

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

NOTICE OF PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code §§ 25-211(b) and 25-830(f) (2012 Repl. and 2016 Supp.), and Mayor’s Order 2001-96 (June 28, 2001), as amended by Mayor’s Order 2001-102 (July 23, 2001), hereby gives notice of the intent to amend the existing ABRA Civil Penalty Schedule (Schedule) set forth in section 800 of Title 23 of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rules are intended to update the Schedule by (1) incorporating new infractions and penalties; (2) denoting repealed infractions; and (3) amending the descriptions of existing infractions.

On August 10, 2022, the Board voted, five (5) to zero (0) to approve the proposed rules which, pursuant to D.C. Official Code § 25-830(f) (2001), will be transmitted to the Council of the District of Columbia, for a sixty (60) day period of review. The proposed rules will become effective in not less than thirty (30) days from publication of this notice in the *D.C. Register*, or upon approval by the Council by resolution, whichever occurs later. If the Council does not approve or disapprove the proposed rules by resolution, in whole or in part, within the sixty (60) day review period, the proposed rules shall be deemed disapproved.

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

Section 800, ABRA CIVIL PENALTY SCHEDULE, is amended by removing the following infractions to the ABRA Civil Penalty Schedule:

Section	Description	Violation	Warning
25-723(d)	Daylight Savings Time Operation Without Notice	Secondary	Y (Repealed)
25-741(b)	Serving Back-up Drinks to Customers	Secondary	Y (Repealed)
23 DCMR 206.2	Retailer's Class DR or DT With Common Dining Area Fails to Sell Alcoholic Beverages in Containers Identifiable with Business	Secondary	Y
23 DCMR 206.4	Off-premises Retailer Class A or Class B failed to Inform Board in Application of Table Use	Secondary	Y – Mandatory

Section 800 is amended by adding the following infractions to the ABRA Civil Penalty Schedule in numerical order:

Section	Description	Violation	Warning
25-113(a)(3)(D)(i)	Failure of On-Premises to Register to Sell Alcoholic Beverages for Carryout or Delivery to a Consumer	Secondary	Y
25-113(a)(3)(D)(v)	Sell Alcoholic Beverages for Carryout or Delivery to a Consumer Outside of the Approved Hours	Primary	Y
25-113(i)(6)	Holding a Catered Event on a Public Street Closed by the District Government	Primary	N
25-113.01(c)	Operating a Summer Garden or Sidewalk Café Without the Endorsement	Primary	Y
25-117(5)(B)	Licensee Holding a Brew Pub Endorsement Used a Third-Party Delivery Company or Platform –	Primary	Y
25-118(e)	Offering Tasting Outside of the Approved Hours - Manufacturers	Secondary	Y
25-118(f)(1)	Offering Tasting Outside of the Approved Hours - Wholesalers	Secondary	Y
25-118(g)(1)	Offering Tasting Outside of the Approved Hours – Private Collector	Secondary	Y
25-125(b)	Failure to Obtain a Distillery Pub Endorsement	Primary	Y
25-125(d)(2)	Operating a Distillery Pub Endorsement Outside of the Approved Hours	Primary	Y
25-130	Violating Terms of Third-Party Alcohol Delivery License	Primary	Y
25-130(f)	Failure of Third-Party Alcohol Delivery Licensee to File Semi-Annual Report	Secondary	Y – Mandatory
25-130(g)	Failure of Third-Party Alcohol Delivery Licensee to Keep or Maintain its Books and Records for 3 Years	Primary	Y
25-130(g)	Failure of Third-Party Alcohol Delivery Licensee to Maintain Books and Records on Premises	Primary	Y – Mandatory
25-130(h)	Failure of Licensee that Utilizes the Service of a Third-Party Delivery Company to Register with the Board	Primary	Y
25-131	Violating Terms of Commercial Lifestyle Center License (CLC License)	Primary	Y
25-131(e)(8)	Failure of CLC Licensee to Control of Litter, Trash, and Debris	Secondary	Y
25-402(e)(1)	Failure to Complete a Mandatory Licensee Training	Secondary	Y
25-704(a)	Failure to Provide to the Board a Copy of a Management Agreement with a Third-Party for the Management of a Licensed Premises	Secondary	Y

25-711(a)(3)(A)	Failure to Make Immediately Accessible to an ABRA Official or MPD the Settlement Agreement and/or Security Plan	Secondary	Y
25-723(b-1)	Deliver Alcoholic Beverages Outside of Approved Hours - On-Premises Retailer's License or Manufacturer's License with an On-Site Sales and Consumption Permit	Primary	Y
25-723(b-2)	Operate and Permit the Sale, Service, and Consumption of Alcoholic Beverages Outside of Approved Hours – Commercial Lifestyle Center Licensees	Primary	Y
25-767	Violating Terms of Outdoor Common Seating Area – Commercial Lifestyle Center Licensee	Primary	Y
25-823(a)(5)(C)	Providing False or Misleading Statements with the Intention of Influencing, Impeding, or Obstructing the Investigation	Primary	Y
25-823(a)(5)(D)	Destroying or Concealing Evidence	Primary	N
25-823(a)(5)(E)	Failure to Produce Documents, Records, or Videos Within 48 Hours	Primary	Y
25-836(a)(1)-(2)	Failure to File and Maintain a Written and Compliant Security Plan	Primary	Y
25-836(g)(1)	Failure to Ensure that Security Cameras are Operational	Primary	Y
25-836(g)(2)	Failure to Maintain Video Footage of a Crime for 30 days	Primary	Y
25-836(g)(3)	Failure to Make Video Footage Available Within 48 Hours	Primary	Y
25-836(g)(4)	Failure to Ensure that the Establishment and Security Cameras Comply Technological and Operational Standards	Primary	Y
25-836(i)(1)	Failure to File an Amended Security Plan Within 10 days	Secondary	Y

Section 800 is amended by amending the following infractions to the ABRA Civil Penalty Schedule as follows:

Section	Description	Violation	Warning
25-112(e)(1)	Failure to File a Statement of Expenditures and Receipts	Secondary	Y
25-113.01(b)(1)	Failure to Obtain Entertainment Endorsement	Primary	Y
25-113.01(b)(1)	Cover Charge Without Endorsement	Secondary	Y

25-113.01(b)(1)	Dancing Without Endorsement	Secondary	Y
25-113.01(b)(2)	Offering Entertainment Outside of the Approved Entertainment Hours - Manufacturer Licenses Holding an On-Site Sales and Consumption Permit	Secondary	Y
25-113.01(c)	Operating a Summer Garden or Sidewalk Café Outside of the Approved Hours - Manufacturer Licenses Holding an On-Site Sales and Consumption Permit	Primary	Y
25-117	Violating Terms of Brew Pub Endorsement	Primary	Y
25-711(a)(1)	Failure to Post and Carry Licenses	Secondary	Y - Mandatory
25-712(a)	Failure to Post Sign: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.	Secondary	Y - Mandatory
25-766	Prohibited Statements in Advertisements	Secondary	Y
25-823(a)(5)(A)	Refusing to Allow ABRA or MPD to Enter or Inspect Premises without Delay	Primary	N
25-823(a)(5)(B)	Refusing to Allow the Examination of Books and Records	Primary	Y
23 DCMR 206	Failure to Obtain Retailer Purchasing Permit	Primary	Y
23 DCMR 209	Failure to Obtain Storage Facility Permit	Secondary	Y
23 DCMR 210	Failure to Obtain Off-premises Storage Permit	Primary	Y
23 DCMR 214.17	Submission of Knowingly False or Misleading Affidavit	Primary	N

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, via email to martha.jenkins@dc.gov. All persons desiring to comment on the proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, via email to abra.legal@dc.gov