

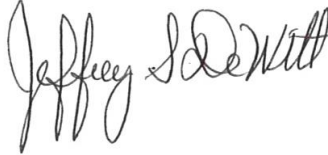
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: June 4, 2018

SUBJECT: Fiscal Impact Statement – Omnibus Alcoholic Beverage Regulation
Amendment Act of 2018

REFERENCE: Bill 22-537, Draft Committee Print as shared with the Office of Revenue
Analysis on May 17, 2018

Conclusion

Funds are sufficient in the fiscal year 2018 budget and the proposed fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

The bill makes changes to the permanent laws governing alcoholic beverage sale and consumption to align with regulations approved by the Alcoholic Beverage Control Board. They include changes to alcoholic beverage license requirements and allowances, enforcement procedures, new endorsements, and temporary hour extensions for the 2018 All-Star Game and World Cup festivities.

I. Changes to licensee requirements

The bill makes the following changes to alcoholic beverage license requirements:

- Extends hours of operation, sale, service and consumption during 2018 All-Star Game and 2018 World Cup events;
- Allows manufacturer's, off-premises retailer's, and pub permit holders to sell gift bags, boxes and wrapping;
- Limits pub crawl and farmer's market licenses to three years;

- Permits manufacturing licensees to deliver directly to consumers¹;
- Permits the holder of a Class A or B manufacturing licensee that owns two or more breweries, wineries, or distilleries to transport its product between those locations;
- Gives a manufacturing licensee, Class A, B, or C, the option to apply annually for up to twelve one-day substantial change permits for special events;
- Allows off-premises retailer licenses, Class B to sell growlers;
- Gives off-premises retailer licensees, Class A or B, the option to apply for one-day substantial change permits;
- Limits the holder of a brew pub, wine pub, or distillery pub license to selling only growlers, wine bottles, or spirits for off-premise consumption if the license is obtained on or after February 7, 2018. A brew pub licensee that obtained its license before February 7, 2018 may sell growlers, wine bottles, or spirits for off-premise consumption if it began manufacturing beer, wine, or spirits within 60 days of receiving the license and has manufactured beer, wine, or spirits for on-premises consumption for at least 90 days in a calendar year. The beer, wine, or spirits sold for off-premises consumption must be manufactured at the licensed location, manufactured at an owner's facility that owns at least 5 percent of the licensed location, or as part of a collaboration;
- Allows customers of hotel license holders to remove partially-consumed alcoholic beverages from the licensed establishment;
- Permits bed and breakfast license holders to apply for summer garden and sidewalk café endorsements;
- Authorizes wine pub permit holders and distillery pub permit holders to transport the alcoholic beverages they produce between locations that they own;
- Sets hours that manufacturers' license Class C, Wholesaler's license, or private collectors with tasting permits can conduct tastings;
- Allows manufacturer licensees to possess more than one manufacturer license;
- Exempts festival, pub crawl, and farmers market licensees from "appropriateness standards;"²
- Exempts multiple classes of licenses located in southwest waterfront mixed-use 12 Zone from the 400-foot restriction;³
- Creates exception for retail licensees located in residential zones if they existed at the same location within the previous two years;
- Amends abbreviated designation for internet licenses;
- Clarifies that the licensed manager is required to be present during an establishment's hours of sale, service, and consumption and is prohibited from being under the influence during hours of operation;
- Amends hours of operation for manufacturer license class A, B or C holding on-site sales and consumption permits;
- Formally repeals an expired provision that extended hours for daylight savings time;

¹ This is a clarification to enhance current reading of statute, which allows manufacturers "to sell" products to consumers. Now it will read to "sell and deliver."

² Refers to the appropriateness of a location of a licensee. See D.C. Official Code § 25-313 for more detail.

³ This has already been approved on an emergency and temporary basis by Council. See Southwest Waterfront Exemption Emergency Amendment Act of 2017," enacted July 13, 2017 (D.C. Act 22-103; 64 DCR 6719) and Southwest Waterfront Exemption Temporary Amendment Act of 2017, enacted July 28, 2017 (D.C. Act 22-124; 64 DCR 7424).

- Clarifies that persons over 18 may pour alcoholic beverages; and,
- Permits third parties to utilize a licensed on-premises retailer or manufacturer establishment for a specific event under certain conditions.

II. Changes to Alcoholic Beverage and Regulatory Administration (ABRA) enforcement

The bill makes the following changes or enhancements to ABRA administration and enforcement laws:

- Prohibits a licensee from bribing an ABRA investigator;
- Defines mediation, roll call hearing, and tavern;
- Requires off-premises retailers with security cameras that meet Alcoholic Beverage Control Board (Board) specifications to provide footage to ABRA investigators or Metropolitan Police Department upon request;
- Requires the Board to make records available within 5 business days of receiving a request;
- Establishes requirements for a Board qualification hearing;
- Replaces administrative reviews with a roll call hearing;
- Replaces settlement conference with mediation and make those proceedings confidential;
- Sets responsibilities and roles of the Board's Agent;
- Clarifies that the Board has discretion to hear from people who are not a party to a proceeding but wish to testify;
- Authorizes the Board to approve offers in compromise, to show cause status, and show cause hearings;
- Changes how penalties for sale to minor violations and failure to check ID are determined; and,
- Clarifies that minors may enter a licensed establishment during school hours if they are accompanied by a parent or guardian.

III. Other technical changes

The bill makes the following permanent changes to license application processes and requirements:

- Permits the Board to conduct closed hearings to discuss an applicant with a criminal background;
- Allows the Board to approve a solicitor's license or manager's license for an applicant who has been convicted of a felony, if the felony occurred within five years prior to application and the conviction has no bearing on the applicant's fitness to hold the license;
- Clarifies when an applicant is prohibited from submitting successive applications to the Board;
- Clarifies documentation requirements for a tasting permit application;
- Allows manufacturers to apply for extended hours of operation;
- Formally repeals exemption in code for nude dancing establishments located in a CM or M zone, within 2,000 feet of the Ballpark, or Skyland Development project, because the exemption has expired;
- Clarifies which license applications are not subject to notice requirements; and

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- Requires applicants to take pictures of posted placards and to provide copies of the pictures to the Board upon request.

Financial Plan Impact

Funds are sufficient in the fiscal year 2018 budget and the proposed fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The Alcoholic Beverage Regulation Administration can administer and enforce all changes within current resources.

There is the possibility that some of the changes may increase sales tax collections, but the changes are expected to be small or are already included in current revenue forecasts.