A BILL

21-849

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to make amendments to the law regulating the sale, transportation, and consumption of alcoholic beverages, including to define a bed and breakfast and establish the requirements to permit one to serve alcohol, clarify the entities that can apply for a club license, define a full-service grocery store and establish the requirements to permit one to serve alcohol, to establish 2 new categories of off-premises licenses for entities that are not open to the public and which sell alcoholic beverages through the internet only, to revise notice requirements for certain entities, to define and prohibit the sale of powdered alcohol, to require an owner or licensed manager of a retailer’s, manufacturer’s, or wholesaler’s license to carry identification and to produce it upon request from an investigator with the Alcoholic Beverage Regulation Administration or a member of the Metropolitan Police Department, and to clarify that the prohibition against drinking an alcoholic beverage in a street, alley, park, sidewalk, or parking area does not apply to an event that is licensed by the Alcoholic Beverage Control Board.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Omnibus Alcoholic Beverage Regulation Amendment Act of 2016”.

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

(a) Chapter 1 is amended as follows:

(1) Section 25-101 is amended as follows:

(A) A new paragraph (9A) is added to read as follows:

“(9A) “Bed and breakfast” means an establishment with fewer than 30 guest rooms, a dining room in the same or a connected building, and where breakfast is included in the

1
price of a sleeping room.”.

(B) Paragraph (15) is amended by striking the phrase “owning, leasing, or occupying a building” and inserting the phrase “a limited liability company, or partnership owning, leasing, or occupying a building” in its place.

(C) A new paragraph (22A) is added to read as follows:

“(22A) “Full-service grocery store” means a self-service retail establishment independently owned or part of a corporation operating a chain of retail establishments under the same trade name that is licensed as a grocery store under § 47-2827 that:

“(A) Offers for sale a full line of food products that includes at least 6 of the 7 following food categories:

“(i) Fresh fruits and vegetables;

“(ii) Fresh and uncooked meats, poultry, and seafood;

“(iii) Dairy products;

“(iv) Canned foods;

“(v) Frozen foods;

“(vi) Dry groceries and baked goods; or

“(vii) Non-alcoholic beverages; and

“(B) May include related service departments, such as a bakery, pharmacy, or florist, or departments that offer household products or sundries;

“(C)(i)(I) Has a minimum of 50% of the store’s square footage of selling area dedicated to the sale of the food categories listed in subparagraph (A) of this paragraph; or
“(II) Has a minimum of 6,000 square feet of the store’s selling area dedicated to the sale of the food categories listed in subparagraph (A) of this paragraph; and

“(III) Sets aside a minimum of 5% of the store’s selling area dedicated for the sale of the food items listed in subparagraph (A) of this paragraph.

“(ii) For the purposes of this subparagraph term “selling area” means the area in a retail establishment that is open to the public. The term “selling area” does not include storage areas, preparation areas, or rest rooms.”.

(D) Paragraph (24B) is amended by striking the phrase “64 fluid ounces of beer” and inserting the phrase “64 fluid ounces of beer or wine” in its place.

(E) A new paragraph (38A) is added to read as follows:

“(38A) “Powdered Alcohol” means an alcoholic beverage product that is manufactured into a powdered or crystalline form.”.

(F) Paragraph (53) is amended by adding a new sentence at the end to read as follows:

“An official military identification card issued by an agency of government need not contain a signature; provided, that it contains the name, date of birth, and photograph of the bearer.”.

(2) Section 25-110(a)(1)(A)(ii) is amended by striking the phrase “barrels and sealed bottles” and inserting the phrase “barrels, cans, kegs, and sealed bottles” in its place.

(3) Section 25-112 is amended as follows:
(A) Subsection (a-1)(1) is amended by striking the phrase “may also sell beer in growlers” and inserting the phrase “may also sell beer or wine in growlers” in its place.

(B) Subsection (d) is amended to read as follows:

“(d)(1) There shall be 4 classes of off-premises retailer’s licenses:

“(A) A retailer’s license, class A, shall authorize a licensee to sell spirits, beer, and wine.

“(B) A retailer’s license, class B, shall authorize a licensee to sell beer and wine.

“(C) A retailer’s license, class IA, shall authorize a licensee that only operates as an internet retailer and does not have a physical location open to the public to sell spirits, beer, and wine.

“(D) A retailer’s license, class IB, shall authorize a licensee that only operates as an internet retailer and does not have a physical location open to the public to sell beer and wine.

“(2) At the next class A retailer’s license renewal, the Board shall convert an existing internet off-premises retailer that does not have a physical location open to the public to one of the 2 new internet retailer categories, as described in subparagraphs (C) and (D) of this subsection.”.

(C) A new subsection (d-1) is added to read as follows:

“(d-1) Notwithstanding any other provision or restriction in this title, the holder of a class B retailer’s license located inside of a hotel with no public access to the street or the outside of
the hotel’s building may sell single containers of beer, malt liquor, or ale, excluding miniatures, in sizes of 70 ounces or less.”.

(4) Section 25-113 is amended as follows:

(A) Subsection (a) is amended by adding a new paragraph (5) to read as follows:

“(5)(A) Except as provided in subparagraph (B) of this paragraph, a licensee of an on-premises retailer’s license, class C or D, shall not purchase alcoholic beverages from an off-premises retailer’s license class A or B.

“(B) The licensee of an on-premises retailer’s license, class C or D, may purchase alcoholic beverages from an off-premises retailer’s license, class A, on Saturday, Sunday, or holiday during the hours when licensees under a wholesaler’s license are closed.”.

(B) Subsection (f)(2) is amended to read as follows:

“(2) No license shall be issued to a club which has not been incorporated for at least 3 months immediately before the filing of an application for the license.”.

(C) A new subsection (k) is added to read as follows:

“(k)(1) A bed and breakfast license shall be issued to a bed and breakfast that serves food to registered guests, and their guests, only.

“(2) The license shall allow the service of alcoholic beverages to registered guests, and their guests, only for on-premises consumption in their private rooms or in the dining room, lounge, banquet hall, or other similar facility on the licensed premises.

“(3) The cost of alcoholic beverages served to registered guests, and their guests,
shall be included by the licensee in the registered guest’s room fee or with the cost of a meal.

“(4) There shall be 2 classes of bed and breakfast licenses:

“(A) Class C/B (spirits, beer, and wine); and

“(B) Class D/B (beer and wine).”.

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

(1) Subsection (b) is amended by striking the phrase “class A or B” both times it appears and inserting the phrase “class A, B, or C” in its place.

(2) Subsection (c) is amended by striking the phrase “class A or B” both times it appears and inserting the phrase “class A, B, or C” in its place.

(6) Section 25-117 is amended as follows:

(A) Subsection (a-1) is amended by adding a new sentence at the end to read as follows:

The holder of a brew pub permit may also sell beer brewed at the brew pub location licensed by the Board to patrons in barrels, cans, kegs, sealed bottles, or other closed containers for off-premises consumption.”.

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

“(e) A licensee holding brew pub permits at separate locations in the District shall be permitted to transport beer manufactured at one brew pub facility to another brew pub facility owned by the licensee for sale and consumption.”.

(7) Section 25-118 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “manufacturer’s
license, class A or B or a retailer’s license, class A or B’” and inserting the phrase “manufacturer’s license, class A, B, or C; retailer’s license, class A or B, or a wholesaler’s license, class A or B,” in its place.

(B) New subsections (f), (g), and (h) are added to read as follows:

“(f)(1) The holder of a wholesaler’s license, class A, may utilize a portion of the licensed premises for the sampling of beer, wine, and spirits, and the holder of a wholesaler’s license, class B, may utilize a portion of the licensed premises for the sampling of beer, during its approved hours of operation.

“(2) Wholesaler tastings shall:

“(A) Not be open to the public;

“(B) Be for the purpose of educating staff and introducing products to licensees: and

“(C) Be limited to the following:

“(i) Retailers;

“(ii) Manufacturers;

“(iii) Temporary and festival license holders;

“(iv) Solicitors; and

“(v) Wholesaler staff.

“(3) The Board may approve the holder of a wholesaler’s license, class A or B, that has obtained a tasting permit for its licensed premises to conduct tastings not open to the public at a designated common area of a storage facility where the wholesaler is a tenant.
“(g) The Board may issue a tasting permit to a private collector to conduct tastings not open to the public at a designated common area of a storage facility where the private collector is a tenant.

“(h) For purposes of this section, the term “storage facility” means a bonded warehouse in the District of Columbia licensed by the Board for the storage of alcoholic beverages.”.

(8) Section 25-126 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “class A or B” and inserting the phrase “class A, B, or C” in its place.

(B) Subsection (e) is amended by striking the word “primarily”.

(9) Section 25-128(a) is amended by striking the phrase “class A or B” and inserting the phrase “class A, B, or C” in its place.

(b) Section 25-211 is amended as follows:

(1) Subsection (b)(1) is amended by striking the phrase “90-day period of review.” and inserting the phrase, “90-day period of review, excluding days of Council recess.” in its place.

(2) Subsection (d) is amended to read as follows:

“(d) Any regulations promulgated under this section shall become effective 5 days after being published in the District of Columbia Register.”.

(c) Chapter 3 is amended as follows:

(1) Section 25-303 is amended as follows:

(A) Subsection (a)(2) is amended by striking the phrase “class C or D, or a
caterer’s license.” and inserting the phrase “class C or D, a pub crawl license, as defined by regulation, or a caterer’s license.” in its place.

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

“(f) 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 the:

“(1) Establishment will be located inside of a hotel and will have no direct public access to the street or the outside of the hotel’s building;

“(2) Other license held by the applicant is a hotel, restaurant, or tavern retailer’s license that is also located within the same hotel as the establishment’s proposed location;

“(3) Sale of alcoholic beverages constitutes no more than 25% of the total volume of gross receipts on an annual basis; and

“(4) Opinion of the ANC, if any, has been given great weight.”.

(2) Section 25-311 is amended by adding a new subsection (e) to read as follows:

“(e) The definition of full-service grocery store as set forth in § 25-101(22A) shall apply to license applications being considered by the Board for approval that were submitted on or after January 14, 2013.”.

(3) Section 25-314(b) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase “caterer’s, or temporary license” and inserting the phrase “caterer’s, bed and breakfast license, or temporary license” in its place.

(B) New paragraphs (6) and (7) are added to read as follows:
“(6) The 400-foot restriction shall not apply to an application for a retailer’s license, class IA or IB.”.

“(7) The 400-foot restriction shall not apply to an applicant for a retailer’s license, class B, if the applicant’s establishment will be located inside of a hotel and will have no direct public access to the street or the outside of the hotel’s building.”.

(4) Section 25-331 is amended as follows:

(A) Subsection (b) is amended by striking the number “300” and inserting the number “275” in its place.

(B) New subsections (e), (f), and (g) are added to read as follows:

“(e) Off-premises retailer’s licenses class IA shall not be counted toward the quota set forth in subsection (a) of this section.

“(f) Off-premises retailer’s licenses class IB shall not be counted toward the quota set forth in subsection (b) of this section.

“(g) The quotas set forth in subsection (a) and subsection (b) of this section shall not prohibit the issuance of a license for an off-premises retailer’s license, class IA or IB.”.

(5) Section 25-332 is amended as follows:

(A) Subsection (a)(1) is amended to read as follows:

“(a)(1) The Board may issue new off-premises retailer’s class B licenses, if the Board finds that the number of retailer’s class B licenses is less than the quota set forth in § 25-331(b).”.

(B) A new subsection (e) is added to read as follows:
“(e) The moratorium shall not apply to an applicant for a 25% off-premises retailer’s license, class B, for the sale of alcoholic beverages in an establishment if the:

“(1) Sale of alcoholic beverages constitutes no more than 25% of the total volume of gross receipts on an annual basis;

“(2) Establishment is located in a C-1, C-2, C-3, C-4, or C-5 zone or, if located within the Southeast Federal Center, in the SEFC/C-R zone;

“(3) Establishment files with the Board within 60 days after the end of each year, a statement of expenditures and receipts containing:

“(A) The total amount of receipts for the sale of alcoholic beverages, indicating the:

“(i) Amount received for the sale of alcoholic beverages;

“(ii) Amount received for the sale of food and items other than alcoholic beverages; and

“(iii) Percentage of the total amount of receipts represented by the 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, partnership, or limited liability company, attesting to the truth of the annual statement; and

“(4) The opinion of the ANC, if any, has been given great weight.”.
(6) Section 25-333 is amended by adding a new subsection (e) to read as follows:

“(e) This section shall not prohibit the issuance of a retailer’s license, class B, if the applicant’s establishment will:

“(1) Be located inside of a hotel; and

“(2) Have no direct public access to the street or the outside of the hotel’s building.”.

(7) Section 25-336(d) is amended as follows:

(A) Paragraph (1) is amended by striking the word “or”.

(B) Paragraph (2) is amended by striking the period and inserting the phrase “; or” in its place.

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

“(3) A bed and breakfast license.”.

(d) Chapter 4 is amended as follows:

(1) Section 25-402(d)(3)(G) is amended as follows:

(A) The lead-in text is amended by striking the phrase “establishment’s security plan” and inserting the phrase “establishment’s security plan or settlement agreement” in its place.

(B) Sub-subparagraph (i) is amended by adding a sentence at the end to read as follows:

“If the licensee knows or reasonably should know that the cameras are not operational, the licensee shall notify the Board within 10 days of learning that the cameras are not operating
and provide the Board with proof of corrective maintenance.”.

(2) Section 25-423 is amended by adding new subsections (g) and (h) to read as follows:

“(g) A new or renewal license application for a common carrier license for a passenger-carrying marine vessel that does not possess a physical location in the District of Columbia shall not be required to post the 2 notices required by this section.

“(h) A new or renewal license application for an off-premises class IA or IB shall not be required to post the 2 notices required by this section. The notice shall be posted on the applicant’s website for the entire 45-day public comment period.”.

(e) Chapter 5 is amended as follows:

(1) Section 25-503 is amended by adding the following to the OFF-PREMISES RETAILERS category:

“Internet retailer’s license (off-premises), class IA. $2,600

(beer, wine and spirits)

“Internet retailer’s license (off-premises), class IB. $1,300

(beer and wine)”.

(2) Section 25-504 is amended as follows:

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

(B) Add a new subsection (b) to read as follows:

“(b) The minimum annual fees for a bed and breakfast license shall be for a:

“(1) Class C/B license $1,000; and
“(2) Class D/B license $650.”.

(f) Chapter 7 is amended as follows:

(1) Section 25-711 is amended by adding a new subsection (f) to read as follows:

“(f) While managing or working at a licensed establishment, the owner or licensed manager of a retailer’s, manufacturer’s or wholesaler’s license shall carry a valid identification document on his or her person and shall show the identification document, upon request, to an ABRA investigator or a member of the Metropolitan Police Department.”.

(2) Section 25-722(c) is repealed.

(3) Section 25-726(b) is amended to read as follows:

“(b) A licensee under a retailer’s license shall ensure that all solid waste inside the property and in the outdoor spaces immediately surrounding the property are stored and containerized for collection in a manner that will not provide food, harborage, or breeding places for insects or rodents, or other animals, or create a nuisance or fire hazard.”.

(4) Section 25-736(a)(2) is amended by striking the phrase “for resale by the licensee”.

(5) Section 25-771 is repealed.

(6) Section 25-781 is amended as follows:

(A) Subsection (f) is amended by striking the phrase “Upon finding that a licensee has violated subsection (a), (b), or (c) of this section in the preceding,” and inserting the phrase “For violations of subsection (a), (b), or (c) of this section in the preceding” in its place.

(B) A new subsection (g) is added to read as follows:
“(g)(1) In determining whether a licensee has a prior violation for the purposes of subsection (f) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board’s acceptance of an offer-in-compromise, or the licensee’s payment of a fine.

“(2) A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board’s acceptance of an offer-in-compromise, or the licensee’s payment of a fine, falls within the 4-year period.

“(3) For purposes of this subsection, the term “offer-in-compromise” means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent.”.

(7) Section 25-783 is amended as follows:

(A) Subsection (c) is amended by striking the phrase “Upon finding that a licensee has violated subsection (a) or (b) of this section in the preceding” and inserting the phrase “For violations of subsection (a) or (b) of this section in the preceding” in its place.

(B) A new subsection (c-1) is added to read as follows:

“(c-1)(1) In determining whether a licensee has prior violations for the purposes of subsection (c) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the
Board’s acceptance of an offer-in-compromise, of the licensee’s payment of a fine.

“(2) A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the Board’s acceptance of an offer-in-compromise, or the licensee’s payment of a fine, falls within the 4-year period.

“(3) For the purposes of this subsection, the term “offer-in-compromise” means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent.”.

(g) Chapter 8 is amended as follows:

(1) The table of contents is amended by adding new section designations to read as follows:

“25-833. Tampering or refilling bottles.

“25-834. Powdered alcohol.

“25-835. Forged licenses.”.

(2) Section 25-828(a) is amended by striking the phrase “post a notice in a conspicuous place” and inserting the phrase “post 2 notices in conspicuous places” in its place.

(3) New sections 25-833, 25-834, and 25-835 are added to read as follows:

“§ 25-833. Tampering or refilling bottles.

“A licensee or the licensee’s employees shall not knowingly:

“(1) Misrepresent the brand of any alcoholic beverage sold or offered for sale;

“(2) Keep any alcoholic beverage otherwise than in the bottle or container in
which it was purchased;

“(3) Refill or partly refill any bottle or container of an alcoholic beverage;

“(4) Dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage;

“(5) Remove or obliterate any label, mark, or stamp affixed to any bottle or container of alcoholic beverage offered for sale; or

“(6) Deliver or sell the contents of any bottles or containers, the label, mark, or stamp upon which has been removed or obliterated.

“§ 25-834. Powdered alcohol.

“(a) It shall be unlawful for a person to sell or offer to sell powdered alcohol.

“(b) A person who violates this section shall be fined an amount of up to a maximum of $1,000.

“(c) A licensee under either an on-premises or off-premises retailer’s license shall not offer for sale powdered alcohol to a customer.

“§ 25-835. Forged licenses.

“(a) It shall be unlawful for a person to willfully or knowingly alter, forge, counterfeit, endorse, or make use of any false or misleading document reasonably calculated to deceive the public as being a genuine license issued by ABRA.

“(b) It shall be unlawful for a person to willfully or knowingly furnish to a member of the Metropolitan Police Department (“MPD”) or an ABRA investigator an altered, forged, counterfeited, endorsed, or false or misleading document reasonably calculated to deceive MPD
or the ABRA investigator as being a genuine license issued by ABRA.

“(c) A person convicted of a violation of this section shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 1 year, or both.”.

(h) Chapter 10 is amended as follows:

(1) Section 25-1001(b) is amended to read as follows:

“(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 by, or with the permission of, the owner or resident; or

“(2) At an event licensed by the Board.”.

(2) Section 25-1002((b)(3) is amended by adding a new sentence at the end to read as follows:

“A military identification card issued by an agency of government (local, state, federal, or foreign) shall be an acceptable form of valid identification whether or not it contains the individual’s signature.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,
Sec. 4. 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 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.