

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

<b>In the Matter of:</b>	)	
	)	
Janene D. Jackson	)	Order No.: 2019-074
Partner	)	
Holland & Knight LLP	)	
800 17th Street, N.W., Suite 1100	)	
Washington, D.C. 20006	)	
	)	
<i>Advisory Opinion</i>	)	

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member

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**ADVISORY OPINION CLARIFYING THE STORAGE REQUIREMENTS  
OF D.C. LICENSED WHOLESALERS**

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On January 9, 2019, the Alcoholic Beverage Control Board (Board) issued Advisory Opinion Order No. 2019-012 regarding the storage requirements of D.C. licensed wholesalers. In light of additional inquiries, the Board takes this opportunity to further clarify its Order and provides the following guidance:

In a request dated December 7, 2018, Janene D. Jackson (Petitioner) seeks an advisory opinion from the Alcoholic Beverage Control Board (Board) on wholesaler storage requirements and laws impacting the delivery of alcoholic beverage inventory into the District of Columbia under Title 25 of the D.C. Official Code (Title 25). *Letter from Janene D. Jackson to the Alcoholic Beverage Regulation Administration*, 1 (Dec. 7, 2018) [*Petition*].

Section 25-754(a) requires that alcoholic beverages distributed by wholesalers “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 . . .” D.C. Code § 25-754(a). Under § 25-754(b), “A licensee may not store alcoholic beverages upon premises outside the District.” D.C. Code § 25-754(b).

Under § 900.1 and 900.2 of Title 23, wholesalers are obligated to solely “purchase” and “sell” alcoholic beverages that have been purchased “from the primary American source of supply.” 23 DCMR §§ 900.1, 900.2 (West Supp. 2018). The primary American source is defined as “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.” 23 DCMR § 199 (West Supp. 2018).

The Petitioner first asks how the Board interprets the “coming to rest” requirement for wholesaler delivery vehicles bringing alcoholic beverage inventory into the District of Columbia. In order to avoid violating the requirement that alcoholic beverages distributed to retailers be delivered by a wholesaler, the product must “come to rest” at a licensed wholesaler’s facility located in the District.

In practice, in order to ensure compliance with the District’s three-tier system, the Board interprets this provision to require that the alcoholic beverage product be delivered, unloaded and stored inside of the wholesaler’s licensed premises in the District for at least four hours. The alcoholic beverage product must also be recorded in the wholesaler’s inventory system prior to being delivered to a retailer or the holder of a temporary license.

The Petitioner next asks whether wholesalers may load alcohol delivery trucks outside the District of Columbia, have the inventory “come to rest for a few hours at a” D.C. based warehouse, and then load the inventory onto delivery vehicles for delivery within D.C. *Petition*, at 1. As noted above, this practice would not be permitted as alcoholic beverages would need to be delivered, unloaded and stored inside of the wholesaler’s licensed premises in the District of Columbia for at least four hours. Additionally, the alcoholic beverages would need to be recorded in the wholesaler’s inventory system for its District location prior to delivery to a retailer or a temporary license holder.

The Petitioner next asks whether wholesalers may store and directly deliver alcohol from warehouses located outside the District to customers. This is clearly prohibited by D.C. Official Code §§ 25-754(a) and (b), and previously determined by the Board to be illegal in 2011 in a prior advisory opinion. *In re Gina Trippi and John Kerr*, Board Order No. 2011-398, 2 (D.C.A.B.C.B. Sept. 21, 2011).

The Petitioner finally asks whether wholesalers are permitted to replenish their stock from wholesaler controlled locations located outside of the District of Columbia. As noted above, Section 25-754 requires the wholesaler to keep alcoholic beverages for sale at the licensed establishment or at a Board approved storage facility in the District. The Board interprets this statutory provision as requiring wholesalers to only sell and deliver alcoholic beverages to other licensees and the public that come from their Board approved location in the District. As such, any alcoholic beverages being legally shipped into the District by a wholesaler from another location would need to be delivered, unloaded, recorded, and stored inside of its Board approved location for at least four hours prior to being sold or delivered to other licensees and the public.

**ORDER**

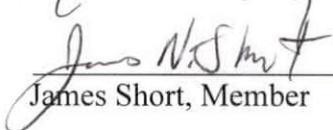
Accordingly, the Board, on this 13th day of February 2019, hereby **ORDERS** that the above represents the **ADVISORY OPINION** of the Board pursuant to 23 DCMR § 1902.

District of Columbia  
Alcoholic Beverage Control Board

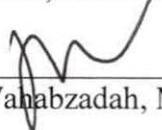
  
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Donovan Anderson, Chairperson

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Nick Alberti, Member

  
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Mike Silverstein, Member

  
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James Short, Member

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Bobby Cato, Member

  
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Rema Wahabzadah, Member

Pursuant to 23 DCMR § 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 file a petition with 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.