

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of: _____)
)
Bottle Service) License No.: N/A
) Order No.: 2017-410
)
Advisory Opinion)
_____)

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Jake Perry, Member
Donald Isaac, Sr., Member

ALSO PRESENT: Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ADVISORY OPINION ON PATRONS REMOVING BOTTLES FROM SEATING
AREAS UNDER 23 DCMR § 721**

On June 27, 2017, the Nightlife Association of Washington (NAW) requested guidance as to when a patron’s removal of a bottle from a table, bar or other seating area may constitute a violation of 23 DCMR § 721. *Letter from Rob Hawkins, Nightlife Association of Washington*, 1 (Jun. 27, 2017). The Alcoholic Beverage Control Board provides the following guidance:

“[I]nterpretation is a holistic endeavor, and, at a minimum, must account for a statute’s full text, language as well as punctuation, structure, and subject matter.” *Baltimore v. D.C.*, 10 A.3d 1141, 1146 (D.C. 2011).

Under § 199.1, “Bottle service” is defined as “the service of alcoholic beverages in any container holding multiple servings of alcoholic beverages.” 23 DCMR § 199.1 (West Supp. 2017) (“Bottle service”). The key provision related to NAW’s request is found at § 721.4, which states, “The licensee shall not permit or allow any patrons to remove the bottle or pitcher from the table, bar or other seating area where served. This provision shall not apply to a single container of beer delivered in a bucket or where patrons have been served alcoholic beverages at the bar prior to receiving table service.” 23 DCMR § 721.4 (West Supp. 2017).

The Board implemented this new regulation in order to curb the practice of patrons wandering around the establishment with large containers containing multiple servings of alcoholic beverages. The Board finds this practice unsafe because large containers may be used as weapons during altercations. Moreover, allowing patrons to wander inside the establishment with multiple servings of alcohol reduces the likelihood that the establishment can prevent the diversion of alcohol to minors or responsibly supervise the consumption of alcohol on the property. *See* D.C. Code §§ 25-781, 25-783.

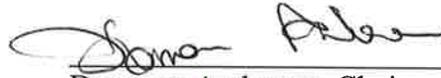
A stilted and absurd reading of § 721.4 is that patrons are not permitted to even lift a bottle or pitcher off the table to serve themselves or consume the contents contained within. This is not what the law means. Instead, the phrase “to remove” in violation § 721.4 merely prohibits a licensed establishment from allowing or permitting patrons to actually leave their table, bar, or other seating area with the container.

In turn, this means that most routine drinking behaviors will not constitute a violation of § 721.4. Examples of routine drinking behavior that do not constitute a violation of § 721.4 include (1) patrons sitting or standing around the table, bar, or other seating area drinking, lifting, and pouring the container served by the licensee; (2) patrons getting up or moving within their immediate seating area with the container for the purposes of pouring it or taking a picture with it; or (3) patrons filling their cups or glasses from the multiple serving container and leaving the area with their cup or glass.

ORDER

Accordingly, the Board, on this 26th day of July 2017, hereby **ORDERS** that the above represents the **ADVISORY OPINION** of the Board pursuant to 23 DCMR § 1902.

District of Columbia
Alcoholic Beverage Control Board



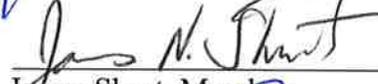
Donovan Anderson, Chairperson



Nick Alberti, Member



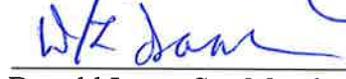
Mike Silverstein, Member



James Short, Member



Jake Perry, Member



Donald Isaac, Sr., Member

Pursuant to D.C. Code § 1902.6 (2008), 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.