

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

NOTICE OF EMERGENCY AND PROPOSED 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) (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption of emergency and proposed rules to amend existing § 718.2 and § 718.3 of chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends 23 DCMR § 718.2 and § 718.3 by increasing the percentage of distribution of subsidies paid by the Alcoholic Beverage Regulation Administration (ABRA) to the Metropolitan Police Department (MPD) from sixty percent (60%) to sixty-five percent (65%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees participating in the District of Columbia's MPD Reimbursable Detail Subsidy Program ("RDO Program" or "Program").

By way of background, the RDO Program assists licensed establishments by defraying the costs of retaining off-duty MPD officers to patrol the surrounding area of an establishment or an outdoor special event or pub crawl event for the purposes of ensuring the peace, order, and quiet of the community, including the remediation of traffic congestion and promoting public safety. Over the past several years, the Board has revised the reimbursable detail coverage percentages on an as needed basis. Most recently, the ABC Board reduced the reimbursable distribution percentage from seventy percent (70%) to sixty percent (60%) based on then-existing Fiscal Year 2017 funding levels and the potential increase in demand by pub crawl event promoters who are now able to request RDO officers for their events.

There are three primary reasons as to why the ABC Board is seeking to increase the reimbursement percentage. First, as a result of reducing the reimbursement percentage, the Alcohol Beverage Regulation Administration (ABRA) it has more funding remaining in its budget for the RDO Program than anticipated due to various licensees deciding to no longer participate or limit participation in the Program. This additional funding will make it possible for ABRA to provide a greater reimbursement percentage than originally anticipated.

Secondly, the District experiences a significant increase in the number of persons patronizing licensed establishments during the summer. This is particularly true of licensed establishments with sidewalk café and/or summer garden endorsements. Lastly, this summer the District of Columbia will host the 2018 All-Star Game and related events (July 14, 2018, through July 18, 2018). The 2018 All-Star Game and World Cup Tournament Emergency Amendment Act of 2018, effective May 21, 2018 (D.C. Act 22-362) allows licensed establishments to apply for extended operating and alcohol service hours over a five (5)-day period. These longer hours may pose an effect on the peace, order, and community of neighboring residences. To address this concern, licensed establishments can retain RDO officers knowing that a greater portion of the cost would be borne by the District.

Pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, effective October 2, 1968 (82 Stat. 1026; D.C. Official Code § 2-505(c)(2012 Repl. & 2016 Supp.)), the Board has determined that emergency action is necessary for the immediate preservation of health, safety, and welfare of District of Columbia residents. Specifically, emergency action is necessary to immediately readjust spending levels of the Program prior to the 2018 All-Star Game and related events. As previously discussed, the Program is essential for protecting the public's safety and welfare.

These emergency and proposed rules were adopted by the Board on June 6, 2018, by a vote of six (6) to zero (0), to take effect on July 1, 2018. The emergency rules will remain in effect for up to one hundred twenty (120) days from adoption, expiring October 4, 2018, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Board also gives notice of its intent to take final rulemaking action to adopt these rules on a permanent basis in not fewer than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Pursuant to D.C. Official Code § 25-211(b)(2)(2012 Repl.), these emergency and proposed rules will be transmitted to the Council of the District of Columbia (Council) for a ninety (90) day period of review. The final rules shall not become effective absent approval by the Council.

Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, is amended by replacing Subsections 718.2 and 718.3 to read as follows, and renumbering the following subsections:

- 718.2 ABRA will reimburse MPD sixty-five percent (65%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Sunday through Saturday nights. The hours eligible for reimbursement for on-premises retailer licensees shall be 11:30 p.m. to 5:00 a.m. ABRA will also reimburse MPD sixty-five percent (65%) of the total costs of invoices submitted by MPD to cover the costs incurred for pub crawl events and for outdoor special events where the Licensee has been approved for a One Day Substantial Change License or a Temporary License. The hours eligible for an outdoor special event operating under a One Day Substantial Change License or a Temporary License or a pub crawl event operating under a pub crawl license shall be twenty-four (24) hours a day.
- 718.3 MPD shall submit to ABRA on a monthly basis invoices documenting the sixty-five percent (65%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program's funds are depleted.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor,

Washington, D.C. 20009. All persons desiring to comment on the emergency and 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*, to the above address or via email to martha.jenkins@dc.gov.