

AN ACT

*Codification  
District of  
Columbia  
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to provide that it is a secondary tier violation for a restaurant to not keep its kitchen facilities open until 2 hours before closing, to provide that the hours for the sale of alcoholic beverages on District and federal holidays shall be the same as those for sales on Saturdays, to clarify that the Alcoholic Beverage Control Board is not responsible for acting as a collection agency for District of Columbia wholesalers, to provide a graduated penalty scheme for sale of alcoholic beverages to minors, to clarify that the Alcoholic Beverage Control Board possesses the authority to both fine and suspend for Alcoholic Beverage Control violations, to provide for a warning system for first-time violations, and to require the Alcoholic Beverage and Regulation Administration to promptly provide a licensee with an investigation report or a public police incident report; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to increase the compensation for Alcoholic Beverage Control Board members; and to amend Title 23 of the District of Columbia Municipal Regulations to clarify that license fees shall be based on an on-premises licensee’s capacity load, as identified in both the capacity placard and the certificate of occupancy.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Alcoholic Beverage Enforcement Amendment Act of 2008”.

Sec. 2. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-113(b)(1) is amended by adding a new sentence at the end to read as follows:

Amend  
§ 25-113

“It shall be a secondary tier violation for a restaurant to not keep its kitchen facilities open until 2 hours before closing.”.

(b) Section 25-303(c)(4) is amended by striking the phrase “during the preceding 12 months in which an application is made” and inserting the phrase “after January 1, 2000” in its place.

Amend  
§ 25-303

(c) Chapter 7 is amended as follows:

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(1) Section 25-723(b) is amended as follows:

**Amend  
§ 25-723**

(A) Paragraph (1) is amended by striking the word “Friday” and inserting the phrase “Friday, excluding District and federal holidays” in its place.

(B) Paragraph (2) is amended by striking the word “Saturday” and inserting the phrase “Saturday, and on District and federal holidays” in its place.

(2) Section 25-731(e), (f), and (g) are repealed.

**Amend  
§ 25-731  
Repeal  
§ 25-732**

(3) Section 25-732 is repealed.

(4) Section 25-733 is amended as follows:

**Amend  
§ 25-733**

(A) Subsection (b)(3) is amended by striking the phrase “presented for payment” and inserting the phrase “presented for payment, when such dishonored checks, drafts, or other orders for payment exceed \$15,000” in its place.

(B) Subsections (d), (e), and (f) are repealed.

(5) Section 25-781 is amended by adding a new subsection (f) to read as follows:

**Amend  
§ 25-781**

“(f) Upon finding that a licensee has violated subsections (a), (b), or (c) of this section in the preceding 2 years:

“(1) Upon the 1<sup>st</sup> violation, the Board shall fine the licensee not less than \$2,000, and not more than \$3,000, and suspend the licensee for 5 consecutive days; provided, that the 5-day suspension may be stayed by the Board for one year;

“(2) Upon the 2<sup>nd</sup> violation, the Board shall fine the licensee not less than \$3,000, and not more than \$5,000, and suspend the licensee for 10 consecutive days; provided, that the Board may stay up to 6 days of the 10-day suspension for one year;

“(3) Upon the 3<sup>rd</sup> violation, the Board shall fine the licensee not less than \$5,000, and not more than \$10,000, and suspend the licensee for 15 consecutive days, or revoke the license; provided, that the Board may stay up to 5 days of the 15-day suspension for one year;

“(4) Upon the 4<sup>th</sup> violation, the Board may revoke the license; and

“(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) Chapter 8 is amended as follows:

(1) The table of contents for subchapter II is amended by adding a new section designation to read as follows:

“25-832. Prompt notice of investigative reports.”.

(2) The lead-in language of section 25-823 is amended by striking the word “suspend” and inserting the phrase “and suspend” in its place.

**Amend  
§ 25-823**

(3) Section 25-830 is amended as follows:

(A) Subsection (e) is amended to read as follows:

**Amend  
§ 25-830**

“(e)(1) Except for an egregious violation as may be later defined by ABC rulemaking, no licensee shall be found to be in violation of a first-time violation of § 25-781 (sales to minors), unless the licensee has been given a written warning, or received a citation, for the

violation, or had an enforcement proceeding before the Board, during the 4 years preceding the violation.

“(2) A warning for a first-time violation of § 25-781 shall include a description of the violation. The Alcoholic Beverage Regulation Administration shall make available a schedule of fines that could be imposed upon subsequent violation. Within one year of the effective date of the Alcoholic Beverage Enforcement Amendment Act of 2008, passed on 2<sup>nd</sup> reading on December 16, 2008 (Enrolled version of Bill 17-983)(“Enforcement Act”), the Board shall submit a report on the status of the warning requirement for § 25-781 violations, including a statement on repeat offenders and subsequent fines or sanctions imposed. The provisions of paragraph (1) of this subsection, and the provisions of § 25-781(f) shall expire one year from the effective date of the Enforcement Act, unless the Board finds each of the following:

“(A) That the warning requirement was effective in correcting behavior that was the subject of the warning for those licensees; and

“(B) That the warning requirement contributed to the overall prevention of sales to minors in the District of Columbia.

“(3)(A) Within 60 days of the effective date of the Enforcement Act, the Board shall issue proposed regulations for a comprehensive warning and violation structure, which shall include recommendations on which violations of the act or regulations shall require a warning for a first-time violation prior to penalty.

“(B) Proposed rules under this subsection shall be submitted to the Council for a 30-day period of review. The Council may approve these proposed regulations, in whole or in part, by resolution. If the Council has not approved the regulations upon expiration of the 30-day review period, the regulations shall be deemed disapproved.”.

(B) Subsection (f) is amended by adding a new sentence at the end to read as follows:

“The Board may fine for a violation not listed on the schedule consistent with the primary tier violation penalties set forth in subsection (c)(1) of this section.”.

(4) A new section 25-832 is added to read as follows:

Amend  
§ 25-832

“§ 25-832 Prompt notice of investigative reports.

“(a) ABRA shall provide a licensee with either an investigative report or a public police incident report that may result in a show cause hearing as set forth in § 25-447 within 90 days of the date upon which the incident occurred.

“(b) The requirement in subsection (a) of this section shall not apply where

“(1) Criminal action is being considered against the licensee or its employees;

or

“(2) Enforcement action is requested by the Chief of Police under § 25-827.”.

Sec. 3. Section 1108(c)(2)(I) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §

Amend  
§ 1-611.08

1-611.08(c)(2)(I), is amended as follows:

- (a) Strike the figure "\$25" and insert the figure "\$40" in its place.
- (b) Strike the figure "\$12,000" and insert the figure "\$15,000" in its place.

Sec. 4. Title 23 of the District of Columbia Municipal Regulations is amended as follows:

DCMR

- (a) A new subsection 206.5 is added to read as follows:

"206.5 Nothing shall preclude the holder of a Retailer's license Class B issued pursuant to the provisions of D.C. Official Code § 25-303(c), who is also the holder of a Retailer's license Class CR or DR, from selling or serving wine, beer, or spirits for consumption on premises."

- (b) Section 208.10 is amended by striking the phrase "the certificate of occupancy for the establishment and are as follows:" and inserting the phrase "its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time. The holder of a Class C license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both its initial and renewal license applications. The annual license fees are as follows:" in its place.

- (c) Section 208.11 is amended by striking the phrase "the certificate of occupancy for the establishment and shall be as follows:" and inserting the phrase "its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time. The holder of a Class D license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both its initial and renewal license applications. The annual license fees are as follows:" in its place.

- (d) Section 503.1 is amended by striking the phrase "revoke, or suspend" and inserting the phrase "revoke, and suspend" in its place.

Sec. 5. Fiscal impact statement.

The Council adopts the December 15, 2008 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia