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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

35 price of a sleeping room.”.

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

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

40 “(22A) “Full-service grocery store” means a self-service retail establishment
41 independently owned or part of a corporation operating a chain of retail establishments under the
42 same trade name that is licensed as a grocery store under § 47-2827 that:

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

45 “(i) Fresh fruits and vegetables;

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

47 “(iii) Dairy products;

48 “(iv) Canned foods;

49 “(v) Frozen foods;

50 “(vi) Dry groceries and baked goods; or

51 “(vii) Non-alcoholic beverages; and

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

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

56 “(II) Has a minimum of 6,000 square feet of the store’s
57 selling area dedicated to the sale of the food categories listed in subparagraph (A) of this
58 paragraph; and

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

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

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

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

67 “(38A) “Powdered Alcohol” means an alcoholic beverage product that is
68 manufactured into a powdered or crystalline form.”.

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

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

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

76 (3) Section 25-112 is amended as follows:

77 (A) Subsection (a-1)(1) is amended by striking the phrase “may also sell
78 beer in growlers” and inserting the phrase “may also sell beer or wine in growlers” in its place.

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

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

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

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

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

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

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

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

96 “(d-1) Notwithstanding any other provision or restriction in this title, the holder of a class
97 B retailer’s license located inside of a hotel with no public access to the street or the outside of

98 the hotel's building may sell single containers of beer, malt liquor, or ale, excluding miniatures,
99 in sizes of 70 ounces or less.”.

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

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

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

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

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

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

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

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

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

118 “(3) The cost of alcoholic beverages served to registered guests, and their guests,

119 shall be included by the licensee in the registered guest's room fee or with the cost of a meal.

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

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

122 “(B) Class D/B (beer and wine).”.

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

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

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

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

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

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

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

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

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

139 (A) Subsection (a) is amended by striking the phrase “manufacturer’s

140 license, class A or B or a retailer’s license, class A or B” and inserting the phrase
141 “manufacturer’s license, class A, B, or C; retailer’s license, class A or B, or a wholesaler’s
142 license, class A or B,” in its place.

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

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

148 “(2) Wholesaler tastings shall:

149 “(A) Not be open to the public;

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

152 “(C) Be limited to the following:

153 “(i) Retailers;

154 “(ii) Manufacturers;

155 “(iii) Temporary and festival license holders;

156 “(iv) Solicitors; and

157 “(v) Wholesaler staff.

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

161 “(g) The Board may issue a tasting permit to a private collector to conduct tastings not
162 open to the public at a designated common area of a storage facility where the private collector is
163 a tenant.

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

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

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

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

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

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

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

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

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

179 (c) Chapter 3 is amended as follows:

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

181 (A) Subsection (a)(2) is amended by striking the phrase “class C or D, or a

182 caterer’s license.” and inserting the phrase “class C or D, a pub crawl license, as defined by
183 regulation, or a caterer’s license.” in its place.

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

185 “(f) The requirements of this section shall not apply to an applicant for an off-premises
186 retailer’s license, class B, for the sale of alcoholic beverages in an establishment if the:

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

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

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

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

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

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

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

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

202 (B) New paragraphs (6) and (7) are added to read as follows:

203 “(6) The 400-foot restriction shall not apply to an application for a retailer’s
204 license, class IA or IB.”.

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

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

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

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

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

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

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

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

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

220 “(a)(1) The Board may issue new off-premises retailer’s class B licenses, if the Board
221 finds that the number of retailer’s class B licenses is less than the quota set forth in § 25-
222 331(b).”.

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

224 “(e) The moratorium shall not apply to an applicant for a 25% off-premises retailer’s
225 license, class B, for the sale of alcoholic beverages in an establishment if the:

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

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

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

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

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

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

237 “(iii) Percentage of the total amount of receipts represented by the
238 amount;

239 “(B) A statement indicating the method used to compute the amounts and
240 percentages; and

241 “(C) An affidavit, executed by the individual licensee, partner of an
242 applicant partnership, or the appropriate officer of an applicant corporation, partnership, or
243 limited liability company, attesting to the truth of the annual statement; and

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

245 (6) Section 25-333 is amended by adding a new subsection (e) to read as follows:

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

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

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

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

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

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

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

256 “(3) A bed and breakfast license.”.

257 (d) Chapter 4 is amended as follows:

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

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

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

264 “If the licensee knows or reasonably should know that the cameras are not operational,
265 the licensee shall notify the Board within 10 days of learning that the cameras are not operating

266 and provide the Board with proof of corrective maintenance.”.

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

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

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

275 (e) Chapter 5 is amended as follows:

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

278 “Internet retailer’s license (off-premises), class IA. \$2,600
279 (beer, wine and spirits)

280 “Internet retailer’s license (off-premises), class IB. \$1,300
281 (beer and wine)”.

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

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

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

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

286 “(1) Class C/B license \$1,000; and

287 “(2) Class D/B license \$650.”.

288 (f) Chapter 7 is amended as follows:

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

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

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

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

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

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

302 (5) Section 25-771 is repealed.

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

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

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

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

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

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

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

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

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

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

329 Board's acceptance of an offer-in-compromise, of the licensee's payment of a fine.

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

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

337 (g) Chapter 8 is amended as follows:

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

340 “25-833. Tampering or refilling bottles.

341 “25-834. Powdered alcohol.

342 “25-835. Forged licenses.”.

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

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

346 “§ 25-833. Tampering or refilling bottles.

347 “A licensee or the licensee's employees shall not knowingly:

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

349 “(2) Keep any alcoholic beverage otherwise than in the bottle or container in

350 which it was purchased;

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

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

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

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

358 “§ 25-834. Powdered alcohol.

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

360 “(b) A person who violates this section shall be fined an amount of up to a maximum of
361 \$1,000.

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

364 “§ 25-835. Forged licenses.

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

368 “(b) It shall be unlawful for a person to willfully or knowingly furnish to a member of the
369 Metropolitan Police Department (“MPD”) or an ABRA investigator an altered, forged,
370 counterfeited, endorsed, or false or misleading document reasonably calculated to deceive MPD

371 or the ABRA investigator as being a genuine license issued by ABRA.

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

376 (h) Chapter 10 is amended as follows:

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

378 “(b) Subsection(a)(1) of this section shall not apply if drinking or possession of an
379 alcoholic beverage occurs:

380 “(1) In or on a structure which projects upon the parking, and which is an
381 integral, structural part, of a private residence, such as a front porch, terrace, bay window, or
382 vault; and by, or with the permission of, the owner or resident; or

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

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

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

389 Sec. 3. Fiscal impact statement.

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

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392 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

393 Sec. 4. Effective date.

394 This act shall take effect following approval by the Mayor (or in the event of veto by the
395 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
396 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
397 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
398 Columbia Register.