

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to allow for passive approval of regulations after the expiration of the 90-day Council review period, to update the zoning district references, to clarify the requirements for successive applications that are submitted within 5 years of the applicant withdrawing the application, to repeal the prohibition on the application of the Ward 4 restrictions on applications pending before the Board as of September 30, 2004, to require an applicant and licensee to provide the Board with the owner's name, address, telephone number, and e-mail address, to provide the Board with the authority to dismiss an application or a protest due to either party's failure to attend the settlement conference, to clarify that parties can enter into a settlement agreement without having to file a protest, to allow parties to include settlement agreement terms that address the safety and security procedures a licensee must have in place, to prohibit a current license holder from protesting an application for a new or renewal license, substantial change, or transfer to a new location unless the license holder resides in the neighborhood, to require the placement of a license into safekeeping if the licensee's establishment will be closed for 21 or more calendar days, to define what constitutes reasonable progress for purposes of maintaining licenses in safekeeping, and to clarify that holders of licenses that are in safekeeping are required to pay their renewal fees prior to the license expiring.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Alcoholic Beverage Procedural and Technical Amendment Act of 2019".

Sec. 2. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-201(c)(8) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General for the District of Columbia" in its place.

(b) Chapter 3 is amended as follows:

(1) Section 25-338 is amended to read as follows:

§ 25-338. Limitation on successive applications after denial.

"(a) The Board shall not consider an application for the same class of license, permit, endorsement, or substantial change by the same applicant if the Board has denied a previously filed application within 5 years.

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“(b) Notwithstanding subsection (a) of this section, if an application is withdrawn for good cause, as determined by the Board, and prior to the protest status hearing, or if a previously filed application for the same license class, permit, endorsement, or substantial change was denied by the Board on purely technical or procedural grounds, an application by such applicant may be considered.”.

(2) Section 25-340.01(c) is repealed.

(c) Chapter 4 is amended as follows:

(1) Section 25-402 is amended as follows:

(A) Subsection (a) is amended as follows:

(i) Paragraph (1) is amended by striking the phrase “name and address of the individual” and inserting the phrase “name, address, telephone number, and e-mail address of the individual” in its place.

(ii) Paragraph (2) is amended by striking the phrase “name and address of the owner” and inserting the phrase “name, address, telephone number, and e-mail address of the owner” in its place.

(iii) A new paragraph (2A) is added to read as follows:

“(2A) The name and e-mail address of the owner of the establishment, or the owner’s designee, for purposes of receiving communications from ABRA, including correspondence, hearing notices and other types of service of process, and Board orders;”

(B) A new subsection (a-1) is added to read as follows:

“(a-1)(1) The licensee or applicant shall notify ABRA within 30 days of any change to the information required by subsection (a)(1), (2), or (2A) of this section.

“(2) If the licensee has been previously issued a written warning about timely compliance with paragraph (1) of this subsection, the failure to comply with paragraph (1) of this subsection may result in the Board issuing a fine against the licensee, or suspending or revoking the license in accordance with Chapter 8 of this title.”.

(2) Section 25-432(b) is amended by striking the phrase “settlement conference” wherever it appears and inserting the phrase “mediation” in its place.

(3) Section 25-445(e) is repealed.

(4) Section 25-446 is amended by adding a new subsection (a-1) to read as follows:

“(a-1) The applicant and any person or entity who would otherwise have standing to protest an application pursuant to § 25-601 may, at any time, negotiate a settlement and enter into a written agreement setting forth the terms of the settlement.”.

(d) Section 25-601 is amended as follows:

(1) The existing text is designated as subsection (a).

(2) Subsection (a)(1) is amended as follows:

(A) The existing text is designated as subparagraph (A).

(B) A new subparagraph (B) is added to read as follows:

“(B) For the purposes of this paragraph, the term “abutting property” means any property where the property line has a boundary or boundary point in common with

the property line of the licensed establishment.”.

(3) A new subsection (b) is added to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection, an individual or entity that holds a valid wholesaler’s license, manufacturer’s license, or retailer’s license shall not be permitted to protest the issuance or renewal of a license, the approval of a substantial change in the nature of operation, as determined by the Board under § 25-404, or the transfer of a license to a new location.

“(2) An individual who resides in the neighborhood where the establishment is to be licensed and who holds a wholesaler’s license, manufacturer’s license, or retailer’s license may protest the issuance or renewal of a license, the approval of a substantial change in the nature of operation, as determined by the Board under § 25-404, or the transfer of a license to a new location if the individual otherwise has standing pursuant to subsection (a)(1) or (2) of this section.”.

(e) Chapter 7 is amended as follows:

(1) Section 25-725(b)(3) is amended by striking the phrase, “ which are located within a C-1, C-2, C-3, C-4, C-M, or M zone, as defined in zoning regulations for the District;” and inserting the phrase, “that are located within a commercial or manufacturing zone, as defined in the zoning regulations and shown in the official atlases of the Zoning Commission for the District;” in its place.

(2) Section 25-791 is amended as follows:

(A) Subsection (a) is amended to read as follows:

“(a)(1) If a licensee closes the licensed premises or ceases to operate at the licensed premises for 21 or more calendar days, the licensee shall immediately notify the Board in writing of the closure or cessation of operation and surrender the license for safekeeping. The licensee’s written notice shall include the estimated length of closure or cessation of operation and the licensee’s future intentions as to the use of the license.

“(2) The Board shall hold the license until the licensee resumes operation at the licensed premises or the license is transferred to a new location or owner.

“(3) If the licensee has not initiated proceedings to resume operations or to transfer the license within 60 days after surrendering the license for safekeeping, the Board, after giving notice to the licensee, may deem the license abandoned. The licensee shall have 14 calendar days to respond to the Board’s notice to request continued safekeeping.”.

(B) Subsection (c) is amended as follows:

(i) The existing text is designated as paragraph (1).

(ii) A new paragraph (2) is added to read as follows:

“(2) For purposes of this subsection, the term “reasonable progress” means taking deliberate steps to resume business operations, including acquiring the necessary permits or approvals from the Department of Consumer and Regulatory Affairs, the Office of Zoning, the Historic Preservation Board, or any other District agency, executing contractual agreements or lease agreements, retaining contractors, or transferring the license to a new owner or new location.”.

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(C) Subsection (d) amended by striking the phrase “for renewing the license upon its expiration” and inserting the phrase “of renewing the license” in its place.

(f) Chapter 8 is amended as follows:

(1) Section 25-801 is amended by striking the phrase “Corporation Counsel” both times it appears and inserting the phrase “Attorney General for the District of Columbia” in its place.

(2) Section 25-805(b) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

(3) Section 25-831(c) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

(g) Chapter 9 is amended as follows:

(2) Section 25-911(c) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia