

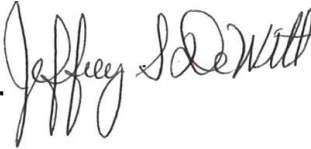
Government of the District of Columbia
Office of the Chief Financial Officer



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: October 12, 2020

SUBJECT: Fiscal Impact Statement – Alcoholic Beverage Regulations Technical Amendments Approval Resolution of 2020

REFERENCE: Approval Resolution 23-755, Draft Proposed Resolution as provided to the Office of Revenue Analysis on October 7, 2020

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the proposed resolution.

Background

The Alcoholic Beverage Regulation Administration (ABRA) and the Alcoholic Beverage Control Board (Board) control, regulate, enforce, and adjudicate alcoholic beverages laws governing alcoholic beverages and violations of those laws. The proposed resolution approves an ABRA rulemaking that makes various changes across seventeen chapters of the municipal regulations related to alcoholic beverages.

The changes in the underlying rulemaking are predominantly technical in nature or non-substantive. The changes edit definitions in technical ways, remove and restate obsolete language, conform the regulations to Title 25 of the D.C. Official Code,¹ reorganize provisions in the regulations, ensure conformity within the regulations, and align certain provisions with current Board and ABRA practices.

¹ Including changes made in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2018, October 30, 2018 (D.C. Law 22-165; D.C. Official Code § 25-101 et seq.).

The Honorable Phil Mendelson

FIS: Approval Resolution 23-755, "Alcoholic Beverage Regulations Technical Amendments Approval Resolution of 2020," Draft Proposed Resolution as provided to the Office of Revenue Analysis on October 7, 2020

The rulemaking includes approximately ten provisions across five of the chapters that are new or are more substantive than technical amendments. As it relates to the general operating requirements of a licensed establishment, the rules set a 90-day limit for a temporary operating retailer permit and expand corkage opportunities and fees to temporary and festival license holders. The rules newly regulate self-service machines located in licensed establishments by standardizing operating requirements, limiting pour sizes, and requiring the retailer to issue pre-paid cards for self-service dispensing of alcohol.

The rulemaking requires wholesalers and manufacturers to comply with the same vehicle identification requirements that other licensees are required to comply with when transporting alcoholic beverages to and within the District.²

The rulemaking clarifies some of the procedures around settlement agreements and fact-finding hearings. Currently, the Board considers requests to amend settlement agreements,³ but the proposed rules ensure the Board can also consider requests to unilaterally terminate a settlement agreement. The rulemaking clarifies that the Board cannot suspend or revoke a license at an uncontested fact-finding hearing and authorizes the Board to close a fact-finding hearing to receive testimony or discuss the criminal background of an applicant for a solicitor's or manager's license.

The rulemaking establishes that any papers related to a Board hearing that need to be served to a licensee can be served to the establishment's owner, a licensed manager, or any other employee and that any proof that the notice or papers were actually delivered and received are sufficient to show that the service was proper. Also related to hearings, the rulemaking authorizes the Board to dismiss a case or exclude evidence if any party to a protest hearing fails to properly file a protest information form or an exhibit form.

The rulemaking amends some of the requirements for the holder of a caterer's license to require a licensee or a designated manager to be on site for the entirety of the catered event. Current rules also require caterers' licensees to file a semi-annual report to the Board under oath.⁴ The amended rules remove the need for this report to be filed under oath, but maintain an attestation that the information presented in the report is truthful.

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the proposed resolution. The Board and ABRA can absorb any costs associated with publicizing and implementing the new or more substantive amendments in the rulemaking within their existing budgeted resources. The technical or conforming amendments do not impose any additional costs on the Board or ABRA.

² Transport of Beverages within the District of Columbia, effective December 31, 2008 (23 DCMR § 1303; 55 DCR 12991).

³ Settlement Agreements, effective February 13, 2019 (23 DCMR § 1610.3; 66 DCR 1822).

⁴ Caterers' Report, effective December 31, 2008 (23 DCMR § 2006.1; 55 DCR 12991).