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

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: **The Honorable Vincent C. Gray**
Chairman, Council of the District of Columbia

FROM: **Natwar M. Gandhi**
Chief Financial Officer

DATE: DEC 15 2008

SUBJECT: **Fiscal Impact Statement – "Alcoholic Beverage Enforcement Act of 2008"**

REFERENCE: **Bill Number 17-983 – Committee Print with Amendments**

Conclusion

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan period to implement the proposed legislation.

The proposed legislation would amend the District's laws and regulations related to on-premise serving of alcoholic beverages, including the roles and responsibilities of the Alcoholic Beverage Control Board ("Board"), types of establishments that could serve alcoholic beverages, and the fines associated with first-time offenses. The costs associated with the implementation of the proposed legislation are minor and could be absorbed by the Alcoholic Beverage Regulation Administration ("ABRA").

The proposed legislation is also likely to have a minor impact on the general fund. The legislation would require that first-time offenders receive a warning and not a fine for serving a minor or any other secondary offense; fines would be sanctioned to repeat offenders. The warning requirement would result in lower fine collections, but this negative impact is likely to be offset by additional tax collections since fewer licenses will be suspended.

Background

The proposed legislation would amend the District's laws and regulations related to on-premise serving of alcoholic beverages, including the role and responsibilities of the Alcoholic Beverage

Control Board ("Board"), licensing requirements, the structure of violations, and the associated penalties. Specifically, the proposed legislation would:

- Amend D.C. Official Code § 25-113 to make it a secondary tier violation for restaurants to close their kitchen facilities more than two hours prior to the final closing;

- Amend D.C. Official Code § 25-303 to extend the full-service grocery store exception to all grocery stores that are established or have been renovated after January 1, 2000;

- Repeal subsections (e), (f), (g) for D.C. Official Code § 25-731 and the entirety of § 25-732 to take the "Board" out of the business of enforcing the credit provisions in the law and to clarify that the Board is not responsible for acting as a collection agency for District of Columbia wholesalers;

- Amend D.C. Official Code § 25-733 to increase the reporting requirements for bounced checks to $15,000 and amend § 25-733 to create a tiered penalty regime for recidivism in sales to minors violations;

- Amend D.C. Official Code § 25-830 to institute a warning requirement for all secondary tier violations and sales to minors violations (except for egregious violations), and to require that the Board to report within one year of the enactment of this legislation, on the status of the warning requirements, including a statement on repeat offenders, and subsequent fines and sanctions imposed, paying special attention to sales to minors;

- Amend D.C. Official Code § 25-830 to clarify that the Board has the discretion to establish fines for violations not listed in a manner consistent with the existing fine structure;

- Add a new section to the D.C. Official Code (§ 25-832) to require timely notice of a violation, except where a criminal case is considered against a licensee, or when MPD has requested revocation or suspension;

- Amend D.C. Official Code § 1-611.08 to increase the compensation of Board members from $25 per hour to $40, not to exceed $15,000 per member in a given fiscal year;

- Amend Chapter 23 of D.C. Municipal Regulations to allow full service grocery stores to serve wine, beer or spirits for consumption on premises;

- Amend § 208.10 of Chapter 23 to clarify that the clear limit of capacity will be established based on the information from DCRA's capacity placards and Certificates of Occupancy; and

- Amend § 503.1 of Chapter 23 to authorize fines and revocation and suspension for substantial change without permission.

Financial Plan Impact

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the proposed resolution.

Section 2, which makes it a secondary tier violation for restaurants to close their kitchens earlier than two hours prior to closing is already in the law, and therefore not a new requirement. This section simply clarifies that early closing of kitchens is a second tier violation. Additionally, this requirement has no bearing on the city's finances.

Extending the full service grocery store exceptions as outlined by Section 3 would allow more licenses to be issued and more licensing fees collected and would not have an adverse impact.

Section 4 clarifies the role of the Board, and therefore has no fiscal impact.

Section 5 requires that fines for first time offenses would be replaced by notices. Because fines are collected in the general fund, it is possible that the requirement to send notices would result in a negative fiscal impact. However, this is likely to be offset by higher tax revenue since fewer fines would result in fewer license suspensions.

The costs imposed by Section 6, which increases the compensation of the Board members by at most by $21,000 per year, can be absorbed by ABRA.