

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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PUBLIC HEARING

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IN THE MATTER OF: :

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Safety Plan Rulemaking : Rulemaking

: Hearing

Section 720 of the DCMR :

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February 28, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson Ruthanne Miller presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

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11:33 a.m.

CHAIRPERSON MILLER: So we'll now turn to the Safety Plan Rulemaking, which affects Section 720 of the DCMR.

And, Mr. Kline, you're the only one has signed up so far to testify.

Is there anybody else here who would like to testify on the Safety Plan Rulemaking?

(No audible response.)

CHAIRPERSON MILLER: Okay. Whenever you're ready.

MR. KLINE: Thank you.

CHAIRPERSON MILLER: Okay.

MR. KLINE: Good morning. Andrew Kline on behalf of Restaurant Association of Metropolitan Washington for the record. RAMW, as it's known, has in excess of 700 members over half of which are licensed in the District of Columbia for the service of alcohol.

1 Just a couple short comments to
2 the proposed rulemaking. First of all, in
3 terms of the approach --

4 CHAIRPERSON MILLER: Oh, sorry. I
5 have a little introduction on this one.
6 Sorry. I got this in. Thank you.

7 We're here today pursuant to D.C.
8 Official Code 25-211(b) to conduct a public
9 hearing and take comment on proposed
10 rulemaking that creates new Section 720 of
11 Chapter 7, General Operating Requirements of
12 Title 23 of the District of Columbia Municipal
13 Regulations.

14 The Budget Support Act of 2012
15 allows eligible on-premises retailers
16 licensees to apply to ABRA to sell and serve
17 alcoholic beverages until 4:00 a.m. and
18 operate 24 hour a day on District and federal
19 holidays and certain holiday weekends. The
20 Act requires these licensees to submit a
21 public safety plan once each calendar year no
22 fewer than 30 days prior to the holiday in

1 which they seek to extend their operating
2 privileges. However, the Act fails to state
3 what information should be included in the
4 required safety plan. Therefore, the Board
5 seeks input from interested parties to clarify
6 what information on-premises licensees should
7 include in their safety plans.

8 Okay. So I have already asked if
9 anybody else is here to testify on this
10 license, and Mr. Kline is here. Okay.

11 MR. KLINE: Thank you. I've
12 already introduced myself, so I'll continue
13 with my testimony.

14 CHAIRPERSON MILLER: Okay.

15 MR. KLINE: Just a couple of
16 comments. First of all, in terms of this
17 requirement in the law, the RAMW wants to
18 commend the Board in terms of the approach
19 that it took with respect to the safety plan.
20 We understand that that was put into law by
21 the Council. The Board was obviously
22 obligated to deal with it. And RAMW

1 appreciates the Board dealing with it in a way
2 that was least restrictive in terms of
3 compliance and making it easy for the
4 establishments to comply with the law.

5 The form was an excellent idea. I
6 think that came from the director, Mr.
7 Moosally, and we applaud that. We do hope,
8 however, that the Board might consider joining
9 with RAMW in convincing the Council to
10 eliminate this requirement for the extended
11 hours. We think it's burdensome upon ABRA,
12 the agency that you run, and it's unnecessary
13 with respect to the licensees.

14 There are requirements for
15 security plans, as the Board is aware. Those
16 are well established and have been in the law
17 for a number of years. So they're accepted
18 practices and there are specific requirements
19 for those plans and certainly the
20 establishments that are required to file those
21 plans, the Board has them on file. We don't
22 think that this stop gap measure in terms of

1 a public safety plan -- first of all, we don't
2 believe that everyone that stays open late
3 should be required to submit a security plan.
4 So let me make that clear.

5 Having said that, we don't think
6 that this interim requirement really adds
7 anything in terms of process or safety for
8 security and we hope that the Board would join
9 with us in terms of streamlining the process
10 and eliminating this as a requirement for
11 staying open late. As the Board knows, the
12 late hours were originally proposed across the
13 board. The Council decided to cut them back
14 sort of on, we think, on an interim basis. We
15 think ultimately we might be headed to
16 extended hours across the board and we
17 wouldn't want this requirement to be an
18 administrative impediment or unduly burden the
19 staff or the licensees with a requirement that
20 we don't we see to be that meaningful.

21 And that's all I have. I'm happy
22 to answer any questions that the Board might

1 have.

2 CHAIRPERSON MILLER: Are there
3 Board questions?

4 MEMBER ALBERTI: Go ahead first.

5 CHAIRPERSON MILLER: No, you can
6 go if you're ready.

7 MEMBER ALBERTI: Mr. Kline, the
8 term that you used, "burdensome" -- and I'm
9 trying to understand where the burden is here.
10 I mean because I'll tell you my personal view
11 is that other than maybe item (g) here, which
12 is what are the established procedures for
13 ensuring an intoxicated person or minors are
14 not served alcoholic beverages, which makes --
15 an establishment may think -- maybe codify
16 those procedures and think more clearly about
17 and write them down. All of the other
18 questions here are just information gathering.
19 And it doesn't require an establishment to do
20 anything different than they already are. And
21 you disagree, tell me so.

22 MR. KLINE: All right.

1 MEMBER ALBERTI: Tell me how it
2 does.

3 MR. KLINE: From a philosophy
4 standpoint our association believes in
5 something that we call minimum government
6 contacts, and our experience is with all of
7 the myriad agencies that there are and their
8 various requirements; and I'm not pointing the
9 finger at ABRA or the ABC Board, it's a very
10 difficult place, the District of Columbia, to
11 do business in with all the different
12 requirements. And our philosophy, wherever
13 possible, we seek to limit or minimize
14 requirements, and they may be perfectly
15 harmless in terms of -- I'm not saying this is
16 overly burdensome, but it's another box that
17 has to be checked.

18 MEMBER ALBERTI: Okay.

19 MR. KLINE: That's all I'm saying.

20 MEMBER ALBERTI: Thank you.

21 CHAIRPERSON MILLER: Any others?

22 MR. KLINE: And in fact, just to

1 add to that, again we applaud the Board and
2 the director for making this as least
3 burdensome as it's been. I mean we really do.
4 And we've expressed that to others, just so
5 the Board is clear.

6 MEMBER ALBERTI: Thank you for
7 that.

8 CHAIRPERSON MILLER: I just want
9 to simply characterize this, and tell me if
10 I'm wrong, but my understanding is that if the
11 establishment stays open until 3:00 it doesn't
12 have to have a safety plan, but if it stays
13 open until 4:00 it does.

14 MR. KLINE: Correct.

15 CHAIRPERSON MILLER: So your point
16 is these establishments didn't have to have
17 security plans, or those that do are required
18 to have them.

19 MR. KLINE: Right.

20 CHAIRPERSON MILLER: So those that
21 aren't required just have to do this because
22 of staying open from 3:00 to 4:00.

1 MR. KLINE: Right. And if we're
2 stuck with this law, we're fully behind this.

3 CHAIRPERSON MILLER: Yes.

4 MR. KLINE: And this is as good as
5 it gets. And we appreciate what you've done.
6 I mean let me be perfectly clear about that.
7 But we would hope that we could just get rid
8 of it because we just don't think it adds a
9 whole lot. That's all.

10 CHAIRPERSON MILLER: Are you aware
11 if there was any kind of rationale that went
12 with it with respect to crimes that occur more
13 often between late at night, 3:00 and 4:00?

14 MR. KLINE: See if I can put this
15 diplomatically. I think this was a hail Mary
16 from whoever it was that decided that they
17 didn't want hours extended across the board
18 and it was decided that there had to be some
19 showing that something should be done to make
20 it look better, in my personal opinion.

21 CHAIRPERSON MILLER: Okay.

22 MR. KLINE: I don't think that a

1 whole lot of thought went into it. Otherwise,
2 we wouldn't have been scratching our head in
3 November collectively, or whenever it took
4 effect, saying, oh, gee, what's this new plan
5 that's supposed to be -- so no, I don't think
6 a whole of thought went into it.

7 CHAIRPERSON MILLER: Okay. And so
8 as long as the law is on the books you're fine
9 with the regulations that have been proposed
10 to implement?

11 MR. KLINE: Fully support it.

12 CHAIRPERSON MILLER: Okay. Thank
13 you. Anything else?

14 (No audible response.)

15 MR. KLINE: Thank you.

16 CHAIRPERSON MILLER: Thank you
17 very much. We'll see you later probably, huh?

18 That concludes this hearing. And
19 we're scheduled for a 1:30 hearing next, so
20 we're going to recess. Thank you.

21 (Whereupon, the hearing was
22 concluded at 11:42 a.m.)

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