rental, borrowing, or gift.

903.3 Board approval shall not be required for each individual transmittal having a value of less than fifty dollars ($50).

904. GIFTS AND LOANS FROM WHOLESALER PROHIBITED

904.1 The five hundred dollar ($500) limitation set forth in D.C. Official Code § 25-736 shall apply to each separate service or article of property for each individual occurrence.

904.2 Such application for approval shall include the following information: licensee name, location, date of the event, nature of the promotion, name of the entity contributing the service or article of property, description of each service or article of property, value of each (each not to exceed $500), whether the service or article of property is a purchase, rental, borrowing, or gift.

904.3 Board approval shall not be required for each individual transmittal having a value of less than fifty dollars ($50).

905. RESTRICTIONS ON ENTRANCE INTO LICENSED PREMISES

905.1 The admittance requirement of those persons displaying a valid identification as set forth in D.C. Official Code § 25-782(d) shall not preclude establishments from enforcing a dress code or an age restriction, provided those establishments do not discriminate on any basis prohibited by Chapter 25 of Title 1 of the D.C. Official Code.

CHAPTER 10. ENDORSEMENTS

1000. Entertainment Endorsement

1001. Entertainment Endorsement Application
1002. Cover Charge
1003. One-Day Substantial Change Exception
1004. Sidewalk Café or Summer Garden Endorsement
1005. Sidewalk Café or Summer Garden Application

1000. ENTERTAINMENT ENDORSEMENT

1000.1 No licensee under a license, class C/R, D/R, C/H, or D/H, may have entertainment, dancing, or charge a cover charge without obtaining an entertainment endorsement.

1000.2 No licensee under a license, class C/T or D/T, may have entertainment, a dance floor or dance area larger than 140 square feet, or charge a cover without an entertainment endorsement. A tavern may have a dance floor or dance area up to 140 square feet without an entertainment endorsement.

1000.3 The licensee under a license, class C/N or D/N, may have entertainment, dancing, or charge a cover without an entertainment endorsement.

1000.4 An entertainment endorsement shall not be issued to the licensee under a license, class C/R, D/R, C/H, or D/H, that has been determined by the Board not to be in substantial compliance with the minimum food sales requirement as set forth in Chapter 21.

1000.5 An entertainment endorsement shall be placed by ABRA on the establishment's license and shall indicate the establishment's hours of operation and whether entertainment, and dancing or charging a cover is permitted.

1001. ENTERTAINMENT ENDORSEMENT APPLICATION

1001.1 An applicant for a new or an amended entertainment endorsement shall apply by a separate application form provided by ABRA. The application form shall include, at a minimum, information from the applicant in response to the following questions: (a) Do you intend to have entertainment?; (b) What is the nature of your entertainment?; (c) What hours will your entertainment occur?; (d) Do you intend to provide an area for dancing?; (e) What size will your dance area be?; and (f) Do you intend to have a cover charge?

1001.2 An application for a new entertainment endorsement may be filed with an application for a new license, class C/R, D/R, C/H, D/H, C/T, or D/T. The Board shall provide notice of both the new license application and the entertainment endorsement application at the same time pursuant to the requirements of D.C. Official Code §§ 25-421 through 25-423.

1001.3 An application for a new or amended entertainment endorsement filed by the licensee under an existing license, class C or D, shall be considered by the Board pursuant to the substantial change procedures set forth in D.C. Official Code § 25-404. The Board shall provide notice of entertainment endorsement applications that constitute a substantial change pursuant to the requirements of D.C. Official Code §§ 25-421 through 25-423.

1001.4 Pursuant to the requirements of § 1001.1(c), an applicant for an entertainment endorsement shall be required to list the hours it intends to begin and end entertainment, including live music; provided, that the applicant shall only be required to specify the hours of entertainment starting after 6:00 p.m.

1001.5 The licensee under a license, class C/R, D/R, C/H, D/H, C/T, or D/T, shall be eligible to receive automatic conversion to an entertainment endorsement for the entertainment, cover charge, and dancing activities for which the licensee has previously obtained permission from the Board. Automatically converted establishment shall be required to file an entertainment endorsement application, but shall be exempt from the procedures set forth in § 1001.3.

1001.6 The licensee under a license, class C/R, D/R, C/H, D/H, C/T, or D/T, may file a written request with the Board to amend its entertainment endorsement subject to the procedures set forth in § 1001.3. An amendment to an entertainment endorsement shall not be required for changes to an establishment's entertainment or dancing format if: (a) the licensee's entertainment endorsement is approved for entertainment or dancing; and (b) the change is not restricted by Board order or cooperative/voluntary agreement.

1001.7 The entertainment endorsement fee shall be twenty percent (20%) of an establishment's base license fee.

1002. COVER CHARGE

1002.1 The licensee under a license, class C/R, D/R, C/H, D/H, C/T, or D/T, shall obtain an entertainment endorsement to have a cover charge. For purposes of this section, a cover charge is a fee required by an establishment to be paid by patrons for admission that is not directly applied to the purchase of food or drink.

1002.2 An applicant shall follow the entertainment endorsement application and notice procedures set forth in § 1001; provided, that an entertainment endorsement application that solely requests approval from the Board to charge a cover charge shall not be considered a substantial change under D.C. Official Code § 25-404. Opposition to a cover charge shall also not be considered grounds for filing an objection under D.C. Official Code § 25-602(a) to an entertainment endorsement application.

1002.3 The licensee under a license, class C/N or D/N, shall be permitted to have a cover charge without an entertainment endorsement unless restricted by Board order or cooperative/voluntary agreement.

1002.4 The licensee under a license, class C or D, with a certificate of occupancy over 400 persons shall also be required to obtain a public hall certificate of occupancy from the Zoning Administrator and an entertainment endorsement for a public hall from the Department of Consumer and Regulatory Affairs pursuant to D.C. Official Code § 47-2820 to be eligible to charge a cover charge.

1003. ONE-DAY SUBSTANTIAL CHANGE EXCEPTION

1003.1 The licensee under a license, class C/R, D/R, C/H, D/H, C/T, or D/T, who does not possess an entertainment endorsement may file a one-day substantial change request with the Board pursuant to § 716 for permission to have entertainment, a cover charge, or dancing not permitted by the applicant's license as part of a specific event. The one-day substantial change request may be granted, in the Board's discretion, unless the activities sought by the applicant are otherwise prohibited by the establishment's license.

1003.2 A request under § 1003.1, when considered together with § 716.1, shall not be granted by the Board more than six (6) times in a calendar year.

1004. SIDEWALK CAFÉ OR SUMMER GARDEN ENDORSEMENT

1004.1 No licensee under an on-premises retailer's license shall be permitted to serve alcoholic beverages on either outdoor public or private space without obtaining a sidewalk café endorsement for outdoor public space or a summer garden endorsement for outdoor privately owned space. The sidewalk café or summer garden endorsement shall be placed by ABRA on the license.

1005. SIDEWALK CAFÉ OR SUMMER GARDEN APPLICATION

1005.1 An applicant for a sidewalk café or summer garden endorsement shall apply by a form provided by ABRA. The form shall include, at a minimum, the name of the licensee, the address of the establishment, the requested number of outdoor seats for the service of alcoholic beverages, and the hours of operation for the outdoor area. The applicant shall submit with the application: (a) a copy of its certificate of occupancy; (b) a diagram or photograph showing the designated area for the sidewalk café or summer garden; and (c) a public space permit and certificate of use for sidewalk café applications. The failure to provide a public space permit or certificate of use, as required by this subsection, shall not be grounds for refusal of the application for processing; provided, that the applicant shall provide ABRA with a copy of the public space permit and the certificate of use prior to receiving the sidewalk café endorsement.

1005.2 An application for a sidewalk café or summer garden endorsement may be filed in conjunction with an application for a new license, class C or class D.

1005.3 An application for a sidewalk café or summer garden endorsement shall be considered by the Board pursuant to the substantial change procedures set forth in D.C. Official Code § 25-404.

1005.4 The fee for the sidewalk café or summer garden endorsement shall be seventy five dollars ($75) as set forth in § 209.7. An inspection shall be required prior to conducting business operations on a new or remodeled sidewalk café or summer garden, which may include the sale, service, or consumption of alcoholic beverages on outdoor public or private space. A separate inspection fee shall not be required.

1005.5 The transfer of ownership of a license shall also include a transfer of any sidewalk care or summer garden endorsement.

1005.6 The licensee under a sidewalk café endorsement shall be required to post its public space permit, which indicates the establishment's number of permitted seats, adjacent to its license.

CHAPTER 11. ADVERTISING

1100. Prohibited Statements

1100. PROHIBITED STATEMENTS

1100.1 The use of any picture or illustration depicting a child or immature person, or objects (such as toys), suggestive of the presence of a child, and any statement, design, device, picture, or illustration designed to be especially appealing to children or immature persons, which promotes the sale, service, or consumption of alcoholic beverages shall be prohibited.

1100.2 Any statement, picture, or illustration referring to Easter, Holy Week, Mother's Day, “Santa Claus,” including names synonymous with “Santa Claus”, or a religious holiday or religious symbol, which promotes the sale, service, or consumption of alcoholic beverages shall be prohibited. Nothing in this section shall prohibit references to Christmas or any other holiday season if the references do not include statements, pictures, or illustrations on strictly religious themes.

1100.3 The words “Wholesale,” “Wholesale Department” (except to the extent required by federal law), or any other word or words intended to mislead or deceive the general public into believing that the advertiser is authorized or licensed to sell alcoholic beverages as a wholesaler under the provisions of the Act shall be prohibited.

1100.4 A statement that is known by the retailer to be false or misleading with respect to advertised price charged to the consumer, ingredients of alcoholic beverages, source of manufacturer, or statements as to health benefits, shall be prohibited.

CHAPTER 12. RECORDS AND REPORTS

1200. Manufacturer’s Books and Records
1201. Manufacturer’s Invoices
1202. Wholesaler’s Books, Records, and Reports
1203. Wholesaler’s Invoices
1204. Retailer’s Books and Records
1205. Listing of Brands
1206. Manufacturer’s Reports
1207. Quarterly Statements and Annual Reports of Restaurants and Hotels
1208. Retention and Inspections of Books and Records

1200. MANUFACTURER'S BOOKS AND RECORDS

1200.1 Each holder of a Manufacturer's license shall keep and maintain upon the licensed premises adequate books and records showing all sales or other dispositions of beverages, including the following:

(a) The date of each sale;

(b) The name, address, and license number of the purchaser;

(c) The quantity in gallons of each character and brand of beverage in each sale with the total price; and

(d) The character, brand, and quantity in gallons of all beverages disposed of other than by sale.

1201. MANUFACTURER'S INVOICES

1201.1 With each sale of beverage the holder of a Manufacturer's license shall cause to be made in duplicate an invoice of the sale showing the following information:

(a) The date of each sale;

(b) The name, addresses, and license numbers of both the vendor and the vendee;

(c) The quantity in gallons of each character and brand of beverage in each sale;

(d) The price of each character and brand of beverage in each sale with the total price; and

(e) A true, accurate, and complete statement of the terms and conditions on which the sale is made.

1201.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

1201.3 The original of the invoice shall be delivered to the vendee and the duplicate invoice shall be retained by the vendor.

1202. WHOLESALER'S BOOKS, RECORDS, AND REPORTS

1202.1 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records for each purchase showing the following:

(a) The quantity in gallons of each character and brand of beverage purchased by the licensee in each purchase;

(b) The date of each purchase;

(c) The name and business address of the person from whom the purchase was made;

(d) The price of each character and brand of beverage purchased with the total price; and

(e) The license number of the vendor, if licensed under the Act.

1202.2 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records showing the character, brand, and quantity in gallons of all beverages disposed of other than by sale.

1202.3 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records showing all sales of beverages, including the following information:

(a) The date of each sale;

(b) The name, address, and license number of the purchaser; and

(c) The quantity in gallons of each brand of beverage in each sale.

1202.4 Each holder of a Wholesaler's license shall twice a year furnish a report to the Board, on forms provided by the Board, as to all of the information required under § 1202.1.

1203. WHOLESALER'S INVOICES

1203.1 With each sale of a beverage, the holder of a Wholesaler's license shall cause to be made in duplicate an invoice of each sale showing the following information:

(a) The date of each sale;

(b) The names, addresses, and license numbers of both the vendor and the vendee;

(c) The quantity in gallons of each character and brand of beverage in each sale;

(d) The price of each character and brand of beverage in each sale with the total price; and

(e) A true, accurate, and complete statement of the terms and conditions on which the sale is made.

1203.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

1203.3 The original of the invoice shall be delivered to the vendee and the duplicate invoice shall be retained by the vendor.

1204. RETAILER'S BOOKS AND RECORDS

1204.1 Each holder of a Retailer's license shall keep and maintain available upon the licensed premises, either physically or electronically, records which include invoices and delivery slips and

which adequately and fully reflect all purchases, sales, and deliveries of all alcoholic beverages, except beer, made to it.

1204.2 Records shall include and distinctly show the following information:

(a) The quantity in gallons of each kind of beverage purchased in each purchase;

(b) The date of each purchase;

(c) The name and business address of the person from whom purchased with the license number of the vendor, if licensed under the Act;

(d) The price of each kind of beverage purchased with the total price; and

(e) The character and brand and quantity in gallons of all beverages, except beer, acquired other than by purchase.

1204.3 All invoices and delivery slips required by § 1204.1 and all importation permits after cancellation as required by D.C. Official Code § 25-119, shall be systematically filed and maintained for a period of three (3) years from date of delivery and shall show a true, accurate and complete statement of terms and conditions on which each purchase was made.

1205. LISTING OF BRANDS

1205.1 Within ten (10) days of offering an alcoholic beverage product for sale, each holder of a Manufacturer's or Wholesaler's license shall furnish to the Board the following information with respect to each item of beverage for sale:

(a) The brand or trade name and character; and

(b) The proof and age of each item, except beer.

1205.2 Written notice shall be given to the Board within ten (10) days after the discontinuance of the offering for sale of any item.

1206. MANUFACTURER'S REPORTS

1206.1 This section shall apply to each holder of a Manufacturer's license Class A.

1206.2 Licensees subject to the section shall, on or before the 21st day of each month, furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity of each kind of alcoholic beverage, except beer, manufactured by the licensee during the preceding calendar month for beverage purposes; and

(b) The quantity of alcoholic beverages manufactured by the licensee during the preceding calendar month for nonbeverage purposes.

1207. QUARTERLY STATEMENTS AND ANNUAL REPORTS OF RESTAURANTS AND HOTELS

1207.1 Within thirty (30) days after the end of each quarter, the holder of a Retailer's license Class CR, CH, DR, or DH shall file with the Board a statement of expenditures and receipts by the licensed establishment during that quarter containing the following:

(a) The total amount of receipts for the sale of alcoholic beverages and food;

(b) Of that total, the amount received for the sale of alcoholic beverages and the amount received for the sale of food, and the percentages of the total receipts represented by the respective amounts;

(c) Total expenditures for alcoholic beverages and food;

(d) Of that total, the amount expended for alcoholic beverages and the amount expended for food, and the percentages of the total expenditures represented by the respective amounts;

(e) A statement indicating the method used to compute the amounts and percentages; and

(f) An affidavit executed by an individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the quarterly statement.

1207.2 The amounts reported for the sale of alcoholic beverages and food shall represent reasonable prices appropriate to the licensee's establishment.

1207.3 For purposes of this section, each licensee shall report under “alcoholic beverages” any non-alcoholic liquid or solid served as part of the contents of an alcoholic beverage.

1207.4 In computing the amounts received and expended for alcoholic beverages and for food, a licensee shall exclude all amounts received for taxes and gratuities in conjunction with these transactions, and all amounts, including surcharges, related to the obtaining and providing of entertainment or other goods and services at the licensed establishment.

1207.5 Each holder of a Retailer's license Class CR, CH, DR, or DH shall also submit to the Board an annual report attesting to the correctness of the quarterly statements submitted during the preceding year.

1207.6 Each annual report shall be filed within sixty (60) days from the end of the annual period that is the subject of the report.

1207.7 A licensee may submit, together with the first annual report submitted to the Board, adjustments to the quarterly statements filed for the preceding one-year period. Thereafter, no

adjustments shall be permitted to the quarterly statements filed with the Board without the prior permission of the Board.

1207.8 The annual accounting period, for purposes of the annual report, shall correspond to each of the three (3) years for which a license is issued.

1207.9 The making of a false statement on a quarterly statement or annual report, with the knowledge of the license holder, shall constitute grounds on which the Board may deny the renewal of the license, or subsequently revoke the license, when the renewal of the license is based wholly or in part on the contents of the false statement.

1208. RETENTION AND INSPECTION OF BOOKS AND RECORDS

1208.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Board or its designated agent, and the OTR, during the establishment's approved hours of operation.

1208.2 The holders of Manufacturer's and Wholesaler's licenses shall keep and maintain all books and records referred to in this chapter on the licensed premises for a period of four (4) years after the latest transaction recorded in those books and records.

1208.3 The holder of a Retailer's license shall keep and maintain all book and records referred to in this chapter on the licensed premises for a period of three (3) years after the latest transaction recorded in those books and records.

1208.4 The holder of a Retailer's, Manufacturer's, or Wholesaler's license may maintain its records at a location in the District of Columbia other than the licensed premises with the approval of the Board. Any requested location must: (1) maintain both the original and duplicate invoices; and (2) be available for inspection by ABRA investigators at any time during business hours.

1208.5 The holder of a Retailer's license may maintain its original invoices outside of the District of Columbia upon a determination by the Board that good cause exists. However, duplicate invoices must be maintained in the District of Columbia at either the licensed premises or a location approved by the Board and the applicant is responsible for providing the original invoices to the Board within three (3) days of receiving a written request from the Board. Failure to make the original invoices available to the Board within three (3) days of its written request shall constitute a violation of § 1208.1.

1208.6 The holder of a Retailer's, Manufacturer's, or Wholesaler's license may store books and records on the licensed premises electronically; provided, that the records are made immediately available at the request of ABRA staff.

CHAPTER 13. TRANSPORT OF BEVERAGES

1300. Transport Permits for Alcoholic Beverages
1301. Importation Permits for Retailers of Alcoholic Beverages

1302. Importation of Alcoholic Beverages for Private Use and Consumption
1303. Transportation of Beverages within the District of Columbia

1300. TRANSPORT PERMITS FOR ALCOHOLIC BEVERAGES

1300.1 The Board may issue a transport permit to the holder of a Retailer's license to transport, or cause to be transported into the District of Columbia, alcoholic beverages when the Board is satisfied that beverages bearing the same brand or trade name are not obtainable by the retail licensee from a licensed manufacturer or wholesaler in the District of Columbia in sufficient quantity to reasonably satisfy the immediate needs of the retail licensee.

1300.2 A transport permit issued under § 1300.1 shall specifically set forth the quantity, character, and brand or trade name of beverages to be transported and the names and addresses of the seller and of the purchaser.

1301. IMPORTATION PERMITS FOR RETAILERS OF ALCOHOLIC BEVERAGES

1301.1 An importation permit issued under D.C. Official Code § 25-119 to the holder of a Retailer's license Class A, B, C, or D, must bear the full brand or trade name of the alcoholic beverage to be imported. If the brand of alcoholic beverage to be imported is listed by a licensed manufacturer or wholesaler under these regulations, then upon application made to the Board, the retailer shall certify that the brand of alcoholic beverage sought to be imported is not available from a licensed manufacturer or wholesaler in sufficient kind or quantity to reasonably satisfy the immediate needs of the licensee.

1301.2 An importation permit issued under D.C. Official Code § 25-119 shall be valid for a period of thirty (30) days from the date of issuance.

1302. IMPORTATION OF ALCOHOLIC BEVERAGES FOR PRIVATE USE AND CONSUMPTION

1302.1 Any person who becomes a resident of, or establishes a domicile in, the District of Columbia, may bring into the District of Columbia his or her own personal stock of alcoholic beverages, so long as the beverages are for his or her private use and consumption and so long as the importation of the beverages is in compliance with applicable laws and regulations.

1302.2 The provisions of § 1302.1 shall apply to embassies and diplomatic representatives of foreign countries.

1302.3 Prior to importing under this section any alcoholic beverages into the District of Columbia from outside of the United States, the individual seeking to do so shall submit a written request for an importation permit to the Board which contains the following information:

(a) The type, brand, and quantity of each beverage to be imported;

(b) The individual's out-of-state or foreign address and telephone number;

(c) The individual's permanent address and telephone number in the District of Columbia; and

(d) A statement that the beverages are for personal use and consumption and will not be sold.

1302.4 The fee for an Importation Permit for alcoholic beverages imported pursuant to § 1302 for private use and consumption shall be fifty dollars ($50), paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA.

1303. TRANSPORT OF BEVERAGES WITHIN THE DISTRICT OF COLUMBIA

1303.1 No licensee, or agent, employee, or servant of a licensee, shall transport into the District of Columbia any of the following in a vehicle unless that vehicle bears upon the exterior of both sides of the vehicle the name of the licensee and the kind and number of the licensee's beverage license in letters not less than three and one-half inches (3 1/2 in.) high:

(a) More than twelve (12) bottles of alcohol, spirits, or wine; or

(b) More than forty-eight (48) bottles of beer.

1303.2 If more than twelve (12) containers of alcohol, spirits, or wine, or more than forty-eight (48) containers of beer, are transported in a vehicle not conforming with the requirements of § 1303.1, the person in charge of the transportation shall have in his or her possession a permit from the Board or a bill or memorandum issued by the seller of the alcoholic beverages, showing the following information:

(a) The name and address of the seller;

(b) The date of the sale; and

(c) The quantity and character of each beverage being transported.

1303.3 Upon demand by any police officer or duly authorized investigator of the Board, the person in charge of the transportation shall exhibit to the officer or investigator the permit, bill, or memorandum.

CHAPTER 14. TAXES ON ALCOHOLIC BEVERAGES

1400. Monthly Tax Rents
1401. Returns and Losses
1402. Monthly Tax Payments
1403. Information Tax Rents
1404. Determination of Tax When Report Not Filed
1405. Failure to Make Reports or Payments
1406. Late Payment Security Deposits
1407. Sale to Embassies

1400. MONTHLY TAX RENTS

1400.1 On or before the fifteenth (15th) day of each month, each licensee shall furnish to the OTR on the form prescribed by the OTR, a statement under oath showing the quantity of alcoholic beverages subject to taxation sold by the licensee during the preceding calendar month.

1400.2 As used in this chapter, the word “licensee” means the holder of a Manufacturer's or Wholesaler's license or the holder of a Retailer' license Class CX (Common Carrier license) issued for a passenger-carrying marine vessel operating in and beyond the District of Columbia, or for a club car or dining car on a railroad operating in and beyond the District of Columbia.

1400.3 Except as otherwise provided in this section, for the purpose of filing by the holder of a Manufacturer's or Wholesaler's license of a statement under oath showing the quantity of alcoholic beverages subject to taxation sold by that licensee during the preceding calendar month and payment of the tax thereon, the word “sold” shall apply to the following:

(a) All alcoholic beverages, title to or possession of which is transferred from the licensee to any other persons by any means whatsoever and whether or not for a consideration; and

(b) All alcoholic beverages used or consumed or set aside for use or consumption by the licensee or any other person.

1400.4 For the purposes of filing a statement under oath by the holder of a Retailer's license, Class CX (Common Carrier license), issued for a passenger-carrying marine vessel operated in and beyond the District of Columbia, for a club car or dining car on a railroad operating in and beyond the District of Columbia, the word “sold” shall apply to all alcohol and spirits, title to or possession of which is transferred from the licensee to any other person by any means whatsoever and whether or not for a consideration, and shall also apply to all alcohol and spirits used or consumed or set aside for use or consumption by the licensee or any other person, while the licensee is passing through or is at rest in the District of Columbia.

1400.5 The word “sold” shall not apply to alcoholic beverages transferred by the licensee to any instrumentality of the Government of the United States or the District of Columbia or to a dealer licensed under the laws of any State or territory of the United States and not licensed under the Act.

1401. RETURNS AND LOSSES

1401.1 The tax shall not apply to alcoholic beverages returned by a retail licensee to the holder of a manufacturer's or a wholesaler's license.

1401.2 The tax shall not apply to losses of alcoholic beverages occasioned by breakage, spoilage, or theft.

1401.3 Each loss of alcoholic beverage shall be proved by the licensee to the satisfaction of the OTR.

1402. MONTHLY TAX PAYMENTS

1402.1 Before the sixteenth (16th) day of each month, each licensee shall pay to the D.C. Treasurer the tax imposed upon the quantity of alcoholic beverages subject to taxation sold by the licensee during the preceding calendar month.

1402.2 The balance to the credit of a licensee of any monies deposited under this section shall be refunded to the licensee by the OTR where the licensee making the deposit shall, for a period of twelve (12) consecutive months subsequent to the month in which the deposit was made, or for the period as the licensee continues to engage in business, whichever is the lesser, have fully complied with the provisions of D.C. Official Code § 25-771, and with the provisions of this chapter.

1402.3 The Mayor or his designee may require retailers and wholesalers and every person liable for tax to keep, maintain, and preserve records, reports, books, returns, etc., and shall make those records available upon request by the Mayor or his designee. Records required to be available pursuant to this section shall be retained on the licensed premises in accordance with the relevant retention period established by § 1208.

1403. INFORMATION TAX RENTS

1403.1 Each holder of a Retailer's license desiring to transport or cause to be transported into the District of Columbia alcoholic beverages for which a permit is required under the Act or this title shall furnish to the OTR, on the form prescribed, an original and one (1) copy of a statement showing the quantity of alcoholic beverages to be imported, the name and address of the seller from which the alcoholic beverages are to be acquired, and other information required by the OTR.

1403.2 Reports required by this section shall be executed as follows:

(a) In the case of an individual licensee, by the licensee;

(b) In the case of a partnership licensee, by a general partner; and

(c) In the case of a corporate licensee, by the president, vice president, secretary, or treasurer of the corporation.

(d) In the case of a limited liability company, by the authorized representative of the limited liability company.

1403.3 No permit for the importation of alcoholic beverages shall be issued by the Board until there has been received by the Board from the OTR a copy of the form filed with the OTR, and satisfactory evidence of payment of the tax.

1404. DETERMINATION OF TAX WHEN REPORT NOT FILED

1404.1 If any statement required by this chapter is not filed, or if a statement when filed is incorrect or insufficient, the amount of tax due shall be determined by the OTR from such information as may be obtainable.

1404.2 The OTR shall serve notice of the determination of tax due under this section on the taxpayer either by delivering it or causing it to be delivered to the taxpayer personally or by mailing it to the licensee, postage prepaid, addressed to the licensee at the licensed premises.

1404.3 The amount determined and assessed in accordance with this section shall be payable within ten (10) days after the date of assessment.

1405. FAILURE TO MAKE REPORTS OR PAYMENTS

1405.1 When any tax imposed by the Act has become due and payable and has not been paid, that tax may be collected by levy and distraint as provided in D.C. Official Code § 47-4471.

1405.2 If the OTR believes that the collection of any tax imposed by the Act will be jeopardized by delay, that tax may be assessed and collected as provided in D.C. Official Code § 47-2013.

1405.3 The failure of a licensee to file any return or report required by this section or any other violation of the provisions of this section shall be punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one (1) year, or both.

1406. LATE PAYMENT SECURITY DEPOSITS

1406.1 If any licensee shall fail in any calendar month to pay when due the tax owed by the licensee on alcoholic beverages sold by the licensee in the preceding calendar month, the OTR may, in its discretion, as security for the payment of the tax on alcoholic beverages for which the licensee may thereafter be liable, do the following:

(a) Require the licensee to deposit with the D.C. Treasurer, within ten (10) days after the mailing by the OTR of a written demand to the licensee for the deposit, an amount in cash equal to twice the licensee's average liability per month for tax on alcoholic beverages for the twelve (12) calendar months immediately preceding the month in which the default occurs; or

(b) Require the licensee to file statements showing the quantity of alcoholic beverages subject to taxation for the total calendar months immediately preceding the month of default, if the number of months preceding the month of default is less than twelve (12) months.

1406.2 Upon any failure of the licensee making a deposit to pay when due any tax thereafter owed by the licensee on alcoholic beverages, the OTR shall apply the deposit to the payment of the delinquent tax, and the licensee shall, within seventy-two (72) hours after receipt of a written notice from the OTR to the licensee of the application of the deposit to the payment of the tax, again deposit with the D.C. Treasurer, in cash, an amount equal to the amount so applied.

1407. SALE TO EMBASSIES

1407.1 Holders of Wholesaler's licenses Class A, shall be authorized to sell and deliver alcoholic beverages within the District of Columbia directly to embassies, diplomatic representatives of foreign countries, and to international organizations designated by Executive Order of the President of the United States as entitled to the privileges outlined by federal law.

1407.2 The provisions of § 1407.1 shall not be construed as waiving the collection of the District of Columbia tax upon alcoholic beverages sold and delivered under this section.

CHAPTER 15. APPLICATIONS: NOTICE OF HEARINGS INVOLVING LICENSES

1500. Applicability
1501. General Provisions
1502. Notice of an Application for a New License or Certain Changes in License Class
1503. Notice of a Substantial Change in the Operations of a Licensed Establishment
1504. Notice of Transfer to a New Owner
1505. Presumption of Appropriateness

1500. APPLICABILITY

1500.1 This chapter shall govern all notices to the public, government officials, licensees and applicants for a license, concerning the following:

(a) Applications for new licenses;

(b) Applications to renew licenses or transfer licenses to new locations;

(c) Applications to substantially change the nature of operations at a licensed establishment; and

(d) Applications to transfer licenses to new owners.

1501. GENERAL PROVISIONS

1501.1 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 et seq.). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.

1501.2 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

1502. NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION

1502.1 The provisions of this section shall govern notice to the public of all applications for new licenses, renewals, or a transfer to a new location, including Manufacturer, Wholesaler, and Retailer

licenses, but shall not apply to Solicitor's licenses, Manager's licenses, Caterer's licenses, or to Temporary licenses.

1502.2 Upon acceptance of an application, the Board shall establish the date for a roll call hearing on the application, which shall be at least forty-five (45) days after the application is accepted.

1502.3 At least forty-five (45) days prior to the roll call hearing, the Board shall give notice of an application to the entities set forth in D.C. Official Code § 25-421(a). This notice requirement shall not apply to renewal applications in those instances where the Applicant's new license or transfer to a new location application has a 45 day public comment period ending within thirty (30) days of the renewal deadline for that license class.

1502.4 All fees associated with the newspaper advertisement required by D.C. Official Code § 25-422 shall be paid for by the applicant. Proof of payment must be submitted to the Board before placards will be provided to the applicant for posting.

1502.5 At least forty-five (45) days before the roll call hearing, the applicant shall post at least two (2) notice placards, provided by the Board, on the main entrance doors to the premises so as to be visible from the street, or on such other place on the premises as designated by the Board.

1502.6 The Board shall inspect the premises at least once before the date of the roll call hearing specified on the notice in order to ensure that the placards continue to be prominently and visibly displayed to the public. If the placards have been removed or are posted in a manner not visible from the street, the establishment shall be re-advertised and replacarded for a further forty-five (45) calendar day period.

1502.7 Notwithstanding the minimum forty-five (45) calendar day protest period, the applicant shall leave the placards posted until the roll call hearing date set out on the placards.

1503. NOTICE OF A SUBSTANTIAL CHANGE IN THE OPERATION OF A LICENSED ESTABLISHMENT

1503.1 Before a licensee makes a change in the nature of the operation of a licensed establishment which may be determined to be a substantial change, the licensee shall file with the Board a proposal to amend his or her most recent application to reflect the proposed changes.

1503.2 Upon receipt of an application amendment, the Board shall determine whether the change is substantial, and shall notify the licensee of its decision within thirty (30) calendar days of receipt of the application amendment.

1503.3 A fact-finding hearing may be held in the discretion of the Board to determine whether the change is substantial.

1503.4 Whenever the Board determines that the change is substantial, the Board shall give notice, as required in D.C. Official Code § 25-404.

1504. NOTICE OF TRANSFER OF A LICENSE TO A NEW OWNER

1504.1 Notice to the public of any change in the ownership of a licensed establishment shall be in accordance with this section.

1504.2 If a license transfer to a new owner occurs, as set out in D.C. Official Code § 25-405, and the new owner proposes to make substantial changes to the establishment, notice of the change in ownership and the change in operation shall be made in the same manner as set out in D.C. Official Code § 25-404.

1505. PRESUMPTIONS OF APPROPRIATENESS

1505.1 There shall be a presumption that a license is appropriate for an establishment if, after public notice is given under this chapter, no objection to the license is filed with the Board.

1505.2 There shall be a presumption that a substantial change in the nature of the operations of a licensed establishment is appropriate, if after public notice is given under this chapter, no objection to the change is filed with the Board.

1505.3 Objections may be made by means of a protest, as set out in § 1605.

CHAPTER 16. CONESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS, AND PROCEDURES

1600. General Provisions
1601. Administrative Review
1602. Roll Call Hearing
1603. Status Hearing
1604. Show Cause Hearings
1605. Filing a Protest
1606. Protest Hearings
1607. Establishment of Geographic Boundaries
1608. Settlement Conferences
1609. Cooperative or Voluntary Agreements
1610. Summary Suspension and Summary Revocation Hearings
1611. Fact-Finding Hearings
1612. Moratorium Hearings

1600. GENERAL PROVISIONS

1600.1 The provisions of this chapter shall govern the following items: (a) Administrative review hearings, roll call hearings, or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act; (b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act; (c) Fact-finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and (d) Show cause

hearings, summary suspension hearings or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.

1600.2 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.

1600.3 The following hearings held before the Board shall be considered to be contested cases: (a) Protest hearings; (b) Show cause hearings; (c) Summary suspension or summary revocation hearings; (d) Cease and desist hearings; and (e) Safekeeping hearings

1600.4 The following hearings held before the Board shall not be considered to be contested cases: (a) Fact-finding hearings; and (b) Moratorium hearings and other rulemaking hearings

1600.5 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 et seq.). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.

1600.6 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

1601. ADMINISTRATIVE REVIEW.

1601.1 Before any license is issued, renewed, or transferred to a new location, and before any substantial change to the operations of a licensed establishment may be made, the Board shall provide notice to the public pursuant to the notice requirements set forth under §§ 1502, 1503, and 1504. Notice provided to the public shall specify the information required by D.C. Official Code § 25-423(b), including the final day of the protest period and the license application's administrative review date.

1601.2 The administrative review hearing shall be a non-adversarial proceeding held by the Board's agent at which a list of applications for the licensing actions set out in § 1605.1 and the names of protestants who have filed an objection pursuant to D.C. Official Code § 25-601 shall be read to the public. For purposes of this section, the Board's agent shall be defined as an ABRA Office of the General Counsel employee at or above the Grade 12 level, excluding the ABRA General Counsel.

1601.3 If no written objection to an application has been received by the Board during the protest period, the Board's agent shall hold an administrative review on the application within fifteen (15) calendar days after the end of the protest period. An objection must be received by the Board prior to the end of the protest period to be considered timely filed.

1601.4 If an objection, in the form of a protest or by Protest Petitions (as set forth in § 1800.2 of this title), has been received by the Board during the protest period, the Board's agent shall so state and the Board's agent shall set a date for a status hearing before the Board unless the scheduling of a roll call hearing before the Board is necessary as required by § 1602A. 8. In setting a date for a status hearing,

the Board's agent may also approve a joint request by the parties to schedule a settlement conference prior to the status hearing date.

1601.5 Each applicant, and each person submitting a protest shall attend the administrative review hearing in person or appear through a designated representative.

1601.6 Failure to appear at the administrative review hearing either in person or through a designated representative may result in denial of the license application or dismissal of a protest unless good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:

(a) sudden, severe illness or accident;

(b) death or sudden illness in the immediate family, such as spouse, partner children, parents, siblings;

(c) incarceration; or

(d) severe inclement weather.

1601.7 A recommendation by the Board's agent to deny a license application or dismiss a protest for failure to attend the administrative review shall be forwarded to the Board for consideration in writing. The Board's decision to adopt or not adopt the recommendation of the Board's agent to deny a license application or dismiss a protest for failure to appear shall be sent to the parties in writing. A request for reinstatement with the Board must be filed within ten (10) days after notification from the Board of the dismissal or denial. In reviewing the request, the Board shall consider whether, in the discretion of the Board, the party has shown good cause for his or her failure to appear at the administrative review.

1601.8 The Board's agent shall schedule a roll call hearing for the next regularly scheduled Board meeting rather than a status hearing before the Board when:

(a) a dispute exists regarding whether the placards at an applicant's premises have remained visible to the public for a full forty-five (45) calendar days;

(b) a legal issue is raised that would preclude the Board from granting the application, including but not limited to:

(1) the applicant's distance from a school or recreation center operated by the D.C. Department of Recreation;

(2) whether the applicant's proposed establishment is located in a residential-use district; and

(3) whether the applicant's voluntary agreement prohibits the application;

(c) a dispute exists regarding the legal standing of a party or whether a party has raised legally permitted protest issues; or

(d) any other legal issue arises that requires a decision by the Board. When a dispute arises regarding the applicant's distance from a school or recreation center operated by the D.C. Department of Recreation, the Board's agent shall request that a measurement be conducted by ABRA in advance of the scheduled roll call hearing.

1601.9 At the administrative review, the Board's agent shall have the authority to:

(a) regulate the course of the hearing;

(b) request the persons appearing at the hearing to state their respective positions concerning any issues in the proceeding and their support of or opposition to such issues;

(c) request or accept written documentation from the parties including letters of representation;

(d) identify the parties with standing and the filed protest issues, if undisputed;

(e) approve a joint request from the parties for a scheduled settlement conference;

(f) grant a request to continue the administrative review consistent with the requirements of D.C. Official Code § 25-441 and § 1705;

(g) adjourn a hearing and establish the date when the hearing will be continued; and

(h) take any other action authorized by, or necessary under, this section.

1601.10 Upon the scheduling of an application for administrative review with the Board's agent, all parties shall be prohibited from participating in any ex parte communication with the Board's agent relevant to the merits of the proceeding. This shall include any oral or written communication not in the public hearing record with respect to which reasonable prior notice is not given to all parties to the proceeding.

1601.11 The administrative review shall be open to the public and transcribed by a certified court reporter.

1602. ROLL CALL HEARING

1602.1 The roll call hearing shall be a proceeding held by the Board to address unresolved legal and factual issues and disputes identified by the Board's agent at the administrative review.

1602.2 Each applicant, and each person submitting a protest shall attend the roll call hearing in person or appear through a designated representative.

1602.3 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is

shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:

(a) sudden, severe illness or accident;

(b) death or sudden illness in the immediate family, such as spouse, partner, children, parents, siblings;

(c) incarceration; or

(d) severe inclement weather.

A request for reinstatement with the Board must be filed within ten (10) days after notification from the Board of the dismissal or denial.

1602.4 The Board shall hear from the parties at the roll call hearing regarding any unresolved legal issues listed in § 1602A. 8. The Board shall either announce its decision at the roll call hearing or take its decision on the unresolved legal issues under advisement and schedule the matter for a status hearing. A dispute identified at the administrative review regarding whether the placards at an applicant's premises have remained visible to the public for a full forty-five (45) calendar days will be heard by the Board at the roll call hearing. If the Board determines that the placards posted at an applicant's premises pursuant to D.C. Official Code § 25-423 have not remained visible to the public for a full forty-five (45) calendar days, up to and including the date of the roll call hearing, the Board shall reschedule the roll call hearing for a date at least forty-five (45) calendar days after the originally scheduled hearing.

1602.5 If a rescheduling is ordered, the applicant shall post new placards for another forty-five (45) calendar day period and no action on the application shall be taken until the administrative review date.

1602.6 Whenever a rescheduling is ordered, further protests may be filed until the completion of the forty-five (45) day protest period set out on the placards.

1602.7 The roll call hearing shall be open to the public and transcribed by a certified court reporter.

1603. STATUS HEARING

1603.1 The status hearing is a proceeding held by the Board at which the parties inform the Board of their progress in reaching a cooperative/voluntary agreement.

1603.2 The Board in its discretion may set a protest hearing or another status hearing if the Board believes that the parties are close to reaching a cooperative/voluntary agreement or that mediation might be helpful.

1603.3 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is

shown for the failure to appear. A request for reinstatement with the Board must be filed within ten (10) days of the dismissal or denial date.

1603.4 A status hearing shall be open to the public and transcribed by a certified court reporter.

SUBCHAPTER II. CONTESTED CASES

1604. SHOW CAUSE HEARINGS

1604.1 Whenever the Board has reasonable cause to believe that any license or permit should be fined, revoked, or suspended pursuant to Chapter 8 of Title 25 of the D.C. Official Code, it shall notify the person to whom the license or permit was issued by personal service or certified mail at the last address recorded by that person with the Board, citing that person to appear before the Board not less than thirty (30) days thereafter. The notice shall state the time and place set by the Board for the hearing.

1604.2 The licensee or permittee shall appear in his or her defense in person and may have representation by counsel or other designated representative, and shall be entitled to offer evidence before the Board with respect to the charges.

1604.3 If the person whose license or permit is sought to be fined, revoked, or suspended waives the hearing or fails to appear at the time and place set for the hearing, the Board may proceed ex parte, unless the Board extends the time for the hearing.

1604.4 The Board shall make its findings of fact based upon the evidence which has been presented to it.

1604.5 The Board may, in its discretion, accept from both (1) the licensee or permittee and (2) the Office of the Corporation Counsel or the prosecuting entity an offer in compromise and settlement to resolve the charges brought at the show cause hearing by the District of Columbia against the licensee. An offer in compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

1604.6 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review.

1604.7 Any fines collected by the Board shall be paid forthwith, unless otherwise ordered by the Board, to the D.C. Treasurer and credited to the General Fund.

1604.8 The issuance of an advisory opinion by the Board pursuant to § 1902 of this title may also result in the issuance of a show cause notice under this section.

1605. FILING A PROTEST

1605.1 Only those individuals or entities listed in D.C. Official Code § 25-601 may file a protest against:

(a) The issuance of a new license;

(b) The renewal of an existing license;

(c) The transfer of a license to a new location;

(d) Substantial changes to the nature of the operations of a licensed establishment; and

(e) Changes in license classes.

1605.2 All protests shall be in writing, shall be received by the Board prior to the end of the protest period, and shall state, as grounds for the protest, why the matter being objected to is inappropriate under one (1) or more of the appropriateness standards set out in D.C. Official Code §§ 25-313 and 25-314 and § 400 of this title.

1605.3 All protests shall be signed by the protestant and contain the protestant's full name and mailing address.

1605.4 The Board may require protestants to appear in person before the Board for the purpose of determining that a sufficient number of individuals exist to have standing pursuant to D.C. Official Code § 25-601.

1605.5 In addition to, or instead of, filing a protest, any person may circulate or sign Protest Petitions in opposition to any of the licensing actions listed in § 1605.1.

1606. PROTEST HEARINGS

1606.1 Whenever any objection is filed to any of the licensing actions set out in § 1605.1, whether by protest or by submission of Protest Petitions, the Board shall hold an adjudicatory proceeding, known as a “protest hearing,” for the purpose of receiving evidence and testimony regarding the appropriateness of the licensing action.

1606.2 The parties to a protest hearing shall be the applicant or licensee and the protestants. For the purpose of this section, “protestant” shall mean any eligible person, group, ANC, government agency or organization with standing under D.C. Official Code § 25-601 that has submitted a written protest or who has circulated a Protest Petition.

1606.3 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony he or she intends to produce regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence he or she intends to present to rebut or overcome the evidence and argument presented by the applicant or licensee.

1606.4 At the conclusion of the opening statements, the Board shall call its own witnesses, if any, who shall testify to the results of their investigation into the appropriateness of the establishment.

1606.5 At the conclusion of testimony by the Board's witnesses, if any, the applicant shall call its witnesses to give testimony and present evidence regarding the appropriateness of the establishment, as set forth in § 400 of this title.

1606.6 At the conclusion of testimony by the applicant's witnesses, the protestant shall call witnesses to give testimony and present evidence.

1606.7 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

1606.8 In any case where there is more than one (1) protestant, the Board, in its discretion, may require the protestants to confer among themselves and designate one (1) person to conduct the protestants' case, to give the opening and closing statements, and to cross-examine the applicant's witnesses.

1607. ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES

1607.1 Upon recognition by the Board of a properly filed protest at a roll call hearing, the applicant shall be required to select one of the geographic areas listed below that the applicant proposes be considered in determining the appropriateness of the establishment. The applicant shall submit the proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing.

1607.2 Upon recognition by the Board of a properly filed protest at a roll call hearing, the applicant shall be required to select one of the geographic areas listed below that the applicant proposes be considered in determining the appropriateness of the establishment. The applicant shall submit the proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing. The applicant shall be deemed to have selected the “section” geographic area if it fails to submit boundaries to the Board within the ten (10) calendar day period.

1607.3 Any protestant may object to the area and boundaries proposed by an applicant by filing a written objection with the Board no later than thirty (30) calendar days after receipt of the applicant's proposed boundaries. The objection shall also be served on the applicant by any of the means set forth in § 1703. The objection shall state in detail the following:

(a) The reasons for objecting to the boundaries proposed by the applicant;

(b) The boundaries proposed by the objector; and

(c) The reasons why the objector's boundaries should be adopted by the Board.

1607.4 The applicant's submission shall be served on the objector by any of the means set out in § 1703 and received by the Board no later than eight (8) calendar days after receipt of the applicant's submission.

1607.5 Any objector or applicant who makes a submission to the Board pursuant to §§ 1607.1, 1607.2, 1607.3, or 1607.4, may forward written argument or documentary evidence to the Board in support of the boundaries he or she proposes.

1607.6 The Board, pursuant to D.C. Official Code § 25-312(b), shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

1607.7 For the purpose of determining the appropriateness of a license, the geographic areas to be considered by the Board shall be measured pursuant to § 101.1 and shall be as follows:

(a) A "locality," which shall be the immediate neighborhood of the establishment and whose boundary shall be at a distance of six hundred feet (600 ft.) from the establishment;

(b) A "section," whose boundary shall be at an area larger than the immediate neighborhood and whose boundary shall be at a distance of twelve hundred feet (1,200 ft.) from the establishment; and

(c) A "portion," whose boundary shall be at an area larger than a "section" and whose boundary shall be at a distance of eighteen hundred feet (1,800 ft.) from the establishment.

1607.8 In determining the area to be considered, the Board shall consider the report of the Board's investigators concerning the overall characteristics of the alternative areas, including the following:

(a) The population and density of the areas surrounding the establishment;

(b) The general commercial and residential activities in the areas surrounding the establishment; and

(c) Geographical factors, such as parks, rail lines, major thoroughfares, bodies of water, cemeteries, and unimproved or unused property, which may tend to define physically an area to be considered.

1607.9 In determining the area to be considered, the Board shall also consider the evidence and testimony of a party proposing a particular area of consideration, when the proposal is based on an assertion of:

(a) Historical patterns of commercial or residential activity leading to an identification of a given area as a distinct, generally-recognized neighborhood, or larger area; or

(b) Any other reason not included in § 1607.2.

1607.10 The Board shall make a final decision on the boundaries without a hearing and based on the submissions received from the applicant and the objector.

1607.11 The Board's final decision shall be made and announced at the first status hearing for the application at issue.

1608. SETTLEMENT CONFERENCES

1608.1 Whenever a protest is filed, all parties shall attend a settlement conference among themselves on any mutually convenient date prior to the scheduled status or protest hearing. The date of the settlement conference may be arranged at the roll call hearing or may be arranged at any other time.

1608.2 The parties at a settlement conference may enter into a cooperative/voluntary agreement, as provided for in § 1609, and shall submit, on or before the date of the scheduled status or protest hearing, the agreement to the Board for approval.

1608.3 If the parties fail to reach a cooperative/voluntary agreement on one or more of the protest issues, they shall so state at the scheduled status or protest hearing and the Board shall thereupon proceed with a protest hearing as to all unresolved issues of fact.

1609. SETTLEMENT AGREEMENTS.

1609.1 The terms of a settlement agreement submitted by the parties shall be consistent with District of Columbia law and shall be in compliance with D.C. Official Code §§ 25-446.01 and 25-446.02.

1609.2 The Board may initiate a “Notice to Show Cause Hearing” upon evidence that the holder of a license has violated the material terms of the agreement. Upon a determination that the licensee has materially violated the agreement, the Board may suspend or revoke the license or impose any other penalty authorized by the Act or this title.

1609.3 A request to amend a cooperative/voluntary agreement shall be considered by the Board pursuant to the substantial change and notice procedures set forth in D.C. Official Code §§ 25-404 and 25-762.

1609.4 Upon finding that a licensee has materially violated certain conditions required by the Board, as authorized by this section, the Board may also fine a licensee pursuant to the range of fines set forth in D.C. Official Code § 25-830.

1609.5 The phrase “cooperative agreement” often used in agreements reached between applicants and protestants that are submitted to the Board for approval shall be considered synonymous with the phrase “voluntary agreement” and shall have the same meaning in these regulations.

1609.6 The phrase “settlement agreement” found in Title 25 of the D.C. Official Code shall be deemed equivalent to the term “cooperative agreement”, or “voluntary agreement” used in Title 23 of the D.C. Municipal Regulations.

1609.7 If the Board determines that a settlement agreement submitted by the parties does not comply with all applicable laws and regulations, or otherwise exceeds the Board's expertise to enforce, the Board may condition approval of the settlement agreement on the parties' acceptance of modifications of the agreement proposed by the Board. If the parties reject the modifications proposed by the Board, they may submit a new settlement agreement for Board review that complies with D.C. Official Code

§§ 25-446.01 and 25-446.02 and is within the Board's expertise to enforce, or proceed to a protest hearing.

1609.8 Settlement agreements must be submitted by the parties to the Board for the Board's consideration no later than ninety (90) days after the execution of the settlement agreement by parties who are signatories to the settlement agreement.

1610. SUMMARY SUSPENSION AND SUMMARY REVOCATION HEARINGS

1610.1 In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective. The Board shall schedule a show cause hearing to revoke the license if it determines that the operations of the licensee present an imminent danger to the health and safety of the public pursuant to D.C. Official Code §§ 25-826 and 25-827.

1610.2 In rendering a decision on a summary revocation hearing, the Board may revoke, suspend, or restrict an applicant's license.

SUBCHAPTER III. NON-CONTESTED CASES

1611. FACT-FINDING HEARINGS

1611.1 Prior to rendering a final decision on a licensing request or an ABRA Investigative Report, the Board may hold a fact-finding hearing to obtain further information from an applicant or licensee.

1611.2 A licensee shall not be fined, suspended, or revoked at a fact-finding hearing. However, information provided at a fact-finding hearing may result in the issuance of a show cause notice pursuant to § 1604 or other enforcement action permitted under the Act or this title.

1612. MORATORIUM HEARINGS

1612.1 The Board shall hold moratorium hearings pursuant to the requirements set forth in D.C. Official Code §§ 25-353 and 25-354.

CHAPTER 17. PROCEDURAL REQUIREMENTS FOR BOARD HEARINGS

1700. Applicability
1701. Parties, Intervention, and Right to be Heard
1702. Computation of Time
1703. Service of Papers
1704. Subpoenas
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1711. Evidence: General Rules
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1718. Decisions of the Board
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1720. Ex Parte Communication
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1700. APPLICABILITY

1700.1 This chapter shall apply to all hearings held before the Board.

1700.2 The Board may, for good cause shown and in the interests of justice or to prevent hardship, waive any of the provisions of this chapter in any proceeding after duly advising the parties of its intention to do so.

1701. PARTIES, INTERVENTION, AND RIGHT TO BE HEARD

1701.1 The parties to a show cause hearing shall be the following:

(a) The respondent, licensee, permittee, or applicant, and

(b) The District of Columbia.

1701.2 The parties to a protest hearing shall be the applicant and the protestants and their designated representatives, if any.

1701.3 The parties to a fact-finding hearing shall be the licensee, permittee, or applicant for a license, and such other persons whose appearance the Board deems necessary and who are designated by the Board as parties.

1701.4 The Board may, in its discretion, permit interested persons other than parties, as defined in this chapter, to intervene in a proceeding for such general or limited purpose as the Board may specify.

1701.5 A person permitted to intervene under this section shall comply with all conditions fixed by the Board and shall not be considered a party to the proceedings.

1701.6 At any proceeding before the Board on an application for issuance or renewal of a license, or transfer of a license to a new person or location, the Board shall hear as witnesses all persons residing

within and without the neighborhood who desire to be heard; provided that such testimony is not irrelevant or duly repetitious.

1702. COMPUTATION OF TIME

1702.1 Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period after the service of notice upon the party, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.

1702.2 Except as otherwise provided by law, any time period prescribed by this chapter may, for good cause shown, be extended or shortened by the Board with notice to all parties.

1703. SERVICE OF PAPERS

1703.1 Any papers filed with the Board in a contested case shall be served by personal delivery, first class U.S. mail, registered or certified mail, or facsimile. An original and six (6) copies of all papers filed with the Board are required, and proof of service shall be shown as required in § 1703.7.

1703.2 Any papers required to be served upon a party may be served upon the party or the party's designated representative.

1703.3 When a party has appeared through a representative, service shall be made upon the representative of record.

1703.4 Service upon a party may be made in the following manner:

(a) By personal delivery;

(b) By use of a process server;

(c) By registered or certified mail;

(d) By telegram; or

(e) As otherwise authorized by law.

1703.5 Service upon a party shall be completed upon any of the following acts:

(a) Handing the paper to the person to be served;

(b) Leaving the paper at the licensed premises with a Board-approved manager;

(c) Leaving the paper at the party's usual place of residence with some individual of suitable age and discretion residing therein;

(d) Deposit of the paper in the U.S. Mail, by registered or certified mail, properly stamped and addressed;

(e) Deposit of the paper with a telegraph company, properly addressed and with charges prepaid;

(f) Deposit of the paper in the U.S. Mail, by first class mail, properly stamped and addressed, by an attorney of record; or

(g) By an action in conformity with an Order of the Board in any proceeding.

1703.6 Proof of service shall state the name and address of the person served, the manner of service, and the date of service.

1703.7 Proof of service shall be shown by one of the following:

(a) Written acknowledgement of the person served or that person's representative;

(b) The certificate of the person making the service;

(c) A return receipt, if served by registered or certified mail; or

(d) A receipt, if served by telegram.

1703.8 Failure to serve all parties of record, or their designated representatives, may result in the Board delaying action on the matter at issue until such time as service is properly accomplished.

1704. SUBPOENAS

1704.1 The Board may upon its own motion, or upon the request of a party, compel witnesses to appear and testify or to produce books, records, papers, or other documents.

1704.2 Subpoenas shall be served by one of the methods set forth in D.C. Official Code § 25-443(a).

1704.3 Subpoenas issued by the Board shall be enforceable in the manner prescribed in D.C. Official Code § 25-443(c).

1705. CONTINUANCES

1705.1 A hearing scheduled before the Board shall not be delayed by motion for a continuance unless the motion is received in writing by the Board and the other parties six (6) calendar days before the scheduled hearing date and is served upon all parties on or before the sixth (6th) calendar day before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for the continuance.

1705.2 Conflicting engagements of counsel shall not be considered good and sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

1705.3 The granting of a continuance by the Board shall not be considered a waiver of requirements of this chapter, governing the time in which to file objections, petitions, or other pleadings.

1705.4 The Board may, on motion of any party or on its own motion, continue a hearing in order to permit an ANC to vote on a material issue in the hearing or upon a determination that the interests of justice will be served by the granting of the continuance to any party.

1705.5 The Board may, on the request of both the ANC and the applicant, extend the ANC's protest petition deadline for the sole purpose of allowing the ANC to vote on whether to support or protest the license application.

1706. APPEARANCE AND REPRESENTATION

1706.1 In any proceeding before the Board, an individual may appear on his or her own behalf.

1706.2 In any proceeding before the Board, a general partner of a partnership may represent the partnership, if properly authorized.

1706.3 In any proceeding before the Board, an officer of a corporation or association may represent the corporation or association, if authorized to do so by the Board of Directors of the corporation or association.

1706.4 A partner or officer appearing pursuant to § 1706.2 or 1706.3 may be required to establish his or her authority to act in that capacity;

1706.5 Any party appearing or having the right to appear before the Board in any proceeding shall have the right to representation by an attorney or designated representative of his or her choice. Any party appearing before the Board in any proceeding may also bring an interpreter of his or her choice.

1706.6 The provisions of § 1706.5 shall not infringe upon the authority of the Board under § 1706.7 to require representation of a party.

1706.7 If it appears to the Board that the facts or issues in a matter before it are so intricate or involved that, in the interests of justice, of conserving time, or of facilitating preparation of an adequate record, a party ought to be represented by an attorney, the Board may urge the party to obtain counsel and shall allow the party a reasonable time in which to do so, as long as the rights of other parties to the hearing are not substantially and adversely affected.

1706.8 Any person authorized to appear pursuant to this section may sign any paper required or permitted by statute, regulation, or this chapter to be filed with the Board.

1707. NOTICE OF APPEARANCE

1707.1 No person may appear before the Board in a representative capacity prior to submission of a signed statement containing that person's name, address, occupation, telephone number, and the nature of representation.

1707.2 The written statement required under § 1707.1 shall be made a part of the record of the proceeding.

1707.3 Any attorney appearing as counsel in any proceeding shall execute a notice of appearance containing his or her name, office address, office telephone number, D.C. Bar number, and the nature of representation.

1707.4 In the case of law students who appear before the Board under the direction of an accredited law school clinical program, the supervising attorney shall register with the Board.

1708. INSPECTION OF BOARD FILES

1708.1 The records of the Board shall be available for inspection and copying during normal business hours without appointment at the request of any interested party or member of the public, except as otherwise provided in this section.

1708.2 The records of the Board that shall be available for inspection and copying include the following:

(a) Written decisions and orders of the Board;

(b) Regulatory inspection reports;

(c) License applications and related documentation; and

(d) Any other records not specifically excepted from disclosure by the Freedom of Information Act of 1976 (D.C. Official Code §§ 2-531 et seq.).

1708.3 The Board shall withhold from its files those documents and other information which are exempted from public disclosure under the Freedom of Information Act of 1976. However, all documents and other information which is relied upon by the Board in reaching a decision on a contested case shall be made available to all parties and shall be entered into the record of the proceedings.

1708.4 Except as provided in § 1708.3, all petitions filed under this chapter shall be considered part of the record and shall be available for public inspection.

1709. INVESTIGATOR REPORTS

1709.1 The Board shall make investigator reports available to the parties of a contested case at least two days prior to the date of the protest hearing or catered site protest hearing.

1710. SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS

1710.1 The Board shall not schedule any hearing until the applicant has submitted, in writing to the Board, all information and documents required by the Act and this title.

1710.2 Before a person may be heard to object to approval of an application, the person shall have notified the Board and the applicant or licensee, by any of the means listed in § 1703.4, of his or her intent to object, and of the grounds for the objection, prior to the end of the protest period.

1710.3 Decorum and good order shall be maintained at all times during hearings, and the Board may exclude or order the removal from the hearing room of any person who refuses to comply with a reasonable order of the Board.

1710.4 In all protest hearings before the Board, the applicant shall open and close the case insofar as presentation of evidence and argument are concerned. In all show cause proceedings, the District of Columbia shall open and close the case.

1711. EVIDENCE: GENERAL RULES

1711.1 Any party objecting to the admission of evidence shall state the grounds relied upon for the objection.

1711.2 Formal exceptions to the rulings of the Board made during the course of a hearing shall not be required.

1711.3 The parties may, by stipulation in writing filed with the Board, or in the record at a hearing, agree upon any facts relevant to a proceeding, or upon the substance of the testimony which would be given by a witness.

1711.4 The Board, in its discretion, may require additional evidence on any matter covered by stipulation.

1712. OFFERS OF PROOF

1712.1 Any offer of proof made in connection with an objection to any ruling of the Board which rejects or excludes proffered oral testimony shall consist of a statement for the record of the substance of the evidence which the party contends would be established by the testimony.

1712.2 If the excluded evidence is documentary, a copy of the written evidence shall be marked for identification and shall constitute the offer of proof.

1712.3 The document shall be retained by the Board as part of the record for purposes of an appeal.

1713. DOCUMENTARY EVIDENCE

1713.1 Documentary evidence offered at any hearing before the Board shall, if received by the Board, be retained by the Board, and may be examined by interested persons pursuant to § 1708.

1713.2 Any party who offers documentary evidence shall, at the hearing, provide copies to each opposing party.

1713.3 The Board may, in its discretion, permit the withdrawal of original documents received into evidence and the substitution of certified copies in lieu of the originals.

1713.4 When relevant and material matters offered into evidence are contained in a book or other document which also contains other matters not material or relevant, the person offering the evidence shall plainly designate the matters offered, and the immaterial and irrelevant parts shall be excluded and segregated insofar as practicable.

1714. EXAMINATION OF WITNESSES

1714.1 In any proceeding before the Board, each party shall have the right to present in person, by counsel or by designated representative, the party's case or defense, including oral and documentary evidence, to submit rebuttal evidence, and to cross-examine opposing witnesses, unless the matter at issue has been dismissed by the Board.

1714.2 Any member of the Board may question any witness at any time during or after examination or cross-examination, subject to objection by a party.

1714.3 Any oral or documentary evidence may be received, but the Board shall exclude irrelevant, immaterial, or unduly repetitious evidence.

1714.4 The Board may impose a time limitation on oral arguments and witness testimony as it deems appropriate.

1714.5 The Board shall afford all parties the opportunity to present oral argument.

1715. RECORDS IN PROCEEDINGS

1715.1 When any part of the record in any other proceeding before the Board, a criminal or civil action, or a proceeding before any administrative agency is offered in evidence, a certified true copy of that part of that record shall be presented to the Board as an exhibit, except in the following instances:

(a) It is described in a manner which makes it readily identifiable and the offeror agrees to supply copies at a later time as required by the Board;

(b) There is a stipulation on the record that it may be incorporated by reference and the Board directs the incorporation; or

(c) It is described in a manner which makes it readily identifiable in the files of the Board.

1716. MOTIONS

1716.1 Unless otherwise specified, motions shall conform to the following requirements:

(a) Motions shall be typewritten on letter-sized (8.5″ x 11″) paper and double-spaced;

(b) An original and six (6) legible copies shall be filed with the Board; and

(c) A copy shall be served on all other parties and shall include a certificate of service.

1716.2 Any party may file a response in opposition to a motion within seven (7) calendar days after service of the motion. In the case of motions for continuances which have been filed by a party on the sixth (6th) calendar day before a scheduled hearing, pursuant to § 1705.1, responses thereto shall either be made in writing and served by personal delivery on all parties prior to the hearing or shall be made orally on the date of the hearing.

1716.3 A response to a motion shall not include a motion for other affirmative relief against the moving party.

1716.4 If a party filing an opposition desires to submit a motion for other affirmative relief, it shall be done by separate pleading.

1716.5 Any motion seeking relief from the Board shall be accompanied by a proposed Order of the Board.

1716.6 A reply may be filed within three (3) calendar days after service of a response in opposition to a motion, but the reply shall not re-argue propositions presented in the motion, nor present matters which are not strictly in reply to the opposition.

1716.7 No further pleading shall be filed except by leave of the Board.

1717. POST-HEARING SUBMISSIONS

1717.1 No document or other information shall be accepted for the record after the close of a hearing, except as follows:

(a) Until all parties are afforded due notice and an opportunity to rebut the information; or

(b) Upon official notice of a material fact not appearing in the evidence in the record, in accordance with D.C. Official Code § 2-509(b).

1717.2 The Board shall afford parties an opportunity to file Proposed Findings of Fact and Conclusions of Law within thirty (30) calendar days after the conclusion of the hearing. The parties may seek an extension to file Proposed Findings of Fact and Conclusions of Law if the transcript has not become available within twenty (20) calendar days. An extension granted by the Board shall not exceed twenty (20) calendar days after the transcript in the proceeding becomes available, by oral or written notice of the Board to each party.

1717.3 Proposed Findings of Fact and Conclusions of Law shall be typewritten on letter-sized (8.5″ x 11″) paper and double-spaced.

1717.4 An original and six (6) legible copies of Proposed Findings of Fact and Conclusions of Law shall be filed with the Board.

1717.5 A copy of the Proposed Findings of Fact and Conclusions of Law shall be served on each party.

1718. DECISIONS OF THE BOARD

1718.1 Within ninety (90) calendar days after the close of the record, the Board shall render its written decision accompanied by Findings of Fact and Conclusions of Law.

1718.2 Findings of Fact and Conclusions of Law shall consist of a concise statement of the Board's conclusions on each contested issue of fact, and shall be based solely upon evidence contained in the record and facts of which the Board properly took judicial notice.

1718.3 Findings of Fact and Conclusions of Law shall be supported by and in accordance with reliable, probative, and substantial evidence.

1718.4 In cases where a hearing for an original application or the transfer of an existing license to a new location is sought, the Findings of Fact and Conclusions of Law shall include, but not be limited, to the following:

(a) The boundaries of the neighborhood;

(b) The appropriateness of the location for which the license in sought, in accordance with D.C. Official Code §§ 25-313 and 25-314, and § 400 of this title; and

(c) A finding as to the wishes of the persons voting, owning property or residing in the vicinity.

1718.5 All written decisions of the Board shall be available for public inspection and copying at a reasonable cost.

1719. RECONSIDERATION, REHEARING, AND REARGUMENT

1719.1 Petitions for reconsideration, rehearing, reargument, or stay of a decision or order of the Board filed pursuant to D.C. Official Code § 25-433(d) shall be typewritten on letter-sized (8.5″ x 11″) paper and double-spaced.

1719.2 An original and six (6) legible copies of the Petition shall be filed with the Board, and a copy shall be served on each party and intervenor.

1719.3 A petition for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought.

1719.4 If a petition is based in whole or in part on a new matter, that matter shall be set forth in an affidavit and be accompanied by a statement that the petitioner could not by due diligence have known or discovered the new matter prior to the date the case was presented to the Board for decision.

1719.5 The Board may, in its discretion, permit or require oral argument upon a petition filed under this section.

1720. EX PARTE COMMUNICATIONS

1720.1 If a proceeding is a contested case within the meaning of the D.C. Administrative Procedure Act (D.C. Official Code § 2-502(8)), the following restrictions shall apply:

(a) A person shall not make or knowingly cause to be made to a member of the Board an ex parte communication relevant to the merits of the proceeding; and

(b) No member of the Board shall make or cause to be made to any interested persons outside the Board an ex parte communication relevant to the merits of the proceeding.

1720.2 The prohibitions set forth in § 1720.1 shall apply upon the issuance of notice of an application for an original, transfer, or renewal license or a notice to show cause hearing.

1720.3 “Ex parte communication” does not include a request for a status report on a matter, proceeding, or notice of a meeting or hearing.

1721. TRANSCRIPTS OF HEARINGS

1721.1 Hearings shall be recorded and transcribed under the direction of the Board.

1721.2 Whenever a proceeding is transcribed, the Board shall notify all parties (or their representatives) by telephone that the transcript is available for purchase directly from the transcription company.

1721.3 Changes in the official transcript may be made only in cases of material error.

1721.4 A motion to correct the transcript shall be filed with the Board within ten (10) calendar days of the date the transcript is available to the movant. Copies of the motion shall be served on all parties.

1721.5 If no objections to the motion are filed within five (5) days after service of the motion, the Board may correct the transcript.

1721.6 The Board shall have final authority to dispose of all motions for correction of the record.

CHAPTER 18. PETITION PROCEDURES

1800. Types of Petitions
1801. Protest Petitions

1800. TYPES OF PETITIONS

1800.1 Protest Petitions filed pursuant to D.C. Official Code § 25-601 may be received by the Board regarding objections to licenses.

1800.2

(a) For purposes of this section, “Protest Petitions” are those which may be signed by any person in support of, or in opposition to a license application for the following:

(1) The issuance of a new license;

(2) The renewal of an existing license;

(3) The transfer of a license to a new location;

(4) Substantial changes to the nature of the operations of a licensed establishment; or

(5) A change in license class.

(b) Protest Petitions may be filed to indicate whether the signatories believe, or do not believe, that the establishment is appropriate under the provisions of D.C. Official Code §§ 25-313 and 25-314, and § 400 of this title.

1801. PROTEST PETITIONS

1801.1 Petitions in support of or in opposition to a license application for the issuance of a new license, the renewal of an existing license, the transfer of a license to a new location, substantial changes to the nature of the operations of a licensed establishment, or a change in license class shall be filed with the Board by the final day of the protest period for the license application.

1801.2 Petitions filed under § 1801.1 shall set forth the following information:

(a) The name of the applicant or licensee;

(b) The address for which the license is sought;

(c) The class of license requested;

(d) The application number or license number, as appropriate;

(e) A brief summary of the reasons for support of or opposition to the granting of the license; provided, that participation in Board proceedings shall not be limited by this summary; and

(f) The printed name and address of each petitioner, accompanied by his or her handwritten signature.

1801.3 Forms for the filing of Protest Petitions shall be available from ABRA.

1801.4 Petitions filed pursuant to this section shall not be withdrawn after the date of the protest hearing.

1801.5 Protest Petitions which are received by the Board after the fifteen (15) calendar day period specified in § 1801.1 shall not be considered by the Board in reaching a decision on any matter and shall be promptly returned to the party or individual submitting the petitions.

1801.6 The Board shall permit any party to a protested case to challenge the validity of signatures on Protest Petitions submitted by the opposing party.

CHAPTER 19. COMPLAINTS: INQUIRIES TO THE BOARD

1900. Complaints
1901. Letters of Information
1902. Advisory Opinions
1903. Declaratory Orders

1900. COMPLAINTS

1900.1 The Board shall receive, at any time during the license period, complaints from any person alleging a violation by a licensee of the Act or this title. Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.

1900.2 Any written complaint shall be kept confidential by the Board to the extent permitted by law, unless the writer specifically states that it may be made public.

1900.3 All written complaints which identify the complainant by name and address shall be responded to in writing by the Board or its staff within ninety (90) days of receipt of the complaint, and shall advise the complainant of what action the Board or its staff has taken on the matter.

1900.4 If the complainant has not provided the Board with a telephone number where he or she may be reached for additional information, and the written complaint has set forth insufficient information for the Board to take action, the Board or staff response shall so state.

1900.5 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board, or orally to any Investigator at ABRA. Anonymous complaints shall be investigated to the best of the Board's ability, but may result in no action being taken if the anonymous complainant fails to provide the Board or the Investigator with adequate information.

1901. LETTERS OF INFORMATION

1901.1 Any person, group, licensee, or business organization may make a written request to the Board for general information concerning staff procedures, Board procedures, the Act, this title, or any other matter of a general nature affecting the licensing of alcoholic beverages in the District of Columbia.

1901.2 The Board shall respond to all such letters in writing, and may refer the writer directly to a member of the ABRA Staff, to a specific section of the Act or this title, or to other District of Columbia government officials. The response may also suggest that the writer retain the services of an attorney to properly advise him or her as to how to proceed in a particular matter. If the writer's inquiry is so broad, inexact, or vague that the Board is unable to respond, the Board shall so advise the writer and may request that the writer provide additional information.

1901.3 Any statement contained in the Board's letters of information provides only general guidance to the writer and shall not be binding on the writer or binding on the Board if the Board is later presented with a more particularized factual situation. Further, the Board's responses shall not provide any basis for appeal to any court in the District of Columbia.

1902. ADVISORY OPINIONS

1902.1 Any person, group, licensee or business organization may make a written request to the Board for an advisory opinion when:

(a) The requestor is confronted with a situation involving the Act or this title which requires, or may require, him or her to take action; and

(b) The legality or propriety of the action to be taken is not clear from the plain text of the Act or this title.

1902.2 Any request for an advisory opinion shall set forth sufficient information to allow the Board to understand the issues involved and to frame a response. The requestor shall also state which section of the Act or section of this title the requestor wishes the Board to interpret or clarify, with respect to the stated set of facts.

1902.3 If the writer presents insufficient facts in any request for an advisory opinion, the Board may, in its discretion, issue a letter of information; engage in fact-finding through investigation or in a

noncontested case hearing; request the writer to provide by letter more facts or details in support of his or her request; or decline to issue an advisory opinion.

1902.4 The decision to issue an advisory opinion shall be solely in the discretion of the Board, and any decision by the Board not to issue such an opinion, shall not be subject to review by the Mayor or any court in the District of Columbia.

1902.5 If issued, an advisory opinion is not binding upon the requestor but shall constitute guidance to the requestor as to how the Board may interpret the Act or this title on a particular matter, the facts of which are consistent with those raised by the requestor. Where the requestor is also a licensee, the Board may issue a show cause notice pursuant to § 1604 of this title in the instance where the facts raised by the requestor provide the Board with reasonable cause to believe that the requestor's license should be fined, suspended, or revoked.

1902.6 If the requestor disagrees with the Board's advisory opinion in any respect, he or she may, within twenty (20) calendar days after issuance of the opinion, petition the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions of the Board may not form the basis of an appeal to any court in the District of Columbia.

1902.7 All advisory opinions of the Board determined to be in the public interest in accordance with D.C. Official Code § 2-508, shall be published in the D.C. Register and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.

1903. DECLARATORY ORDERS

1903.1 Any licensee or applicant for a license may make a written request to the Board to issue a declaratory order, as provided in D.C. Official Code § 2-508, regarding the applicability of Title 25 of the D.C. Official Code, this title, or any other statute enforceable by the Board, to terminate a controversy other than a contested case or to remove uncertainty regarding a specific factual situation. Any request filed with the Board that involves an existing voluntary agreement shall be considered a contested case by the Board and not subject to the issuance of a declaratory order.

1903.2 Any request for a declaratory order shall:

(a) Set forth a particular and specific set of facts; and

(b) State in detail the reasons for uncertainty as to the applicability of the Act, this title or other statutes enforceable by the Board or state in detail why a controversy exists.

1903.3 Any declaratory order issued by the Board shall state the Board's Findings of Fact and Conclusions of Law. If the circumstances so warrant, the declaratory order may include an order by the Board to the requestor to cease and desist any practice or activity which is violative of applicable statutes or this title.

1903.4 All facts asserted in a request for a declaratory order shall be supported by sworn affidavit of the requestor. If the Board determines that further facts are necessary, it shall request the requestor to provide those facts by written affidavit or may receive those facts by stipulation at a non-contested case fact-finding hearing.

1903.5 Any requestor who is aggrieved by a declaratory order or who disagrees with the declaratory order in any respect may appeal the order by:

(a) Petitioning the Board, in writing, within twenty (20) calendar days after issuance of the declaratory order, to reconsider its order, and by setting forth in detail newly discovered facts or by setting forth legal argument which shows one (1) or more errors of law in the Board's order; or

(b) Seeking judicial review of the Board's order as permitted under D.C. Official Code § 2-510.

1903.6 All declaratory orders of the Board determined to be in the public interest in accordance with D.C. Official Code § 2-508, shall be published in the D.C. Register and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.

CHAPTER 20: CATERER'S LICENSE

2000. Caterer's License
2001. Caterer's Application
2002. Purchase of Alcoholic Beverages
2003. Storage of Alcoholic Beverages
2004. Importation and Transportation of Alcoholic Beverages
2005. Manager Attendance at Catered Events
2006. Caterer's Reports
2007. Notice to the Public
2008. Catered Site Protest Hearing
2009. Catered Show Cause and Summary Suspension Proceedings

2000. CATERER'S LICENSE

2000.1 A Caterer's license, issued under D.C. Official Code § 25-113(i), shall authorize the licensee to sell, deliver, and serve alcoholic beverages for consumption on the premises of a catered event at which the licensee is also serving prepared food. A Caterer is a business entity engaged principally in the processing, preparation, and service of food products which it has prepared especially for the customer for an event, and the service of alcoholic beverages is incidental to the food preparation and service. A Caterer's license shall not be granted to or maintained by entities which only serve snack items. Snack items shall include, but not limited to, potato chips, popcorn, pretzels, nuts, cookies, and candy. A violation of this subsection shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

2000.2 The licensee under a Caterer's license or its designated manager shall remain on the premises of a catered event for the period during which alcoholic beverages are sold, served, and consumed.

2000.3 Holders of a caterer's license may purchase alcoholic beverages from Wholesalers and holders of an off-premises license, class A, for catered events of one hundred (100) persons or less. Holders of a caterer's license shall purchase alcoholic beverages from an off-premises license, class A, for catered events in excess of one hundred (100) persons except that holders of a caterer's license may also purchase alcoholic beverages from Wholesalers for catered events in excess of one hundred (100) persons when the licensed caterer also holds another type of on-premise, retailer's license.

2001. CATERER'S APPLICATION

2001.1 Application for a Caterer's license shall be made on a form prescribed by the Board that shall include, at a minimum, the name, address, and federal and D.C. tax identification numbers of the catering business, the date of application, and a notarized statement that the applicant for the Caterer's license is informed of and agrees to abide by Title 25 of the D.C. Official Code and this title. Caterers without a place of business within the District of Columbia shall also designate a registered agent upon whom service of process may be served. The Board may require documentation evidencing the applicant's qualification to transact business in the District of Columbia.

2001.2 The Board may issue a Caterer's license to an applicant who meets the criteria set forth in D.C. Official Code §§ 25-301 and 25-303(a)(2). An applicant for a Caterer's license shall not be subject to the appropriateness standards set forth in D.C. Official Code §§ 25-313 and 25-314 and § 400 to qualify for the issuance or renewal of a Caterer's license; provided, that the licensee under a Caterer's license shall be subject to the appropriateness standards set forth in D.C. Official Code § 25-313 for purposes of the catered site protest hearing set forth in § 2008.

2001.3 The licensee under a Caterer's license shall be eligible to sell, deliver, and serve alcoholic beverages for consumption on premises designated by its customers in the District of Columbia.

2001.4 The licensee under an on-premises license, class C or class D, shall be required to file a separate application for the issuance or renewal of a Caterer's license.

2001.5 The Board in its discretion may grant temporary licenses to a caterer pending approval of its catering license application.

2002. PURCHASE OF ALCOHOLIC BEVERAGES

2002.1 A Caterer licensed under § 2000.1, other than one also holding an on-premises retailer’s license under D.C. Official Code § 25-113(a)-(e), shall not purchase alcoholic beverages from a Wholesaler other than for scheduled events to be attended by one hundred (100) persons or less. Upon purchasing alcoholic beverages for an event of one hundred (100) persons or less from a Wholesaler, a Caterer shall immediately provide the following information to the Wholesaler on a form prescribe by ABRA:

(a) A description of the alcoholic beverages being purchased; and

(b) A description, including the location, of the scheduled event for which the alcoholic beverages are being purchased.

2002.2 Caterers shall maintain distinct records identifying the alcoholic beverages purchased from Wholesalers for each scheduled event of one hundred (100) persons or less and shall make such records available for inspection, upon request, by the Board and by the Wholesaler from which the alcoholic beverages were purchased. A Caterer licensed under § 2000.1 shall, concurrent with the information required in § 2006, provide to the Board a sworn affidavit on a form prepared by ABRA attesting that, in the preceding reporting period, it has used alcoholic beverages purchased from Wholesalers only for events of one hundred (100) persons or less. Upon request of the Board, the Caterer shall identify the Wholesaler(s) from whom alcoholic beverages have been purchased. The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c) and Chapter 8.

2002.3 Any caterer that also holds an on-premises retailer's license under D.C. Official Code § 25-113(a)-(e) shall be exempt from the provisions of this section.

2003. STORAGE OF ALCOHOLIC BEVERAGES

2003.1 The licensee under a Caterer's license may store alcoholic beverages in the District of Columbia upon the approval of the Board. The licensee under a Caterer's license shall not store alcoholic beverages intended for use in the District of Columbia outside of the District of Columbia. Specific approval shall not be required for any caterer that also holds an on-premises retailer's license under D.C. Official Code § 25-113 (a)-(e).

2004. IMPORTATION AND TRANSPORTATION OF ALCOHOLIC BEVERAGES

2004.1 The licensee under a Caterer's license may transport alcoholic beverages within the District of Columbia subject to the requirements of § 1303. The importation of alcoholic beverages by the licensee under a Caterer's license into the District of Columbia from outside of the District of Columbia shall be prohibited pursuant to D.C. Official Code § 25-772, and said alcoholic beverages shall be deemed illegal contraband goods subject to seizure and forfeiture to the District of Columbia pursuant to D.C. Official Code § 25-911.

2004.2 The licensee under a Caterer's license shall be permitted to remove sealed containers of alcoholic beverages from an event site, but shall not be permitted to remove unsealed containers from the premises. Customers who purchase or receive alcoholic beverages at the event site shall be permitted to remove sealed containers of alcoholic beverages from the premises and retain possession of unsealed containers on the premises.

2004.3 Unopened containers of alcoholic beverages purchased from an on-premises licensee, class A, may be returned by the licensee under a Caterer's license either to a class A licensee or stored at a location within the District of Columbia that has been approved by the Board.

2005. MANAGER ATTENDANCE AT CATERED EVENTS

2005.1 Either the licensee under a Caterer's license or a designated manager shall remain on the premises during the hours that alcoholic beverages are sold, served, or consumed at the event.

2005.2 The licensee under a Caterer's license shall place a copy of the license in the possession of a designated manager for the duration of the catered event and the manager shall make the license available for public inspection upon request.

2006. CATERERS' REPORTS

2006.1 Licensees subject to this section shall, semiannually, furnish to the Board, on a form to be prescribed by the Board, a report under oath that includes the following information:

(a) The quantity of alcoholic beverages sold by the licensee in gallons during the preceding six (6) months for beverage purposes;

(b) The total dollar amount of receipts for the sale of alcoholic beverages and food;

(c) Of the total in paragraph (b) above, the amount received for the sale of alcoholic beverages and the amount received for the sale of food, and the percentages of the total receipts represented by the respective amounts;

(d) The amount expended for alcoholic beverages and the amount expended for food, and the percentages of the total expenditures represented by the respective amounts;

(e) The method used to compute the amounts and percentages; and

(f) An affidavit executed by an individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the statement.

2006.2 The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil penalty imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

2006.3 Licensees subject to this section shall semiannually furnish to the Board, on a form prescribed by the Board, a summary report of the alcoholic beverage purchases it has made from Wholesalers for events for one hundred (100) persons or less.

2006.4 In computing the amounts received for alcoholic beverages and for food, a licensee shall exclude all amounts received for taxes and gratuities in conjunction with these transactions, and all amounts, including surcharges, related to the obtaining and providing of entertainment or other goods and services at the licensed establishment.

2006.5 Failure to timely submit the reports listed § 2006.1 to the Board shall constitute grounds for the Board to fine the licensee or suspend the license. Violation of this subsection shall be deemed a

secondary tier violation subject to the penalties set forth in D.C. Official Code § 25-830(d) and Chapter 8.

2007. NOTICE TO THE PUBLIC

2007.1 A list of licensed caterers shall be sent by the Board at the beginning of the (i) renewal period, (ii) the second year payment period, and (iii) the third year payment period for Caterers' licenses to the following groups:

(a) The Council;

(b) The Board of Education; and

(c) The Advisory Neighborhood Commissions.

2007.2 The list of licensed caterers shall contain the legal name and trade name of the licensee and the licensee's address of record.

2007.3 The list shall be sent to the ANC by first-class mail and addressed to the following persons:

(a) The ANC office, with a copy for each ANC member;

(b) The ANC chairperson, at his or her home address of record; and

(c) Each ANC members at his or her home address of record.

2007.4 The list of licensed caterer's shall also be published by the Board in the District of Columbia Register.

2007.5 A list of Caterers licensed to sell alcoholic beverages shall be made available to the public by ABRA upon request.

2008. CATERED SITE PROTEST HEARING

2008.1 Protestants with standing pursuant to D.C. Official Code § 25-601 may file a written request for a catered site protest hearing ("protest request") with the Board to prohibit or place restrictions on the number, nature, and size of events held at an event site at which the service of alcoholic beverages by caterers is permitted.

2008.2 All protest requests for a catered site protest hearing shall initially be scheduled by the Board for a preliminary hearing. All parties named in the protest request for a catered site protest hearing shall be afforded notice of both the preliminary hearing and the catered site protest hearing. Upon notice of the protest request filed with the Board, the owner of the event site or its designated representative shall provide at the preliminary hearing a list of caterers who have previously provided catering services at the event site, including the date of each event and the number of people who

attended each event, within the previous two (2) years and any additional caterers currently scheduled at the event site.

2008.3 The written protest request shall be filed within thirty (30) days of the last problem event and shall address only those events which occurred in a period not before the preceding year. The request shall identify the site and the date(s) of the event(s) which give rise to the protest and the reason for protesting, based upon the appropriateness standards set forth in D.C. Official Code § 25-313. The catered site protest hearing shall be limited to no more than two (2) hours total or one (1) hour for each side.

2008.4 Notice of receipt of the protest request and the scheduled hearing shall be served by the Board on the protestants, the owner of an event site, and all caterers who have catered or are scheduled to cater an event at the site.

2008.5 At the preliminary hearing, the Board shall determine that the protestants have standing pursuant to D.C. Official Code § 25-601. Upon determining that standing exists, the Board shall schedule and conduct a catered site protest hearing pursuant to the procedures set forth in Chapter 4 of Title 25 of the D.C. Official Code.

2008.6 The protestants, the owner of an event site, and the caterer(s) for the event(s) in question shall be considered parties to the catered site protest hearing and shall have the right to present and cross-examine witnesses.

2008.7 The parties may agree to continue the catered site protest hearing in order to facilitate resolution of complaints or to reach a cooperative/voluntary agreement. The Board may also require that a settlement conference be held pursuant to D.C. Official Code § 25-445 prior to holding a catered site protest hearing.

2008.8 The Board, upon the completion of a catered site protest hearing, may prohibit or place restrictions upon the number, nature, or size of events, or caterers permitted at a site in its written order, which shall be issued pursuant to the procedures set forth in D.C. Official Code § 25-433.

2008.9 An event site may have catered events pending the outcome of the catered site protest hearing.

2008.10 An event site shall not be subject to a catered site protest hearing more than once every to (2) years from the same individual or entity.

2008.11 Events held in private residences that do not require a license under D.C. Official Code § 25-102 shall not be subject to catered site protest hearings.

2008.12 The Board may deny a protest request if the protest request is found to be facially deficient or meritless.

2009. CATERER SHOW CAUSE AND SUMMARY SUSPENSION PROCEEDINGS

2009.1 The Board, in response to written complaints from the public expressing concerns about disruptive activity or unlawful conduct at an event site or as a result of its own investigation, may order a show cause hearing pursuant to the procedures set forth in § 1604 or a summary suspension or summary revocation hearing pursuant to the procedures set forth in D.C. Official Code § 25-826.

2009.2 Notice of a show cause hearing or a summary suspension or summary revocation hearing shall be provided by the Board to the licensee under a Caterer's license. If the issues at the hearing may involve the interests of an event site, the owner of an event site shall also be given notice of the hearing.

2009.3 If the Board determines that disruptive activity or unlawful conduct has occurred at the event site, the Board may place restrictions upon the number, nature, or size of events permitted at a site. If the Board determines that the activity or conduct is the product of the actions of a specific caterer, the Board may fine, suspend, or revoke the Caterer's license pursuant to Chapter 8 of Title 25 of the D.C. Official Code.

CHAPTER 21: RESTAURANT AND HOTEL FOOD SALES REQUIREMENTS

2100. Restaurant and Hotel Qualifications
2101. Food Sales Requirement Compliance
2102. Off-Site Food Sales

2100. RESTAURANT AND HOTEL QUALIFICATIONS

2100.1 A class C/R or D/R license shall be issued only to a restaurant as defined in D.C. Official Code § 25-101(43). A class C/H or D/H license shall be issued only to a hotel as defined in D.C. Official Code § 25-101(25). To qualify for or renew a class C/R, D/R, C/H, or D/H, license, a restaurant or hotel shall meet the requirements of D.C. Official Code §§ 25-101(43) and 25-113.

2101. FOOD SALES REQUIREMENT COMPLIANCE

2101.1 The Board shall monitor licensed establishments, class C/R, D/R, C/H, and D/H, for compliance with the food sales requirements set forth in D.C. Official Code §§ 25-101(43) and 25-113.

2101.2 The initial auditing period to monitor compliance shall be not less than one (1) quarter. The Board shall continue to monitor an establishment which is found not to be in compliance for a period of one (1) year.

2101.3 Substantial lack of compliance by the licensee under a license, class C/R, D/R, C/H, or D/H, for a single year shall result in sanctions and continued monitoring, and may be used as contributing evidence of non-compliance with Title 25 of the D.C. Official Code and this title in protests or other proceedings. Substantial lack of compliance during or more than a full year shall result in sanctions

that may include revocation by the Board or change in license class, if permissible. The Board shall follow the show cause notice procedures prior to imposing any sanction against a licensee.

2101.4 Minimal lack of compliance by the licensee under a license, class C/R, D/R, C/H, or D/H, for a single year shall result in a show cause hearing with the Board imposing one or more of the penalties set forth in § 2101.5, excluding revocation. The Board may issue a warning and continue monitoring of an establishment with a minimal lack of compliance if the establishment was in compliance with the food sales requirements of D.C. Official Code §§ 25-101(43) and 25-113 for the majority of the year that the establishment was monitored. An establishment found by the Board to have a minimal lack of compliance for two (2) or more successive years shall be deemed to have a substantial lack of compliance with the food sales requirement.

2101.5 The Board may impose the following additional or alternative sanctions against an establishment which is in non-compliance with the minimum food sales requirements:

(a) Revocation of the establishment's entertainment endorsement, if any;

(b) A reduction in the establishment's operating hours;

(c) A fine based upon the primary tier fine schedule set forth in D.C. Official Code §§ 25-830(c) and 25-801;

(d) Revocation or suspension of the license; or

(e) Require a change in license class, if permissible.

2102. OFF-SITE FOOD SALES

2102.1 Off-site food sales by a licensee under a license, class C/R, D/R, C/H, or D/H, shall not be included for the purposes of calculating whether an establishment is meeting either of the food sales requirements set forth in D.C. Official Code § 25-101(43), § 25-113 or this chapter.

2102.2 Food sales occurring outside of the licensed premises at catered events or street festivals shall be considered off-site food sales. Food sales generated at the licensed establishment as either take-out or delivery food sales shall not be considered off-site food sales.