

TITLE 25. ALCOHOLIC BEVERAGES.

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CHAPTER 1. GENERAL PROVISIONS AND CLASSIFICATION OF LICENSES.

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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 Account" means the Alcoholic Beverage Regulation Administration Account 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 Chapter 3 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, voluntary agreement, as defined by paragraph (54) of this section.

(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.

(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.

(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 buttocks 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.

(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 Alcohol 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 Alcohol 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 and 6 months 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.

(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 14% 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” in its place; 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) "Voluntary agreement" means a settlement agreement which becomes part of a license.

(55) "Washington Convention Center" means the Washington Convention Center and the Convention Center Board of Directors, as established by § 9-602, and the Washington Convention Center Authority and the Washington Convention Center Authority Board of Directors, as established by § 9-803 and § 9-806.

(56) "Wine" means an alcoholic beverage containing not more than 14% 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.

§ 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.

(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.

(b) The barrel, keg, sealed bottle, or other closed container shall not be opened, 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); and

(2)(A) Licensees under a temporary license or an on-premises retailer's license, class C and D, for alcoholic beverages which were purchased from a licensee under a wholesaler's license.

(B)(i) Sales under this paragraph shall be made only on Saturdays, Sundays, and holidays during the hours when licensees under a wholesaler's license are closed;

(ii) Sales under this paragraph of wine and spirits shall be limited to 4 cases per month; and

(iii) A licensee purchasing alcoholic beverages under this

paragraph shall file a written notice with the Board within 3 days after the date of purchase, which notice shall specify the quantity and brand name of the alcoholic beverages purchased and the licensee from whom the purchase was made.

(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) 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.

(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.

(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.

(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 Washington Convention Center, 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.

(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 § 25-113.

(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 § 25-113.

(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.

(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 café endorsement or summer garden endorsement from the Board to be eligible to conduct business operations on a sidewalk café 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 may 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).

§ 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 or tavern 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 or tavern licensed to the brew pub owner in accordance with subsection (b) of this section.

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

(c) A brew pub permit shall be void if:

- (1) The restaurant or tavern ceases to be operated as a restaurant or tavern; 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 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.

§ 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 a 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.

CHAPTER 2. ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION.

Sec.

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.

25-205. Board record-keeping responsibilities.

25-206. Board member qualifications; term of office; chairperson; conflict of interest.

25-207. ABRA Director and staff.

25-208. Office of the General Counsel.

25-209. Community resource officer.

25-210. ABRA funding.

25-211. Regulations.

§ 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 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 back 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.

CHAPTER 3. REQUIREMENTS TO QUALIFY FOR LICENSE.

Subchapter I. Applicant Qualifications.

Sec.

25-301. General qualifications for all applicants.

25-302. Special qualifications for wholesaler's or retailer's licenses.

25-303. Restrictions on holding a conflicting interest.

Subchapter II. Qualification of Establishment.

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

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- 25-314. Additional considerations for new license application or transfer of license to a new location.
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Subchapter III. Denial of License.

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

(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).

§ 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;

(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;

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

(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 § 47-2851.3(c)(9) or an Environmental Materials endorsement under § 47-2851.3(c)(4) to its master business license.

§ 25-314. Additional considerations for new license application or transfer of a 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;

(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 the effective

date of this paragraph [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; 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 voluntary 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;

(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) No new off-premises retailer's license, class B, shall be issued.

(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;

(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;

(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. 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.

§ 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.

§ 25-340. Special restrictions for Ward 4.

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. For purposes of this section, "Ward 4" means the area defined as Ward 4 in § 1-1041.03 on [September 30, 2004]. This section shall not apply to any application for a new or transferred license pending on [September 30, 2004].

§ 25-341. 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 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) Within the Targeted Ward 4 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 an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.

(d) Repealed.

§ 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 the effective date of this section [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 the effective date of this section [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.

Subchapter IV. Board-created Moratoria.

§ 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; and

(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 are 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;

(3) If the requested moratorium are 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 Establishment Which Permit Nude Dancing.

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

(a) Except as provided in subsection (b) of this section, no licensee under this title may 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.

(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) [repealed], as of January 1, 2007, then within one year of the effective date of D.C. Act 17-86 [D.C. Law 17-24, effective Oct. 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 licenses 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 voluntary 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) [Reserved.]

(6) 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;

(7) 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;

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

(9) 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

(10) 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) The applicant for a nightclub license shall file a written security plan with the Board.

(e) 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.

(f) A written security plan shall include at least the following elements:

(1) A statement on the type of security training provided for, and completed by, establishment personnel, including:

“(A) Conflict resolution training;

“(B) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and

“(C) Procedures for crowd control and preventing overcrowding;

(2) The establishment's procedures for permitting patrons to enter;

(3) How security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;

(4) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol; and

(5) How the establishment maintains an incident log.”.

§ 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) In the case of an application for renewal of a nightclub license, the applicant shall submit a written security plan.

(f) 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.

(g) A written security plan shall include at least the following elements:

(1) A statement on the type of security training provided for, and completed by, establishment personnel, including:

(A) Conflict resolution training;

(B) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and

- (C) Procedures for crowd control and preventing overcrowding;
- (2) The establishment's procedures for permitting patrons to enter;
- (3) How security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;
- (4) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol; and
- (5) How the establishment maintains an incident log.”.

§ 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 and 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; and
- (4) Any ANC within 600 feet of where the establishment is or will be located.

(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 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. 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 \$300, 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.

§ 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. Voluntary agreements; approval process; show cause hearing for violation.

(a) The applicant and any protestant may, at any time, negotiate a settlement and enter into a written voluntary agreement setting forth the terms of the settlement.

(b) The signatories to the agreement shall submit the agreement to the Board for

approval.

(c) If it determines that the voluntary 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 voluntary agreement. The Board shall incorporate the text of the voluntary agreement in its order and the voluntary agreement shall be enforceable by the Board.

(d)(1) Unless a shorter term is agreed upon by the parties, a voluntary 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 voluntary 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 voluntary agreement.

(3) Notice of an application to amend or terminate a voluntary 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 voluntary 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 voluntary 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 voluntary 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 voluntary 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) The Board shall initiate a show cause hearing upon evidence that a licensee has violated a voluntary agreement. Upon a determination that the licensee has violated the voluntary agreement, the Board shall penalize the licensee according to the provisions set forth for violations of a license in Chapter 8.

§ 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.

Sec.

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 and Washington Convention Center 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.

§ 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 retailer's 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
WHOLESALEERS	
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 annual 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, 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 gross annual receipts	\$4,000	
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 and Washington Convention Center by Mayor.

The annual license fee for the retailer's licenses, class Arena C/X, for the DC Arena and for the Washington Convention Center 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 \$1000, in addition to any other license fees prescribed in this title.

CHAPTER 6. PROTESTS, REFERENDUM, AND COMPLAINTS.

Sec.

25-601. Standing to file protest against a license.

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, a new owner license renewal, 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 § 25-321 (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 being given at least 10 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.

§ 25-602. 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. Repealed.

§ 25-604. Repealed.

§ 25-606. Repealed.

§ 25-607. Repealed.

§ 25-608. Repealed.

§ 25-609. ANC comments.

The affected ANC shall notify the Board in writing of its recommendations, if any, not less than 7 calendar days before the date of the hearing. Whether or not 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 shall have the opportunity to respond to the ANC recommendations in a manner to be prescribed in the rules adopted by the Board.

CHAPTER 7. STANDARDS OF OPERATION.

Sec. Subchapter I. Staff Requirements.

25-701. Board-approved manager required.

25-702. Employees -- notice of employee's criminal conviction.

Subchapter II. Posting of Signs.

25-711. Posting and carrying of licenses.

25-712. Warning signs regarding dangers of alcohol consumption during pregnancy required.

25-713. Retail licensee required to post current legal drinking age and notice of requirement to produce valid identification displaying proof of age.

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

25-721. Hours of sale and delivery for manufacturers and wholesalers.

25-722. Hours of sale and delivery for off-premises retail licensees.

25-723. Hours of sale and service for on-premises retail licensees and temporary licensees.

25-724. Board authorized to further restrict hours of operation.

25-725. Noise from licensed premises.

25-726. Control of litter.

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

25-731. Credit and delinquency.

25-732. Payment plan for use in extenuating circumstances.

25-733. Delivery and payment records and reports.

25-734. Sale by retailer of beverages on credit prohibited.

25-735. Gifts and loans from manufacturer prohibited.

25-736. Gifts and loans from wholesaler prohibited.

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

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

25-742. Solicitation of drinks prohibited.

25-743. Tie-in purchases prohibited.

Subchapter VI. Limitations on Container Number, Size, Labeling, and Storage. 25-751.

Limitations on container size.

25-752. Containers to be labeled.

25-753. Keg registration required; procedures specified.

25-754. Restrictions on storage of beverages.

Subchapter VII. Physical Space and Advertising.

25-761. Structural requirements.

25-762. Substantial changes in operation must be approved.

25-763. Restrictions on use of signs.

25-764. Advertisements related to alcoholic beverages in general.

25-765. Advertisement on windows and doors of licensed establishment.

25-766. Prohibited statements.

Subchapter VIII. Reporting, Importation.

25-771. Reporting.

25-772. Unlawful importation of beverages.

Subchapter IX. Minors and Intoxicated Persons.

25-781. Sale to minors or intoxicated persons prohibited.

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

25-783. Production of valid identification document required; penalty.

25-784. Sale or distribution of beverages by minor prohibited.

25-785. Delivery, offer, or otherwise making available to persons under 21; penalties.

Subchapter X. Temporary Surrender of License -- Safekeeping.

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

Subchapter XI. Valet Parking.

25-796. Valet parking. [Repealed]

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 voluntary agreement is a part of the license, the license shall be marked "voluntary agreement on file" by the Board, and the licensee shall make a copy of the voluntary 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 licensee 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 licensee 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 9:00 a.m. and 10:00 p.m., Monday through

Saturday, and during those same hours on December 24 and 31 of each year.

(b) The Board may also permit a licensee under an off-premises retailer's license, class B, to sell or deliver alcoholic beverages between the hours of 9:00 a.m. and 10:00 p.m. on Sundays.

(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 delivery 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, closed miniature containers of alcoholic beverages at all hours on any day of the week.

(b) Except as provided in § 25-724, 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;
- (2) 3:00 a.m. and 8:00 a.m. on Saturday; and
- (3) 3:00 a.m. and 10:00 a.m. on Sunday.

(c) On each January 1st, the licensee under an on-premises retailer's license or a temporary license may sell or serve alcoholic beverages until 4:00 a.m.

§ 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 voluntary 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; or
- (4) Sounds, noises, or music occasioned by normal opening of entrance and exit doors for the purpose of ingress and egress.

(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.

§ 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) The failure of a retailer who contracts to purchase an alcoholic beverage for full payment in cash on delivery to make full payment upon delivery shall constitute a violation of this chapter.

(f) A retailer shall not satisfy the obligation to pay for an alcoholic beverage unless the payment is dated on or before the date payment is due and is, upon presentation, promptly honored by the bank on which it is drawn.

(g) The failure of a manufacturer or wholesaler to deposit the payment in the manufacturer's or wholesaler's bank for credit or collection, or present the payment to the bank on which it is drawn, within 5 days from the receipt of a payment shall constitute a violation of this chapter. Each day that the failure continues shall constitute a separate violation.

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

(a) A retailer whose business has suffered major damage or loss due to arson, burglary, or other major disaster shall, upon approval of a payment plan by the Board, not be subject to § 25-731 for credit extended to the retailer before the occurrence of the major damage or loss.

(b) A payment plan shall not extend for more than 12 months from the date of approval of the plan.

(c) In approving a payment plan, the Board shall consider factors including the circumstances under which the loss or damage occurred; the amount of loss or damage; and

whether the plan has been accepted by the wholesalers to whom the money is owed.

(d) For good cause shown, the Board may modify an approved plan, including the extension of the one year payment period, for a limited period of time.

(e) The failure of a retailer to make payment in accordance with the approved plan shall constitute a violation of this chapter.

§ 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.

(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) Before March 2, June 2, September 2, and January 2 of each year, each manufacturer and wholesaler shall submit to the Board, on a form prescribed by the Board, a list of the following:

(1) All retailers that have been required to make payment in cash for alcoholic beverages under § 25-731(c), during the preceding 90 days; and

(2) All accounts that have been delinquent during the preceding 90 days, including the amount of the delinquency.

(e) Each manufacturer and wholesaler shall, within 24 hours of receipt from the bank or other depository of notice of dishonor of a check, draft, or other order for payment which the manufacturer or wholesaler received from a retailer, notify in writing the Board of the notice of dishonor.

(f) Failure to file timely a report required by this section shall constitute a violation of this chapter.

§ 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 change 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 the regulations contained in Chapter 31 of Title 12 of the District of Columbia Municipal Regulations.

§ 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 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 \$500 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.

§ 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 Chapter 25 of Title 1.

§ 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 Chapter 25 of Title 1.

§ 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.

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.

(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.

Sec.

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

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

25-803. Search warrants for illegal alcoholic beverages; disposition of seized beverages. 25-804. Notifications from DCRA, Fire Department, and Metropolitan Police Department.

25-805. Nuisance.

Subchapter II. Revocation, Suspension, and Civil Penalties.

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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, 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 voluntary 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 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.

§ 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 deemed 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 fourth 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) The Board may specify violations for which a licensee may be given a warning before the issuance of a citation for a first violation.

(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.

(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.

§ 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 \$1,000, 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 \$5,000, 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.

CHAPTER 9. TAXES.

Sec.

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.

Sec.

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. Prohibition on use of watercraft under certain conditions.

25-1005. Prohibition on use of watercraft under certain conditions -- consent to testing.

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

25-1007. Prohibition on use of watercraft under certain conditions -- penalties.

25-1008. Prima facie evidence of intoxication.

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

§ 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 \$500, 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 deemed 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 consecutive days;

(C) Upon the third violation 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 paragraph (4) of this subsection 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.

(a) No person shall operate or be in physical control of any vessel or watercraft, including water skis, aquaplane, sailboard, personal watercraft, or similar device in the District, if:

(1) The person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine; or

(2) Repealed

(3) The person is under the influence of intoxicating liquor or any controlled substance or a combination thereof.

(b) A person under 21 years of age shall not operate or be in physical control of any vessel or watercraft, including water skis, aquaplane, sailboard, personal watercraft, or a similar device in the District if the person's blood, breath, or urine contains any measurable amount of alcohol.

(c) No person shall operate or be in physical control of any vessel or watercraft while the person is impaired by the consumption of intoxicating liquor.

(d) For the purposes of this section and §§ 25-1005 through 25-1007, the term "controlled substance" has the same meaning as set forth in § 48-901.02(4).

(e) The Harbor Master shall be directly responsible for enforcing this section and shall ensure that the public is made aware of the District's aggressive enforcement policy through a continual public awareness campaign.

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

(a) If there is a reasonable suspicion to believe that the person is operating or in physical control of any vessel or watercraft while under the influence of, or intoxicated by, alcohol or a controlled substance, he or she shall be deemed to have given consent for 2 chemical tests of the person's blood, urine, or breath for the purpose of determining the person's blood-alcohol or drug content. If a person refuses to submit to a chemical test under this section, the Superior Court of the District of Columbia shall order the person not to operate any vessel or watercraft for at least one year.

(b) The arresting police officer or any other appropriate law enforcement official shall elect which chemical test shall be administered to the person; provided, that the person may object to a particular test on valid religious or medical grounds.

(c) The test shall be administered at the direction of a police officer or other appropriate law enforcement official.

(d) Chemical tests shall be performed on all operators involved in a fatal accident. If a person who operates or is in physical control of any vessel or watercraft is declared dead by competent authority, the person shall be deemed to have given his or her consent to chemical tests as soon as practical after the death has been declared to be the result of a fatal accident.

(e) The refusal to submit to either of the 2 tests required in this section shall be admissible in any civil or criminal proceeding arising as a result of the acts alleged to have been committed by the person before the arrest. A refusal to submit to any test as required by this

section shall constitute a misdemeanor and, upon conviction, shall be punished by a \$500 fine, imprisonment of 90 days, or both.

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

(a) A law enforcement officer who has reasonable grounds to believe that a person is or has been violating any provision of this section, without making an arrest or issuing a citation, may request the person to submit to a preliminary breath test, to be administered by the officer, who shall use a device which the Mayor has by rule approved for that purpose. Before administering the test, the officer shall advise the person to be tested that the results of the test will be used to aid in the officer's decision whether or not to arrest the person.

(b) The results of a preliminary test shall not be used as evidence by the District in any prosecution and shall not be admissible in any judicial proceedings; provided, that the results of the test may be used, and shall be admissible, in any judicial proceeding in which the validity of the arrest or the conduct of the officer is an issue.

(c) The admissibility of all test results shall be governed by § 50-2205.03.

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

(a) A person violating § 25-1004 (a) or (b) shall be guilty of a misdemeanor and:

(1) Upon conviction for the first offense, shall be fined an amount not to exceed \$500, imprisoned for not more than 90 days, or both;

(2) Upon conviction for a second offense within a 15-year period, shall be fined an amount not to exceed \$5,000, imprisoned for not more than one year, or both; and

(3) Upon conviction for a third or subsequent offense within a 15-year period, shall be fined an amount not to exceed \$10,000, imprisoned for not more than one year, or both.

(b) A person violating § 25-1004(c) shall be guilty of a misdemeanor and:

(1) Upon conviction for the first offense, shall be fined an amount not to exceed \$300, imprisoned for not more than 30 days, or both;

(2) Upon conviction for a second offense within a 15-year period, shall be fined an amount not to exceed \$1,000, imprisoned for not more than 90 days, or both; and

(3) Upon conviction for the third or subsequent offense within a 15-year period, shall be fined an amount not to exceed \$5,000, imprisoned for not more than one year, or both.

§ 25-1008. Prima facie evidence of intoxication.

(a) If a person is tried in any court of competent jurisdiction within the District for operating a vessel or watercraft in violation of § 25-1004 or manslaughter committed in the operation of a vessel or watercraft in violation of § 22-2105, and in the course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:

(1) Shall, if at the time of testing, defendant's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.

(2) Shall not, if at the time of testing, defendant's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams

per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, establish a presumption that the defendant was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor.

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

(a) No person shall be intoxicated while in charge of or operating a locomotive; acting as a conductor or brakeman of a car or train of cars; or operating a streetcar, or horse-drawn vehicle.

(b) A person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$300, or by imprisonment for not longer than 3 months, or both.

(c) Nothing herein contained shall be construed as repealing or modifying §§ 50-1401.01, 50-1401.02, 50-1403.01, 50-2201.03 through 50-2201.05, and 50-2201.27.

(d) Civil penalties and fees may be imposed as alternative sanctions for any violation of this section in accordance with the procedures under Chapter 18 of Title 2.