

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage and Cannabis Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-830(f) hereby gives notice of the adoption of amendments to the existing ABCA 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).

This final rulemaking makes conforming amendments to the Schedule in accordance with recent changes made by the Reopen DC Alcoholic Beverage Regulations Amendment Act of 2021, effective June 30, 2022 (D.C. Law 24-0127; 69 DCR 5071). Specifically, these final rules will update the Schedule by (1) incorporating new infractions and penalties; (2) repealing obsolete infractions; and (3) amending the descriptions of existing infractions.

On August 10, 2022, the Board voted, five (5) to zero (0) to approve the Civil Penalty Notice of Proposed Rulemaking. The proposed rules were published in the *D.C. Register* on February 24, 2023, for thirty (30)-day notice and comment. The Board did not receive any comments during the comment period. On March 1, 2023, the Board held a public hearing to receive comments from the public concerning the rulemaking. No one appeared to testify at the hearing and the Board did not receive any comments.

On July 13, 2023, the proposed rules were submitted to the Council for the District of Columbia (Council). See ABCA Civil Penalty Schedule Resolution of 2023 (PR-25-0363). The Council approved the proposed rules on December 19, 2023. The rules are now ripe for the Board to take final rulemaking action.

The Board adopts the ABCA Civil Penalty Schedule Notice of Final Rulemaking by a vote of three (3) to zero (0) on January 24, 2024. The final rules take effect five (5) days after publication in the *D.C. Register*.

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

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

Section	Description	Violation	Warning
25-741(b)	Serving Back-up Drinks to Customers	Secondary	Y (Repealed)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	Secondary	Y

	Business		
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 ABCA Civil Penalty Schedule in numerical order:

Section	Description	Violation	Warning
25-113(a)(3)(D)(i)	Selling alcoholic beverages for carryout or delivery to a consumer at an unregistered location	Secondary	Y
25-113(a)(3)(D)(v)	Selling 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(a)(5)(B)	Licensee Holding a Brew Pub Endorsement Using a Third-Party Delivery Company or Platform to Deliver to Other Licensees	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)	Operating as a Distillery Pub Without a Distillery Pub Endorsement	Primary	Y
25-125(d)(2)	Operating as Distillery Pub Outside of the Approved Hours	Primary	Y
25-130	Violating Terms of Third-Party Alcohol Delivery License in a Manner Not Otherwise Specified in This Table	Primary	Y
25-130(f)	Failure of Third-Party Alcohol Delivery Licensee to Timely 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 or at a Board-approved location	Primary	Y – Mandatory
25-130(h)	Failure of Licensee that Utilizes the Service	Primary	Y

	of a Third-Party Delivery Company to Register with the Board		
25-131	Violating Terms of Commercial Lifestyle Center License (CLC License) in a Manner Not Otherwise Specified in This Table	Primary	Y
25-131(e)(8)	Failure of CLC Licensee to Control Litter, Trash, and Debris	Secondary	Y
25-402(e)(1)	Failure to Complete a Mandatory Licensee Training	Secondary	Y
25-704(a)	Failure to Timely 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 ABCA Official or MPD, Upon Request, a Settlement Agreement or Security Plan	Secondary	Y
25-723(b-1)	Delivering Alcoholic Beverages Outside of Approved Hours - On-Premises Retailer's License or Manufacturer's Licensee with an On-Site Sales and Consumption Permit	Primary	Y
25-723(b-2)	Operating or Permitting 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 an ABCA or Metropolitan Police Department Investigation	Primary	Y
25-823(a)(5)(D)	Destroying or Concealing Evidence in Connection with an ABCA or Metropolitan Police Department Investigation	Primary	N
25-823(a)(5)(E)	Failure to Produce Documents, Records, or Videos Within 48 Hours of a request in an ABCA or Metropolitan Police Department Investigation	Primary	Y
25-836(a)(1)-(2)	Failure of a Covered License Holder to File and Maintain a Written and Compliant Security Plan	Primary	Y
25-836(g)(1)	Failure of a Covered Licensee to Ensure that Security Cameras are Operational, Capable of Recording, and Actually Recording While the Establishment is in Operation	Primary	Y
25-836(g)(2)	Failure of a Covered Licensee to Maintain	Primary	Y

	Video Footage of a Crime of Violence or a Crime Involving a Gun for 30 days		
25-836(g)(3)	Failure to Make Video Footage Available Within 48 Hours of a Request from an ABCA Investigator or Member of the Metropolitan Police Department	Primary	Y
25-836(g)(4)	Failure of a Covered Licensee to Ensure that the Establishment and Security Cameras Comply with All Technological and Operational Standards Established by the Board	Primary	Y
25-836(i)(1)	Failure of a Covered Licensee to File an Amended Security Plan Within 10 days	Secondary	Y

Section 800 is amended by adding the following infractions to the ABCA Civil Penalty Schedule as follows:

Section	Description	Violation	Warning
25-112(e)(1)	Failure to Timely File a Statement of Expenditures and Receipts	Secondary	Y
25-113.01(b)(1)	Offering Entertainment Without an Entertainment Endorsement	Primary	Y
25-113.01(b)(1)	Imposing a Cover Charge Without an Entertainment Endorsement	Secondary	Y
25-113.01(b)(1)	Offering Dancing Facilities Without an Entertainment 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 Licenses	Secondary	Y - Mandatory
25-712(a)	Failure to Post Sign: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.	Secondary	Y - Mandatory
25-823(a)(5)(A)	Refusing to Allow ABCA 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	Sale By a Retailer of Spirits, Wine, or Beer On	Primary	Y

206	Their Premises Without a Retailer Purchasing Permit		
23 DCMR 209	Establishing a Bonded Warehouse as a Storage Facility for Alcoholic Beverages Without a Storage Facility Permit	Secondary	Y
23 DCMR 210	Storing Alcoholic Beverages at a Storage Facility Without an Off-premises Storage Permit	Primary	Y
23 DCMR 214.17	Submission of Knowingly False or Misleading Affidavit	Primary	N