

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211 (2012 Repl. & 2019 Supp.)), and the Alcoholic Beverage Enforcement Act of 2008, effective March 25, 2009 (D.C. Law 17-361; D.C. Official Code 25-830(f) (2012 Repl. & 2019 Supp.)), and Mayor's Order 2001-96, dated June 28, 2001, as amended by Mayor's Order 2001-102, dated July 23, 2001, hereby gives notice of the adoption of amendments to the existing ABRA Civil Penalty Schedule (Schedule) set forth in Chapter 8 (Enforcement, Infractions, and Penalties) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The regulatory amendments are intended to update the Schedule by (1) incorporating new infractions and penalties; (2) removing duplicative infractions; and (3) amending the descriptions of existing infractions. ***Those infractions not listed on the Schedule below shall remain in full effect and not be impacted by the proposed rulemaking.***

The Civil Penalty Notice of Proposed Rulemaking was published in the *D.C. Register* on October 25, 2019, for thirty (30)-day notice and comment. *See* 66 DCR 14095. The Board did not receive any comments during the comment period. On October 8, 2020, the Board held a public hearing for purposes of receiving comments from the public concerning the rulemaking. No one appeared to testify at the hearing and the Board did not receive any comments.

On March 11, 2020, the proposed rulemaking was introduced to the Council for the District of Columbia (Council). *See* Revised ABRA Civil Penalty Schedule Approval Resolution of 2020 (PR23-767). The Council held a hearing on October 8, 2020, and on October 20, 2020, passed the resolution approving the proposed rules.

The rules are now ripe for the Board to take final rulemaking action upon, and no changes have been made to the rules since they were published as proposed. Thus, on November 18, 2020, the Board voted, seven (7) to zero (0) to approve the final rules. The final rules shall take effect five (5) days after publication in the of the *D.C. Register*.

Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 800, ABRA CIVIL PENALTY SCHEDULE, is amended as follows:

By removing the following infractions to the ABRA Civil Penalty Schedule:

Section	Description	Violation	Warning
25-113(j)(3)	Failure to Obtain Board Approval for Off-site Storage	Secondary	Y – Mandatory
25-113(j)(3)(A)	Failure to Maintain Records on Premises	Primary	Y – Mandatory

By adding the following infractions to the ABRA Civil Penalty Schedule in numerical order:

Section	Description	Violation	Warning
23 DCMR 203	Failure to Obtain Retailer Purchasing Permit	Primary	Y
23 DCMR 205.3	Failure to Obtain Off-premises Storage Permit	Primary	Y

By amending the following infractions in the ABRA Civil Penalty Schedule as follows:

Section	Description	Violation	Warning
25-113(j)(3)	Failure to Maintain Books and Records on Premises	Primary	Y - Mandatory
25-113(j)(3)(C)	Failure of the Licensee to Keep or Maintain its Books, Records, or Invoices for 3 Years	Primary	Y
25-113(j)(3)(B)	Failure to Obtain Board Approval for Off-site Storage of Books and Records	Secondary	Y - Mandatory
25-721	Sale and Delivery Outside of Legal Hours for Manufacturer & Wholesaler	Primary	Y
25-722	Sale and Delivery Outside of Legal Hours for Off-site Premises Licensees	Primary	Y
25-723(b)	Sale, Service, and Consumption Outside of Legal Hours – On-premises Licensees	Primary	Y
25-724	Sale and Delivery Outside of Hours Restricted by Board Order or Settlement Agreement	Primary	Y
25-762(b)(13)	Failure to Obtain Approval to Extend the Board-approved Hours of Operation	Primary	Y
23 DCMR 205.2	Failure to Obtain Storage Facility Permit	Secondary	Y