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A BILL
21-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend Title 25 of the District of Columbia Official Code to clarify that an unincorporated association can be issued a festival license, the penalties for the failure of a restaurant or hotel to keep records, and that a holder of a class A or class B manufacturer license is eligible to obtain an entertainment endorsement to provide entertainment between the hours of 8:00 a.m. and 12:00 a.m., to modify the hours that a class A or class B manufacturer holding an on-site sales and consumption permit may conduct operations on a sidewalk café or summer garden, and the hours that class A and class B manufacturers may offer tastings, to clarify the violations for which the Board may suspend, revoke, or deny renewal of a manager’s license, to modify the hours that class A and class B manufacturers may utilize an on-site sales and consumption permit, to clarify the types of alcoholic beverages that may be sold by a manufacturer at a private event, to establish a new farmer’s market license, to allow a class A or class B manufacturer to sell its products at a location holding a farmer’s market license, to provide for passive Council approval for Board-created moratoria regulations, to establish an exception to the prohibition against liquor licenses in residential-use districts when an off-premises retailer’s license previously existed at the same location within the previous 2 years, to clarify that it is a primary tier violation for a person to knowingly alter a document or application submitted to the Alcoholic Beverage Control Board for the purpose of deceiving the Board, to clarify when an employee or agent of a manufacturer or wholesaler may work or serve alcoholic beverages at a licensed establishment, to clarify to whom a manufacturer or wholesaler may donate alcoholic beverages, that the holder of a retailer’s license is required to maintain specified records for 3 years, that it is a violation for a person to willfully remove, obliterate, or deface a suspension placard posted by the Chief of Police, and to clarify the fine schedule for primary and secondary tier violations, sale to minor violations, and the failure to ascertain the legal drinking age violations; and to amend Chapter 3 of title 24 of the District of Columbia Municipal Regulations to provide that a holder of a sidewalk café permit that is adjacent to a brewery, winery, or distillery may conduct operations between the hours of 8:00 a.m. and 12:00 a.m., 7 days a week.

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40 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

41 That this act may be cited as the “Omnibus Alcoholic Beverage Regulation Amendment

42 Act of 2015”.

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
46 to read as follows:

47 “§ 25-128. Farmer’s market license.”.

48 (2) Section 25-101 is amended as follows:

49 (A) A new paragraph (2A) is added to read as follows:

50 “(2A) “Administrative Review” means the proceeding (known in
51 regulation as a roll call hearing), specified in a placard posted at an applicant’s premises,
52 at which the applicant and the protestant are introduced to each other and to the Board
53 and the grounds for objection to the license application are read to the public.”.

54 (B) A new paragraph (21C) is added to read as follows:

55 (21C) “Farmer’s market” means a food venue comprised of vendors who
56 make, bake, grow, or raise the products they sell or of farmers, producers, and other
57 vendors selling fresh produce, healthy foods, or baked goods.”.

58 (C) Paragraph 47 is amended by striking the phrase “the

59 protestants” and inserting the phrase “the protestants (known in regulation as a

60 mediation)” in its place.

61 (3) Section 25-104 is amended by striking the phrase “a temporary
62 license” both times it appears and inserting the phrase “a festival license or a temporary
63 license” in its place.

64 (4) Section 25-113(j)(3)(C) is amended to read as follows:

65 “(C) The failure of a licensee under a license class C/R, D/R, C/H,
66 or D/H to keep and maintain records as required by this section shall be subject to the
67 penalties set forth in § 25-830(c).”.

68 (5) Section 25-113a is amended as follows:

69 (A) Subsection (b) is amended to read as follows:

70 “(b)(1) The licensee under a manufacturer’s license class A or B holding an on-
71 site sales and consumption permit or a license, class C/R, D/R, C/H, D/H, C/T, and D/T,
72 shall obtain an entertainment endorsement from the Board to be eligible to have
73 entertainment, a cover charge, or offer facilities for dancing.

74 “(2) The licensee under a manufacturer’s license class A or B holding an
75 on-site sales and consumption permit shall only provide entertainment between the hours
76 of 8:00 a.m. and 12:00 a.m., seven days a week.”.

77 (B) Subsection (c) is amended by striking the phrase “1:00 p.m.
78 and 9:00 p.m.” and inserting the phrase “8:00 a.m. and 12:00 a.m.” in its place.

79 (6) Section 25-118(e) is amended by striking the phrase “1:00 p.m. and
80 9:00 p.m.” and inserting the phrase “8:00 a.m. and 12:00 a.m.” in its place.

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81 (7) Section 25-119(d) is amended by striking the phrase “by the licensee.”
82 and inserting the phrase “by the licensee and the canceled permit maintained for 3 years.”
83 in its place.

84 (8) Section 25-120 is amended as follows:

85 (A) Subsections (e), (f), and (g) are repealed.

86 (B) A new subsection (i) is added to read as follows:

87 “(i)(A) The Board may suspend, revoke, or not renew the
88 manager’s license of a manager who within the prior 2 years has:

89 “(i) Directly sold an alcoholic beverage to a minor on 2 or
90 more dates;

91 “(ii) Directly interfered with an ABRA or Metropolitan
92 Police Department investigation;

93 “(iii) Made false or misleading statements during or after a
94 regulatory inspection or investigation;

95 “(iv) Aided, abetted, or conspired with a licensed or
96 unlicensed person to evade compliance with the requirements of this title; or

97 “(v) Allowed the manager’s license to be used by an
98 unlicensed person.

99 “(B) The Board shall provide notice to the holder of the manager’s
100 license pursuant to the requirements set forth in § 25-447(c) before suspending or
101 revoking a manager’s license pursuant to this subsection.

102 “(C) A subsequent manager’s license application for the person
103 whose license was suspended or revoked or renewal denied shall not be considered
104 within 2 years of a previous Board suspension, revocation, or denial.”.

105 (9) Section 25-126 is amended as follows:

106 (A) Subsection (b) is amended by striking the phrase “1 p.m. and
107 9 p.m.” and inserting the phrase “8:00 a.m. and 12:00 a.m.” in its place.

108 (B) A new subsection (g) is added to read as follows:

109 “(g) The holder of a manufacturer’s license class A or B that holds an on-site
110 sales and consumption permit may sell or serve beer, wine, and spirits purchased from a
111 licensed wholesaler or licensed manufacturer at private events not open to the public for
112 on-premises consumption.”.

113 (10) A new section 25-128 is added to read as follows:

114 “§ 25-128. Farmer’s market license.

115 “(a) A farmer’s market license shall authorize the licensee to permit the holder of
116 a manufacturer’s license class A or B or brew pub permit, wine pub permit, or distillery
117 pub permit to conduct tastings and sell beer, wine, and spirits manufactured by the
118 licensee in the District at a farmer’s market for off-premises consumption.

119 “(b)(1) The holder of a farmer’s market license shall not charge for tastings.

120 “(2) Tastings shall be limited to the sample sizes set forth in § 25-118(c).

121 The tasting of alcoholic beverages shall be conducted at the vendor’s table or booth.

122 Patrons shall not be permitted to walk around the farmer’s market with alcoholic

123 beverage samples.

124 “(3) The hours of alcoholic beverage tastings and off-premise sales shall
125 only occur between 8 a.m. and 9 p.m.”.

126 “(c) A farmer’s market license shall be valid for 6 months.

127 “(d) To qualify for a farmer’s market license, the market shall:

128 “(1) Have at least 6 vendors who produce, grow, or raise the products
129 they sell;

130 “(2) Operate at least 2 hours per market day but no more than 7 hours per
131 market day;

132 “(3) Operate a minimum of 6 farmer’s markets in a 6-month period, but no
133 more than twice per week; and

134 “(4) Be registered with the Office of Tax and Revenue to make retail sales
135 in the District.

136 “(e)(1) The issuance of a farmer’s market license shall be solely at the discretion
137 of the Board.

138 “(2) The Board may deny the license application if the applicant has failed
139 to control the environment of a previous farmer’s market event or has sustained
140 community complaints or police action.

141 “(f)(1) There shall be two classes of farmer’s market licenses:

142 “(A) Class J (beer and wine); and

143 “(B) Class K (spirits, beer, and wine).

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144 “(2) The minimum annual fee for a class J license shall be \$300. The
145 minimum annual fee for a class K license shall be \$500.

146 “(g) The licensed vendor shall be permitted to receive deliveries from a
147 manufacturer or wholesaler for up to 48 hours before a farmer’s market event occurring
148 on a Saturday, Sunday, or a legal District or federal holiday; provided, that the alcoholic
149 beverages delivered pursuant to this subsection shall not be consumed until the date and
150 time of the farmer’s market event and shall be stored at a secure location before the
151 event.

152 “(h) The holder of a manufacturer’s license class A or B or brew pub permit, wine
153 pub permit, or distillery pub permit shall be permitted to conduct free tastings and to sell
154 bottles or other closed containers of alcoholic beverages manufactured by the licensee in
155 the District at a location holding a farmer’s market license for off-premises consumption.

156 “(i) An applicant for a farmer’s market license shall submit to the Board an initial
157 list of all vendors licensed under this title that will conduct free tastings and sell alcoholic
158 beverages for off-premises consumption a minimum of 15 days prior to the first farmer’s
159 market event. An applicant for a farmer’s market license may add additional vendors
160 licensed under this title by submitting to the Board an updated list of vendors a minimum
161 of 15 days prior to the farmer’s market event date that the additional vendors intend to
162 participate.”.

163 (b) Section 25-211(b)(2) is amended by striking the phrase “deemed disapproved”
164 and inserting the phrase “deemed disapproved; except, that upon the expiration of the 90-

165 day review period, regulations issued pursuant to § 25-351 shall be deemed approved” in
166 its place.

167 (c) Section 25-336 is amended by adding a new subsection (f) to read as follows:

168 “(f) Notwithstanding the restriction in subsection (a) of this section, an off-
169 premises retailer’s license may be applied for and approved by the Board in a residential-
170 use district if an off-premises retailer’s license previously existed at the same location
171 within the previous 2 years.”.

172 (d) Section 25-401 is amended by adding a new subsection (d) to read as follows:

173 “(d) It shall be a primary tier violation for a person to knowingly submit an
174 altered document or application to the Board for the purpose of deceiving the Board. The
175 submission of an altered document intended to deceive the Board, may, at the discretion
176 of the Board, constitute sufficient cause for denial of the application or revocation of the
177 license.”.

178 (e) Chapter 7 is amended as follows:

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

181 “§ 25-773. Recordkeeping.”.

182 (2) Section 25-735 is amended by adding new subsections (e) and (f) to
183 read as follows:

184 “(e) Notwithstanding subsections (a), (b), and (c) of this section, employees or
185 agents of a manufacturer, whether licensed by this title or not, may work or serve

186 alcoholic beverages at a licensed establishment during an event promoting alcoholic
187 beverages manufactured by the manufacturer without Board approval.

188 “(f) Notwithstanding subsections (a), (b), and (c) of this section, a manufacturer,
189 whether licensed by this title or not, may donate alcoholic beverages to the holder of a
190 temporary license, festival license, or nonprofit organization that does not hold a retailers
191 license without Board approval.”.

192 (3) Section 25-736 is amended by adding new subsections (e) and (f) to
193 read as follows

194 “(e) Notwithstanding subsections (a), (b), and (c) of this section, employees or
195 agents of a wholesaler, whether licensed by this title or not, may work or serve alcoholic
196 beverages at a licensed establishment during an event promoting alcoholic beverages sold
197 by the wholesaler without Board approval.

198 “(f) Notwithstanding subsections (a), (b), and (c) of this section, a wholesaler,
199 whether licensed by this title or not, may donate alcoholic beverages to the holder of a
200 temporary license, festival license, or nonprofit organization that does not hold a retailers
201 license without Board approval.”.

202 (4) A new section 25-773 is added to read as follows:

203 “§ 25-773. Recordkeeping.

204 “(a) As required by subsection (b) of this section, each holder of a retailer’s
205 license shall maintain upon the licensed premises, either physically or electronically,
206 records of canceled importation permits and of invoices and delivery slips that, as

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207 determined by ABRA, fully show the purchases made by and deliveries made to the
208 licensee of all alcoholic beverages except beer, including:

209 “(1) The quantity, in gallons, of each kind of alcoholic beverage in each
210 purchase;

211 “(2) The date of each purchase;

212 “(3) The name and business address of the person from whom the
213 alcoholic beverage was purchased, including the license number of the vendor, if licensed
214 under this title;

215 “(4) The price of each kind of alcoholic beverage purchased and the total
216 price for the quantity purchased; and

217 “(5) The character, brand, and quantity, in gallons, of all alcoholic
218 beverages acquired other than by purchase.

219 “(b) All invoices and delivery slips required to be maintained by this section and
220 importation permits after cancellation, as required by § 25-119, shall be systematically
221 filed and maintained for a 3 years from the date of receipt and shall show a true, accurate,
222 and complete statement of terms and conditions on which each purchase was made.”.

223 (5) Section 25-781(f) is amended as follows:

224 (A) The lead-in language is amended by striking the phrase “4
225 years:” and inserting the phrase “4 years, the penalties shall be the following:” in its
226 place.

227 (B) Paragraph (4) is amended by striking the phrase “4th
228 violation,” and inserting the phrase “4th or subsequent violation,” in its place.

229 (6) Section-783(c) is amended as follows:

230 (A) The lead-in language is amended by striking the phrase “4
231 years:” and inserting the phrase “4 years, the penalties shall be the following:” in its
232 place.

233 (B) Paragraph (4) is amended by striking the phrase “4th
234 violation,” and inserting the phrase “4th or subsequent violation,” in its place.

235 (C) Paragraph (5) is repealed.

236 (f) Chapter 8 is amended as follows:

237 (1) Section 25-827 is amended by adding a new subsection (e) to read as
238 follows:

239 “(e) The Chief of Police may post suspension placards at a closed
240 establishment for up to 96 hours. Any person willfully removing, obliterating, or
241 defacing a suspension placard before the expiration of the 96-hour closure period shall be
242 guilty of a violation of this chapter.”.

243 (2) Section 25-830 is amended as follows:

244 (A) Subsection (c) is amended as follows:

245 (i) Subparagraph (B) is amended by striking the word
246 “and”.

247 (ii) New subparagraphs (D) and (E) are added to read as

248 follows:

249 “(D) For the fourth violation within 4 years, the Board shall revoke
250 the licensee’s license or fine the licensee no less than \$30,000 and suspend the licensee’s
251 license for 30 consecutive days; and

252 “(E) For the fifth violation within 4 years, the Board shall revoke
253 the license.”.

254 (iii) Paragraphs (2), (3), and (4) are repealed.

255 (B) Subsection (d) is amended as follows:

256 (i) Paragraph (1) is amended by adding new
257 subparagraphs (D), (E), and (F) to read as follows:

258 “(D) For the fourth violation within 4 years, no less than \$1,000.

259 “(E) For the fifth violation within 4 years, no less than \$2,000.

260 “(F) For the sixth or subsequent violation within 4 years, no less
261 than \$4,000.”.

262 (ii) Paragraph (2) is repealed.

263 Sec. 3 Section 301 of Title 24 of the District of Columbia Municipal Regulations
264 is amended by adding a new subsection 301.6 to read as follows:

265 “301.6 The holder of a Sidewalk Café Permit adjacent to a brewery, winery, or
266 distillery may conduct business operations on a sidewalk café between the hours of 8:00
267 a.m. and 12:00a.m., 7 days a week.”.

268 Sec. 4. Fiscal impact statement.

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

273 Sec. 5. Effective date.

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