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A BILL

20-902

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to establish a class C manufacturer’s license, to clarify who can apply for a hotel license, to clarify that class CX and DX licenses are eligible to obtain a sidewalk café or summer garden endorsement, to clarify that the holder of a manufacturer’s license, class A, may allow the sampling of wine with a tasting permit, to allow a holder of a manufacturer’s license, class A, to apply for an on-site sales and consumption permit, to create a new festival license, to provide when a licensee is transferred to a new location the burden is on the applicant to request that an existing settlement agreement provisions does not apply to a new location, to clarify that an applicant for a manager’s license is not required to be the true and actual owner of an existing or proposed business, to clarify that the 400 foot distance prohibition between off-premises retail licensees does not apply to internet businesses that are not open to the public, to clarify that the Board is not required to schedule an administrative review hearing in those instances when no protests have been received by the Board, to clarify when the record closes for a protested license application, to define the term license’s renewal period to clarify when a request to amend or terminate a settlement agreement must be filed with the Board, to clarify that a Board approved settlement agreement submitted by an affected ANC does not dismiss a valid protest filed by an abutting property owner, to clarify that a Board-approved manager or owner that personally superintends the establishment during licensed hours of sale shall not be under the influence of alcohol or illegal drugs, to clarify that the failure to post a warning sign regarding the dangers of alcohol consumption during pregnancy is a secondary tier violation, to delete the requirement that extended hours applications be submitted by licensees annually, to require all advertisements relating to alcoholic beverages can 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, to enhance the penalties for the prohibited sale of alcohol to minors or intoxicated persons, to provide ABRA investigators with the authority to seize a liquor license from an establishment that has been suspended, revoked or cancelled by the Board or is out of business or has been closed by another government agency, to clarify that it is a violation for a licensee to fail to follow the terms of its license approved by the Board, to clarify that it is a violation for a licensee to fail to preserve a crime scene, to allow the Board to hold licensees responsible for a single assault, sexual assault, or other violent act, to

37 clarify that a licensee may be held accountable for a single violation of its settlement
38 agreement, security plan, or Board order, to clarify that the summary suspension
39 deadlines are business days, to establish a process in those instances when a licensee fails
40 to timely remit a fine.

41 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
42 act may be cited as the “Omnibus Alcoholic Beverage Regulation Amendment Act of 2014”.

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

44 (a) Chapter 1 is amended as follows:

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

47 “25-127. Festival license.

48 (2) Section 25-101 is amended by adding a new paragraph (19A) to read as
49 follows:

50 (19A) The term “disc jockey” shall not include anyone who plays or changes
51 prerecorded music, or programs prerecorded music, provided that the person does not engage in
52 any of the following: make announcements or comments; takes song requests; run contests or
53 games; manipulates or mixes the music; provides live entertainment; plays music from a disc
54 jockey booth; or alters or manipulates a playlist while it is being played to include adding
55 elements such as sound effects or additional pieces of music.

56 (2) Section 25-110(a) is amended as follows:

ENGROSSED ORIGINAL

57 (A) Paragraph (1)(A)(ii) is amended by striking the phrase “The licensee
58 may sell spirits to the consumer” and inserting the phrase “Except as provided in § 25-126, the
59 licensee may sell wine and spirits to the consumer” in its place.

60 (B) A new paragraph (3) is added to read as follows:

61 “(3)(A) A manufacturer’s license, class C, shall authorize the licensee to operate a
62 facility for the manufacture of alcohol-infused confectionery food products at the establishment
63 described in the license.

64 “(B) The license shall authorize the licensee to sell the alcohol-infused
65 confectionery food products manufactured under the license to:

66 “(i) Another licensee under this title for resale;

67 “(ii) A dealer licensed under the law of any state or territory of the
68 United States for resale; and

69 “(iii) A consumer.

70 “(C) The licensee shall sell the alcohol-infused confectionery food
71 products in a sealed or closed container.

72 “(D) Alcohol-infused confectionery food products shall not contain
73 alcohol in excess of 5% by volume.

74 “(E) All alcohol-infused confectionery food products that are
75 manufactured or sold that contain between one-half of one percent and 5% of alcohol per
76 volume:

77 “(i) Shall not be sold to individuals under 21 years of age;

78 “(ii) Shall state on the label that the sale of the product to an
79 individual under 21 years of age is prohibited;

80 “(iii) Shall state on the label the brand of alcohol used in the
81 alcohol-infused confectionery food product; and

82 “(iv) Shall state on the label that the alcohol-infused confectionery
83 food product contains alcohol up to 5% per volume.

84 “(F) A manufacturer’s license, class C, shall be required to obtain and
85 maintain all appropriate licenses required by the District of Columbia Department of Health
86 related to the sale and manufacture of alcohol-infused confectionery food products.

87 “(G) The minimum annual fee for a class C manufacturer’s license shall
88 be \$1,000.”.

89 (3) Section 25-113(e) is amended by adding a paragraph (6) to read as follows:

90 “(6) A restaurant operating inside of a hotel shall be eligible to obtain a hotel
91 license; provided, that the restaurant has a written agreement with the hotel to sell and serve
92 alcoholic beverages in the hotel’s dining rooms, lounges, banquet halls, other similar facility, or
93 in the private rooms of registered guests.”.

94 (4) Section 25-113a(c) is amended by striking the phrase “CN, and DN” and
95 inserting the phrase “CN, DN, CX, and DX,” in its place.

96 (5) Section 25-118 is amended as follows:

97 (A) Subsection (a) is amended to read as follows:

98 “(a) A tasting permit shall be issued only to a licensee under a manufacturer’s license,
99 class A or B, or a retailer’s license, class A or B to utilize a portion of its licensed premises for
100 the tasting of products as listed in subsection (c) of this section.”.

101 (B) Subsection (e) is amended by striking the phrase “of spirits,” and
102 inserting the phrase “of wine and spirits,” in its place.

103 (6) Section 25-126 is amended as follows:

104 (A) Subsection (a) is amended to read as follows:

105 “(a) The holder of a manufacturer’s license, class A or B, may apply for an on-site sales
106 and consumption permit to use a portion of the licensed premises for the on-premises sale,
107 service, and consumption of beer brewed by the brewery, wine manufactured by the winery, and
108 beverages with spirits distilled by the distillery.”.

109 (B) Subsection (b) is amended by striking the phrase “beer brewed by the
110 brewery” and inserting the phrase “beer brewed by the brewery, wine manufactured by the
111 winery, and beverages with spirits distilled by the distillery” in its place.

112 (C) Subsection (c) is amended to read as follows:

113 “(c) The on-premises sales and consumption permit shall not obviate the
114 requirement of the holder of a manufacturer’s license, class A or B, to obtain a tasting permit
115 pursuant to § 25-118, to be authorized to provide samples of beer, wine, or spirits.”.

116 (D) New subsections (e) and (f) are added to read as follows:

117 “(e) For the purposes of this section, the term “beverages” means brandy,
118 cordials, fortified wines, liqueur, and non-alcoholic beverages.

119 “(f) Any additional spirits that are added to beverages primarily containing
120 spirits distilled by the distillery shall be purchased from a wholesaler or manufacturer licensed
121 under this title.”.

122 (7) A new section 25-127 is added to read as follows:

123 “Sec. 25-127. Festival license.

124 “(a) A festival license shall authorize a licensee temporarily to sell, serve, and permit the
125 consumption of alcoholic beverages at the specific premises described for consumption on the
126 premises where sold; provided, that a festival license may be issued only for an event that
127 includes the performance of sports, or a cultural or tourism-related activity.

128 “(b) A festival license shall be issued for an event that is at least 5 consecutive days but
129 no more than 15 consecutive days.

130 “(c) The issuance of a festival license shall be solely at the discretion of the Board.

131 “(d) The Board may deny the license application if the applicant had failed to control the
132 environment of a previous event associated with either a festival license or a temporary license,
133 or has sustained community complaints or police action.

134 “(e) There shall be two classes of festival licenses:

135 “(1) Class H (beer and wine); and

136 “(2) Class I (spirits, beer, and wine).

137 “(f) The holder of a festival license shall be permitted to receive deliveries from a
138 wholesaler for up to 48 hours before a Board-licensed event occurring on a Saturday, Sunday, or
139 a legal District or federal holiday; provided, that the alcoholic beverages delivered pursuant to
140 this subsection shall not be consumed until the date and time of the event and shall be stored at a
141 secure location prior to the event.

142 “(g) The minimum annual fee for a class H license shall be \$1,000. The minimum annual
143 fee for a class I license shall be \$2,000.

144 “(h) Only one festival license shall be issued to an applicant in a 3-month
145 period.”.

146 (b) Chapter 3 is amended as follows:

147 (1) Section 25-301(a)(5) is amended by striking the phrase “solicitor’s license,”
148 and inserting the phrase “solicitor’s or manager’s license,” in its place.

149 (2) Section 25-317 is amended as follows:

150 (A) Designate the existing text as subsection (a).

151 (B) A new subsection (b) is added to read as follows:

152 “(b)(1) Notwithstanding the requirements set forth in § 25-446(d), an applicant filing an
153 application to transfer to a new location may petition the Board in writing to not apply provisions
154 of an existing settlement agreement at the new location.

155 “(2) The Board shall consider the petition; provided, that the Board shall deem the
156 request to be a substantial change subject to the notice requirements set forth in §§ 25-421 and
157 25-423.

158 “(3) The burden shall be on the applicant to demonstrate to the satisfaction of the
159 Board that the request will not adversely affect the locality, section, or portion of the District
160 where the establishment is to be located under the appropriateness standards set forth in § 25-313
161 and that none of the provisions of the existing settlement agreement, or the agreement in its
162 entirety, are applicable to the new location.

163 “(4) The Board may amend, terminate, or maintain the existing settlement
164 agreement at the new location.”.

165 (3) Section 25-333 is amended by adding a new subsection (d) to read as follows:

166 “(d) This section shall not prohibit the issuance of a retailer’s license, class A or B, if the:

167 “(1) Applicant’s establishment will not be open to the public; and

168 “(2) Sale of alcoholic beverages will occur only through the internet.”.

169 (4) Section 25-339(a) is amended to read as follows:

170 “(a) The number of nightclub or tavern license holders, class C or D, within the
171 Georgetown historic district shall not exceed 6. No existing nightclub or tavern license shall be
172 transferred to any other person or to any other location within the Georgetown historic district,

173 except when the number of such licensed establishments in the Georgetown historic district is 6
174 or less.”.

175 (5) Section 25-340.01(b) is amended by striking the phrase “class A or B” both
176 times it appears and inserting the phrase “class A or B off-premises retailer’s” in its place.

177 (c) Chapter 4 is amended as follows:

178 (1) Section 25-432(a) is amended by striking the phrase “schedule an
179 administrative review to”.

180 (2) Section 25-433(b) is amended to read as follows:

181 “(b) For the purposes of this section, the record shall close 30 days after a hearing is
182 concluded to allow the parties to submit proposed findings of fact and conclusions of law and
183 any other document submissions requested by the Board.”.

184 (3) Section 25-446(d) is amended by adding a new paragraph (6) to read as
185 follows:

186 “(6) For the purposes of this subsection, the term “license’s renewal period”
187 means the 60 day period prior to the expiration date of a license.”.

188 (d) Section 25-609(b) is amended by striking the phrase “ANC or by a citizens
189 association” and inserting the phrase “ANC, a citizens association, or an abutting property
190 owner” in its place.

191 (e) Chapter 7 is amended as follows:

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

194 “25-703. Manager and owner conduct requirement.”.

195 (2) A new section 25-703 is added to read as follows:

196 “§ 25-703. Manager and owner conduct requirement.

197 “The Board-approved manager of an establishment or owner of the establishment who
198 personally superintends the establishment during licensed hours of sale shall not be under the
199 influence of alcohol or illegal drugs.”.

200 (3) Section 25-712(e) is amended to read as follows:

201 “(e) A violation of this section shall be punishable as a secondary tier violation.”.

202 (4) Section 25-721(c) is amended by striking the phrase “class A or B” and
203 inserting the phrase “class A, B, or C” in its place.

204 (5) Section 25-723(c)(4) is amended by striking the phrase “Once each calendar
205 year and no fewer” and inserting the phrase “No fewer” in its place.

206 (6) Section 25-731 is amended by striking the word “retailer” wherever it appears
207 and inserting the phrase “retailer or manufacturer” in its place.

ENGROSSED ORIGINAL

208 (7) Section 25-765(a) is amended by striking the phrase “to the prices of
209 alcoholic” and inserting the phrase “to alcoholic” in its place.

210 (8) Section 25-781(f) is amended to read as follows:

211 “(f) Upon finding that a licensee has violated subsection (a), (b), or (c) of this section in
212 the preceding ~~6 years~~ 4 years:

213 “(1) Upon the 1st violation, the Board shall fine the licensee not less than \$2,000,
214 and not more than \$3,000, and suspend the licensee for 5 consecutive days; provided, that the 5-
215 day suspension may be stayed by the Board for one year if all employees who serve alcoholic
216 beverages in the licensed establishment complete an alcohol training program within 3 months.

217 “(2) Upon the 2nd violation, the Board shall fine the licensee not less than \$3,000,
218 and ~~not more than \$10,000~~ not more than \$5,000, and suspend the licensee for 10 consecutive
219 days; provided, that the Board may stay up to 6 days of the 10-day suspension for one year if all
220 employees who serve alcoholic beverages in the licensed establishment complete an alcohol
221 training program within 3 months.

222 “(3) Upon the 3rd violation, ~~the Board shall fine the licensee not less than~~
223 ~~\$10,000, and not more than \$30,000, and suspend the licensee for 30 consecutive days, or revoke~~
224 ~~the license; provided, that the Board may stay up to 10 days of the 30-day suspension for one~~
225 ~~year~~ the Board shall fine the licensee not less than \$5,000, not more than \$10,000, and suspend
226 the licensee for 15 consecutive days, or revoke the license; provided that the Board may stay up

227 to 5 days of the 15 day suspension for one year if all employees who serve alcoholic beverages in
228 the licensed establishment complete an alcohol training program within 3 months;

229 “(4) Upon the 4th violation, the Board may revoke the license; and

230 ~~“(5) The Board shall revoke the license of a licensed establishment that has 4 or~~
231 ~~more violations of this section within a 4 year period.”.~~

232 (9) Section 25-783(c) is amended by striking the phrase “preceding 2” and
233 inserting the phrase ~~“preceding 6”~~ “preceding 4” in its place.

234 (f) Chapter 8 is amended as follows:

235 (1) Section 25-801 is amended by adding a new subsection (g) to read as follows:

236 “(g) ABRA investigators may seize a liquor license from an establishment if:

237 “(1) The liquor license has been suspended, revoked, or cancelled by the Board;

238 “(2) The business is no longer in existence; or

239 “(3) The business has been closed by another District government agency.”.

240 (2) Section 25-823 is amended as follows:

241 (A) Designate the existing text as subsection (a).

242 (B) Paragraph (5) is amended by striking the phrase “investigation; or”

243 and inserting the phrase “investigation;” in its place.

ENGROSSED ORIGINAL

244 (C) New paragraphs (7) and (8) are added to read as follows:

245 “(7) The licensee fails to follow the terms of its license approved by the Board; or

246 “(8) The licensee fails to preserve a crime scene.”.

247 (D) New subsections (b) and (c) are added to read as follows:

248 “(b) A single incident of assault, sexual assault, or violence shall be sufficient to prove a
249 violation of subsection (a)(2) of this section; provided, that the licensee has engaged in a method
250 of operation that is conducive to unlawful or disorderly conduct.

251 “(c) A licensee shall be required to comply with the terms and conditions of the
252 licensee’s settlement agreement, security plan, or order from the Board that is attached to the
253 license during all times that it is in operation. A single violation of a settlement agreement,
254 security plan, or order from the Board shall be sufficient to prove a violation of subsection (a)(6)
255 of this section.”.

256 (3) Section 25-826(c) is amended to read as follows:

257 “(c) A licensee may request a hearing within 3 business days after service of notice of a
258 summary revocation, suspension, fine, or restriction of license. The Board shall hold a hearing
259 within 2 business days of receipt of a timely request and shall issue a decision within 3 business
260 days after the hearing.”.

261 (4) Section 25-830 is amended by adding a new subsection (k) to read as follows:

262 “(k)(1) A licensee’s failure to timely remit a fine issued pursuant to this section shall be
263 cause for the Board to suspend the license until the licensee pays the fine.

264 “(2) If a licensee is 90 days delinquent on the payment of the fine, the Board shall
265 give notice of its intent to revoke the licensee’s license.

266 “(3) The licensee shall have 14 days to respond to the notice issued pursuant to
267 paragraph (2) of this subsection.

268 “(4) If the Board determines that the failure to pay the fine issued pursuant to this
269 section is not for good cause, the Board shall revoke the licensee’s license.”.

270 Sec. 3. Fiscal impact statement.

271 The Council adopts the fiscal impact statement in the committee report as the fiscal
272 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
273 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

274 Sec. 4. Effective date.

275 This act shall take effect following approval by the Mayor (or in the event of veto by the
276 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
277 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
278 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
279 Columbia Register.