

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to allow on-premises retailer's licenses, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including multipurpose facilities and private clubs that register with the Board to offer alcoholic beverages for indoor on-premises consumption as part of indoor dining and carryout and delivery on a temporary basis from up to two additional locations, and to allow on-premises retailer's licenses, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including multipurpose facilities and private clubs, manufacturer licenses, class A or B, and Convention Center food and alcohol businesses that register with the Board to sell, serve, and allow the consumption of alcoholic beverages at new or expanded temporary ground floor or street level outdoor public or private space.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Streatery Program and Pop Up Locations Emergency Amendment Act of 2020".

Sec. 2. Section 25-113(a) is amended as follows:

(1) Paragraph (3)(D) is amended to read as follows:

"(D)(i) An on-premises retailer's licensee, 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, that is registered with the Board under subparagraph (C) of this paragraph may also register with the Board to sell, on a temporary basis, beer, wine, or spirits for on-premises consumption indoors and to sell beer, wine, or spirits in closed containers accompanied by one or more prepared food items for off-premises consumption from up to 2 additional locations other than the licensed premises.

"(ii) Board approval shall not be required for the additional registration under this subparagraph; provided, that:

"(I) The licensee separately registers with the Board and receives written authorization from ABRA prior to offering beer, wine, or spirits for carryout or delivery or on-premises consumption indoors at the additional location;

"(II) For carry-out and delivery, the licensee, the additional

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location's owner, or a prior tenant at the additional location possesses a valid certificate of occupancy for the building used as the additional location, unless the additional location is located on outdoor private space;

“(III) For on-premises consumption indoors, the additional location's owner or a prior tenant at the additional location possesses a valid certificate of occupancy for a restaurant or other eating or drinking establishment;

“(IV) The licensee has been legally authorized by the owner of the building or the property utilized as the additional location to utilize the space for carryout and delivery, or indoor dining;

“(V) The licensee agrees to follow all applicable District laws, regulations, guidance documents, administrative orders, including Mayor's Orders, and permit requirements or conditions, which may contain requirements that supersede provisions contained in this section; and

“(VI) The additional location from which the licensee intends to offer alcoholic beverages for carryout or delivery or on-premises consumption for indoor dining is located in a commercial or mixed-use zone as defined in the zoning regulations for the District.

“(iii) An on-premises retailer's licensee, 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, may sell, serve, and allow the consumption of beer, wine, or spirits indoors on the premises of the additional location pursuant to sub-subparagraph (i) of this paragraph; provided, that the licensee shall:

“(I) Limit its indoor capacity to no more than 50% of the lowest indoor occupancy load or seating capacity on its certificate of occupancy, excluding employees and any separately registered outdoor seating;

“(II) Place indoor tables so that patrons are at least 6 feet apart from one another;

“(III) Ensure for non-movable communal tables that parties are seated at least 6 feet apart from one another and that the communal table is marked with 6 foot divisions, such as with tape or signage;

“(IV) Ensure that all indoor dining customers are seated and place orders and are served food or alcoholic beverages at tables;

“(V) Prohibit events and activities that would require patrons to be standing, cluster, or be in close contact with one another, including dancing, playing darts, video games, including games of skill, bowling, ping pong, pool, throwing axes, or indoor playgrounds;

“(VI) Prohibit patrons from bringing their own alcoholic beverages;

“(VII) Prohibit self-service buffets;

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“(VIII) Have a menu in use containing a minimum of 3 prepared food items available for purchase by patrons;

“(IX) Require the purchase of one or more prepared food items per table;

“(X) Ensure that prepared food items offered for sale or served to patrons are prepared on the licensed premises or off-premises at another licensed entity that has been approved to sell and serve food by the District of Columbia Department of Health (“DC Health”);

“(XI) Restrict its operations, excluding carry-out and delivery, and the sale, service, or the consumption of alcoholic beverages indoors for on-premises consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

“(XII) Not have more than 6 individuals seated at a table or a joined table;

“(XIII) Require patrons to wait outside at least 6 feet apart until they are ready to be seated or make an on-site reservation;

“(XIV) Not provide live music or entertainment on the registered indoor space without a waiver from the District of Columbia Homeland Security and Emergency Management Agency, although background or recorded music played at a conversational level that is not heard in the homes of District residents shall be permitted;

“(XV) Not serve alcoholic beverages or food to standing patrons;

“(XVI) Prohibit standing at indoor bars and only permit seating at indoor bars that are not being staffed or utilized by a bartender;

“(XVII) Require a minimum of 6 feet between parties seated at indoor bars, rail seats, or communal tables;

“(XVIII) Provide and require that wait staff wear masks;

“(XIX) Require that patrons wear masks or face coverings when waiting in line outside of the establishment or while traveling to use the restroom or until they are seated and eating or drinking;

“(XX) Implement a reservation system by phone, on-line, or on-site and consider keeping customer logs to facilitate contact tracing by DC Health;

“(XXI) Implement sanitization and disinfection protocols including the provision of single use condiment packages; and

“(XXII) Have its own clearly delineated indoor space and not share tables and chairs with another business.

“(iv) An on-premises retailer licensee shall not offer beer, wine, or spirits for carryout and delivery on public space; except, that an additional location under this subparagraph may include a sidewalk café that has been issued a public space permit by the District Department of Transportation (“DDOT”).

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“(v) An on-premises retailer’s licensee who has been registered to offer beer, wine, or spirits for carryout or delivery in accordance with this subparagraph shall do so only at the additional location.

“(vi) An on-premises retailer licensee who has been registered to offer beer, wine, or spirits for carryout or delivery or on-premises alcohol consumption for indoor dining in accordance with this subparagraph may do so for no longer than 60 calendar days. The Board may approve a written request from an on-premises retailer’s licensee to extend carryout or delivery alcohol sales or on-premises alcohol sales and consumption for indoor dining from an additional location pursuant to this subparagraph for one additional 30 calendar-day period. A licensee shall not offer beer, wine, or spirits for carryout or delivery for off-premises consumption or on-premises alcohol sales and consumption for indoor dining from the additional location for more than 90 calendar days unless a completed application to do so has been filed with the Board with notice provided to the public in accordance with § 25-421.

“(vii) The on-premises retailer licensee may sell and deliver alcoholic beverages for carryout and delivery from an additional location in accordance with this subparagraph only between the hours of 7:00 a.m. and midnight, 7 days a week.

“(viii) The Board may fine, suspend, cancel, or revoke an on-premises retailer’s licensee, and shall revoke its registration to offer beer, wine, or spirits for carryout or delivery or on-premises alcohol sales and consumption of the indoor location at the additional location if the licensee fails to comply with sub-subparagraphs (i) through (vi) of this subparagraph.

“(ix) Notwithstanding sub-subparagraph (iii) of this subparagraph, if an on-premises retailer’s licenses, class C or D, has a settlement agreement governing its operations, the Board shall interpret the settlement agreement language that restricts the indoor sale, service, and consumption of beer, wine, or spirits on-premises as applying only to indoor sales, service, or consumption of beer, wine, or spirits at the licensed premises and not the additional location on a temporary basis because prior to the Coronavirus pandemic this new registration process was not available to eligible licensees.”.

(2) A new paragraph (6) is added to read as follows:

“(6)(A) An on-premises retailer’s licensee, 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 a manufacturer’s licensee, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business may register with the Board at no cost to sell, serve, and permit the consumption of beer, wine, or spirits on new or expanded temporary ground floor or street level outdoor public or private space not listed on its existing license. Upon registration, Board approval shall not be required; provided, that the licensee:

“(i) Registers with the Board and receives written authorization from ABRA prior to selling, serving, or permitting the consumption of beer, wine, or spirits on the proposed outdoor public or private space;

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“(ii) Registers with DDOT prior to operating on any proposed outdoor public space or receives written approval from the property owner prior to utilizing any proposed outdoor private space; and

“(iii) Agrees to follow all applicable District laws, regulations, guidance documents, administrative orders, including Mayor’s Orders, and permit requirements or conditions, which may contain requirements that supersede provisions contained in this section.

“(B) An on-premises retailer’s license, class C or D, or a manufacturer’s license, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business that has registered with the Board to sell, serve, and permit the consumption of beer, wine, and spirits to seated patrons on outdoor public or private space not listed on its existing license in accordance with subparagraph (A) of this paragraph shall:

“(i) Place tables on outdoor public or private space so that patrons are at least 6 feet apart from one another;

“(ii) Ensure that all outdoor dining customers are seated and place orders and are served food or alcoholic beverages at tables;

“(iii) Prohibit events and activities that would require patrons to cluster or be in close contact with one another, including dancing, playing darts, video games, or other outdoor games;

“(iv) Prohibit patrons from bringing their own alcoholic beverages;

“(v) Prohibit self-service buffets;

“(vi) Have a menu in use containing a minimum of 3 prepared food items available for purchase by patrons;

“(vii) Require the purchase of one or more prepared food items per table;

“(viii) Ensure that prepared food items offered for sale or served to patrons are prepared on the licensed premises or off-premises at another licensed entity that has been approved to sell and serve food by the DC Health;

“(ix) Ensure that the proposed outdoor public or private space is located in a commercial or mixed-use zone as defined in the District’s zoning regulations;

“(x) Restrict its operations, excluding carry-out and delivery, and the sale, service, or the consumption of alcoholic beverages outdoors for on-premises consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

“(xi) Not have more than 6 individuals seated at a table;

“(xii) Require patrons to wait outside at least 6 ft. apart until they are ready to be seated or make an on-site reservation;

“(xiii) Not provide live music or entertainment, except for background or recorded music played at a conversational level that is not heard in the homes of District residents;

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“(xiv) Not serve alcoholic beverages or food to standing patrons;
“(xv) Prohibit standing at outdoor bars and only permit seating at outdoor bars that are not being staffed or utilized by a bartender;

“(xvi) Abide by the terms of their public space permit with regard to the allowable placement of alcohol advertising, if any, in outdoor public space;

“(xvii) Provide and require that wait staff wear masks;

“(xviii) Require that patrons wear masks or face coverings while waiting in line outside of the restaurant or while traveling to use the restroom or until they are seated and eating or drinking;

“(xix) Implement a reservation system by phone, on-line, or on-site and consider keeping customer logs to facilitate contact tracing by DC Health;

“(xx) Implement sanitization and disinfection protocols including the provision of single use condiment packages; and

“(xxi) Have its own clearly delineated outdoor space and not share tables and chairs with another business.

“(C) Registration under subparagraph (A) of this paragraph shall be valid until October 25, 2020.

“(D) The Board may fine, suspend, or revoke an on-premises retailer’s licensee, class C or D, or a manufacturer’s licensee, class A or B, with an on-site sales and consumption permit, and shall revoke the registration to sell, serve, or permit the consumption of beer, wine, or spirits on outdoor public or private space not listed on the license, if the licensee fails to comply with subparagraph (A) or (B) of this paragraph.

“(E)(i) Notwithstanding subparagraph (B) of this paragraph, the Board shall interpret settlement agreement language that restricts sidewalk cafés or summer gardens as applying only to those outdoor spaces that are currently licensed by the Board as sidewalk cafés or summer gardens.

“(ii) The Board shall not interpret settlement agreement language that restricts or prohibits sidewalk cafés or summer gardens to apply to new or extended outdoor space, the use of which is now permitted under this paragraph.

“(iii) The Board shall not interpret settlement agreement language that restricts or prohibits the operation of permanent outdoor space to mean prohibiting the temporary operation of sidewalk cafés or summer gardens.

“(iv) The Board shall require all on-premises retailer licenses, class C or D, or manufacturer licenses, class A or B, with an on-site sales and consumption permit, to delineate or mark currently licensed outdoor space from new or extended outdoor space authorized by the DDOT or the property owner.

“(v) With regard to existing outdoor public or private space, parties to a settlement agreement shall be permitted to waive provisions of settlement agreements that address currently licensed outdoor space for a period not to exceed 180 days.

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“(E) For purposes of this paragraph, ground floor or street level sidewalk cafés or summer gardens enclosed by awnings or tents having no more than one side shall be considered outdoor space. Areas enclosed by retractable glass walls and other forms of operable walls shall not be considered outdoor dining. Temporary unlicensed rooftops and summer gardens not located on the ground floor or street level are not eligible for registration under subparagraph (A) of this paragraph.

“(F) A manufacturer’s licensee, class A or B, with an on-site sales and consumption permit or a retailer’s licensee class C/T, D/T, C/N, D/N, C/X, or D/X, may partner with a food vendor during its operating hours to satisfy the requirement of subparagraph (B)(vi) of this paragraph; provided, that patrons are seated when ordering and ordered food is delivered by the licensee or the food vendor to the seated patron.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia