

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl. & 2014 Supp.)), hereby gives notice of the adoption of emergency and proposed rules to amend existing Subsection 718.2 of Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The amendment would increase the number of days covered by the Reimbursable Detail Subsidy Program (Program) from two to seven days a week. The rules would also allow reimbursement under the Program for certain Board-approved outdoor Special Events where alcohol is to be sold or served. The rules also amend Subsections 718.2 and 718.3 of Title 23 to increase, starting March 1, 2015, the percentage of distribution of subsidies paid by ABRA to MPD from fifty percent (50%) to seventy percent (70%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees for Metropolitan Police Department (MPD) officers working reimbursable details under the Program.

By way of background, these rules have been amended by the Board over the past several years to expand the Program regarding the reimbursable detail coverage on an as needed basis. For example, this expansion of the Program has included modifying the percentage of the reimbursed subsidy amount, the number of hours worked by the MPD, the number of nights of the week worked by MPD, and the addition of federal and District holidays, and certain holiday weekends.

The rules were modified again as recently as August 15, 2014 to expand the distribution of subsidies paid by ABRA to MPD under the Program from two days a week to seven days a week, and to allow for coverage of certain Special Events. Special Events are deemed to be those events sponsored by a Licensee who has received approval from the Board for a One Day Substantial Change License or a Temporary License.

Adequate funding is now available in ABRA's Fiscal Year 2015 budget to allow for further expansion of the Program. Specifically, the Board seeks to increase the percentage of distribution of subsidies paid by ABRA to MPD from fifty percent (50%) to seventy percent (70%) when covering the costs incurred by ABC licensees for MPD officers working reimbursable details under the Program. Given the importance of this Program to public safety, the Board regularly monitors the Program's funding to make adjustments for the distribution of subsidies to cover the costs incurred by licensees.

This emergency action is necessary to immediately expand the Program for the remainder of fiscal year 2015, most notably the upcoming summer months where public safety is at greater risk. This subsidy assists licensed establishments to defray the costs of retaining off-duty MPD officers to patrol the surrounding area of an establishment or an outdoor Special Event 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 or Special Event.

These emergency and proposed rules were adopted by the Board on February 18, 2015, by a four (4) to zero (0) vote. The rules will become effective on March 1, 2015. The emergency rules will remain in effect for up to one hundred twenty (120) days from adoption, expiring June 18, 2015, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Board also gives notice of its intent to take final rulemaking action to adopt these rules on a permanent basis in not fewer than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Pursuant to D.C. Official Code § 25-211(b)(2)(2012 Repl.), these emergency and proposed rules are also being transmitted to the Council of the District of Columbia (Council) for a ninety (90) day period of review. The final rules shall not become effective absent approval by the Council.

**Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, is amended by replacing Subsections 718.2 and 718.3 to read as follows, and renumbering the following subsections:**

- 718.2 ABRA will reimburse MPD seventy percent (70%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Sunday through Saturday nights. The hours eligible for reimbursement for on-premises retailer licensees shall be 11:30 p.m. to 5:00 a.m. ABRA will also reimburse MPD seventy percent (70%) of the total costs of invoices submitted by MPD to cover the costs incurred for outdoor Special Events where the Licensee has been approved for a One Day Substantial Change License or a Temporary License. The hours eligible for an outdoor Special Event operating under a One Day Substantial Change License or a Temporary License shall be twenty-four (24) hours a day.
- 718.3 MPD shall submit to ABRA on a monthly basis invoices documenting the seventy percent (70%) 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.
- 718.4 ABRA shall notify MPD when funds in the subsidy program fall below two hundred and fifty thousand dollars (\$250,000).
- 718.5 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.
- 718.6 ABRA shall not be involved in determining the number of MPD officers needed to work a reimbursable detail.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009. All persons desiring to comment on the emergency and proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, to the above address or via email to [martha.jenkins@dc.gov](mailto:martha.jenkins@dc.gov).