

**DRAFT**

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

**NOTICE OF EMERGENCY RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) - (c) (2012 Repl. & 2019 Supp.)), D.C. Official Code § 25-501(d), D.C. Official Code § 25-502 (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, gives notice of its intent to amend Sections 208 (License Categories) and 209 (Permit and Endorsement Fees) of Chapter 2 (License and Permit Categories) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

Since the first confirmed case of COVID-19 in the District of Columbia in March 2020, Mayor Bowser and the Council of the District of Columbia have taken steps to protect its citizenry by implementing restrictions and guidance that allowed District businesses and ABC-licensed establishments to operate safely during the public health emergency. Recognizing the financial impact that COVID-19 has had on ABC-licensed establishments, the Board has also taken a series of steps to assist licensees, including extending the deadline for the payment of second- and third-year license fees, and waiving late fees. The Board has also temporarily waived the ten (10)-day calendar deadline for seeking reinstatement of a cancelled license due to the non-payment of the annual license fee resulting from financial hardship caused by the pandemic.

On August 5, 2020, the Board adopted the *Temporary Suspension of Late Fee Notice of Emergency Rulemaking*, which postponed the imposition of the daily fifty dollar (\$50) late fee on ABC-licensed establishments that failed to pay their license fees by the statutory deadline. *See 67 DCR 10970* (September 10, 2020) [EXPIRED]. The Board re-adopted the emergency rulemaking on February 11, 2021, which in addition to postponing the imposition of the late fees, the second rulemaking extended the deadline for paying the third-year license fee payments for on-premises retailers as well as extending the deadline for payment of the carryout and delivery endorsement. *See Temporary Suspension of Late Fees Notice of Second Emergency Rulemaking*, 68 DCR 3571 (April 2, 2021). Similarly, the Board extended the license fee payment deadline for nightclubs. *See Second-Year License Fee Payment Notice of Second Emergency Rulemaking*, 68 DCR 4359 (April 23, 2021); and *Second-Year License Fee Payment Notice of Emergency Rulemaking*, 67 DCR 14318 (December 4, 2020) [SUPERSEDED].

Notwithstanding the loosening of the COVID-19 restrictions in earlier rulemakings, the Board recognizes that the industry continues to face financial hardships due to the pandemic. In an effort to provide additional assistance to ABC-licensed establishments, the Board finds that immediate action is needed to delay the deadlines for the second- and third-year payments for on-premises retailers and caterer licenses as well as the deadline for payment of the carryout and delivery endorsement.

Thus, the Board finds emergency action is necessary to protect the public health, safety, and welfare, and on this day, June 9, 2021, adopts the *Extension of On-premises Retailers' Second- and Third-Year License Fees and Carryout and Delivery Endorsement Fee Notice of Emergency Rulemaking*, by a vote of six (6) to zero (0). This emergency rulemaking shall supersede the *Temporary Suspension of Late Fees Notice of Second Emergency Rulemaking* and the *Second-Year License Fee Payment Notice of Second Emergency Rulemaking*. This rulemaking shall take effect on this date and shall remain in effect for no longer than one hundred twenty (120) days from the Board's adoption; expiring on or before October 7, 2021, unless superseded.

**Chapter 2, LICENSE AND PERMIT CATEGORIES, of 23 DCMR, ALCOHOLIC BEVERAGES, is as follows:**

**Section 208, LICENSE FEES, is amended by amending subsection 208.1 in its entirety to read as follows:**

- 208.1 All license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA. Applicants and licensees shall pay the annual license fees specified by the Board in the following manner:
- (a) The fee for the first year shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied;
  - (b) The fees for the second and third year shall be paid no later than one (1) and two (2) years, respectively, from the date of the issuance of the license; provided, that a licensee may pay the second and third-year fees when the first-year fee is paid. The payment of the second and third-year license fees shall not require the filing of a clean-hands certificate by the applicant; and
  - (c) Notwithstanding paragraph (b), for Fiscal Year 2021, the second-year annual license fee payment for on-premises retailer licenses, class C/N and D/N, shall be due by September 30, 2021.

**Section 208, LICENSE FEES, is amended further by adding a new subsection 208.20, 208.21, and 208.22 to read as follows:**

208.20 On-premises retailer licensees, class CR, DR, CH, DH, CX, and DX, and caterer license holders shall have until September 30, 2021, to make their annual third-year payment.

208.21 Those licensees whose licenses were cancelled by the Board on November 4, 2020, in accordance with § 208.20, solely due to the non-payment of the annual or renewal license fees shall be permitted to request reinstatement of the license from the Board until September 30, 2021, without the payment of any late fees, provided that all outstanding annual and renewal licensing fees have been paid.

208.22 On-premises retailer licensees, class CR, DR, CH, DH, CX and DX shall have until September 30, 2021 to make their annual third year payment.

**Section 209, PERMIT AND ENDORSEMENT FEES, is amended further by adding a new Subsection 209.2 to read as follows:**

209.2 Effective April 1, 2021, on-premises retailer licensees, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or retailers with commercial street frontage at the Walter E. Washington Convention Center that sell food and are approved by the Washington Convention and Sports Authority to sell alcoholic beverages for on-premises consumption that apply to the Board for a carryout and delivery endorsement shall have until September 30, 2021, to pay the annual endorsement fee.