

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)

Janene D. Jackson)

Partner)

Holland & Knight LLP)

800 17th Street, N.W., Suite 1100)

Washington, D.C. 20006)

Advisory Opinion)

Order No.: 2019-012

BEFORE:

Donovan Anderson, Chairperson

Nick Alberti, Member

Mike Silverstein, Member

James Short, Member

Bobby Cato, Member

Rema Wahabzadah, Member

**ADVISORY OPINION ON THE STORAGE REQUIREMENTS
OF D.C. LICENSED WHOLESALERS**

In a request dated December 7, 2018, Janene D. Jackson (Petitioner) seeks an advisory opinion from the Alcoholic Beverage Control Board (Board) on wholesaler storage requirements and laws impacting the delivery of alcoholic beverage inventory into the District of Columbia under Title 25 of the D.C. Official Code (Title 25). *Letter from Janene D. Jackson to the Alcoholic Beverage Regulation Administration*, 1 (Dec. 7, 2018) [*Petition*].

Section 25-754(a) requires that alcoholic beverages distributed by wholesalers “not be manufactured, kept for sale, or sold by any licensee other than at the licensed establishment; provided, that the Board may permit the storing of beverages upon premises other than the licensed establishment” D.C. Code § 25-754(a). Under § 25-754(b), “A licensee may not store alcoholic beverages upon premises outside the District.” D.C. Code § 25-754(b).

Under § 900.1 and 900.2 of Title 23, wholesalers are obligated to solely “purchase” and “sell” alcoholic beverages that have been purchased “from the primary American source of supply.” 23 DCMR §§ 900.1, 900.2 (West Supp. 2018). The primary American source is defined as “the manufacturer, distiller, rectifier, vintner or importer of the brand of alcoholic beverages at the time that the beverage became a

marketable product in the United States, or its duly authorized agent.” 23 DCMR § 199 (West Supp. 2018).

The Petitioner first asks how the Board interprets the “coming to rest” requirement for wholesaler delivery vehicles bringing alcoholic beverage inventory into the District of Columbia. In order to avoid violating the requirement that alcoholic beverages distributed to retailers be delivered by a wholesaler, the product must “come to rest” at a licensed wholesaler’s facility located in the District.

In practice, in order to ensure compliance with the District’s three-tier system, the Board interprets this provision to require that the alcoholic beverage product be delivered, unloaded and stored inside of the wholesaler’s licensed premises in the District for at least four hours. The alcoholic beverage product must also be recorded in the wholesaler’s inventory system prior to being delivered to a retailer or the holder of a temporary license.

The Petitioner next asks whether wholesalers may load alcohol delivery trucks outside the District of Columbia, have the inventory “come to rest for a few hours at a” D.C. based warehouse, and then load the inventory onto delivery vehicles for delivery within D.C. *Petition*, at 1. As noted above, this practice would not be permitted as alcoholic beverages would need to be delivered, unloaded and stored inside of the wholesaler’s licensed premises in the District of Columbia for at least four hours. Additionally, the alcoholic beverages would need to be recorded in the wholesaler’s inventory system for its District location prior to delivery to a retailer or a temporary license holder.

The Petitioner next asks whether wholesalers may store and directly deliver alcohol from warehouses located outside the District to customers. This is clearly prohibited by D.C. Official Code §§ 25-754(a) and (b), and previously determined by the Board to be illegal in 2011 in a prior advisory opinion. *In re Gina Trippi and John Kerr*, Board Order No. 2011-398, 2 (D.C.A.B.C.B. Sept. 21, 2011).

The Petitioner finally asks whether wholesalers are permitted to replenish their stock from wholesaler controlled locations located outside the District of Columbia. This is prohibited by §§ 25-754(a) and (b), as the products are required to be “kept for sale . . . at the licensed establishment” and cannot be stored outside the District of Columbia.

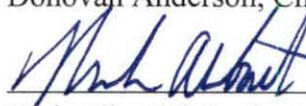
ORDER

Accordingly, the Board, on this 9th day of January 2019, hereby **ORDERS** that the above represents the **ADVISORY OPINION** of the Board pursuant to 23 DCMR § 1902.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Bobby Catq, Member

Rema Wahabzadah, Member

Pursuant to 23 DCMR § 1902.6, if the requestor disagrees with the Board's advisory opinion in any respect, he or she may, within twenty (20) calendar days after issuance of the opinion file a petition with the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions of the Board may not form the basis of an appeal to any court in the District of Columbia.